

CLOSING A CASE WITH A B-31: The New Amended Rule 2.2

A means of finalizing a Mississippi workers' compensation claim is to file a "Notice of Final Payment" (Form B-31) with the Commission.¹ This procedure changed with the Mississippi Workers' Compensation Commission newly adopted Rules of Procedure which became effective January 18, 2018. The new procedures for the filing of a B-31 are found in Rule 2.17.

The law remains the same that the Form B-31 shall be sent to the Commission within thirty (30) days after the last payment of compensation (disability or medical benefits).² When the Form B-31 is properly filed, it establishes a one year statute of limitations within which to file subsequent applications for benefits, which is notated on the face of the form (the Commission's official form has not changed).

If no work related medical expenses are incurred within the one-year period, then there is no further liability for benefits by the Employer/Carrier.³ If any medical expenses are incurred within the one-year period, an Amended Form B-31 must be properly filed and another one-year statute of limitations commences to run.⁴ If the Amended B-31 only reflects additional medical expenses incurred but not billed prior to the filing of the first Form B-31, the claim will still be barred by the statute.⁵ Also, if a claim for additional benefits or a preliminary medical report (Form B-9) is filed within that one-year period, the statute is tolled and a new Amended Form B-

¹ MWCC Rule 2.17

² Miss. Code Ann. Section 71-3-37(7).

³ Miss. Code Ann. Section 71-3-53.

⁴ Brown v. F.W. Woolworth Co., 348 So.2d 236 (Miss. 1977); Broadway v. International Paper, Inc., 982 So.2d 1010 (Miss. Ct. App. 2008).

⁵ McCrimon v. Red Arrow Car Wash, 859 So.2d 395 (Miss. Ct. App. 2003).

31 must be filed. It is not necessary that the claim be a formal Petition. A simple letter from a claimant or a Form B-9 from a physician may be sufficient.⁶

The new rule retains the basic requirement that the Claimant receive formal notice that the one-year statute of limitations begins.⁷ The rule change affects the process for properly filing the B-31. The rule states to be effective there must be proof Claimant or his attorney received notice of the filing of the Form B-31 (“acknowledged delivery”). The best way for the B-31 to be properly filed is for the Claimant to sign and date the B-31. The new rule states the presence of Claimant’s signature will constitute “acknowledged delivery” of the B-31 to the Claimant. The new rule does not require the filed signed B-31 to be delivered to the Claimant and his attorney. If claimant is represented and the attorney is recognized by the Commission, the Commission will electronically provide the attorney proper notice of the filed B-31.

The new rule makes clear the Form B-31 does not need to be signed for the Commission to accept it to be filed. The rule still requires the unsigned Form B-31 be delivered to the Claimant or his attorney. (As stated, the Commission will electronically send the filed unsigned B-31 to Claimant’s attorney if the attorney is registered with the Commission.) The new rule has abolished the requirement that only U. S. Certified Mail be utilized to establish acknowledged delivery. Rather, any recognized method of acknowledged delivery will be accepted (for example, UPS or email). Therefore, the former case law rule that suggested the Form B-31 be forwarded to the Claimant before it is filed, appears to no longer be required. The new rule states notice to a claimant’s attorney is notice to a claimant. As stated, when a B-31 is electronically

⁶ Harper v. North Miss. Med. Ctr, 601 So.2d 395 (Miss. 1992); Barr v. Conoco Chemicals, Inc., 412 So.2d 1193 (Miss. 1982).

⁷ Staple Cotton Serv. Assn. v. Russell, 399 So.2d 224 (Miss. 1981); Leggett & Platt and Fidelity and Guaranty Ins. Co. v. Brinkley, 150 So.3d 106 (Miss. Ct. App. 2014).

filed, Claimant's attorney receives a filed copy. Unless an unrepresented Claimant is registered as an attorney of record, the unrepresented Claimant will not receive a filed copy. Therefore, an unrepresented Claimant should receive a copy of the filed B-31 to fully protect the interests of the Employer and Carrier.⁸

Therefore, the following recommendations are made if an unrepresented Claimant refuses or neglects to sign:

- (1) Be sure the Form is completed correctly and required information is furnished.
- (2) The unsigned Form B-31 should be filed with the Commission.
- (3) The unsigned, filed B-31 should be sent by some means where there is an "acknowledged delivery" to the unrepresented Claimant.
- (4) The transmittal letter to the Claimant should state the case is being closed, the Form B-31 has been filed with the Commission and is enclosed for the Claimant's review, the Form B-31 is a final report and settlement or constitutes a final receipt, and Claimant has a right or opportunity to be heard by the Commission.

If this procedure is followed, the one-year statute of limitation commences on the date Claimant receives notice of the unsigned, filed Form B-31.



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⁸ The practice of sending a Claimant or attorney a copy of the transmittal letter enclosing the Form B-31 to be filed with the Commission may constitute adequate notice but is not best practice.