

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. *Breeden 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.

Receptionist/bookkeeper was entitled to psychiatric treatment, temporary disability benefits, and permanent disability as result of derisive and abusive language and behavior by owners. *Erhard v. Dee Rose Furniture of Brick Town Inc.*, 93 N.J.A.R.2d (WCC) 146.

Drywall finisher was employee rather than an independent contractor and accident arose out of and in course of employment. *Lopez v. P & B Partitions*, 93 N.J.A.R.2d (WCC) 143.

Temporarily disabled employee could not receive both unemployment benefits and disability compensation at the same time. *Khalil v. Revlon, Incorporated*, 93 N.J.A.R.2d (WCC) 135.

### 12:235-1.2 Construction

The rules contained in this chapter shall be construed to secure a just determination, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. Unless otherwise stated, any rule may be relaxed or dispensed with if strict adherence would cause an injustice.

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

Authority deleted; construction recodified from 1.5.

#### Case Notes

Penalty for late filing of unemployment compensation returns was warranted on basis of postmark found on envelope. *Star Crest v. Department of Labor*, 95 N.J.A.R.2d (LBR) 17.

### 12:235-1.3 Certification in lieu of oath

(a) Claim petitions shall be notarized and filed under oath as set forth in N.J.S.A. 34:15-51 and 34:15-52 and in accordance with N.J.A.C. 12:235-3.1.

(b) Certifications in lieu of oath as provided in the New Jersey Rules of Court may be used for motions and any other supporting documents filed with the Court.

New Rule, R.1997 d.110, effective March 3, 1997.

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

Amended 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).

Designated paragraphs as (a) and (b); in (a), deleted "and answers" following "petitions" and added "and in accordance with N.J.A.C. 12:235-3.1"; in (b), inserted "New Jersey" preceding "Rules" and "supporting" preceding "documents".

### 12:235-1.4 Still and television camera and audio coverage of proceedings

(a) All requests for still and television camera and audio coverage of proceedings shall be forwarded to the Chief Judge.

(b) Such requests shall be considered in accordance with the "New Jersey Supreme Court Guidelines for Still and Television Camera and Audio Coverage of Proceedings in the Courts of New Jersey," incorporated herein by references as amended and supplemented which may be obtained by requesting: Vicinage Operations Directive #10-03, October 8, 2003 from the Administrative Office of the Courts, Hughes Justice Complex, 25 West Market Street, PO Box 037, Trenton, New Jersey 08625-037.

New Rule, R.2004 d.263, effective July 6, 2004.

See: 36 N.J.R. 1350(a), 36 N.J.R. 3294(a).

### 12:235-1.5 (Reserved)

### 12:235-1.6 Maximum workers' compensation benefit rates

(a) In accordance with the provisions of N.J.S.A. 34:15-12.a, the maximum workers' compensation benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency is hereby promulgated as being \$871.00 per week.

(b) The maximum compensation shall be effective as to injuries occurring in the calendar year 2016.

Amended by R.1986 d.455, effective November 17, 1986.

See: 18 N.J.R. 1788(b), 18 N.J.R. 2331(d).

Benefit rates raised.

Amended by R.1987 d.472, effective November 16, 1987.

See: 19 N.J.R. 1624(a), 19 N.J.R. 2197(a).

Benefit rate raised from \$302.00 to \$320.00.

Amended by R.1988 d.536, effective November 7, 1988.

See: 20 N.J.R. 2188(a), 20 N.J.R. 2786(b).

Benefit rate raised from \$320.00 to \$342.00.

Amended by R.1989 d.563, effective November 6, 1989.

See: 21 N.J.R. 2700(a), 21 N.J.R. 3535(a).

Weekly benefit rates increased to \$370.00 for the 1990 calendar year.

Amended by R.1990 d.596, effective December 3, 1990.

See: 22 N.J.R. 2886(a), 22 N.J.R. 3628(a).

Weekly benefit rates increased to \$385.00 for the 1991 calendar year.

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

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

Section was "Workers' compensation benefits rates".

New Rule, R.1991 d.574, effective December 16, 1991.

See: 23 N.J.R. 2612(a), 23 N.J.R. 3818(a).

Amended by R.1992 d.467, effective November 16, 1992.

See: 24 N.J.R. 3015(a), 24 N.J.R. 4270(a).

Revised text.

Amended by R.1993 d.591, effective November 15, 1993.

See: 25 N.J.R. 3925(a), 25 N.J.R. 5352(b).

Amended by R.1994 d.553, effective November 7, 1994.

See: 26 N.J.R. 3594(b), 26 N.J.R. 4410(b).

Amended by R.1995 d.627, effective December 4, 1995.

See: 27 N.J.R. 3762(a), 27 N.J.R. 4898(b).

Amended by R.1996 d.516, effective November 4, 1996.

See: 28 N.J.R. 4077(a), 28 N.J.R. 4794(a).

Amended by R.1997 d.469, effective November 3, 1997.

See: 29 N.J.R. 3770(a), 29 N.J.R. 4704(a).

In (a), changed the benefit rate; and in (b), substituted "1998" for "1997".

Amended by R.1998 d.549, effective November 16, 1998.

See: 30 N.J.R. 3154(a), 30 N.J.R. 4054(a).

In (a), raised benefit rate for temporary disability from \$516.00 to \$539.00 per week; and in (b), changed calendar year to 1999.

Amended by R.1999 d.441, effective December 20, 1999.

See: 31 N.J.R. 3039(a), 31 N.J.R. 4286(a).

In (a), increased the maximum rate; and in (b), substituted a reference to 2000 for a reference to 1999.

Amended by R.2000 d.490, effective December 4, 2000.

See: 32 N.J.R. 3381(a), 32 N.J.R. 4259(b).

In (a), substituted "\$591.00" for "\$568.00"; and in (b), substituted "2001" for "2000".

Amended by R.2001 d.407, effective November 5, 2001.

See: 33 N.J.R. 2946(a), 33 N.J.R. 3752(b).

In (a), substituted "\$629.00" for "\$591.00"; in (b), substituted "2002" for "2001".

Amended by R.2002 d.392, effective December 2, 2002.

See: 34 N.J.R. 3057(a), 34 N.J.R. 4222(b).

In (a), substituted "\$638.00" for "\$629.00"; in (b), substituted "2003" for "2002".

Amended by R.2003 d.504, effective December 15, 2003.

See: 35 N.J.R. 4040(a), 35 N.J.R. 5547(a).

In (a), substituted "\$ 650.00" for "\$ 638.00"; in (b), substituted "2004" for "2003".

Amended by R.2004 d.474, effective December 20, 2004.

See: 36 N.J.R. 3987(a), 36 N.J.R. 5685(a).

In (a), substituted "\$666.00" for "\$650.00"; in (b), substituted "2005" for "2004".

Amended by R.2005 d.450, effective December 19, 2005.

See: 37 N.J.R. 3220(a), 37 N.J.R. 5045(b).

In (a), increased the benefit rate from \$666.00 to \$691.00; in (b), updated the calendar year from 2005 to 2006.

Amended by R.2006 d.449, effective December 18, 2006.

See: 38 N.J.R. 3486(a), 38 N.J.R. 5389(b).

In (a), substituted "\$711.00" for "\$691.00"; and in (b), substituted "2007" for "2006".

Amended by R.2007 d.390, effective December 17, 2007.

See: 39 N.J.R. 3714(a), 39 N.J.R. 5348(a).

In (a), substituted "\$742.00" for "\$711.00"; and in (b), substituted "2008" for "2007".

Amended by R.2008 d.377, effective December 15, 2008.

See: 40 N.J.R. 4914(a), 40 N.J.R. 6981(a).

In (a), substituted "\$773.00" for "\$742.00"; and in (b), substituted "2009" for "2008".

Amended by R.2009 d.392, effective December 21, 2009.

See: 41 N.J.R. 3197(a), 41 N.J.R. 4820(b).

In (a), deleted a comma following "partial disability" and substituted "\$794.00" for "\$773.00"; and in (b), substituted "2010" for "2009".

Amended by R.2010 d.302, effective December 20, 2010.

See: 42 N.J.R. 1994(a), 42 N.J.R. 3063(a).

In (a), substituted "\$792.00" for "\$794.00"; and in (b), substituted "2011" for "2010".

Amended by R.2011 d.316, effective December 19, 2011.

See: 43 N.J.R. 2277(a), 43 N.J.R. 3367(a).

In (a), substituted "\$810.00" for "\$792.00"; and in (b), substituted "2012" for "2011".

Amended by R.2012 d.203, effective December 17, 2012.

See: 44 N.J.R. 2163(a), 44 N.J.R. 3074(a).

In (a), inserted a comma following "permanent partial disability" and substituted "\$826.00" for "\$810.00"; and in (b), substituted "2013" for "2012".

Amended by R.2013 d.151, effective December 16, 2013.

See: 45 N.J.R. 2022(a), 45 N.J.R. 2603(a).

In (a), substituted "12.a" for "12(a)" and "\$843.00" for "\$826.00"; and in (b), substituted "2014" for "2013".

Amended by R.2014 d.192, effective December 15, 2014.

See: 46 N.J.R. 1863(a), 46 N.J.R. 2418(a).

In (a), substituted "\$855.00" for "\$843.00"; and in (b), substituted "2015" for "2014".

Amended by R.2015 d.204, effective December 21, 2015.

See: 47 N.J.R. 2236(a), 47 N.J.R. 3124(a).

In (a), substituted "\$871.00" for "\$855.00"; and in (b), substituted "2016" for "2015".

## 12:235-1.7 through 12:235-1.8 (Reserved)

### SUBCHAPTER 2. DEFINITIONS

#### 12:235-2.1 Definitions

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

"Act" means Workers' Compensation Law, N.J.S.A. 34:15-7 et seq.

"Chief Judge" means the Director/Chief Judge of the Division.

"Commissioner" means the Commissioner of Labor and Workforce Development or his or her designee.

"Department" means the New Jersey Department of Labor and Workforce Development.

"Director" means Director/Chief Judge of the Division.

"Division" means the Division of Workers' Compensation, PO Box 381, Trenton, New Jersey 08625-0381.

"Judge" means Judge of Compensation.

"N.J.A.C." means New Jersey Administrative Code.

"N.J.S.A." means New Jersey Statutes Annotated.

"Respondent," "employer" or "insurance carrier" are used interchangeably.

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

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

Definition of Chief Judge added; definition of "shall" deleted.

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

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

Added "Judge" and amended "Act", "Chief Judge", and "Director".

Amended 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).

Added "Department" and deleted "Office of Safety Compliance".

Amended by R.2006 d.305, effective August 21, 2006.

See: 38 N.J.R. 1521(a), 38 N.J.R. 3308(b).

In definitions "Commissioner" and "Department", inserted "and Workforce Development".

### SUBCHAPTER 3. FORMAL CLAIMS

#### 12:235-3.1 Initial pleadings

(a) Claim petitions shall be subject to the following:

1. The claim petition may be filed electronically or on paper.

2. Claim petitions filed on paper shall be verified by the claimant and include the date of the signature and verification. The formal hearing process shall be initiated by the filing of a verified claim petition in duplicate with the central office of the Division within the time prescribed

by law on a form prescribed by the Division. Claim petitions filed electronically shall follow the procedures in (c) below. If an attorney for the petitioner knowingly files an incomplete or inaccurate petition any fee that may be awarded, may be reduced by 15 percent or \$200.00, whichever is greater.

3. Except as provided in section (a)2 above, all paper pleadings, motions and briefs shall be signed by the attorney of record, or the attorney's associate or by the party if pro se. Signatures of a firm may be typed, followed by the signature of an attorney of the firm. Signatures on any duplicate original or carbon copy required to be filed may be typed. Every paper to be filed shall bear the date on which it was signed.

4. The signature of an attorney or party pro se constitutes a certification that the signatory has read the pleading or motion; that to the best of the signatory's knowledge, information and belief there is good ground to support it.

5. Material allegations, if known, shall be stated. Material allegations include a description of the accident or occupational exposure, the nature of the injury, the date and place of the occurrence, the wage, compensation benefits provided to date, a description of all other claims made for this injury and all other information requested on the prescribed form.

6. Claim petitions by or on behalf of a worker seeking compensation for injury caused by an accident shall describe the date, place and description of the accident, the

injury, the name and address of the employer, the name and address of the treating provider, the name of the compensation insurer and all other pertinent information required by the Act and these rules.

7. Claim petitions filed by dependents for benefits provided by N.J.S.A. 34:15-13 shall set forth the identity, address, relationship and date of birth of all dependents, the social security number of the decedent, the date and cause of death, whether compensation benefits were paid or claimed during the deceased's lifetime, and the type and amount of benefits claimed. To the extent applicable, the petitioner shall comply with the information required for accidental injury claims or occupational disease claims. Multiple claims arising from one decedent shall be consolidated for disposition.

8. All known multiple occupational claims by a worker or dependent against the same respondent employer shall be joined in one petition. Claim petitions for occupational disease as defined by N.J.S.A. 34:15-31 which are filed on behalf of a worker shall describe the dates, place and description of the exposure and the injury or illness claimed to have occurred as a result of the exposure. The occupational disease petition shall include the name and address of the employer(s) and the identity of its compensation insurer for the pertinent period of time as well as all other information required in filing a claim petition required by this section. The Division shall notify all parties of disposition.