

12 NYCRR 312.5 Conciliation Decisions

- (a) If the claimant is represented by an attorney or licensed representative, the proposed conciliation decision will become final if no request for a meeting or no objection is received by the board within 30 days of the board's mailing of the proposed conciliation decision to all parties, or when signed in the presence of the conciliator, and shall constitute an award of the board for all purposes, except as provided in subdivisions (g), (i) and (j) of this section.
- (b) If the claimant is not represented by an attorney or licensed representative, the proposed conciliation decision will not become final if a request for a meeting or an objection to the decision is received by the board within 30 days of the board's mailing of the proposed conciliation decision to all parties. In addition, it will not become final until it is reviewed and approved by a Workers' Compensation Law Judge designated by the chair. The Workers' Compensation Law Judge shall conduct such review and render his or her approval or disapproval within 15 days of receipt of the proposed conciliation decision from the conciliation bureau.
- (c) A notice of approval or disapproval shall be sent to all parties in interest following the Workers' Compensation Law Judge review detailed in subdivision (b) of this section.
- (d) If the Workers' Compensation Law Judge approves the proposed conciliation decision, an unrepresented claimant shall have 10 days from receipt of the notice required in subdivision (c) of this section to withdraw from the proposed conciliation decision.
- (e) An employer or carrier also has a right to object to the proposed conciliation decision. Such objection must be received by the board within 30 days of mailing of the proposed decision pursuant to subdivision (b) of this section.
- (f) Where the parties do not agree, or, if the claimant is unrepresented, where a Workers' Compensation Law Judge disapproves or where the claimant withdraws from the proposed conciliation decision, the case shall be referred for hearing calendar processing, which may include a pre-hearing conference.
- (g) Final conciliation decisions are not reviewable under sections 22 and 23 of the Workers' Compensation Law. The continuing jurisdiction of the board under section 123 of the Workers' Compensation Law applies to conciliation cases.
- (h) The carrier is to file form C-8/8.6 showing payments made. Form C-8/8.6 in conciliation cases is to be filed within the time frame enumerated in section 25 of the Workers' Compensation Law.
- (i) Where the carrier has failed to make timely payments (within 10 days) of any award as required in the conciliation decision, a fine of \$500 shall be imposed by the chair, or an employee of the board designated by the chair, in accordance with paragraph (h) of subdivision 2-b of section 25 of the Workers' Compensation Law. Such fine shall not be reviewable under sections 22 and 23 of the Workers' Compensation Law, but shall be reviewable by an employee of the board designated by the chair to review such fine in accordance with procedures established by the chair. The time for payment of an award to an unrepresented claimant runs from the expiration of the claimant's time to withdraw from the proposed conciliation decision, pursuant to subdivision (d) of this section.
- (j) The penalties and assessments contained in paragraph (f) of subdivision 3 of section 25 of the Workers' Compensation Law, for late payment of awards, shall not be applicable to conciliation cases.