Section 300.26 of Title 12 NYCRR is hereby repealed, and replaced to read as follows:

Direct Deposit.

a) Scope. An injured worker or person entitled to a death benefit may elect to receive workers’ compensation indemnity or death benefits by direct deposit to a bank account or bank accounts in the name of the injured worker or person entitled to a death benefit. Such election is not required to be offered for payment of fees due to the representative of the injured worker or person entitled to a death benefit or for payments due to a treating medical provider for payment of medical bills.

b) Applicability. All carriers, self-insured employers, third-party administrators and Special Funds (including the Uninsured Employers Fund upon default of the uninsured employer) shall comply with this section by complying with subdivision (e) on or before July 1, 2021. Notwithstanding the foregoing, the Chair may toll the provisions of this section to accommodate a transition under Article 6-A to the Workers’ Compensation Security Fund currently administered by the Liquidation Bureau of the Department of Financial Services.

c) Requirements. A carrier, self-insured employer, third-party administrator or Special Fund must, upon receipt of the election of direct deposit from the injured worker or person entitled to a death benefit in the format prescribed by the Chair (Election Form), which includes all the data elements present on the Election Form on the Board’s website and does not require additional data elements, allow an injured worker or person entitled to death benefit to receive payment of workers’ compensation benefits by direct deposit to a bank account. For the purposes of this section direct deposit shall not include benefit payments loaded electronically onto a debit card associated to a bank.

1. The bank where any deposit is made must be a member of a New York Automated Clearinghouse.

2. Multiple bank accounts: (i) A carrier, self-insured employer and third-party administrator must permit workers’ compensation benefits or death benefits to be deposited in at least two bank accounts at the request of the injured worker or person entitled to death benefits; and (ii) A carrier, self-insured employer and third-party administrator must permit an injured worker or person entitled to a death benefit to divide the deposits as a percentage of the total benefit or by a fixed dollar amount for each deposit.

d) A carrier, self-insured employer, third-party administrator or Special Fund may set a minimum amount for deposit into any single bank account when such set minimum amount does not exceed $20 per bi-weekly payment.

e) One-time Notice to the Injured Worker or Person Entitled to a Death Benefit of Direct Deposit.

1. Within fourteen days of submission of a first report of injury to the Chair or accompanying the initial benefits check, whichever is earlier, the carrier, self-insured employer, third-party administrator or Special Fund shall provide the injured worker or person entitled to a death benefit, in the format prescribed by the Chair, with Notice of the right to receive payment by direct deposit together with the Election Form. In the event of a carrier’s acquisition of a claim, any prior election shall remain in effect unless discontinued as otherwise provided in this Part.
2. On or before July 1, 2021, the carrier, self-insured employer, or third-party administrator shall publish on its website such Notice and Election Form in the format prescribed by the Chair together with instructions for submission of the Election Form.

3. When the first report of injury or payment of the initial benefits check was due prior to July 1, 2021, such Notice and Election Form in the format prescribed by the Chair, shall be transmitted to the injured worker or person entitled to a death benefit together with or before the next Subsequent Report of Injury reporting indemnity payments that becomes due or is submitted on or after July 1, 2021 in accordance with section 300.22 of this Title.

4. Unless specifically requested by the Board, such Notice and Form shall not be submitted to the Board, but shall be maintained by the carrier, self-insured employer, third-party administrator or Special Fund.

5. Such Notice and Election Form shall not be due when payment to the injured worker or person entitled to a death benefit is made by the employer in lieu of workers’ compensation benefits (currently reported on a SROI-EP) or payment is made pursuant to a schedule loss of use award, or section thirty-two waiver agreement, or when an award is made with a direction that payments are not to continue beyond the date of the award.

f) Discontinuing Direct Deposit or Electing Direct Deposit. Where benefit payments are ongoing, the carrier, self-insured employer or third-party administrator shall implement a request by the injured worker or person entitled to a death benefit to discontinue direct deposit, elect to begin direct deposit or change the bank accounts associated to a direct deposit within forty five days of receipt of the Election Form from the injured worker or person entitled to a death benefit, when such notice is made in the format prescribed by the Chair. When direct deposit is discontinued, payment of benefits shall be by check.

g) Every Notice and Election Form for direct deposit shall inform the injured worker or person entitled to a death benefit of the obligation to immediately notify the carrier that in the event that the injured worker or person entitled to a death benefit is no longer entitled to such payment, the carrier shall be immediately notified. Further, the injured worker or person entitled to a death benefit shall immediately notify the carrier of any change in circumstances which would affect entitlement to receive the payment. In the event of failure to notify the carrier within 14 days of such change in circumstance, the carrier may avail itself of the procedure set forth in sections 300.23(a)(2) or 300.23(b)(3) of this Chapter.

h) The carrier, self-insured employer, third-party administrator or Special Fund may annually request that an injured worker or person entitled to a death benefit certify that they continue to elect payment of workers’ compensation benefits by direct deposit. Such request must offer options for return by mailing and by electronic means. In the event an injured worker or person entitled to a death benefit does not return the certification within sixty days, the carrier, self-insured employer, third-party administrator or Special Fund may discontinue direct deposit and make indemnity or death benefits due thereafter by check.