

Section 300.22 of Title 12 NYCRR is repealed and new Section 300.22 of Title 12 NYCRR is added, and Section 300.23 of Title 12 NYCRR is amended, and subdivisions (a), (d) and (g) of Section 300.38 of Title 12 NYCRR is amended.

Section 300.22 of Title 12 NYCRR is repealed and new Section 300.22 of Title 12 NYCRR is added to read as follows:

§ 300.22 Procedure by carrier, Special Fund, or TPA following disability event when compensation controverted and when no controversy, including temporary payments of compensation without prejudice

(a) Definitions. The following terms shall have the following meanings when used herein.

(1) “Disability event” means any accident, including death resulting therefrom, occurring in the course of employment or any alleged accident, including death resulting therefrom, that results in personal injury which has caused or will cause a loss of time from regular duties of one day beyond the working day or shift on which the accident or alleged accident occurred, or which has required or will require medical treatment beyond ordinary first aid or more than two treatments by a person rendering first aid; or any disease or alleged disease, including death resulting therefrom, claimed to have been caused by the nature of the employment and contracted therein.

(2) “Electronic Trading Partner Agreement” means the agreement between the carrier, Special Fund or TPA, and the Board that establishes the method and frequency of sending and receiving electronic reports including those required by this section.

(3) “Filed electronically” means that the electronic transmission submitted by the carrier, Special Fund, or TPA has been accepted and acknowledged by the Board. For the purpose of determining whether an electronic transmission has been timely submitted, any electronic transmission that is submitted to and accepted by the Board within the time required by subdivisions (b), (c), (d) and (f) herein shall be considered timely submitted when such electronic transmission is later acknowledged by the Board even though the acknowledgement by the Board may have occurred after the time required by subdivisions (b), (c), (d) and (f).

(4) “Special Fund” means any special fund maintained by the Board or any administrator of such special fund that is responsible for paying compensation or medical treatment and care of injured workers, including but not limited to, the Special Fund for Reopened Cases created and governed by Workers' Compensation Law Section 25-a and the Uninsured Employers' Fund created and governed by Workers' Compensation Law Section 26-a. The chair may waive a Special Fund's obligations under this section.

(5) “Third Party Administrator” or “TPA” means third party administrators responsible for all or part of the claims handling, pursuant to a contract, for the claims of the State Insurance Fund, stock corporations, mutual corporations or reciprocal insurers with which employers are insured to provide workers' compensation coverage, employers permitted to pay compensation directly under the provisions of Workers' Compensation Law Section 50 (3), (3-a) or (4), and any special fund maintained by the Board that is responsible for paying for compensation benefits or medical treatment and care of injured workers.

(b) Mandatory First Reports of Injury and Reports required by Section 110 of the Workers' Compensation Law.

(1) Mandatory First Reports of Injury. On or before the 18th day after the disability event or within 10 days after the employer has knowledge of the disability event, whichever period is the greater, the carrier, Special Fund, or TPA shall file electronically a first report of injury with the Board. The lapse of 18 days from the disability event or 10 days from the employer's knowledge of the disability event does not relieve the carrier, Special Fund or TPA from its obligation under this subdivision to file electronically a mandatory first report of injury. Such report shall be filed electronically in the format prescribed by the chair and shall contain the data elements prescribed by the chair.

(i) Medical only cases. When the disability event has not resulted in any compensable lost time and the carrier does not controvert the claim, the carrier, Special Fund or TPA must electronically file a mandatory first report of injury in the manner prescribed herein indicating that the carrier, Special Fund or TPA is providing coverage for medical expenses only. In such cases, the carrier, Special Fund or TPA is not required to file a subsequent report of injury except as set forth in paragraph (2) of subdivision (f). When a carrier, Special Fund or TPA, takes action on the claim beyond payment of medical expenses, the action may not be included in a first report of injury, but rather must be electronically filed with the Board in a subsequent report of injury as set forth in subdivisions (c), (d) and (f) herein, or must be filed in accordance with subdivision (e) herein.

(ii) A notice of controversy included in a first report of injury. A mandatory first report of injury electronically filed in the manner prescribed herein, may include, but is not required to include, an initial notice of controversy required by subparagraph (a) of subdivision (2) of [section 25 of the Workers' Compensation Law](#). An initial notice of controversy may always be filed as a subsequent report of injury as set forth in subdivision (c) of this section. When a carrier, Special Fund or TPA, takes action on the claim beyond the initial notice of controversy, the action may not be included in a first report of injury, but rather must be electronically filed with the Board in a subsequent report of injury as set forth in subdivision (c) of this section. Unless it is filed on or before the greater of 18 days after the disability event or within 10 days after the employer has knowledge of the disability event as required by subdivision (1) herein, a notice of controversy may not be filed as a first report of injury. A notice that contains the relevant elements, as prescribed by the chair, of the subsequent report of injury and initial action shall be transmitted to the claimant and his or her attorney or licensed representative, if any, within one business day of the date it is filed electronically with the chair. Such notice shall be served in accordance with section 300.38 of this Part.

(2) Reports required by Section 110 of the Workers' Compensation Law. A mandatory first report of injury filed electronically by the carrier, Special Fund, or TPA pursuant to subparagraph (1) of this subdivision shall satisfy the employer's obligation under subdivision (2) of section 110 of the Workers' Compensation Law when it is filed electronically within the time required in subdivision (2) of section 110. However a report of injury filed by an employer in satisfaction of the requirements of subdivision (2) of section 110 of the Workers' Compensation Law is not a mandatory first report of injury unless such report is filed electronically by a carrier, Special Fund or TPA in the format prescribed by the chair and contains all data elements prescribed by the chair as required in subparagraph (1) of this subdivision.

(3) Acquisition of claim from another carrier, Special Fund or TPA. A carrier, Special Fund or TPA shall file electronically a supplemental first report of injury with the Board within ten days of acquisition of the transfer of responsibility for a claim from another carrier, TPA or Special Fund that has previously filed a mandatory first report of injury with respect to the claim. In the event that a carrier, Special Fund, or TPA acquires responsibility for a claim transferred from another carrier, Special Fund or TPA, and a mandatory first report of injury has not yet been submitted to the Board, such mandatory first report of injury shall be filed within 30 days of rejection by the Board of the supplemental first report of injury or within 30 days of the acquisition of responsibility from the previous carrier, Special Fund or TPA when no supplemental first report of injury has been filed following acquisition. Such reports shall be filed electronically in the format prescribed by the chair and shall contain the data elements prescribed by the chair.

(c) Mandatory Subsequent Reports of Injury and Initial Action taken by Carrier, Special Fund, or TPA. Within 18 days of the disability event or within 10 days after the employer has knowledge of the disability event, the carrier, Special Fund, or TPA shall file electronically one of the subsequent reports of injury and initial action listed below. The subsequent report of injury and initial action shall be filed electronically in the format prescribed by the chair and shall contain the data elements prescribed by the chair. A notice that contains the relevant elements, as prescribed by the chair, of the subsequent report of injury and initial action shall be transmitted to the claimant and his or her attorney or licensed representative, if any, within one business day of the date it is filed electronically with the chair.

(1) Initial controversy. Unless submitted as a first report of injury in accordance with subparagraph (i) or (ii) of paragraph (1) of subdivision (a) herein, the initial notice of controversy required by paragraph (a) of subdivision (2) of [section 25 of the Workers' Compensation Law](#) shall be filed electronically with the chair either on or before the 18th day after the disability event or within 10 days after the employer has knowledge of the disability event, whichever period is the greater. In addition to the notice to claimant and claimant's attorney or licensed representative set forth in the preceding paragraph, such notice shall be served in accordance with [section 300.38 of this Part](#).

(2) Notice that right to compensation is not controverted and payment has begun. If the right to compensation is not controverted and the claimant has compensable lost time, the carrier, Special Fund, or TPA shall, either on or before the 18th day after the disability event or within ten days after the employer has knowledge of the disability event, whichever period is the greater, begin paying compensation and shall file electronically notice to the chair that payment of compensation has commenced. Such notice shall be made for all claims that are not controverted, including cases that are partially accepted by the carrier, Special Fund, or TPA or in which the employer is paying wages instead of compensation benefits paid by the carrier, Special Fund, or TPA.

(3) Notice that right to compensation is not controverted but payment has not begun. Unless submitted as a first report of injury in accordance with subparagraph (ii) of paragraph (1) of subdivision (a) herein, if the right to compensation is not controverted but payment has not begun because no compensation is presently due and the claimant has compensable lost time, the carrier, Special Fund, or TPA shall file electronically notice with the chair on or before the 18th

day after the disability event or within 10 days after the employer has knowledge of the disability event, whichever period is greater.

(d) Notice of Controversy in the event of a Notice of Indexing. A notice of controversy that is permitted by subparagraph (b) of subdivision (2) of section 25 of the Workers' Compensation Law shall be filed electronically with the chair within 25 days of the date of mailing by the Board of the notice of indexing. Such notice of controversy shall be filed electronically as a subsequent report of injury in the format prescribed by the chair for subsequent reports of injury and shall contain the data elements prescribed by the chair. A notice that contains the relevant elements, as prescribed by the chair, of the subsequent report of injury and initial action shall be transmitted to the claimant and his or her attorney or licensed representative, if any, within one business day of the date it is filed electronically with the chair. Such notice shall be served in accordance with section 300.38 of this Part.

(e) Notices and procedures when payments made pursuant to section 21-a of the Workers' Compensation Law. Notwithstanding any other provisions of this section or section 300.23 of this Part, the following procedures shall apply when a carrier, Special Fund, or TPA is unsure of the extent of its liability for a claim of compensation made under the Workers' Compensation Law:

(1) If the carrier, Special Fund, or TPA is unsure of the extent of its liability for a claim of compensation, and elects to make temporary payments of compensation or payment for prescribed medicine pursuant to [section 21-a of the Workers' Compensation Law](#), the carrier, Special Fund, or TPA may, at any time prior to or after filing a notice pursuant to subdivision (c) of this section, and prior to any decision of the Board establishing or disallowing the claim, begin temporary payments of compensation and/or prescribed medicine and shall immediately transmit notice to the Board that temporary payment of compensation and/or prescribed medicine has commenced. Such notice shall be filed electronically in the format prescribed by the chair and shall contain the data elements prescribed by the chair. A notice of payments made pursuant to section 21-a of the Workers' Compensation Law that contains the relevant elements, as prescribed by the chair, shall be transmitted to the claimant and his or her attorney or licensed representative, if any, within one business day of the date it is filed electronically with the chair. Payments of temporary compensation and/or prescribed medicine may be made without prejudice and without admitting liability.

(2) Upon receipt of the notice set forth in subparagraph (1) herein, the Board shall notify the employee that it has received a notice of payment of temporary compensation and/or prescribed medicine that payment of such compensation and the employee's acceptance thereof shall neither be an admission of liability by the carrier, Special Fund, or TPA nor prejudice the claim of the employee, and that payment of temporary compensation and/or prescribed medicine shall terminate upon either the lapse of one year from the date of first payment, or the filing of a notice of controversy, or the cessation of temporary payments by the carrier, Special Fund, or TPA upon the filing of notice, whichever is first. The Board shall also notify the employee that he or she may be required to enter into a non-prejudicial agreement with the carrier, Special Fund, or TPA in order to ensure the continued payments of temporary compensation and/or prescribed medicine.

(3) A carrier, Special Fund, or TPA may cease making temporary payments of compensation and/or prescribed medicine by delivering notice to the Board and the employee, within five days after the last payment. The notice shall be in a format prescribed by the Board and shall indicate whether the carrier, Special Fund, or TPA is now accepting liability for the claim or whether the carrier, Special Fund, or TPA is now controverting the claim. In any case in which temporary payments of compensation and/or prescribed medicine have been made and notice has been filed electronically with the Board advising that temporary payments without prejudice have commenced, a notice of controversy is not required to be filed electronically on or before the 18th day after the disability event or within 10 days after the employer has knowledge of the disability event, or if applicable, within 25 days from the date of transmittal of the notice of indexing provided, however, that if the carrier, Special Fund, or TPA ceases making temporary payments of compensation and/or prescribed medicine, the filing electronically of a notice of controversy as prescribed in subdivision (c) of this section or within 10 days after delivery of notice that temporary payments of compensation and/or prescribed medicine have terminated, whichever is later, shall be deemed timely for the purposes of subdivision 2 of section 25 of the Workers' Compensation Law.

(4) If the carrier, Special Fund, or TPA does not file electronically a notice of controversy with the Board within one year from the commencement of payment of temporary compensation and/or prescribed medicine, the carrier, Special Fund, or TPA shall be deemed to have admitted liability for the claim, and a decision shall be issued establishing the claim.

(f) Subsequent Reports of Injury for certain payments and periodic summary of payments

(1) The carrier, Special Fund, or TPA shall file electronically a notice with the Board within 16 days of: (i) a modification of any payment of compensation or payment of wages by the employer instead of compensation and the claim is not disputed; (ii) a suspension of any payment of compensation or payment of wages by the employer instead of compensation and the claim is not disputed; (iii) payment following acquisition of the transfer of responsibility for a claim from another carrier, TPA or Special Fund. Such notice shall be filed electronically by the carrier, Special Fund, or TPA when payment is made pursuant to subdivision (1) of section 25 of the Workers' Compensation Law or following direction by the Board. Such notices shall be filed electronically in the format prescribed by the chair and shall contain the data elements prescribed by the chair. Such notice shall also include a total reporting of all other types of payments made by the carrier, Special Fund, or TPA as provided in subparagraph (3) of this subdivision. A notice that contains the relevant elements, as prescribed by the chair, shall be transmitted to the claimant and his or her attorney or licensed representative, if any, within one business day of the date it is filed electronically with the chair.

(2) Within 18 days of a resumption of payments for a disability, the carrier, Special Fund, or TPA shall file electronically with the Board a subsequent report of injury indicating payments made to the claimant. A notice that contains the relevant elements, as prescribed by the chair, shall be transmitted to the claimant and his or her attorney or licensed representative, if any, within one business day of the date it is filed electronically with the chair.

(3) In every open case or in a closed case when the Board has directed the continuation of payments, the carrier, Special Fund, or TPA shall file electronically with the Board a summary of all payments made to a claimant during the preceding 180 days commencing 180 days from the

date the first report of injury was electronically filed with the Board and every 180 days thereafter. The summary of payments shall include compensation payments, payment for medical care and treatment, and wages paid instead of compensation and the claim is not disputed. When the carrier, Special Fund, or TPA or employer has not made any such payments in the preceding 180 days, no report shall be filed. When a case is closed and the Board has not directed the continuation of payments, the carrier, Special Fund, or TPA shall file electronically such summary of all payments 180 days after the case is closed, and thereafter shall file such summary of payments every 180 days only at its election or upon direction of the Board. Such reports shall be filed electronically in the format prescribed by the chair and shall contain the data elements prescribed by the chair. Such summary shall also include a total reporting of other types of payments made by the carrier, Special Fund, or TPA as provided in subparagraph (3) of this subdivision.

(4) Reporting of other types of benefits. Upon submission of a subsequent report of injury required by subparagraphs (1) or (2), the carrier, Special Fund, or TPA shall be responsible for reporting the total amount and type of payments made in connection with the claim, including: (i) all penalties paid to the claimant or New York State; (ii) all medical expenses including payments to physicians, chiropractors, physical therapists or other medical providers, payments to hospitals, payments for pharmaceuticals, payments for dental expenses, payments for durable medical goods, payments for medical and travel expenses reimbursed to the claimant, any other medical expenses; (iii) attorney fees or other legal fees; (iv) interest paid. Such reports shall be filed electronically in the format prescribed by the chair and shall contain the data elements prescribed by the chair.

(5) Penalties paid to claimant. A report of any penalty paid in whole or in part to the claimant must be filed electronically with the Board within ten (10) days of such payment. Such reports must be made for penalties issued pursuant to sections, 13(i)(3), 14-a, 23, 25, 220(4) of the Workers' Compensation Law and subdivision (h) of section 300.36 of this Part.

(g) Effective Dates. This regulation shall be effective on April 23, 2014. In order to file electronically, every carrier, Special Fund and TPAs, shall have completed an Electronic Trading Partner Agreement prior to that date.

(h) Where any notice is required to be transmitted to a claimant or his or her attorney or licensed representative, if any, the date such notice is actually mailed or otherwise transmitted shall be the date of transmittal, regardless of when received by the intended recipient.

Section 300.23 of Title 12 NYCRR is amended to read as follows:

§ 300.23 Requirements relative to suspension or reduction of compensation benefits

(a) In any case where the carrier or employer has made payment without waiting for an award by the board, the filing of [a form C-8/8.6 with the chair by a carrier or an employer] an electronic notice as prescribed in subdivision (f) of section 300.22 of this Part is not authority to suspend or reduce payments of compensation unless [there accompanies it supporting evidence that the suspension or reduction of payment is in order, such as] supporting evidence that the suspension

or reduction of payment is justified is submitted in the format prescribed by the Chair together with or on the same day as such notice. Supporting evidence may include:

(1) a copy of the payroll report if the compensation rate is not based on information contained in the employer or carrier's report of injury and is below the maximum;

(2) medical or other reports (including notice of return to work) justifying the suspension or reduction of payments, or by indicating on such notice the name and date of the medical or other reports, if they have been previously filed; or

(3) proof of incarceration upon conviction of a felony, which allows for the suspension of both wage replacement benefits and payment for causally related medical treatment.

(b) In any case where the board has made an award of compensation for a temporary total or temporary partial disability at an established rate of compensation, and there is a direction for continuation of payments, the employer or carrier shall continue payments at such rate, and such payments shall not be suspended or reduced until:

(1) there is filed with the chair in the district office where the case is assigned, a notice of intention to suspend or reduce [on a prescribed form] in a format prescribed by the Chair accompanied by supporting evidence justifying such suspension or reduction [together with proof of mailing of copies thereof upon the claimant, his/her doctor and his/her representative,] . A copy of the notice and supporting evidence shall be transmitted to the claimant and his or her attorney or licensed representative, if any, on the same day it is submitted to the Board or if submitted electronically within one business day of the date it is filed electronically with the Board and,

(2) the chair, upon receipt of the above, has scheduled a hearing or meeting or conference on the issue within 20 days during any period when regular hearings or meetings or conferences are scheduled, and there is a finding that such suspension or reduction is justified. At said hearing or meeting or conference, if either party fails to appear or fails to submit or file electronically any evidence as to the above issue, the board shall take such action as is appropriate under the circumstances including continuation, suspension or reduction of the award. Cases at hearing points which do not have regularly scheduled hearings or meetings or conferences within the 20 days, may be scheduled at another available hearing point. Upon a determination by the Board that a suspension or reduction in payments is justified, the carrier, Special Fund or TPA shall file electronically the notice prescribed in subparagraph (1) of subdivision (f) of section 300.22 of this Part.

(3) Notwithstanding any provision to the contrary in this subdivision, the employer or carrier upon the filing of [a form C-8/8.6 may suspend or reduce such payments] an electronic notice as prescribed in subdivision (f) of section 300.22 of this Part may suspend or reduce such payments:

(i) where a notice of return to work, [(C-11)]or other written substantial legal evidence of claimant's return to work, [has been filed with the chair,]has been submitted to the Board in the format prescribed by the Chair together with or on the same day that the notice to suspend or reduce is electronically filed, or

(ii) where the supporting evidence submitted [therewith]to the Board in the format prescribed by the Chair together with or on the same day that the notice to suspend or reduce is electronically filed includes payroll records for at least two calendar weeks which warrant such suspension or reduction, or

(iii) where the claimant's medical evidence indicates that the claimant has no disability. When such medical evidence is not part of the official Board file, it shall be submitted to the Board in the format prescribed by the Chair together with or on the same day that the notice to suspend or reduce is electronically filed ,or

(iv) where supporting evidence submitted [therewith] to the Board in the format prescribed by the Chair together with or on the same day that the notice to suspend or reduce is electronically filed includes proof of incarceration upon conviction of a felony.

(c) (1) In any case where the board has made an award for compensation for permanent total or permanent partial disability, payments shall not be suspended or modified until an application on a prescribed form accompanied by supporting evidence, is made to reconsider the degree of impairment or wage-earning capacity; [together with proof of mailing of copies thereof upon the claimant, his/her doctor and his/her representative] a copy of the application shall be transmitted to the claimant and his or her attorney or licensed representative, if any, on the same day it is submitted to the Board or if submitted electronically within one business day of the date it is filed electronically with the Board; and, the Board has made a final determination of such application, finding that such suspension or modification is justified; provided, however, that if such supporting evidence includes payroll records which show earnings for at least eight weeks immediately prior to the date of the application which warrant modification of the rate fixed and evidence identifying the claimant as the person whose payroll records are being submitted, the employer or carrier shall continue to pay compensation at such modified rate as the evidence submitted indicates is proper, or may suspend payments if the evidence submitted supports such suspension, pending final determination of the application by the board. Upon a determination by the Board that a suspension or reduction in payments is justified, the carrier, Special Fund or TPA shall file electronically the notice prescribed in subparagraph (1) of subdivision (f) of section 300.22 of this Part.

(2) Notwithstanding any provision to the contrary in this subdivision, the employer or carrier may, within sixteen days of stopping such payments in accordance with Workers' Compensation Law Section 25(1)(d) and upon filing electronically a notice as prescribed in subdivision (f) of section 300.22 of this Part, stop, suspend or reduce such payments:

(i) where supporting evidence, submitted to the Board in the format prescribed by the Chair together with or on the same day as such electronic notice, includes proof of incarceration upon conviction of a felony, or

(ii) where compensation payable for permanent partial disability has reached the maximum benefit weeks allowed pursuant to [Workers' Compensation Law Section 15\(3\)\(w\)](#). In either of the above circumstances, the employer or carrier must [file form C-8/8.6 with the board] submit an electronic notice as prescribed in subdivision (f) of section 300.22 of this Part [within sixteen days of stopping such payments in accordance with [Workers' Compensation Law Section 25\(1\)\(d\)](#)].

(3) Payment of death benefits shall not be suspended unless an application [on a prescribed form] in the format prescribed by the Chair is made, accompanied by supporting evidence, and the board approves such suspension.

(d) Whenever an employer or carrier shall seek to terminate medical care or refuse authorization for special medical services, except when a request for variance is denied, the Chair prescribed form shall be completed and filed with the Chair within five days after such termination or refusal, together with:

(1) medical report by authorized physician that need for medical care has ended;

(2) copy of notice to claimant's physician to discontinue medical care, or to refrain from commencing medical care, together with report of authorized physician establishing basis of discontinuance or refusal; and

(3) proof of mailing notice under paragraph (2) of this subdivision to the claimant and his physician.

(e) In any case in which a penalty has been imposed arising out of the failure to make payment of compensation according to the terms of the award within 10 days thereafter, the employer or his insurance carrier must file notice with the chair[, on board form C-8/8.6,] of the payment of such penalty within 10 days after the imposition thereof as set forth in subparagraph (4) of subdivision (f) of section 300.22 of this Part.

(f) Where any notice is required to be transmitted to a claimant or his or her attorney or licensed representative, if any, the date such notice is actually mailed or otherwise transmitted shall be the date of transmittal, regardless of when received by the intended recipient.

Subdivision (a) of Section 300.38 of Title 12 NYCRR is amended to read as follows:

§ 300.38 Controverted claims

(a) Notice of controversy:

An insurance carrier who controverts a claim shall [file with] submit to the Board and serve upon all other parties a notice of controversy [on the form] in the format prescribed by the Chair in accordance with Workers' Compensation Law section 25 (2) (a) or (b) or section 300.22[(d)(3)]of this Part. A notice that contains the relevant elements, as prescribed by the chair, of the first report of injury or subsequent report of injury as more fully set forth in section 300.22 of this Part, shall be transmitted to all other parties within one business day of the date it is filed electronically with the Board. The notice of controversy shall comply with the following:

(1) it must be complete and provide a factual basis for the insurance carrier's controverting the claim and for any asserted defenses;

(2) it must contain a written certification signed by the insurance carrier, or if represented, by its legal representative, that to the best of his or her knowledge, information and belief, formed after an inquiry reasonable under the circumstances that the allegations and other factual matters asserted in controverting the claim or the defenses asserted have evidentiary support, or if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. The written certification may be made at the pre-hearing conference prescribed in subdivision (g) and (h) herein. If the initial certification is not signed by a legal representative, then before a legal representative may appear on behalf of the insurance carrier, the legal representative shall file and serve the required certification;

(3) it must provide the name and, if known, the address and telephone number of each individual likely to have information that the insurance carrier may use to support its factual basis for controverting the claim or for supporting a defense, and briefly describe the information; and

(4) it must provide a list of all documents in the possession, custody or control of the insurance carrier that it may use to support the factual basis for controverting the claim or for supporting a defense.

Subdivision (d) of Section 300.38 of Title 12 NYCRR is amended to read as follows:

(d) Subsequent retention of legal representative. If a claimant retains a legal representative after a claim is indexed or after the carrier [files a form to controvert] submits a notice of controversy [the claim] when the claim is not indexed, the legal representative shall, within five days thereof, file with the Board and serve on all other parties a notice of retainer on the form prescribed by the Chair together with:

(1) An Employee Claim form, if not previously filed, or the legal representative's certification of a previously filed Employee Claim form or, if the previously filed form is incomplete, incorrect or in need of supplementation, an amended Employee Claim form and certification thereof; and

(2) The list of documents required to accompany the Employee Claim form of a claimant who has retained a legal representative as required in §300.37(d)(1); and if the claimant has retained a legal representative prior to the pre-hearing conference, a pre-hearing conference statement pursuant to subsection (f) of this section. Certification shall have the same meaning as in §300.37(d)(1)(i).

Subparagraph (2)(i) of subdivision (g) of Section 300.38 is amended to read as follows:

(i) confirmation that all forms and notices necessary to resolve the controversy, including medical reports except IME Reports, have been [filed with] submitted to the Board and served upon all other parties and a verification from the parties that all information thereon is accurate;