
STATEMENT OF POLICY

TITLE 34. LABOR AND INDUSTRY

PART VIII. BUREAU OF WORKERS' COMPENSATION

CHAPTER 123. GENERAL PROVISIONS PART II

SUBCHAPTER I. UNINSURED EMPLOYER GUARANTY FUND – STATEMENT OF POLICY

§ 123.801. Uninsured Employer Guaranty Fund

The Department of Labor and Industry (Department) adopts this statement of policy so that all parties will have a clear understanding of their rights and obligations under the act, as amended by Act 147 of 2006 (P. L. 1362, No. 147) (Act 147). This subchapter does not constitute a rule or regulation with the force and effect of law. The Department intends to promulgate regulations for this purpose as soon as practicable.

§ 123.802. Notice to the Uninsured Employer Guaranty Fund

(a) For purposes of Article XVI of the act (77 P. S. § —), an injured worker who seeks benefits from the Uninsured Employer Guaranty Fund (Fund) shall notify the Fund of a claim within 45 days from the date upon which the injured worker knew that the employer was uninsured.

(b) Compensation will not be paid from the Fund until notice is given.

(c) Notice to the Fund shall consist of completing and mailing the form designated as “Notice of Claim Against Uninsured Employer” (Notice) to the Department of Labor and Industry (Department) at the address listed on the form. The Department may reject any incomplete Notice.

(d) The Notice will be deemed filed as of the date of the Notice’s deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid. If a United States Postal Service Postmark is not present, the date of the Department’s actual receipt of the Notice is the filing date.

§ 123.803. Prerequisites for filing claim petition for benefits from Fund

(a) Upon the filing of a completed “Notice of Claim Against Uninsured Employer” (Notice), the Uninsured Employer Guaranty Fund (Fund) will determine whether it will commence making payments.

(b) An injured worker may not seek an award against the Fund unless the worker completes and files the form designated as the “Claim Petition for Benefits from the Uninsured Employer Guaranty Fund.”

(c) A “Claim Petition for Benefits from the Uninsured Employer Guaranty Fund” may not be filed until at least 21 days after the injured worker filed the Notice as required in § 123.802 (relating to notice to the Uninsured Employer Guaranty Fund).

(d) A completed “Claim Petition for Benefits from the Uninsured Employer Guaranty Fund” will be deemed filed upon the later of either of the following:

(1) The date of the petition’s deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid; or, if no United States Postal Service Postmark is present, as of the Department’s receipt of the petition.

(2) Twenty-one days after the filing of the Notice identified in § 123.802.

(e) The Department may reject any incomplete petition.

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§ 123.804. Filing of claim petition for benefits from the Fund

(a) If an injured worker attempts to file a “Claim Petition for Benefits from the Uninsured Employer Guaranty Fund” before filing the “Notice of Claim Against Uninsured Employer” (Notice) required under § 123.802 (relating to notice to the Uninsured Employer Guaranty Fund), the Department will return the petition to the injured worker and instruct the worker to complete a Notice.

(b) A Claim Petition for Workers’ Compensation (LIBC—362) filed against an employer may not act as a claim against the Uninsured Employer Guaranty Fund (Fund) or be deemed notice to the Fund.

(c) An injured worker seeking an award of benefits from the Fund shall file the “Claim Petition for Benefits from the Uninsured Employer Guaranty Fund” with the Bureau and shall serve the Fund and the alleged employer at the addresses identified on the petition. The Fund is not required to answer a petition which does not conform to this section.

§ 123.805. Rights of Fund

The Uninsured Employer Guaranty Fund (Fund) is not prejudiced by an agreement, admission or stipulation concerning the compensability, facts or legal conclusions relating to an injury underlying a claim against the Fund unless the Fund is a party to and specifically endorses the agreement, admission or stipulation.