



UNITED STATES GOVERNMENT

## MEMORANDUM

FORM G-115f (1-92)

RAILROAD RETIREMENT BOARD

L-2023-02

March 27, 2023

TO: Guadalupe Contreras  
Chief, of RUIA, Internet and Support  
THROUGH Randolph Hayden  
Director of Policy and Systems

FROM: Ana M. Kocur  
General Counsel

SUBJECT: Request for Formal Legal Opinion - Acceptance of Faxed RUIA Forms

This is in reference to your memorandum dated January 19, 2023, asking for a formal legal opinion regarding accepting faxed Railroad Unemployment Insurance Act (RUIA) forms. Specifically, you asked the following questions:

1. Is a claimant's original (wet-ink) signature required on Railroad Unemployment Insurance Act (RUIA) applications and claims (Forms SI-1a, SI-10, UI-1, UI-3) when not submitted through RUIAnet?
2. Are RUIA applications, claims and supplemental medical statements (Forms SI-1a/b, SI-7, SI-10, UI-1, UI-3) acceptable when faxed to either a Railroad Retirement Board (RRB) Office (headquarters and field offices) or an RRB approved contracted offsite scanning facility?
3. Are medical statements (Forms SI-1b and SI-7) acceptable when faxed from claimants and not from a doctor or medical institution?

As background, the Railroad Retirement Board's (RRB) regulations do not require an original wet-ink signature. 20 C.F.R. § 335.2(b) only requires that "the forms required by paragraph (a) of this section may be mailed or delivered to any Board office." However, the current DPOM/FOM 216.20.3 requires an original wet-ink signature on the SI-1a forms. In addition, DPOM/FOM 216.21.3 further requires that the RRB may only accept faxed Forms SI-1b and SI-7, along with other supplemental medical documents, when the fax originates from a doctor or a medical institution. As you note, in early 2020, at the beginning of the COVID-19 pandemic, the RRB decided it was in the public's best interest to waive the wet signature and fax procedures described in DPOM/FOM. Accordingly, the RRB began to accept all faxed RUIA applications, claims and supplemental medical statements. This practice has continued since that time.

At the outset, after reviewing the relevant laws, regulations, and agency policies, I have concluded that the questions you raised are policy decisions rather than legal decisions. Having said that, I now turn to your specific questions as set forth in your memorandum:

1. Is a claimant's original (wet-ink) signature required on Railroad Unemployment Insurance Act (RUIA) applications and claims (Forms SI-1a, SI-10, UI-1, UI-3) when not submitted through RUIAnet?

Under the Railroad Unemployment Insurance Act (RUIA) there is no requirement that a filed application must have a wet-ink signature, and the statute delegates authority to the Board to establish the benefit claim procedure through its regulations. 45 U.S.C. § 355. There are no specific RUIA regulations that would prevent the agency from accepting signed documents via fax. The only regulations that do discuss signatures apply to applications under the Railroad Retirement Act (RRA), not the RUIA. *See* 20 C.F.R. § 217.17 (requiring "handwritten signature", "electronic signature" through RRB automated claims system, or "alternative signature or signature proxy.") The regulations that apply to RUIA applications merely instruct the applicant to "mail or deliver" a completed document to "any Board office." There is no mention of the need for an original wet-ink signature, but there are procedures for electronically filing for RUIA benefits. *See* 20 C.F.R. Pt. 321. This further suggests that a wet-ink signature is not required.

Therefore, it is my opinion that a wet-ink signature is not required on RUIA applications and claim forms. However, at a minimum, I recommend revising the internal procedural manuals and relevant forms to reflect the change in policy.

2. Are RUIA applications, claims and supplemental medical statements (Forms SI-1a/b, SI-7, SI-10, UI-1, UI-3) acceptable when faxed to either an RRB Office, or an RRB approved contracted offsite scanning facility?

As discussed above, assuming the internal policy and relevant forms are revised, accepting faxed documents does not run afoul of the RUIA or the agency's regulations. Moreover, from a legal standpoint, there is nothing barring the agency from adopting a policy of assigning an agent, in this case an approved offsite scanning facility, to accept faxed documents as part of the RUIA claims process. If you are satisfied that the contracted offsite scanning facility has the proper controls in place, my only recommendation would be to update the internal policy to reflect that an approved contractor may accept faxed documents.

3. Are medical statements (Forms SI-1b and SI-7) acceptable when faxed from claimants and not from a doctor or medical institution?

20 C.F.R. § 220.46(a)(5) provides that with regard to medical evidence for disability determinations under the RRA, copies of medical record should be certified as accurate by the custodian. We have interpreted that as requiring that if the custodian of the medical record certifies that the electronic copy is accurate, we can accept such by electronic transmission directly from the custodian; however, we will not accept such by electronic transmission from the applicant. There is no parallel requirement in the RUIA regulations, or any language providing that medical statements must be received directly from a doctor or medical institution, as opposed to from the claimant. The RUIA regulations only provide that medical statements "may be mailed or delivered to any Board office" and do not limit who may provide such statements or in what manner they may be provided. 20 C.F.R. § 335.2(b). Therefore, there is nothing from a legal standpoint that would bar the agency from accepting a medical provider's signed medical statement that was faxed to the RRB by the claimant. If it is determined that from a policy standpoint this change should be made, I would

recommend revising internal policy and any relevant forms to reflect that signed medical statements faxed from a claimant, rather than directly from medical providers, are acceptable.