FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier I – De Minimis

Proposed Rule Actions and Fiscal Impact

Proposed Action: Readopt as amended

Impact Summary:		
	State Government:	No
	Local Government:	No
	Substantial Economic:	No
	Federal Certification:	No

- **Subchapter A** – Workers' Compensation Rules
  - Section .0100 – Administration
  - Section .0200 – Notice of Act
  - Section .0300 – Insurance
  - Section .0400 – Disability, Compensation, Fees
  - Section .0500 - Agreements
  - Section .0600 – ~~Contested Cases~~ Claims Administration and Procedures
  - Section .0700 – Appeals
  - Section .0800 – Rules of the Commission
  - Section .0900 – Report of Earnings
  - Section .1000 – Preauthorization for Medical Treatment

Baseline for Costs and Benefits of Proposed Rules:

The rules outlined above have been in existence and establish a baseline for the fiscal analysis. The rules have been reviewed to ensure that the content is clearly written, relevant, an up-to-date with existing policy and procedures of the Commission. Any changes have been

reviewed and determined to be *de minimis* by the Commission. This fiscal note includes summaries of the proposed rule changes in the table set forth below.

Public Interest:

Pursuant to Sess. Law 2011-287, the Industrial Commission will conduct all rule making in accordance with the North Carolina Administrative Procedure Act found in G.S. 150B. This process should result in public comment and involvement in the rule making process, along with ensuring that citizens of the State of North Carolina are aware of timely and accurate rules information for the Industrial Commission.

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change	Impact on State/Local/Federal Government and/or Private Sector or Substantial Economic Impact
4 NCAC 10A .0101	LOCATION OF OFFICES AND HOURS OF BUSINESS	G.S. 97-80	This Rule establishes the physical location of the Industrial Commission, and the hours during which paper and electronic versions of documents may be filed. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0102	~~TRANSACTION OF BUSINESS BY THE COMMISSION~~ OFFICIAL FORMS	G.S. 97-80(a); 97-81(a)	This Rule establishes that the Industrial Commission may supply requisite Forms, Rules and Minutes upon request. Existing Rule 4 NCAC 10A .0102 Transaction of Business by the Commission is being repealed and replaced by Official Forms. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0103 Official Forms. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0103	~~OFFICIAL FORMS~~ NOTICE OF ACCIDENT AND CLAIM OF INJURY OR OCCUPATIONAL DISEASE	G.S. 97-22; 97-24; 97-58; 97-80(a); 97-81	This Rule provides parties with notice of the requirements for how an employee may provide notice of their claim. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0104 Employer's Report of Injury. Existing Rule 4 NCAC 10A .0103 Official Forms is being moved to 4 NCAC 10A .0102 Official Forms. This Rule is being readopted with minor technical changes.	None
4 NCAC 10A .0104	EMPLOYER'S ~~REPORT OF INJURY~~	G.S. 97-80(a); G.S. 97-92	This Rule establishes the manner and time in which employers are to report injuries to their carrier or	None

	REQUIREMENT TO FILE A FORM 19		administrator, and the Industrial Commission. This Rule further establishes an employer's duty to provide a Form 18 to employees who have reported an injury. Parts of existing Rule 4 NCAC 10A .0104 are being moved to 4 NCAC 10A .0103. This Rule is being readopted with minor technical amendments and clarifies existing policies.	
4 NCAC 10A .0105	FILING OF ANNUAL REPORT REQUIREMENT	G.S. 97-80(a); G.S. 97-92; G.S. 97-93	This Rule requires carriers and employers to annually file a Form 51 regarding "medical only" and "lost time" cases. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A. 0407(e) Fees for Medical Compensation. This Rule is being readopted with minor technical amendments and does not create new or eliminate any existing requirements.	None
4 NCAC 10A .0106	COMPUTATION OF TIME	G.S. 97-80	This Rule establishes how due dates for required documents are calculated. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A. 0609(h) Motions Practice in Contested Cases. This Rule is being readopted with minor technical amendments	None
4 NCAC 10A .0201	~~NOTICE OF EMPLOYMENT SUBJECT TO THE ACT~~ POSTING REQUIREMENTS FOR EMPLOYERS	G.S. 97-80; G.S. 97-93	This Rule establishes that employers must display notice to their employees in a conspicuous location that it is subject to the Workers' Compensation Act and that insurance coverage has been obtained. Subsection (b) of this Rule changes the requirement from removing the Form 17 within 5 days after a lapse in coverage to amending the Form 17 to reflect any changes in coverage. This Rule is being readopted with minor substantive and technical amendments.	The Industrial Commission will implement any future changes to the Form 17 that can be easily reflected by employers, resulting in a minimal cost to the employer if an amendment to the

				Form 17 is required.
4 NCAC 10A .0301	PROOF OF INSURANCE COVERAGE	G.S. 97-19; G.S. 97-80(a); G.S. 97-93	This Rule establishes that employers provide the Industrial Commission with proof that they have obtained workers' compensation insurance or self-insurance coverage. The filing requirements will provide updated detailed information to the Industrial Commission regarding employer insurance coverage. The current Rule requires Employers to submit this information to the Rate Bureau; the proposed Rule requires employers to report this information directly to the Industrial Commission. The submission of this information to the Industrial Commission may be provided electronically; therefore, there will be minimal cost. In addition, the proposed Rule requires employers to provide notice to their employees regarding their workers' compensation insurance coverage.	There are not expected to be any changes regarding costs to employers as they are currently required to provide insurance information to the Rate Bureau under the existing Rule. Additionally, the employers may incur minimal costs as they are now required to post their worker's compensation insurance information to provide their employees notice.
4 NCAC 10A .0302	REQUIRED CONTACT INFORMATION FROM CARRIERS	G.S. 97-93	This Rule requires employers, carriers, third party administrators and self-insured employers to designate a primary contact person and provide the Industrial Commission with current contact information for that person. The language regarding sanctions has been deleted, as the authority exists in 4 NCAC 10A .802 Sanctions. This Rule is being readopted with minor technical amendments.	None
4 NCAC	~~WHEN DISABILITY~~	G.S. 97-28; G.S. 97-	This Rule establishes how the seven-day waiting	None

10A .0401	~~BEGINS FOR THE PURPOSE OF COMPUTING DISABILITY~~ CALCULATING THE SEVEN-DAY WAITING PERIOD	80(a)	period is calculated. The word "partial" was added to subsection (d) to clarify when the seven day waiting period becomes subject to compensation. This Rule is being readopted with minor technical amendments.	
4 NCAC 10A .0402	~~COMPUTATION OF DAILY WAGE~~ SUBMISSION OF EARNINGS STATEMENT REQUIRED	G.S. 97-2(5); G.S. 97-18(b); G.S. 97-80(a); G.S. 97-81	This Rule establishes that an employee or the Industrial Commission may request the employer to submit a verified statement of the days worked and wages earned by of the employee during the 52-week period preceding the injury, similar to the statement and information presently set forth on the Form 22. This Rule merely outlines the requirements of an existing form, allowing the parties to submit the information in a feasible, calculated manner. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0403	MANNER OF PAYMENT OF COMPENSATION	G.S. 97-18; G.S. 97-18(e); G.S. 97-80(a)	This Rule establishes the applicable standard for payments of compensation and allows the parties to come to a separate agreement regarding the manner of payment of compensation. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0404	TERMINATION <u>AND SUSPENSION</u> OF COMPENSATION	G.S. 97-18(c)(d); G.S. 18.1; G.S. 97-32.2(g); G.S. 97-80(a)	This Rule establishes the manner and procedures by which an employer, carrier, or administrator may seek to terminate or suspend compensation being paid to an employee, and addresses specifically the codification of G.S. 97-18(k), G.S. 97-29, and G.S. 97-32 in N.C. Sess. Law 2011-287. The title of this Rule has been amended to reflect the true procedural application. Finally, this Rule has been amended to reflect the information	Effective January 1, 2013, the Application to Terminate or Suspend Payment of Compensation must be electronically submitted. It is not expected that this will create any significant

			presently set forth on the Form 24. This Rule is being readopted with minor technical amendments.	impact. If any, it may result in a minor savings.
4 NCAC 10A .0404(A)	TRIAL RETURN TO WORK	G.S. 97-18(h); G.S. 97-29; G.S. 97-32.1; G.S. 97-80	This Rule establishes that when total disability compensation is terminated after an employee returns to work, said termination is subject to G.S. 97-32.1. This Rule further establishes the manner in which an employee may seek certification of a failed trial return to work. Finally, this Rule spells out the existing cap for "medical only" cases at $2,000 which was added in order to clarify this Rule. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0405	~~COMPUTATION OF COMPENSATION FOR AMPUTATIONS~~ REINSTATEMENT OF COMPENSATION	G.S. 97-18(k); G.S. 97-80(a)	This Rule addresses specifically the codification of G.S. 97-18(k) in N.C. Sess. Law 2011-287. The goal of this Rule and of G.S. 97-18(k) is to provide guidance to parties in pending workers' compensation claims as to the standard that will be applied by the Industrial Commission in decisions to reinstate compensation benefit payments to employees. This Rule establishes the manner in which, and procedures by which, compensation that has been suspended or terminated may be reinstated in accordance with G.S. 97-18(k) in N.C. Sess. Law 2011-287. The portion of this Rule dealing with compensation for amputations has been deleted as this information is set forth in G.S. 97-31. This Rule is being adopted in accordance with G.S. 97-18(k) in N.C. Sess. Law 2011-287.	Prior to G.S. 97-18(k) in N.C. Sess. Law 2011-287, requests for reinstatement would have been handled by the Industrial Commission's motion process. This Rule provides a uniform process via a Form 23, that would not increase costs and will likely generate some administrative cost savings for litigating parties.
4 NCAC 10A .0406	DISCOUNT ~~TABLE~~ RATE TO BE USED IN	G.S. 97-40; 97-44	This Rule addresses the manner in which compensation is commuted through the use of a	None

	DETERMINING COMMUTED VALUES		standardized discount rate. The Industrial Commission currently has the discretion to set the rate and this Rule outlines the procedure for determining the proper standardized discount rate chosen by the Industrial Commission. The Industrial Commission will continue to provide the calculation chart, and the parties still bear the responsibility of calculating the values based upon the standardized discount rate. This Rule is being readopted with minor substantive and technical amendments.	
4 NCAC 10A .0407	FEES FOR MEDICAL COMPENSATION	G.S. 97-18(i); G.S. 97-25.6; G.S. 97-26; G.S. 97-80(a); G.S. 138-6	This Rule is being moved to 10J .0101.	
4 NCAC 10A .0408	~~ADDITIONAL MEDICAL COMPENSATION~~ APPLICATION FOR OR STIPULATION TO ADDITIONAL MEDICAL COMPENSATION	G.S. 97-25.1; 97-80(a)	This Rule establishes the manner in which an employee may apply for additional medical compensation through the filing of a Form 18M *Employee's Application for Additional Medical Compensation* or a Form 33 *Request that Claim be Assigned for Hearing*. This Rule further provides that the parties may stipulate or agree to the additional medical compensation, and is set forth in greater detail by the deletion of paragraph (a) and replacing it with paragraph (c). Paragraph (d) has been deleted as the standard for appeal is set forth in 4 NCAC 10A .702 Review of Administrative Decisions. This Rule is being readopted with minor substantive and technical amendments.	This proposed amendments to the Rule provide a uniform process that would provide a benefit to litigating parties by allowing stipulations thereby reducing litigation costs.
4 NCAC 10A .0409	CLAIMS FOR DEATH BENEFITS	G.S. 97-38; 97-39	This Rule requires employers, carriers, or administrators to report an employee's death in a timely manner when related to a workplace injury	None

			or occupational disease and to make a good faith effort to identify beneficiaries. This Rule further establishes the manner in which minor and incompetent beneficiaries may receive compensation. The elimination of Subsection (a)(1) will not result in any policy changes but is an elimination of redundant language. This Rule is being readopted with minor technical amendments.	
4 NCAC 10A .0410	COMMUNICATION FOR MEDICAL INFORMATION	G.S. 97-25.6; G.S. 97-80(a)	This Rule addresses specifically the codification of G.S. 97-25.6 in N.C. Sess. Law 2011-287. The goal of this Rule and of G.S. 97-25.6 is to provide guidance to the parties in pending workers' compensation claims with regard to the manner in which an employer may communicate with an employee's medical provider to request information. This Rule further establishes the manner in which an employee may seek a protective order regarding the employer's proposed communication. This Rule is being adopted in accordance with G.S. 97-25.6 in N.C. Sess. Law 2011-287.	Prior to G.S. 97-25.6 in N.C. Sess. Law 2011-287, requests for production of documents or materials to treating physicians would have been handled by the Industrial Commission's motion process. This Rule provides a uniform process that would not increase costs and will likely generate some administrative cost savings for litigating parties.
4 NCAC 10A .0501	AGREEMENTS FOR PROMPT PAYMENT OF COMPENSATION	G.S. 97-18; 97-80(a); 97-82	This Rule sets forth the requirements of form agreements submitted to the Industrial Commission. The portion of the Rule requiring an employer, carrier, or administrator to file a Form 28 after the last payment of compensation for	None.

			either temporary or permanent disability has been moved to 4 NCAC 10A .0503 Notice of Last Payment Filing Requirement. This Rule is being readopted with minor technical amendments.	
4 NCAC 10A .0502	COMPROMISE SETTLEMENT AGREEMENTS	G.S. 97-17; G.S. 97-80(a); G.S. 97-82	This Rule explains the requirements for approval of Compromise Settlement Agreements and the satisfaction of unpaid medical bills in claims settled with Compromise Settlement Agreements. Paragraphs (b)(7) and (b)(8) will not have any impact on Compromise Settlement Agreements, as the proposed amendments to this Rule merely clarify existing policies. This Rule is being readopted with minor substantive and technical amendments.	None
4 NCAC 10A .0503	~~APPROVAL OF AGREEMENT CONSTITUTES AWARD~~ NOTICE OF LAST PAYMENT FILING REQUIREMENT	G.S. 97-18(h); G.S. 97-80(a)	This Rule enumerates the forms required by G.S. 97-18(h) that articulate the date of the final payment of compensation. The existing 4 NCAC 10A .0503 Approval of Agreement Constitutes Award is being repealed and replaced with the new Rule 4 NCAC 10A .0503 Notice of Last Payment Filing Requirement, which was previously codified as 4 NCAC 10A. .0501 Agreements for Prompt Payment of Compensation, the content of which is being readopted with minor substantive and technical amendments.	None

4 NCAC 10A .0601	~~EMPLOYER~~ EMPLOYER'S OBLIGATIONS UPON NOTICE~~,~~; DENIAL OF LIABILITY SANCTIONS~~,~~; AND ~~DENIAL OF LIABILITY~~ SANCTIONS	G.S. 97-18; 97-80(a); 97-81(a)	This Rule informs the parties of the proper forms to be filed by an employer, carrier, or administrator in response to the initiation of a claim by an employee. This Rule is being readopted with minor technical amendments and clarifies existing policy.	None
4 NCAC 10A .0602	REQUEST FOR HEARING	G.S. 97-80(a); G.S. 97-83	This Rule lists the requirements of a request for hearing made to the Industrial Commission. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0603	~~RESPONSE TO~~ RESPONDING TO A PARTY'S REQUEST FOR HEARING	G.S. 97-80(a); 97-83	This Rule lists the requirements of a response to a request for hearing made to the Industrial Commission. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0604	APPOINTMENT OF GUARDIAN *AD LITEM*	1A-1, Rule 17; 97-50; 97-79(e); 97-80(a); 97-91	This Rule requires the appointment of a guardian *ad litem* in cases where minors or incompetents bring workers' compensation actions. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0605	DISCOVERY	G.S. 97-80(a); 97-80(f)	This Rule administrates the pre-hearing discovery process in workers' compensation actions. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0606	DISCOVERY – POST HEARING	G.S. 97-80(a); 97-80(f)	This Rule limits the post-hearing discovery process in workers' compensation actions. This is Rule is	None

			being readopted with minor technical amendments and clarifies existing policies. This Rule is being readopted with minor technical amendments and clarifies existing policies.	
4 NCAC 10A .0607	DISCOVERY OF RECORDS AND REPORTS	G.S. 97-80(a); 97-80(b); 97-80(f) G.S. 97-80(a); 97-80(b); 97-80(f)	This Rule explains the ongoing obligation of parties to workers' compensation claims, upon written request of the opposing party, to produce any and all medical records, vocational reports, rehabilitation reports, employment records, Commission forms, and written communications with medical providers in their possession. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0608	STATEMENT ~~ABOUT~~ OF INCIDENT LEADING TO CLAIM	G.S. 97-80(a)	This Rule explains the obligation of the employer or employer's agent, prior to the taking of a written or recorded statement regarding the facts and circumstances surrounding the claim, to advise the employee that such statement may be used to determine whether the claim is paid or denied, as well as the obligation that the transcript of such statement be furnished to the employee upon request or upon a request for hearing. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0609	MOTIONS PRACTICE IN CONTESTED CASES	G.S. 97-79(b); G.S. 97-80(a); G.S. 97-84; G.S. 97-91	This Rule administrates motions practice in workers' compensation actions. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0609A	EXPEDITED MEDICAL MOTIONS AND EMERGENCY MEDICAL MOTIONS	G.S. 97-25; 97-78(f)(2); 97-78(g)(2); 97-80(a)	This Rule administrates expedited medical motions and emergency medical motions practice in workers' compensation actions. This Rule is being readopted with minor technical amendments and clarifies existing policy.	None
4 NCAC	PRE-TRIAL	G.S. 97-80(a); 97-	This Rule requires the submission of a pre-trial	None

10A .0610	~~CONFERENCE~~ AGREEMENT	80(b); 97-83	agreement and sets forth the pre-trial agreement's form and content requirements. The portion of this Rule dealing with expert witnesses has been moved to 4 NCAC 10A .0613 Expert Witnesses and Fees. This Rule is being readopted with minor technical amendments and clarifies existing policy.	
4 NCAC 10A .0611	HEARINGS BEFORE THE ~~INDUSTRIAL~~ COMMISSION	G.S. 97-79; G.S. 97-80; G.S. 97-84; G.S. 97-91	This Rule administrates logistical details surrounding Commission hearings. This Rule is being readopted with minor technical changes.	None
4 NCAC 10A .0612	DEPOSITIONS AND ADDITIONAL HEARINGS	G.S. 97-80; G.S. 97-88; 97-88.1	This Rule administrates logistical details surrounding lay witness depositions pertaining to Commission hearings. This Rule is being readopted with minor technical changes and offers clarification regarding the Rule.	None
4 NCAC 10A .0613	~~DISMISSAL AND REMOVALS~~ EXPERT WITNESSES AND FEES	G.S. 97-18(i); 97-80(a)	This Rule administrates logistical details surrounding expert witness depositions connected to Industrial Commission hearings and provides standards to ensure prompt payment. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0610 Pre-trial Agreement. Existing Rule 4 NCAC 10A .0613 Dismissals and Removals is being moved to 4 NCAC 10A .0616 Dismissals. This Rule is being readopted with minor technical changes.	None
4 NCAC 10A .0614	~~ATTORNEYS RETAINED FOR PROCEEDINGS~~ MEDICAL PROVIDER FEE DISPUTE PROCEDURE	G.S. 97-26(i); 97-80(a)	This Rule formalizes, pursuant to G.S. 97-26(i), the existing policy regarding the dispute process used when there are contested unpaid medical charges. Existing Rule 4 NCAC 10A .0614 Attorneys Retrained for Proceedings is being moved to 4 NCAC 10A .0617. This Rule is being adopted for G.S. 97-26(i).	Prior to this Rule, requests for payment by medical providers would have been handled by the Industrial Commission's motion process. This

				Rule provides a uniform process that would not increase costs and will likely generate some administrative cost savings for litigating parties.
4 NCAC 10A .0615	~~DISQUALIFICATION OF DEPUTY COMMISSIONER OR COMMISSIONER~~ CASES REMOVED FROM A HEARING CALENDAR	G.S. 97-80(a); 97-84; 97-91	This Rule sets forth the conditions under which a case may be removed from and reset on a hearing docket. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0613 Dismissals and Removals. Existing Rule 4 NCAC 10A .0615 Disqualification of Deputy Commissioner or Commissioner is being moved to 4 NCAC 10A .0618. This Rule is being readopted with minor technical changes.	None
4 NCAC 10A .0616	~~FOREIGN LANGUAGE INTERPRETERS~~ DISMISSALS	G.S. 97-80(a); 97-84; 97-91	This Rule sets forth the conditions under which a case may be dismissed. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0613 Dismissals and Removals. Existing Rule 4 NCAC 10A .0616 Foreign Language Interpreters is being moved to 4 NCAC 10A .0619. This Rule is being readopted with minor technical changes.	None
4 NCAC 10A .0617	~~ELECTRONIC SERVICE AND VERIFICATION OF SERVICE~~ ATTORNEYS RETAINED FOR PROCEEDINGS	G.S. 97-80(a); 97-90; 97-91	This Rule sets forth the conditions under which attorneys can be retained for and may withdraw from Industrial Commission cases. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0614 Attorneys Retained for Proceedings, and replaces the existing Rule 4 NCAC .0617. This Rule is being readopted	None

			with minor technical amendments and clarifies existing policies.	
4 NCAC 10A .0618	DISQUALIFICATION OF A COMMISSIONER OR DEPUTY COMMISSIONER	G.S. 97-79(b); 97-80(a)	This Rule provides the procedure applicable when it becomes necessary that Commissioners and Deputy Commissioners recuse themselves from the hearing of a case and also that a majority of the Full Commission may remove a Commissioner or Deputy Commissioner from the hearing of a case. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0615 Disqualification of a Commissioner or Deputy Commissioner. This Rule has been readopted with minor technical changes.	None
4 NCAC 10A .0619	FOREIGN LANGUAGE INTERPRETERS	G.S. 97-79(b); 97-80(a)	This Rule administrates the logistics surrounding the use of interpreters in workers' compensation hearings. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0616 Foreign Language Interpreters. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0701	~~APPEAL TO THE~~ REVIEW BY THE FULL COMMISSION	G.S. 97-80; G.S. 97-85	This Rule administrates the logistical processes surrounding Full Commission review of Deputy Commissioner decisions. This Rule is being readopted with minor technical changes and clarifies existing policy. Existing Subsection (f) has been eliminated and readdressed by the proposed Subsection (f) requiring that a Motion be filed in order for the Full Commission to review new evidence. This Rule is being readopted with minor substantive and technical amendments.	None
4 NCAC 10A .0702	~~APPEAL TO THE COURT OF APPEALS~~	G.S. 97-80; G.S. 97-85	This Rule administrates the logistical processes surrounding Full Commission or Deputy	None

	REVIEW OF ADMINISTRATIVE DECISIONS		Commissioner review of administrative decisions. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0703 Review of Appeals from Administrative Decisions. This Rule is being readopted with minor technical amendments.	
4 NCAC 10A .0703	~~REVIEW OF APPEALS FROM ADMINISTRATIVE DECISIONS~~ APPEAL TO THE COURT OF APPEALS	G.S. 97-80(a); 97-86	This Rule administrates the procedural requirements associated with appeals of Full Commission decisions to the North Carolina Court of Appeals. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0702 Appeal to the Court of Appeals. This Rule has been revised to minimize duplication of the applicable statutes and appellate rules. Existing Rule 4 NCAC 10A .0703 Review of Appeals from Administrative Decisions is being moved to 4 NCAC 10A .0702. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .0704	REMAND FROM THE APPELLATE COURTS	G.S. 97-80(a); 97-86	This Rule administrates the logistical processes surrounding the filings of parties when a case is remanded to the Full Commission from the North Carolina Court of Appeals. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10A .0702A Remand from the Appellate Courts. This Rule is being readopted with minor technical amendments	None
4 NCAC 10A.0801	~~WAIVER OF THE RULES~~ SUSPENSION OF RULES	G.S. 97-80(a)	This Rule establishes the applicable standard for waiver of Rules. This Rule is being readopted with minor technical amendments and clarifies existing policy.	None
4 NCAC 10A.0802	SANCTIONS	G.S. 1A-1, Rule 37; 97-18; 97-80(a); 97-	This Rule provides uniformity with Industrial Commission rules and establishes the applicable	None

		88(1)	standard for sanctions in claims brought under the Workers' Compensation Act. This Rule is being readopted with minor technical amendments.	
4 NCAC 10A.0803	~~PROCEDURE FOR WORKERS' COMPENSATION RULE MAKING BY THE INDUSTRIAL COMMISSION~~		This Rule is being repealed in accordance with N.C. Sess. Law 2011-287, which required the Commission to undertake rulemaking in accordance with the Administrative Procedure Act (G.S. 150B).	None
4 NCAC 10A.0901	CHECK ENDORSEMENT	G.S. 97-80(a); 97-88.2	This Rule establishes a standardized language to be used on payments by employers, carriers, or third party administrators to employees. This Rule is being readopted with minor technical amendments.	None
4 NCAC 1OA.0902	NOTICE	G.S. 97-80(a); 97-88.2	This Rule establishes the standardized notice language that must be provided to employees prior to use of check endorsement language. This Rule is being readopted with minor technical amendments and clarifies existing policy.	None
4 NCAC 10A.0903	EMPLOYEE'S OBLIGATION TO REPORT EARNINGS	G.S. 97-80(a); 97-88.2	This Rule establishes the process for requesting and completion of a Form 90 *Report of Earnings*. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10A .1001	PREAUTHORIZATION FOR SURGERY AND INPATIENT TREATMENT	G.S. 97-25.3; 97-80(a)	This Rule sets forth the policy and procedure that has been applied in workers' compensation claim and previously set forth in 4 NCAC 10E .0101 Utilization Review Plan. This Rule outlines the procedure that has been applied in relation to G.S. 97-25.3. The procedure was developed by the Commission, with extensive involvement of external stakeholders and implements industry standards regarding preauthorization for surgery and inpatient treatment. The language in this	None

			proposed rule is different than that of 4 NCAC 10E .0101; however, the foundation for the proposed Rule is outlined by the Utilization Review Plan and is being readopted with substantive and technical amendments. The proposed Rule provides additional details regarding the policy and procedure.	

FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier I – De Minimis

Proposed Rule Actions and Fiscal Impact

Proposed Action:	Readopt as amended	
Impact Summary:	State Government:	No
	Local Government:	No
	Substantial Economic:	No
	Federal Certification:	No

- **Subchapter B** – Tort Claims Rules
  - Section .0100 – Administration
  - Section .0200 – Claims Procedures
  - Section .0300 – Appeals to the Full Commission
  - Section .0400 – Appeals to the Court of Appeals
  - Section .0500 – Rules of the Commission

Baseline for Costs and Benefits of Proposed Rules:

The rules outlined above have been in existence and establish a baseline for the fiscal analysis. The rules have been reviewed to ensure that the content is clearly written, relevant, an up-to-date with existing policy and procedures of the Commission. Any changes have been reviewed and determined to be *de minimis* by the Commission. This fiscal note includes summaries of the proposed rule changes in the table set forth below.

Public Interest:

Pursuant to Sess. Law 2011-287, the Industrial Commission will conduct all rule making

in accordance with the North Carolina Administrative Procedure Act found in G.S. 150B. This process should result in public comment and involvement in the rule making process, along with ensuring that citizens of the State of North Carolina are aware of timely and accurate rules information for the Industrial Commission.

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change	Impact on State/Local/Federal Government and/or Private Sector or Substantial Economic Impact
4 NCAC 10B .0101	LOCATION OF OFFICES AND HOURS OF BUSINESS	G.S. 143-291; 143-300	This Rule establishes the physical location of the Industrial Commission, and the hours during which paper and electronic versions of documents may be filed.	None.
4 NCAC 10B .0102	~~TRANSACTION OF BUSINESS BY THE COMMISSION~~ OFFICIAL FORMS	G.S. 143-300	This Rule explains how copies of the Commission's rules, forms, and minutes can be obtained and what forms are allowed and prohibited. The prior statement pertaining to the Transaction of Business by the Commission has been removed from this Rule to eliminate unnecessary rules.	None.
4 NCAC 10B .0103	~~OFFICIAL FORMS~~ FILING FEES	G.S. 143-291.2; 143-300	This rule sets the requirement of and method for filing fees when filing a claim under the State Tort Claims Act. The rule sets forth the requirements to request to sue as an indigent and how the Commission may rule on such request.	None.
4 NCAC 10B .0104	FILING BY ~~TELEFACSIMILE~~ FACSIMILE TRANSMISSION	G.S. 143-300; 143-291; 143-291.2; 143-297	This Rule allows filings with the Commission to be made by facsimile and provides that the filing fee must be received by the Commission contemporaneously with the facsimile by electronic transfer of funds.	None.
4 NCAC 10B .0201	RULES OF CIVIL PROCEDURE	G.S. 143-300	This rule provides that the North Carolina Rules of Civil Procedure as provided in G.S.1A-1 shall apply to tort claims before the Commission to the extent that the Rules of Civil Procedure are not inconsistent	None.

			with the Tort Claims Act. If there is an inconsistency, this Rule provides that the Tort Claims Act and the Commission's tort rules shall control.	
4 NCAC 10B .0202	~~FILING FEES~~ MEDICAL MALPRACTICE CLAIMS BY PRISON INMATES	G.S. 143-300	This Rule sets forth the requirements and procedures for an inmate to file a medical practice claim against the State of North Carolina. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10B .0201 Rules of Civil Procedure.	None.
4 NCAC 10B .0203	~~ENLARGEMENT OF TIME~~ INFANTS AND INCOMPETENTS	G.S. 143-300; 143-291; 143-295	This Rule requires the appointment of a guardian *ad litem* in cases where infants or incompetents bring tort actions. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10B .0204 Infants and Incompetents.	None.
4 NCAC 10B .0204	~~INFANTS AND INCOMPETENTS~~ MOTIONS	G.S. 143-300; 143-296	This rule sets forth the motions procedure for tort claims pending before the Commission. This Rule has been in existence and is being set out from the prior placement in either 04 NCAC 10B .0203 Enlargement of Time or 04 NCAC 10B .0205 Motions.	None.
4 NCAC 10B .0205	~~MOTIONS~~ MEDIATION	G.S. 143-300; 143-295; 143-296; 4 NCAC 10G .0101(g)	This Rule outlines the applicable process of mediation in claims filed under the Tort Claims Act. This	None.
4 NCAC 10B .0206	Hearings	G.S. 143-300; 143-296	This Rule provides the process and procedures for hearings before the Commission.	None.

4 NCAC 10B .0207	~~COSTS~~ HEARINGS OF CLAIMS BY PRISON INMATES	G.S. 143-300; 143-296; 97-101.1	This Rule provides the process and procedures for hearings before the Commission in which the claims are made by prison inmates.	None.
4 NCAC 10B T.0208	HEARING COSTS	G.S. 143-291.1; 143-291.2; 143-300; 7A-305	This rule sets forth that hearing costs payable to the Commission are due upon receipt of a bill or statement of the Commission. This Rule has been in existence and is being set out from the prior placement in either 04 NCAC 10B .0207 Costs.	None.
4 NCAC 10B T.0301	~~NOTICE OF APPEAL TO THE FULL COMMISION~~ SCOPE	G.S. 143-300; 143-292	This Rule provides that the subsequent rules in Section .0300 are applicable to the appeals to the Full Commission.	None.
4 NCAC 10B T.0302	~~TRANSCRIPTS~~ NOTICE OF APPEAL TO THE FULL COMMISSION	G.S. 143-300; 143-292	This Rule provides that a letter expressing an intent to appeal to the Full Commission will be considered as a notice of appeal to the Full Commission. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10B .0301 Notice of Appeal to the Full Commission.	None.
4 NCAC 10B .0303	~~ASSIGNMENTS OF ERROR~~ PROPOSED ISSUES ON APPEAL	G.S. 143-300; 143-292; *Dogwood Development and Management Co., LLC v. White Oak Transport Co., Inc.*, 362 N.C. 191, 657 S.E.2d 361 (2008)	This Rule provides a timeframe for the appealing party to prepare and serve the proposed issues on appeal and puts the appealing party on notice that failure to file the proposed issues on appeal may result in dismissal. This Rule has been in existence and is being set out from the prior placement in 04 NCAC 10B .0303 Assignment of Error.	None.
4 NCAC 10B .0304	~~DISMISSALS OF APPEALS~~		The Rule is being repealed. The content of this Rule remains in existence and is being taken from the prior placement combined in the proposed amended in 04 NCAC 10B .0303 ~~Assignments of Error~~ Proposed	None.

			Issues on Appeal.	
4 NCAC 10B .0305	BRIEFS TO THE FULL COMMISSION	G.S. 143-300; 143-296	This Rule clarifies the process and filing requirements for the Form T-44 and briefs by all parties to the Full Commission.	None.
4 NCAC 10B .0306	~~MOTION FOR NEW HEARING~~		This Rule is being repealed. The content of this Rule remains in existence and is being taken from the prior placement combined in the proposed amended in 04 NCAC 10B .0307 Motions Before the Full Commission.	None.
4 NCAC 10B T.0308	STAYS	G.S. 143-300; 143-292; 143-296	This Rule provides that order, opinion and awards, or decision and orders appealed to the Full Commission are stayed pending appeal	None.
4 NCAC 10B .0309	NEW EVIDENCE		This Rule is being repealed. The content of this Rule remains in existence and is being taken from the prior placement combined in the proposed amended in 04 NCAC 10B .0307 Motions Before the Full Commission.	None.
4 NCAC 10B T.0310	WAIVER OF ORAL ARGUMENT	G.S. 143-300; 143-292; 143-296	This Rule provides that the Full Commission may on its own motion or motion by either party waive oral arguments before the Full Commission to prevent manifest injustice, promoted judicial economy, or expeditious decision.	None.
4 NCAC 10B .0401	~~RULES OF APPELLATE PROCEDURE~~ SCOPE	G.S. 143-293; G.S. 143-300	This Rule establishes the applicable rules for appeals to the Court of Appeals.	None.
4 NCAC 10B .0402	~~APPEAL BOND~~ STAYS	G.S. 143-300; 143-292; 143-294; 143-296	This Rule, as amended, stays all orders, opinions and awards, or decisions and orders of the Full Commission upon an appeal to the Court of Appeal. It was enacted to make the Tort Claims Rules uniform with the Workers' Compensation Rules and implements a policy currently in place.	None.

4 NCAC 10B .0403	MOTIONS FOR COURT OF APPEALS CASES)	G.S. 143-300; 143-293	This Rule provides instructions on filing motions concerning appeals with the North Carolina Court of Appeals and motions to reconsider or amend an award of the Full Commission.	None.
4 NCAC 10B .0404	~~SETTLING RECORD ON APPEAL~~ REMAND FROM APPELLATE COURTS	G.S. 143-300; 143-292; 143-296	This Rule, as amended, provides information on what a party may do after a remand from the North Carolina Court of Appeals. This Rule was enacted to make the Tort Claims Rules uniform with the Workers' Compensation Rules and implements a policy currently in place.	None.
4 NCAC 10B .0501	~~WAIVER OF RULES~~ SUSPENSION OF RULES	G.S. 143-300; 143-291	This Rule establishes the applicable standard for waiver of Rules.	None.
4 NCAC 10B .0502	~~RULEMAKING~~		This Rule is being repealed in accordance with: (1) N.C. Sess. Law 2011-287, and (2) Executive Order 70.	None.
4 NCAC 10B .0503	SANCTIONS	G.S. 143-292; G.S. 143-296; G.S. 143-300	This Rule provides uniformity with Industrial Commission rules and establishes the applicable standard for sanctions in claims brought under the Workers' Compensation Act.	None.

FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier I – De Minimis

Proposed Rule Actions and Fiscal Impact

Proposed Action:	Readopt as amended	
Impact Summary:	State Government:	No
	Local Government:	No
	Substantial Economic:	No
	Federal Certification:	No

- **Subchapter C** – Commission Rules for Utilization of Rehabilitation Professionals in Workers' Compensation Claims
  - Section .0100 – ~~Rules~~ Administration
  - Section .0200 – Rules of the Commission

Baseline for Costs and Benefits of Proposed Rules:

The rules outlined above have been in existence and establish a baseline for the fiscal analysis. The rules have been reviewed to ensure that the content is clearly written, relevant, an up-to-date with existing policy and procedures of the Commission. Any changes have been reviewed and determined to be *de minimis* by the Commission. This fiscal note includes summaries of the proposed rule changes in the table set forth below.

Public Interest:

Pursuant to Sess. Law 2011-287, the Industrial Commission will conduct all rule making in accordance with the North Carolina Administrative Procedure Act found in G.S. 150B. This process should result in public comment and involvement in the rule making process, along with ensuring that citizens of the State of North Carolina are aware of timely and accurate rules

information for the Industrial Commission.

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change	Impact on State/Local/Federal Government and/or Private Sector or Substantial Economic Impact
4 NCAC 10C .0101	~~APPLICATION~~ APPLICABILTY OF THE RULES	G.S. 97-25.4; 97-25.5; 97-32.2; 97-80; 97-18(d)	This Rule establishes when vocational rehabilitation is applicable for pending workers' compensation claims. This Rule is being readopted with minor technical amendments.	None.
4 NCAC 10C .0102	~~PURPOSE OF THE RULES~~		This Rule is being repealed in accordance with: (1) N.C. Sess. Law 2011-287, and (2) Executive Order 70.	None.
4 NCAC 10C .0103	~~APPLICATION OF THE RULES~~ DEFINITIONS	G.S. 97-25.4; 97-32.2; 97-25.5; 97-2(22); 97-80	This Rule defines the terms most commonly used by rehabilitation professionals in workers' compensation claims. This Rule is being readopted with minor technical amendments and has been revised to offer clarification. The revisions also eliminate unnecessary and redundant language.	None.
4 NCAC 10C .0105	QUALIFICATIONS REQUIRED	G.S. 97-25.4; 97-32.2; 97-25.5; 97-80	This Rule establishes the qualification standards for a rehabilitation professional in workers' compensation claims. One substantive change has been made to this Rule which requires that a rehabilitation professional complete a course in order to be considered "qualified". On March 17, 2011, the Industrial Commission recognized a need to establish a consistency in the provision of rehabilitation services for workers' compensation claims in the State of North Carolina. In response to this need, the Industrial Commission adopted a policy to mandate rehabilitation professionals providing rehabilitation services to complete a comprehensive course entitled "*Workers'*	The Rule change does not anticipate any fiscal impact on the expenditure or distribution of state funds, such as the State Budget Act, and does not anticipate any fiscal impact on local governments. The benefits received from the proposed, amended Rule text will be to

			Compensation Case Management in NC: A Basic Primer for Medical and Vocational Case Managers." The commission would not spend any significant time overseeing the course and training as it would only occur every six months and is currently being prepared through the International Association of Rehabilitation Professionals. The remainder of this Rule has been readopted with minor technical amendments.	establish consistency in the provision of rehabilitation services for workers' compensation claims. It is possible that this course will have a minimal impact on current state employed rehabilitation professionals in the amount of $50.00 as there is no waiver for state employees.
4 NCAC 10C .0106	PROFESSIONAL RESPONSIBILITY OF THE REHABILITATION PROFESSIONAL IN WORKERS' COMPENSATION	G.S. 97-25.4; 97-32.2; 97-25.5; 97-80	This Rule establishes the role of a rehabilitation professional in workers' compensation claims. This Rule is being readopted with minor technical amendments and clarifications.	None.
04 NCAC 10C .0107	COMMUNICATION	G.S. 97-25.4; 97-25.5, 97-32.2, 97-2(19), 97-80	This Rule establishes the communication standards for a rehabilitation professional in workers' compensation claims. This Rule is being readopted with minor technical amendments.	None.
04 NCAC 10C .0108	INTERACTION WITH PHYSICIANS	G.S. 97-25.4; 97-25.5; 97-32.2; 97-80	This Rule establishes the communication standards for a rehabilitation professional with physicians in workers' compensation claims. This Rule has been re-organized to provide guidance to the parties as to the appropriate communications. This Rule is being readopted with minor technical amendments.	None.
04 NCAC	VOCATIONAL	G.S. 97-25.4;	This Rule addresses and incorporates the codification	None.

10C .0109	REHABILITATION SERVICES AND RETURN TO WORK	97-25.5; 97-32.2; 97-2(22)	of G.S. 97-32.2 in N.C. Sess. Law 2011-287. The goal of this rule and of G.S. 97-32.2 is to provide guidance to rehabilitation professionals as job placement services are provided in workers' compensation claims. This Rule is being readopted with minor technical amendments and additional clarifying language regarding G.S. 97-32.2 in N.C. Sess. Law 2011-287.	
04 NCAC 10C .0110	~~MOTION FOR~~ CHANGE OF ~~RP:~~ REHABILITATION PROFESSIONAL ~~SANCTIONS~~	G.S. 97-25.4; 97-25.5; 97-32.2; 97-80; 97-83 97-84	This Rule establishes the procedure for removal of a rehabilitation professional from a workers' compensation claim. The paragraph of the existing Rule regarding Sanctions has been moved to 4 NCAC 10C .0202. Rule .0110 is being readopted with minor technical changes.	None.
4 NCAC 10C .0201	SUSPENSION OF RULES	G.S. 97-25.4; 97-80	This Rule provides uniformity with Industrial Commission Rules in other Subchapters of the NCAC and establishes the applicable standard for the Commission regarding the waiver of any Rule in this Subchapter. The adoption of this Rule is an implementation of current policy and will result in no changes.	None.
4 NCAC 10C .0202	SANCTIONS	G.S. 97-25.4; 97-25.5; 97-32.2; 97-80; 97-84	This Rule establishes the procedure for sanctioning a rehabilitation professional. The procedures in this Rule have been in existence and are being relocated from 4 NCAC 10C .0110 with minor technical amendments.	None.

FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier I – De Minimis

Proposed Rule Actions and Fiscal Impact

Proposed Action:	Readopt as amended	
Impact Summary:	State Government:	No
	Local Government:	No
	Substantial Economic:	No
	Federal Certification:	No

- **Subchapter D** – Workers' Compensation Rules for Managed Care Organizations
  - Section .0100 – Rules

Baseline for Costs and Benefits of Proposed Rules:

The rules outlined above have been in existence and establish a baseline for the fiscal analysis. The rules have been reviewed to ensure that the content is clearly written, relevant, an up-to-date with existing policy and procedures of the Commission. Any changes have been reviewed and determined to be *de minimis* by the Commission. This fiscal note includes summaries of the proposed rule changes in the table set forth below.

Public Interest:

Pursuant to Sess. Law 2011-287, the Industrial Commission will conduct all rule making in accordance with the North Carolina Administrative Procedure Act found in G.S. 150B. This process should result in public comment and involvement in the rule making process, along with ensuring that citizens of the State of North Carolina are aware of timely and accurate rules information for the Industrial Commission.

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change	Impact on State/Local/Federal Government and/or Private Sector or Substantial Economic Impact
4 NCAC 10D. 0101	PURPOSE	G.S. G.S. 97-2(19); 97-2(20); 97-2(21); 97-25; 97-25.2; 97-25.3(e); 97-25.4(a); 97-26(b); 97-26(c)	This Rule sets forth an explanation of the role of Managed Care Organizations (MCO) in pending workers' compensation claims. This Rule is being readopted with minor technical amendments.	None.
4 NCAC 10D .0102	DEFINITIONS	G.S. 58-50-50; 97-2(3); 97-2(20); 97-26(b); 97-26(c); 97-2(21); 97-25; 97-25.2; 97-77; 97-79	This Rule establishes a uniform meaning for terms used in the context of managed care organizations. This Rule has been reviewed in conjunction with the statutory authority and the deleted terms are set forth in the statutes. This Rule is being readopted with minor technical amendments. .	None.
4 NCAC 10D .0103	~~QUALIFICATION BY DEPARTMENT OF INSURANCE~~		This Rule is being repealed in accordance with: (1) N.C. Sess. Law 2011-287, and (2) Executive Order 70 as Managed Care Organizations are controlled by the Department of Insurance. As such, the qualifications standards are not set forth in the statutes governing workers' compensation claims and this Rule is unnecessary. The Commission only governs Managed Care Organizations as they relate to Worker's Compensation Claims as set out by the remaining Rules in this Subsection.	
4 NCAC 10D .0104	QUALIFICATION AND REVOCATION	G.S. 97-25.2	Rule establishes the applicable standard for the Commission to reach a determination to revoke an MCO's ability to be involved in pending workers' compensation claims. The first portion of this rule has been deleted upon review of the rule. This	None.

			remaining portion of this Rule is readopted with minor technical amendments. It should be noted that the change in language from "may" to "shall" is not expected to create any impact as the Commission currently has the option of suspending or revoking an MCO's permission to deal with workers' compensation matter.	
4 NCAC 10D .0105	NOTICE TO COMMISSION	G.S. 97-25.2	This Rule establishes the filing requirements and notification standards for MCOs involved in pending workers' compensation claims. This Rule is being readopted with minor technical amendments.	None.
4 NCAC 10D .0106	CONTRACT PROVISIONS	G.S. 97-25.2	This Rule establishes the accepted contents for contracts of MCOs in pending workers' compensation claims. This Rule is being readopted with minor technical amendments.	None.
4 NCAC 10D. 0107	INFORMATION FOR ~~EMPLOYEE/PATIENT~~ EMPLOYEE	G.S. 97-25.2	This Rule establishes the standard information to be provided to claimants by employers or MCOs in pending workers' compensation claims. This Rule is being readopted with minor technical amendments.	None.
4 NCAC 10D .0108	INCLUSIVE PROVIDER PANELS	G.S. 97-2(19); 97-2(20); 97-25; 97-25.2	This Rule establishes how claimants may obtain access to additional or different medical providers. This Rule is being readopted with minor technical amendments.	None.
4 NCAC 10D .0109	QUALITY ASSURANCE AND UTILIZATION REVIEW	G.S. 97-25.2	This Rule establishes the Industrial Commission's ability to inquire or request additional information about MCOs participating in pending workers' compensation claims. This Rule is being readopted with minor technical amendments.	None.
4 NCAC 10D. 0110	~~WAIVER~~ SUSPENSION OF RULES	G.S. 97-80(a); 97-25.2;	This Rule establishes the applicable standard for waiver of Rules. This Rule is being readopted with minor technical amendments.	None.

4 NCAC 10D .0111	SANCTIONS	G.S. 97-18(i); 97-25; 97-25.2; § 97-80(a); § 97-88(1); 1A-1, Rule 37;	This Rule provides uniformity with Industrial Commission Rules in other Subchapters of the NCAC and establishes the applicable standard for sanctions. This Rule is substantially similar to the Rules in other Sections regarding Sanctions.	None.

FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier I – De Minimis

Proposed Rule Actions and Fiscal Impact

Proposed Action: Adopt as amended in accordance with G.S. 150B

Impact Summary:		
	State Government:	Yes
	Local Government:	No
	Substantial Economic:	No
	Federal Certification:	No

- **Subchapter E** – ~~Workers' Compensation Rules for Utilization Review~~ Administrative Rules of the Industrial Commission
  - Section .0100 – ~~Rules~~ Administration
  - Section .0200 – Fees
  - Section .0300 – Rules of the Commission

Baseline for Costs and Benefits of Proposed Rules:

Section .0100 has been implemented to facilitate the rule making procedure set forth in the Administrative Procedure Act found in G.S. 150B. The remaining sections of the rules outlined above have been in existence and establish a baseline for the fiscal analysis. The rules have been reviewed to ensure that the content is clearly written, relevant, an up-to-date with existing policy and procedures of the Commission. Any changes have been reviewed and determined to be *de minimis* by the Commission. This fiscal note includes summaries of the proposed rule changes in the table set forth below.

Included with this fiscal note is the 2010-2011 Commerce Fee Report which provides financial information for the Industrial Commission. The proposed Rules are not expected to

cause any significant increase or decrease in revenues. The fees reflected on this report are authorized by G.S. 97-80(b).

Public Interest:

Pursuant to Sess. Law 2011-287, the Industrial Commission will conduct all rule-making in accordance with the North Carolina Administrative Procedure Act found in G.S. 150B. This process should result in public comment and involvement in the rule making process, along with ensuring that citizens of the State of North Carolina are aware of timely and accurate rules information for the Industrial Commission.

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change	Impact on State/Local/Federal Government and/or Private Sector or Substantial Economic Impact
4 NCAC 10E .0101	~~UTILIZATION REVIEW PLAN~~ INSTRUCTIONS FOR FILING A PETITION FOR RULE-MAKING	G.S. 150B-20	This Rule sets out a rule making procedure for the Industrial Commission, in compliance with the Administrative Procedure Act (APA). This Rule has been adopted from the existing rule applied by the Office of Administrative Hearings. The deleted portion of this Rule's text has been re-organized to 4 NCAC 10A .1001 Preauthorization for Surgery and Inpatient Treatment.	The adoption of this Rule benefits the public in providing an opportunity to present proposed Rules to the Commission. Costs associated with this rule would be minimal but would include the opportunity cost of time for staff and members of the Commission to review and consider petitions.~~.~~
4 NCAC 10E .0102	MAILING LIST	G.S. 150B-21.2(d)	This Rule establishes the procedure for placement on the Industrial Commission's rule making mailing list, in compliance with the Administrative Procedure Act (APA). This Rule has been adopted from the existing rule applied by the Office of Administrative Hearings.	The costs of this process would be borne by the Commission and the parties requesting information, but the associated opportunity costs are expected to be minimal.
4 NCAC 10E .0201	DOCUMENT AND RECORD FEES	G.S. 7A-305; 97-79; 97-80; 132-6.2; 143-291.1; 143-291.2; 143-300	This Rule formally adopts the fees associated with obtaining records from the Industrial Commission. This Rule adopts costs as are being applied in accordance with other courts of general jurisdiction.	The Commission currently charges costs for obtaining records, and this Rule ensures the Commission's costs are

				similar to other courts of general jurisdiction. Please see attached fee report.
4 NCAC 10E .0202	HEARING COSTS OR FEES	G.S. 7A-305; 97-80; 143-291.1; 143-291.2; 143-300	This Rule formally adopts the fees and costs associated with hearings before the Industrial Commission. The contents of this Rule have been applied by the Industrial Commission and are being formally incorporated into a rule pursuant to N.C. Sess. Law 2011-287, Section 21(c). These costs and fees have been applied in a uniform manner to all pending claims before the Industrial Commission.	There are no likely costs or benefits related to the proposed Rule text, as the fees have been in existence prior to the rule making requirements set forth in N.C. Sess. Law 2011-287, Section 21(c). Please see attached fee report.
4 NCAC 10E .0203	FEES SET BY THE COMMISSION	G.S. 97-10.2; 97-17; 97-18.2; 97-26(i); 97-73; 97-80; 143-291.2; 143-300	This Rule formally adopts the fees associated with filing of specifically identified documents with the Industrial Commission. The contents of this Rule have been applied by the Industrial Commission and are being formally incorporated into a rule pursuant to N.C. Sess. Law 2011-287, Section 21(c). These costs and fees have been applied uniformly to all pending claims before the Industrial Commission.	There are no likely costs or benefits related to the proposed Rule text, as the fees have been in existence prior to the rule making requirements set forth in N.C. Sess. Law 2011-287, Section 21(c). Please see attached fee report.
4 NCAC 10E .0204	ACCIDENT PREVENTION AND SAFETY EDUCATIONAL PROGRAM FEES	G.S. 97-73(d); 97-80	This Rule formally adopts the fees associated with accident prevention and safety education conducted by the Industrial Commission. The contents of this Rule have been applied by the Industrial Commission and are being formally incorporated into a rule pursuant to N.C. Sess. Law 2011-287, Section 21(c). The fees for the workshops have been applied uniformly by the Commission.	There are no likely costs or benefits related to the proposed Rule text, as the fees have been in existence prior to the rule making requirements set forth in N.C. Sess. Law 2011-287, Section 21(c). Please see attached fee

				report.
4 NCAC 10E .0301	SUSPENSION OF RULES	G.S. 97-25.2; 97-25.4; 97-80; 130A-425(d); 143-166.4; 143-296; 143-300	This Rule is being adopted for this Subchapter and provides uniformity with Industrial Commission Rules in other Subchapters of the NCAC. This Rule establishes the applicable standard for the Commission regarding the waiver of any Rule in this Subchapter.	None.
4 NCAC 10E .0302	SANCTIONS	G.S. 1A-1, Rule 37; G.S. 97-18; 97-25; 97-25.2; 97-25.4; 97-25.5; 97-32.2; 97-80; 97-84; 97-88(1); 130A-425(d); 143-166.4; 143-296; 143-30	This Rule is being adopted for this Subchapter and provides uniformity with Industrial Commission Rules in other Subchapters of the NCAC. This Rule establishes the applicable standard for sanctions in claims pending before the Industrial Commission.	None.

FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier III – Substantial Economic Impact

Proposed Rule Actions and Fiscal Impact

Proposed Action:	Adopt rules in accordance with G.S. 97-26(g1) in N.C. Sess. Law 2011-287 and G.S. 150B	
Impact Summary:	State Government:	No
	Local Government:	No
	Substantial Economic:	Yes
	Federal Certification:	No

- **Subchapter F** – ~~Revised Workers' Compensation Medical Fee Schedule~~ Electronic Billing Rules
  - Section .0100 – ~~Rules~~ Administration

Introduction

Pursuant to SL 2011-287, the Industrial Commission "shall adopt rules to require electronic medical billing and payment processes, to standardize the necessary medical documentation for billing adjudication, to provide for effective dates and compliance, and for further implementation of the subsection." SL 2011-287 also states that "the applicable administrative standards for code sets, identifiers, formats, and electronic transactions to be used in processing electronic medical bills… shall comply with 45 C.F.R. 162." As such, the Industrial Commission has proposed rules requiring electronic billing and setting forth the applicable standards.

The proposed rules require that carriers and medical providers use electronic billing and payment in workers' compensation claims. These rules also set forth the applicable standards for electronic medical billing transactions. In order to comply with these rules, those affected must develop and implement electronic billing and payment processes consistent with 45 C.F.R 162on or before January 1, 2014. Further, electronic medical billing transactions must be conducted using the electronic formats under 45 C.F.R. 162. While some carriers and providers currently have systems in place that would allow compliance, many do not and will have to implement a system in order to comply with these rules.

Stakeholder Input in Economic Analysis:

The Commission's analysis of the proposed electronic billing rules indicates that the economic impact will exceed the threshold of a substantial economic impact (greater than $500,000 in gross costs and benefits in a 12-month period). In reaching this conclusion, the following persons have provided information in support of this fiscal note: Conor Brockett of the North Carolina Medical Society, Tammy Banks and Alice Bynum-Gardner of the American Medical Association, Don St. Jaques and Sheri Wilson of Jopari Solutions, Inc., and Faith Howe of the International Association of Industrial Accidents Board and Commission. Lisa Wichterman, Medical Policy Specialist of Minnesota, Lisa Carney, Director of System Monitoring and Oversight of Texas and Jackie Schauer of the State of California have also been contacted in order to obtain state-specific information.

In addition, we have spoken to a number of North Carolina stakeholder companies that this rule is likely to impact in order to gain knowledge of their current practices regarding e-billing. Those companies included Liberty-Mutual, Galagher-Bassett, Chartis, Key Risk, Esis, Zurich, and Wal-mart. Many had plans to implement e-billing and were in varying stages of implementation, notwithstanding the proposed rule that will require e-billing effective March 14, 2014; only Liberty-Mutual currently has e-billing in place. It should be noted that many of the carriers are currently engaged in business in other states that will also require them to implement an e-billing system, such that any cost data cannot be isolated.

Cost Measures and Industry Data:

Medical Providers

With regard to the costs associated with e-billing for providers, Don St. Jacques, of Jopari Solutions, offered some industry-standard costs relating to e-billing offered by Jopari. The costs offered for provider services were as follows:

- Transaction charges from $0.00 to $1.00 per bill set and set-up fees from $0-$1,000 for a small practice of 1-5 providers who currently have a Practice Management System or other automation access that would upload bill and attachment files to a website
- Transaction charges from $0.00 to $1.00 per bill set and set-up fees from $0 to several thousand dollars for a medium-sized practice of 5-10 providers who currently have a Practice Management/Revenue Cycle Management Solution that can export and receive EDI files to payers
- Transaction charges from $0.00 to $1.00 per bill set and set-up fees from $0 to multiple thousands of dollars for a large practice or medical facility, providers who currently have a Practice Management/Revenue Cycle Management Solutions, Electronic Health/Medical Records system, and have a clearinghouse access. Jopari Solutions noted that large-practice or medical-facility providers "would have a sophisticated set of automation tools" which would include the above.

According to "Electronic Transaction Savings Opportunities for Physician Practices," a white paper prepared by Milliman, Inc., "a physician who currently relies on paper and telephone calls for insurance administration may be able to save more than $42,000 a year through simple steps to increase electronic transactions for operations like claims submission, referral and preauthorization requests, and

eligibility verification."[1] The paper went onto state that "although these savings may vary widely depending on practice specialty, employee productivity, existing use of technology, and other variables, these savings are significant enough to justify greater use of electronic transactions for many practices." In reaching this conclusion, Milliman analyzed information regarding claims submission, eligibility verification, referral certification, preauthorization for care, claim status, and payment posting.

In addition, Milliman found that "fully automated practices may be able to achieve significantly greater savings." In reaching this conclusion, Milliman:

- Identified the labor time and costs required to perform the tasks for both manual and electronic transactions.
- Calculated the fully loaded time cost of labor including employee salary, benefits and payroll taxes, and general and administrative overhead.
- Calculated the fully loaded cost per transaction, based on the estimated labor requirements. Electronic transaction costs included the cost of transaction fees and a 12-month amortization of set-up costs.
- Adjusted cost based on inflation factors to account for any differences in time between source data and the present.

In analyzing the results, Milliman estimated a savings range from 50% to 90% depending on the difficulty of the transaction. They determined that the average annual cost for transactions being performed manually was approximately $70,000 while the cost for performing transactions electronically was approximately $28,000 resulting in an approximate $42,000 savings. Milliman also identified other benefits such as a reduction in claim rejections and the subsequent need to resubmit claims multiple times, improvement in cash flow, a quicker payment of claims resulting in a reduction of accounts receivable days, and a reduction of staff telephone time. Milliman further found that electronic billing increased the ability of physicians to easily validate patients' insurance eligibility which resulted in a decrease in "bad debt." According to estimates by Milliman, the following chart reflects the savings to a typical one-provider practice:

[1] Milliman, Inc., "Electronic Transaction Savings Opportunities for Physician Practices." *Technology and Operations Solutions*. Revised: Jan. 2006. http://www.emdeon.com/resourcepdfs/MillimanEDIBenefits.pdf

Table 1: Summary of Typical Transaction Costs for a One-Provider Practice

	Manual Cost	Electronic Cost	Savings/ Transaction	Transactions Per Year	Estimated Annual Savings
Claims	$6.63	$2.90	$3.73	6,200	$23,124
Eligibility Verification	$3.70	$0.74	$2.95	1,250	$3,693
Referrals	$8.30	$2.07	$6.22	1,000	$6,223
Preauthorization	$10.78	$2.07	$8.71	100	$871
Payment Posting	$2.98	$1.48	$1.49	4,340	$6,457
Claim Status	$3.70	$0.37	$3.33	620	$2,066
Total					$42,433

Source: Milliman, 2006.

The following table reflects a summary of the costs and benefits for North Carolina healthcare providers, in millions, associated with implementing electronic billing. (See Statewide Costs and Benefits section and/or Appendix 2 for calculation details.)

Table 2: Summary of Costs and Benefits for Providers

	2014	2015	2016	2017	2018	2019
Costs	$3.10	$2.63	$2.74	$2.85	$2.96	$3.08
Net Present Value (Costs)	$13.8					
Benefits	$8.11	$8.09	$8.42	$8.75	$9.10	$9.47
Net Present Value (Benefits)	$41.0					
Net	$5.01	$5.46	$5.68	$5.91	$6.14	$6.39
Gross	$11.21	$10.72	$11.15	$11.60	$12.06	$12.55
NPV (Net)	$27.2					

* All dollar amounts in millions; net present value calculations use a discount rate of 7 percent.

Medical Payers:

Although we were unable to obtain costs relating to payers from the companies that we spoke to, as the information is proprietary, Jopari Solutions offered some additional costs relating to e-billing. The costs offered for payer services were as follows:

- Transaction charges would be $0.50-$2.50 per bill set, and set-up fees could be $500-$1,000 at the low end and $25,000 to $50,000 at the high end, depending upon the level of sophistication and number of points of integration needed. A typical payer would utilize a Bill Review System that is enabled to receive e-bill transactions.
- Another option for payers would be to take the approach of receiving e-bills at a portal, printing them out, re-keying, or scanning them in, and then entering the information on a portal. If a payer elected this option, the transaction fees would be in the $0.50 to $2.50 range and set up would be $500-$1,000.

With regard to healthcare payers, Milliman's "Electronic Transactions Between Payers and Providers: Pathways to Administrative Cost Reductions in Health Insurance," estimated that

> for an average healthcare plan with 500,000 commercial members, using standard electronic transactions to communicate with providers, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), could result in annual administrative savings of over $23 million. When extrapolated to the entire U.S. healthcare payor market, this represents up to $19 billion in possible administrative savings annually over manual transactions if all transactions were conducted electronically. [2]

The following chart, as prepared by Milliman, reflects the estimated savings to a large health-care payer:

Table 3: Summary of Typical Transaction Costs for a Large Health Plan

	Manual Cost	Electronic Cost	Savings/ Transaction	Transactions Per Year	Estimated Annual Savings
Claims	$2.20	$1.14	$1.06	7,000,000	$7,420,000
Eligibility Verification	$3.19	$0.75	$2.44	3,000,000	$7,220,000
Referrals/ Preauthorization	$2.54	$1.04	$1.50	1,300,000	$1,950,000
Remittance Advice / EOP	$0.81	$0.38	$0.43	2,800,000	$1,204,000
Claim Status	$3.19	$0.38	$2.81	1,900,000	$5,339,000
Total				16,000,000	$23,233,000

Source: Milliman, 2010.

In addition to the above estimations, this report cited the Federal Register, 65 Fed. Reg. 50351, as stating "the Department of Health and Human Services (DHHS) estimated that as a result of greater adoption of electronic transactions '[t]he total net savings for the period 2002-2011 will be… $13.1 billion for health plans, and… $16.7 billion for healthcare providers.'"

The following table reflects a summary of the costs and benefits for payers, in millions, associated with implementing electronic billing. (See Statewide Costs and Benefits section and/or Appendix 2 for calculation details.)

[2] John Phelan and Andrew Naugle. "Electronic Transactions Between Payors and Providers: Pathways to Administrative Cost Reductions in Health Insurance" (Seattle: Milliman, Inc., 2010): 1–17 http://www.navinet.net/files/navinet/Milliman_report.pdf

Table 4: Summary of Costs and Benefits for Payers

	2014	2015	2016	2017	2018	2019
Costs	$2.89	$1.89	$1.96	$2.04	$2.12	$2.21
Net Present Value (Costs)	$10.5					
Benefits	$7.12	$6.75	$7.02	$7.30	$7.59	$7.90
Net Present Value (Benefits)	$34.5					
Net	$4.23	$4.86	$5.05	$5.26	$5.47	$5.69
Gross	$10.01	$8.64	$8.98	$9.34	$9.72	$10.10
NPV (Net)	$24.0					

* All dollar amounts in millions; net present value calculations use a discount rate of 7 percent.

When compared to health-care providers, health-care payers and health insurers may expect a greater impact on their operations from e-billing, as conducting transactions is a core function in that they are responsible for receiving funds from individuals and organizations and dispersing them to medical providers. This would represent a much smaller amount of claims for workers' compensation purposes. The data provided above is based on total group health numbers.

Statewide Costs and Benefits:

To generate an estimate of the costs and benefits of the proposed rules for affected parties in North Carolina, the Commission attempted to use the best-available information to extrapolate the per transaction costs calculated by Milliman to an estimate of the number of workers' compensation medical transactions in North Carolina. (For additional details on calculations and key assumptions, see Appendix 2.)

A supplement to the regulatory impact analysis for Version 5010 of 45 CFR Part 162 Health Insurance Reform published by Gartner, Inc.,[3] included national projections for the number of hospital and physician claims through 2019. To estimate the number of hospital and physician claims in North Carolina for years 2014 through 2019, the Commission assumed that the number of transactions in North Carolina would be proportional to the state's share of national health expenditures on hospital and physician services (approximately 2.7 percent in 2009).[4] To then estimate the share of physician and hospital claims in North Carolina related to workers' compensation claims, the Commission used the proportion of Oregon's total healthcare expenditures associated with workers' compensation claims

[3] 45 CFR Part 162 Health Insurance Reform: Modifications to the Health Insurance Portability and Accountability Act (HIPAA) Electronic Transaction Standards," Version 5010 Regulatory Impact Analysis – Supplement. September, 2008, Gartner, Inc. https://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/TransactionCodeSetsStands/downloads/5010RegulatoryImpactAnalysisSupplement.pdf

[4] Kaiser Family Foundation; Statehealthfacts.org, "North Carolina: Distribution of Health Care Expenditures by Service by State of Residence (in millions), 2009."

(approximately 1.3 percent in 2009). [5] (Oregon is one of the only states with sufficient publicly available data to perform this calculation.)

Table 5: Projected Hospital & Physician Claims, with North Carolina Workers' Compensation Estimates

Total Hospital & Physician Claims - US (millions)						
	2014	2015	2016	2017	2018	2019
Low	4,659	4,845	5,039	5,240	5,450	5,668
High	6,057	6,299	6,552	6,813	7,086	7,370
Total Hospital & Physician Claims – North Carolina (millions)						
	2014	2015	2016	2017	2018	2019
Low	124	129	134	139	145	151
High	161	167	174	181	188	196
Total Hospital & Physician Claims – North Carolina - Workers' Compensation Only (millions)						
	2014	2015	2016	2017	2018	2019
Low	1.6	1.7	1.8	1.8	1.9	2.0
High	2.1	2.2	2.3	2.4	2.5	2.6

Sources: See footnotes 3, 4, and 5.

In the cost and benefit calculations, quantified costs to providers and payers are inclusive of all transaction costs, including set-up costs and recurring costs, related to future electronic billing transactions that would likely have been undertaken as manual transactions in the absence of the proposed rules. Quantified benefits include the transaction costs associated with manual transactions that likely would have taken place in future years but for the adoption of the proposed rules. In short, the costs quantified in this analysis are new costs associated with electronic transactions, and the benefits quantified in this analysis are cost savings associated with eliminating costs associated with manual transactions.

Furthermore, although the requirement to use electronic billing for workers' compensation transactions will almost certainly affect regulated parties' other billing transactions, the costs and benefits included here focus only on medical bills related to workers' compensation claims.

To estimate the statewide costs and benefits of the proposed requirement to use electronic billing transactions and payments in accordance with 45 CFR Part 162, the Commission employed the steps outlined below:

Costs

1. Multiply the average of the annual projections for total physician and hospital claims by the per transaction costs for electronic claims in the 2006 Milliman report (*Electronic Transaction Savings Opportunities for Physician Practices).*

[5] Oregon Department of Consumer and Business Services, "Workers' compensation medical system costs and trends," September 2010.
http://www.cbs.state.or.us/external/wcd/rdrs/mac/MLAC_Presentation_Outline_9_20_10.pdf

2. Repeat this calculation for the other types of transactions, multiplying by the ratio of claims transactions to each other transaction type (e.g. eligibility verifications, payments) in the 2006 Milliman report.
3. For years after 2014, include an adjustment for the proportion of healthcare providers newly impacted by the workers' compensation rules and an adjustment for the proportion of costs expected to be recurring costs (for healthcare providers not newly impacted by the rules), as the Milliman-estimated transaction costs include a 12-month amortization of the set-up costs for electronic transactions.
4. Multiply the result by the proportion of each type of transaction completed manually, as reported by the US Healthcare Efficiency Index or (in the case of electronic payments) by the regulatory impact analysis for 45 CFR Parts 160 and 162 Administrative Simplification: Adoption of Standards for Health Care Electronic Funds Transfers (EFTs) and Remittance Advice; Interim Final Rule.[6]

Benefits

1. Multiply the average of the annual projections for total physician and hospital claims by the per transaction costs for manual claims in the 2006 Milliman report (*Electronic Transaction Savings Opportunities for Physician Practices).*
2. Repeat this calculation for the other types of transactions, multiplying by the ratio of claims transactions to each other transaction type (e.g. eligibility verifications, payments) in the 2006 Milliman report.
3. For years after 2014, include an adjustment for the proportion of healthcare providers newly impacted by the workers' compensation rules and an adjustment for the proportion of costs expected to be recurring costs (for healthcare providers not newly impacted by the rules), as the Milliman-estimated transaction costs include a 12-month amortization of the set-up costs for electronic transactions.
4. Multiply the result by the proportion of each type of transaction completed manually, as reported by the US Healthcare Efficiency Index or (in the case of electronic payments) by the regulatory impact analysis for 45 CFR Parts 160 and 162 Administrative Simplification: Adoption of Standards for Health Care Electronic Funds Transfers (EFTs) and Remittance Advice; Interim Final Rule.

For payers, the cost and benefit calculations are very similar to those for providers outlined above. The key differences are 1) the estimates for the manual and electronic transaction costs are taken from the 2010 Milliman report, "Electronic Transactions Between Payors and Providers: Pathways to Administrative Cost Reductions in Health Insurance," and 2) the calculation assumes all payers affected by the proposed rules will implement electronic billing in 2014. Thus, unlike for providers, step 3 of the cost calculation does not include an adjustment for newly affected entities in years after 2014.

Appendix 2 includes more information about the specific assumptions underlying the cost and benefit calculations for providers and payers.

[6] 45 CFR Parts 160 and 162 Administrative Simplification: Adoption of Standards for Health Care Electronic Funds Transfers (EFTs) and Remittance Advice; Interim Final Rule. Federal Register / Vol. 77, No. 6 / Tuesday, January 10, 2012. http://www.gpo.gov/fdsys/pkg/FR-2012-01-10/pdf/2012-132.pdf

Summary Table of Costs and Benefits:

The following table outlines the estimated costs and benefits for years 2014 – 2019:

Table 6: Summary of Costs and Benefits for Payers and Providers, Primary Scenario

	2014	2015	2016	2017	2018	2019
Costs	$ 6.0	$ 4.5	$ 4.7	$ 4.9	$ 5.1	$ 5.3
Net Present Value (Costs)	$24.3					
Benefits	$ 15.2	$ 14.8	$ 15.4	$ 16.1	$ 16.7	$ 17.4
Net Present Value (Benefits)	$75.5					
Net	$ 9.2	$ 10.3	$ 10.7	$ 11.2	$ 11.6	$ 12.1
Gross	$ 21.2	$ 19.4	$ 20.1	$ 20.9	$ 21.8	$ 22.6
NPV (Net)	$51.3					

* All dollar amounts in millions; net present value calculations use a discount rate of 7 percent.

E-billing Requirements of Other States:

According to Tammy Banks of the American Medical Association (AMA) and Sherry Wilson of Jopari, California, Minnesota, and Texas currently have legislation in place that requires e-billing. Georgia, Louisiana, and New Jersey have pending legislation regarding e-billing requirements in workers' compensation cases. Colorado, Connecticut, Delaware, Florida, Illinois, Kentucky, Nebraska, New Hampshire, New Jersey, Oregon, South Carolina, and Tennessee are all in the process of discussing and exploring implementation requirements of e-billing. It is very likely that the majority of insurers being affected by the Commission's current proposed rule change will also be affected by e-billing requirements of other states, as the majority of them do business in multiple states. We have been unable to obtain fiscal information from other states that would be applicable to the proposed rule change.

In sum, while it is likely that there will be substantial up-front costs for many of those affected by this rule, there will also be significant benefits resulting from reduced transaction costs and improved ability to receive payment. It is also likely to result in an increase of productivity, accuracy, and efficiency.

Risk Analysis:

Computing the costs and benefits of the proposed rules entailed making a significant number of assumptions, many of which are detailed in Appendix 2. One major assumption included in the primary scenario is that the proportion of transactions occurring electronically, independent of the proposed rules, would be the same in all years. The following table reflects an alternative assumption where the share of electronic transactions gradually increases over time, independent of the proposed rule change.

Table 7: Alternative Assumptions for Risk Scenario #1

Risk Scenario #1: Proportion of Medical Transactions Conducted Electronically						
	2014	2015	2016	2017	2018	2019
Claims	0.85	0.87	0.89	0.91	0.93	0.95
Eligibility Verifications	0.40	0.43	0.46	0.49	0.52	0.55
Referrals	0.43	0.46	0.49	0.52	0.55	0.58
Preauthorization	0.43	0.46	0.49	0.52	0.55	0.58
Payment	0.15	0.20	0.25	0.30	0.35	0.40
Claim Status	0.40	0.43	0.46	0.49	0.52	0.55
Remittance Advice/EOP	0.46	0.49	0.52	0.55	0.58	0.61

* Proportions in 2014 reflect assumptions for all years in primary cost/benefit scenario

Under Risk Scenario #1, future costs and benefits are each significantly lower than under the primary scenario, and the net present value is nearly one-fifth lower. The following table reflects the cost/benefit outcome for Risk Scenario #1.

Table 8: Summary of Costs and Benefits for Payers and Providers, Risk Scenario #1

Risk Scenario #1: Electronic transactions increase over time independent of the proposed rules						
	2014	2015	2016	2017	2018	2019
Costs	$ 6.0	$ 4.2	$ 4.0	$ 3.8	$ 3.6	$ 3.3
NPV (Costs)	$20.2					
Benefits	$ 15.2	$ 13.8	$ 13.3	$ 12.7	$ 12.1	$ 11.3
NPV (Benefits)	$63.0					
Net	$ 9.2	$ 9.6	$ 9.3	$ 8.9	$ 8.5	$ 8.0
Gross	$ 21.2	$ 18.0	$ 17.3	$ 16.5	$ 15.6	$ 14.7
NPV (Net)	$42.8					

* All dollar amounts in millions; net present value calculations use a discount rate of 7 percent.

Another assumption underlying the primary scenario cost/benefit calculation is that per transaction costs for manual and electronic billing are similar to those in the Milliman reports. The following table reflects the cost/benefit outcome if, in addition to the alternative assumption in Risk Scenario #1, the calculations include an assumption that the actual manual costs are only 85 percent of those costs reported by Milliman. The practical effect of this change in assumptions is to reduce the gross benefits by 15 percent.

Table 9: Summary of Costs and Benefits for Payers and Providers, Risk Scenario #2

Risk Scenario #2: Scenario #1 AND actual average costs of manual transactions for providers and payers are only 85% of the Milliman estimates.						
	2014	2015	2016	2017	2018	2019
Costs	$ 6.0	$ 4.2	$ 4.0	$ 3.8	$ 3.6	$ 3.3
NPV (Costs)	$20.2					
Benefits	$ 13.2	$ 12.0	$ 11.5	$ 11.0	$ 10.5	$ 9.8
NPV (Benefits)	$54.7					
Net	$ 7.2	$ 7.8	$ 7.5	$ 7.2	$ 6.9	$ 6.5
Gross	$ 19.2	$ 16.2	$ 15.5	$ 14.8	$ 14.0	$ 13.2
NPV (Net)	$34.5					

* All dollar amounts in millions; net present value calculations use a discount rate of 7 percent.

Even when applying alternative assumptions where the share of electronic transactions gradually increases over time independent of the proposed rules and the manual costs (i.e. gross benefits) are not as high as previously analyzed, the benefits still significantly outweigh the costs.

Alternatives:

Pursuant to SL 2011-287, the Industrial Commission "shall adopt rules to require electronic medical billing and payment processes" that comply with 45 C.F.R 162. As such, alternatives available to the Industrial Commission regarding these rules are limited. Two alternatives identified by the Industrial Commission are 1) requiring compliance with these rules prior to March 14, 2014 and 2) requiring compliance with these rules after March 14, 2014.

Adjusting the effective date to require implementation of electronic billing prior to January 1, 2014 would shorten the amount of time that payers and providers have to comply with these rules. It is possible that this could cause significant financial impact to those affected without providing them sufficient time to plan for the additional up-front costs. The current effective date allows the parties sufficient time to plan and implement any necessary changes in order to comply with these rules.

Adjusting the effective date to require implementation of electronic billing after January 1, 2014 would lengthen the amount of time that payers and providers have to comply with these rules. A later effective date could cause providers, payers, and the Industrial Commission to spend additional time, resources, and money on manual processes. As discussed above, while there will be some up-front costs for the majority of those affected by these rules, the long-term savings for providers, payers, and the Industrial Commission will substantially outweigh those costs.

After careful consideration of the impact upon the parties affected, the Industrial Commission has proposed an effective date of January 1, 2014. This date provides providers and payers sufficient time to enact the requirements in their operations without unduly delaying compliance with the requirements set forth by SL 2011-287.

Appendix 1: Summary of Proposed Rule Changes

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change
4 NCAC 10F .0101	ELECTRONIC MEDICAL BILLING AND PAYMENT REQUIREMENT	G.S. 97-26(g)(1); G.S. 97-80	This rule addresses specifically the codification of G.S. 97-26(g1) in N.C. Sess. Law 2011-287. The goal of this rule and of G.S. 97-26(g1) is to provide efficient communication standards between medical providers and carriers or third party administrators in workers' compensation claims. This rule requires medical providers and carriers or third party administrators to develop and implement electronic medical and billing processes consistent with 45 C.F.R. 162. This rule is being adopted in accordance with G.S. 97-26(g1) in N.C. Sess. Law 2011-287.
4 NCAC 10F .0102	~~MEDICAL FEE SCHEDULE~~ DEFINITIONS	G.S. 97-26(g1); 97-80	This rule defines the terms most commonly used for electronic transactions in workers' compensation claims.
4 NCAC 10F .0103	~~BACKGROUND~~ FORMATS FOR ELECTRONIC MEDICAL BILL PROCESSING	G.S. 97-26(g1); 97-80	This rule provides notification of when administrative simplification standards will apply under 45 C.F.R. § 162. This rule is being adopted in accordance with IAIABC industry standards. The electronic formats being adopted are in accordance with 45 C.F.R. § 162 and must be implemented on or before March 1, 2014.
4 NCAC 10F .0104	BILLING CODE SETS	G.S. 97-26(g1); 97-80	This rule defines the code sets used for electronic transactions in workers' compensation claims.
4 NCAC 10F .0105	ELECTRONIC MEDICAL BILLING, REIMBURSEMENT, AND DOCUMENTATION	G.S. 97-26(g1); 97-80	This rule defines the standards for medical billing and the necessary documentation for electronic billing in pending workers' compensation.
4 NCAC 10F .0106	EMPLOYER, INSURANCE CARRIER, MANAGED CARE ORGANIZATION, OR AGENTS' RECEIPT OF MEDICAL BILLS FROM HEALTH-CARE PROVIDERS	G.S. 97-26(g1); 97-80	This rule provides detailed information concerning a payer's receipt of medical bills, communication between the payer and the medical provider regarding medical bills, and payment of medical bills in accordance with G.S. 97-26(g1) which requires the Commission to adopt "administrative standards for code sets, identifiers, formats, and electronic transactions to be used in processing electronic medical bills" that complies with 45 C.F.R. § 162.
4 NCAC 10F .0107	COMMUNICATION BETWEEN HEALTH-CARE PROVIDERS AND PAYERS	G.S. 97-26(g1); 97-80	This rule provides standards for communication regarding electronic transactions in pending workers' compensation claims.

4 NCAC 10F .0108	SANCTIONS	G.S. 1A-1; Rule 37; 97-26(g1); 97-80	This rule provides uniformity with Industrial Commission rules and establishes the Commission's ability to impose sanctions for noncompliance with the rules of this Subchapter.
4 NCAC 10F .0109	EFFECTIVE DATE	G.S. 97-26(g1); 97-80	This rule provides the effective date for electronic transactions in pending workers' compensation claims.

Appendix 2: Details of Cost and Benefit Calculations and Underlying Assumptions

Detailed Cost and Benefit Tables for Healthcare Providers

Costs (millions) - Hospitals	2014	2015	2016	2017	2018	2019
Claims	$ 0.17	$ 0.16	$ 0.17	$ 0.18	$ 0.18	$ 0.19
Eligibility Verifications	$ 0.04	$ 0.03	$ 0.03	$ 0.04	$ 0.04	$ 0.04
Referrals	$ 0.05	$ 0.07	$ 0.07	$ 0.08	$ 0.08	$ 0.08
Preauthorization	$ 0.01	$ 0.01	$ 0.01	$ 0.01	$ 0.01	$ 0.01
Payment	$ 0.35	$ 0.27	$ 0.29	$ 0.30	$ 0.31	$ 0.32
Claim Status	$ 0.04	$ 0.01	$ 0.01	$ 0.01	$ 0.01	$ 0.01
Total	$ 0.66	$ 0.56	$ 0.58	$ 0.60	$ 0.63	$ 0.65

Costs (millions) - Physicians	2014	2015	2016	2017	2018	2019
Claims	$ 0.65	$ 0.61	$ 0.63	$ 0.66	$ 0.68	$ 0.71
Eligibility Verifications	$ 0.13	$ 0.12	$ 0.13	$ 0.13	$ 0.14	$ 0.15
Referrals	$ 0.20	$ 0.26	$ 0.28	$ 0.29	$ 0.30	$ 0.31
Preauthorization	$ 0.02	$ 0.03	$ 0.03	$ 0.03	$ 0.03	$ 0.03
Payment	$ 1.31	$ 1.02	$ 1.06	$ 1.10	$ 1.15	$ 1.20
Claim Status	$ 0.13	$ 0.03	$ 0.03	$ 0.03	$ 0.03	$ 0.04
Total	$ 2.44	$ 2.07	$ 2.16	$ 2.24	$ 2.33	$ 2.43

Benefits (millions) - Hospitals	2014	2015	2016	2017	2018	2019
Claims	$ 0.40	$ 0.41	$ 0.43	$ 0.45	$ 0.46	$ 0.48
Eligibility Verifications	$ 0.18	$ 0.19	$ 0.19	$ 0.20	$ 0.21	$ 0.22
Referrals	$ 0.30	$ 0.32	$ 0.33	$ 0.34	$ 0.36	$ 0.37
Preauthorization	$ 0.04	$ 0.04	$ 0.04	$ 0.04	$ 0.05	$ 0.05
Payment	$ 0.71	$ 0.74	$ 0.77	$ 0.80	$ 0.83	$ 0.86
Claim Status	$ 0.09	$ 0.09	$ 0.10	$ 0.10	$ 0.10	$ 0.11
Total	$ 1.72	$ 1.78	$ 1.86	$ 1.93	$ 2.01	$ 2.09

Benefits (millions) - Physicians	2014	2015	2016	2017	2018	2019
Claims	$ 1.48	$ 1.54	$ 1.60	$ 1.66	$ 1.73	$ 1.80
Eligibility Verifications	$ 0.67	$ 0.69	$ 0.72	$ 0.75	$ 0.78	$ 0.81
Referrals	$ 1.13	$ 1.18	$ 1.23	$ 1.28	$ 1.33	$ 1.38
Preauthorization	$ 0.15	$ 0.15	$ 0.16	$ 0.17	$ 0.17	$ 0.18
Payment	$ 2.64	$ 2.74	$ 2.85	$ 2.97	$ 3.09	$ 3.21
Claim Status	$ 0.33	$ 0.34	$ 0.36	$ 0.37	$ 0.39	$ 0.40
Total	$ 6.39	$ 6.31	$ 6.56	$ 6.82	$ 7.09	$ 7.38

Claims & Healthcare Provider Calculation Ratios

Hospital Services: NC/US	2.8%
Source: Kaiser Family Foundation; Statehealthfacts.org	
Physician Services: NC/US	2.6%
Source: Kaiser Family Foundation; Statehealthfacts.org	
Workers' Compensation Healthcare Services: WC/Total	1.3%
Source: Department of Consumer and Business Services, OR Workers' compensation medical system costs and trends, September 2010	
Share of providers in calculation newly affected by proposed rules after 2014	0.5
Eligibility Verifications/Claim	0.20
Referrals/Claim	0.16
Preauthorizations/Claim	0.02
Payments/Claim	0.70
Claim Status Inquiries/Claim	0.10
Source: "Electronic Transaction Savings Opportunities for Physician Practices," Milliman, January 2006	
Share of initial-year costs that recurring (Payments)	0.5
Share of initial-year costs that recurring (Other)	0.8

Detailed Cost and Benefit Tables for Payers

Costs (millions) - Payers	2014	2015	2016	2017	2018	2019
Claims	$ 0.17	$ 0.16	$ 0.17	$ 0.18	$ 0.18	$ 0.19
Eligibility Verifications	$ 0.04	$ 0.03	$ 0.03	$ 0.04	$ 0.04	$ 0.04
Referrals/Preauthorization	$ 0.05	$ 0.07	$ 0.07	$ 0.08	$ 0.08	$ 0.08
Remittance Advice/EOP	$ 0.01	$ 0.01	$ 0.01	$ 0.01	$ 0.01	$ 0.01
Claim Status	$ 0.35	$ 0.27	$ 0.29	$ 0.30	$ 0.31	$ 0.32
Payment	$ 0.04	$ 0.01	$ 0.01	$ 0.01	$ 0.01	$ 0.01
Total	$ 0.66	$ 0.56	$ 0.58	$ 0.60	$ 0.63	$ 0.65
Benefits (millions) - Payers	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**
Claims	$ 0.65	$ 0.61	$ 0.63	$ 0.66	$ 0.68	$ 0.71
Eligibility Verifications	$ 0.13	$ 0.12	$ 0.13	$ 0.13	$ 0.14	$ 0.15
Referrals/Preauthorization	$ 0.20	$ 0.26	$ 0.28	$ 0.29	$ 0.30	$ 0.31
Remittance Advice/EOP	$ 0.02	$ 0.03	$ 0.03	$ 0.03	$ 0.03	$ 0.03
Claim Status	$ 1.31	$ 1.02	$ 1.06	$ 1.10	$ 1.15	$ 1.20
Payment	$ 0.13	$ 0.03	$ 0.03	$ 0.03	$ 0.03	$ 0.04
Total	$ 2.44	$ 2.07	$ 2.16	$ 2.24	$ 2.33	$ 2.43

Provider Calculation Ratios

Eligibility Verifications/Claim	0.19
Referrals & Pre-authorizations/Claim	0.43
Remittance Advice Inquiries & EOPs/Claim	0.40
Claim Status Inquiries/Claim	0.27
Payments/Claim	0.70

Source: Electronic Transactions Between Payors and Providers: Pathways to Administrative Cost Reductions in Health Insurance, Milliman, May 2010

Share of initial-year costs that recurring (Payments)	0.5
Share of initial-year costs that recurring (Other)	0.8

Key Assumptions Underlying Calculations

Assumption #1	Supporting Source
Per transaction costs for manual and electronic billing transactions cited in Milliman reports are similar to expected average costs for affected entities (providers & payers).	Electronic Transaction Savings Opportunities for Physician Practices, Milliman, January 2006; Electronic Transactions Between Payors and Providers: Pathways to Administrative Cost Reductions in Health Insurance, Milliman, May 2010
Assumption #2	
The proportion of US billing transactions occurring in North Carolina is roughly equal to the state's proportion of national health care expenditures for hospital and physician services.	Version 5010 Regulatory Impact Analysis – Supplement September, 2008, Gartner, Inc.; Kaiser Family Foundation; Statehealthfacts.org
Assumption #3	
The proportion of North Carolina billing transactions that are related to workers' compensation claims is roughly equal to the proportion of workers' compensation medical expenditures relative to total expenditures in Oregon (one state with sufficient data).	Department of Consumer and Business Services, OR Workers' compensation medical system costs and trends, September 2010
Assumption #4	
Billing transaction ratios (relative to claims) in the Milliman reports are representative of the averages for payers and providers.	Electronic Transaction Savings Opportunities for Physician Practices, Milliman, January 2006; Electronic Transactions Between Payors and Providers: Pathways to Administrative Cost Reductions in Health Insurance, Milliman, May 2010
Assumption #5	
With the exception of payments, recurring costs are assumed to be 80% of the first-year costs reported by Milliman (first-year costs include 12-month amortization of set-up costs).	Electronic Transaction Savings Opportunities for Physician Practices, Milliman, January 2006; Electronic Transactions Between Payors and Providers: Pathways to Administrative Cost Reductions in Health Insurance, Milliman, May 2010
Assumption #6	
For payments, recurring costs are assumed to be 50% of the first-year costs reported by Milliman (first-year costs include 12-month amortization of set-up costs).	Federal Register / Vol. 77, No. 6 / Tuesday, January 10, 2012.
Assumption #7	

Per transaction costs for payment posting is assumed to be the same for payers as for providers (Milliman report on payers did not include payment posting).	Electronic Transaction Savings Opportunities for Physician Practices, Milliman, January 2006; Electronic Transactions Between Payors and Providers: Pathways to Administrative Cost Reductions in Health Insurance, Milliman, May 2010
Assumption #8	
After the first year of implementation, half of affected providers are assumed to have already implemented electronic transactions due to workers' compensation transactions in prior years.	
Assumption #9	
The proportion of all transactions that are already conducted electronically, now and in future years, is presumed to be the same as measured by the US Heathcare Efficiency Index and (for payments) Federal Register Volume 77, No. 6.	US Healthcare Efficiency Index, http://www.ushealthcareindex.org/; Federal Register / Vol. 77, No. 6 / Tuesday, January 10, 2012.
Assumption #10	
In cases where there is no measure for the proportion of all transactions that are already conducted electronically, the proportion is presumed to be the same as the overall US Heathcare Efficiency Index.	US Healthcare Efficiency Index, http://www.ushealthcareindex.org/
Assumption #11	
Given the uncertainty regarding future relative cost changes for manual versus electronic transactions, inflation for each is assumed to be zero.	
Assumption #12	
Although the requirement to use electronic billing for workers' compensation transactions will almost certainly affect regulated parties' other billing transactions, the costs and benefits included here focus only on bills related to workers' compensation claims.	
Assumption #13	
Although the Milliman reports focused only on the per transaction costs for a solo-practice physician and for a large health plan, those per transaction costs are presumed to be representative of the average costs for all providers and payers, respectively.	

Appendix 3: Text of Proposed Rules

4 NCAC 10F .0101 is proposed for amendment as follows:

SUBCHAPTER 10F – ~~REVISED WORKERS' COMPENSATION MEDICAL FEE SCHEDULE~~ ELECTRONIC BILLING RULES

SECTION .0100 – ~~RULES~~ ADMINISTRATION

4 NCAC 10F .0101 ELECTRONIC MEDICAL BILLING AND PAYMENT REQUIREMENT

Carriers and medical providers shall utilize electronic billing and payment in workers' compensation claims. Carriers and medical providers shall develop and implement electronic billing and payment processes consistent with 45 CFR 162. Carriers and medical providers shall comply with this Rule on or before January 1, 2014. 45 CFR 162 is hereby incorporated by reference and includes subsequent amendments and editions. A copy may be obtained at no charge from the National Archives and Records Administration's website, http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title45/45cfr162_main_02.tpl, or upon request, at the offices of the Commission, located in the Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, between the hours of 8:00 a.m. and 5:00 p.m.

History Note: *Authority* G.S. 97-26(g1); 97-80;
Eff. January 1, 2013.

4 NCAC 10F .0102 is proposed for amendment as follows:

4 NCAC 10F .0102 ~~MEDICAL FEE SCHEDULE~~ DEFINITIONS

~~a) The Revised Medical Fee Schedule is being published for the Commission by Medicode, Inc., of Salt Lake City, Utah, and is expected to be available prior to the effective date of January 1, 1996.~~

~~(b) In developing the 1996 Revised Medical Fee Schedule (hereafter, the 1996 Fee Schedule) the Commission has made the following determinations:~~

~~(1) The medical fees should be based on the 1995 CPT codes adopted by the American Medical Association with values based on a Resource Based Relative Value System (RBRVS).~~

~~(2) CPT codes for General Medicine will be based on North Carolina 1995 Medicare values multiplied by 1.58, which the Commission believes would leave the General Medicine charges as a whole at roughly the same level as in the Commission's fee schedule that has been in effect since January 1, 1993 (hereafter, the 1993 Fee Schedule). Since the Medicare relative value codes for each procedure in the schedule are likely to be different than the codes used in the 1993 Fee Schedule, individual codes under the 1996 Fee Schedule will likely be more or less than the code for the same procedure in the 1993 Fee Schedule, but on average the charges for General Medicine will be at the same level.~~

~~(3) CPT codes for Physical Medicine will be based on North Carolina 1995 Medicare values multiplied by 1.30, which the Commission believes would be a slight decrease from the 1993 Fee Schedule. Since the Medicare relative value codes for each procedure in the schedule are likely to be different than the codes used in the 1993 Fee Schedule, individual codes under the 1996 Fee Schedule will likely be more or less than the code for the same procedure in the 1993 Fee Schedule, but on average the charges for Physical Medicine under the 1996 Fee Schedule will be slightly lower than the 1993 Fee Schedule.~~

~~(4) CPT codes for Radiology will be based on North Carolina 1995 Medicare values multiplied by 1.96, which the Commission believes would be a 20% decrease from the 1993 Fee Schedule. Since the Medicare relative value codes for each procedure in the schedule are likely to be different than the codes used in the 1993 Fee Schedule, individual codes under the 1996 Fee Schedule will likely be more or less than the code for the same procedure in the 1993 Fee Schedule, but on average the charges for Radiology under the 1996 Fee Schedule will be approximately 20% lower than the 1993 Fee Schedule.~~

~~(5) CPT codes for Surgery will be based on North Carolina 1995 Medicare values multiplied by 2.06, which the Commission believes would be an 8% decrease from the 1993 Fee Schedule. Since the Medicare relative value codes for each procedure in the schedule are likely to be different than the codes used in the 1993 Fee Schedule, individual codes under the 1996 Fee Schedule will likely be more or less than the code for the same procedure in the 1993 Fee Schedule, but on average the charges for Surgery under the 1996 Fee Schedule will be 8% lower than the 1993 Fee Schedule.~~

~~(c) As a whole, the Commission believes that the 1996 Fee Schedule will result in at least an 11% reduction in charges under that schedule.~~

~~(d) As has been the case in the past, charges under the 1996 Fee Schedule are a ceiling and if the provider usually charges a lesser fee for such services, the provider shall charge the lesser fee for cases under the Workers' Compensation Act.~~

~~(e) Also, upon request the Commission will consider greater charges than that set forth in the 1996 Revised Fee Schedule on a case-by-case basis based on the merits of extenuating circumstances proven by the provider.~~

~~(f) Treatments not covered under the 1996 Fee Schedule will be handled on a "by report" basis.~~

~~(g) The Chiropractic Fee Schedule will stay the same in 1996 as it was in 1993, as will the Dental Fee Schedule.~~

~~(h) The Commission has outsourced the publication of the 1996 Fee Schedule to Medicode, Inc., of Salt Lake City, Utah, in an effort to trim the cost of government services. Copies of the fee schedule will be available through Medicode, Inc. at a price of seventy-five dollars ($75.00), plus tax and shipping. Copies on magnetic media will be available through Medicode, Inc., at a price of two hundred ninety-five dollars ($295.00), plus tax and shipping. The magnetic media price includes one free printed copy. Medicode's address and phone number is Medicode, Inc., 5225 Wiley Post Way, Suite 500, Salt Lake City, Utah 84116, TEL: (801) 536-1000, FAX: (801) 536-1009.~~

As used in this Subchapter:

(1) "Clearinghouse" means a public or private entity, including a billing service, re-pricing company, community health management information system or community health information system, and "value-added" networks and switches, that is an agent of either the payer or the provider and that may perform the following functions:

(A) Processes or facilitates the processing of medical billing information received from a client in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction for further processing of a bill-related transaction; or

(B) Receives a standard transaction from another entity and processes or facilitates the processing of medical billing information into nonstandard format or nonstandard data content for a client entity.

(2) "Complete electronic bill" submission means a medical bill that meets all of the criteria enumerated in this Subchapter

(3) "Electronic" refers to a communication between computerized data exchange systems that complies with the standards enumerated in this Subchapter.

(4) "Implementation guide" is a published document for national electronic standard formats as defined in this Subchapter that specifies data requirements and data transaction sets.

(5) "National Provider Identification Number" or "NPI" means the unique identifier assigned to a health-care provider or health care facility by the Secretary of the United States Department of Health and Human Services.

(6) "Payer" means the insurance carrier, third-party administrator, managed care organization, or employer responsible for paying the workers' compensation medical bills.

(7) "Payer agent" here means any person or entity that performs medical bill related processes for the payer responsible for the bill. These processes include reporting to government agencies, electronic transmission, forwarding or receipt of documents, review of reports, adjudication of bill, and final payment.

History Note: *Authority* G.S. ~~97-26;~~ 97-26(g1); 97-80;
Eff. January 1, 1996
Revised Eff. March 1, 2014.

4 NCAC 10F .0103 is proposed for amendment as follows:

4 NCAC 10F .0103 ~~BACKGROUND~~ FORMATS FOR ELECTRONIC MEDICAL BILL PROCESSING

~~(a) In revising the medical fee schedule the Industrial Commission was guided by the three principles contained in its statutory mandate: setting fees adequate to ensure:~~

~~(1) that injured workers are provided the standard of services and care intended by the Workers' Compensation Act,~~

~~(2) that providers of medical services are reimbursed reasonable fees for providing these services, and~~

~~(3) that medical costs are adequately contained. G.S. 97-26.~~

~~(b) Benchmarking studies by the Workers' Compensation Research Institute of Cambridge, Massachusetts, have shown that the North Carolina Workers' Compensation 1993 Medical Fee Schedule was the third highest in the nation in 1993, and, in 1995, was the fifth highest among states having Workers' Compensation medical fee schedules. Yet those same studies indicate that two adjoining states, South Carolina and Georgia, have Workers' Compensation medical fee schedules 12 to 16% lower than North Carolina's; six states with similar costs of producing medical services have schedules 13 to 27% lower than North Carolina's; two major private payers in North Carolina have schedules that average 14% lower; and six states that have adopted Resource Based Relative Value System fee schedules have schedules that are 27 to 34% lower.~~

~~(c) The Medicare fee schedule presently in effect in North Carolina is a Resource Based Relative Value System (RBRVS) fee schedule. Comparing the 1993 North Carolina Workers' compensation medical fee schedule to the North Carolina Medicare fee schedule yields the following: Overall, the 1993 Fee Schedule is 91% greater than the 1995 Medicare schedule; general medicine is 58% greater; surgery is 124% greater; radiology is 145% greater and physical medicine is 105% greater.~~

~~(d) The Industrial Commission believes that basing the revised Workers' Compensation Medical Fee Schedule on multipliers of the North Carolina Medicare fee schedule will yield the results sought. That is, such a fee schedule will yield ready access to good medical care for North Carolina's injured workers and will result in a lower medical cost and a lower overall cost while still getting injured workers well and back to work on a timely basis.~~

~~(e) The Commission believes that the 1996 Fee Schedule will result in an overall lowering of medical fees by 11%, which will place it in line generally with what is being paid by two major private payers in North Carolina and in line generally with what is being paid in South Carolina and Georgia as well as in line generally with the six RBRVS states and the six states with similar costs of providing medical services.~~

~~(f) The multiplier of 1.58 for General Medicine leaves General Medicine at about the same level of fees under the 1996 Fee Schedule as under the 1993 Fee Schedule.~~

~~(g) The multiplier of 1.30 for Physical Medicine would yield a slight reduction. The Commission had originally proposed a multiplier of 1.60 which would have yielded rates higher than the 1993 Fee Schedule.~~

~~(h) The multiplier of 2.06 for Surgery will yield an 8% reduction. The Commission had originally proposed a multiplier of 2.02, which would have yielded a 10% reduction. The higher multiplier, and consequently the lower percentage reduction, gives recognition to the fact that the early intervention of good surgery is often what is needed for good results in difficult workers' compensation injury situations.~~

~~The 1.96 multiplier for Radiology will yield a 20% reduction in that schedule rather than the 34% reduction using a multiplier of 1.60 that the Commission had originally proposed. The change from the 1.60 multiplier to the 1.96 multiplier was made by the Commission to give recognition to the fact that the Radiology schedule got "short changed" by the Medicare RBRVS system when it was first set up and has not be rectified by the Medicare RBRVS system in the intervening years.~~

~~(i) No change was made in the chiropractic fee schedule and in the dental fee schedule for a number of reasons: the overall amount paid under these schedules is small in comparison to all medical fees, and, the charges allowed under the schedules are relatively low compared with what other licensed physicians and medical care providers are allowed, among other reasons.~~

~~(j) The Industrial Commission intends to monitor behavior resulting from changes to the medical fee schedule to determine if the changes result in problems with access to quality medical care for injured workers and to determine if savings result from the changes.~~

(a) Beginning March 1, 2014, electronic medical billing transactions shall be conducted using the electronic formats adopted under the Code of Federal Regulations, Title 45, part 162, subparts K, N, and P. Whenever a standard format is replaced with a newer standard, the most recent standard shall be used. The requirement to use a new version shall commence on the effective date of the new version as published in the Code of Federal Regulations. The Code of Federal Regulations, Title 45, part 162, subparts K, N, and P is hereby incorporated by reference and includes subsequent amendments and editions. A copy may be obtained at no charge from the Internal Revenue Service's website, http://ecfr.gpoaccess.gov, or upon request, at the offices of the Commission, located in the Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, between the hours of 8:00 a.m. and 5:00 p.m.

(b) Nothing in this Subchapter shall prohibit payers and health-care providers from using a direct data entry methodology for complying with these requirements, provided the methodology complies with the data content requirements of the adopted formats and these rules.

History Note: *Authority* G.S. ~~97-26;~~ 97-26(g1); 97-80;
Eff. January 1, 1996
Revised Eff. March 1, 2014.

4 NCAC 10F .0104 is proposed for amendment as follows:

4 NCAC 10F .0104 BILLING CODE SETS

Billing codes and modifier systems identified below are valid codes for the specified workers' compensation transactions, in addition to any code sets defined by the standards adopted in 4 NCAC 10F .0102:

(1) "CDT-4 Codes" that refers to the codes and nomenclature prescribed by the American Dental Association.

(2) "CPT-4 Codes" that refers to the procedural terminology and codes contained in the "Current Procedural Terminology, Fourth Edition," as published by the American Medical Association.

(3) "Diagnosis Related Group (DRG)" that refers to the inpatient classification scheme used by CMS for hospital inpatient reimbursement.

(4) "Healthcare Common Procedure Coding System" (HCPCS) that refers to a coding system which describes products, supplies, procedures, and health professional services and which includes CPT-4 codes, alphanumeric codes, and related modifiers.

(5) "ICD-9-CM Codes" that refers to diagnosis and procedure codes in the International Classification of Diseases, Ninth Revision, Clinical Modification published by the United States Department of Health and Human Services.

(6) "ICD-10-CM/PCS that refers to diagnosis and procedure codes in the International Classification of Diseases, Tenth Edition, Clinical Modification/Procedure Coding System.

(7) National Drug Codes (NDC) of the United States Food and Drug Administration.

(8) "Revenue Codes" that refers to the 4-digit coding system developed and maintained by the National Uniform Billing Committee for billing inpatient and outpatient hospital services, home health services, and hospice services.

(9) "National Uniform Billing Committee Codes" that refers to the code structure and instructions established for use by the National Uniform Billing Committee (NUBC).

History Note: *Authority* G.S. 97-26(g1); 97-80;
Eff. March 1, 2014.

4 NCAC 10F .0105 is proposed for amendment as follows:

4 NCAC 10F .0105 ELECTRONIC MEDICAL BILLING, REIMBURSEMENT, AND DOCUMENTATION

(a) Applicability

(1) Payers and payer agents shall:

(A) accept electronic medical bills submitted in accordance with the adopted standards;

(B) transmit acknowledgments and remittance advice in compliance with the adopted standards in response to electronically submitted medical bills; and,

(C) support methods to receive electronic documentation required for the adjudication of a bill.

(2) A health-care provider shall:

(A) exchange medical bill data in accordance with the adopted standards;

(B) submit medical bills as defined by this Rule to any payers that has established connectivity with the health-care provider system or clearinghouse;

(C) submit required documentation in accordance with Paragraph (d) of this Rule; and

(D) receive and process any acceptance or rejection acknowledgment from the payer.

(b) To be considered a complete electronic medical bill, the bill or supporting transmissions shall:

(1) be submitted in the correct billing format, with the correct billing code sets as presented in this Rule;

(2) be transmitted in compliance with the format requirements described in this Rule;

(3) include in legible text all medical reports and records, including evaluation reports, narrative reports, assessment reports, progress reports and notes, clinical notes, hospital records and diagnostic test results that are necessary for adjudication;

(4) identify the:

(A) injured employee;

(B) employer;

(C) insurance carrier, third party administrator, managed care organization or its agent;

(D) health-care provider;

(E) medical service or product;

(F) any other requirements as presented in the companion guide; and

(G) use current and valid codes and values as defined in the applicable formats defined in this Subchapter.

(c) Acknowledgment

(1) Interchange Acknowledgment (TA1) notifies the sender of the receipt of, and structural defects associated with, an incoming transaction.

(2) Implementation Acknowledgment (ASC X12 999) transaction is an electronic notification to the sender of the file that it has been received and has been:

(A) accepted as a complete and structurally correct file; or

(B) rejected with a valid rejection code.

(3) Health Care Claim Status Response (ASC X12 277) or Acknowledgment transaction (detail acknowledgment) is an electronic notification to the sender of an electronic transaction (individual electronic bill) that the transaction has been received and has been:

(A) accepted as a complete, correct submission; or

(B) rejected with a valid rejection code.

(4) A payer shall acknowledge receipt of an electronic medical bill by returning an Implementation Acknowledgment (ASC X12 999) within one day of receipt of the electronic submission.

(A) Notification of a rejected bill shall be transmitted using the appropriate acknowledgment when an electronic medical bill does not meet the definition of a complete electronic

medical bill as described in this Rule or does not meet the edits defined in the applicable implementation guide or guides.

(B) A health-care provider or its agent may not submit a duplicate electronic medical bill earlier than 60 days from the date originally submitted if a payer has acknowledged acceptance of the original complete electronic medical bill. A health-care provider or its agent may submit a corrected medical bill electronically to the payer after receiving notification of a rejection. The corrected medical bill shall be submitted as a new, original bill.

(5) A payer shall acknowledge receipt of an electronic medical bill by returning a Health Care Claim Status Response or Acknowledgment (ASC X12 277) transaction (detail acknowledgment) within two days of receipt of the electronic submission.

(A) Notification of a rejected bill is transmitted in an ASC X12N 277 response or acknowledgment when an electronic medical bill does not meet the definition of a complete electronic medical bill or does not meet the edits defined in the applicable implementation guide or guides.

(B) A health-care provider or its agent may not submit a duplicate electronic medical bill earlier than 60 days from the date originally submitted if a payer has acknowledged acceptance of the original complete electronic medical bill. A health-care provider or its agent may submit a corrected medical bill electronically to the payer after receiving notification of a rejection. The corrected medical bill shall be submitted as a new, original bill.

(6) Acceptance of a complete medical bill is not an admission of liability by the payer. A payer may subsequently reject an accepted electronic medical bill if the employer or other responsible party named on the medical bill is not legally liable for its payment.

(A) The subsequent rejection shall occur no later than seven days from the date of receipt of the complete electronic medical bill.

(B) The rejection transaction shall indicate that the reason for the rejection is due to denial of liability.

(7) Acceptance of an incomplete medical bill does not satisfy the written notice of injury requirement from an employee or payer as required in G.S. 97-22.

(8) Acceptance of a complete or incomplete medical bill by a payer does not begin the time period by which a payer shall accept or deny liability for any alleged claim related to such medical treatment pursuant to G.S. 97-18 and 4 NCAC 10A 0601.

(9) Transmission of an Implementation Acknowledgment under Subsection (c)(2) of this Rule and acceptance of a complete, structurally correct file serves as proof of the received date for an electronic medical bill in this Rule.

(d) Electronic Documentation

(1) Electronic documentation, including but not limited to medical reports and records submitted electronically that support an electronic medical bill, may be required by the payer before payment may be remitted to the health-care provider. Electronic documentation may be submitted simultaneously with the electronic medical bill.

(2) Electronic transmittal by electronic mail shall contain the following information:

(A) name of the injured employee;

(B) identification of the worker's employer, the employer's insurance carrier, or the third party administrator or its agent handling the workers' compensation claim;

(C) identification of the health-care provider billing for services to the employee, and where applicable, its agent;

(D) date(s) of service; and

(E) workers' compensation claim number assigned by the payer, if known.

(e) Electronic remittance notification

(1) An electronic remittance notification is an explanation of benefits (EOB) or explanation of review (EOR), submitted electronically regarding payment or denial of a medical bill, recoupment request, or receipt of a refund.

(2) A payer shall provide an electronic remittance notification in accordance with G.S. 97-18.

(3) The electronic remittance notification shall contain the appropriate Group Claim Adjustment Reason Codes, Claim Adjustment Reason Codes (CARC) and associated Remittance Advice Remark Codes (RARC) as specified by ASC X12 835 implementation guide or, for pharmacy charges, the National Council for Prescription Drugs Program (NCPDP) Reject Codes, denoting the reason for payment, adjustment, or denial.

(4) The remittance notification shall be sent within two days of:

(A) the expected date of receipt by the medical provider of payment from the payer; or

(B) the date the bill was rejected by the payer. If a recoupment of funds is being requested, the notification shall contain the proper code described in Subparagraph (e)(3) of this Rule and an explanation for the amount and basis of the refund.

(f) A health-care provider or its agent may not submit a duplicate paper medical bill earlier than 30 days from the date originally submitted unless the payer has returned the medical bill as incomplete in accordance with Subchapter. A health-care provider or its clearinghouse or agent may submit a corrected paper medical bill to the payer after receiving notification of the return of an incomplete medical bill. The corrected medical bill shall be submitted as a new, original bill.

(g) A payer shall establish connectivity with any clearinghouse that requests the exchange of data in accordance with this Subchapter.

(h) A payer or its agent may not reject a standard transaction on the basis that it contains data elements not needed or used by the payer or its agent.

(i) A health-care provider that does not send standard transactions shall use an internet-based direct data entry system offered by a payer if the payer does not charge a transaction fee. A health-care provider using an Internet-based direct data entry system offered by a payer or other entity shall use the appropriate data content and data condition requirements of the standard transactions.

History Note: *Authority* G.S. 97-26(g1); 97-80
Eff. March 1, 2014.

4 NCAC 10F .0106 is proposed for amendment as follows:

4 NCAC 10F .0106 EMPLOYER, INSURANCE CARRIER, MANAGED CARE ORGANIZATION, OR AGENTS' RECEIPT OF MEDICAL BILLS FROM HEALTH-CARE PROVIDERS

(a) Upon receipt of medical bills submitted in accordance with these rules, a payer shall evaluate each bill's conformance with the criteria of a complete medical bill as follows:

(1) A payer shall not return to the health-care provider medical bills that are complete, unless the bill is a duplicate bill.

(2) Within 21 days of receipt of an incomplete medical bill, a payer or its agent shall either:

(A) Complete the bill by adding missing health-care provider identification or demographic information already known to the payer; or,

(B) Return the bill to the sender, in accordance with this paragraph.

(b) The received date of an electronic medical bill is the date all of the contents of a complete electronic bill are successfully received by the claims payer.

(c) The payer may contact the medical provider to obtain the information necessary to make the bill complete as follows:

(1) Any request by the payer or its agent for additional documentation to pay a medical bill shall:

(A) be made by telephone or electronic transmission unless the information cannot be sent by those media, in which case the sender shall send the information by mail or personal delivery;

(B) be specific to the bill or the bill's related episode of care;

(C) describe with specificity the clinical and other information to be included in the response;

(D) be relevant and necessary for the resolution of the bill;

(E) be for information that is contained in or is in the process of being incorporated into the injured employee's medical or billing record maintained by the health-care provider; and

(F) indicate the reason for which the insurance carrier is requesting the information.

(2) If the payer or its agent obtains the missing information and completes the bill to the point it can be adjudicated for payment, the payer shall document the name and telephone number of the person who supplied the information.

(3) Health-care providers and payers, or their agents, shall maintain, in a reproducible format, documentation of communications related to medical bill processing.

(d) A payer shall not return a medical bill except as provided in this Rule. When returning an electronic medical bill, the payer shall identify the reason(s) for returning the bill by utilizing the appropriate Reason and Rejection Code identified in the standards identified in this Subchapter.

(e) The proper return of an incomplete medical bill in accordance with this section fulfills the obligation of the payer to provide to the health-care provider or its agent information related to the incompleteness of the bill.

(f) Payers shall timely reject bills or request additional information needed to reasonably determine the amount payable as follows:

(1) For bills submitted electronically, the rejection of all or part of the bill shall be sent to the submitter within two days of receipt.

(2) If bills are submitted in a batch transmission, only the specific bills failing edits shall be rejected.

(g) If a payer has reason to challenge the coverage or amount of a specific line item on a bill, but has no reasonable basis for objections to the remainder of the bill, the uncontested portion shall be paid timely, as required in this Rule.

(i) Payment of all uncontested portions of a complete medical bill shall be made within 30 days of receipt of the original bill, or receipt of additional information requested by the payer allowed under the law. Amounts paid after the 30 day review period shall accrue an interest penalty of 10 percent per month after the due date. The interest payment shall be made at the same time as the medical bill payment.

(j) A payer shall not return a medical bill except as provided in this Rule. When returning a medical bill, the payer shall also communicate the reason(s) for returning the bill.

History Note: *Authority* G.S. 97-18(1); 97-26(g1); 97-80;
Eff. March 1, 2014.

4 NCAC 10F .0107 is proposed for amendment as follows:

4 NCAC 10F .0107 COMMUNICATION BETWEEN HEALTH-CARE PROVIDERS AND PAYERS

(a) Any communication between the health-care provider and the payer related to medical bill processing shall be of sufficient specific detail to allow the responder to easily identify the information required to resolve the issue or question related to the medical bill. Generic statements that simply state a conclusion such as "payer improperly reduced the bill" or "health-care provider did not document" or other similar phrases with no further description of the factual basis for the sender's position do not satisfy the requirements of this Rule.

(b) When communicating with the healthcare provider, agent, or assignee, the payer may utilize the ASC X12 Reason Codes, or as appropriate, the NCPDP Reject Codes, to communicate with the health-care provider, agent, or assignee.

(c) Communication between the health care provider and payer related to medical bill processing shall be made by telephone or electronic transmission unless the information cannot be sent by those media, in which case the sender shall send the information by mail or personal delivery.

History Note: *Authority* G.S. 97-26(g1); 97-80(a);
Eff. March 1, 2014.

4 NCAC 10F .0108 is proposed for amendment as follows:

4 NCAC 10F .0108 SANCTIONS

The Commission may, on its own initiative or motion of a party, impose a sanction against a party, or attorney or both when the Commission determines that such party, or attorney, or both failed to comply with the Rules in this Subchapter. The Commission may impose sanctions of the type and in the manner prescribed by Rule 37 of the North Carolina Rules of Civil Procedure.

History Note: *Authority* G.S. 1A-1, Rule 37; 97-26(g1); 97-80;
Eff. March 1, 2014.

4 NCAC 10F .0109 is proposed for amendment as follows:

4 NCAC 10F .0109 EFFECTIVE DATE

This chapter applies to all medical services and products provided on or after March 1, 2014. For medical services and products provided prior to March 1, 2014, medical billing and processing shall be in accordance with the rules in effect at the time the health care was provided.

History Note: *Authority* G.S. 97-26(g1); 97-80
Eff. March 1, 2014.

FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier I – De Minimis

Proposed Rule Actions and Fiscal Impact

Proposed Action:	Readopt as amended	
Impact Summary:	State Government:	No
	Local Government:	No
	Substantial Economic:	No
	Federal Certification:	No

- **Subchapter G** – Commission Rules for Mediated Settlement and Neutral Evaluation Conferences
    - Section .0100 – Mediation and Settlement

Baseline for Costs and Benefits of Proposed Rules:

The rules outlined above have been in existence and establish a baseline for the fiscal analysis. These Rules track the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions per the statutory mandate contained in G.S. 97-80(c) and G.S. 143-296 that directs the Industrial Commission to adopt mediation rules that are "substantially similar to those approved by the Supreme Court for use in the Superior Court division, except the Commission shall determine the manner in which the payment of the costs of the mediation settlement conference is assessed."

The rules have been reviewed to ensure that the content is clearly written, relevant, an up-to-date with existing policy and procedures of the Commission. Any changes have been reviewed and determined to be *de minimis* by the Commission. This fiscal note includes summaries of the proposed rule changes in the table set forth below.

Public Interest:

Pursuant to Sess. Law 2011-287, the Industrial Commission will conduct all rule making in accordance with the North Carolina Administrative Procedure Act found in G.S. 150B. This process should result in public comment and involvement in the rule making process, along with ensuring that citizens of the State of North Carolina are aware of timely and accurate rules information for the Industrial Commission.

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change	Impact on State/Local/Federal Government and/or Private Sector or Substantial Economic Impact
4 NCAC 10G .0101	ORDER FOR MEDIATED SETTLEMENT CONFERENCE	G.S. 97-80; 143-293; 143-300	This rule sets out the guidelines regarding Mediated Settlement Conferences. It tracks Rule 1 of the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions and is being readopted with minor technical changes.	There is no expectation that any changes will have any fiscal impact. Specifically, the elimination of the reference to the administrative fee of up to $100.00 will not have any impact as reference to any fees is being moved to Subchapter E.
4 NCAC 10G .0102	SELECTION OF MEDIATOR	G.S. 97-80; 143-293; 143-300	This Rule establishes the guidelines for selecting a mediator. It tracks Rule 2 of the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions and is being readopted with minor technical changes.	None
4 NCAC 10G .0103	THE MEDIATED SETTLEMENT CONFERENCE	G.S. 97-80; 143-293; 143-300	This Rule establishes the procedures for a scheduling and conducting a Mediated Settlement Conference. It tracks Rule 3 of the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions and is being readopted with minor technical changes.	None
4 NCAC 10G .0104	DUTIES OF PARTIES, REPRESENTATIVES, AND ATTORNEYS	G.S. 97-80; 143-293; 143-300	This Rule establishes the duties of parties, representatives, and attorneys in mediated settlement conferences. The only relatively significant substantive change is that, in state tort claims, an employee or agent of the governmental entity or agency being sued is no longer required to attend the mediated settlement	The clarification of the Attorney General's role in mediation provides clarification in the existing Rule and will reduce litigation costs and expenses for the parties, thereby providing a

			conference because G.S. 143-295 provides the Attorney General with settlement authority on behalf of governmental entities and agencies in state tort claims. This Rule tracks Rule 4 of the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions. .	benefit. The proposed Rule would eliminate the requirement that a state employee also attend the mediation, in addition to the attorney general. As such, this may result in a savings of time and travel costs; however, insufficient information exists to quantify the potential benefits.
4 NCAC 10G .0104A	FOREIGN LANGUAGE INTERPRETERS	G.S. 97-79(b); 97-80; 143-293; 143-300	This Rule establishes the guidelines regarding the use of foreign language interpreters. This Rule is being readopted with minor technical changes.	None
4 NCAC 10G .0105	SANCTIONS	G.S. 97-80; 143-293; 143-300	This Rule provides the Commission with the ability to impose sanctions against parties that fail to attend a Mediated Settlement Conference without good cause or otherwise fail to comply with the Rules. It tracks Rule 5 of the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions. This Rule is being readopted with minor technical changes.	None
4 NCAC 10G .0106	AUTHORITIES AND DUTIES OF MEDIATORS	G.S. 97-80; 143-293; 143-300	This Rule establishes the mediator's authority and duties. It tracks Rule 6 of the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions. This Rule is being adopted with minor technical changes.	None
4 NCAC 10G .0107	COMPENSATION OF THE MEDIATOR	G.S. 97-80; 143-	This Rule contains the provisions governing compensation of the mediator. It tracks Rule 7 of	While Subparagraph (b)(3) of this Rule appears to increase

		293; 143-300	the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions. This Rule is being adopted with minor technical changes.	certain "postponement" fees, the baseline amount of the fees in this Subparagraph, as it appears in the North Carolina Administrative Code (NCAC), is a misprint. The fees have been $300.00 and $150.00, effective January 1, 2011 as set forth in current Rule 7, Compensation of the Mediator, of the North Carolina Industrial Commission Rules for Mediated Settlement and Neutral Evaluation Conferences. As such, no significant substantive changes are being made to this Rule.
4 NCAC 10G .0108	MEDIATOR CERTIFICATION AND DECERTIFICATION	G.S. 97-80; 143-296; 143-300	This Rule establishes includes provisions for the selection of a mediator and the consequences of his or her failure to appear at a scheduled conference. It tracks Rule 8 of the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions. This proposed Rule modifies the requirements for mediators serving in Industrial Commission cases so that said requirements more closely track the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions in accordance with the statutory mandates contained in G.S. 97-80(c) and G.S. 143-296, and any portions of the rule that exceed the standardized mediation rules has been deleted. This Rule is being adopted with minor	None

			technical changes.	
4 NCAC 10G .0109	~~RULES FOR~~ NEUTRAL EVALUATION	G.S. 97-80; 143-293; 143-300	This Rule establishes the applicable rules in obtaining a Neutral Evaluation. It tracks Rule 11 of the Rules Implementing Statewide Mediated Settlement Conference in Superior Court Civil Actions. This Rule is being readopted with minor technical changes.	None
4 NCAC 10G .0110	~~WAIVER~~ SUSPENSION OF ~~RULES.~~ RULES	G.S. 97-80; 143-293; 143-300	This Rule provides uniformity with Industrial Commission Rules in other Subchapters of the NCAC and establishes the applicable standard for the Commission regarding the waiver of any Rule in this Subchapter. In conjunction with this, the title and wording of the Rule is being changed; however, this Rule is being readopted with minor technical amendments.	None
4 NCAC 10G .0111	MOTIONS	G.S. 97-80; 143-293; 143-300	This Rule provides instructions on filing motions pursuant to the Rules in this Subchapter. This Rule is being readopted with minor technical amendments.	None
4 NCAC 10G .0112	MISCELLANEOUS	G.S. 97-80; 143-293; 143-300	This Rule establishes the meaning of "days" in uniformity with Industrial Commission Rules in other Subchapters of the North Carolina Administrative Code (NCAC) and provides information regarding deadlines. This Rule is being readopted with minor technical amendments.	None

FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier I – De Minimis

Proposed Rule Actions and Fiscal Impact

Proposed Action: Readopt as amended for placement in the North Carolina Administrative Code

Impact Summary:		
	State Government:	No
	Local Government:	No
	Substantial Economic:	No
	Federal Certification:	No

- **Subchapter H** – Rules for the Industrial Commission Relating to the Law-Enforcement Officers', Fireman's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act
  - Section .0100 – Administration
  - Section .0200 – Rules of the Commission

Baseline for Costs and Benefits of Proposed Rules:

The rules outlined above have been in existence and establish a baseline for the fiscal analysis. The rules were not in the North Carolina Administrative Code, but have been published, maintained, and administered through the Commission's annotated code book and the Commission's website. The rules have been reviewed to ensure that the content is clearly written, relevant, an up-to-date with existing policy and procedures of the Commission. Any changes have been reviewed and determined to be *de minimis* by the Commission. This fiscal note includes summaries of the proposed rule changes in the table set forth below.

Public Interest:

Pursuant to Sess. Law 2011-287, the Industrial Commission will conduct all rule-making in accordance with the North Carolina Administrative Procedure Act found in G.S. 150B. This process should result in public comment and involvement in the rule making process, along with ensuring that citizens of the State of North Carolina are aware of timely and accurate rules information for the Industrial Commission.

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change	Impact on State/Local/Federal Government and/or Private Sector or Substantial Economic Impact
4 NCAC 10H .0101	LOCATION OF OFFICES AND HOURS OF BUSINESS	G.S. 143-166.4	This Rule establishes the physical location of the Industrial Commission, and the hours during which paper and electronic versions of documents may be filed. This Rule is being readopted with minor and technical amendments.	None.
4 NCAC 10H .0201	DETERMINATION OF CLAIMS BY THE COMMISSION	G.S. 143-166.4	This Rule sets forth when a claim may be filed and the Industrial Commission's determination as to whether a hearing should be conducted. The Commission is proposing to move much of the content of the existing rule (Rule III Determinations of Claims in the Commission's annotated codebook) to newly proposed rules 10H .0202 - .0204. The remaining content is being readopted with minor and technical amendments.	None.
4 NCAC 10H .0202	HEARINGS BEFORE THE COMMISSION	G.S. 143-166.4	This Rule establishes the procedure for hearings at the Deputy Commissioner level within the Industrial Commission. It breaks out several paragraphs (dealing with hearings) that were previously located in the Rule for Determination of Claims (existing Rule III in the Commission's annotated codebook) by the Industrial Commission into a Rule dealing solely with hearings.	None.
4 NCAC 10H .0203	APPOINTMENT OF GUARDIAN *AD LITEM*	G.S. 1A-1, Rule 17(b)(2); 143-166.4	This Rule requires the appointment of a guardian *ad litem* in cases where minors or incompetents bring a claim under the Law-Enforcement Officers', Fireman's Rescue Squad Workers' and Civil Patrol Members' Death Benefits Act. The content of the proposed rule is currently present in Rule III Determination of Claims in	None.

			the Commission's annotated codebook.	
4 NCAC 10H .0204	WRITTEN OR RECORDED STATEMENT	G.S. 143-166.4	This Rule was previously organized under the Rule for Determination of Claims (existing Rule III in the Commission's annotated codebook) by the Industrial Commission. This proposed Rule has been set out separately and in uniformity with a counterpart Workers' Compensation Rule, 4 NCAC 10A.0608.	None.
4 NCAC 10H .0205	REVIEW BY THE FULL COMMISSION	G.S. 143-166.4	This Rule outlines the procedural process of a request for review (i.e., an appeal) to the Full Commission from a Deputy Commissioner. This Rule was previously organized under Rule IV in the Commission's annotated codebook entitled, Appeal to the Full Commission. The name of this rule is being changed to more closely track the language used in Article 12A of Chapter 143 of the General Statutes.	None.
4 NCAC 10H .0206	SUSPENSION OF RULES	G.S. 143-166.4	This Rule provides uniformity with Industrial Commission Rules in other Subchapters of the NCAC and establishes the applicable standard for the Commission regarding the waiver of any Rule in this Subchapter.	None.
4 NCAC 10H .0207	SANCTIONS	G.S. 1A-1, Rule 37; 143-166.4	This Rule provides uniformity with Industrial Commission Rules in other Subchapters of the NCAC and establishes the applicable standard for sanctions in claims brought under the Law-Enforcement Officers', Fireman's, Rescue Squad Workers' and Civil Patrol Members' Death Benefits Act.	None.

FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier I – De Minimis

Proposed Rule Actions and Fiscal Impact

Proposed Action:	Readopt as amended for placement in the North Carolina Administrative Code	
Impact Summary:	State Government:	No
	Local Government:	No
	Substantial Economic:	No
	Federal Certification:	No

- **Subchapter I** – Childhood Vaccine-Related Injury Rules of the North Carolina Industrial Commission
    - Section .0100 – Administration
    - Section .0200 – Rules of the Commission

Baseline for Costs and Benefits of Proposed Rules:

The rules outlined above have been in existence and establish a baseline for the fiscal analysis. The rules were not in the North Carolina Administrative Code, but have been published, maintained, and administered through the Commission's annotated code book and the Commission's website. The rules have been reviewed to ensure that the content is clearly written, relevant, an up-to-date with existing policy and procedures of the Commission. Any changes have been reviewed and determined to be *de minimis* by the Commission. This fiscal note includes summaries of the proposed rule changes in the table set forth below.

Public Interest:

Pursuant to Sess. Law 2011-287, the Industrial Commission will conduct all rule-making in accordance with the North Carolina Administrative Procedure Act found in G.S. 150B. This process should result in public comment and involvement in the rule making process, along with ensuring that citizens of the State of North Carolina are aware of timely and accurate rules information for the Industrial Commission.

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change	Impact on State/Local/Federal Government and/or Private Sector or Substantial Economic Impact
4 NCAC 10I .0101	LOCATIONS OF OFFICES AND HOURS OF BUSINESS	G.S. 130A-424; 130A-425(d)	This Rule establishes the physical location of the Industrial Commission, and the hours during which paper and electronic versions of documents may be filed. This Rule (existing currently as Rule 101 in the Commission's annotated codebook) is proposed for re-adoption with minor and technical amendments.	None
4 NCAC 10I .0102	OFFICIAL FORMS	G.S. 130A-424; 130A-425(d)	This Rule establishes the forms that may be filed with the Industrial Commission and the location of the identified forms. This Rule (existing currently as Rule 103 in the Commission's annotated codebook) is proposed for re-adoption with minor and technical amendments.	None.
4 NCAC 10I .0201	RULES OF CIVIL PROCEDURE	G.S. 1A-1; 130A-425(d)	This Rule provides that the North Carolina Rules of Civil Procedure as provided in G.S.1A-1 shall apply to tort claims before the Industrial Commission to the extent that the Rules of Civil Procedure are not inconsistent with the Childhood Vaccine-Related Injury Compensation Program. If there is an inconsistency, this rule provides that the Childhood Vaccine-Related Injury Compensation Program and the Industrial Commission's childhood vaccine-related rules shall control. This Rule (existing currently as Rule 201 in the Commission's annotated	None.

			codebook) is proposed for re-adoption with minor and technical amendments.	
4 NCAC 10I .0202	PROCEDURE	G.S. 130A-423; 130A-424; 130A-425; 130A-427	This Rule establishes a procedure for litigation of claims brought under the Childhood Vaccine-Related Injury Compensation Program. This Rule (existing currently as Rule 202 in the Commission's annotated codebook) is proposed for re-adoption with minor and technical amendments.	None.
4 NCAC 10I .0203	ATTORNEYS' FEES	G.S. 130A-425(d); 130A-427(a)(4)	This Rule establishes the procedural requirements for seeking payment of attorney fees allowed by statutory authority. This Rule (existing currently as Rule 203 in the Commission's annotated codebook) is proposed for re-adoption with minor and technical amendments.	None.
4 NCAC 10I .0204	SUSPENSION OF RULES	G.S. 130A-425(d)	This Rule provides uniformity with Industrial Commission Rules in other Subchapters of the NCAC and establishes the applicable standard for the Commission regarding the waiver of any Rule in this Subchapter.	None.
4 NCAC 10I .0205	SANCTIONS	G.S. 130A-425(d)	This Rule provides uniformity with Industrial Commission Rules in other Subchapters of the NCAC and establishes the applicable standard for sanctions in claims brought under the Childhood Vaccine-Related Injury Compensation Program.	None.

FISCAL IMPACT ANALYSIS

Agency Proposing Rule(s): North Carolina Industrial Commission

Agency Contacts:

Abigail Hammond Agency Legal Specialist/Rulemaking Coordinator
abigail.hammond@ic.nc.gov
(919) 807-2674

Amber Cronk Agency Legal Specialist
amber.cronk@ic.nc.gov
(919) 807-2651

Fiscal Note Category: Tier I – De Minimis

Proposed Rule Actions and Fiscal Impact

Proposed Action: Readopt as amended for placement in the North Carolina Administrative Code

Impact Summary:		
	State Government:	No
	Local Government:	No
	Substantial Economic:	No
	Federal Certification:	No

- **Subchapter J – Fees for Medical Compensation**
  - Section .0100 – Fees for Medical Compensation

Baseline for Costs and Benefits of Proposed Rules:

The rules outlined above have been in existence and establish a baseline for the fiscal analysis. The rules were not in the North Carolina Administrative Code, but have been published, maintained, and administered through the Commission's annotated code book and the Commission's website. The rules have been reviewed to ensure that the content is clearly written, relevant, an up-to-date with existing policy and procedures of the Commission. Any changes have been reviewed and determined to be *de minimis* by the Commission. This fiscal note includes summaries of the proposed rule changes in the table set forth below.

Public Interest:

Pursuant to Sess. Law 2011-287, the Industrial Commission will conduct all rule-making in accordance with the North Carolina Administrative Procedure Act found in G.S. 150B. This

process should result in public comment and involvement in the rule making process, along with ensuring that citizens of the State of North Carolina are aware of timely and accurate rules information for the Industrial Commission.

Rule Number	Title of Rule Change	Statutory Citation	Summary of the Rule Change	Impact on State/Local/Federal Government and/or Private Sector or Substantial Economic Impact
4 NCAC 10J .0101	FEES FOR MEDICAL COMPENSATION	G.S. 97-18(i); G.S. 97-25.6; G.S. 97-26; G.S. 97-80(a); G.S. 138-6	This Rule establishes the manner and timing in which medical providers can seek payment for provided medical services. This Rule also adopts standards used by the State of North Carolina for reimbursement of expenses. Portions of the rule that restate the statute have been deleted. Subparagraph (e) has been re-organized to 4 NCAC 10A .0107 Filing of Annual Report Requirement. This Rule is current Rule 4 NCAC 10A .0107 and is being moved and readopted with minor substantive and technical amendments.	The adoption of standards used by the State of North Carolina for reimbursement expenses is a benefit to all parties to ensure clarity and uniformity in determining the costs.