



Workers' Compensation Board

October 29, 2020

Monitoring & Compliance

Timely Filing of Suspensions

Agenda

1. Payer Compliance
2. Process for Filing a Suspension
3. When is a Suspension Due and Associated Penalties
4. Monitoring Compliance 25(3)(e)
5. Scenarios
6. Resources
7. Questions

Goal of Payer Compliance Project

- Designed to increase efficiency and reduce costs for all system participants.
- Educate payers, monitor performance, and provide reports to encourage and ensure that established goals are met.



Payer Compliance

Payer Compliance

- The Board is now measuring timeliness of the Subsequent Report of Injury - Suspension (SROI-Sx) reporting that indemnity payment(s) have ceased.
- There are two measurements associated with the filing of the SROI-Sx: under WCL Section 25(3)(e) and WCL Section 25(1)(d); and measurements of both will be done on each suspension filing.
- The penalty phase for SROI-Sx is tentatively scheduled to begin the 2nd quarter of 2021 (i.e., April 1, 2021 – June 30, 2021).



Payer Compliance

- During the last quarter of 2020 and first quarter of 2021, the Board will be conducting educational webinars.
- Monthly reports identifying late suspension filings and missing suspensions received on and after September 1, 2020, will be sent to stakeholders for their review.
- Stakeholder input is encouraged when reviewing the monthly Payer Compliance Performance reports, as well as any missing suspension reports you may receive.
- No penalties will be issued during the period of outreach and education.



Missing Suspensions

- In August 2020, the Payer Compliance Unit began providing a list of cases on a monthly basis to claim administrators in which a suspension filing appears to be due. Payer Compliance has received feedback on the initial August 2020 report and will be making modifications going forward.
- Claim administrators should submit the suspension filings as soon as possible or contact the Payer Compliance Unit if they feel a suspension is not required. Any filings that were due prior to the penalty phase may be penalized.
- Claim administrators will continue to receive the monthly report once the penalty phase begins.

What Claims Are Being Measured?

- All suspension filings with a date of accident on or after January 1, 2018, and a suspension filing on or after April 1, 2021.
- Non-compliant filings may be subject to a penalty.
- Unlike the FROI, SROI and Controversy filings currently being measured, all types of loss codes (DN0290) will be measured, as well as claims that have resulted in the death of an injured worker.



Process for Filing a Suspension

When am I Required to File a Suspension?

A suspension filing is required each time an indemnity payment for a period of lost time is made and no further payments will be made.

- Examples of when a suspension is due:
 - Any time ongoing benefits cease.
 - One-time payment of lost time or additional day(s) of lost time when a prior suspension was filed and the additional payment was made after the suspension filing.
 - When the claim administrator stops a CCP upon approval of a Section 32 settlement for Indemnity.



When Am I Required to File a Suspension?

- Examples of when a suspension is *not due*:
 - Payment of a Section 32 agreement award.
 - Payment of a Schedule Loss of Use or Facial Disfigurement award.

When Is a Suspension Due?

When is a Suspension Due?

Timeliness of Suspension Under WCL Section 25(1)(d)

- Pursuant to WCL Section 25(1)(d): on Whenever for any reason compensation payments cease, the employer or its insurance carrier shall within sixteen days thereafter, send to the chair a notice on a form prescribed by the chair that such payment has been stopped, which notice shall contain the name of the injured employee or his or her principle dependent, the date of accident, the date to which the compensation has been paid and the whole amount of compensation paid.
- The penalty for a late filing of a suspension under WCL Section 25(1)(d) is \$300.00 which shall be payable to the claimant.

When is a Suspension Due?

Timeliness of Suspension Under WCL Section 25(3)(e)

- Pursuant to WCL Section 25(3)(e): If the carrier or employer fails to file a notice or report requested or required by the Board or otherwise required within the specified time period or within 10 days if no time period is specified, a \$50 penalty may be imposed which is payable to the Board.
- The filing shall be late if filed more than 16 days after benefits cease **unless** benefits were being paid pursuant to WCL Section 21-a at the time of the suspension. If so, the filing would be late if not filed within 5 days.

WCL Section 21-a claims

Timelines Used for WCL Section 21-a claims

- Pursuant to WCL Section 21-a (3): An employer may cease making temporary payments of compensation if such employer delivers within five days after the last payment, to the injured employee and the Board, a notice of termination of temporary payments of compensation on a form prescribed by the Board.

Maintenance Type Code for WCL Section 21-a claims

- In cases in which the claim administrator is making payment pursuant to WCL Section 21-a, the proper maintenance type code is the SROI-SJ regardless of why payments are being suspended.
- When paying and suspending pursuant to 21-a, if the suspension is more than 16 days late it could be subject to the 25(1)(d) penalty.



Measuring Timeliness

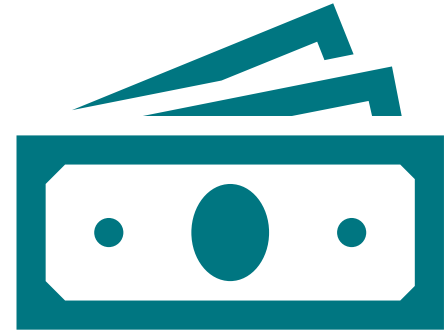
The Board will use one of the following dates to determine the timeliness of the suspension filing, whichever is the greatest.

- Benefit Payment Issue Date (DN0192)
- Benefit Period Through Date (DN0089)
- Suspension Effective Date (DN0193)



Penalties for Late Suspension

- Penalties under WCL Section 25(3)(e) in the amount of \$50 are payable to the Board and are waivable if the performance standard is met.
- Penalties under WCL Section 25(1)(d) in the amount of \$300 are payable to the claimant and are not waivable.



Monitoring Compliance

Monitoring Compliance

Penalty for Late Suspension

WCL Section 25(3)(e) If the carrier or employer fails to file a notice or report requested or required by the Board or otherwise required within the specified time period or within 10 days if no time period is specified, the Board may impose a \$50 penalty.

Performance Standards

The penalty under WCL Section 25(3)(e) will not be imposed as long as a carrier meets the following performance standards set per quarter:

- 2nd Quarter 2021 - 70%
- 3rd Quarter 2021 - 75%
- 4th Quarter 2021 - 80%
- 1st Quarter 2022 - 85%

Scenarios

Scenario 1 – Timeliness of Suspension Filing

- Worker is injured on 1/2/20 and notifies his employer on 1/3/20 of the injury and disability.
- Worker loses time from work due to his injury from 1/3/20 to 1/29/20, returning to work on 1/30/20.
- Claim administrator makes the initial payment of compensation with liability (Agreement to Compensate code DN0075) for the period 1/3/20 to 1/16/20 on 1/17/20 at a rate of \$600 per week.
- Claim administrator then makes additional payment for the period 1/17/20 to 1/29/20 on 1/30/20 again at the rate of \$600 per week.
- Suspension effective date would be 1/29/20. Benefit through date would be 1/29/20. Benefit payment issue date is 1/30/20.
- Suspension must be filed 16 days from benefit payment issue date.

Scenario 2 – Timeliness of Suspension Filing

- Using the same dates from scenario 1, claim administrator makes the initial payment of compensation for the period of lost time 1/3/20 to 1/16/20 on 1/17/20 at a rate of \$600 per week.
- The claim administrator on their initial SROI showing payment elects to pay without liability (Agreement to Compensate code DN0075).
- Claim administrator then makes additional payment for the period 1/17/20 to 1/29/20 on 1/30/20 again at the rate of \$600 per week and payments were still being made without liability at the time benefits were suspended.
- Suspension effective date would be 1/29/20. Benefit through date would be 1/29/20. Benefit payment issue date is 1/30/20.

Scenario 3 – Suspension Filing in a Section 32

- In an established claim (prior ANCR filing), if the claim administrator is under direction to continue payments and the case is awaiting a hearing to resolve a section 32 agreement in which Indemnity benefits will be suspended, the claim administrator would be required to file their Suspension within 16 days of the later of the Benefit Payment Issue Date (DN0192), Benefit Period through Date (DN0089) or Suspension Effective Date (DN0193) when Indemnity benefits were stopped in contemplation of the Section 32 agreement being approved.
- Example: if benefits were stopped as of the hearing date of 3/20/20 for which the Section 32 was to be approved and the last payment for the period up to 3/20/20 was made on 3/24/20 the suspension would be due by 4/9/20.

Resources

More Information

- Email: Monitoring@wcb.ny.gov
- Questions on EDI filings: eclaims@wcb.ny.gov
- Visit wcb.ny.gov – Insurers – Monitoring and Compliance

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Thank You