

STATE BOARD OF WORKER'S COMPENSATION
ANNUAL SEMINAR

WORKERS' COMP 101:

BACK TO THE BASICS

NON-COMPENSABLE CLAIMS

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CONTROVERTING CLAIMS

I. INFORMATION TO PUT ON A WC-1 FORM

When controverting a claim, the adjuster need only fill out section “C” of the WC-1 (assuming that the employer has completed section “A”). Of course, the adjuster could simply fill out a WC-3. However, because the WC-1 must be filed anyway, it is recommended that cases which are initially controverted be done so by filling out section “C” of the WC-1. WC-3 forms are discussed below.

Now that you know what to fill out when controverting, the obvious question is what to include on the WC-1. We recommend the “KISS” theory - **Keep It Simple Stupid**. The only requirement for a valid controvert is to put the claimant upon notice of the fact of the controvert and the grounds for same. The less said the better. However, it is a good idea to reserve any other defenses which might arise down the road. This can be accomplished by adding the simple sentence “All other 34-9 defenses are expressly reserved” after the sentence outlining the specific grounds upon which you are controverting at that time. Specific grounds include “Lack of Notice”; “No accident or injury arising out of or in the course of employment”; “No medical evidence of disability”; “No medical evidence of disability from the authorized treating physician” etc. When controverting the entire claim, the safest and easiest language to use is:

“No accident or injury arising out of or in the course of employment. All other 34-9 defenses are expressly reserved.”

II. WHEN TO CONTROVERT A CLAIM

A. Early Case Management

1. Employer Contact
 - a. Get to know the employer.
 - b. Establish employer representative’s relationship to claimant (beware of relatives and friends).
 - c. Explain no-fault workers’ compensation system.

- d. Gather background information on claimant (hardworking, long-time employee, prompt, dependable?)
- e. Determine whether posted panel and Bill of Rights explained.
- f. Identify and/or designate an employer contact.
- g. Identify all known and suspected witnesses (obtain addresses and phone numbers).
- h. Identify all relevant documents and list.
- i. Freeze testimony by obtaining statements from important witnesses (especially co-employees who employer may terminate).
- j. Identify and gather all documents and physical evidence supporting or rebutting the accident/injury explanation.
- k. Use employer as investigator by gathering information from fellow employees and checking on claimant's group health history.

2. Obtain relevant documents

- a. A complete form WC-1, including wage information.
- b. The entire contents of the Claimant's personnel file.
- c. Claimant's statement or accident report and witness statements.
- d. Employer's notes of conversations with the Claimant and witnesses.
- e. All medical records, disability slips, and medical bills pertaining to the Claimant in the employer's possession.
- f. Panel of physicians, Conformed Panel or WC/MCO and Workers' Compensation Bill of Rights.
- g. Employer's investigative reports.
- h. Adjuster logs or progress notes.
- i. Other correspondence from Claimant or claimant's attorney.
- j. Claimant's prior workers' compensation records, if any.
- k. Other employer records.
- l. Other litigation records.
- m. Group health insurance records.

- n. Records from nearby hospitals (obtain with medical authorization on questionable claimants).
3. Communicate effectively and create evidence by documenting the file
 - a. Return the unrepresented Claimant's phone calls immediately, but do not give admissions of fault.
 - b. Obtain recorded statement of the Claimant.
 - c. Confirm accurate mailing address for the Claimant.
 - d. Forward benefits explanations to the Claimant and rule out unauthorized medical treatment in writing.
 - e. Identify the authorized treating physician (ATP) and confirm with all of the parties in writing.
 - f. Confirm the ATP's understanding of the parameters of their authorized treatment in writing.
 - g. Inform defense counsel of investigative efforts (be careful about notifying employer representative).
4. Explore potential defenses and reimbursement options
 - a. Arising out of and in the course of employment.
 - b. Willful misconduct.
 - c. Intoxication (drug and alcohol testing).
 - d. Fighting.
 - e. Horseplay.
 - f. Suicide.
 - g. *Rycroft* analysis (intentional misrepresentation about prior injuries).
 - h. Deviation from employment activities.
 - i. Untimely notice of accident.
 - j. Statute of limitations.
 - k. SITF analysis and notice.
 - l. Subrogation potential.
 - m. Underwriting compliance.
5. Red Flag Indicators - Investigate carefully when:

- a. The accident/injury was not witnessed by a co-worker.
- b. The injury occurs immediately after a vacation day, Monday, or seasonal activities.
- c. The injury is not consistent with job duties.
- d. Claimant is disgruntled, facing firing, layoff, soon to retire or seasonal work is about to end.
- e. Claimant has a history of short term employment.
- f. Claimant has moved out of state or the immediate area.
- g. Description of accident/incident varies from the first report of injury and the medical history given to the physician.
- h. Knowledge among employees that claimant is active in sports or has another job.
- i. Claimant is never home to answer the phone or is always sleeping and cannot be disturbed.
- j. Claimant is reported to be suntanned, muscular, has callused hands, or grease under fingernails.
- k. Claimant requests a change in physician when he/she receives a "Release for Work."
- l. Details of accident are vague and/or are not promptly reported to supervisor.
- m. Claimant is experiencing financial difficulties.
- n. Repeat incidents where the same doctor and attorney are involved together on claims of questionable merit.
- o. Claims that appear to be "boilerplate" copies from the same doctor involving different claimants.
- p. Injuries are all subjective, such as stress, inability to sleep, headaches, nausea, etc.
- q. Diagnosis is inconsistent with treatment.
- r. Medical bills submitted without adequate descriptions of office visits and other treatment.
- s. Medical bills submitted are photocopies of original bill.
- t. Claimant appears to be getting better until he/she visits a new provider, then he/she unexpectedly regresses.
- u. Treatment dates coincide with holidays or weekends.
- v. Doctor's speciality is inconsistent with injury.
- w. Workers' Compensation insurer and health carrier are billed simultaneously; payment is accepted from both.

- x. Treatment directed to a separate facility in which the referring physician has a financial interest (especially if this is not disclosed in advance, or an attempt to hide the relation is displayed).

6. Witness and Claimant Interviews.

Questions to ask of the claimant and witnesses include, but are not limited to the following:

Who was present when the accident occurred and who among those present were eye-witnesses to the accident?

Did the claimant yell or scream out in pain? Did the claimant say anything to anyone after the incident and, if so, what and to whom? Did the claimant report the accident to his/her supervisor?

What was the claimant doing immediately prior to the accident? Was he/she on a rest/lunch break? Going to or coming from work? On the employer's premises or job site? Doing something personal? Horseplay? In a fight?

What was the claimant's behavior immediately prior to the accident? Did he/she act strange/drunk/intoxicated? Slurred speech/blood-shot eyes/erratic behavior?

How did the claimant get along with the employer? Good worker? Dependable? Was his/her performance sub-par or was the employee in danger of being fired just prior to the accident?

What is the claimant's financial situation?

Did the claimant tell anyone of a recent injury away from work?

7. Surveillance and the Claimant's right to discovery.

Often in cases where fraud is suspected, we have surveillance placed upon the claimant by professional investigative companies. Many times the investigators will find the allegedly disabled employee working for another employer or engaged in activities inconsistent with the alleged disability. The question which naturally arises is whether or not the claimant and his/her attorney are entitled to discovery of surveillance. Claimant's attorneys often request surveillance video tapes and information regarding surveillance in interrogatories and requests for production of documents. While claimants are entitled to this information, it is our position that they are not entitled to it until after we have had the opportunity to depose the claimant. Accordingly, if responses to such discovery requests are due prior to the claimant's deposition, our policy is to interpose a work-product objection arguing that the information was prepared in anticipation of litigation. However, once we have deposed the claimant, we are obligated to produce any surveillance tapes.

The reasons for this position are three-fold. First, information regarding whether or not the claimant is working or the claimant's true physical condition and ability to engage in certain activities is information of which the claimant is aware. Second, even if we do not have surveillance on the claimant, asserting an objection to the discovery requests as opposed to simply denying that any surveillance exists may get the claimant to be forthright about his work status and/or physical condition out of concern that we may have the claimant on surveillance video engaged in activity inconsistent with his/her alleged disability. Finally, if the surveillance were turned over to the claimant's attorney prior to the claimant's deposition, the claimant could be easily coached into testifying that he/she worked only on the particular day shown on the tape but it was simply too much for him/her. Furthermore, the claimant will only concede engaging in the activity he knows was captured on the surveillance video and nothing more. On the other hand, where the claimant is deposed while not sure whether he was caught on surveillance video, the claimant will either "come clean" admitting to activities and work which otherwise you would not have uncovered or the claimant will deny engaging in certain activity which you may have captured on the surveillance video.

III. WHEN, WHY AND HOW TO FILE A WC-3.

As discussed above, a WC-3 can be filed in lieu of completing section "C" of a WC-1 when controverting an entire claim. However, the WC-1 still must be filed.

Accordingly, it is easiest to controvert by filling out section “C” of a WC-1 when controverting a claim within the first 21 days of employer knowledge of disability.

For subsequent controverts, whether controverting all or part of a claim, a WC-3 is recommended. The latest version of form WC-3 allows an employer/insurer to controvert either medical treatment or to controvert the right to further compensation.

A. Medical Treatment

The 1997 amendments to Board Rule 205 significantly enhanced the importance of the form WC-3. Currently, when an authorized treating physician requests pre-authorization/pre-certification for treatment/tests and same is not given verbally, the employer/insurer must either authorize the treatment/test or controvert in **writing** using form WC-3. **A WC-3 must be filed or authorization given within 30 days of receipt of the written request for pre-authorization/pre-certification.**

Failure to controvert in writing using a WC-3 within this time frame will require the employer/insurer to pay for the requested treatment/test.

It is also crucial to list the grounds upon which the medical treatment is being controverted, as same will determine who has the burden of proof at a hearing. If medical treatment is controverted on the basis that it is not reasonably necessary, the burden of proof is on the employer/insurer. If the treatment is controverted on the basis that it is not authorized or not related, the burden of proof is on the employee.

When filing a WC-3 controverting medical treatment, the original must be filed with the Board, with copies to any party holding a financial interest, including claimant’s attorney and the medical care provider(s) whose treatment is being controverted.

B. Compensation

When controverting the claimant’s right to further compensation using a WC-3, it is necessary to state the specific grounds on which the claim is being controverted. Again, it is a good idea to add a sentence reserving all other 34-9 defenses. It is important to note that the form WC-3 specifically provides that pending investigation is not a proper ground for the employer/insurer to controvert a claim. Finally, if only

a part of the claim is being controverted, state the specific part of the claim and the reason it is being controverted.

Again, when filing a WC-3, the original must be filed with the Board, with a copy served upon all persons with a financial interest in the claim. It is best to handwrite or type on the form the persons who are being served with same.

A blank form WC-3 is attached as Appendix 2.

BEWARE OF THE COURT OF APPEALS DECISION IN CARTERSVILLE READY-MIX V. HAMBY:

WARNING regarding late payment of benefits:

In Cartersville Ready-Mix Co. v. Hamby, 224 Ga. App. 116 (1996), the Court of Appeals held that the employer's voluntary commencement of benefits after the initial 21 day period had expired and without payment of late penalties pursuant to O.C.G.A. § 34-9-221(e), acted as a bar to the Employer's subsequent controvert pursuant to O.C.G.A. § 34-9-221(h). The lesson to learn from this case is that if you are going to voluntarily pick up a claim as compensable after the 21 day period, make sure that it is indeed a claim you want to accept as compensable and make sure that you pay Claimant the correct wages including any late penalties.

One final note of caution, if a claim is accepted as compensable, a subsequent controvert must be accomplished within sixty (60) days of the date benefits were first due (a total of 81 days from the date of employer knowledge). After this 81 day period, benefits can only be suspended upon learning of a change in condition or upon newly discovered evidence. See Board Rule 221(h)(2).

To meet the newly discovered evidence standard, the evidence must be such that it was in fact newly discovered, that it could not have been discovered before the 81 day period with due diligence, the evidence is sufficiently material that it would produce a different result, the evidence is not commutative and that the evidence would constitute something other than mere impeachment of the credibility of the witnesses. Carden v. Arrow Co., 193 Ga. App. 539 (1989).

IV. PREPARATION FOR LITIGATION

A. Testifying in General

If a hearing is scheduled before the State Board of Workers' Compensation, you may be asked to testify in the proceeding, either at a deposition or at the hearing before the Administrative Law Judge, or both. At a deposition (which would be scheduled prior to the hearing) an attorney asks a witness to respond to extensive questions about his or her knowledge of the case. The attorneys for both the Claimant and the employer are present, but usually only one attorney asks the questions. The proceeding is taken down by a court reporter, who swears in the person being deposed. Depositions can be taken anywhere; however, they are usually taken in a conference room at a lawyer's office.

Even if you submit to a deposition, you may also be asked to testify live at a hearing, because depositions are generally not admissible in Workers' Compensation matters (except for doctors' depositions). The following suggestions apply to providing testimony at both depositions and live at hearings:

1. General advice:

- a. Make yourself available to meet with your attorney prior to the deposition or hearing. Tell him or her everything that you know about the case, whether good or bad. This prevents surprises at the deposition or hearing. Your attorney will also use this meeting as an opportunity to prepare you for the questions you may face from the attorney for the employee.
- b. Relax. You know the facts better than any of the lawyers or the judge, because you are testifying from your own personal knowledge. The lawyers and the judge do not have the personal knowledge that you have, so do not let them intimidate you into thinking that they do.
- c. Tell the truth. Do not try to decide what the best answer will be for your "side" or the worst answer for the other

"side". Whatever the truth is, that is the answer that you should provide.

- d. Listen to the question. Take your time. Make sure you understand the question before you answer. If there is any part of the question that you do not understand, say so.
- e. Answer the question that you are asked, not some other question. Say no more than is necessary to answer the question. Do not volunteer extra information or explanations. At the same time, you always have the right to explain an answer if you feel that it is necessary. Often, lawyers will ask you a "yes" or "no" question that really demands an explanation on your part. If you feel that this is the case, simply answer "yes" or "no," adding "I would like to explain". Your lawyer will always make certain that you have that opportunity. (Keep in mind that a poor explanation will not help anyone.)
- f. Do not guess. If you do not know the answer, say so. If you do not remember, say so. It is your job to give the answers you know, not to speculate about the answer you do not know.
- g. Feel free to bring notes (that you do not mind sharing). It is a misconception that you cannot bring notes to assist you in testifying. However, keep in mind that if you use notes when you testify, the attorney for the employee may review these notes and cross-examine you on them. Thus, do not use notes that you would not want to have read by others. **Always show the notes to your attorney before you testify.**

2. When the attorney for the employee cross-examines you:

"Cross-examination" means that the attorney asking you questions can "lead" you, that is, the attorney can ask questions in a manner that "puts words in your

mouth" if you allow this to happen. Your attorney will not cross-examine you; he or she will ask you "direct" questions that will allow you to freely tell the information that you know in response to a given question. In general, it is easier to answer "direct" questions than "leading" questions. Thus, when you are being cross-examined by the employee's attorney, you will want to keep in mind the following additional suggestions.

- a. You are the witness, not the lawyer. Do not argue with the lawyer for the other side. Do not object to a question. If a question is objectionable, your attorney will object. If you are being cross-examined by the employee's attorney and your attorney objects, stop talking. Listen to the objection. Do not begin talking again until you are asked to do so. If your attorney instructs you not to answer a question, do not answer the question.
- b. Watch out for questions that paraphrase your answers. The opposing lawyer may take your ideas and put them into his own words, changing your meaning in ways that you may not catch at the time. If the opposing lawyer asks if his paraphrasing is accurate, you are entitled to say you would rather stand on your answer and stick with the way you put it.
- c. Beware of absolutes. Watch out for questions that use the words "always" and "never."
- d. A deposition or hearing is serious business. Do not be sarcastic or whimsical. Do not make small talk with the opposing lawyer. Remember that no matter how nice he or she may seem, the other lawyer is not your friend.
- e. Admit preparing for your testimony if you are asked. There is nothing wrong with meeting with your attorney to go over your testimony in advance.

B. Specifics Regarding Adjuster Depositions

1. Preparing for your deposition.

Your attorney should allow adequate time to meet with the adjuster in order to properly prepare the adjuster for the deposition. If the adjuster's file has been requested, your attorney should arrange to have the file picked up and reviewed with privileged and objectionable documents placed in a separate file. Remember, if you attempt to review the file and meet with your attorney just prior to the deposition you will probably run short on time and be forced to compromise your review of the file and your preparation.

REVIEW ADJUSTER'S RELEVANT CONDUCT AND DECISIONS.

An adjuster's conduct and activity leading up to a decision to controvert a claim or to raise certain defenses is a legitimate scope of inquiry by claimant's counsel. However, because of the narrow time frames within which adjusters often make decisions only limited information may be available to the adjuster when a decision is made to controvert a claim or to raise certain defenses. The reasonableness of the adjuster's activity or decision will usually turn on the information available to the adjuster at the time the activity was performed or the decision was made.

If a defense asserted by the adjuster was appropriate when first raised but inappropriate in light of subsequently acquired information, don't be reluctant to abandon the defense and to take corrective action. Nothing is more uncomfortable for the adjuster and defense counsel than to try and defend an indefensible decision or position taken early in a file when subsequently developed facts demonstrate the defense is no longer viable.

Standard deposition "do's and don'ts" for adjusters

- a. Tell the truth;
- b. Don't volunteer information;
- c. Avoid exaggerations;

- d. Avoid generalizations regarding the claimant or his/her activity;
- e. Be sure you understand each question before answering;
- f. Feel free to ask claimant's attorney to repeat or rephrase question if question is unclear;
- g. Don't guess or speculate;
- h. Don't allow claimant's attorney to put words in your mouth or to put an inaccurate spin on your testimony by allowing him or her to improperly summarize your testimony;
- i. Don't agree to provide documents during the course of the deposition which were not previously requested or produced. This would prevent defense counsel from having adequate time to review and discuss such documents and to assert appropriate objections. Allow defense attorney to respond to any such inquiries;
- j. Be cautious about responding from memory with specific dates and times;
- k. Be sure to qualify answers when appropriate by prefacing answer with "To the best of my recollection . . . ";
- l. Discuss the attorney-client privilege regarding information obtained from defense counsel and the fact that this privilege may be waived in certain instances to explain the adjuster's decisions or course of conduct;
- m. Explain the purpose of the adjuster's deposition and to the extent possible, the goal of the claimant's attorney in taking the adjuster's deposition.

V. INTERFACING WITH DEFENSE COUNSEL

A. Assigning Counsel

1. Sending a file
 - a. Notice of representation must be filed within twenty-one (21) days of the date the hearing notice is issued or face a penalty of up to \$200.00.
 - b. If the file is extensive, fax hearing request and pleadings to attorney as soon as possible.
 - c. If deadlines are approaching, forward entire contents of file immediately.
 - d. If no time to copy, ask attorney to have a courier pick up original, copy and return promptly.

2. Send entire copy of file materials.
 - a. Copy of claimant's personnel file.
 - b. All pleadings filed by claimant (board forms, discovery, notices, etc.).
 - c. Copies of recorded statements (or actual tapes if not yet transcribed).
 - d. Adjuster log or notes.
 - e. Surveillance reports and video tapes.
 - f. All medical records and bills.
 - g. Wage records (WC-6).
 - h. Employer accident report.
 - i. Panel of Physicians/Conformed Panel of Physicians/WCMCO.

3. Danger Signals - Consider getting file to an attorney.
 - a. Interrogatories or RFPDs to employer.
 - b. Request for Admissions.
 - c. Hearing Notice.
 - d. Request for Hearing.

- e. Claimant's attorney threatening conference call with ALJ.
- f. Motion for Interlocutory Order.
- g. Any motions filed by claimant's attorney
- h. Difficult employer (doesn't understand workers' compensation system).
- i. Employer who will not return calls.
- j. "Weirdness" factor.

B. What Attorneys like to See in a New File

- 1. Accident Report.
- 2. Board Forms.
 - a. WC-1 First Report of Injury.
 - b. WC-14 Notice of Claim/Request for Hearing (both sides).
 - c. WC-6 Wage Statement.
 - d. WC-2 Notice of Payment/Suspension of Benefits.
 - e. WC-3 Notice to Controvert.
 - f. WC-104 Notice to Employee of Medical Release to Return to Work with Restrictions or Limitations.
 - g. WC-240 Offer of Suitable Employment with attachments.
 - h. All other Board Forms filed.
- 3. Witness Statements.

C. Discovery by Counsel for Claimant.

- 1. What is discoverable.

Discovery is the process by which opposing parties in litigation are able to interview the witnesses and review the documents that the other side has in its possession. See O.C.G.A. § 9-11-26. The use of the discovery process in Georgia Courts has been very broadly construed. Travis Meat & Seafood Co. v. Aschworth, 127 Ga. App. 284, 193 S.E.2d 166 (1972). For example, discoverable materials include anything that is reasonably calculated to lead to the discovery of admissible evidence. The information discovered does not in itself actually have to be admissible

at trial as evidence in order to be discoverable. Bridges v. 20th Century Travel, Inc., 249 Ga. App. 837, 256 S.E.2d 102 (1979). Generally, any statement or reports made after an incident that would be taken in the regular course of business would be discoverable. Atlantic Coastline R.R. v. Daugherty, 111 Ga. App. 144, 141 S.E.2d 112 (1965). The discoverability of that information includes the identity of witnesses and their names and addresses. Jaynes v. Blake, 119 Ga. App. 748, 168 S.E.2d 832 (1969).

In order for a non-privileged document to be protected from discovery, it must fall within the “work product” exception and be created in anticipation of litigation. Clarkson Indus., Inc. v. Price, 135 Ga. App. 787, 218 S.E.2d 921 (1975), overruled on other grounds; Tobacco Rd., Inc. v. Callaghan, 174 Ga. App. 539, 330 S.E.2d 768 (1985); Dept. of Transp. v. Hardaway Co., 216 Ga. App. 262, 454 S.E.2d 167 (1995). In order to escape discovery under the Georgia Discovery Rules, documents and other tangible things must have been prepared in anticipation of litigation or for trial by or for the party and the materials must contain the mental impressions, conclusions, opinions or legal theories of the person preparing them; if the items sought do not satisfy both requirements they do not constitute work product, and may be freely discovered. Clarkson Indus., Inc. v. Price, 135 Ga. App. 787, 218 S.E.2d 921 (1975), overruled on other grounds; Tobacco Rd., Inc. v. Callaghan, 174 Ga. App. 539, 330 S.E.2d 768 (1985). The work product exception is a narrow one, and work product documents are still sometimes discoverable if the opposing party can show the need for them by satisfying a necessity requirement. Setzers Superstores of Ga., Inc. v. Higgins, 104 Ga. App. 116, 121 S.E.2d 305 (1961).

2. What is not discoverable.

Items which are not discoverable include items which are protected by the “attorney-client privilege.” Accordingly, any letters to or from your attorney will not be discoverable. Additionally, diary notes entered from conversations with your attorney will not be discoverable.

A gray area arises when you receive correspondence from your attorney and you create your own notes concerning this correspondence. Because it is possible that this material could be discovered, we would advise against making such notes and simply allow the correspondence from the attorney to speak for itself.

3. What Information to put in File.

Information placed in your files, including diary notes, incident and accident reports, will probably be discoverable unless they are protected by the attorney-client privilege or the work product doctrines outlined above. Accordingly, it is very important that you choose your words carefully when making notes, memorandums, reports, etc.

In filling out reports, avoid explosive words. For example, simply state that a Claimant alleged that he or she struck the floor. Do not state that he or she “struck the floor with great force” or “shook the whole building.” Basically, you should not use adjectives. Also understand that in getting an eyewitness statement, you are not always getting exactly what happened.

Also, do not take a description of the Claimant and make it appear that it is the conclusion of the investigation. For example, when discussing what a claimant said happened, you can simply put in the report that the claimant said “the claimant alleges she slipped on a wet floor.” The report could then go on to note the other circumstances surrounding the accident, such as no eyewitnesses and other suspect circumstances. Please note that we are not referring to the First Report of Injury when we are talking about reports in this regard. First Reports of Injury should simply state what the Claimant alleges happened — nothing more, nothing less. However, it is important to bear in mind not to disparage the Claimant when writing the report. Do not “vent” your anger or frustration in your notes. If you need to vent, do so to your attorney orally. Venting in your notes will be discoverable and can only hurt your case. Always bear in mind that investigative reports are a “double-edged sword.” When used correctly they can be very beneficial in proving your case. However, the other side will end up getting their hands on them. Therefore, it is important to consider what is being put into them. Not only are accuracy and wealth of information important, but also the way the information is entered can end up alternately being the most important factor of all.

GEORGIA STATE BOARD OF WORKERS' COMPENSATION

NOTICE TO CONTROVERT

Employee Name (First) (Middle) (Last)				Employee's Phone Number				Insurer File Number							
Employee Street Address				City		State		Zip		Social Security Number					
Employer				Insurer				Date of Injury							
Address				Address											
City		State		Zip		Phone		City		State		Zip		Phone	

1. ____ This serves as notice, pursuant to O.C.G.A. §34-9-221, that the right to compensation in this claim is being controverted on the following specific grounds: (Pending investigation is not a proper ground for controversion.) If only a part of the claim is being controverted, state the specific part of the claim and the reason it is being controverted.

2. ____ This is notice, pursuant to O.C.G.A. §34-9-200 and Board Rule 205(b), that the compensability of the following medical treatment/test is being controverted for the following specific reasons.

This is to certify that a copy of this notice has been mailed to the employee and any other person with a financial interest, as follows:

By _____ () _____
 (Type or Print and Sign) (Date) (Phone)

The original of this form must be filed with the State Board of Workers' Compensation. A copy of both sides of this form must be given to the employee and any other person with a financial interest in the claim including, but not limited to the employer, medical care provider(s) and attorney(s).

Willfully making a false statement for the purpose of obtaining or denying benefits is a crime subject to penalties of up to \$10,000.00 per violation (O.C.G.A. §34-9-18 and §34-9-19).

INFORMATION FOR THE INSURER/SELF-INSURER:

Board Rule 61(b)(1): An insurer who receives a Form WC-1 from an employer shall clearly stamp the date of receipt on the form, review Section A, and complete any unanswered questions. The insurer shall complete either Section B or Section C and, by the 21st day following the employer's knowledge of disability, forward the original to the Board and a copy to the employee.

Board Rule 61(b)(4): Form WC-3. Notice to Controvert Payment of Compensation. Complete Form WC-3 to controvert when a Form WC-1 has previously been filed. Furnish copies to employee and any other person with a financial interest in the claim. See subsections (d), (h), and (i) of Code §34-9-221 and Rule 221.

O.C.G.A. §34-9-221(d): If the employer controverts the right of compensation, it shall file with the Board, on or before the twenty-first day after knowledge of the alleged injury or death, a notice in accordance with the form prescribed by the Board, stating that the right of compensation is controverted and stating the name of the claimant, the name of the employer, the date of the alleged injury or death, and the ground upon which the right to compensation is controverted.

Board Rule 221(d): To controvert in whole or in part the right to income benefits or other compensation use Form WC-1 or WC-3. Failure to file the Forms WC-1 or WC-3 before the 21st day after knowledge of the injury or death may subject the employer/insurer to assessment of attorney's fees. See O.C.G.A. §34-9-108(b)(2)(3).

O.C.G.A. §34-9-221(h): When compensation is being paid without an award, the right to compensation shall not be controverted except upon the grounds of change in condition or newly discovered evidence unless a notice to controvert is filed with the Board within 60 days of the due date of first payment of compensation.

Board Rule 221(h)(1): A Form WC-3 shall not be used to suspend benefits if the only issue is length of disability. In these cases, suspend benefits by filing a Form WC-2 or follow the procedure outlined in Rule 240. If liability is denied subsequent to commencement of payment, but within 60 days of due date of first payment of compensation, file Form WC-3 in addition.

O.C.G.A. §34-9-221(i): When compensation is being paid with or without an award and an employer or insurer elects to controvert on the grounds of a change in condition or newly discovered evidence, the employer shall, not later than 10 days prior to the due date of the first omitted payment of income benefits, file with the Board and the employee or beneficiary a notice to controvert the claim in a manner prescribed by the Board.

Board Rule 221(h)(2): If income benefits have been continued for more than 60 days after the due date of first payment of compensation, benefits may be suspended only on the grounds of a change in condition or newly discovered evidence. File Forms WC-2 or WC-2(a). When controverting a claim based on newly discovered evidence, file Form WC-3 also.

O.C.G.A. §34-9-108(b)(2): If any provision of Code Section §34-9-221, without reasonable grounds, is not complied with and a claimant engages the services of an attorney to enforce rights under that Code Section and the claimant prevails, the reasonable fee of the attorney, as determined by the Board, and the costs of the proceedings may be assessed against the employer.

INFORMATION FOR THE EMPLOYEE:

This claim is being controverted for the reason(s) indicated on the front of this form. If you disagree, you should request a hearing by sending Form WC-14 to the address below. If you need a Form WC-14, write to the address below and ask for one to be mailed to you, or call 1-800-533-0682 (in Atlanta, (404) 656-3870).

STATE BOARD OF WORKERS' COMPENSATION
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