

ADVISORY NO. 340
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TOPIC: CARRIER REPORTING AND NOTIFICATION REQUIREMENTS

Rule 124.2 provides the carrier's reporting requirements to the Commission and the claimant, and as such supplants the instructions on the TWCC-21 form, which was adopted prior to the legislative mandate to use electronic filing. The carrier is to use claim-specific plain language notices in its communications with the claimant. The use of generic statements may subject the carrier to an administrative violation and possible waiver in the case of disputes of compensability. The rule specifically states that the carrier shall not file certain notices with the Commission, and if filed, the carrier may be subject to an administrative penalty. The rule indicates that the carrier may never, under any circumstance, file a notice that future medical benefits are disputed.

The carrier, pursuant to subsection (c) of the rule, is required to electronically file the employer's first report of injury, correction of errors and changes to previous electronic filings, and information about compensable deaths without beneficiaries. The rule does not require copying this information to the claimant.

On those items that the rule requires notice to the claimant, subsections (f) and (h) provide that such notification "requires the carrier to use plain language notices with language and content prescribed by the Commission." However, the revised TWCC-28 (Notification Regarding Maximum Medical Improvement and/or Impairment Rating) (Rev. 3/02) is the only plain language notification adopted by the Commission as of the date of publication. It is to be filed pursuant to subsection (e)(4) to notify the claimant of a change from one income benefit type to another (i.e., the suspension of TIBs and initiation of IIBs). The TWCC-28 should *not* be filed with the Commission. Rather, notice to the Commission is governed by subsection (g), and requires the carrier to use electronic filing. There is no requirement to separately file a TWCC-21 to notify the Commission of the change in benefits from TIBs to IIBs, and therefore, the carrier should not file one.

In the absence of the adoption of plain language notification letters governing other situations, the proper form to use is the TWCC-21. Therefore, the carrier must file with the *claimant* a TWCC-21 (using plain language) in all instances listed in subsections (d), (e), and (h) of the rule, with the exception of (e)(4) (where a TWCC-28 is used). The rule also requires electronic filing with the Commission for the reasons listed in subsection (c), (d), and (e). The carrier should not copy the Commission on the paper TWCC-21 for the instances listed in subsection (e) (initiation, suspension, and change of benefits). However, the carrier *must timely file by paper* a TWCC-21, with a copy to the claimant, for subsections (d) (denials of a claim

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based on non-compensability or lack of coverage) and (h) (extent of injury, disability, beneficiary disputes).

With respect to denials of the entire claim based on non-compensability or lack of coverage, the carrier must notify the Commission electronically (using 148-04 (first report of injury with denial) or A49-04 (subsequent report of injury with denial)) of the *fact* of the denial, and must file a paper TWCC-21 for the *description* of the denial. An EDI filing is not sufficient to reserve the defense. Only a paper TWCC 21 will do that. A paper TWCC 21 is not sufficient for the Commission to electronically track necessary claim information. Only the EDI filing will do that. Both are required.

If the denial is submitted at the time of the electronic filing of the first report of injury, the code 148-04 would be used. However, if the claim is denied in full, after starting benefits and after previously filing the 148, a subsequent report of injury code A49-04 should be filed. Neither a 148-04 nor an A49-04 should be submitted if the carrier has accepted the compensable claim, but is disputing a body part, disability, or beneficiary status. This can only be done via paper on the TWCC-21 with block 43 completed. In summary, notice should be filed as follows:

<u>Rule</u>	<u>Description of Notice</u>	<u>Claimant</u>	<u>Commission</u>
124.2(c)	first report, corrections, changes, etc.	none	electronic
124.2(d)	denial of compensability or coverage	paper	electronic and paper
124.2(e)	initiation, suspension, and change of benefits	paper	electronic
124.2(h)	extent of injury, disability, beneficiary disputes	paper	paper