

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.

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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.

Former employer was responsible for costs of worker's medical treatment. *Metros v. General Motors Corp., Hyatt Bearings Division*, 93 N.J.A.R.2d (WCC) 68.

Injury on coffee break in adjacent trucking company's yard did not arise out of employment. *Berkery v. Freightways*, 93 N.J.A.R.2d (WCC) 60.

Poor state of health entitled wife separated from worker at time of death to dependency benefits. *Woolcott v. Roma Food*, 93 N.J.A.R.2d (WCC) 58.

Fall by visiting home health nurse rated a 22 percent partial disability. *Backof v. Medical Center*, 93 N.J.A.R.2d (WCC) 56.

Surgeries performed following multiple head and facial injuries were a reasonable, medical necessity. *Byrd v. Off The Road Tire*, 93 N.J.A.R.2d (WCC) 54.

Back injury at work was directly related to next day's hospitalization for ruptured disk. *Hersh v. Hersh & Sherman*, 93 N.J.A.R.2d (WCC) 51.

Permanent partial disability was not established without objective medical evidence showing more than only some degenerative changes to back. *Morris v. K-Mart*, 93 N.J.A.R.2d (WCC) 48.

Causal relationship between colon cancer and long asbestos exposure warranted partial total disability award. *Rosamilia v. Essex*, 93 N.J.A.R.2d (WCC) 42.

Significant injuries to face, neck and back in employee parking lot warranted permanent disability award. *Zablocki v. Maas*, 93 N.J.A.R.2d (WCC) 38.

Expenses of psychiatric treatment following suicide attempt resulting from workplace injury were compensable. *Ellison v. Concurrent Computers*, 93 N.J.A.R.2d (WCC) 34.

Temporary disability payments were appropriate for school psychologist injured when bookcase hit head. *Sweet v. Jackson Board of Education*, 93 N.J.A.R.2d (WCC) 27.

Permanent disfigurement and neurosensory changes warranted partial permanent disability award. *Goode v. Herculite*, 93 N.J.A.R.2d (WCC) 25.

Back injury sustained by security officer warranted permanent, though limited disability award. *Currey v. Ocean County*, 93 N.J.A.R.2d (WCC) 22.

Stroke which commenced while mechanic was exerting extraordinary physical activity warranted total disability award. *Manning v. Engineering*, 93 N.J.A.R.2d (WCC) 18.

Long-term occupational exposure to asbestos warranted a partial, total award for pulmonary disability. *Stelzie v. Salvesen*, 93 N.J.A.R.2d (WCC) 15.

Control test established that carpenter working on house was not independent contractor, but was employee of homeowner. *Henry v. Parks*, 93 N.J.A.R.2d (WCC) 12.

Permanent partial disability resulted from occupational exposure to asbestos. *Russomanno v. Otis Elevator*, 93 N.J.A.R.2d (WCC) 9.

Gunshot wound to head at work resulted in total and permanent disability for which special adjustment benefits was due. *Lugo v. Franklin*, 93 N.J.A.R.2d (WCC) 2.

Worker suffered permanent partial disability as result of on-the-job accident. *Van Amburgh v. Rohil Estates*, 92 N.J.A.R.2d (WCC) 188.

Employer was not entitled to credit or offset for worker's pre-existing illness. *Woolsey v. New Jersey Bell Telephone Company*, 92 N.J.A.R.2d (WCC) 180.

Worker's widow was not entitled to dependency benefits. *Petit-Clair v. New Jersey Transit*, 92 N.J.A.R.2d (WCC) 176.

Worker was "employee" entitled to worker's compensation benefits. *Ojibe v. Thomas J. Reale, Inc.*, 92 N.J.A.R.2d (WCC) 173.

Worker was entitled to 25 percent permanent partial disability benefits for pulmonary injury. *Sutera v. City of Hoboken*, 92 N.J.A.R.2d (WCC) 170.

Employer failed to prove that termination of worker's benefits was warranted. *Kincade v. City of Wildwood*, 92 N.J.A.R.2d (WCC) 161.

Worker's unemployment was not compensable. *Cairns v. City of East Orange*, 92 N.J.A.R.2d (WCC) 155.

Worker's injury was causally related to employment. *Paduch v. Stony Brook Construction*, 92 N.J.A.R.2d (WCC) 152.

Mechanic was entitled to permanent partial disability benefits. *Landon v. Town & Country Motors*, 92 N.J.A.R.2d (WCC) 150.

Worker was entitled to slight increase in pulmonary disability benefits. *White v. Johns-Manville Sales Corporation*, 92 N.J.A.R.2d (WCC) 147.

Worker's settlement of his claim extinguished subsequent dependency claim. *Szikszi v. Simmons Precision*, 92 N.J.A.R.2d (WCC) 145.

Collision resulted in worker's permanent partial disability. *Reynolds v. Strober New Jersey Building Supply, Inc.*, 92 N.J.A.R.2d (WCC) 144.

Worker failed to prove that his injury occurred on the job. *McDuffie v. New Jersey Bell Telephone Company*, 92 N.J.A.R.2d (WCC) 142.

Worker was entitled to modification of previously settled claim. *Rolstad v. Tri-County Asphalt*, 92 N.J.A.R.2d (WCC) 138.

Independent contractor was not entitled to workers' compensation benefits. *Bozzolasco v. J.T. Ski Construction Co.*, 92 N.J.A.R.2d (WCC) 136.

Accidental fall rendered worker permanently and totally disabled. *Rivera v. Frank's Tree Service, Inc.*, 92 N.J.A.R.2d (WCC) 134.

Worker was entitled to increased benefits for psychiatric disability. *Woods v. CPC International, Inc./Best Foods*, 92 N.J.A.R.2d (WCC) 132.

Worker was entitled to modification of prior compensation award. *Cook v. Dollar Rent-A-Car*, 92 N.J.A.R.2d (WCC) 129.

Worker's deception did not disqualify him from receiving benefits. *Gomes v. Jose Natoli Construction Co.*, 92 N.J.A.R.2d (WCC) 127.

Worker was entitled to 17 1/2 percent temporary partial disability benefits. *Yar v. Springfield Heating and Air Conditioning, Inc.*, 92 N.J.A.R.2d (WCC) 125.

Worker's disabilities were unrelated to occupational exposure. *Shannon v. State of New Jersey*, 92 N.J.A.R.2d (WCC) 120.

Worker suffered disability in trip and fall accident. *Wydner v. Caldor's*, 92 N.J.A.R.2d (WCC) 116.

Worker was entitled to have disabilities from single accident "stacked". *Kim v. Wolf*, 92 N.J.A.R.2d (WCC) 112.

Worker suffered disability due to knee injury. *Markle v. Newark Board of Education*, 92 N.J.A.R.2d (WCC) 110.

Worker's carpal tunnel syndrome was work related. *Mackenzie v. New Jersey Bell Telephone Co.*, 92 N.J.A.R.2d (WCC) 107.

Worker's preexisting condition was aggravated by workplace accident. *Gronikowski v. K-Mart Corporation*, 92 N.J.A.R.2d (WCC) 102.

Asbestos exposure caused worker's cancer. *Zematis v. Exxon Company*, 92 N.J.A.R.2d (WCC) 98.

Chemical worker's liver damage was work-related. *Dean v. Powell-Duffryn*, 92 N.J.A.R.2d (WCC) 97.

Chimney worker's permanent total disability was job-related. *Lackey v. Custodis-Ecodyne, Inc.*, 92 N.J.A.R.2d (WCC) 92.

Worker injured in a fall suffered permanent partial disability. Smith v. Borough of Stone Harbor, 92 N.J.A.R.2d (WCC) 87.

Worker's disability was caused by three separate accidents. Genovese v. McGraw-Hill, Inc., 92 N.J.A.R.2d (WCC) 83.

On-the-job exposure to chemical fumes caused worker's disability. Ostendorf v. Acme Markets, Inc., 92 N.J.A.R.2d (WCC) 81.

Bus driver was entitled to 30 percent permanent partial disability benefits. Nordaby v. Cape May County Holiday Tours, 92 N.J.A.R.2d (WCC) 76.

Worker failed to timely notify her employer of on-the-job accident. Michelotti v. CVI Services Group, 92 N.J.A.R.2d (WCC) 73.

Insurer would be assessed penalties for negligent denial of disability claim. Gianotti v. Teledyne Farris Engineering, 92 N.J.A.R.2d (WCC) 70.

Construction worker suffered permanent partial disability as result of accident. Beam v. Gianetti Excavating Co., Inc., 92 N.J.A.R.2d (WCC) 67.

Worker suffered permanent total disability due to repetitive injuries. Peterson v. Hermann Forwarding Co. 92 N.J.A.R.2d (WCC) 60.

Evidence offered by worker was insufficient to prove permanent partial disability. Crean v. Somerville Lumber Co. 92 N.J.A.R.2d (WCC) 57.

Worker's job-related chemical exposure was cause of fatal lung cancer. Lee v. Engelhard Industries. 92 N.J.A.R.2d (WCC) 56.

Worker failed to prove that he suffered from work-related asbestosis. Gile v. Jersey Central Power & Light Co. 92 N.J.A.R.2d (WCC) 53.

Worker's chronic illness was job related. Daye v. Ciba Geigy. 92 N.J.A.R.2d (WCC) 46.

Worker's lower back injury was permanently and totally disabling. Martinez v. Esselte Pendaflex. 92 N.J.A.R.2d (WCC) 42.

Worker failed to prove entitlement partial permanent disability benefits. Blackwell v. N.J. Transit Bus Operations, Inc. 92 N.J.A.R.2d (WCC) 41.

Worker suffered no pulmonary function disability. Weston v. Excelled Sheepskin & Leather Coat Corporation, 92 N.J.A.R.2d (WCC) 39.

Motor vehicle collision occurred in the course of "special mission". Martin v. Jersey Central Power & Light Company, 92 N.J.A.R.2d (WCC) 34.

Worker's employment aggravated underlying circulatory deficiency. Felix v. Elegant Lingerie, 92 N.J.A.R.2d (WCC) 32.

Workplace exposure to chemicals was material cause of worker's death. Corio v. American Cyanamid Company, 92 N.J.A.R.2d (WCC) 29.

Worker would be awarded permanent partial disability benefits. Magill v. C & K Construction Company, 92 N.J.A.R.2d (WCC) 25.

Worker would be awarded partial total disability benefits. Hobbs v. General Motors Corporation, 92 N.J.A.R.2d (WCC) 20.

Claimant failed to prove her entitlement to dependency benefits. Toms v. Dee Rose Furniture, Inc., 92 N.J.A.R.2d (WCC) 18.

Worker suffered no permanent disability as result of asbestos exposure. Boszczuk v. Johns-Manville. 92 N.J.A.R.2d (WCC) 17.

Worker's widow met burden of proving entitlement to benefits. Slack v. Johns-Manville Products Corporation. 92 N.J.A.R.2d (WCC) 13.

Worker suffered total disability as result of work place accident. Johnson v. Blue Crest Farms. 92 N.J.A.R.2d (WCC) 9.

Permanent injury to worker's leg would be offset by credit for prior condition. Flancer v. Dell Chrysler. 92 N.J.A.R.2d (WCC) 7.

Worker's compensable permanent disability had significantly worsened. Wilson v. South Jersey Port Corporation. 92 N.J.A.R.2d (WCC) 3.

Worker's psychiatric disability was not caused by work place accident. Ramon Rivera v. Egg Harbor Boat Company. 92 N.J.A.R.2d (WCC) 2.

Worker's gunshot wound did not "arise out of" his employment. Riley v. Potter-Hillman Ford. 92 N.J.A.R.2d (WCC) 1.

12:235-5.11 Notice of appeal

Copies of a notice of appeal of any order or judgment shall be provided to the Division and the judge who decided the matter. See New Jersey Court Rule 2:5-1.

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

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

New Rule, R.1999 d.285, effective August 16, 1999.

See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).

Former N.J.A.C. 12:235-5.11, Interpreters, recodified to N.J.A.C. 12:235-5.12.

12:235-5.12 Interpreters

In any proceeding for which the services of an interpreter are required, a professional interpreter shall be utilized unless the Judge of Compensation, with the consent of the parties, determines otherwise. An interpreter shall be sworn or make affirmation or declaration to interpret accurately.

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

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

Recodified from N.J.A.C. 12:235-5.11 by R.1999 d.285, effective August 16, 1999.

See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).

Former N.J.A.C. 12:235-5.12, Enforcement of orders, recodified to N.J.A.C. 12:235-5.13.

12:235-5.13 Enforcement of orders

(a) For unreasonable failure to comply with any written order of a Judge of Compensation or with any requirements of this subchapter, a Judge of Compensation may:

1. Dismiss or grant the motion or application for enforcement of order;
2. Suppress a defense or claim;
3. Exclude evidence;
4. Order costs or reasonable expenses, including attorney's fees, to be paid to the Second Injury Fund of the State of New Jersey or an aggrieved representative or party; or
5. Take other appropriate case-related action.

(b) Before taking any action under N.J.A.C. 12:235-5.12(a) above, the Judge of Compensation shall hold a hearing on the appropriateness of the action and the reasonableness of any compensatory levy or sanction.

(c) Unless a stay is obtained from the appropriate appellate court or the Judge of Compensation, the failure to obey an order of the Judge of Compensation shall constitute grounds for compensatory sanctions against the attorney, the parties, or both. Filing of an appeal does not constitute an automatic stay of the judgment or order being appealed.

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

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

Recodified from N.J.A.C. 12:235-5.12 by R.1999 d.285, effective August 16, 1999.

See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).

SUBCHAPTER 6. INFORMAL HEARINGS

12:235-6.1 Purpose of informal hearings

(a) The informal hearing process is a service provided by the Division to effectuate the amicable adjustment of controversies between injured workers and their employers involving their respective rights under the Act.

(b) The informal hearing procedure is not expressly contained within the provisions of the Act.

(c) The filing of an application for an informal hearing will not toll the time limitation periods for the filing of a formal claim petition or a dependency claim petition as provided by the Act.

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.

12:235-6.2 Filing of an application for an informal hearing

(a) The informal process is initiated by the filing of an application in duplicate with the Division.

(b) The filing for informal hearing may be made by any party of interest including the injured worker, petitioner's attorney, the employer, the employer's representative or insurance carrier, or the Division.

(c) The application shall be filed within the time periods prescribed for the filing of a formal claim petition.

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.

12:235-6.3 Contents of the application

(a) The application for an informal hearing shall contain:

1. The worker's name, address, age, and social security number;
2. The employer's name and address;

3. The name of the employer's insurance carrier, if any;
4. The date of the accident;
5. A brief description of how the accident occurred;
6. A brief description of the injury.

12:235-6.4 Scheduling of informal hearings

(a) Upon receipt of the completed application the Division shall schedule the matter as soon as practicable.

(b) The Division shall give written notice of the time, place and name of the assigned Judge of Compensation to all parties involved in the controversy.

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.

12:235-6.5 Attendance at hearing

The worker's attorney, employer, insurance carrier, or self-insured shall provide sufficient personnel to insure prompt attendance at the scheduled time and place of the hearing to expeditiously handle all listed cases.

12:235-6.6 Representative of employer or carrier

An employer or carrier shall be represented by an individual expressly empowered with authority to act on its behalf to agree or disagree with the recommendations made by the Judge of Compensation at the time of the hearing.

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.

12:235-6.7 Registration of representatives for employers or carriers

(a) Each employer, carrier, or self-insured shall submit to the Director for distribution to all Judges of Compensation a list of each individual who will represent them at informal hearings.

(b) Each employer, carrier, or self-insured shall indicate that such individuals shall have the authority to represent and agree to settle on behalf of the respondent at informal proceedings.

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.

12:235-6.8 Representation of claimant

(a) Only an attorney at law licensed to practice in the State of New Jersey shall act as attorney for a worker in any informal hearing.

(b) Deviation from (a) above shall only be permitted by consent of the Director.

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.

12:235-6.9 Solicitation of compensation claims

No attorney nor any other person at the instance of an attorney shall solicit or cause to be solicited any compensation claim, nor shall any referral fee be paid to anyone not an attorney.

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.

12:235-6.10 Procedure where employer has no insurance

Where it is brought to the attention of the Judge of Compensation that the employer has failed to comply with N.J.S.A. 34:15-71, written notice of such violation shall be given to the Director for appropriate action.

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

Text on appearance by persons convicted of crime deleted; text on procedure when employer has no insurance recodified from 6.11.

12:235-6.11 Allowance of attorney fees

(a) A Judge of Compensation conducting informal hearings may allow counsel a fee, where warranted, for services rendered on behalf of the worker, in an amount not to exceed 10 percent of the worker's award.

(b) The fee in (a) above shall be payable by the worker.

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

Text on procedure when employer has no insurance recodified to 6.10; text on allowance of attorney fees recodified from 6.12.

12:235-6.12 Commencement of informal hearings

(a) Hearings shall be conducted by a Judge of Compensation designated by the Director.

(b) Hearings shall commence promptly at the time and place designated in the notice of informal hearing by a call of the daily court to ascertain the presence of all parties to the controversy and to identify those cases ready for disposition.

(c) Upon completion of the daily call, the Judge of Compensation shall inform all parties present of the order for hearing the ready cases and commence hearings, excusing those persons whose presence will not be required and granting those adjournments the Judge feels are warranted.

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

Text on allowance of attorney fees recodified to 6.11; text on commencement of informal hearings recodified from 6.13.

12:235-6.13 Determination of issues

(a) Upon a review of the application for the informal hearing and any supporting documents, the Judge of Compensation shall ascertain the areas of dispute and make recommendations to the parties to resolve any controversy as to unpaid temporary disability benefits and/or medical expenses.

(b) After a review of medical records or evaluation reports or both submitted by the parties and having personally inquired of the worker as to all present complaints, the Judge of Compensation shall make recommendations regarding permanent disability.

(c) In cases where there is insufficient factual or medical information upon which a recommendation can be made, the Judge of Compensation shall require either party to provide such information and shall adjourn the hearing until such time as the information is available.

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

Text on commencement of informal hearings recodified to 6.12; text on determination of issues recodified from 6.14.

12:235-6.14 Acceptance of settlement recommendations and entry of informal award

(a) When agreement has been reached by all parties and approved by the Judge of Compensation, the terms of such settlement shall be entered in the "Statement of Award," on a form prescribed by the Division.

(b) The claimant shall be fully advised of all rights under the Act.

(c) The "Statement of Award" shall be signed by the claimant, the employer or the employer's representative, and by the Judge of Compensation.

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

Text on determination of issues recodified to 6.13; text on acceptance of settlement recommendations and entry of informal award recodified from 6.15.

Case Notes

For workers' compensation lump-sum settlement to be effective, regulations required that terms of settlement be entered on prescribed form, that employee, employer and compensation judge sign form, and that employee be fully advised of all rights. *Kibble v. Weeks Dredging & Construction Co.*, 161 N.J.178, 735 A.2d 1142 (N.J. 1999).

Pursuit of claim that was known but not disclosed during prior settlement hearing. *Hawkins v. RCA*, 94 N.J.A.R.2d (WCC) 235.

12:235-6.15 Fee for service of physician

A Judge of Compensation conducting an informal hearing may allow a fee to a physician for medical services rendered to a claimant for the term of a compensable injury, unless such treatment was not ordered or authorized by the employer or carrier.

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

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

Text on acceptance of settlement recommendations and entry of informal award recodified to 6.14; text on fee for service of physician recodified from 6.16.

Case Notes

Proper forum for medical provider's suit against worker, was Division of Workers' Compensation. *Kinley Physical Therapy Services, Inc. v. Kramer*, 256 N.J.Super. 355, 606 A.2d 1163 (L.1992).

12:235-6.16 Denial of compensability or refusal to accept findings of informal hearings

In cases where the employer or the representative denies compensability under the Act or where either party refuses to accept the recommendations made by the Judge of Compensation, the claimant shall be made aware of all statutory rights, including the right to obtain counsel, to file a formal claim petition, and the applicable time period within which a claim petition must be filed.

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

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

Text on fee for service of physician recodified to 6.15; text on denial of compensability or refusal to accept findings of informal hearings recodified from 6.17.

12:235-6.17 Failure of employer or carrier to appear

(a) If a worker is present and the employer or its carrier fails to appear, the Judge of Compensation shall inform the worker of:

1. The procedure and time limit relating to rescheduling for a rehearing;
2. The approximate date of rescheduling; and
3. The worker's statutory rights as stated at N.J.A.C. 12:235-6.16.

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

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

Text on denial of compensability or refusal to accept findings of informal hearings recodified to 6.16; text on failure of employer or carrier to appear recodified from 6.18.