

BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER  
OF THE STATE OF WEST VIRGINIA

*In the Matter of:*

**THE POTOMAC EDISON COMPANY**

Administrative Proceeding No. 21-IC-02098

**ORDER ADOPTING REPORT OF  
SELF-INSURED MARKET CONDUCT COMPLIANCE EXAMINATION, DIRECTING  
CORRECTIVE ACTION AND ASSESSING PENALTY**

NOW COMES Allan L. McVey, Insurance Commissioner of the State of West Virginia (hereinafter, "Commissioner), who after consideration of *the Report of Self-Insured Market Conduct Compliance Examination* (hereinafter, the "Examination Report") of The Potomac Edison Company (hereinafter, "Potomac") for the audit period ending December 31, 2020, make the following findings of fact, conclusions of law and order.

**FINDINGS OF FACT**

1. A Self-Insured Compliance Audit concerning the operational affairs of Potomac for the period ending December 31, 2020, was conducted in accordance with *W.Va. Code §33-2-9*, *W.Va. Code §23-2-9*, *W.Va. Code §23-2C-22*, *W.Va. Code §33-2-21* and *W.Va. Code R. §85-18-1, et seq.* by auditors duly appointed by the Commissioner. The Self-Insured Compliance Audit began on August 9, 2021 and concluded on September 24, 2021.

2. On or about November 9, 2021, the examiner filed with the Commissioner, pursuant to *W. Va. Code § 33-2-9(j)(2)*, a Report of Self-Insured Market Conduct Compliance Examination. (sometimes referred to as "*Examination Report*").

3. A true copy of the *Examination Report* was provided to Potomac and Potomac was notified pursuant to *W. Va. Code § 33-2-9(j)(2)* that it had ten (10) days after receipt of the *Examination Report* to file a submission or rebuttal with the Commissioner.

4. As set forth in the *Examination Report*, the examination focused on the methods used by Potomac to manage its operations for each of the business areas examined, including whether and how Potomac, a self-insured employer, complies with West Virginia's statutory and regulatory law.

5. The exam discovered four (4) areas where Potomac failed to achieve 100% compliance with West Virginia law.

6. The Commissioner reviewed the *Examination Report* and considered Potomac's submissions prior to issuing these findings of fact, conclusions of law and order.

### **CONCLUSIONS OF LAW**

1. The Commissioner has jurisdiction over the subject matter of, and the parties to this proceeding.

2. This proceeding is pursuant to and in accordance with *W.Va. Code §33-2-9, W.Va. Code §23-2-9, W.Va. Code §23-2C-22, W.Va. Code §33-2-21 and W.Va. Code R. §85-18-1, et seq*

3. As detailed in the *Examination Report*, Potomac failed to comply with provisions of West Virginia law as follows:

**Claims Standard B2** (Three (3) violations) The Self-Insured Employer did not issue compensability decisions.

**Claims Standard C1** (One (1) violation) The Self-Insured Employer did not issue the TTD award letter.

**Claims Standard J1** (One (1) violation) The Self-Insured Employer denied a claim without issuing a denial letter.

**Claims Standard M3** (One (1) violation) The Self-Insured Employer did not have EDI updates reporting the closure of a claim.

4. The Commissioner is charged with the responsibility of verifying Potomac's continued compliance with West Virginia Law.

5. The Commissioner has determined that Potomac should be assessed a penalty for violating the aforementioned standards.

### ORDER

Pursuant to *W. Va. Code* § 33-2-9(j)(3)(A), as a result of his review of the *Examination Report*, the examination work papers, and Potomac's response therefore, it is **ORDERED** as follows:

1. The referenced and attached *Examination Report* is hereby **ADOPTED** and **APPROVED** and, by this reference, incorporated herein and made a part hereof.

2. Potomac shall endeavor to comply with the recommendation contained in the *Examination Report*.

3. Potomac shall continue to monitor its compliance with applicable West Virginia law.

4. Potomac shall specifically cure the violations and deficiencies identified in the *Examination Report* so as to bring itself into compliance and conformity with West Virginia law, as set forth hereinabove, to the extent such has not already been completed and/or accomplished.

5. Potomac shall file a Corrective Action Plan (CAP), subject to the approval of the Commissioner, which said CAP shall detail Potomac's changes to its procedures and/or internal policies to ensure compliance with West Virginia law and shall further incorporate all recommendations of the Commissioner's examiners and address all violations specifically cited in the *Examination Report*.

6. The CAP shall be submitted to the Commissioner for his approval within 30 days of the date this order is entered.


7. Potomac shall make reasonable changes to the CAP if and as directed by the Commissioner within 30 days of its receipt of the Commissioner's changes to, or disapproval of the CAP.

8. Potomac shall within 90 days of its receipt of notice from the Commissioner of his final approval thereof, implement the CAP.

9. Potomac shall pay an administrative penalty in the amount of One Thousand Two Hundred

Fifty Dollars (\$1,250.00) for its non-compliance with West Virginia law as set forth hereinabove, the assessment of which penalty is in lieu of any other regulatory penalty and shall be remitted within 30 calendar days of the date of this this order is entered.

Entered this 17<sup>th</sup> day of December, 2021.

  
\_\_\_\_\_  
Allan L. McVey  
Insurance Commissioner  
State of West Virginia

# Report of Self-Insured Market Conduct Compliance Examination

As of December 31, 2020



## **The Potomac Edison Company**

76 South Main Street  
Akron, OH 44308

TPA

Sedgwick Claims Management Services, Inc.

**Examination Number 21-IC-02098**

Date Prepared:  
**November 9, 2021**

## Table of Contents

COMPLIANCE WITH PREVIOUS EXAMINATION RECOMMENDATIONS .....	4
EXECUTIVE SUMMARY .....	5
HISTORY AND PROFILE .....	6
METHODOLOGY .....	6
ELEMENTS OF THE REVIEW .....	7
COMPLIANCE TABLE.....	12
OBSERVATIONS .....	13
RECOMMENDATIONS .....	14
EXAMINER'S SIGNATURE AND ACKNOWLEDGEMENT .....	15
EXAMINER'S AFFIDAVIT .....	16

November 9, 2021

The Honorable Allan L. McVey, CPCU, ARM, AAI, AAM, AIS  
West Virginia Insurance Commissioner  
900 Pennsylvania Avenue  
Charleston, West Virginia 25305

Dear Commissioner McVey:

Pursuant to your instructions and in accordance with West Virginia Code §§ 33-2-9, 33-2-10(b), 33-2-21(a), 23-1-1, 23-2-9(b)(1) & (2), 23-2C-22 and West Virginia Code of State Rules Title 85, a Market Conduct examination has been made for the period of January 1, 2018 through December 31, 2020 on the Workers' Compensation self-insured claims handling of

The Potomac Edison Company  
76 South Main Street  
Akron, OH 44308

hereinafter referred to as the "Self-Insured Employer." The following report of the findings of this examination is herewith respectfully submitted.

## COMPLIANCE WITH PREVIOUS EXAMINATION RECOMMENDATIONS

Findings from the previous exam report (which covered the exam period January 1, 2010 through May 31, 2015) included:

- **Claims Standard B1 and J1** - Three (3) instances of ruling letters not being issued within the required fifteen (15) working day time frame as required by W. Va. Code §§ 23-4-1c(a) and (b) & W. Va. Code R. § 85-1-10.1.
- **Claims Standard B2** - Three (3) claims where the written notice of compensability decision was not issued and four (4) claims where the written notice did not include the protest clause as required by W. Va. Code §§ 23-4-1c (a); 23-5-1(b)(1) and W. Va. Code R. §§85-1-10.1 and 85-1-7.2.
- **Claims Standard C1** - Ten (10) claims where TTD award letters were not issued in violation of W. Va. Code §23-5-1(b)(1).
- **Claims Standard C4** - Eleven (11) claims where TTD closure letters did not notify the claimant of his right to a permanent disability evaluation in violation of W. Va. Code §§23-4-22 and 23-5-1.
- **Claims Standard J2** - One (1) denied claim did not have the proper language in the denial statement in violation of W. Va. Code §§ 23-5-1(a) 23-5-1(b)(1).
- **Claims Standard L1** - Two (2) claims where the wage information was not properly documented in violation of W. Va. Code R. §§ 85-18-13.3 and 13.4.
- **Claims Standard M1, M2 and M3** - Claims submitted to the WVOIC Electronic Data Interchange (EDI) System found six (6) claims the company did not timely submit the First Report of Injury; six (6) claims where the company did not properly submit the Subsequent Report(s) updates and thirteen (13) claims the company did not properly report closure of the claim when no additional transactions were expected on the claim. All in violation of W. Va. Code §23-2C-5(C)(8) and W. Va. Code R. §85-2-1 et seq.

*Note: Effective January 1, 2018, the parent company, FirstEnergy Corporation, began operating in West Virginia under a new organizational structure. As a result of this corporate reorganization, company subsidiaries operating in West Virginia are now regulated under separate self-insurance policies. Therefore, the current examination results are reflected in three separate reports comprised of FirstEnergy Service Company, Monongahela Power Company and The Potomac Edison Company. The cumulative findings noted above reflect the previous market conduct examination which was conducted prior to the reorganization.*

This examination found six (6) instances where the Self-Insured Employer repeated the same failures which are outlined in the report.

- **Claims Standard B2:** Three (3) claims where the written notice of compensability decision was not issued.
- **Claims Standard C1:** One (1) paid claim in which the TTD award letter was not issued.
- **Claims Standard J1:** One (1) denied claim in which the denial letter was not issued.



- **Claims Standard M3:** One (1) claim which did not have EDI updates reporting closure of the claim.

## EXECUTIVE SUMMARY

This Self-Insured Market Conduct Compliance Examination (“examination”) was initiated to determine the compliance of The Potomac Edison Company with the West Virginia statutes, rules and regulations governing the self-administration of workers’ compensation claims

The examination work related to The Potomac Edison Company commenced August 9, 2021 and concluded September 24, 2021. The Potomac Edison Company maintains an electronic environment; the majority of the examination work was conducted by electronic virtual private network through the Third-Party Administrator’s (“TPA’s”) Sedgwick Claims Management Services, Inc. computer systems. Due to the limited number of claims for The Potomac Edison Company during the examination period, the entire claim population was reviewed. The total claim population consisted of twelve (12) claims. Of the total claim population, seven (7) were medical only; two (2) total temporary disability; one (1) permanent partial and two (2) denied.

The following are areas of concern:

- Element of review B2 - Initial Compensability Decision

Three (3) claims where the claim compensability ruling letter was not issued as required by as required by W. Va. Code §§23-4-1c (a) and (b) & W. Va. Code R. §85-1-10.1.

- Element of review C1 - Temporary Total Disability (TTD)

One (1) paid claim did not issue the employee’s (TTD) award letter in violation of W. Va. Code § 23-5-1. *Although a statistical failure, due to the nominal population systemic corrective action is not concluded.*

- Element of review J1 - Denied/CWOP Written Ruling

One (1) denied claim the denial letter was not issued as required by W. Va. Code §§23-4-1c (a) and (b) & W. Va. Code R. §85-1-10.1. *Although a statistical failure, due to the nominal population systemic corrective action is not concluded.*

- Element of review M3 – EDI

One (1) paid claim were found to be administratively closed but never updated to closed status in the WVOIC Electronic Data Interchange (EDI) System in violation of W. Va. Code

§ 23-2C-5(C)(8) and W. Va. R. § 85-2-1 et seq. and West Virginia Offices of the Insurance Commissioner's Electronic Data Interchange ("EDI") Implementation Guide.

## **HISTORY AND PROFILE**

FirstEnergy Corporation was formed in 1997 through the merger of Ohio Edison Company and Centerior Energy Corporation. Through this merger, FirstEnergy became the holding company for Ohio Edison and its Pennsylvania Power Company subsidiary, as well as The Cleveland Electric Illuminating Company and The Toledo Edison Company.

Based in Akron, Ohio, the new company employed some 10,000 employees, served 2.2 million customers within 13,200 square miles of northern and central Ohio and western Pennsylvania, and had approximately 12,000 megawatts of generating capacity.

FirstEnergy nearly doubled its revenue to more than \$12 billion and customers served to more than 4.3 million when it merged with the former GPU, Inc., based in Morristown, New Jersey, in 2001. In 2011, FirstEnergy expanded its customer base and service territory by completing a merger with Allegheny Energy, a Greensburg, Pennsylvania-based company that served 1.6 million customers in Pennsylvania, West Virginia, Maryland and Virginia.

FirstEnergy announced its plan to move away from commodity-exposed generation and transform into a fully regulated transmission and distribution utility in 2016. The final milestone in this successful separation took place on February 27, 2020.

Today, FirstEnergy's 10 regulated distribution companies form one of the nation's largest investor-owned electric systems, based on serving 6 million customers in the Midwest and Mid-Atlantic regions.

In accordance with W. Va. Code §23-2-9, FirstEnergy Corporation has been self-insured in West Virginia since July 1, 1996. Effective January 1, 2018, the company began operating in West Virginia under a new organizational structure. The new organizational structure separated into three separate self-insurance policies comprised of FirstEnergy Service Company, Monongahela Power Company and The Potomac Edison Company. As of December 31, 2020, The Potomac Edison Company employed approximately 173 employees.

## **METHODOLOGY**

This examination report is a report by test, rather than a report by exception, and all elements tested are described and the results indicated. Typically, areas below 93% would generally require systemic corrective action. Any element scoring below 100% will detail the observations of the specific issue and include a recommendation.

Each area of the examination has specific elements that were tested, and the areas and elements are listed below. The examiners may not have discovered every unacceptable or non-compliant activity in which the Self-Insured Employer/TPA is engaged. The failure to identify, comment on, or criticize specific practices does not constitute an acceptance of the practices by the West Virginia Offices of the Insurance Commissioner or its' designee. A compliance table follows containing results of each area of review with the compliance percentage for the Self-Insured Employer/TPA.

### **ELEMENTS OF THE REVIEW**

#### **A. COMPLAINTS: THE TIME FRAME WITHIN WHICH THE EMPLOYER RESPONDS TO COMPLAINTS IS IN ACCORDANCE WITH APPLICABLE STATUTES, RULES AND REGULATIONS.**

1. Did the Self-Insured Employer respond to complaints received from the WVOIC within fifteen (15) working days? [W. Va. Code R. § 85-1-16]

#### **B. INITIAL COMPENSABILITY DECISIONS AND INVESTIGATIONS ARE CONDUCTED IN A TIMELY MANNER.**

1. Did the Self-Insured Employer properly investigate then provide a written ruling on a claim within fifteen (15) working days, or if "tolled" while evidence for the claim is gathered, rule in the appropriate time? [W. Va. Code §§ 23-4-1c (a) and (b) & W. Va. Code R. § 85-1-10.1]
2. Did the Self-Insured Employer include on the written notice of the decision the protest clause? [W. Va. Code § 23-5-1(b)(1) & W. Va. Code R. § 85-1-7.2]

#### **C. TEMPORARY TOTAL DISABILITY (TTD)**

1. Did the Self-Insured Employer/TPA properly notify the claimant of the TTD award? [W. Va. Code § 23-5-1]
2. Did the Self-Insured Employer/TPA immediately pay amounts due the claimant for benefits upon determination of eligibility? [W. Va. §§ 23-4-1c(b) and (g)]
3. Did the Self-Insured Employer/TPA calculate and pay indemnity payments correctly? [W. Va. Code § 23-4-14(b)(2) and Informational Letter 162A]
4. Did the Self-Insured Employer/TPA issue temporary total disability closure letters properly? [W. Va. Code §§ 23-5-1, 23-4-7a and 23-4-22]

#### **D. PERMANENT PARTIAL DISABILITY (PPD)**

1. Did the Self-Insured Employer/TPA act on PPD evaluations timely? [W.Va. Code R. § 85-1-10.5 a. The responsible party shall act on a permanent disability evaluation report received from a physician to whom the responsible party referred a claimant in a claim for injuries and occupational diseases other than occupational pneumoconiosis within thirty (30) working days of receipt by the responsible party of the report.]
2. Did the Self-Insured Employer/TPA make timely IME referrals? [W.Va. Code R. § 85-1-10.5 b. The responsible party shall make a referral of a claimant to a physician for examination and evaluation in response to a request by or on behalf of the claimant for consideration of a permanent disability award in a claim for injuries and occupational diseases other than occupational pneumoconiosis within thirty (30) working days from the date the request was received by the responsible party.]
3. Did the Self-Insured Employer/TPA commence PPD award payments timely? [W.Va. Code R. § 85-1-10.5 c. Permanent partial disability awards may be paid, at the discretion of the responsible party, either by lump sum or in installments consistent with applicable law. Payment of permanent partial awards shall commence within fifteen (15) working days of the decision granting the award.]
4. Did the Self-Insured Employer/TPA calculate and pay the payment correctly? [W. Va. Code § 23-4-14(b)(2) and Informational Letter 162A]

#### **E. MEDICAL AUTHORIZATIONS**

1. Did the Self-Insured Employer/TPA comply with W. Va. Code R. § 85-1-10.3? “Medical treatment, medications, appliances, devices and supplies. – The responsible party shall act upon an injured worker’s request for authorization of medical treatment, medications, appliances, devices and supplies within fifteen (15) working days from the date the request was received by the responsible party.”

#### **F. NON-AWARDED PARTIAL BENEFITS (NAP)**

1. Were non-awarded partial disability benefits paid at the same rate as the permanent partial disability rate per W. Va. Code R. § 85-1-9.7?

#### **G. DEATH CLAIMS (FATAL)**

1. Were the death benefits in the proper amounts and to the proper person(s) per W. Va. Code §§ 23-4-1 and 23-4-10.

#### **H. CLOSURE**

1. Were the claims properly closed and a notice issued? [W. Va. Code § 24-4-16 and Supreme Court of Appeals of West Virginia decision May 23, 2008, LOVAS v. CONSOLIDATION COAL COMPANY]

#### **I. OCCUPATIONAL PNEUMOCONIOSIS**

1. Did the Self-Insured Employer enter non-medical decisions in occupational pneumoconiosis claims within ninety (90) days from the date the responsible party receives properly executed, prescribed forms? (can be "tolled" for no more than thirty (30) additional days during the evidence gathering process) [W. Va. Code § 23-4-15b and W.Va. Code R. § 85-1-10.2] (If necessary, this should reflect in the report as N/A with explanation as none were in the samples.)

#### **J. DENIED AND CLOSED WITHOUT PAYMENT**

1. Did the Self-Insured Employer properly investigate then give a written ruling on a claim within fifteen (15) working days, or if "tolled" while evidence for the claim is gathered, rule in the appropriate time? [W. Va. Code § 23-4-1c (a) and W. Va. Code R. § 85-1-10.1]
2. Were claims handling practices meeting West Virginia statutes, rules and regulations of "denied" and "closed without payment" claims including proper notifications, reasonable basis for denial, and whether or not claimants are provided adequate instructions for rebuttals? [W. Va. Code §§ 23-5-1(a) 23-5-1(b)(1)]
3. Were claims denied inappropriately due to a technicality? [W. Va. Code § 23-5-13]
4. Were appropriate protest/grievance language on the decision order? [W. Va. Code §§ 23-5-1(b)(1) and 23-4-3(f) and W. Va. Code R. §§ 85-1-7.2 and 85-21-10.2b]
5. Were denied claim investigations by the Self-Insured Employer/TPA complete and thorough?

#### **K. OFFICE OF JUDGES (OOJ) AND BOARD OF REVIEW (BOR) ORDERS**

1. Did the Self-Insured Employer comply with all orders of the Office of Judges (“OOJ”) and the Board of Review (“BOR”) and all mandates of the West Virginia Supreme Court of Appeals within thirty (30) days from the date of receipt, unless the responsible party is required to act sooner under the terms of the order or mandate or the order or mandate is subject to a lawfully ordered stay? [W. Va. Code § 23-5-9(f) and W. Va. Code R. § 85-1-10.7]

#### **L. DOCUMENTATION**

1. Did the Self-Insured Employer follow state statutes, rules and regulations which require that claim files contain adequate documentation and to be maintained in a manner so that pertinent events and dates of such events can be reconstructed if necessary? [W. Va. Code R. §§ 85-18-13.3 and 13.4]

#### **M. EDI - DOES THE SELF-INSURED EMPLOYER PROMPTLY AND ACCURATELY PROVIDE THE WVOIC WITH ALL NECESSARY CLAIM INFORMATION TO MAINTAIN THE WORKERS’ COMPENSATION CLAIM INDEX? [W. VA. CODE §23-2C-5(C)(8) AND W. VA. CODE R. §85-2-1 ET SEQ. AND WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER’S ELECTRONIC DATA INTERCHANGE (“EDI”) IMPLEMENTATION GUIDE]**

1. FROI – Did the Self-Insured Employer/TPA submit the First Report of Injury report timely within ten (10) business days?
2. SROI - Did the Self-Insured Employer/TPA submit the Subsequent Reports of Injury report(s) updates on each claim either monthly or quarterly?
3. Closing - Did the Self-Insured Employer/TPA properly report closure of the claim when no additional transactions are expected on the claim? (For example: A notification that an accident has occurred is not a request for a compensability decision and therefore should not be denied (FROI 04) or administratively closed (SROI FN) and should be canceled as a FROI 01.)

#### **N. THE SELF-INSURED EMPLOYER COOPERATES ON A TIMELY BASIS WITH EXAMINERS PERFORMING THE EXAMINATION.**

1. Did the Self-Insured Employer respond to RFI’s in a timely manner?
2. Did the Self-Insured Employer provide records in a timely basis and cooperate with the examination? [W. Va. Code R. § 85-18-13.6]

## O. OTHER ISSUES

**COMPLIANCE TABLE**

<u>Review Section</u>	<u># Pass</u>	<u># Fail</u>	<u>N/A</u>	<u>Compliance %</u>	<u>Individual Corrective Action</u>	<u>Systemic Corrective Action</u>
A1	N/A	N/A	N/A	N/A		
B1	10	0	0	100		
B2	7	3	0	70		*
C1	1	1	0	50		*
C2	2	0	0	100		
C3	2	0	0	100		
C4	2	0	0	100		
D1	1	0	0	100		
D2	1	0	0	100		
D3	1	0	0	100		
D4	1	0	0	100		
E1	12	0	0	100		
F1	N/A	N/A	N/A	N/A		
G1	N/A	N/A	N/A	N/A		
H1	12	0	0	100		
I1	N/A	N/A	N/A	N/A		
J1	1	1	0	50		*
J2	2	0	0	100		
J3	2	0	0	100		
J4	2	0	0	100		
J5	2	0	0	100		
K1	N/A	N/A	N/A	N/A		
L1	12	0	0	100		
M1	12	0	0	100		
M2	12	0	0	100		
M3	11	1	0	92		*
N1	N/A	N/A	N/A	100		
N2	N/A	N/A	N/A	100		
O	N/A	N/A	N/A	N/A		

\*See "Observations and Recommendations" below.



## OBSERVATIONS

**B2** – Three (3) medical only claims found the initial claim compensability ruling letter was not issued. The Self-Insured Employer/TPA should have procedures in place to ensure that rulings on all claims are within the required fifteen (15) working day timeframe as required by W.Va. Code §23-4-1c(a) and W.Va. Code R. §85-1-10.1. It should be noted that the injured employee's medical bills were paid timely by the Self-Insured Employer.

**C1** – One (1) TTD claim which began as medical only then became lost time, did not receive a proper notification of a TTD award. The Self-Insured Employer/TPA should have procedures to ensure that all claims are provided TTD award notifications as required by W.Va. Code §85-1-10. It should be noted that the injured employees' benefits were paid timely by the Self-Insured Employer. *Note: Although a statistical failure, due to the nominal population, systemic corrective action is not concluded.*

**J1** - One (1) denied claim found the denial letter was not sent. The claim was denied due to the employee not submitting a WC1 claim form. The Self-Insured Employer failed to issue the denial letter in violation of W. Va. Code §23-4-1c (a) and W. Va. Code R. §85-1-10.1. The Self-Insured Employer agreed they failed to issue the denial letter. In response to the examiner's inquiry made at the time the examination was being performed, a denial letter was issued to the employee. *Note: Although a statistical failure, due to the nominal population, systemic corrective action is not concluded.*

**M3** - One (1) paid claim was not updated to closed status from the original FROI submission in the EDI system when proper to do so and no further payments or claim activity were expected. The Self-Insured Employer should have procedures in place to ensure that all claim status is updated and submitted as required by W. Va. Code §23-2C-5(C)(8) and W. Va. Code R. §85-2-1 et seq. and West Virginia Offices of the Insurance Commissioner's Electronic Data Interchange ("EDI") Implementation Guide.

**O** - Although not necessarily considered a violation; the examiner observed instances where the Self- Insured Employer failed to utilize their internal claim templates on ruling letters and miscellaneous claim communication documents. Potential issues can arise when, for example, referencing time frames not specific to West Virginia Code or can be misleading giving the impression of placing a greater burden on the employee.

## RECOMMENDATIONS

**B2** – The Self-Insured Employer/TPA should have procedures in place to ensure that rulings on all claims are within the required fifteen (15) working day timeframe as required by W.Va. Code §23-4-1c(a) and W.Va. Code R. §85-1-10.1.

**C1** – The Self-Insured Employer should have procedures in place to ensure that rulings on all claims are within the required fifteen (15) working day timeframe as required by W.Va. Code §23-4-1c(a) and W.Va. Code R. §85-1-10.1.

**J1** - The Self-Insured Employer should have procedures in place to ensure that all claim denials are issued timely as required by W. Va. Code §23-4-15(a) and & W. Va. Code R. §85-1-3.

**M3** – It is recommended the Self-Insured Employer ensure timely FN reporting to EDI when a file is administratively closed or no further payments are expected as required by W. Va. Code §23-2C-5(C)(8) and W. Va. Code R. §85-2-1 ET SEQ. and West Virginia Offices of The Insurance Commissioner’s Electronic Data Interchange (“EDI”) Implementation Guide.

**O** – It is recommended the Self-Insured Employer utilize claims template documents to limit the practice of referencing time frames on claims correspondence/rulings that are not specific to West Virginia Code.

*Note: As a measure of quality assurance, the Self-Insured Employer should periodically monitor future claims to ensure that these procedures are being followed and claims are being properly and consistently handled according to West Virginia statute, rules and regulations.*

**EXAMINER'S SIGNATURE AND ACKNOWLEDGEMENT**

The examiner would like to acknowledge the cooperation and assistance extended by the Self-Insured Employer/TPA during the course of the examination.



---

Letha G. Tate, AIE, AIRC, ALMI, MCM  
Examiner-in-Charge

**EXAMINER'S AFFIDAVIT**

State of West Virginia  
County of Kanawha

**EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION**

I, Letha G. Tate, being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of The Potomac Edison Company.
2. I have reviewed the examination work papers and examination report, and the examination of The Potomac Edison Company, was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

Letha G. Tate  
Letha G. Tate, AIE, AIRC, ALMI, MCM

Subscribed and sworn before me by Letha G. Tate on this 9<sup>th</sup> day of November 2021

Janice L Hemmelgarn  
Notary Public

My commission expires: March 23, 2024

