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312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

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File Date: \_\_\_\_\_

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Department of Labor and Workforce Development
<b>Division:</b>	Bureau of Workers' Compensation
<b>Contact Person:</b>	Troy Haley
<b>Address:</b>	220 French Landing Dr. 1-B, Nashville, TN 37243
<b>Phone:</b>	615-532-0179
<b>Email:</b>	<a href="mailto:troy.haley@tn.gov">troy.haley@tn.gov</a>

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Troy Haley
<b>Address:</b>	220 French Landing Dr. 1-B, Nashville, TN 37243
<b>Phone:</b>	615-532-0179
<b>Email:</b>	<a href="mailto:troy.haley@tn.gov">troy.haley@tn.gov</a>

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	TOSHA Hearing Room		
Address 2:	220 French Landing Dr. 1-A		
City:	Nashville, TN		
Zip:	37243		
Hearing Date:	11/10/2020		
Hearing Time:	11:00 am	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

If attending in-person, please bring identification so that you may be checked into the building.

**COVID Building Entry Protocols:**

As part of the Tennessee Pledge, the Bureau of Workers' Compensation observes and is compliant with the following building entry protocols:

- At this time, all persons working or meeting in the 220 French Landing building are required to wear a face mask.
- Additional personal protection equipment (PPE) such as a face shield are permitted but are not a replacement for a face mask.
- Upon entry, persons are required to complete a health screening by answering the following questions:

1. Have you been in close contact with a confirmed case of COVID-19 in the past 14 days? (Note: This does not apply to medical personnel, first responders, or other individuals who encounter COVID-19 as part of their professional or caregiving duties while wearing appropriate PPE.)
2. Are you experiencing a cough, shortness of breath or sore throat?

3. Have you had a fever in the last 48 hours?
  4. Have you had new loss of taste or smell?
  5. Have you had vomiting or diarrhea in the last 24 hours?
- Persons working or meeting in the 220 French Landing building are also required to submit to a temperature screening; persons with temperatures 100.4 degrees or higher will not be permitted to enter the building. However, an opportunity will be provided to submit comments in writing instead of in-person.

**\*\*\*NOTICE\*\*\***

Currently, Governor Lee's Emergency Order pertaining to COVID-19 that allows State Boards to hold their meetings electronically is set to expire September 30, 2020. If it does expire on that date, then this hearing will be an in-person hearing at the location and time denoted just above. If the Emergency Order is extended beyond the scheduled date of this hearing, then this hearing will be held electronically via Webex.

In the event of an electronic hearing, members of the public may join the Webex at the following link:

<https://tngov.webex.com/tngov/j.php?MTID=meeb8f115b30bb0d92cd4f2791710a06e>

The link above should take users directly to the rulemaking hearing. If prompted for a meeting number or password, use:

Meeting number (access code): 171 252 8565

Meeting password: workerscomp

It is recommended that interested persons join the Webex several minutes early to ensure adequate time to install any mandatory plugins in order to attend the electronic rulemaking hearing.

Written comments will be accepted until November 24, 2020 and can be sent to [troy.haley@tn.gov](mailto:troy.haley@tn.gov).

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0800-02-14	Claims Handling Standards
Rule Number	Rule Title
0800-02-14-.01	Scope of Rules
0800-02-14-.02	Definitions
0800-02-14-.03	General Requirements
0800-02-14-.04	Claims Reporting Requirements
0800-02-14-.05	Claims Handling and Investigation
0800-02-14-.06	Payment of Benefits
0800-02-14-.07	Medical Costs
0800-02-14-.08	Resolution Process
0800-02-14-.09	Claims Resolution Filing Requirements
0800-02-14-.10	Enforcement
0800-02-14-.11	Fraud

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0800-02-14-.04 is amended by deleting the prior Rule 0800-02-14-.04 and replacing it with the following language, so that as amended the rule shall read:

0800-02-14-.04 Claims Reporting Requirements.

- (1) All forms required by these rules must be filed with the Bureau via EDI, unless an electronic form equivalent is specifically allowed or required by the Bureau. Requirements for EDI reporting are posted on the Bureau's website.
- (2) The adjuster, when required, shall include the following information on every form it submits to the Bureau:
  - (a) The employee's name.
  - (b) The employee's date of birth.
  - (c) The month, day, and year of the employee's injury or illness, in the following order: mm-dd-yy or mm-dd-yyyy.
  - (d) The employee's social security number (SSN) as assigned by the Social Security Administration.
    1. If the employee does not have a SSN, the adjusting entity shall assign an identification number that begins with the number "9" and is followed by the employee's date of birth, in the following format 9MMDDYYYY and report that information in the Employee ID Assigned by Jurisdiction EDI field.
    2. If the adjusting entity later learns the correct SSN, the adjusting entity shall immediately notify the Bureau via EDI by filing the FROI 02.
- (3) The adjusting entity shall ensure that all documents filed with the Bureau pursuant to this chapter, either by EDI or electronic form equivalent, are complete and legible.
  - (a) If a filing is not complete and error free, the filing shall be rejected. The adjusting entity shall make the correction and resubmit the filing to the Bureau. The filing will be considered "accepted" and in compliance with this section only when a complete and error free filing is received and not rejected by the Bureau.
  - (b) An adjusting entity will be subject to a penalty for any calendar month in which it fails to successfully transmit its documents with at least an 85% acceptance by the Bureau success rate for its filings. The assessment of this penalty will not preclude the assessment of additional penalties outlined in Rules 0800-02-13.
- (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.

- (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.
- (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 required information via EDI 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.
- (7) Adjusting entities must file the required information via EDI within five (5) business days of the initial payment of benefits and within five (5) business days of a change or termination of the payment of compensation benefits. The adjusting entity must also provide the employee or their representative and the insured a non-EDI version of the Notice of Change or Termination of Compensation Benefits simultaneously with the notification to the Bureau and must provide the explanation of the rationale upon which the modification was based.
- (8) An adjusting entity electing to controvert its liability and terminate the payment of compensation benefits after temporary disability and/or medical benefits have been paid in a claim, shall submit a 4P via EDI within fifteen (15) calendar days of the due date of the first omitted payment.

Authority: T.C.A. §§ 50-6-205, 50-6-233, 50-6-415, and 50-6-419.

Chapter 0800-02-14-.09 is amended by deleting the prior Rule 0800-02-14-.09 and replacing it with the following language, so that as amended the rule shall read:

0800-02-14-.09 Claims Resolution Filing Requirements.

- (1) The appropriate resolution form must be submitted to the Bureau in all claims when they are resolved.
  - (a) In matters concluded by settlement or resolved by trial, the employer or the employer's agent must file a fully completed appropriate version of the Statistical Data Form contemporaneously with the filing of the final order or settlement.
    1. To be considered fully complete, the form must contain all required data, as determined by the Bureau, and reflect information that is current as of the date the information is submitted to the court for approval, whether or not an appeal of the matter is anticipated or filed.
    2. The employee and any agent of the employee must cooperate with the adjusting entities in completing the statistical data form.
  - (b) In matters not concluded by settlement or resolved by trial, adjusting entities must submit the required information via EDI within thirty (30) days following the final payment of compensation. The filing must include all compensation benefits paid on a claim, including all disability benefits, medical expenses (including in-patient, out-patient, pharmacy, case management, therapy, etc.), death benefits and funeral expenses, and legal costs.
- (2) A fully completed appropriate version of the Statistical Data Form is also required for every workers' compensation matter even if the only issue resolved is the closing of future

medical benefits that had remained open pursuant to a prior order. This requirement applies even if a statistical data form was filed at the time of submission of the prior order.

- (3) Pursuant to T.C.A. § 50-6-244, an order of the court is not final until the Statistical Data Form has been completed and filed with the appropriate clerk of the court or Bureau office.
- (4) If the Administrator or the Administrator's designee determines that an employer or the employer's agent fails to fully complete or timely file the statistical data form, the bureau may assess a civil penalty against the offending party not to exceed one hundred dollars (\$100) per violation. A party assessed a penalty by the Administrator pursuant to this subsection may appeal the penalty by requesting a contested case hearing pursuant to Rule 0800-02-.13.

Authority: T.C.A. §§ 50-6-206, 50-6-233, 50-6-244, and 50-6-419.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 9/4/2020

Signature: \_\_\_\_\_



Name of Officer: Abbie Hudgens

Title of Officer: Administrator

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Filed with the Department of State on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State