



Today in Tennessee:


The Workers' Compensation Review

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Beginning of the Claim

Recorded Statement

Documents sent to Injured Worker




A Beginner's Guide to Tennessee Workers' Compensation

Basic facts about the Tennessee Workers' Compensation System for dates of injury on or after July 1, 2014.


How the Doctor is Selected

You will select your **Authorized Treating Physician** from a panel of three doctors that your employer gives you. That physician will provide the medical care needed to help you return to your health and to your job.



Medical treatment for your work-related injury is provided at the employer's expense. Sign an **Agreement between Employer/Employee Choice of Physician** (Form C-42), which should be provided to you by your supervisor, to indicate which doctor you select to become the authorized treating physician. If emergency treatment is required, the supervisor should provide the panel after the injury is stabilized.

Keep up with your records



Request and keep a copy of your signed Form C-42 for your records. If you do not sign the form, but accept medical treatment from a doctor on the form, it may be considered that you have chosen that doctor.


Benefits that Injured Employees May Be Entitled to Receive

Employees who have suffered a compensable injury, meaning that the authorized treating physician has determined the injury to be work-related, may be entitled to receive the following:

Medical treatment, at no cost to the employee

This treatment must be provided for as long as required by the authorized treating physician. Medical treatment recommended by the authorized treating physician that is denied by the insurance company's utilization review agent can be submitted to the Bureau's Utilization Review Program for additional review and consideration.

Travel Expenses



Reimbursement for mileage to and from medical treatment may be requested if travel exceeds 15 miles one way.

Temporary Disability Benefits (Wage Replacement)


Disability begins when the authorized treating physician takes you off work. Temporary disability benefits replace lost wages and are due beginning on the eighth day of the disability. If the disability lasts fourteen (14) days or longer, benefits will be paid back to the first day of disability. Temporary disability benefits are usually two-thirds of your average weekly wages earned during the 52 weeks prior to the injury. The Bureau of Workers' Compensation does not pay these benefits. Benefits are paid by your employer's insurance carrier.

If you are able to work, but your average weekly earnings are reduced because of work restrictions, you may be entitled to partial disability benefits.

If the authorized treating physician restricts your ability to work, such as limiting the number of hours worked or the type of work performed, it is very important that the physician's instructions and restrictions are followed at all times. **Failure to report for light duty offered by your employer may terminate your temporary disability benefits.**

Have Questions?

Call the Ombudsman Program of the Tennessee Bureau of Workers' Compensation at **800-332-COMP (2667)** if you have any questions.



An ombudsman will assist with any questions from employees, employers and insurance companies that do not have attorney representation.

Learn more online and download forms at: www.tn.gov/workerscomp

Keep in Touch

Stay in contact with your employer if you are taken off work by the doctor.

If Your Claim is Denied

When a claim is denied, it means your employer's workers' compensation insurance adjuster believes your injury is not compensable, meaning that your injury was not caused by the work that you perform and it is not covered by workers' compensation. If the adjuster denies your claim, you have a right to challenge the decision. If a dispute regarding compensability occurs, you may seek help resolving the dispute from the Bureau. Call an ombudsman at (800) 332-2667.

Protect Your Rights

The right to receive workers' compensation benefits does not stay open forever. To protect your rights, file a **Petition for Benefit Determination (PBD) form**. The form is available on the Bureau's website. In most cases, the deadline to file the form is one year from:

- The date the injury occurred; or,
- The date the last temporary disability benefits were paid or medical benefits were provided for the injury, whichever is latest.

Can I Be Fired for Reporting a Work Injury?

It is illegal for an employer to fire an employee for reporting a work injury. If you are fired and believe it was for reporting a work injury, you may wish to consult an attorney. The Bureau of Workers' Compensation does not have authority to resolve wrongful termination claims.

Frequently Asked Questions:

Do I have to pay for medical treatment for a compensable injury?

No, you are not responsible for the costs of medical treatment provided by the authorized physician for a compensable claim.

What options do I have if I disagree with the authorized treating physician's findings or recommended medical treatment?

The employer or insurance company is usually not required by law to offer a second opinion, but you can always ask for it anyway. You may, however, obtain a second opinion or additional medical treatment with any doctor at your own expense.

What if I'm not receiving the benefits I deserve?

Call a Workers' Compensation Ombudsman at (800) 332-2667 to help you. Submitting a completed **Petition for Benefit Determination** available on the Bureau's website, will speed up the process.

Will I need to use sick or vacation time while off work due to a compensable injury?

It depends. An employee taken off work by the authorized treating physician for less than 14 days is not entitled to temporary disability benefits for the first seven (7) days missed. Review your company's policies about this unpaid time. If the authorized treating physician requires you to miss more than 14 days; however, benefits are due from the first day of disability.

Am I paid for the time spent attending doctor appointments during work hours?


Not unless your company has a policy to pay for this time.

Which employers must provide workers' compensation coverage for their employees?

In most industries, any employer with five or more full- or part-time employees must carry workers' compensation insurance. In the construction or mining industry however, employers must provide coverage even if there is only one employee. Construction employers may exempt themselves from the workers' compensation coverage requirements by applying for an exemption; but, all employees in construction must be covered.

Information about the Workers' Compensation Exemption Registry is available at: <http://tnbear.tn.gov/WC/Default.aspx> or by calling the Tennessee Secretary of State's office at (615) 741-2286.

Learn more and download forms from our website: www.tn.gov/workerscomp



Beginning of the Claim, Cont.



STATE OF TENNESSEE
BUREAU OF WORKERS' COMPENSATION
220 FRENCH LANDING DRIVE
NASHVILLE, TENNESSEE 37243-1002
(615) 741-2395
(800) 332-2667

NOTICE OF REPORTED INJURY

The Tennessee Bureau of Workers' Compensation has been notified you were injured on the job. This notice does not mean that your claim has been accepted or that you are eligible to receive benefits. This only confirms that your claim has been reported by your employer to its insurance company and to the Bureau.

Your employer should help you obtain all needed medical care related to your injury, at no cost to you, from a doctor you select from their approved list. The doctor selected becomes your authorized treating physician.

Your employer will also help you contact their workers' compensation insurance adjuster who will administer your claim and help you with your recovery. The adjuster's name and contact information are on a separate letter enclosed with this notice.

The adjuster has fifteen (15) calendar days (from the date you provided notice of your injury to your employer) to conduct an investigation and to either accept or deny your claim.

If your claim is accepted, you may be eligible to receive medical treatment including prescriptions, mileage reimbursement for attending appointments with your authorized treating physician and partial wage replacement benefits (also known as temporary disability benefits) as described in the enclosed "Beginner's Guide to Tennessee Workers' Compensation".

- If you are eligible for temporary total disability benefits, the first payment must be sent to you within fifteen (15) calendar days of when your disability begins (the date you are taken off work by your authorized treating physician) and then every subsequent payment must be made within the following fifteen (15) calendar days until you are allowed to return to work.
- If you are eligible for temporary partial disability benefits because your authorized treating physician allows you to continue to work but restrictions reduce the amount of money you earn, the payments must be sent as near as possible to the same schedule as your normal paychecks are paid.

If your claim is denied, the adjuster assigned to your claim will send you a Notice of Denial that provides the reason for the denial.

Most employers and adjusters provide all required benefits for an accepted claim, also known as "compensable" claim, without assistance from the Bureau. If you have questions about your claim, you should contact your employer and your adjuster first. If, after contacting your employer and your adjuster, you have questions or are not getting the benefits you are due, you can request assistance from the Bureau by calling (800) 332-2667. The Bureau will work with you, your employer, and your adjuster to help resolve any issues. The Bureau's role is to ensure workers' compensation claims are handled in a fair and professional manner and is available to assist you, if needed.

Claim Investigations

Decisions on Compensability

RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
BUREAU OF WORKERS' COMPENSATION

CHAPTER 0800-02-14
CLAIMS HANDLING STANDARDS

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0800-02-14-.01 SCOPE OF RULES.

The provisions of this chapter shall apply to all employers, adjusting entities and providers of services related to workers' compensation claims in the State of Tennessee subject to provisions of the Workers' Compensation Law.

Authority: T.C.A. §§ 50-6-233, 50-6-415, and 50-6-419. **Administrative History:** Original rule filed December 15, 1997; effective February 28, 1998. Amendments filed May 4, 2018; effective August 2, 2018.

0800-02-14-.02 DEFINITIONS.

- (1) "Adjusting entity" means a trade or professional association, managing general agency, pool, third party administrator and/or insurance company licensed to write workers' compensation insurance in Tennessee and shall also mean a self-insured employer or group self-insured employers possessing a valid certificate of authority from the commissioner of commerce and insurance pursuant to T.C.A. § 50-6-405.
- (2) "Adjuster", "claims adjuster", "med-only adjuster", or "claims handler" means a representative of an adjusting entity who investigates workers' compensation claims for the purposes of making compensability determinations, files or causes claims forms to be filed with the Bureau, commences benefits, and/or makes settlement recommendations based on the insured's liability on behalf of a self-insured employer, trade or professional association, third party administrator, and/or insurance company.
- (3) "Administrator" shall have the same definition of "Administrator" as in T.C.A. § 50-6-102.
- (4) "Bureau" means the Tennessee Bureau of Workers' Compensation as defined in T.C.A. § 50-6-102, an autonomous unit attached to the Department of Labor and Workforce Development for administrative matters only, pursuant to T.C.A. § 4-3-1409.
- (5) "Claim" means a demand for something as due; an assertion of a right or an alleged right.
- (6) "Electronic Data Interchange" or "EDI" means the electronic communication method that provides standards for exchanging data via electronic means. The term "EDI" encompasses the entire electronic data interchange process, including the transmission, message flow, document format, and software used to interpret the documents using the standards established by the IAABC and the Release Version accepted by the Bureau at the time of the filing.

Panels

Requirements

Telehealth Option

FORM C-42

TENNESSEE
BUREAU OF WORKERS' COMPENSATION



EMPLOYEE'S CHOICE OF PHYSICIAN Medical Panel

Employer

- List at least three physicians and provide this panel to employee upon the report of a workplace injury.
- Keep the completed original form on file and send a copy to the employee for their records.
 - Do not send this form to the State unless requested.

Employee

- Fill out the bottom portion of this form to indicate which physician you choose.
 - If you refuse to accept medical services from the chosen physician, your rights to benefits may be delayed.
 - Traveling more than 15 miles (one way) to (or from) medical treatment? Employees may seek reimbursement of their travel expenses from the insurance carrier.
- Send completed form back to your employer.

TO BE COMPLETED BY THE EMPLOYER:

Employee Name _____ Date Panel Provided _____
Employer _____ Date of Injury _____
Employer Contact _____ Phone _____ Email _____

Physician 1	Physician 2	Physician 3
Name _____	Name _____	Name _____
Phone _____	Phone _____	Phone _____
Address _____ _____	Address _____ _____	Address _____ _____
City _____	City _____	City _____
State _____ Zip _____	State _____ Zip _____	State _____ Zip _____
Is Telehealth available with Physician #1? Yes <input type="checkbox"/> No <input type="checkbox"/>	Is Telehealth available with Physician #2? Yes <input type="checkbox"/> No <input type="checkbox"/>	Is Telehealth available with Physician #3? Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, web address _____	If yes, web address _____	If yes, web address _____
(Optional) Telehealth-Only Physician 4 Name _____ Phone _____		
Telehealth Provider email address _____ Web address _____		

TO BE COMPLETED BY THE EMPLOYEE:

I have selected the following physician from the list provided to me by my employer:

Physician Name _____ Appt Date/Time _____

I select: In-person treatment or Treatment by Telehealth Were you offered in-person treatment? Yes No

Employee Signature _____ Date _____

Denials

Notice



Tennessee Bureau of Workers' Compensation
220 French Landing Drive, I-B
Nashville, TN 37243-1002
800-332-2667

FORM C-23

NOTICE OF DENIAL

This form must be used by adjusters to notify workers' compensation claimants and/or their representative, the treating physician and the insured, as required in the Bureau's Claims Handling Standards, **if compensability of any element of a reported injury is denied**. The information contained in this form must also be filed with the Bureau electronically via EDI.

State File # _____ Claimant Name _____
Date of Injury _____ Date of Disability _____
Employer _____
Business Mailing Address _____
City, State, ZIP _____
Insurer _____ Ins. Claim # _____
Insurer Mailing Address _____
City, State, ZIP _____
Check one: Full Denial Partial Denial
If partial, element(s) being denied _____
Date of denial _____ Date claimant was notified of denial _____
Basis for denial _____
Printed name of submitter _____ Phone # _____
Signature _____ Date _____
Email _____ Fax # _____

LB-0283 (REV 01/21)

RDA 10183

Wages

Wage Statement

AWW Calculations

What weeks are included?

What constitutes earnings?



Tennessee Bureau of Workers' Compensation
220 French Landing Drive, I-B
Nashville, TN 37243-1002

FORM C-41

WAGE STATEMENT

EMPLOYEE: [REDACTED] SSN: [REDACTED] STATE FILE #: [REDACTED]
Employer [REDACTED] Ins Claim # [REDACTED] Date of Injury: [REDACTED]

Please list the wages earned by the employee named above during each of the 52 weeks prior to date of injury, if applicable.

WEEK	WEEK ENDING	GROSS WAGES	WEEK	WEEK ENDING	GROSS WAGES
1			27		
2			28		
3			29		
4			30		
5			31		
6			32		
7			33		
8			34		
9			35		
10			36		
11			37		
12			38		
13			39		
14			40		
15			41		
16			42		
17			43		
18			44		
19			45		
20			46		
21			47		
22			48		
23			49		
24			50		
25			51		
26			52		
				TOTAL PAID	\$0.00

Date: [REDACTED] Name of Preparer and Title [REDACTED]

LB-0384 (REV 11/15)

DA 10183

Temporary Disability Benefits



Temporary Total Disability

- Benefits paid to an Employee during the time he/she is taken completely off work by the authorized physician during the healing process.
- These benefits terminate when Employee reaches maximum medical improvement or is released to return to work.
- TTD Benefits = **66.67%** x Employee's **average weekly wage** for the **52 weeks** worked prior to the injury
 - (subject to the statutory minimum and maximum)

Temporary Partial Disability

- Benefits for Employees who have returned to work part time and/or at a lower wage during the healing process.
- These benefits terminate when Employee reaches maximum medical improvement or returns to work at the pre-injury wage.
- TPD Benefits = **66.67%** of the difference between the average weekly wage of Employee at the time of the injury and the wage the worker is able to earn in his/her partially disabled condition
 - (subject to the statutory maximum and minimum)

Settlements

- A claim can be settled by agreement at any time.
- WC settlements must be approved by judges from the Court of Workers' Compensation Claims.
- Settlements may include closure of future medical treatment
 - Closure of future medical treatment will be approved only if the judge agrees Employee is receiving "substantially" the medical benefits to which he/ she is entitled.
 - Future medicals can also be settled on denied claims regardless of whether settlement substantially secures all benefits which may be owed. Approval is on a case-by-case basis.

Initial PPD Benefits

- Benefits are owed regardless of whether an injured worker returns to work.
- All impairment ratings are converted to the BAW pursuant to AMA Guidelines, 6th edition.
- PPD Benefits equal:
 - Impairment rating x 450 weeks x 66 2/3% Employee's AWW
 - Example: Employee has 7% Impairment Rating and \$750 AWW
$$07 \times 450 \times \$500 = \$15,750$$
- This amount is known as the Original Award.

Enhanced PPD Benefits

- If an Employee does NOT return to work or receives less than his/her pre-injury wage with any employer, then he/she may apply for Increased Benefits at the expiration of the Initial Compensation Period.
- For injuries occurring on or after June 22, 2020, the compensation period will be determined by either:
 - (1) multiplying 450 weeks by the assigned impairment rating, or
 - (2) 180 days after the Employee reaches maximum medical improvement, whichever is later.
- Increased benefits are calculated by multiplying the original award by the following factors:
 - 1.35x if no return to work
 - 1.45x if no HS diploma or GED
 - 1.2x if Employee is more than 40 years old
 - 1.3x if unemployment in county where employed is greater than 2 points above state average for year prior to initial period of compensation

Mediation



Mediation

Documents requested from Mediator for Mediation



Mediator's Request for Documents from Employer

A workers' compensation claim dispute can be costly to an employer. It can prolong periods of disability, increase medical costs, and damage the employee-employer relationship. A quick and successful resolution depends upon cooperation.

Complete information exchange helps make good resolutions. Send the information to the mediator and all other parties. Tennessee Code Annotated Section 50-6-236(g) provides for a penalty for the failure to provide documents following a mediator's request.

Please see the list below and provide the requested information **within 15 days**.

1. Form C20 – "Employer's First Report of Injury or Illness." This report is required to be filed with an insurance carrier or claim administrator within one day of knowledge of a work injury and the need for medical treatment or the filing of a Petition for Benefit Determination.
2. Form C23 – "Notice of Denial of Claim for Compensation", if applicable.
3. Form C41 – "Wage Statement", please provide within fourteen (14) days of this request. This letter constitutes a request from a mediator under the Tennessee Compilation Rules and Regulations 0800-02-21-.10. Failure to provide a wage statement may result in an assessment of a civil penalty.
4. Form C42 – "Employee's Choice of Physician".
5. Utilization Review reports, if applicable.
6. Injured worker's job description.
7. Transcribed recorded statements, if available.
8. A brief written explanation of how you see this case.
9. **All relevant medical records currently in the employer's or carrier's possession are required to be shared with the mediator and the injured worker within 15 days.** Failure to comply with this rule may result in assessment of civil penalties under Tennessee Compilation Rules and Regulations 0800-02-21-.10.
10. When requesting medical records, please also obtain a completed Medical Record Certification. [Click here for the form](#) or visit www.tn.gov/workerscomp.

The use of modified or light duty work is one of the best ways to reduce employer and employee direct and indirect work injury costs. For more information regarding the use of light duty, visit: [REWARD Program Toolkit](#), do an online search for TN BWC REWARD Program or call 800-332-2667.



Bureau of Workers' Compensation · 40. South Main- One Commerce Square Bldg.
5th Floor (Suite 500) Memphis TN 38103
Tel 901-543-6077 · Fax 301-543-6039 · tn.gov/workforce

Mediation, Cont.

**RULES
OF
THE TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
BUREAU OF WORKERS' COMPENSATION**

**CHAPTER 0800-02-21
COURT OF WORKERS' COMPENSATION CLAIMS AND ALTERNATIVE DISPUTE RESOLUTION**

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0800-02-21-01 SCOPE.

These rules govern the procedures for workers' compensation disputes before the court of workers' compensation claims and alternative dispute resolution. They are intended to provide an efficient, expedient, and fair resolution of workers' compensation disputes in accordance with the Workers' Compensation Law.

Authority: T.C.A. §§ 4-3-1409 and 50-6-101; and Public Chapter 289 (2013), Sections 73 and 106.
Administrative History: Original rule filed April 1, 2014; effective June 30, 2014. Amendments filed September 1, 2016; effective November 30, 2016. Repeal and new rules filed May 3, 2019; effective August 1, 2019.

0800-02-21-02 DEFINITIONS.

- (1) Administrator. The chief administrative officer of the Bureau of Workers' Compensation.
- (2) Appeals Judge. A judge of the workers' compensation appeals board.
- (3) Appeals Board. The workers' compensation appeals board.
- (4) Bureau. The Bureau of Workers' Compensation.
- (5) Catastrophic Injury. For the purposes of this chapter only, any of the following injuries is catastrophic:
 - (a) Spinal cord injury involving severe paralysis of an arm, leg, trunk, or any combination of these.
 - (b) Amputation of an arm, hand, foot, leg, or any combination of these involving the effective loss of use of that appendage.
 - (c) Severe brain or closed-head injury evidenced by:

COURT OF WORKERS' COMPENSATION CLAIMS AND
ALTERNATIVE DISPUTE RESOLUTION

CHAPTER 0800-02-21

(Rule 0800-02-21-02, continued)

- (i) Severe sensory or motor disturbances;
 - (ii) Severe communication disturbances;
 - (iii) Severe complex integrated disturbances of cerebral function;
 - (iv) Severe disturbances of consciousness; or
 - (v) Severe episodic neurological disorders;
- (d) Second- or third-degree burns to twenty-five percent (25%) or more of the whole person or third-degree burns to five percent (5%) or more of the face or hands;
 - (e) Total or industrial blindness; or
 - (f) Total loss of hearing.
- (6) Chief Judge. Supervises the judges and coordinates all activities in the court of workers' compensation claims.
 - (7) Claim. An employee's request for benefits available under the Workers' Compensation Law.
 - (8) Clerk. Unless otherwise provided, the clerk of the court of workers' compensation claims and any deputy clerk.
 - (9) Compensation Hearing. A trial conducted to fully resolve all pending issues on the merits including but not limited to disability and/or medical benefits.
 - (10) Compensation Order. An order by a judge that fully resolves all pending issues of the claim including but not limited to additional permanent disability benefits and/or additional medical benefits. A judge may issue a compensation order based on a decision on the record.
 - (11) Court. The court of workers' compensation claims.
 - (12) Decision on the record. A decision by a judge based on a review of the written materials without an evidentiary hearing.
 - (13) Dispute Certification Notice. The notice the mediator files with the clerk after alternative dispute resolution that identifies the issues for a judge's determination.
 - (14) Electronic signature. A document submitted by electronic transmission signed or verified electronically in the manner approved by the bureau.
 - (15) Expedited Hearing. A hearing conducted before a trial on the merits to determine temporary disability and/or medical benefits. A judge may issue an expedited hearing order based on a decision on the record. An expedited hearing is not the appropriate procedure for the Court to determine post-settlement or post-judgment medical issues.
 - (16) Filed.
 - (a) For purposes of this chapter, a document is considered filed.
 1. On the date and time received by the clerk if hand-delivered to any bureau office during normal business hours;

Mediation, Cont.

COURT OF WORKERS' COMPENSATION CLAIMS AND ALTERNATIVE DISPUTE RESOLUTION

CHAPTER 0800-02-21

(Rule 0800-02-21-.02, continued)

- (25) **Request for Scheduling Hearing.** A request filed with the clerk for a judge to conduct a scheduling hearing and enter a scheduling order for efficient processing of the case. Either party may file a request for scheduling hearing after a dispute certification notice is filed.
- (26) **Scheduling Hearing.** A hearing where the judge considers efficient processing of the case and issues a scheduling order containing a discovery plan, including but not limited to dates for post-discovery alternative dispute resolution and the compensation hearing.
- (27) **Status Hearing.** A hearing where the judge considers the efficient processing of the case.
- (28) **Unserviced petition for benefit determination.** A complete petition for benefit determination that the filing party has not served on the other party(s) in the case.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 76, 79, 82, 83, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-.03 COMPUTATION OF TIME.

- (1) Unless otherwise noted, the time required for completing any actions in these rules is calculated as in Rule 6.01 of the Tennessee Rules of Civil Procedure.
- (2) Except for filing a petition for benefit determination under T.C.A. § 50-6-203 and a request for hearing under T.C.A. § 50-6-239(a), when an act is required to be done at or within a specified time, a judge may at any time:
 - (a) Extend the deadline if requested before expiration of the original deadline or before the deadline extended by a previous order; or
 - (b) Permit the act to be done late on motion made after the deadline has passed, if the failure to complete the act resulted from excusable neglect or good cause as determined by the judge.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 79, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-.04 REPRESENTATION BY COUNSEL.

- (1) At any hearing or alternative dispute resolution:
 - (a) Any party may be represented by a Tennessee-licensed attorney in good standing.
 - (b) Any party who is a natural person may represent himself or herself.
 - (c) Any corporation or other artificial person may participate in alternative dispute resolution through a duly-authorized representative such as an officer, director, or appropriate employee but must be represented by a licensed attorney in the court of workers' compensation claims and the workers' compensation appeals board.

February, 2022 (Revised)

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COURT OF WORKERS' COMPENSATION CLAIMS AND ALTERNATIVE DISPUTE RESOLUTION

CHAPTER 0800-02-21

(Rule 0800-02-21-.02, continued)

- 2. On the date postmarked to the clerk if sent by U.S. certified or registered mail, return receipt requested, or its equivalent;
 - 3. On the date the document reaches the clerk if transmitted by first-class mail, facsimile, or by electronic transmission approved by the bureau; or
 - 4. On the date and time filed in TNComp, the Bureau's electronic filing system.
- (b) For purposes of this chapter, a petition for benefit determination is considered filed when received as listed in subparagraph (a) and contains the required information set forth in Rule 0800-02-21-.02(22).
- (17) **Interlocutory Order.** Any order by a judge that does not dispose of the case in its entirety.
 - (18) **Judge or Workers' Compensation Judge.** A judge of the court of workers' compensation claims.
 - (19) **Mediating in Good Faith.** Appearing at a mediation and demonstrating honest and sincere attempts to find a resolution to the dispute.
 - (20) **Ombudsman.** A bureau employee who assists any unrepresented party.
 - (21) **Ombudsman Attorney.** A bureau attorney who provides limited legal advice to any unrepresented party.
 - (22) **Petition for Benefit Determination.**
 - (a) A petition for benefit determination (PBD) is a written request for the Bureau to assist in resolution of disputed issues and is the document that initiates the litigation process as described in Tennessee Code Annotated section 50-6-203(b). Any party may file a petition as provided under Tennessee Code Annotated section 50-6-203(b) on a form approved by the Administrator at any time after a dispute arises.
 - (b) A Petition for Benefit Determination is considered filed for the purposes of Tennessee Code Annotated section 50-6-203(b) only if it contains all the following information:
 - 1. Identifying information of the employee and employee's attorney, if applicable;
 - 2. The name of the employer;
 - 3. The date of the alleged injury or accident;
 - 4. A short plain statement describing the alleged injury or accident;
 - 5. The signature of the employee or employee's attorney.
 - (23) **Request for Expedited Hearing.** A request filed with the clerk for a judge to issue an interlocutory order for temporary disability and/or medical benefits. Either party may file a request for expedited hearing after a dispute certification notice is filed.
 - (24) **Request for Hearing.** Any party may file a Request for Expedited, Status, or Scheduling Hearing after the mediator issues a dispute certification notice.

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COURT OF WORKERS' COMPENSATION CLAIMS AND ALTERNATIVE DISPUTE RESOLUTION

CHAPTER 0800-02-21

(Rule 0800-02-21-.04, continued)

- (2) Immediately after engaging in representation of a party, an attorney must notify the bureau of his or her appearance by filing a notice of appearance or by signing any document filed with the clerk or bureau. After a licensed attorney has appeared on behalf of a party, all documents will be served on the attorney. Other attorneys from the same law firm may appear on behalf of the party without a notice of appearance.
- (3) Representation continues until the case concludes, including all appeals, or the judge grants a motion to withdraw. An attorney seeking to withdraw must file a motion with reasonable notice provided to the represented party. An affidavit from the attorney must accompany the motion and contain the client's last-known mailing address, email address, telephone number, and a declaration that the attorney notified the client of both the effects of the attorney's withdrawal from the case and of any deadlines and scheduled proceedings. The motion must be heard by convening a hearing, unless the judge determines that a hearing is unnecessary.
- (4) If a party is represented by an attorney, all documents filed with the bureau or clerk must be signed by the attorney and include the attorney's mailing address, email address, and Tennessee Board of Professional Responsibility number. If a party is unrepresented, the party must include his or her signature, mailing address, telephone number, and email address on the filing.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-216, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239, and Public Chapter 289 (2013), Sections 73 and 77. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendment filed December 22, 2014, effective March 22, 2015. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-.05 FOREIGN ATTORNEYS.

The bureau may admit foreign attorneys to appear pro hac vice by application on a form approved by the administrator.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-233, and 50-6-239, and Public Chapter 289 (2013), Sections 73 and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019.

0800-02-21-.06 FEES.

The employer must pay a filing fee of one hundred and fifty dollars (\$150) to the clerk at the time of a settlement approval or the conclusion of a case. A filing fee is assessed at all later settlement approvals or at the conclusion of every re-opening of the case. The filing fee will be submitted to the clerk before a settlement approval or within five (5) business days after the fee is assessed by a judge. Payment must be made in a form and manner approved by the administrator.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, and 50-6-233, and Public Chapter 289 (2013), Sections 73, 79, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019.

0800-02-21-.07 FORMS.

All documents filed with the bureau or clerk, including those filed electronically, must be the most recent version approved by the bureau, if a form or template is available.

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COURT OF WORKERS' COMPENSATION CLAIMS AND ALTERNATIVE DISPUTE RESOLUTION

CHAPTER 0800-02-21

(Rule 0800-02-21-.07, continued)

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-233, and 50-6-244, and Public Chapter 289 (2013), Section 82. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019.

0800-02-21-.08 SERVICE OF DOCUMENTS.

Copies of all documents filed with the bureau or clerk must be served on all parties or their attorneys, if represented. Service must occur either before filing with the bureau or clerk or within a reasonable time afterward. Service may be accomplished by hand delivery, mail or common carrier, facsimile, or electronic mail in PDF format (or other electronic means approved by the bureau). Unless otherwise required by the bureau, proof of service will be by certification of the sender on the document filed with the bureau. The certification must include the name of the person served, the date and manner of service, and the address where service occurred.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-233, and 50-6-244, and Public Chapter 289 (2013), Sections 73 and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Amendments filed February 5, 2018, effective May 6, 2018. Repeal and new rules filed May 3, 2019, effective August 1, 2019.

0800-02-21-.09 OMBUDSMAN PROGRAM.

- (1) The ombudsman program assists injured or disabled employees, persons claiming death benefits, employers, and other persons in protecting their rights, resolving disputes, and obtaining information. The ombudsman program is available only to those individuals or organizations who are not represented by legal counsel under T.C.A. § 50-6-216.
- (2) Any unrepresented person or organization seeking the services of an ombudsman must contact the bureau, and the bureau will assign an ombudsman if the person is qualified to receive services. The bureau retains sole authority to determine services the ombudsman will provide under T.C.A. § 50-6-216(a).
- (3) Any unrepresented party seeking the services of an ombudsman attorney must submit a request on a form approved by the administrator. The ombudsman attorney must provide services in compliance with T.C.A. § 50-6-216(e)(3) and Formal Ethics Opinion 2017-F-162.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-216, and 50-6-233, and Public Chapter 289 (2013), Sections 73 and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019.

0800-02-21-.10 ALTERNATIVE DISPUTE RESOLUTION.

- (1) Resolution of a dispute for benefits begins when a party files a petition for benefit determination on a form prescribed by the Administrator as required by Tennessee Code Annotated section 50-6-203 and as defined in Rule 0800-02-21-.02(22).
- (2) (a) If a party files a petition for benefit determination without all of the required information as defined in Rule 0800-02-21-.02(22)(b), the petition for benefit determination will be forwarded to a Program Coordinator, who will contact the party to obtain the required information.
(b) Once the requested information is provided to the Program Coordinator, the petition for benefit determination will be stamped filed.

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CHAPTER 0800-02-21

(Rule 0800-02-21-10, continued)

- (3) If a party files an unserved petition for benefit determination as defined by Rule 0800-02-21.02(28), the mediator will not schedule alternative dispute resolution until the filing party provides notice of service on all parties.
- (4) After referral of a petition, a mediator will schedule alternative dispute resolution and conduct it in compliance with T.C.A. § 50-6-236. The mediator may conduct alternative dispute resolution as is practical for the effective resolution of the issues, including by telephonic, electronic, or in-person interactions.
- (5) After referral of a petition to the mediator, the parties must exchange any medical records they possess related to the claimed injury within 14 days. Each party must continue to provide copies of any medical records received during the course of the claim within fourteen (14) days of receipt. The mediator or judge may refer any party that does not comply with this rule for the assessment of a civil penalty.
- (6) Within seven (7) business days after the request of the mediator or within fifteen (15) calendar days after a dispute certification notice is filed with the clerk, the employer must provide a wage statement on a form approved by the Administrator detailing the employee's wages over the fifty-two (52) weeks before the injury. The form must be fully completed and signed by the employer or counsel. If the employee was employed for fewer than fifty-two (52) weeks, the employer must provide a wage statement detailing the employee's wages during the period of employment. If the mediator requests the wage statement, the employer must send the wage statement directly to the mediator. If the dispute certification notice is filed with the clerk, the employer must file the wage statement with the clerk. Under either circumstance, the employer must serve a copy of the wage statement on all parties. Any employer who does not file a wage statement within the timeframe in this paragraph may be assessed a civil penalty.
- (7) Parties to a scheduled alternative dispute resolution proceeding must cooperate with scheduling, produce documents requested in writing or orally by a mediator, provide a representative authorized to settle the matter, be prepared to mediate all disputed issues at the time of the scheduled alternative dispute resolution proceeding, and mediate all issues in good faith. Alternative dispute resolution must be conducted in compliance with T.C.A. § 50-6-236.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-216, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 76, and 106. **Administrative History:** Original rule filed April 1, 2014; effective June 30, 2014. Amendments filed September 1, 2016; effective November 30, 2016. Repeal and new rules filed May 3, 2019; effective August 1, 2019. Amendments filed November 10, 2021; effective February 8, 2022.

0800-02-21-11 DOCKETING OF CASES, SETTING CASES FOR HEARING, AND CONTINUANCES.

- (1) After a dispute certification notice is filed with the clerk, either party may file a request for expedited hearing, request for scheduling hearing, or request for status hearing with the clerk on a form approved by the administrator and serve a copy of the request on all parties or their counsel. If no request for hearing is filed within sixty (60) days after the dispute certification notice is filed, the clerk will set a show-cause hearing. The clerk will send notice of the hearing to the parties, indicating the docket number, the date and time of the hearing, and the judge assigned to the case. The parties must appear to show cause why the case should not be dismissed.
- (2) Except in cases where an employee suffered a catastrophic injury or for similar reasons as determined by the bureau, all cases must be placed on the docket by the clerk in the order

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CHAPTER 0800-02-21

(Rule 0800-02-21-11, continued)

- that the request for hearing is received. The clerk will assign a date for the hearing based on available dates provided by the parties whenever practicable.
- (3) The clerk will consolidate all requests for hearing related to a single dispute certification notice into a single setting on the docket. If two or more filings that should be consolidated are not, then the cases will be combined and assigned to the judge who received the assignment for the first request, unless otherwise directed by the chief judge. Consolidation may occur on the motion of a party or on a judge's own motion.
 - (4) Special settings may be requested. Only a judge may grant a special setting.
 - (5) Once a case is assigned to a judge, all matters dealing with that case must be brought before the assigned judge.
 - (6) Trials and/or hearings may be held at locations other than the bureau office where the judge is assigned. However, only a judge may grant approval to hold the hearing at a location other than where the judge is assigned.
 - (7) The parties or their attorneys must advise the judge's staff as soon as practicable if they anticipate a trial or hearing will last more than four (4) hours.
 - (8) Expedited or compensation hearings may be continued only by an order from the judge. Absent good cause as determined by the judge, the date of the expedited hearing or compensation hearing will not be modified. Good cause does not include absence of witnesses unless subpoenaed in accordance with Rule 0800-02-21. In the event attorneys are notified of a hearing on a date when they have a conflict with another court's previous setting, the attorney must immediately notify the judge's staff and other parties to request a continuance.
 - (9) Neither counsel nor a party to a pending claim may contact the judge unless an emergency arises, except by letter or verbally with all counsel or parties present. A copy of all written communications must be sent to all counsel or parties and the clerk.
 - (10) Nothing in this section will be construed to allow any ex parte communication with a judge about any issue in the case that would be prohibited by Tennessee Code Annotated section 4-5-304.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 33, 73, 79, and 106. **Administrative History:** Original rule filed April 1, 2014; effective June 30, 2014. Amendments filed September 1, 2016; effective November 30, 2016. Repeal and new rules filed May 3, 2019; effective August 1, 2019. Amendments filed November 10, 2021; effective February 8, 2022.

0800-02-21-12 COURTROOM CONDUCT.

- (1) The space between the bench and counsel table in the courtroom is reserved for parties, attorneys, and court officials. Spectators and witnesses must sit in the general seating area. The presence of infants and small children is discouraged.
- (2) During the hearing, attorneys and self-represented litigants may not exhibit familiarity with the witnesses, opposing counsel, court officials, or judge. The use of first names should be avoided.
- (3) Attorneys and self-represented litigants may not approach the bench or witnesses without the judge's approval.

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CHAPTER 0800-02-21

(Rule 0800-02-21-12, continued)

- (4) Attorneys and self-represented litigants may not interrupt the judge or opposing counsel, except when necessary to protect a client's rights on the record. When an objection is made, the attorney or self-represented litigant must state the legal ground for the objection. The parties must wait for the judge to rule on the objection before asking the witness any further questions.
- (5) Attorneys and self-represented litigants must stand while examining witnesses or addressing the judge. Exceptions are within the judge's discretion.
- (6) All attorneys, parties, witnesses, and spectators must wear appropriate clothing. Hats, shorts, low-cut or open shirts or blouses, bare feet, or other inappropriate attire are not permitted.
- (7) No food, beverage, tobacco product, or gum is allowed in the courtroom. Water is permitted at counsel table. Mobile phones and other electronic devices must be silenced while in the courtroom.
- (8) The possession of firearms, knives, explosive devices, or any other weapon is prohibited in any facility where judicial proceedings are conducted. It is a Class E felony to carry a weapon into any building where a judicial proceeding is in progress under T.C.A. § 39-17-1306.
- (9) All parties, attorneys, and witnesses must ensure their prompt arrival for all hearings. In the event of an emergency, the parties or counsel must contact the judge's staff to report the anticipated tardiness. Repeated offenses may result in a referral for assessment of a civil penalty under T.C.A. § 50-6-118.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-216, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 79, 82, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-.13 COURT REPORTERS, INTERPRETERS, AND AUDIOVISUAL.

- (1) All hearings are recorded for the judge's use. The parties may purchase an audio recording of the hearing from the clerk for twenty-five dollars (\$25). The parties may have the audio recording transcribed by a certified court reporter at their own expense for an appeal.
- (2) The parties may hire a court reporter. The parties or their counsel are responsible to arrange for court reporters.
- (3) The employer or their counsel must arrange for court-approved interpreters at all hearings. The interpreters must be either (1) state-certified court interpreters or (2) state-registered court interpreters. In areas where state-certified or state-registered court interpreters are unavailable, the judge may waive this requirement.
- (4) The parties or their counsel are responsible for providing equipment necessary to operate any audiovisual used during the hearing. The parties or their attorneys must set up or install all equipment before the judge begins the hearing. All equipment takedown or dismantling must take place during recess or after court adjourns.
- (5) The parties or their counsel must provide any audio and video recordings intended to be introduced into evidence in the proper format. Permissible audio formats include, but are not limited to, "wav" and "mp3." Permissible video formats include ".wmv," ".wma," and ".avi."

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CHAPTER 0800-02-21

(Rule 0800-02-21-13, continued)

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-216, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 79, 82, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-14 SCHEDULING HEARING.

- (1) All parties or their counsel must participate in a scheduling hearing with a judge no more than sixty (60) days after a request for scheduling hearing is filed.
- (2) After the scheduling hearing is set, the clerk will send a docketing notice to all parties with the case number, time of the scheduling hearing, and judge assigned to the case. The clerk will also send information to the parties detailing the actions required to prepare for and participate in the hearing. Unless the judge determines that an in-person hearing is necessary, all scheduling hearings will be conducted telephonically or through other electronic means as determined by the judge.
- (3) At the scheduling hearing, the parties will develop a discovery plan and a scheduling order to ensure timely, efficient, and fair resolution of the case.
- (4) At the conclusion of the scheduling hearing, the judge may set a date for completion of post-discovery alternative dispute resolution and the compensation hearing.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-233, 50-6-233(c), 50-6-239, and 50-6-239(c)(1), and Public Chapter 289 (2013), Sections 73, 79, 82, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendment filed March 3, 2015, effective June 1, 2015. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019.

0800-02-21-15 EXPEDITED HEARING.

- (1) When the parties dispute temporary disability and/or medical benefits, either party may file a request for expedited hearing. A request for expedited hearing must be accompanied by an affidavit or a T.R.C.P. Rule 72 declaration under penalty of perjury, which must contain a plain, concise statement of the facts and any other documents demonstrating the party is entitled to the requested relief. The party requesting an expedited hearing must list any witnesses it intends to call at the expedited hearing on the request for expedited hearing form. The affidavit or Rule 72 declaration requirement is not met by the filing of an affidavit or Rule 72 declaration in which the party's attorney is the affiant or declarant.
 - (a) The party opposing the request for expedited hearing must file documents, including any affidavits or T.R.C.P. Rule 72 declarations, demonstrating the moving party is not entitled to the requested relief no later than ten (10) business days before the date of the expedited hearing. The party opposing the request for expedited hearing must also provide a plain, concise statement detailing why the relief requested should not be granted and listing any witnesses it intends to call at the expedited hearing. The affidavit or Rule 72 declaration requirement is not met by the filing of an affidavit or Rule 72 declaration in which the party's attorney is the affiant or declarant.
 - (b) Evidence or witnesses not disclosed in accordance with this rule, except for witnesses or evidence intended for impeachment or rebuttal purposes, will not be considered unless good cause is shown for why the evidence/witness was not timely disclosed.

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(Rule 0800-02-21-.15, continued)

- (c) The court will entertain requests for reasonable extensions of the deadlines in this rule. The request should be made by motion and filed with the clerk before the expiration of the time the party seeks to extend. Any response in opposition to the motion for extension of time must be filed with the clerk and served on all parties or their counsel within five (5) business days after the filing of the motion. The response must be in writing and state with particularity the grounds for the opposition. The motion will be decided on the written materials unless the judge determines argument is needed.
 - (d) Documents attached to the dispute certification notice and filed by the mediator with the clerk should not be refiled with the request for expedited hearing or the opposing party's response.
 - (e) Any party may request that the judge issue a decision on the record instead of convening an evidentiary hearing. Any party opposing the request for a decision on the record has ten (10) business days from the date the request for expedited hearing is filed to file an objection with the clerk. The judge may either set an evidentiary hearing or enter a decision on the record. If the judge determines that issuing a decision on the record is appropriate, the clerk will send a docketing notice to all parties with the docket number and the assigned judge. The clerk will also send information to the parties detailing the actions required to present the case for a decision on the record.
- (2) Letters or written statements addressing medical causation and/or the reasonableness and necessity of treatment and medical bills signed by a physician are admissible at an expedited hearing and need not be in affidavit form. At a compensation hearing, these letters or statements, even if in affidavit form, may be excluded through valid objection under the Tennessee Rules of Evidence. This rule has no effect on the admissibility of a standard form medical report for industrial injuries (Form C-32) when properly presented at any hearing.
 - (3) A motion for summary judgment under Rule 56 of the Tennessee Rules of Civil Procedure may be filed only after a judge issues a scheduling order. The motion must also comply with Rule 0800-02-21-.18(1).
 - (4) During an expedited hearing, a judge may take testimony in any manner that is practical for the fair, effective resolution of the request for temporary disability and/or medical benefits, including testimony by telephone or videoconferencing. Any party seeking permission to attend a hearing by telephone or present witness testimony by telephone or videoconferencing must file a motion no later than ten (10) business days before the hearing.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 35, 73, and 106. **Administrative History:** Original rule filed April 1, 2014; effective June 30, 2014. Repeal and new rules filed May 3, 2019; effective August 1, 2019. Amendments filed November 10, 2021; effective February 8, 2022.

0800-02-21-.16 MEDICAL RECORDS.

- (1) If requested, a medical provider treating an injured employee must furnish copies of records at a cost allowed by T.C.A. § 50-6-204 for paper records and Rule 0800-02-17-.24 for non-paper records. The medical provider must forward the records within ten (10) business days of receipt of a written request.
 - (a) For the purposes of paragraphs (1) and (2) of this rule, "medical provider" includes the authorized treating physician, a hospital, and any other entity or person who provides medical care to the injured employee for the claimed work-related injury under the employer's obligation under T.C.A. § 50-6-204. A "medical provider" also includes any physician, hospital, or other person or entity that treated the worker for injuries or

(Rule 0800-02-21-.16, continued)

- conditions that were not provided under the employer's obligation in Tennessee Code Annotated section 50-6-204 for treatment of the claimed work-related injury.
 - (b) A medical provider is entitled to a reasonable fee not to exceed the maximum charge provided by Rule 0800-02-17-.15(4) for preparation of a written report in response to a request from a party.
 - (c) Records from a medical provider as defined in paragraph (a) of this rule may be provided with the appropriate HIPAA-compliant, written authorization of the employee, which the employee must provide if ordered to do so by the judge.
- (2) Medical records must be exchanged among the parties as in Rule 0800-02-21-.10(2).
 - (a) Medical records to be presented as evidence at a hearing must be filed with the clerk no later than ten (10) business days before the hearing. Absent good cause as determined by the judge, failure to comply may result in the exclusion of any medical record that is not timely filed or the assessment of costs or sanctions against the party or the party's attorney. Absent good cause as determined by a judge, no other medical records may be filed with the clerk.
 - (b) Medical records and/or bills are self-authenticating and admissible when signed by a physician or accompanied by a form signed by a medical provider or records custodian certifying that the records and/or bills are true and accurate. The judge may exclude medical records in response to a proper objection other than to authenticity under the Tennessee Rules of Evidence or other applicable law. An electronic signature suffices if the judge finds the electronic signature demonstrates that the provider approved the contents of the medical record.
 - (c) Medical records to be presented as evidence at a hearing that exceed ten (10) pages must include a chronological table of contents. The medical records must be filed with the clerk, and each of the records must be identified by author and date and numbered as in the table of contents. The parties, not the medical providers, must prepare the chronological table of contents required by part (c) of paragraph (2). A self-represented party may, but is not required to, provide the chronological table of contents.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-204, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 79, 82, and 106. **Administrative History:** Original rule filed April 1, 2014; effective June 30, 2014. Amendments filed September 1, 2016; effective November 30, 2016. Repeal and new rules filed May 3, 2019; effective August 1, 2019. Amendments filed November 10, 2021; effective February 8, 2022.

0800-02-21-.17 DISCOVERY.

- (1) Parties are encouraged to obtain any necessary discovery informally to avoid undue expense and delay. When these attempts fail or the complexity of the case makes informal discovery impracticable, discovery must be sought in accordance with the Tennessee Rules of Civil Procedure unless these rules provide an alternative procedure.
- (2) A party may serve written discovery requests on any other party at any time after a petition for benefit determination is filed.
 - (a) All written discovery requests must be answered under oath and in accordance with the Tennessee Rules of Civil Procedure. The responding party must supplement its answers in a timely manner whenever additional information becomes available or the responses provided in a previous response change.

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(Rule 0800-02-21-.17, continued)

- (b) No party may serve more than twenty (20) interrogatories, twenty (20) requests for production, and twenty (20) requests for admission on any party without approval of the judge. Any subpart is counted as its own request.
 - (c) The judge may increase or decrease the time allowed for answering written discovery requests.
 - (d) Except as required when filing a discovery-related motion, no written discovery requests or answers may be filed with the clerk.
- (3) All depositions must be taken within the timeframe in the scheduling order, or if no scheduling order exists, within the time allowed by the Tennessee Rules of Civil Procedure.
- (a) The deposition must be taken as provided by the Tennessee Rules of Civil Procedure.
 - (b) Written notice must be provided in accordance with the Tennessee Rules of Civil Procedure.
 - (c) No oral deposition may continue for more than four (4) hours, excluding breaks.
- (4) Licensed physicians may charge their usual, customary fee for providing testimony by deposition, provided that the fee does not exceed seven hundred fifty dollars (\$750) for the first hour.
- (a) Depositions longer than one (1) hour will be pro-rated at the licensed physician's usual, customary fee as above, not to exceed four hundred fifty dollars (\$450) per hour for deposition time in excess of one (1) hour. Physicians may not charge for the first fifteen (15) minutes of preparation time. In instances requiring over fifteen (15) minutes of preparation time, a physician's preparation time in excess of fifteen (15) minutes may be added to and included in the deposition time and billed at the same rate as for the deposition.
 - (b) Physicians may require pre-payment of seven hundred fifty dollars (\$750) maximum for a deposition or in-person appearance. Following the deposition, the physician may bill for any additional amount due. The payer may recover any amount overpaid.
 - (c) An additional fee of up to two hundred fifty dollars (\$250) may be charged for a video deposition.
 - (d) Physicians who are late for a deposition may only be reimbursed for the time in attendance and not from the time of the scheduled deposition.
 - (e) Instead of a physician's deposition, a party may file a standard form medical report for industrial injuries (Form C-32) with the clerk. The physician may charge a fee of up to one hundred fifty dollars (\$150) for completion and certification of the form.
- (5) In the event of a discovery dispute, either party may file a motion at any time after a petition for benefit determination is filed. All discovery-related motions will be decided on the written materials unless the judge determines that argument is needed. Affidavits may be provided in support of any motion or response; live testimony is prohibited. Any motion to compel discovery, motion to quash, motion for protective order, or other discovery-related motion must.

(Rule 0800-02-21-.17, continued)

- (a) Quote verbatim the interrogatory, request, question, or subpoena at issue or be accompanied by a copy of the interrogatory, request, subpoena, or excerpt of a deposition that shows the question and objection or response if applicable. If the entire set of discovery requests were unanswered, the moving party need not file the entire set with its motion.
 - (b) State the reason or reasons supporting the motion; and
 - (c) Include a statement certifying that the moving party or his or her counsel made a good-faith effort to resolve by agreement the issues in the motion and an agreement was not achieved. The statement must detail the efforts to resolve the dispute.
- (6) If requested, the clerk will issue signed subpoenas in blank in accordance with the Tennessee Rules of Civil Procedure.
- (a) Parties must complete and serve their own subpoenas.
 - (b) Service of subpoenas for records may be by certified, return-receipt mail in addition to means of service provided by the Tennessee Rules of Civil Procedure.
 - (c) Service of subpoenas compelling witnesses' appearance at a hearing must be made in the manner provided by the Tennessee Rules of Civil Procedure, and a signed copy of the original must be filed with the clerk.
 - (d) All subpoenas compelling witnesses' appearance at a hearing must be served no later than five (5) business days before the hearing unless the judge extends this period.
 - (e) Anyone who fails to timely respond to a subpoena for documents or testimony or who fails to appear at a hearing under a properly-served subpoena may be assessed a civil penalty.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239, and Public Chapter 289 (2013), Sections 73, 76, 82, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-.18 MOTIONS.

- (1) Except as otherwise provided in these rules, any party may file a dispositive motion in accordance with the Tennessee Rules of Civil Procedure.
- (a) The moving party must provide any non-moving, self-represented party with a copy of the rule or statute on which the dispositive motion is based and must state any deadline and/or requirement to respond.
 - (b) The Court of Workers' Compensation Claims will not entertain a motion for summary judgment until after a judge issues a scheduling order.
 - (c) It is the responsibility of the moving party or their attorney to contact the judge's staff to obtain a hearing date for the dispositive motion. The motion shall not be heard until thirty (30) days after its filing date. The moving party shall write the date on the motion in bold print as follows: THIS MOTION WILL BE HEARD ON , 20 , AT A.M./P.M. Failure to obtain a hearing in a timely manner may be construed as an abandonment of the motion.

Mediation, Cont.

COURT OF WORKERS' COMPENSATION CLAIMS AND ALTERNATIVE DISPUTE RESOLUTION

CHAPTER 0800-02-21

(Rule 0800-02-21-.18, continued)

- (d) If a dispositive motion is opposed, a written response to the motion must be filed and served on all parties or their counsel no later than five (5) business days before the motion hearing. The response must state with particularity the grounds for opposition. If no opposition is filed, the dispositive motion will be considered unopposed. The judge may grant additional, reasonable time for the non-moving party to respond, obtain affidavits, engage in discovery, or take depositions.
- (2) Any party may file a non-dispositive motion in accordance with the Tennessee Rules of Civil Procedure.
 - (a) All non-dispositive motions will be decided on the written materials unless the judge determines a hearing is appropriate.
 - (b) If a non-dispositive motion is opposed, a written response to the non-dispositive motion must be filed and served on all parties or their counsel on or before five (5) business days after the filing of the non-dispositive motion. The response must state with particularity the grounds for the opposition. If no opposition is filed, the motion will be considered unopposed.
- (3) Additional Parties.
 - (a) At any time after a petition for benefit determination has been filed AND a docket number has been assigned, any party to the petition for benefit determination that determines it is necessary to add an additional party, including the Subsequent Injury Fund, must file a motion to add the additional party citing the reasons in support of adding the additional party and certifying a copy of the motion is served on all parties, including the party to be added, to that party's authorized representative.
 - (b) If the motion is granted by the Court, the case will be remanded to mediation.
- (4) Any party seeking disqualification or recusal of a judge must do so by timely filing a written motion. The motion must be supported by an affidavit under oath or a T.R.C.P. Rule 72 declaration on personal knowledge and by other appropriate materials. The motion must state with specificity all factual and legal grounds supporting disqualification of the judge and must affirmatively state that it is not being presented for improper purpose, such as to harass or to cause unnecessary delay or increase in the cost of litigation. The motions must be timely filed so as not to delay an expedited hearing and/or compensation hearing. While the motion is pending, the judge will make no further orders and take no further action on the case, except for good cause stated in the order in which the action is taken.
- (5) The judge will prepare and issue an order reflecting the decision unless otherwise ordered. All parties or their counsel must sign an agreed order before submitting the order to the judge for approval. An attorney must not sign a self-represented litigant's name "by permission."

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 82, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-.19 COMPLIANCE WITH ORDERS.

- (1) Whenever a judge issues an interlocutory or compensation order and a party fails to comply with that order, the party seeking enforcement of the order may file a motion to compel.

February, 2022 (Revised)

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COURT OF WORKERS' COMPENSATION CLAIMS AND ALTERNATIVE DISPUTE RESOLUTION

CHAPTER 0800-02-21

(Rule 0800-02-21-.19, continued)

- Before filing the motion, the moving party must contact the opposing party to inform the party that a motion to enforce the order will be filed.
- (2) Before filing the motion, the moving party must contact the judge's staff to obtain a hearing date and write the date in the motion in bold print as follows: THIS MOTION WILL BE HEARD ON , 20 , AT A.M./P.M.
 - (3) All responses must be filed and served no later than five (5) business days before the hearing.
 - (4) If the judge determines that a party failed to comply with the order, the judge may order compliance and refer the noncompliant party for assessment of a civil penalty.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-233, 50-6-239, and 50-6-240, and Public Chapter 289 (2013), Sections 73, 84, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019.

0800-02-21-.20 BRIEFS.

- (1) Prehearing briefs for expedited and compensation hearings are encouraged. Unless the scheduling order provides otherwise, prehearing briefs must be filed at least ten (10) business days before the hearing.
- (2) Post-hearing briefs for expedited and compensation hearings are permitted only with the judge's advance approval.
- (3) Briefs should contain the facts and law with appropriate citations. Any brief that refers to a transcript or deposition must specify the relevant page(s) of the transcript or deposition. Any brief that cites an unpublished or foreign case must attach a copy of the case, or the judge may disregard the case. Briefs must not exceed ten (10) pages exclusive of attachments unless permission is granted by the judge.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-233, and 50-6-239, and Public Chapter 289 (2013), Sections 73, 82, and 106. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Amendments filed September 1, 2016, effective November 30, 2016. Repeal and new rules filed May 3, 2019, effective August 1, 2019.

0800-02-21-.21 POST-DISCOVERY ALTERNATIVE DISPUTE RESOLUTION.

- (1) All parties must participate in alternative dispute resolution after discovery is completed unless the judge determines it unnecessary.
- (2) Alternative dispute resolution under this section must be conducted as provided by Rule 0800-02-21-.10.
- (3) If the parties do not reach a full settlement, the mediator will file a new dispute certification notice identifying the remaining issues and defenses. If any party disagrees with the dispute certification notice, the party may file an objection under T.C.A. § 50-6-236. If the parties fail to reach a full settlement after the mediator issues a dispute certification notice, they must appear before the judge for a compensation hearing.

Authority: T.C.A. §§ 4-3-1409, 9-8-307, 9-8-402, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239. **Administrative History:** Original rule filed April 1, 2014, effective June 30, 2014. Repeal and

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Mediation, Cont.

(Rule 0800-02-21-21, continued)

new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-22 COMPENSATION HEARING.

- (1) The compensation hearing will be conducted at the time and place specified in the scheduling order. Absent good cause, no motion for a continuance will be considered at the compensation hearing.
- (2) Ten (10) business days before the date of a compensation hearing or as otherwise directed by the judge, each party must file a prehearing statement either jointly or individually.
- (3) Concurrent with the submission of the prehearing statement, each party must file the following:
 - (a) A copy of each proposed exhibit not previously filed, except for those intended for impeachment or rebuttal purposes; and
 - (b) A copy of any expert's deposition transcript not previously filed that the party intends to introduce at the hearing.
- (4) With the exception of witness testimony and exhibits intended for impeachment or rebuttal purposes, no witness whose name and address was not included in the prehearing statement may testify at the hearing, and no exhibit excluded from the list of proposed exhibits in the prehearing statement may be presented at the hearing, unless permission to present the testimony or exhibit is granted by the judge. Permission may be granted only on finding that:
 - (a) The party seeking to present the witness or exhibit did not have knowledge of the witness or exhibit before submitting the prehearing statement and could not have discovered the witness or exhibit despite reasonable investigation; and
 - (b) Prohibiting the presentation of the witness or exhibit would result in prejudice.
- (5) Absent good cause, a party failing to provide a prehearing statement as required by these rules may be sanctioned by the judge, including prohibiting the party from introducing evidence or exhibits or calling witnesses, except for impeachment or rebuttal purposes.
- (6) Absent stipulation of the parties or by leave of Court, affidavits or Rule 72 declarations shall not be admissible at the Compensation Hearing.
- (7) Any party may request that the judge issue a decision on the record instead of convening an evidentiary hearing. Any party opposing the request for a decision on the record has ten (10) business days from the date the request is filed to file an objection with the clerk. If the judge determines a decision on the record is appropriate, the clerk will send a docketing notice to all parties detailing the actions required to prepare the case for a decision on the record.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239.
Administrative History: Repeal and new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-23 SETTLEMENT APPROVAL.

- (1) In any case where the parties reach a full settlement, the settlement will not become effective until it has been signed by all parties and approved by a judge.

(Rule 0800-02-21-23, continued)

- (2) Unless the settlement is of a disputed claim as provided by T.C.A. § 50-6-240(e), the settlement agreement must contain language stating that the employee is receiving substantially the benefits provided by the Workers' Compensation Law.
- (3) If the settlement is of a disputed claim under T.C.A. § 50-6-240(e), the settlement agreement must contain language stating that the settlement is in the best interest of the employee.
- (4) If the parties agree to close future medicals, the settlement must contain a statement advising the employee of the consequences of the settlement, if any, with respect to Medicare and TennCare benefits and liabilities.
- (5) When the parties reach an agreement, they must file a petition for benefit determination for settlement approval. Before the settlement approval, they must prepare and sign a settlement agreement, statistical data form, explanation of benefits, and an order approving workers' compensation settlement agreement. The required documents must be prepared using the most recent templates on the court's webpage.
- (6) In addition to the required forms, the parties must attach a copy of the impairment rating as an exhibit to the settlement agreement, except in disputed claims settled under T.C.A. § 50-6-240(e). The parties must attach any other documents requested by the local bureau office or judge. In cases where the parties agree to close future medical benefits, the parties may attach a written statement from the treating physician stating that no further medical treatment is anticipated, documentation of the anticipated cost of future medical treatment, and/or medical documentation supporting the requested closure of future medical benefits.
- (7) Settlements by affidavit are permitted for good cause as determined by the judge:
 - (a) Good cause may include but is not limited to distance from the judge's office or adverse health of the parties or their counsel. Settlement approvals by affidavit in cases involving closure of future medical benefits are unlikely to be granted absent proof of exceptional circumstances.
 - (b) Requests for approvals by affidavit must be made in writing to the local bureau office two (2) business days in advance of the requested approval hearing and must include a copy of the proposed settlement documents. The assigned judge may require appearance of the party or counsel by telephone.
- (8) Any settlement that is denied by a judge may not be presented for approval before another judge.
- (9) Absent good cause as determined by the judge, settlements must be presented in the bureau office closest to the employee's residence.
- (10) If the parties reach a settlement before a scheduled hearing, the parties must immediately notify the judge's staff and schedule a settlement approval.

Authority: T.C.A. §§ 4-3-1409, 50-6-233, 50-6-239, and 50-6-240. **Administrative History:** Repeal and new rules filed May 3, 2019, effective August 1, 2019.

0800-02-21-24 VOLUNTARY DISMISSAL.

- (1) A party may move to voluntarily dismiss a Petition for Benefit Determination only once. If an employee has been awarded temporary benefits through an interlocutory order or a motion for summary judgment is pending, a party may not move to voluntarily dismiss the petition. If

Mediation, Cont.

(Rule 0800-02-21-.24, continued)

the motion for voluntary dismissal is granted, either party may file a new claim within ninety (90) days of the order granting the voluntary dismissal.

- (2) A voluntary dismissal is effective as of the date the order of dismissal is issued by the clerk.
- (3) If a claim is voluntarily dismissed, the party that sought the dismissal must pay a filing fee of one hundred fifty dollars (\$150). The fee is due and payable on the date the order of voluntary dismissal is entered.

Authority: T.C.A. §§ 4-3-1409, 50-6-233, and 50-6-239. **Administrative History:** Repeal and new rules filed May 3, 2019, effective August 1, 2019. Amendments filed November 10, 2021, effective February 8, 2022.

0800-02-21-.25 APPEALS.

- (1) Any party may appeal any order of a workers' compensation judge to the workers' compensation appeals board by filing a notice of appeal, on a form approved by the Administrator, with the clerk of the court of workers' compensation claims.
- (2) An appeal to the Tennessee Supreme Court must follow the Rules of Appellate Procedure.

Authority: T.C.A. §§ 4-3-1409, 50-6-233, and 50-6-239. **Administrative History:** New rule filed November 10, 2021, effective February 8, 2022.

0800-02-21-.26 EXPEDITED REQUEST FOR INVESTIGATIVE REPORT.

An expedited request for investigative report signed and dated by a compliance specialist is a self-authenticating document/government record that is admissible in all court hearings.

Authority: T.C.A. §§ 4-3-1409, 50-6-233, and 50-6-239. **Administrative History:** New rule filed November 10, 2021, effective February 8, 2022.

0800-02-21-.27 WORKERS' COMPENSATION CLAIMS AGAINST THE STATE.

The court of workers' compensation claims has no jurisdiction over a claim for benefits filed against the state by a state employee.

Authority: T.C.A. §§ 4-3-1409, 9-8-307, and 9-8-402. **Administrative History:** Repeal and new rules filed May 3, 2019, effective August 1, 2019. Rule was originally numbered 0800-02-21-.25 but was renumbered 0800-02-21-.27 with the introduction of new rules 0800-02-21-.25 and 0800-02-21-.26 filed November 10, 2021, effective February 8, 2022.

Penalties

Employer penalties

Plaintiff's counsel penalties

Grounds for referral

Who decides?

Dollar range

WCL REQUIREMENTS CHECKLIST Plaintiff Name: _____ SF # _____

It is in the State of Tennessee's interest that all workers' compensation claims are handled in accordance with Tennessee law. In that regard, it is the responsibility of all Bureau employees to ensure all claims are adjusted pursuant to rules and regulations.

Mediating Specialists and Ombudsmen shall review the list below and mark those WCL requirements that were not met for each assignment. It is the mediator's discretion to send the list during the course of the mediation or post mediation. The determination of a violation will be performed by other BWC employees.

Send the completed form (page 1) via email to WCCompliance.Program@tn.gov.

Ombudsman Violations

- _____ did not comply with a request or directive from an ombudsman.
- Injured worker did not receive a "Notice of a Reported Injury" and a copy of the "Beginner's Guide to Tennessee Workers' Compensation."

Reporting Violations:

- C20 First Report** – was not filed with the BWC within 60 days of the date of injury.
- Notice to Carrier** – Employer did not report the injury to the carrier within 1 day of knowledge of the injury.
- C41 Wage Statement** was not submitted to a mediator within 15 days of a mediator's request.
- C23 Notice of Denial or Change / Termination of Benefits** was not filed after a claim denial.

Medical Benefit Violations

- Employer did not provide a panel of physicians within three (3) business days of notice of the injury.
- Employer provided a panel with physicians who would not treat the injured employee.

Mediation Violations:

- _____ did not provide a representative with settlement authority at ADR.
- _____ did not attend a scheduled ADR proceeding.
- _____ arrived more than thirty (30) minutes late to a scheduled ADR without notification.
- _____ did not exchange medical records within 15 days of receipt or a PBD filing.
- _____ failed to timely provide documents as required by law.

Penalties, Cont.

Law and Rule Reference Pages (Do not send to Penalty Program)

Ombudsman Violations

_____ did not comply with a request or directive from an ombudsman.

- **T.C.A. § 50-6-118(a)** the bureau of workers' compensation shall..., establish and collect penalties for the following: (15) Refusal to cooperate with the services provided by an ombudsman
- **Rule 0800-02-14-.05 (5)** All employers, adjusting entities and providers of services related to workers compensation claims in the State of Tennessee subject to provisions of the Workers' Compensation Law shall provide the Bureau all information and documentation that is requested, and only that information that is requested, for the purposes of monitoring, examining, or investigating the entity's operations and processes within ten (10) calendar days unless the Bureau allows an extension of time.
- **0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY.** (1) The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts:... (f) Failed to comply within a reasonable amount of time with any appropriate request or directive of an ombudsman

Injured worker did not receive a "Notice of a Reported Injury" and a copy of the "Beginner's Guide to Tennessee Workers' Compensation."

- **Rule 0800-02-14-.04 (5)** Within two (2) business days of receiving a verbal or written notice of any injury from an employer, the adjusting entity shall send a Notice of a Reported Injury and a copy of the Beginner's Guide to Tennessee Workers' Compensation on the forms prescribed by the Administrator to each employee's last known address via first class US Mail.

Penalties, Cont.

Reporting Violations:

- C20 First Report** – was not filed with the BWC within 60 days of the date of injury.
 - **Rule 0800-02-14-.04 (4)** *Every adjusting entity shall submit Tennessee's First Report of Work Injury form to the Bureau as soon as possible in all cases where the reported injury results in the need for medical treatment, restricted work, the inability to work, or death, but no later than the time frames listed below. (a) Reports of all injuries causing seven (7) calendar days of disability or fewer shall be submitted on or before the fifteenth (15th) day of the month following the month in which the injury occurred. (b) Injuries that result in death or a personal injury of a nature that the injured employee did not return to the employee's employment within seven (7) calendar days after the occurrence of the injury must be reported no later than fourteen (14) calendar days after the report by an employer of the occurrence of the injury. (c) Minor injuries such as scratches, scrapes, paper cuts and/or other injuries treated solely by minor first aid are not required to be reported to the Bureau. More serious injuries such as sprains, strains or bruising must be reported.*
- Notice to Carrier** – Employer did not report the injury to the carrier within 1 day of knowledge of the injury.
 - **Rule 0800-02-14-.05 (2)** *In order to ensure that Workers' Compensation claims are acted on promptly, employers shall report all known or reported accidents or injuries to their adjusting entity within one (1) business day of knowledge of injury.*
- C41 Wage Statement** was not submitted to a mediator within 15 days of a mediator's request.
 - **Rule 0800-02-21-.10 (3)** *within seven (7) business days after the request of the mediator or within fifteen (15) calendar days after a dispute certification notice is filed with the clerk, the employer must provide a wage statement on a form approved by the administrator detailing the employee's wages over the fifty-two (52) weeks before the injury. The form must be fully completed and signed by the employer or counsel. If the employee was employed for fewer than fifty-two (52) weeks, the employer must provide a wage statement detailing the employee's wages during the period of employment. If the mediator requests the wage statement, the employer must send the wage statement directly to the mediator. If the dispute certification notice is filed with the clerk, the employer must file the wage statement with the clerk. Under either circumstance, the employer must serve a copy of the wage statement on all parties. Any employer who does not file a wage statement within the timeframe in this paragraph may be assessed a civil penalty.*
 - **0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY. (1)** *The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts:...* (g) *Failed to timely provide documents as required by the Tennessee workers' compensation act or the Division's [rules](#);*

Penalties, Cont.

□ **C23 Notice of Denial or Change / Termination of Benefits** was not filed after a claim denial.

- **Rule 0800-02-14-.04 (6)** *Decisions on compensability shall be made by the adjusting entity within fifteen (15) calendar days of the verbal or written notice of injury. If after conducting a reasonable investigation as required by these rules a claim is denied, the adjusting entity must notify the Bureau within five (5) business days of reaching that decision by filing the Notice of Denial of Claim for Compensation and must provide the employee or their representative, the treating physician and the insured a non-EDI version of the Notice of Denial, available on the Bureau's website, simultaneously with the notification to the Bureau. The notice must include the basis for the denial.*

Penalties, Cont.

Medical Benefit Violations

- Employer did not provide a panel of physicians within three (3) business days of notice of the injury.
 - **T.C.A. § 50-6-118(a)** the bureau of workers' compensation shall...., establish and collect penalties for the following: (12) Failure of an employer to timely provide a panel of physicians that meets the statutory requirements of this chapter. See Rule 0800-02-01-.06 (1) below.
 - **0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY.** (1) The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts:... (e) Provided medical providers on a Form C-42 in an untimely manner;

- Employer provided a panel with physicians who would not treat the injured employee.
 - **Rule 0800-02-01-.06 (1)** Following receipt of notice of a workplace injury and the employee expressing a need for medical care, an employer shall, as soon as practicable but no later than three (3) business days after receipt of such request, provide the employee a panel of physicians as prescribed in T.C.A. § 50-6-204. A medical provider must be qualified, willing, and able to treat in a timely manner the injury or condition reported to be listed on a panel.
 - **Rule 0800-02-01-.06 (2)** In the absence of evidence establishing a defense, where the employer fails to provide an appropriate initial panel of physicians to the employee within three (3) business days from the date the employer has notice of a work-related injury and the employee expressed a need for medical care, or provides a panel of physicians to the employee that does not meet statutory requirements, the employer may be assessed a civil penalty as provided in 0800-02-01-.10.GENERAL RULES OF THE WORKERS' COMPENSATION PROGRAM CHAPTER 0800-02-01 (Rule 0800-02-01-.06, continued) May, 2018 (Revised) 4 The determination of whether a penalty is appropriate is a determination separate from and not dependent upon the ultimate compensability of the claim.
 - **0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY.** (1) The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts:... (d) Provided medical providers on a Form C-42 that the party knew, should have known, or had good reason to believe, would not provide treatment for the injured employee;

Penalties, Cont.

Mediation Violations:

- _____ did not provide a representative with settlement authority at ADR.
 - **T.C.A. § 50-6-118(a)** the bureau of workers' compensation shall..., establish and collect penalties for the following: (8) Failure of any party to appear or to mediate in good faith at any alternative dispute resolution proceeding.
 - **T.C.A § 50-6-236(b)(2)** When a mediator determines that a party is not prepared to mediate as required or believes a party is not mediating in good faith, the mediator shall include comments to that effect in the dispute certification notice.
 - **T.C.A § 50-6-236(g)** If, following a request by the mediator, a party fails to produce documents, to cooperate in scheduling mediation, or to provide a representative authorized to settle a matter in attendance at mediation, then the mediator may issue a dispute certification notice and include a statement detailing the party's failure to cooperate, produce documents or to ensure attendance of a representative authorized to settle the claim.....
 - **Rule 0800-02-21-.10 (5)** Alternative dispute resolution must be conducted in compliance with T.C.A. § 50-6-236
 - **0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY. (1)** The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts:... (h) Failed to provide a representative with authority to settle a case at alternative dispute resolution proceeding

- _____ did not attend a scheduled ADR proceeding.
 - **0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY. (1)** The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts: (a) Failed to attend a scheduled alternative dispute resolution proceeding;

- _____ arrived more than thirty (30) minutes late to a scheduled ADR without notification.
 - **0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY. (1)** The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts:... (b) Arrived more than thirty minutes late to any scheduled alternative dispute resolution proceeding without previously notifying the mediator of their tardiness;

- _____ did not exchange medical records within 15 days of receipt or a PBD filing.
 - **Rule 0800-02-21-.10 (2)** After a petition for benefit determination is filed, the parties must exchange any medical records they possess related to the claimed injury. Each party must continue to provide copies of any medical records received during the course of the claim within

Penalties, Cont.

fourteen (14) days of receipt. The mediator or judge may refer any party that does not comply with this rule for the assessment of a civil penalty.

- **0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY. (1)** The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts... (g) Failed to timely provide documents as required by the Tennessee workers' compensation act or the Division's [rules](#);

□ _____ failed to timely provide documents as required by law.

- **Rule 0800-02-14-.05 (5)** All employers, adjusting entities and providers of services related to workers compensation claims in the State of Tennessee subject to provisions of the Workers' Compensation Law shall provide the Bureau all information and documentation that is requested, and only that information that is requested, for the purposes of monitoring, examining, or investigating the entity's operations and processes within ten (10) calendar days unless the Bureau allows an extension of time.
- **0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY. (1)** The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts... (g) Failed to timely provide documents as required by the Tennessee workers' compensation act or the Division's [rules](#);

Penalties, Cont.

Addition to Dispute Certification Notice

Tennessee Code Annotated section 50-6-236(c)(2) states: "When a mediator determines that a party is not prepared to mediate as required or believes a party is not mediating in good faith, the mediator shall include comments to that effect in the dispute certification notice."

I, Mediator Name, was the assigned mediator in the workers' compensation claim of: Insert Plaintiff Name v. Insert Defendant Name. I am required to report that on the 12th day of March, 2016, Insert Name of Offending Party was, in my determination, **not prepared to mediate all disputed issues at the beginning of the mediation because:** (Select all that apply.)

- (name the party) did not provide a representative with settlement authority at mediation.
- (name the party) did not attend a scheduled alternative dispute resolution proceeding, as previously agreed.
- (name the party) failed to cooperate with scheduling an alternative dispute resolution proceeding.
- (name the party) arrived more than thirty (30) minutes late to a previously agreed-upon scheduled proceeding without notifying the mediator of their tardiness.
- (name the party) failed to timely provide medical records and/or other documents as required by the workers' compensation act or rules.

Or failed to mediate all issues in good faith because: (Select all that apply.)

- (name the party) maintained an arbitrary position throughout the alternative dispute resolution proceeding without consideration to the particular facts of the individual claim.
- (name the party) made hostile and/or threatening statements or engaged in such behavior which, in my determination, led to a failure to reach a compromise on all disputed issues.
- (name the party) engaged in the alternative dispute resolution proceeding without a sincere intent to settle.
- Other _____

Please describe the circumstances identified above:

Mediator Signature

Date

Claim Reassignment



Workers' Compensation Pitfalls

Avoiding protracted
employment litigation



Questions?

