

**CHAPTER 235**

**RULES OF THE DIVISION OF WORKERS  
COMPENSATION**

**Authority**

N.J.S.A. 34:1–20, 34:1A–3(e), 34:1A–12(b), (c) and 34:15–64.

**Source and Effective Date**

R.1996 d.184, effective March 11, 1996.  
See: 28 N.J.R. 790(a), 28 N.J.R. 1859(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 235, Rules of the Division of Workers Compensation, expires on March 11, 2001.

**Chapter Historical Note**

All provisions of Chapter 235 became effective prior to September 1, 1969.

1971 Revisions: Amendments became effective January 1, 1971 as R.1970 d.99. See: 2 N.J.R. 75(c).

1972 Revisions: Amendments became effective January 1, 1972 as R.1971 d.140. See: 3 N.J.R. 180(a).

1973 Revisions: Amendments became effective January 1, 1973 as R.1972 d.159. See: 4 N.J.R. 222(a).

1974 Revisions: Amendments became effective January 1, 1974 as R.1973 d.218. See: 5 N.J.R. 316(b).

1975 Revisions: Amendments became effective January 1, 1975 as R.1974 d.235. See: 6 N.J.R. 352(c). Further amendments became effective March 24, 1975 as R.1975 d.43. See: 7 N.J.R. 61(b), 7 N.J.R. 169(a).

1976 Revisions: Amendments became effective January 1, 1976 as R.1975 d.252. See: 7 N.J.R. 433(a).

1977 Revisions: Amendments became effective January 1, 1977 as R.1976 d.256. See: 8 N.J.R. 424(a). Further amendments became effective October 26, 1977 as R.1977 d.406. See: 9 N.J.R. 537(b).

1978 Revisions: Amendments became effective January 1, 1978 as R.1977 d.296. See: 9 N.J.R. 439(a).

1979 Revisions: Amendments became effective January 1, 1979 as R.1978 d.283. See: 10 N.J.R. 400(c).

1980 Revisions: Amendments became effective January 1, 1980 as R.1979 d.319. See: 11 N.J.R. 449(b).

1981 Revisions: Amendments became effective January 1, 1981 as R.1980 d.357. See: 12 N.J.R. 543(d).

1982 Revisions: Amendments became effective January 1, 1982 as R.1981 d.420. See: 13 N.J.R. 604(c), 13 N.J.R. 777(d). Further amendments became effective November 1, 1982 (operative January 1, 1983) as R.1982 d.380. See: 14 N.J.R. 970(b), 14 N.J.R. 1219(c).

1983 Revisions: Amendments became effective November 21, 1983 (operative January 1, 1984) as R.1983 d.520. See: 15 N.J.R. 1437(a), 15 N.J.R. 1945(a). Further amendments became effective November 21, 1983 (operative January 1, 1984) as R.1983 d.520. See: 15 N.J.R. 1437(a), 15 N.J.R. 1945(a).

1984 Revisions: Amendments became effective November 5, 1984 as R.1984 d.522. See: 16 N.J.R. 2346(a), 16 N.J.R. 3054(a).

1985 Revisions: Amendments became effective November 4, 1985 (operative January 1, 1986) as R.1985 d.541. See: 17 N.J.R. 2090(a), 17 N.J.R. 2668(b).

1986 Revisions: Chapter 235 was repealed and a new Chapter 235, Rules of the Division of Workers Compensation, was adopted effective May 5, 1986 as R.1986 d.144. See: 17 N.J.R. 2081(a), 18 N.J.R. 987(a). Amendments became effective November 17, 1986 as R.1986 d.455. See: 18 N.J.R. 1788(b), 18 N.J.R. 2331(d).

1987 Revisions: Amendments became effective November 16, 1987 as R.1987 d.472. See: 19 N.J.R. 1624(a), 19 N.J.R. 2197(a).

1988 Revisions: Subchapter 13, Surcharge Collection Procedures, was adopted as new rules by R.1988 d.586, effective December 19, 1988. See: 20 N.J.R. 2522(a), 20 N.J.R. 3139(a).

1989 Revisions: Sections 3.11 through 3.18 were repealed and new rules were adopted for sections 3.11 through 3.23, effective January 3, 1989 as R.1989 d.24. See: 20 N.J.R. 2442(c), 21 N.J.R. 23(a).

1990 Revisions: N.J.A.C. 12:235–3.11 through 3.23 were invalidated by the N.J. Superior Court, Appellate Division (see 23 N.J.R. 207(a)). Subchapter 14, Uninsured Employer's Fund, was adopted as new rules by R.1990 d.338, effective July 2, 1990. See: 22 N.J.R. 3852(a), 22 N.J.R. 2023(a).

1991 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 235 was readopted by R.1991 d.275, effective May 3, 1991. See: 23 N.J.R. 834(a), 23 N.J.R. 1819(a).

Pursuant to Executive Order No. 66(1978), Chapter 235 was readopted as R.1996 d.184, effective March 11, 1996. See: Source and Effective Date.

Petition for Rulemaking. See: 32 N.J.R. 4147(a), 32 N.J.R. 4314(b).

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#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 12:235-1.1 Purpose; scope

(a) The purpose of this chapter is to establish rules to carry out the responsibilities of the Division of Workers' Compensation under the Act.

(b) This chapter shall apply to all persons subject to Workers' Compensation Law, N.J.S.A. 34:15-7 et seq.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Title and citation repealed; purpose recodified from 1.3; scope recodified from 1.4.

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In (a), amended N.J.S.A. reference.

3. Occupational disease exists whether or not time is lost.

(b) The form for the first report of accidental injury or occupational disease shall be Form L&I 1 and its amendments.

(c) The first report of accident or occupational disease shall be filed with the Division, with the first copy being forwarded to the insurance carrier and the second copy being retained by the employer.

(d) In the event of a serious injury which requires hospitalization or the event of a fatality, the form shall be filed immediately with the Office of Safety Compliance and notice of the injury shall be given immediately to the Office of Safety Compliance by telephone, telegram or by electronic transmission.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In (d), inserted reference to electronic transmission.

#### **12:235-10.2 Employer's second report of accidental injury or occupational disease**

(a) The employer shall report to the Division all accidental injuries causing disability beyond seven days or permanent injury or occupational disease. The form for this report shall be as prescribed by the Division.

(b) The employer's report to the Division of an accidental injury or occupational disease shall be filed with the Division, with a copy being forwarded to the insurance carrier and a copy retained by the employer, as soon as it is reasonably known or expected that such disability, permanent injury, or occupational disease has occurred.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### **12:235-10.3 Insurer's initial notice of accident**

(a) The insurance carrier of self-insured shall, within 21 days after the happening of an accidental injury or knowledge of an occupational disease, file an initial notice of accident, statement of wages, and agreement to care for case.

(b) The notice shall be as prescribed by the Division. The original of the insurer's initial notice of accident shall be filed via first-class mail with the Division, with a copy retained by the carrier.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).  
Stylistic changes.

#### **12:235-10.4 Insurer's final report of accident**

(a) A final report of accident shall be filed by the insurance carrier or the self-insured at the close of the temporary disability, or as soon thereafter as the extent of permanent injury can be determined, whichever is later.

(b) The final report of accident shall be filed with the Division, with a copy to be sent to the employer, employee, and a copy retained by the insurance carrier or self-insured.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

#### **12:235-10.5 Report of death**

In the event that death results due to an accidental injury subsequent to the filing of a final report of accident, a report of death shall be filed with the Division and a copy sent to those recipients as named in N.J.A.C. 12:235-10.4.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

#### **12:235-10.6 Compliance with N.J.S.A. 34:15-96 through N.J.S.A. 34:15-102**

The filing of the reports as required by this subchapter shall constitute compliance with N.J.S.A. 34:15-96 through N.J.S.A. 34:15-102.

### **SUBCHAPTER 11. SURCHARGE COLLECTION PROCEDURES**

#### **Subchapter Historical Note**

Subchapter 11, Standard Forms, was recodified to N.J.A.C. 12:235-14 and Subchapter 11, Surcharge Collection Procedures, was recodified from N.J.A.C. 12:235-13 by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### **12:235-11.1 Purpose and scope**

(a) The purpose of this subchapter is to establish surcharge collection procedures to fund the Uninsured Employers' Fund and the Second Injury Fund.

(b) The surcharges shall be levied against all workers' compensation and employer's liability insurance policyholders and self-insured employers.

#### **12:235-11.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Department" means the New Jersey Department of Labor.

“Director” means the Director/Chief Judge of the Division of Workers’ Compensation.

“Earned premium” means the portion of the standard premium that was earned on a pro-rata basis of the policy term. As of January 1, 1999, the earned premium shall be defined as the portion of modified premium that was earned on a pro-rata basis of the policy term.

“Insurer” means a domestic, foreign, or alien mutual association or stock company writing workers’ compensation or employer’s liability insurance on risks located in this State who is subject to premium taxes pursuant to N.J.S.A. 54:18A-1 et seq.

“Modified premium” means the earned premium after application of any experience modification and prior to the application of an approved managed care premium reduction, a premium reduction in consideration of the New Jersey Construction Classification Premium Adjustment Program, the expense constant, surcharges, premium discount, retrospective rating plans, or premium reductions for deductible coverages.

“Policyholder” means a holder of a policy of workers’ compensation and employer’s liability insurance issued by an insurer, exclusive of any workers’ compensation endorsement requirement pursuant to N.J.S.A. 17:36-5.29.

“Report of compensation paid” is a report of the total amount of workers’ compensation paid pursuant to N.J.S.A. 34:15-1 et seq., adjusted for the amounts paid for funeral expenses and for the compromise of disputed claims pursuant to N.J.S.A. 34:15-20.

“Second Injury Fund” means a fund established pursuant to N.J.S.A. 34:15-94 which is designed to provide funds for workers who have experienced two disability injuries.

“Self-insured employer” means an employer which is authorized to self-insure for workers’ compensation or employer’s liability pursuant to N.J.S.A. 34:15-77.

“Standard premium” means the premium earned after application of any experience modification and prior to the application of the expense constant, premium discounts, retrospective rating plans or premium reductions for deductible coverages.

“Uninsured Employer’s Fund” means a fund to provide for the payment of awards against uninsured defaulting employers pursuant to N.J.S.A. 34:15-120.1 et seq.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.  
Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Amended “Director” and “Standard premium”.  
Amended by R.1998 d.575, effective December 7, 1998.  
See: 30 N.J.R. 3374(a), 30 N.J.R. 4244(a).

In “Earned premium” added a second sentence; and inserted “Modified premium”.

### 12:235-11.3 Reporting compensation paid

(a) Report forms for the reporting of compensation paid shall be mailed by the Department to the respective insurers or self-insured employers by June 15 of each calendar year.

(b) Insurers and self-insured employers shall file the report of compensation paid for the calendar period July 1 to June 30 with the Department by July 31 following the end of the report year to be filed.

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

### 12:235-11.4 Calculation and notification of surcharge

(a) Insurers shall include the surcharge percentages as provided by the Department of Insurance, for both the Second Injury Fund and the Uninsured Employer’s Fund, respectively, on each policyholder’s premium notice.

(b) The surcharge amounts shall be calculated by multiplying the surcharge rate by the standard premium. For quarters after December 31, 1998, the surcharge amounts shall be calculated by multiplying the surcharge by the modified premium.

(c) The resulting surcharge amounts shall be stated by the insurer separately on the premium notice.

(d) The surcharge shall be remitted to the insurer in accordance with the payment schedule established by the insurer for the policyholder, for the annual policy term.

(e) Self-insured employers shall be notified of their share of the surcharge by September 15 of the calendar year that precedes the year for which the surcharge applies.

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).  
Amended by R.1998 d.575, effective December 7, 1998.  
See: 30 N.J.R. 3374(a), 30 N.J.R. 4244(a).

In (b), added a second sentence.

### 12:235-11.5 Surcharge collection procedure

(a) The Department shall provide each insurer and self-insured employer with the appropriate form for calculating the surcharge remittance. The form shall contain express instructions for the completion of the items pertaining to the calculation of the surcharge remittance.

1. For insurers, the following apply:

i. The amount of the remittance shall be proportionate to the earned premium at the end of the calendar quarter of remittance, less any supplemental benefits and special adjustments that have been paid;

ii. The quarterly calculation of the surcharge amount due shall be adjusted for changes in prior quarter earned premiums, if any. For example, in 1989, the maximum number of prior quarters that may need earned premium adjustment will be three. In 1993, the maximum number of prior quarters that may need earned premium adjustment will be 19. In 1994, and thereafter, the maximum number of quarters that may need earned premium adjustment will vary from 16 to 19; and

iii. Surcharges collected shall be remitted within 30 days following the end of each calendar quarter ending March 31, June 30, September 30, and December 31.

2. For self-insured employers, the following apply:

i. The amount of the remittance shall be equal to one-quarter of the annual surcharge, adjusted for supplemental benefits and special adjustments paid during the calendar quarter of remittance; and

ii. One-quarter of the annual surcharge shall be remitted within 30 days of the end of each calendar quarter ending March 31, June 30, September 30, and December 31.

(b) The surcharge remittance form shall be returned with the surcharge remitted to the Department.

#### 12:235-11.6 Verification and audit procedures

(a) Insurers and self-insured employers shall submit a quarterly detailed report that supports the amount of credits, supplemental benefits and special adjustment payments claimed on the quarterly remittance.

1. The form and manner of completion shall be as directed by the Director.

(b) Claims for credits for supplemental benefits and special adjustment payments made pursuant to N.J.S.A. 34:15-94 are subject to review and approval by the Director.

1. Any credits claimed that are not approved by the Director shall result in the insurer or self-insured employer being liable for the surcharge in the amount of the disallowed claim for credit.

(c) Insurers and self-insured employers that fail to submit the support of the credits claimed on their quarterly remittance shall be liable for the total amount of the quarterly surcharge due without credit for the amount of supplemental benefits and special adjustment payments.

(d) Earned premiums and reports of compensation paid are subject to audit and verification by the Department.

1. Adjustments resulting from incorrectly reported earned premiums or reports of compensation paid shall result in a recalculation of the surcharge due from the insurer or self-insured employer who filed the incorrect information.

(e) Any amounts of surcharges due as the result of disallowed claims for credit or incorrect reports of earned premiums or reports of compensation paid shall be subject to interest on the portion of the surcharge that is due as the result of the disallowance or adjustment made by the Department.

#### 12:235-11.7 Earned premium notification

Until calendar year 1999, insurers are required to notify the Department of Banking and Insurance of the amount of standard earned premiums for the period of January 1 to December 31 of each calendar year by August 31 of the immediately following year. Starting with calendar year 1999 and every year thereafter, insurers are required to notify the Department of Banking and Insurance of the amount of modified premiums for the period of January 1 to December 31 of each calendar year by August 31 of the immediately following year. Such premium shall be used in the determination of the annual policyholder surcharge rate applicable during the next policy year.

Amended by R.1998 d.575, effective December 7, 1998.

See: 30 N.J.R. 3374(a), 30 N.J.R. 4244(a).

Added "Until calendar year 1999," at the beginning of the first sentence, and inserted a second sentence.

#### 12:235-11.8 Forms

Forms referred to in this subchapter are available from the Department, and may be requested in writing from:

Office of the Controller  
New Jersey Department of Labor  
PO Box 078  
Trenton, New Jersey 08625-0078

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### 12:235-11.9 Penalties

(a) Any insurer or self-insured employer who fails to submit a completed report of compensation paid by July 31 of any calendar year shall be subject to a penalty of \$100.00 for each 30 day period that the report is delinquent, up to a maximum of \$500.00.

(b) Any insurer or self-insured employer who fails to remit a quarterly surcharge by the due date shall be subject to a penalty of one-half of one percent (0.5%) of the surcharge remittance amount for each 30 day period, or portion thereof, that the remittance is delinquent, up to a maximum of five percent.

(c) Surcharges and penalties which are delinquent are subject to collection proceedings pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1.

## SUBCHAPTER 12. UNINSURED EMPLOYER'S FUND

### Subchapter Historical Note

Subchapter 12, Documents Referred to in This Chapter, was repealed and Subchapter 12, Uninsured Employer's Fund, was recodified from N.J.A.C. 12:235-14 by R.1997 d.110, effective March 3, 1997. See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

### Law Review and Journal Commentaries

Workers' Compensation. Steven P. Bann, 138 N.J.L.J. No. 2, 56 (1994).

### 12:235-12.1 Purpose; scope

(a) The Uninsured Employer's Fund (UEF) has been established pursuant to N.J.S.A. 34:15-120.1 to provide for the payment of certain awards of medical and temporary benefits entered against uninsured defaulting employers. This subchapter sets forth the procedures by which the UEF will be operated.

(b) Benefits for temporary disability and medical costs shall be provided in accordance with N.J.S.A. 34:15-120.1 et seq.

(c) No judgment or order for the payment of benefits shall be entered against the UEF.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Judgments to be entered specifically against uninsured employers, not the Fund.

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

### Case Notes

Workers' Compensation Act did not bar provider from suing employee for unpaid bill resulting from work-related injury. *West Jersey Health System v. Croneberger*, 275 N.J.Super. 303, 645 A.2d 1282 (A.D.1994).

### 12:235-12.2 Filing notice of an uninsured claim; personal service; third-party joinder

(a) An injured worker or his or her attorney shall notify the UEF within 30 days after the worker or his or her attorney knew or should have known that the employer was uninsured, or receives confirmation of non-insurance from the Compensation Rating and Inspection Bureau that benefits may be sought.

(b) Petitioner's attorney shall contact the Compensation Rating and Inspection Bureau within 15 days in writing to receive confirmation that the employer is uninsured. A copy of the Rating Bureau's response shall be included in the motion to join the UEF.

(c) In order to secure reimbursement of a petitioner's temporary disability benefits from the Uninsured Employers Fund, the petitioner shall file a motion to join the UEF in an action brought by or against the uninsured employer.

1. Petitioner's attorney, or the petitioner shall file a motion to join the UEF. When filing a motion to join the UEF, the petitioner's attorney or petitioner shall attach a copy of the inquiry and response of the Compensation Rating and Inspection Bureau.

2. The motion to join the UEF shall be filed in the vicinage in which the case is assigned.

3. A copy of the motion to join the UEF shall be served upon the Fund in the Office of Special Compensation Funds, PO Box 399, Trenton, New Jersey 08625-0399.

(d) Petitioner's attorney may make personal service of the claim petition and the motion to join the UEF on respondent.

1. Proof of service shall be filed with the Division and with the attorney representing the UEF.

2. If respondent is unable to be served, petitioner's attorney shall make a motion with the Judge of Compensation for substituted service pursuant to Rules of Civil Practice. The motion shall be supported by convincing evidence that the petitioner has made all reasonable attempts to serve respondent.

(e) The UEF shall have the authority to join a third-party and the third-party's insurance carrier when it appears that such party is or may be liable for the benefits sought.

(f) In reviewing claims submitted to the Uninsured Employer's Fund for payment pursuant to N.J.S.A. 34:15-120.4, the Commissioner may consider the extent of delay in notification to the Uninsured Employer's Fund by the petitioner and/or his or her attorney from the time they knew or reasonably should have known the respondent employer was uninsured.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Procedure to join the Fund specified.

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Rewrote (a); inserted new (c); recodified former (c) and (d) as (d) and (e); in (d)2, substituted "Judge of Compensation" for "Director"; and added (f).

### Case Notes

Workers' Compensation Act did not bar provider from suing employee for unpaid bill resulting from work-related injury. *West Jersey Health System v. Croneberger*, 275 N.J.Super. 303, 645 A.2d 1282 (A.D.1994).

### 12:235-12.3 Certification

(a) Petitioner's attorney shall submit a certification when filing a motion for an uninsured claim. The certification shall be specific, and shall contain the following information:

1. The date of hire;

2. The length of employment: If not continuous, list all dates of employment;

3. Copies of petitioner's W-2 for all dates of employment during the year in which the accident occurred;
4. Pay stubs for all salary received from respondent for previous six months;
5. The total wages received from respondent for 12 months preceding the accident;
6. The name, address (business and personal) and phone number of the respondent and any officer or manager of the company;
7. Any documents relating to the employer/employee relationship or lack thereof;
8. A statement of facts which establish the employer-employee relationship;
9. The name, address and phone number of all persons with knowledge of the existence of an employer/employee relationship between petitioner and respondent;
10. The place where the injury occurred, including the name of the owner of the property and the reason why the employee was at the location where the injury occurred;
11. The name, address and phone number of all witnesses to the accident, and whereabouts of respondent when the accident occurred;
12. The name, address and phone number of all persons with any knowledge of the accident;
13. How soon after the accident was a physician contacted;

14. The name and address of all treating physicians and the name and address of any hospital, laboratory or other facility where treatment was received;

15. Copies of all medical reports from the hospitals and treating physicians;

16. Medical insurance coverage for employee and/or spouse, and if available, the name and address of the company and the policy number;

17. If medical expenses have been paid;

18. Who paid the medical expenses; and

19. Whether the petitioner is receiving Social Security benefits.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Petitioner's attorney to advise Fund on benefits received; (b) and (c) deleted.

#### **12:235-12.4 Medical bills; physician's examination**

(a) The UEF shall have the opportunity to review all medical bills and charges to determine if the costs incurred were reasonable and necessary.

(b) The UEF may order an independent medical examination of a petitioner by a physician at any time when the UEF is involved or when it appears the UEF may become involved in a case. The examining physician will be asked to offer an opinion on:



(b) The form for the first report of accidental injury or occupational disease shall be Form L&I 1 and its amendments.

(c) The first report of accident or occupational disease shall be filed with the Division, with the first copy being forwarded to the insurance carrier and the second copy being retained by the employer.

(d) In the event of a serious injury which requires hospitalization or the event of a fatality, the form shall be filed immediately with the Office of Safety Compliance and notice of the injury shall be given immediately to the Office of Safety Compliance by telephone, telegram or by electronic transmission.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In (d), inserted reference to electronic transmission.

#### **12:235-10.2 Employer's second report of accidental injury or occupational disease**

(a) The employer shall report to the Division all accidental injuries causing disability beyond seven days or permanent injury or occupational disease. The form for this report shall be as prescribed by the Division.

(b) The employer's report to the Division of an accidental injury or occupational disease shall be filed with the Division, with a copy being forwarded to the insurance carrier and a copy retained by the employer, as soon as it is reasonably known or expected that such disability, permanent injury, or occupational disease has occurred.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### **12:235-10.3 Insurer's initial notice of accident**

(a) The insurance carrier of self-insured shall, within 21 days after the happening of an accidental injury or knowledge of an occupational disease, file an initial notice of accident, statement of wages, and agreement to care for case.

(b) The notice shall be as prescribed by the Division. The original of the insurer's initial notice of accident shall be filed via first-class mail with the Division, with a copy retained by the carrier.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

#### **12:235-10.4 Insurer's final report of accident**

(a) A final report of accident shall be filed by the insurance carrier or the self-insured at the close of the temporary disability, or as soon thereafter as the extent of permanent injury can be determined, whichever is later.

(b) The final report of accident shall be filed with the Division, with a copy to be sent to the employer, employee, and a copy retained by the insurance carrier or self-insured.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

#### **12:235-10.5 Report of death**

In the event that death results due to an accidental injury subsequent to the filing of a final report of accident, a report of death shall be filed with the Division and a copy sent to those recipients as named in N.J.A.C. 12:235-10.4.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

#### **12:235-10.6 Compliance with N.J.S.A. 34:15-96 through N.J.S.A. 34:15-102**

The filing of the reports as required by this subchapter shall constitute compliance with N.J.S.A. 34:15-96 through N.J.S.A. 34:15-102.

### **SUBCHAPTER 11. SURCHARGE COLLECTION PROCEDURES**

#### **Subchapter Historical Note**

Subchapter 11, Standard Forms, was recodified to N.J.A.C. 12:235-14 and Subchapter 11, Surcharge Collection Procedures, was recodified from N.J.A.C. 12:235-13 by R.1997 d.110, effective March 3, 1997. See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### **12:235-11.1 Purpose and scope**

(a) The purpose of this subchapter is to establish surcharge collection procedures to fund the Uninsured Employers' Fund and the Second Injury Fund.

(b) The surcharges shall be levied against all workers' compensation and employer's liability insurance policyholders and self-insured employers.

#### **12:235-11.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Department" means the New Jersey Department of Labor.

"Director" means the Director/Chief Judge of the Division of Workers' Compensation.

"Earned premium" means the portion of the standard premium that was earned on a pro-rata basis of the policy term.

"Insurer" means a domestic, foreign, or alien mutual association or stock company writing workers' compensation or employer's liability insurance on risks located in this State who is subject to premium taxes pursuant to N.J.S.A. 54:18A-1 et seq.

"Policyholder" means a holder of a policy of workers' compensation and employer's liability insurance issued by an insurer, exclusive of any workers' compensation endorsement requirement pursuant to N.J.S.A. 17:36-5.29.

"Report of compensation paid" is a report of the total amount of workers' compensation paid pursuant to N.J.S.A. 34:15-1 et seq., adjusted for the amounts paid for funeral expenses and for the compromise of disputed claims pursuant to N.J.S.A. 34:15-20.

"Second Injury Fund" means a fund established pursuant to N.J.S.A. 34:15-94 which is designed to provide funds for workers who have experienced two disability injuries.

"Self-insured employer" means an employer which is authorized to self-insure for workers' compensation or employer's liability pursuant to N.J.S.A. 34:15-77.

"Standard premium" means the premium earned after application of any experience modification and prior to the

application of the expense constant, premium discounts, retrospective rating plans or premium reductions for deductible coverages.

"Uninsured Employer's Fund" means a fund to provide for the payment of awards against uninsured defaulting employers pursuant to N.J.S.A. 34:15-120.1 et seq.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Amended "Director" and "Standard premium".

### 12:235-11.3 Reporting compensation paid

(a) Report forms for the reporting of compensation paid shall be mailed by the Department to the respective insurers or self-insured employers by June 15 of each calendar year.

(b) Insurers and self-insured employers shall file the report of compensation paid for the calendar period July 1 to June 30 with the Department by July 31 following the end of the report year to be filed.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

### 12:235-11.4 Calculation and notification of surcharge

(a) Insurers shall include the surcharge percentages as provided by the Department of Insurance, for both the Second Injury Fund and the Uninsured Employer's Fund, respectively, on each policyholder's premium notice.

(b) The surcharge amounts shall be calculated by multiplying the surcharge rate by the standard premium.

(c) The resulting surcharge amounts shall be stated by the insurer separately on the premium notice.

(d) The surcharge shall be remitted to the insurer in accordance with the payment schedule established by the insurer for the policyholder, for the annual policy term.

(e) Self-insured employers shall be notified of their share of the surcharge by September 15 of the calendar year that precedes the year for which the surcharge applies.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

### 12:235-11.5 Surcharge collection procedure

(a) The Department shall provide each insurer and self-insured employer with the appropriate form for calculating the surcharge remittance. The form shall contain express instructions for the completion of the items pertaining to the calculation of the surcharge remittance.

1. For insurers, the following apply:

i. The amount of the remittance shall be proportionate to the earned premium at the end of the calendar quarter of remittance, less any supplemental benefits and special adjustments that have been paid;

ii. The quarterly calculation of the surcharge amount due shall be adjusted for changes in prior quarter earned premiums, if any. For example, in 1989, the maximum number of prior quarters that may need earned premium adjustment will be three. In 1993, the maximum number of prior quarters that may need earned premium adjustment will be 19. In 1994, and thereafter, the maximum number of quarters that may need earned premium adjustment will vary from 16 to 19; and

iii. Surcharges collected shall be remitted within 30 days following the end of each calendar quarter ending March 31, June 30, September 30, and December 31.

2. For self-insured employers, the following apply:

i. The amount of the remittance shall be equal to one-quarter of the annual surcharge, adjusted for supplemental benefits and special adjustments paid during the calendar quarter of remittance; and

ii. One-quarter of the annual surcharge shall be remitted within 30 days of the end of each calendar quarter ending March 31, June 30, September 30, and December 31.

(b) The surcharge remittance form shall be returned with the surcharge remitted to the Department.

### 12:235-11.6 Verification and audit procedures

(a) Insurers and self-insured employers shall submit a quarterly detailed report that supports the amount of credits, supplemental benefits and special adjustment payments claimed on the quarterly remittance.

1. The form and manner of completion shall be as directed by the Director.

(b) Claims for credits for supplemental benefits and special adjustment payments made pursuant to N.J.S.A. 34:15-94 are subject to review and approval by the Director.

1. Any credits claimed that are not approved by the Director shall result in the insurer or self-insured employer being liable for the surcharge in the amount of the disallowed claim for credit.

(c) Insurers and self-insured employers that fail to submit the support of the credits claimed on their quarterly remittance shall be liable for the total amount of the quarterly surcharge due without credit for the amount of supplemental benefits and special adjustment payments.

(d) Earned premiums and reports of compensation paid are subject to audit and verification by the Department.

1. Adjustments resulting from incorrectly reported earned premiums or reports of compensation paid shall result in a recalculation of the surcharge due from the insurer or self-insured employer who filed the incorrect information.

(e) Any amounts of surcharges due as the result of disallowed claims for credit or incorrect reports of earned premiums or reports of compensation paid shall be subject to interest on the portion of the surcharge that is due as the result of the disallowance or adjustment made by the Department.

#### 12:235--11.7 Earned premium notification

Insurers are required to notify the Department of Insurance of the amount of standard earned premiums for the period January 1 to December 31 of each calendar year by August 31 of the immediately following year. Such premiums shall be used in the determination of the annual policyholder surcharge rate applicable during the next policy year.

#### 12:235--11.8 Forms

Forms referred to in this subchapter are available from the Department, and may be requested in writing from:

Office of the Controller  
New Jersey Department of Labor  
CN 078  
Trenton, New Jersey 08625-0078

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### 12:235--11.9 Penalties

(a) Any insurer or self-insured employer who fails to submit a completed report of compensation paid by July 31 of any calendar year shall be subject to a penalty of \$100.00 for each 30 day period that the report is delinquent, up to a maximum of \$500.00.

(b) Any insurer or self-insured employer who fails to remit a quarterly surcharge by the due date shall be subject to a penalty of one-half of one percent (0.5%) of the surcharge remittance amount for each 30 day period, or portion thereof, that the remittance is delinquent, up to a maximum of five percent.

(c) Surcharges and penalties which are delinquent are subject to collection proceedings pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1.

## SUBCHAPTER 12. UNINSURED EMPLOYER'S FUND

### Subchapter Historical Note

Subchapter 12, Documents Referred to in This Chapter, was repealed and Subchapter 12, Uninsured Employer's Fund, was recodified

from N.J.A.C. 12:235-14 by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

### Law Review and Journal Commentaries

Workers' Compensation. Steven P. Bann, 138 N.J.L.J. No. 2, 56 (1994).

#### 12:235--12.1 Purpose; scope

(a) The Uninsured Employer's Fund (UEF) has been established pursuant to N.J.S.A. 34:15-120.1 to provide for the payment of certain awards of medical and temporary benefits entered against uninsured defaulting employers. This subchapter sets forth the procedures by which the UEF will be operated.

(b) Benefits for temporary disability and medical costs shall be provided in accordance with N.J.S.A. 34:15-120.1 et seq.

(c) No judgment or order for the payment of benefits shall be entered against the UEF.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Judgments to be entered specifically against uninsured employers, not the Fund.

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

### Case Notes

Workers' Compensation Act did not bar provider from suing employee for unpaid bill resulting from work-related injury. *West Jersey Health System v. Croneberger*, 275 N.J.Super. 303, 645 A.2d 1282 (A.D.1994).

#### 12:235--12.2 Filing notice of an uninsured claim; personal service; third-party joinder

(a) An injured worker or his or her attorney shall notify the UEF within 30 days after the worker or his or her attorney knew or should have known that the employer was uninsured, or receives confirmation of non-insurance from the Compensation Rating and Inspection Bureau that benefits may be sought.

(b) Petitioner's attorney shall contact the Compensation Rating and Inspection Bureau within 15 days in writing to receive confirmation that the employer is uninsured. A copy of the Rating Bureau's response shall be included in the motion to join the UEF.

(c) In order to secure reimbursement of a petitioner's temporary disability benefits from the Uninsured Employers Fund, the petitioner shall file a motion to join the UEF in an action brought by or against the uninsured employer.

1. Petitioner's attorney, or the petitioner shall file a motion to join the UEF. When filing a motion to join the UEF, the petitioner's attorney or petitioner shall attach a copy of the inquiry and response of the Compensation Rating and Inspection Bureau.

2. The motion to join the UEF shall be filed in the vicinage in which the case is assigned.

3. A copy of the motion to join the UEF shall be served upon the Fund in the Office of Special Compensation Funds, CN 399, Trenton, New Jersey 08625-0399.

(d) Petitioner's attorney may make personal service of the claim petition and the motion to join the UEF on respondent.

1. Proof of service shall be filed with the Division and with the attorney representing the UEF.

2. If respondent is unable to be served, petitioner's attorney shall make a motion with the Judge of Compensation for substituted service pursuant to Rules of Civil Practice. The motion shall be supported by convincing evidence that the petitioner has made all reasonable attempts to serve respondent.

(e) The UEF shall have the authority to join a third-party and the third-party's insurance carrier when it appears that such party is or may be liable for the benefits sought.

(f) In reviewing claims submitted to the Uninsured Employer's Fund for payment pursuant to N.J.S.A. 34:15-120.4, the Commissioner may consider the extent of delay in notification to the Uninsured Employer's Fund by the petitioner and/or his or her attorney from the time they knew or reasonably should have known the respondent employer was uninsured.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Procedure to join the Fund specified.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Rewrote (a); inserted new (c); recodified former (c) and (d) as (d) and (e); in (d)2, substituted "Judge of Compensation" for "Director"; and added (f).

#### Case Notes

Workers' Compensation Act did not bar provider from suing employee for unpaid bill resulting from work-related injury. *West Jersey Health System v. Croneberger*, 275 N.J.Super. 303, 645 A.2d 1282 (A.D.1994).

#### 12:235-12.3 Certification

(a) Petitioner's attorney shall submit a certification when filing a motion for an uninsured claim. The certification shall be specific, and shall contain the following information:

1. The date of hire;
2. The length of employment: If not continuous, list all dates of employment;
3. Copies of petitioner's W-2 for all dates of employment during the year in which the accident occurred;
4. Pay stubs for all salary received from respondent for previous six months;

5. The total wages received from respondent for 12 months preceding the accident;

6. The name, address (business and personal) and phone number of the respondent and any officer or manager of the company;

7. Any documents relating to the employer/employee relationship or lack thereof;

8. A statement of facts which establish the employer-employee relationship;

9. The name, address and phone number of all persons with knowledge of the existence of an employer/employee relationship between petitioner and respondent;

10. The place where the injury occurred, including the name of the owner of the property and the reason why the employee was at the location where the injury occurred;

11. The name, address and phone number of all witnesses to the accident, and whereabouts of respondent when the accident occurred;

12. The name, address and phone number of all persons with any knowledge of the accident;

13. How soon after the accident was a physician contacted;

14. The name and address of all treating physicians and the name and address of any hospital, laboratory or other facility where treatment was received;

15. Copies of all medical reports from the hospitals and treating physicians;

16. Medical insurance coverage for employee and/or spouse, and if available, the name and address of the company and the policy number;

17. If medical expenses have been paid;

18. Who paid the medical expenses; and

19. Whether the petitioner is receiving Social Security benefits.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Petitioner's attorney to advise Fund on benefits received; (b) and (c) deleted.

#### 12:235-12.4 Medical bills; physician's examination

(a) The UEF shall have the opportunity to review all medical bills and charges to determine if the costs incurred were reasonable and necessary.

(b) The UEF may order an independent medical examination of a petitioner by a physician at any time when the UEF is involved or when it appears the UEF may become involved in a case. The examining physician will be asked to offer an opinion on:

1. The appropriateness of petitioner's current medical treatment;
2. The prognosis for the petitioner;
3. Whether petitioner is able to return to work; and
4. Whether petitioner requires further treatment.

(c) Fees for independent medical evaluation shall be paid by the UEF.

(d) If it appears that the petitioner may be entitled to benefits from the UEF, then the UEF may direct the petitioner to the appropriate authorized treating physician for treatment.

1. Treatment obtained by petitioner from any physician other than the one authorized by the UEF shall be deemed to be unauthorized treatment, and costs for such treatment shall not be chargeable to the UEF.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Text at (a)1 and 2, (e) deleted; physician's opinion specified at (b).  
Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### **12:235-12.5 Assignment of cases; schedules**

- (a) The Director shall sign the UEF cases for hearing.

(b) The Director shall establish the vicinages in which the cases shall be heard.

(c) The Director shall establish the hearing dates and schedules for all uninsured employer cases.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.  
Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### **12:235-12.6 Payments from the UEF**

Payments from the UEF shall be made only in accordance with N.J.S.A. 34:15-120.4.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Attorney fee provisions deleted; Fund payment provisions added.  
Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### **12:235-12.7 Attorney fees**

(a) An attorney fee may be payable from the UEF to the petitioner's attorney when the petitioner is found eligible for UEF benefits by the Commissioner.

(b) An attorney shall make an application to the Commissioner for payment of the attorney fee awarded by the Judge of Compensation for obtaining the medical and/or temporary benefits assessed against the respondent.

1. The application shall be supported by an affidavit of services in a form and manner as prescribed by the Director.

New Rule, R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 834(a), 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).  
Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

### **SUBCHAPTER 13. ENFORCEMENT AND COLLECTION OF NON-INSURANCE PENALTIES**

#### **Authority**

N.J.S.A. 34:1-20, 34:1A-3(e), 34:1A-12(b) and (c), and 34:15-64.

#### **Source and Effective Date**

R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

#### **Subchapter Historical Note**

Subchapter 13, Surcharge Collection Procedures, was recodified to N.J.A.C. 12:235-11 and Subchapter 13, Enforcement and Collection of Non-Insurance Penalties, was adopted as new rules by R.1997 d.110, effective March 3, 1997. See: Source and Effective Date.

#### **12:235-13.1 General**

The Director/Chief Judge or his or her designee may, upon finding that an employer has failed for a period of not less than 10 consecutive days to make provision for payment of compensation as required by N.J.S.A. 34:15-71 and 34:15-72, and subsequent to notice and demand for proof of such provision pursuant to N.J.A.C. 12:235-13.2, impose upon that employer, in addition to all other penalties, fines or assessments provided for in the New Jersey Workers' Compensation Law (N.J.S.A. 34:15-7 et seq.) an assessment up to an amount of \$1,000 and when the period exceeds 20 days, an additional assessment of up to \$1,000 for each period of 10 days thereafter. All such assessments shall be collectible in a court of competent jurisdiction in a summary civil proceeding and shall be paid into the "Uninsured Employers Fund."

#### **12:235-13.2 Notice and demand for proof of coverage**

In the event the Division determines that a business entity is or may be operating as an employer in the State of New Jersey without the required workers' compensation coverage, the Division shall issue a notice, by regular and certified mail, to the business entity. Notice shall include a statement of the allegation, penalties to be assessed for such failure, a demand for proof of required coverage to be submitted within 20 calendar days and procedure for the business entity to request a hearing on the allegation.

**12:235-13.3 Acceptable proofs**

(a) In response to a notice issued pursuant to N.J.A.C. 12:235-13.2, acceptable preliminary proof of the required workers' compensation insurance coverage shall include a copy of a current certificate of insurance issued by a mutual association or stock company authorized to write on such risks in the State of New Jersey, a sworn affidavit by the agent of such mutual association or stock company stating the policy number(s) and the effective date(s) of coverage, documentation evidencing application for required coverage through the Compensation Rating and Inspection Bureau (CRIB), or a copy of the certificate of approval issued by the Commissioner of Insurance for self-insurance privilege under N.J.S.A. 34:15-77. Where a CRIB application is provided as proof of coverage, the Division shall issue a preliminary acceptance notice to the business entity with a copy to CRIB, requiring submittal by the business entity of a certificate of insurance within 60 calendar days from the date of the mailing of such notice.

(b) All proofs of coverage submitted in the form of insurance certificate or agent affidavit are subject to verification by the Division with the named mutual association or stock company. Proofs of coverage submitted in the form of certificates of self-insurance shall likewise be subject to verification with the Department of Insurance.

(c) Where proofs of coverage as submitted by the business entity are found to be invalid on their face or through the process of verification, a second notice shall be issued to the business entity stating such findings and the current amount of assessment to be imposed, and providing procedures for the business entity to request a hearing on the allegation within 20 calendar days following the date of the second notice.

(d) All notices prescribed hereunder shall be served by the Division by certified and regular mail and shall be deemed satisfactory if not returned as undeliverable.

**12:235-13.4 Failure to respond**

Where the business entity fails to respond to either the initial or second notice and demand for proof of coverage within the period allowed, the amount of assessment stated in the last notice issued to the business entity shall become the final administrative order with respect to the imposition of such penalties.

**12:235-13.5 Hearings**

(a) A hearing will be conducted by the Director/Chief Judge or designee if requested pursuant to N.J.A.C. 12:235-13.2.

(b) The employer shall have the opportunity to present any and all relevant evidence but the Director/Chief Judge or designee conducting the hearing shall not be bound by the Rules of Evidence.

(c) Penalties assessed against an employer will be dismissed upon a finding by a preponderance of the credible proof that the requirements of Article 5 and related sections of the Workers' Compensation Act were met as of the date of the issuance of the initial notice of violation.

(d) If, upon finding that the employer was in violation of N.J.S.A. 34:15-7 et seq., a portion or all of the administrative penalty assessed in the initial notice of violation may be abated by the Director/Chief Judge or designee based on the following factors:

1. Length of time the employer was without workers' compensation coverage;
2. An occurrence of a compensable injury while the employer was uninsured;
3. Past history of violations by the employer or an entity in which the violator was an owner, officer or principal shareholder;
4. Good faith of the employer;
5. Size of the employer's business; and
6. Any other material factors which the Director/Chief Judge or designee deems appropriate.

(e) If, as the result of a hearing, pursuant to this subchapter, an initial penalty amount is abated in part upon condition of timely payment, in whole or by installment, said employer shall make payment in strict accordance with the schedule of payments set forth by the Director/Chief Judge or designee. If the conditions of the penalty abatement order are not met, the abatement shall, upon further order of the Director/Chief Judge or designee, and without further hearing, be rescinded and the full amount of the initial assessment shall be due and owing.

(f) The Director/Chief Judge or designee shall issue a final administrative order within a reasonable time following the conclusion of the hearing.

**12:235-13.6 Payments**

(a) All penalties shall be paid in compliance with the final administrative order. Failure to pay such penalties when due shall result in a judgment being obtained in a court of competent jurisdiction.

(b) All sums shall be made payable to the "Uninsured Employers Fund" in the form of a certified check, money order or such other form authorized by the Director/Chief Judge or designee.

**SUBCHAPTER 14. STANDARD FORMS****Subchapter Historical Note**

Subchapter 14, Uninsured Employer's Fund, was recodified to N.J.A.C. 12:235-11 and Subchapter 14, Standard Forms, was recodified from N.J.A.C. 12:235-11 by R.1997 d.110, effective March 3, 1997. See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

**12:235-14.1 Listing of forms**

(a) Listed below are the titles and numerical designations of the standard forms utilized for workers' compensation:

1. Employee Claim Petition, WC 365;
2. Dependency Claim Petition, WC 366;
3. Application for Review or Modification of Formal Award, WC 368;
4. Notice of Motion for Temporary and/or Medical Disability Benefits, WC 101;
5. Respondent's Answer to Claim Petition, WC 367;
6. Respondent's Answer to Dependency Claim Petition, WC 171;
7. Answer to Application for Review or Modification of Formal Award, WC 369;
8. Answering Statement to Motion for Temporary and Medical Benefits, WC 102;
9. Standard Respondent's Interrogatories: Occupational Diseases, WC 22;
10. Standard Petitioner's Interrogatories: Occupational Diseases, WC 23;
11. Pre-Trial Memorandum, WC(DO) 31;
12. Order Approving Settlement WC(DO) 370;
13. No Insurance Case, WC(DO) 339;
14. Bench Referral from Division of Workers' Compensation to New Jersey Division of Vocational Rehabilitation Services;
15. Application for Informal Hearing, WC(CF)-66;
16. Central Office Record of Informal Proceedings, WC(CF)-11;
17. Second Injury Fund Verified Petition (SCF-161);
18. Decision of Eligibility, WC-48;
19. Application for Commutation, WC(1)-60;
20. Decision of Dismissal, WC-47;
21. Discrimination Complaint SCF 4;
22. Employer's First Report of Accidental Injury of Occupational Illness, L&I 1;
23. Employer's First Report to Division of Workers' Compensation of Accidental Injury or Occupational Disease, WC-1;
24. Insurer's Initial Notice of Accident and Insurer's and Self-Insurer's Statement of Wages and Agreement to Care for Case, WC-2;

25. Report of Death, WC-3A;
26. Final Report of Accident, WC3;
27. Final Report of Accident, WC4;
28. Final Report of Accident, WC5;
29. Final Report of Accident, WC-6;
30. Substitution of Attorney, WC-10.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Amended form references throughout section; rewrote (a)10.

Amended by R.1998 d.152, effective March 16, 1998.

See: 30 N.J.R. 18(a), 30 N.J.R. 1047(b).

In (a)4, substituted "and/or Medical Disability" for "and Medical"; in (a)9, added " , WC 22"; and in (a)10, added " , WC 23".

Amended by R.1998 d.550, effective November 16, 1998.

See: 30 N.J.R. 3155(a), 30 N.J.R. 4055(a).

In (a), deleted "Application and" and inserted "(SCF-161);" in 17.

Amended by R.1998 d.576, effective December 7, 1998.

See: 30 N.J.R. 3588(a), 30 N.J.R. 4244(b).

In (a), added 30.

**12:235-14.2 Sample forms**

Samples of the standard forms listed in N.J.A.C. 12:235-14.1 follow:

**OFFICE OF ADMINISTRATIVE LAW NOTE:** The Division of Workers' Compensation submitted 29 sample forms as part of R.1997 d.110. These forms are not reproduced herein but may be inspected at:

Office of Administrative Law  
Building 9  
Quakerbridge Plaza, Quakerbridge Road  
PO Box 049  
Trenton, NJ 08625-0049

and

Department of Labor  
Division of Workers' Compensation  
Sixth Floor  
John Fitch Plaza  
PO Box 399  
Trenton, NJ 08625-0399

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Amended by R.1998 d.152, effective March 16, 1998.

See: 30 N.J.R. 18(a), 30 N.J.R. 1047(b).

Administrative correction.

See: 30 N.J.R. 1417(b).

Amended by R.1998 d.550, effective November 16, 1998.

See: 30 N.J.R. 3155(a), 30 N.J.R. 4055(a).

Updated the addresses.

Amended by R.2000 d.260, effective June 19, 2000.

See: 32 N.J.R. 1144(a), 32 N.J.R. 2245(a).