

Subparagraph (i) of paragraph (1) of subdivision (b) of section 300.22 of Title 12 NYCRR is hereby amended to read as follows:

(i) Medical only cases. When the disability event has not resulted in any compensable lost time and the carrier, special fund, or TPA does not controvert the claim and does not elect to make temporary payments of compensation and medical treatment and care, including prescribed medicine pursuant to section 21-a of the Workers' Compensation Law, 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 (f)(2) of this section. 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) of this section, or must be filed in accordance with subdivision (e) of this section.

Subdivision (e) of section 300.22(e) is hereby amended to read as follows:

(e) Notices and procedures when payments are 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 and medical treatment and care, including [or payment for] prescribed medicine, pursuant to section 21-a of the Workers' Compensation Law, the carrier, special fund, or TPA may, [when 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 medical treatment and care, [and/or] including prescribed medicine, and shall immediately transmit notice to the board that temporary payments of compensation and medical treatment and care, including 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 and shall be filed on the first day that any temporary payments of compensation and medical treatment and care, including prescribed medicine are made. 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 their [his or her] attorney or licensed representative, if any, within one business day of the date it is filed electronically with the chair. Temporary payments [Payments] of [temporary] compensation and medical treatment and care, including [and/or] prescribed medicine may be made without prejudice and without admitting liability.

(2) Upon receipt of the notice set forth in paragraph (1) of this subdivision, the board shall notify the employee that it has received a notice of temporary payment of [temporary] compensation and medical treatment and care, including [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 temporary payment of [temporary] compensation and medical treatment and care, including [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 temporary payments of [temporary] compensation and medical treatment and care, including [and/or] prescribed medicine.

(3) A carrier, special fund, or TPA may cease making temporary payments of compensation and medical treatment and care, including [and/or] prescribed medicine by delivering notice to the board and the employee, within five days after the last payment. For the purpose of such notice, when weekly benefits are being paid pursuant to section 15 of the Workers' Compensation Law, the date of last payment is the date the last payment of such benefits was issued to the claimant. When weekly benefits pursuant to section 15 of the Workers' Compensation Law are not being paid, the date of last payment is the date indicated on such notice on which the carrier, special fund, or TPA will no longer consent to make temporary payments of compensation and medical treatment and care, including prescribed medicine pursuant to section 21-a of the Workers' Compensation Law, regardless of whether actual payment for medical treatment and care or prescribed medicine occurs on such date. Payments for any medical treatment and care provided and prescribed medicine dispensed prior to the date of last payment must still be paid, and may be paid without admitting liability. 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 medical treatment and care, including [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 medical treatment and care, including [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 medical treatment and care, including [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,] first date of filing a report of injury indicating temporary payment for compensation and medical treatment and care, including prescribed medicine without accepting liability, 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.