



TENNESSEE WORKERS' COMPENSATION LAW QUICK SHEET

DEFINITION OF INJURY

"Injury" and "personal injury" mean an injury by accident, a mental injury, occupational disease including diseases of the heart, lung and hypertension, or cumulative trauma conditions including hearing loss, carpal tunnel syndrome or any other repetitive motion conditions, arising primarily out of and in the course and scope of employment, that causes death, disablement or the need for medical treatment of the employee. T.C.A. § 50-6-102(14).

An injury is "accidental" only if the injury is caused by a specific incident, or set of incidents, arising primarily out of and in the course and scope of employment, and is identifiable by time and place of occurrence, and shall not include the aggravation of a preexisting disease, condition or ailment unless it can be shown to a reasonable degree of medical certainty that the aggravation arose primarily out of and in the course and scope of employment. T.C.A. § 50-6-102(14)(A).

"Primarily out of and in the course and scope of employment" means "the employment contributed more than fifty percent (50%) in causing the injury, considering all causes." T.C.A. § 50-6-102(14)(B).

CLAIM REPORTING REQUIREMENTS

The employer shall report all known or reported accidents or injuries to their adjusting entity within one (1) business day of knowledge of injury. Tenn. Comp. R. & Regs. R. 0800-02-01-.05.

The adjuster shall submit Tennessee's First Report of Work Injury (C-20) in all cases where the reported injury results in the need for medical treatment, restricted work, the inability to work, or death.

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.

Reports of all injuries in which the employee does not return to work within seven (7) calendar days after the injury must be reported no later than fourteen (14) calendar days after the employer's report of the injury.

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.

MEDICAL BENEFITS

The employer shall furnish free of charge to the employee such medical care made reasonably necessary by accident. T.C.A. § 50-6-204(a)(1)(A).

When the employee has suffered an injury and expressed a need for medical care, within three (3) business days after receipt of such request, the employer shall designate a group of three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups from which the injured employee may select one (1) to be the treating physician. T.C.A. § 50-6-204(a)(3)(A)(i); Tenn. Comp. R. & Regs. R. 0800-02-01-.06.

The opinion of the treating physician selected by the employee from the employer's designated panel pursuant to § 50-6-204(a)(3) shall be presumed correct on the issue of causation but this presumption shall be rebuttable by a preponderance of the evidence. T.C.A. § 50-6-102(14)(E).

INDEMNITY

Average Weekly Wage (AWW): The earnings of the injured employee in the employment in which the injured employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of the injury divided by fifty-two (52). T.C.A. § 50-6-102(3).

Temporary Partial Disability (TPD): This benefit may be available to an employee whose work-related injury causes them to be paid a lesser pay or restricted to fewer hours due to light duty. The employee is entitled to 2/3rds of the difference between the AWW and gross light duty wages. T.C.A. § 50-6-207(2).

Temporary Total Disability (TTD): This benefit may be available for a person whose work-related injury temporarily disables them from performing any job. The benefit is 2/3rds of the AWW. The benefit is payable until MMI, a return to work, or 450 weeks, whichever is shorter. TTD benefits can also be capped when the treating physician has stopped all active medical care and the employee is only receiving pain management treatment. TTD payments made after the date of MMI will be offset against any permanent benefit payments. T.C.A. § 50-6-207(1).

Permanent Partial Disability (PPD): This benefit is available when an employee receives a permanent impairment rating at MMI. The benefit is: Impairment x 450 x 2/3 AWW. T.C.A. § 50-6-207(3).

Compensation Period: Impairment x 450 weeks.

Enhancement Award: If at the conclusion of the compensation period the employee did not return to work with any employer earning 100% of the pre-injury wages, the employee may be entitled to 1.35 times the original PPD benefits, plus the following, if applicable:

- **1.2— employee is over 40 years of age;**
- **1.3— the county where the employee worked before his injury has an unemployment rate that is 2% points higher than the state average; and/or**
- **1.45— employee does not have a diploma or GED.**

Permanent Total Disability (PTD): This benefit may be available to an employee whose work-related injury permanently disables them from performing any job. If an employee is within 5 years of full Social Security retirement benefits, then PTD benefits shall be paid for 260 weeks. Otherwise, PTD benefits are paid until the employee reaches full retirement age (age 67 for those born in or after 1960). T.C.A. § 50-6-207(4).

Death: If an employee leaves no dependents, \$20,000.00 shall be paid to the estate of the deceased employee. If an employee leaves dependents, then two-thirds of the employee's average weekly wage shall be paid to such dependents in accordance with and to such extent as required by T.C.A. §§ 50-6-209-210.

Lump Sum Settlement: The parties may settle the entire claim at any time after the employee reaches MMI. The parties may settle the claim before MMI if the claim is doubtful and disputed. No settlement shall be binding until approved by a workers' compensation judge. Your Carr Allison attorney can handle the paperwork in a timely, efficient, and cost-effective manner.

CLAIMS BEFORE THE BUREAU OF WORKERS' COMPENSATION

The process begins with a petition for benefit determination (PBD). Upon filing the PBD, the case is assigned to a mediator who will schedule a mediation. If the parties do not resolve all the disputed issues, the mediator will issue a dispute certification notice (DCN). At that time, the parties may proceed to the workers' compensation court.

Once the DCN is filed with the clerk, either party may file a request for a hearing. Prior to a hearing, the parties must submit an agreed discovery plan and scheduling order. At the hearing, the workers' compensation judge will set a date for completion of post-discovery mediation and the compensation hearing.

If the dispute is over temporary disability or medical benefits, once the DCN is filed with the clerk, either party may file a request for an expedited hearing. The workers' compensation judge may enter an interlocutory order for benefits upon determining that the injured employee would likely prevail at a hearing on the merits.

Any party may appeal an order of a workers' compensation judge by filing a notice of appeal within 7 business days of the date of an interlocutory order or within 30 calendar days of the date of a compensation order.

PENALTIES

Penalties may be assessed for numerous issues throughout a workers' compensation claim. Some of these issues include (1) late filing of accident reports; (2) bad faith denial of claims; (3) late filing of notice of denial of claim; (4) failure to appear and mediate in good faith; (5) failure to comply with a court's order; (6) failure to timely provide medical benefits; (7) failure to timely provide a panel of physicians; (8) failure to pay temporary total disability benefits; and (9) failure to satisfy the terms of a settlement. T.C.A. § 50-6-118.

Penalties may also be assessed for violating the Medical Cost Containment Program, Medical Fee Schedule, and In-Patient Hospital Fee Schedule rules.

The employee may obtain reasonable attorneys' fees and costs when the employer fails to provide medical treatment or supplies to the employee in accordance with a settlement or court order or when the employer wrongfully denies or fails to timely provide workers' compensation benefits.

RULES AND REGULATIONS

Statute of Limitations: A petition for benefit determination (PBD) must be filed with the TN bureau of workers' compensation (TN BWC) within one year from either the date of injury or the latter of the last authorized treatment or time the employer ceased to make payments of compensation. T.C.A. § 50-6-203.

Utilization Review: If recommended treatment requires utilization review, then an employer shall submit the case to its utilization review agent within 3 business days of the physician's notification of the recommended treatment. The UR agent shall render and communicate the decision within 7 business days of receipt of the case. If UR denies authorization, an appeal may be filed with the Division within 30 days.

Payment of Benefits: Compensation payments must be received by the injured employee no later than 15 days from notice of the injury. If an employer refuses to pay TTD within 20 days after knowledge of disability that would qualify for benefits, a workers' compensation judge has the authority to assess TTD benefits that are due and a penalty equal to 25% of the TTD benefits that were not paid.

Resolution: Insurers shall make an offer of settlement within 30 days of receipt of physician's determination of maximum medical improvement and assignment of impairment rating.

PERTINENT FORMS

First Report of Injury (Form C-20): The adjuster shall submit Tennessee's First Report of Work Injury (C-20) in all cases where the reported injury results in the need for medical treatment, restricted work, the inability to work, or death.

Medical Waiver and Consent (Form C-31): Employer may obtain employee's medical records from the Authorized Treating Physician without a signed consent, but a C-31 is necessary to obtain records from other providers.

Notice of First Payment of Compensation (Form C-22): Must be filed immediately and shall include a wage statement.

Notice of Denial of Claim for Compensation (Form C-23): Must be filed on paper and electronically with supporting documented results of investigation.

Final Report of Payment and Receipt of Compensation (Form C-29): Must be submitted in all cases that are not settled, not tried and do not result in permanent disability payments within 30 days after final payment of compensation.

Effective Date	Minimum Rate	Maximum Temporary Rate	Maximum Permanent Rate	Maximum Total Benefit	Burial Expense
07/01/18 - 06/30/19	\$139.35	\$1,021.90	\$929.00	\$418,050	\$10,000
07/01/17 - 06/30/18	\$135.30	\$992.00	\$902.00	\$405,900	\$10,000
07/01/16 - 06/30/17	\$133.20	\$976.80	\$888.00	\$399,600	\$7,500
07/01/15 - 06/30/16	\$128.70	\$943.80	\$858.00	\$386,100	\$7,500
07/01/14 - 06/30/15	\$127.20	\$932.80	\$848.00	\$381,600	\$7,500

This handout is designed to provide the reader with basic information related to the Tennessee Workers Compensation Law. Its limited size does not allow every important issue to be addressed nor can all pertinent legal details be included. To have a more complete answer to any questions encountered in the regular course of handling claims, consult Carr Allison's attorneys.