



Workers Compensation Claim State Environmental Guide – Tennessee

(For Claims with a Date of Loss of July 1, 2014 Forward)

TENNESSEE – <http://www.state.tn.us/labor-wfd/wcomp.html>

Indemnity issues

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| Temporary Total Benefits | 7/1//2017 - 6/30/2018 Weekly Wage calculated by averaging the 52 weeks of gross wages prior to date of injury. Compensation rate equals 2/3 of Average Weekly Wage Minimum: \$135.30 Maximum: \$992.20 Waiting period: 7 days Retro period: 14 days Temporary Total cap – 450 weeks times 110% of the state AWW (currently \$902.00) An IW is presumed to be at MMI when the treating physician ends all active care and only care provided is pain management Filing of wage statement must be done within 30 days of notice of injury or risk of being ordered to pay at max comp rate. |
| Temporary Partial Benefits | 07/01/2017 – 06/30/2018 If an injured worker (IW) returns to work with medical restrictions and earns less than wages earned pre-injury, the IW is entitled to 2/3 of the difference between pre-injury and post-injury wages. No minimum. Maximum: \$992.20 Shall not exceed 450 weeks. |



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Indemnity issues

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| <p>Permanent Partial Benefits</p> | <p>07/01/2017 – 06/30/2018 PPD rate is same as compensation rate except the maximum PPD rate is \$902.00</p> <p>Medical impairment ratings are given by authorized physician.</p> <p>All injuries are to be rated to the body per the AMA Guides, 6th Ed. The IW shall, upon reaching MMI, be paid an amount equivalent to the impairment rating x 450 x IW's PPD compensation rate. If at the time the IW's weekly PPD benefits are exhausted the IW has not returned to work with any employer or has returned to work but is earning less than 100% of the wages earned at the pre-injury employer, IW may file a claim for increased benefits. If appropriate, IW's award may be increased by multiplying the award by 1.35. In addition, the IW's award could be further increased by 1.45 if IW lacks high school diploma or GED; 1.2 if the IW was greater than 40 years of age at the time the initial compensation periods ends; and 1.3 depending on the unemployment rate in the county in which IW resides.</p> <p>The Employer and the IW are allowed to settle the issue of additional benefits at any time after IW reaches MMI. An IW is not entitled to additional benefits when IW's job loss is due to misconduct, voluntary resignation where the resignation has nothing to do with the work-related disability or when the IW remains employed but receives a reduction in salary, wages or hours that affects at least 50% Of the hourly employees at the same location.</p> <p>There is the potential for a Workers' Compensation Judge to award in excess of the specific multipliers listed above, up to but not exceeding two hundred and seventy-five (275) weeks of benefits. In order to do so, the judge must make a determination that it would be inequitable to limit an employee to the specified multipliers, and the employee must meet the following criteria:</p> <ul style="list-style-type: none"> • the assigned permanent impairment rating is 10% or greater; • the authorized treating physician has certified that the employee is unable to return to his/her pre-injury employment; and • the employee is earning less than seventy percent (70%) of his/her pre-injury wages. |
| | <p>Increased benefits are unavailable to an IW not eligible or authorized to work in the United States.</p> <p>For injuries occurring after July 1, 2014, the definition of <u>maximum total benefit</u> is equal to 450 times 100% of the state's average weekly wage (currently \$902.00) as set annually by the Division. TTD is not included in the calculation of maximum total benefits.</p> <p>Permanent Partial based on AMA Guidelines - Yes</p> <p>The 6th Edition of the AMA Guide is used for injuries that occur on or after January 1, 2008, to calculate impairment ratings.</p> |
| <p>Permanent Total Benefits</p> | <p>Weekly benefits at PPD rate subject to max rate, which is currently \$902 until they reach the age of social security eligibility. This can only be commuted to a lump sum in limited circumstances, and the amount that can be commuted is also limited.</p> |

Indemnity issues

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| <p>Fatality Benefits</p> | <p>07/01/2017 – 06/30/2018 If the injured worker leaves a surviving spouse and no dependent children, the surviving spouse shall receive 50% of the average weekly wage of the deceased employee.</p> <p>If the injured worker leaves a surviving spouse and child or children, the spouse and children shall receive 66 2/3% of the average weekly wage of the deceased employee.</p> <p>Upon re-marriage of surviving spouse, if there is no child of the deceased employee, the compensation shall terminate.</p> <p>But if there is a child or children under 18 or over 18 and physically or mentally incapacitated from earning, the child or children shall receive 66 2/3% of the average weekly wage.</p> <p>If the deceased employee leaves no dependents, then a lump sum of \$20,000 shall be paid to the estate of the deceased employee.</p> <p>Compensation to any dependent shall cease upon the death or marriage of the dependent.</p> <p>Minimum weekly benefit: \$135.30 Maximum weekly benefit: \$902.00 Burial expenses are covered up to maximum of \$10,000.00.</p> |
| <p>Vocational Rehabilitation</p> | <p>Not required.</p> |
| <p>Settlement Allowed</p> | <p>Yes, but must be approved by Department of Labor.</p> |
| <p>Cap on benefits, exceptions</p> | <p>For injuries that occur on or after July 1, 2014, the maximum total benefit is equal to 450 times 100% of the state's average weekly wage as set annually by the Division. Temporary total benefits are not included in this calculation.</p> |

Medical issues

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| <p>Initial Choice of Provider</p> | <p>Employer must give injured worker a panel of 3 physicians regardless of the injury sustained. A choice of physicians form must be presented in writing to injured worker and must be signed by injured worker. If the treating physician makes a referral to a specific specialist, ER has three business days to provide a panel or it will be deemed to have accepted the referral.</p> |
| <p>Change of Provider</p> | <p>When a treating physician refers an IW, the IW shall have the right to a second opinion from another physician on the original panel regarding diagnosis and surgery. Employer has the right to have an IME by a physician of its choice at any reasonable time.</p> |
| <p>Medical Fee Schedule</p> | <p>Yes The percentage over Medicare varies by procedure.</p> |
| <p>Managed Care</p> | <p>Optional, but if chosen by the employer, all parties must cooperate with managed care.</p> <p>For more information, please refer to the WC Managed Care Quick Reference Chart by State Guide.</p> |
| <p>Case Management</p> | <p>As of August 29, 2016 all claims in which case management is undertaken requires a face to face visit within 14 days of assignment of case management. Case Managers must be certified by 2019, registered with the Bureau of WC in TN, and must file forms C-33 (case management notification) and C-34 (case management closure). Rules around conduct of case managers, continuing education requirements and potential penalties exist.</p> |
| <p>Utilization Review</p> | <p>UR should only be performed for treatment of compensable diagnoses.</p> <ul style="list-style-type: none"> Utilization Review organizations shall be required to provide proof of |

Medical issues

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| | <p>URAC accreditation by July 1, 2016.</p> <ul style="list-style-type: none"> • Hospitalization whether emergency or planned shall undergo utilization review. • UR is allowed when Schedule II, III, IV drugs are prescribed greater than 90 days or when the employer requests utilization review of above medications. • Any treatment that explicitly follows the treatment guidelines (ODG) adopted by the administrator or is reasonably derived therefrom, including allowances for specific adjustments to treatment, shall have a presumption of medical necessity for utilization review purposes. • A recommended invasive procedure shall be subject to utilization review at any time. • UR cannot be performed by the same nurse that is assigned for medical case management. • A Physician Advisor, also known as the Advisory Medical Practitioner, must have an active TN license, must be board certified, and must be the same or similar general specialty as the recommending authorized treating physician. • UR decision is required to be in writing to include the denial report and is to be provided to the requesting provider, employee, and attorney. • The state appeal form must accompany all denials. • UR forms are required to be completed and penalties are assessed for non-compliance <ul style="list-style-type: none"> ○ C-35, UR Notification ○ C36-37, UR Closure Annual UR Report |
| Treatment Guidelines | The Bureau of Workers' Compensation has adopted the Work Loss Data Institute ODG® Guidelines (Official Disability Guidelines) for the criteria used to determine the recommended treatments for injured workers in the State of Tennessee. |
| Generic Drug Substitution/Pharmacy Formulary | The state mandates generic substitution. The treating provider can provide a statement of medical necessity to dispense brand as written. Tennessee currently utilizes the ODG formulary for all medication approvals after the initial fill. |
| Medical Mileage Reimbursement Rate | If requested by injured worker and if the trip is greater than 15 miles from home or work to medical provider. Paid at state employee rate per mile, currently 47¢ per mile. |
| Network Information | Coventry (primary) and CorVel (secondary). |
| Ability to Terminate Medical Treatment | We can dispute treatment that is not reasonable and necessary. |
| Settlement Allowed | Yes. Provided the treating physician has stated no future treatment is anticipated. |
| Cap on benefits, exceptions | Per fee schedule |

Other Issues

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| WC Hearing Docket Speed | Workers' Compensation Court—Expedited hearings usually completed within 30 days. Mediations for PBD's are much faster, within as little as 2 weeks. |
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Other Issues

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| Staff Counsel | David J. Sneed and Associates (615-660-6200) 6640 Carothers Parkway, Suite 200 Franklin TN 37067 Law Offices of Scott C. Campbell (901-756-3084) 6750 Poplar Avenue, Suite 601 Germantown TN 38138 |
| Hearings require attorney or claim handler participation | Require attorney representation. Simple mediations may be handled by the claim professional only. When a Petition for Benefit Determination (PBD) is filed, defense counsel is required. |
| Occupational Diseases | Six criteria: <ul style="list-style-type: none"> • Must have followed as a natural incident of the work exposure. • Is not from a hazard to which employees are equally exposed outside of employment. • Can be fairly traced to the employment as a proximate cause. • Is incidental to character of employment and not independent of relation of employer and employee. • Originated from a risk connected to employment and flowed as a natural consequent there from. • There is a direct causal connection between the conditions under which the work is performed and the disease. Diseases of the heart, lung and hypertension arising out of and in the course of employment are considered occupational diseases. |
| Second Injury Fund availability | Available only if the employer had knowledge of the prior work-related injury or injuries prior to the subsequent injury and only if he injured worker is permanently and totally disabled through the subsequent injury. |
| Other Offset Opportunities | If an injured worker sustains injury at age 60 or older, and is receiving social security old-age benefits at the time of the settlement or trial, ER/carrier entitled to an offset against that benefit. The offset is calculated by subtracting 50% of the weekly old-age benefit from the weekly permanent partial disability rate, and the resulting figure is then used as the weekly compensation rate in settlement calculations. |
| EDI | Claims EDI Release 3: FROI only (7/1/2003) |
| In-State Adjusting Required | No |
| License or Certification Required | No; however there is a new state program for certification, which is voluntary at this time. |