



COMPENSATION RATING AND INSPECTION BUREAU

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FILING OF POLICY CANCELLATION NOTICES THE SROCZYNSKI DECISION

The New Jersey Workers Compensation and Employers Liability Insurance Manual (“The Manual”) sets forth the requirements for filing Cancellation Notices and includes a copy of the approved cancellation form in Part Three, Section Two, Page 88.

Specifically, this manual rule states that magnetic tape submission of the Approved Form for Filing Notice of Cancellation by Carrier is an acceptable method of filing notices of cancellation with CRIB, provided the data elements are consistent with the requirements as set forth in “WCPOLS” of the National Workers’ Compensation Data Specifications Manual. It also permits the submission of cancellation notices via Electronic File Protocol (NJCRIBFTP).

On December 17, 2008, The New Jersey Supreme Court rendered its decision in the matter entitled Walter Sroczyński v. John Milek, (A-68/77-07). In Sroczyński, the Supreme Court held that cancellation notices complying with the above Manual rule for transmitting electronic or magnetic tape notices to the Commissioner (CRIB) are ineffective because they do not provide for the filing of a statement, certified by an employee of the carrier, that the required notice was provided to the insured as set forth at N.J.S.A. 34:15-81b. However, the Court limited its ruling to those cancellations that have already been challenged by an employer and determined that the right to challenge all other cancellations has been waived.

On October 9, 2006, the Bureau addressed the cancellation notice issue in Advisory Bulletin #16, which stated that each magnetic tape submission or electronic filing of cancellation notices should include a transmittal letter with the following language:

“The person signatory hereto certifies on behalf of the company that all data furnished herewith are correct and in accordance with the company’s records. The undersigned insurance carrier further certifies that like notice of election to terminate the stated contract of insurance has been given the employer in accordance with the requirements of N.J.S.A. 34:15-81.”

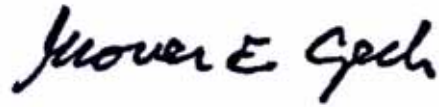
The Sroczyński decision makes it clear that, consistent with Advisory Bulletin #16, carriers *must* include such a certification with their magnetic tape and electronic filings of cancellation notices with the Bureau or its cancellations will be ineffective. The Bureau believes that compliance with this practice meets the requirements of N.J.S.A. 34:15-81 and plans to seek approval of the Commissioner to include this provision in the Manual.

The entire Sroczynski decision can be found on the CRIB website at www.njcrib.com.

As the designated repository of policy records, the Bureau can be contacted for copies of the policy, all endorsements thereto, as well as cancellation and reinstatement notices.

Please be guided accordingly.

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