

**Subchapter 7. Uninsured Employers Fund**

**12:235-7.1 Purpose; scope.**

- (a) The Uninsured Employers Fund (UEF) has been established pursuant to N.J.S.A. 34:15-120.1 to provide for the payment of certain awards of medical and temporary benefits entered against uninsured defaulting employers. This subchapter sets forth the procedures by which the Fund will be operated.
- (b) Benefits for temporary disability and medical costs shall be provided in accordance with N.J.S.A. 34:15-120.1 et seq.
- (c) The UEF shall be a party to proceedings under this subchapter. However, no judgment or order for the payment of benefits shall be entered against the UEF.
- (d) The UEF may relax or dispense with requirements under the subchapter where appropriate and with the consent of the judge hearing the case.
- (e) The UEF shall be provided with a copy of a notice of appeal of any order or judgment in which the UEF is a party.

**12:235-7.2 Filing notice of an uninsured claim; personal service; subpoena ducas tecum; third party joinder.**

- (a) An injured worker or his/her attorney shall notify the UEF within 30 days after the worker or his/her attorney knew or should have known that the employer was uninsured, or receives confirmation of non-insurance from the Compensation Rating and Inspection Bureau that benefits may be sought.
- (b) Petitioner’s attorney shall contact the Compensation Rating and Inspection Bureau within 15 days in writing to receive confirmation that the employer is uninsured. A copy of the Rating Bureau’s response shall be included in the motion to join the UEF.
- (c) In order to secure reimbursement of a petitioner’s temporary disability benefits from the UEF, the petitioner shall file a motion to join the UEF in an action brought by or against the uninsured employer.
  - (1) Petitioner’s attorney, or the petitioner shall file a motion to join the UEF. When filing a motion to join the UEF, the petitioner’s attorney or petitioner shall attach a copy of

the inquiry and response of the Compensation Rating and Inspection Bureau.

- (2) The motion to join the UEF shall be filed in the vicinage to which the case is assigned.
- (3) A copy of the motion to join the UEF shall be served upon the Fund in the Office of Special Compensation Funds, PO Box 399, Trenton, New Jersey 08625-0399.
- (d) Petitioner’s attorney may make personal service of the claim petition and the motion to join the UEF on respondent.
  - (1) Proof of service shall be filed with the Division and with the attorney representing the UEF.
  - (2) If respondent is unable to be served, petitioner’s attorney shall make a motion with the Judge of Compensation for substituted service pursuant to Rules of Civil Practice. The motion shall be supported by evidence that the petitioner has made all reasonable attempts to serve respondent.
- (e) The UEF shall have the authority to join a third-party and the third-party’s insurance carrier when it appears that such party is or may be liable for the benefits sought.
- (f) In reviewing claims submitted to the UEF for payment pursuant to N.J.S.A. 34:15-120.4, the Commissioner may consider the extent of delay in notification to the UEF by the petitioner and/ or his/her attorney from the time they knew or should or reasonably should have known the respondent was uninsured.

**12:235-7.3 Certification.**

- (a) Petitioner’s attorney shall submit a certification when filing a motion for an uninsured claim. The certification shall be specific, and shall contain the following information:
  - (1) The date of hire;

- (2) The length of employment; If not continuous, list all dates of employment;
- (3) Copies of petitioner’s W-2 for all dates of employment during the year in which the accident occurred.
- (4) Pay stubs for all salary received from respondent for previous six months;
- (5) The total wages received from respondent for 12 months preceding the accident;
- (6) The name, address (business and personal) and phone number of the respondent and any officer or manager of the company;
- (7) Any documents relating to the employer/employee relationship or lack thereof.
- (8) A statement of facts which establish the employer/employee relationship;
- (9) The name, address and phone number of all persons with knowledge of the existence of an employer/employee relationship between petitioner and respondent;
- (10) The place where the injury occurred, including the name of the owner of the property and the reason why the employee was at the location where the injury occurred.
- (11) The name, address and phone number of all witnesses to the accident, and whereabouts of respondent when the accident occurred;
- (12) The name, address and phone number of all persons with any knowledge of the accident;
- (13) How soon after the accident was a physician contacted;
- (14) The name and address of all treating physicians and the name and address of any hospital, laboratory or other facility where treatment was received;

- (15) Copies of all medical reports from the hospitals and treating physicians;
- (16) Medical insurance coverage for employee and /or spouse and, if available, the name and address of the company and policy number;
- (17) If medical expenses have been paid:
- (18) Who paid the medical expenses; and
- (19) Whether the petitioner is receiving Social Security benefits.

**12:235-7.4 Medical bills; physician's examination.**

- (a) The UEF shall have the opportunity to review all medical bills and charges to determine if the costs incurred were reasonable and necessary.
- (b) The UEF may order an independent medical examination of a petitioner by a physician at any time when the UEF is involved or when it appears the UEF may become involved in a case. The examining physician will be asked to offer an opinion on:
  - (1) The appropriateness of petitioner's current medical treatment;
  - (2) The prognosis for the petitioner;
  - (3) Whether the petitioner is able to return to work; and
  - (4) Whether petitioner required further treatment.
- (c) Fees for the independent medical examination shall be paid by the UEF.
- (d) If it appears that the petitioner may be entitled to benefits from the UEF, the the UEF may direct the petitioner to the appropriate authorized treating physician for treatment.
  - (1) Treatment obtained by the petitioner from any physician other than the one authorized by the UEF shall be deemed to be unauthorized treatment, and costs

for such treatment shall not be chargeable to the UEF.

**12:235-7.5 Assignment of cases; schedules.**

- (a) The Director shall assign the Fund cases for hearing.
- (b) The Director shall establish the vicinages in which the cases shall be heard.
- (c) The Director shall establish the hearing dates and schedules for all uninsured employer cases.

**12:235-7.6 Payments from the UEF**

Payments from the UEF shall be made only in accordance with N.J.S.A. 34:15-120.4.

**12:235-7.7 Attorney fees**

- (a) Any attorney fee may be payable from the UEF to the petitioner's attorney when the petitioner is found eligible for UEF benefits by the Commissioner.
- (b) An attorney shall make an application to the Commissioner for payment of the attorney fee awarded by the Judge of Compensation for obtaining the medical and/or temporary benefits assessed against the respondent.
  - (1) The application shall be supported by an affidavit of services in a form and manner as prescribed by the Director.

**N.J.A.C. 12.235-7**

**UNINSURED  
EMPLOYERS  
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**NEW JERSEY  
DIVISION OF WORKERS' COMPENSATION**

**OFFICE OF  
SPECIAL COMPENSATION FUNDS**