

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), 34:1A-12(c),
34:15-64 and 43:21-25 et seq., specifically, 43:21-65.

Source and Effective Date

R.2006 d.305, effective July 28, 2006.
See: 38 N.J.R. 1521(a), 38 N.J.R. 3308(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 235, Rules of the Division of Workers' Compensation, expires on July 28, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 235, Rules of the Division of Workers' Compensation, was adopted and became effective prior to September 1, 1969.

Chapter 235, Rules of the Division of Workers' Compensation, was repealed and a new Chapter 235, Rules of the Division of Workers' Compensation, was adopted as R.1986 d.144, effective May 5, 1986. See: 17 N.J.R. 2081(a), 18 N.J.R. 987(a).

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

Subchapter 14, Uninsured Employer's Fund, was adopted as R.1990 d.338, effective July 2, 1990. See: 22 N.J.R. 3852(a), 22 N.J.R. 2023(a).

Pursuant to Executive Order No. 66(1978), Chapter 235, Rules of the Division of Workers' Compensation, was readopted as 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, Rules of the Division of Workers' Compensation, was readopted as R.1996 d.184, effective March 11, 1996. See: 28 N.J.R. 790(a), 28 N.J.R. 1859(a).

Subchapter 13, Enforcement and Collection of Non-Insurance Penalties, was adopted as new rules, and Subchapter 13, Surcharge Collection Procedures, was recodified to N.J.A.C. 12:235-11, and Subchapter 11, Standard Forms, was recodified to N.J.A.C. 12:235-14, and Subchapter 14, Uninsured Employer's Fund, was recodified to N.J.A.C. 12:235-12, and Subchapter 12, Documents Referred to in This Chapter, was repealed by R.1997 d.110, effective March 3, 1997. See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

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

Pursuant to Executive Order No. 66(1978), Chapter 235, Rules of the Division of Workers' Compensation, was readopted as R.2001 d.118, effective March 9, 2001. See: 33 N.J.R. 170(a), 33 N.J.R. 1113(a).

Subchapter 3, Conduct of Judges of Compensation, was repealed and Subchapter 3, Formal Claims, was recodified from Subchapter 5; Subchapter 4, Informal Hearings, was recodified from Subchapter 6; Subchapter 5, Second Injury Fund Cases, was recodified from Subchapter 7; Subchapter 6, Commutation of Award, was recodified from Subchapter 8; Subchapter 7, Uninsured Employer's Fund, was recodified from Subchapter 12; Subchapter 8, Discrimination Complaints, was recodified from Subchapter 9; Subchapter 9, Assignment and Supervision of Judges, was recodified from Subchapter 4; Subchapter 10, Conduct of Judges, was adopted as new rules; Subchapter 11, Accident Reports, was recodified from Subchapter 10; and Subchapter 12, Surcharge Collection Procedures, was recodified from Subchapter 11, by R.2002 d.340, effective October 21, 2002. See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

Chapter 235, Rules of the Division of Workers' Compensation, was readopted as R.2006 d.305, effective July 28, 2006. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 12:235-1.1 Purpose; scope
- 12:235-1.2 Construction
- 12:235-1.3 Certification in lieu of oath
- 12:235-1.4 Still and television camera and audio coverage of proceedings
- 12:235-1.5 (Reserved)
- 12:235-1.6 Maximum workers' compensation benefit rates
- 12:235-1.7 through 12:235-1.8 (Reserved)

SUBCHAPTER 2. DEFINITIONS

- 12:235-2.1 Definitions

SUBCHAPTER 3. FORMAL CLAIMS

- 12:235-3.1 Initial pleadings
- 12:235-3.2 General motions for temporary disability and/or medical benefits
- 12:235-3.3 Motions for emergent medical care pursuant to N.J.S.A. 34:15-15.3
- 12:235-3.4 Insurance carrier or self-insured employer contact person procedures pursuant to N.J.S.A. 34:15-15.4
- 12:235-3.5 Other motions
- 12:235-3.6 Third-party joinder by respondent
- 12:235-3.7 Conditions allowable for discovery
- 12:235-3.8 Discovery
- 12:235-3.9 Testimony of injured or ill petitioner by depositions
- 12:235-3.10 Certification of pre-existing conditions
- 12:235-3.11 Pre-trial conference
- 12:235-3.12 Conduct of formal hearings
- 12:235-3.13 Orders approving settlement reached pursuant to N.J.S.A. 34:15-20
- 12:235-3.14 Notice of appeal
- 12:235-3.15 Interpreters
- 12:235-3.16 Enforcement
- 12:235-3.17 Hearing to request a stay of the order or judgment
- 12:235-3.18 Non-duplication of benefits under the Temporary Disability Benefits Law, N.J.S.A. 43:21-25 et seq. and the Workers' Compensation Act, N.J.S.A. 34:15-1 et seq.; temporary disability benefit liens in workers' compensation cases

SUBCHAPTER 4. INFORMAL HEARINGS

- 12:235-4.1 Purpose of informal hearings
- 12:235-4.2 Filing of an application for an informal hearing
- 12:235-4.3 Contents of the application
- 12:235-4.4 Scheduling of informal hearings
- 12:235-4.5 Attendance at hearing
- 12:235-4.6 Representative of employer or carrier
- 12:235-4.7 Registration of representatives for employers or carriers
- 12:235-4.8 Representation of claimant
- 12:235-4.9 Procedure where employer has no insurance
- 12:235-4.10 Allowance of attorney fees
- 12:235-4.11 Commencement of informal hearings
- 12:235-4.12 Determination of issues
- 12:235-4.13 Acceptance of settlement recommendations and entry of informal award
- 12:235-4.14 Fee for service of physician
- 12:235-4.15 Denial of compensability or refusal to accept findings of informal hearings
- 12:235-4.16 Failure of employer or carrier to appear
- 12:235-4.17 Adjournment
- 12:235-4.18 (Reserved)

SUBCHAPTER 5. SECOND INJURY FUND CASES

- 12:235-5.1 General procedure
- 12:235-5.2 Payment of benefits
- 12:235-5.3 Filing

SUBCHAPTER 6. COMMUTATION OF AWARD

- 12:235-6.1 Application for commutation
- 12:235-6.2 Application form for commutation
- 12:235-6.3 Approval or disapproval of application for commutation

SUBCHAPTER 7. UNINSURED EMPLOYER'S FUND

- 12:235-7.1 Purpose; scope
- 12:235-7.2 Filing notice of an uninsured claim; personal service; subpoena duces tecum; third party joinder
- 12:235-7.3 Certification
- 12:235-7.4 Medical bills; physician's examination
- 12:235-7.5 Assignment of cases; schedules
- 12:235-7.6 Payments from the UEF
- 12:235-7.7 Attorney fees
- 12:235-7.8 Asbestos exposure claims under N.J.S.A. 34:15-33.3
- 12:235-7.9 Certification to the UEF, medical information in asbestos exposure cases

SUBCHAPTER 8. DISCRIMINATION COMPLAINTS

- 12:235-8.1 Filing discrimination complaints
- 12:235-8.2 Contents of discrimination complaints
- 12:235-8.3 Attachments to discrimination complaints
- 12:235-8.4 Investigation of discrimination complaints; appeal procedures

SUBCHAPTER 9. ASSIGNMENT AND SUPERVISION OF JUDGES

- 12:235-9.1 Assignment of judges
- 12:235-9.2 Assignment to supervisory positions
- 12:235-9.3 Personnel functions

SUBCHAPTER 10. CONDUCT OF JUDGES

- 12:235-10.1 A judge should perform the duties of judicial office impartially and diligently
- 12:235-10.2 Courtesy and civility
- 12:235-10.3 Conduct of attorneys
- 12:235-10.4 Conduct of witnesses and others having business before the court
- 12:235-10.5 A judge should uphold the integrity and independence of the judiciary
- 12:235-10.6 A judge should avoid impropriety and the appearance of impropriety in all activities
- 12:235-10.7 Disqualification of a judge
- 12:235-10.8 A judge may engage in activities to improve the law, the legal system, and the administration of justice
- 12:235-10.9 A judge shall so conduct the judge's personal activities as to minimize the risk of conflict with judicial obligations
- 12:235-10.10 Other compensation
- 12:235-10.11 A judge shall refrain from political activity
- 12:235-10.12 Medical reports
- 12:235-10.13 Causes for discipline or removal
- 12:235-10.14 Forms of discipline
- 12:235-10.15 Minor discipline
- 12:235-10.16 Major discipline
- 12:235-10.17 Establishment of Commission on Judicial Performance
- 12:235-10.18 Initial review by the Commission
- 12:235-10.19 Evidentiary review by the Commission
- 12:235-10.20 Recommendations of the Commission
- 12:235-10.21 Final hearing
- 12:235-10.22 Confidentiality
- 12:235-10.23 Judicial independence and discipline process

SUBCHAPTER 11. ACCIDENT REPORTS

- 12:235-11.1 Employer's first notice of accidental injury or occupational disease
- 12:235-11.2 Employer's final report of accidental injury or occupational disease
- 12:235-11.3 Penalty for noncompliance

SUBCHAPTER 12. SURCHARGE COLLECTION PROCEDURES

- 12:235-12.1 Purpose and scope
- 12:235-12.2 Definitions
- 12:235-12.3 Reporting compensation paid
- 12:235-12.4 Calculation and notification of surcharge
- 12:235-12.5 Surcharge collection procedure
- 12:235-12.6 Verification and audit procedures
- 12:235-12.7 Earned premium notification
- 12:235-12.8 Forms
- 12:235-12.9 Penalties

SUBCHAPTER 13. ENFORCEMENT AND COLLECTION OF NON-INSURANCE PENALTIES

- 12:235-13.1 General
- 12:235-13.2 Notice and demand for proof of coverage
- 12:235-13.3 Acceptable proofs
- 12:235-13.4 Failure to respond
- 12:235-13.5 Hearings
- 12:235-13.6 Payments
- 12:235-13.7 Stop-work order

SUBCHAPTER 14. STANDARD FORMS

- 12:235-14.1 Listing of forms
- 12:235-14.2 Sample forms

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.

Case Notes

Dismissal of clarification of workers' compensation settlement due to lack of jurisdiction affirmed. *Basile v. Board of Education of the Borough of Roselle Park, Union County*, 97 N.J.A.R.2d (EDU) 429.

Off duty officer's injury at police gym non-compensable. *Hill v. Middletown Township*, 97 N.J.A.R.2d (WCC) 54.

Workers' Compensation Court lacked jurisdiction to act on cases where petitioners were covered under Longshore and Harbor Workers' Act. *Morin v. Universal Maritime*, 96 N.J.A.R.2d (WCC) 46.

Employee's continuing psychiatric treatment for pre-existing mental condition aggravated by work-related injury. *Flaherty v. Monmouth Sailing Center, Inc.*, 93 N.J.A.R.2d (WCC) 166.

Lumbosacral strain and left lumbar radiculopathy resulting from compensable accident equaled 40% of permanent partial disability, and claimant suffered from anxiety reaction to extent of 10% of permanent partial disability. *Wielgosz v. Ortho Diagnostics*, 93 N.J.A.R.2d (WCC) 163.

Mechanic was employee of owner of repair shop. *Breden v. Dawson Automotive, Inc.*, 93 N.J.A.R.2d (WCC) 156.

Cancer and death were caused by exposure to carcinogens during the course of employment. *Rodriguez v. Sherwin Williams Paint Co.*, 93 N.J.A.R.2d (WCC) 153.