

# BULLETIN

## NORTH CAROLINA INDUSTRIAL COMMISSION

ADMINISTERING THE WORKERS' COMPENSATION ACT

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## Information About The North Carolina Workers' Compensation Act

## NORTH CAROLINA INDUSTRIAL COMMISSION

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Bernadine S. Ballance, Commissioner

Laura K. Mavretic, Commissioner

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Barbara Levine, Administrator

Tracey Weaver, Executive Secretary

### Workers' Compensation Information Specialists:

(800) 688-8349, (919) 807-2501. Fax: (919) 715-0280

|                       |                                |                                        |                                |
|-----------------------|--------------------------------|----------------------------------------|--------------------------------|
| Claims Section:       | (919) 807-2502                 | Medical Billing Section:               | (919) 807-2503                 |
| Commissioners:        | (919) 807-2500                 | Medical Rehabilitation Nurses Section: | (919) 807-2616                 |
| Computer Support:     | (919) 807-2591                 | Occupational Disease Section:          | (919) 807-2502                 |
| Deputy Commissioners: | (919) 807-2500                 | Safety Section:                        | (919) 807-2603                 |
| Docket Section:       | (919) 807-2504                 | Statistics Section:                    | (919) 807-2506                 |
| Executive Secretary:  | (919) 807-2576                 | Workers' Compensation Information      |                                |
| Fraud Section:        | (888) 891-4895, (919) 807-2570 | Specialist Section:                    | (800) 688-8349, (919) 807-2501 |
| Mediation Section:    | (888) 242-5757, (919) 807-2586 |                                        |                                |

**FOR ANSWERS TO QUESTIONS...**

| <b>About:</b>                                                                    | <b>Telephone:</b>                                                                                                         |
|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| General questions and disputes in cases; statistics; coverage information; forms | <b>Workers' Compensation Information Specialists:</b><br>(800) 688-8349, (919) 807-2501, (919) 807-2506                   |
| Filing and case status                                                           | <b>Docket Section:</b> (919) 807-2504                                                                                     |
| Application of the Act, Settlement Agreements, Change of Physicians              | <b>Executive Secretary:</b> (919) 807-2576                                                                                |
| Appeals, Rules and Policies                                                      | <b>Commissioners:</b> (919) 807-2500                                                                                      |
| Medical Bill Approvals                                                           | <b>Medical Billing Section:</b> (919) 807-2503                                                                            |
| Medical Fee Schedule                                                             | <a href="http://www.ic.nc.gov/ncic/pages/feesched.asp">http://www.ic.nc.gov/ncic/pages/feesched.asp</a><br>(919) 807-2503 |
| Rehabilitation Assistance                                                        | <b>Medical Rehabilitation Nurses:</b> (919) 807-2616                                                                      |
| Workplace Safety Programs                                                        | <b>Safety Section:</b> (919) 807-2603                                                                                     |
| Hearings in Contested Cases                                                      | <b>Docket Section:</b> (919) 807-2504                                                                                     |
| Pending Occupational Disease Claims                                              | <b>Occupational Disease Section:</b> (919) 807-2502                                                                       |
| Bulletin                                                                         | (919) 807-2506                                                                                                            |
| Form Agreements, Attorney Fees                                                   | <b>Claims Section:</b> (919) 807-2502                                                                                     |
| Personnel and Contracts                                                          | <b>Chairman's Office:</b> (919) 807-2526                                                                                  |
| Workers' Compensation Fraud                                                      | <b>Fraud Section:</b> (888) 891-4895,<br>(919) 807-2570                                                                   |
| Mediation of Claims                                                              | <b>Mediation Section:</b> (888) 242-5757,<br>(919) 807-2586                                                               |

**Please Note...**

This bulletin is designed to give general information only. It is not a law book. Further information may be obtained by writing a letter to the Executive Secretary or Workers' Compensation Information Specialists, North Carolina Industrial Commission, or by consulting with an attorney of your choice, which may be at your expense. If you need assistance locating an attorney in your community who is familiar with workers' compensation law, you may contact the N.C. Bar Association's nonprofit Lawyer Referral Service: <http://www.ncbar.org/publicpro-bono/lawyer-referral-service.aspx>. Just telephone toll free in North Carolina to **(800) 662-7660**—or dial **(919) 677-8574** from out of state or from the Raleigh/Durham/Chapel Hill area—to obtain the name of an attorney willing to discuss your question for a nominal fee or no fee. Mention workers' compensation when requesting a referral. When writing or calling the Commission about a specific case, always give the name of the injured employee, the I.C. file number for the claim or the employee's Social Security Number, and, if available, the name of the employer and date of injury.

**Bulletins and Forms**

Bulletins and forms may be obtained by visiting the N.C. Industrial Commission's web site: <http://www.ic.nc.gov/>. See <http://www.ic.nc.gov/ncic/pages/feesched.asp> to view portions of the Commission's Medical Fee Schedule online. To buy the complete North Carolina Workers' Compensation Medical Fee Schedule in electronic format, telephone Ingenix, Inc. at **(800) INGENIX (464-3649)**, **option 1**, or go to <http://www.shopingenix.com/> to order a CPT® code book online.

## EMPLOYERS' OBLIGATION TO OBTAIN AND MAINTAIN COVERAGE

Businesses covered by the Workers' Compensation Act are required by law to obtain insurance or qualify as self-insureds for possible compensation liability to their employees. All businesses employing three (3) or more employees on a regular basis are covered, except that agricultural employments with fewer than ten (10) regular employees, certain sawmill and logging operators, and all domestic employees are exempt. Businesses with any employee whose work involves the use of or presence of radiation are required to have coverage. Corporate officers, partners, and owners who are employed in the business may be exempted from coverage. However, corporate officer/employees are counted in determining whether the business has three or more employees. Sole proprietors and partnerships who have three (3) or more employees must purchase coverage for these employees and may elect to include coverage for themselves.

### How to Obtain Workers' Compensation Insurance

*If you are subject to the Act, you are required to carry workers' compensation insurance.* To obtain workers' compensation insurance, contact your insurance agent about your coverage needs and the types of coverage available to you.

### Types of Workers' Compensation Coverage

There are three (3) types of workers' compensation coverage:

1. An insurance agent can write coverage solely for your business.
2. You can become a member of or contributor to a Self-Insured Fund. A Self-Insured Fund is a "blanket coverage" of workers' compensation insurance in which you pay into a large fund which provides the coverage for your business and all those who pay into that fund. Your contribution to the fund is based on your number of employees, the rate assigned to them by the North Carolina Rate Bureau, and your payroll.

**EXAMPLE:** You are a General Contractor who is subject to the Act. A Builders Association offers a Self-Insured Fund program. You become a member of the Builders Association and thus pay into their fund for coverage on your business.

3. You can become Self-Insured. To become Self-Insured, you must go to the Department of Insurance and post bond showing that you have the financial means to provide coverage for your employees.

**NOTE:** There is a difference between being Self-Insured and being part of a Self-Insured Fund. Many people mistakenly think they are Self-Insured but actually have coverage through a Self-Insured Fund.

### How Your Workers' Compensation Insurance Premiums Are Set

The **North Carolina Rate Bureau, (919) 582-1056**, sets rates for specific types of employment, and bases premiums on \$100.00 of payroll. Policies are written annually, and premiums may increase if there is an injury and may decrease if there is not one. Premiums also increase or decrease based upon the number of employees and the payroll. (In a Self-Insured Fund, if there is an injury of an employee of one of the other contributors to the fund, their contribution to the fund increases, but the other members' contributions do not increase unless they have an injury.)

## INJURIES COVERED

Employees are entitled to benefits if, while carrying out activities for the benefit of their employer, they suffer an injury by accident, a "specific traumatic incident," resulting in a hernia or back injury, or an "occupational disease." An "accident" is an interruption of the regular work routine and the introduction of unusual circumstances, such as a slip, trip, fall, or other unusual activity, likely to result in unexpected consequences. A "specific traumatic incident," as defined by our courts, includes "injuries that occur during

normal work activities.” The claimant need not show “an instantaneous occurrence” or “an external cause or unusual conditions.” However, “injuries that occur gradually, over long periods of time, are not specific traumatic incidents.” If the work-relatedness of a hernia is disputed, an employee must show that the hernia appeared suddenly following an accident and did not exist prior to the accident or incident. All injuries must “arise out of and in the course and scope of” the covered employment to be compensated.

Businesses complying with the Act and their employees may not be sued in the Courts by employees for work-related injuries, except for intentional assaults and conditions so grossly unsafe as to make injury substantially certain. Businesses may obtain the benefits and protections of the Workers’ Compensation Act by purchasing compensation insurance, by being self-insured, or by joining a self-insurance fund.

## **OCCUPATIONAL DISEASE**

Generally, an employee is entitled to benefits for disability due to a condition to which the employment significantly contributed, or if the employment was a significant factor in causing the disease’s development, and if the employment exposed the worker to a greater risk of contracting the disease than the public generally. Where an employee is exposed to the same injurious agent at the place of business of more than one employer, the claim should be filed with the employer on whose premises he was last injuriously exposed.

## **GIVING NOTICE TO EMPLOYER AND FILING CLAIMS**

To obtain benefits, an employee or his representative must give the employer written notice of the accident within 30 days, or in instances of occupational disease (excepting asbestosis, silicosis, or lead poisoning) within 30 days of being advised by competent medical authority that the employee has the occupational disease, unless reasonable excuse is made for not giving notice and no prejudice results to the employer/carrier. **NOTICE** should be given by providing a completed copy of the Commission’s Form 18 to the employer and the Commission. **SUBJECT TO CERTAIN EXCEPTIONS, AN EMPLOYEE LOSES THE RIGHT TO CLAIM COMPENSATION UNLESS A CLAIM IS FILED WITH THE COMMISSION WITHIN TWO (2) YEARS AFTER THE ACCIDENT, OR IN CASES OF AN OCCUPATIONAL DISEASE, WITHIN TWO (2) YEARS AFTER DEATH, DISABILITY, OR DISABLEMENT AND BEING ADVISED BY COMPETENT MEDICAL AUTHORITY THAT THE EMPLOYEE HAS AN OCCUPATIONALLY RELATED DISEASE, whichever last occurs; provided, that if the injury is due to exposure to radiation, the two (2) year period runs from the time the employee suffered incapacity and knew or should have known that the disease or condition was caused by his employment. A CLAIM** should be filed by sending to the Commission a statement of claim, preferably on the Commission’s Form 18. **COPIES** should be sent to the employer or its insurance carrier. Claimants using informal statements will be asked to complete forms requiring information necessary to process the case.

## **EMPLOYERS’ OBLIGATION TO RECORD AND REPORT INJURIES**

All work-related injuries requiring medical attention (other than first aid at the work place) should be reported by the employer to its insurance company or administrator, who will report the injury to the Industrial Commission on I.C. Form 19 if the injury results in more than \$2000.00 in medical expenses or more than one day’s lost time from work. **A COPY OF THE COMPLETED FORM 19, WITH “IMPORTANT INFORMATION FOR EMPLOYEE” ON THE BACK, MUST BE FURNISHED TO THE EMPLOYEE OR HIS OR HER SURVIVORS.** In addition, the employer is required to provide a blank Form 18 for use by the employee with the copy of the Form 19.

## **BENEFITS**

### **Wage Replacement and Cash Benefits**

**Temporary Total Disability:** If the employee remains unable to earn wages after the first seven (7) days of disability, the employee is entitled to weekly benefits equal to two-thirds ( $\frac{2}{3}$ ) of his or her average weekly

wage up to the maximum compensation rate. After disability has continued more than twenty-one (21) days, the employee is entitled to receive compensation for the first seven days of disability. The days counted do not have to be consecutive. Weekend days, holidays, and any workday in which the injured employee does not earn a full day's wages because of the injury are counted as a day of disability, even though the employee may earn some wages.

**Temporary Partial Disability:** If upon obtaining post-injury employment, if the employee is unable to earn wages as great as those earned pre-injury, the employee is entitled to compensation equal to two-thirds ( $\frac{2}{3}$ ) of the difference between the post-injury and pre-injury average weekly wages, so long as the amount does not exceed the statutory maximum weekly benefit. Temporary partial disability benefits may not continue beyond three hundred (300) weeks from the date of injury, and any number of weeks wherein temporary total disability benefits were paid will be deducted from the 300 week maximum.

**Permanent Partial Disability:** If, at the end of the healing period, there is a permanent impairment to one of the parts of the body listed below, the employee may receive a set period of benefits without regard to his ability to earn wages. Total loss of use of the part entitles the employee to two-thirds ( $\frac{2}{3}$ ) of his average weekly wage, times the number of weeks shown following the body part below. Benefits for less than total loss are figured on a percentage basis. For example, twenty percent (20%) of 45 weeks' compensation is nine (9) weeks. Alternatively, in cases where the employee has a permanent impairment to one of the parts of the body listed below and is unable to earn wages as great as before the injury, the employee may choose the greater benefit of (a) benefits for two-thirds ( $\frac{2}{3}$ ) of the wage difference for a period not to exceed 300 weeks from the date of injury or (b) benefits for a set period based on the permanent impairment. The 300-week period, however, will be reduced by the number of weeks Temporary Total Disability compensation was paid.

|                                      |           |                                  |           |
|--------------------------------------|-----------|----------------------------------|-----------|
| <b>Thumb</b> .....                   | 75 weeks  | <b>Arm</b> .....                 | 240 weeks |
| <b>First or index finger</b> .....   | 45 weeks  | <b>Foot</b> .....                | 144 weeks |
| <b>Second or middle finger</b> ..... | 40 weeks  | <b>Leg</b> .....                 | 200 weeks |
| <b>Third or ring finger</b> .....    | 25 weeks  | <b>Eye</b> .....                 | 120 weeks |
| <b>Fourth or little finger</b> ..... | 20 weeks  | <b>Hearing (one ear)</b> .....   | 70 weeks  |
| <b>Great toe</b> .....               | 35 weeks  | <b>Hearing (both ears)</b> ..... | 150 weeks |
| <b>Any other toe</b> .....           | 10 weeks  | <b>Back</b> .....                | 300 weeks |
| <b>Hand</b> .....                    | 200 weeks |                                  |           |

The percentage of disability is determined based on physicians' ratings of the percentage of physical impairment. If there is a dispute between physicians regarding ratings, the Commission will determine the percentage of disability. If either party is dissatisfied with the treating physician's rating, it may obtain the "second opinion" of another doctor. The employee, upon approval by the Commission, is entitled to a single second opinion rating by a doctor of his or her choice at the employer's expense. To obtain the Commission's Rating Guide, see "Bulletins and Forms" on page 2. If, however, the employee is unable to earn any wages in any employment, the employee may discuss ongoing disability benefits with the employer or its insurance carrier; or, if there is a disputed issue, the employee may file a Form 33 to request a hearing.

**Total and Permanent Disability:** The loss of both hands, both arms, both feet, both legs, or both eyes, or any two thereof, constitutes total and permanent disability, and entitles the worker to weekly benefits and medical compensation during his or her lifetime.

**Disfigurement and Damage to Other Organs:** If the injury leaves facial or head scars that seriously disfigure the person, or causes the loss or permanent injury to an important organ of the body, the employee may be awarded additional compensation not to exceed \$20,000.00. The maximum payable for serious bodily disfigurement is \$10,000.00. No compensation is allowed for scars where the employee is paid for loss or

partial loss of use of the same member. The employee is also entitled to payment for disfigurement due to the loss or crowning of permanent teeth.

**Figuring the Compensation Rate:** The weekly rate of compensation cannot be less than \$30.00 nor more than \$834.00 for injuries occurring after January 1, 2010. The maximum weekly benefit is adjusted annually to equal approximately 110% of the average North Carolina wage. This rate of compensation remains the same during the life of the claim. (The maximum weekly compensation rate was \$704.00 for 2005, \$730.00 for 2006, \$754.00 for 2007, \$786.00 for 2008, and \$816.00 for 2009.) The average weekly wage is usually computed by averaging all wages earned by the employee in the employment in which the employee was injured (including overtime, paid holidays, special allowance for board, lodging, etc.), during the 52 weeks prior to the injury. If the employee has lost more than seven (7) consecutive calendar days at one or more times, these days are excluded from the calculation. If the employee has worked only a short time in the employment in which injured, or for other reasons this formula does not fairly reflect earnings, the Industrial Commission will compute a fair average weekly wage for the employee as provided by the Act. If the employee is under eighteen (18) years of age, a different rate may apply (see “Minors and Incompetents” below). The Commission’s Claims Section can calculate the average weekly wage from information submitted on the Commission’s Form 22.

### **Medical Compensation**

Employers must provide, and injured employees must accept, all reasonable medical, surgical, hospital, nursing, and rehabilitative services, and medicines, sick travel, and other treatment, including medical and surgical supplies, as may reasonably be required to effect a cure or give relief, and tend to lessen the period of disability, and any artificial members as may reasonably be necessary at the end of the healing period, which are needed due to the compensable injury. The costs of medical compensation are in addition to the disability benefits discussed in the preceding section, and do not offset or reduce them. If the employer denies liability or fails to provide treatment, or in the case of an emergency, the employee may select the physician or hospital but must promptly request Industrial Commission approval.\* The employer or its insurance carrier may select the treating physician and other providers of medical compensation, subject to contrary orders of the Commission. If the employee is dissatisfied with the services rendered by providers selected by the employer, the employee may request the Commission order a change of treatment, or approve treatment by providers of employee’s selection.\* Such request should state reasonable cause and be submitted with any medical opinions or records that support the request, and a copy of the request should be simultaneously sent to the employer or its insurance company. If an employee fails to cooperate with a provider selected by the employer after being ordered to do so by the Commission, compensation may be suspended while such refusal continues.

The right to medical compensation ends two years after the last payment of medical or indemnity compensation unless, prior to the expiration of this period, a Form 18M Application is filed by the employee showing the substantial risk of the necessity of future medical treatment, and is thereafter approved by the Commission.

As a final note, rules governing rehabilitative services in workers’ compensation cases have been adopted and may be obtained through the Industrial Commission if needed.

\*Requests for Industrial Commission approval must be made in writing and should be directed to the Executive Secretary’s Office, 4333 Mail Service Center, Raleigh, NC 27699-4333.

## **Death Benefits**

Death benefits are payable when an employee dies due to an occupational disease, due to an accident if the death occurs within six (6) years thereafter, or within two (2) years of the final determination of disability, whichever is later. THE CLAIM MUST BE FILED WITHIN TWO (2) YEARS OF THE DATE OF DEATH IN THE NAME OF THE DEPENDENTS OR NEXT OF KIN OF THE DECEDENT EMPLOYEE. IT SHOULD NOT BE FILED FOR THE ESTATE BY THE EXECUTOR OR OTHER PERSONAL REPRESENTATIVE OF THE DECEASED. Death is compensated by payment of two-thirds ( $\frac{2}{3}$ ) of the decedent employee's average weekly wage, or the maximum compensation rate for a minimum period of 400 weeks; \$3,500.00 for actual funeral expenses, payable to the person or firm actually entitled to it; and any medical expenses incurred due to the mortal injury or disease. A minor child or disabled spouse may receive more than 400 weeks of benefits.

## **Minors and Incompetents**

An employee under the age of 18 is entitled to receive the same benefits as other employees if injured. For the purposes of calculating compensation for a minor's permanent disability, death, or temporary total disability for a period exceeding 52 weeks, the minor's average weekly wage shall be considered to be the same paid to adult employees employed by the same employer at the time of the accident in a similar or like class of work to which the injured minor employee would probably have been promoted to if not injured.

No time limitation under the Workers' Compensation Act runs against a minor or incompetent until a guardian or trustee has been appointed to represent their interests or the minor reaches legal age. The Commission may appoint a guardian *ad litem*, for the purpose of pursuing the claim on behalf of the minor in litigation before the Commission. However, a guardian *ad litem* may not receive cash compensation on behalf of a minor or incompetent. Compensation may be received by natural guardian (a parent with whom the child lives), a general guardian, or guardian of the estate of a minor or incompetent appointed by the Clerk of Superior Court of the county in which the employee resides; by the trustee or committee having powers over the employee's financial affairs; by the Clerk, if small sums are due an incompetent; and, when both a surviving spouse and minor children are entitled to receive compensation due to the death or injury of a deceased employee, the surviving spouse may receive the compensation for the use of both himself/herself and the minor children. In certain circumstances, a minor employee may sign agreements and receipts for payments of compensation although the Commission may require the signature of a parent or person standing in place of a parent.

## **DENIAL OF A CLAIM**

An employee who submits a written claim (I.C. Form 18, or its equivalent), in a case where no compensation has been initiated by the employer to the employee, is entitled to a detailed statement from the employer or insurance carrier of grounds for denying the claim within 14 days of receipt, unless time is extended by the Commission's Executive Secretary's Office. The employee desiring a hearing on the claim before the Industrial Commission should make the request on the I.C. Form 33. A statement making a claim or requesting a hearing must be received by the Commission within two years of the date of injury to preserve the employee's right to pursue the claim. If the claim or request for hearing is not made on the Commission's official forms (Form 18, Form 33R, or Form 33, respectively), claimant will be asked to complete those forms.

## **AGREEMENTS TO PAY COMPENSATION**

All agreements to pay compensation must be approved by the Commission. The most common forms of agreements are the I.C. Form 21 for the initial period of disability, the I.C. Form 26 for subsequent periods of disability, and the Compromise Settlement Agreement (or "clincher") under which the employee receives a lump sum of money and payment of any remaining medical compensation bills in return for terminating the claim and any right to reopen it.

(In cases of direct pay or pay without prejudice, a Form 60, *Employer's Admission of Employee's Right to Compensation*, or a Form 63, *Notice to Employee of Payment Without Prejudice*, should be submitted as soon as the employee becomes entitled to compensation. A copy should be sent to the employee, and the original of the form should be sent to the Industrial Commission.)

A Form 21, *Agreement for Temporary Total Disability or Temporary Partial Disability*, should state that the compensation is payable for the "necessary" period unless for some reason the period of temporary total disability or temporary partial disability is actually known (such as when it has already ended). The agreement may be submitted subject to future correction of the compensation rate used. Unless the employee successfully returns to work, dies, or enters into another agreement, the employer or carrier must apply to the Commission to terminate the compensation on the Commission's Form 24 or request a hearing once the Form 21 has been approved.

A Form 21 or 26 agreement may be entered into after the end of the healing period to provide for payment of temporary partial disability benefits or permanent partial disability benefits based upon a doctor's evaluation, or "rating," of any remaining physical impairment. The employee is entitled to a single second opinion by a physician of his or her choice at the employer or carrier's expense when the physician approved by the employer or carrier has rated and/or released the employee. The employee retains the right to reopen the case for further benefits within two years of the last payment of compensation if the employee can show that there has been a substantial change in the condition that resulted from the compensable injury.

The Compromise Settlement Agreement, or "clincher," provides for payment of all cash benefits and medical compensation due, and an additional sum in return for the employee's giving up his or her right to reopen the case based upon change of condition.

## **MEDICAL AND LEGAL FEES**

### **Attorney's Fees**

It is unlawful for any attorney or other person to accept a fee, gift, or any remuneration for any services rendered in connection with the claim of a worker seeking compensation unless such fee or other consideration has been approved by the Industrial Commission.

### **Fees for Medical Compensation**

Subject to the provisions of N.C. Gen. Stat. §97-25.3, *Preauthorization*, the Industrial Commission shall adopt and publish a Fee Schedule, pursuant to the provisions of N.C. Gen. Stat. §97-26(a), fixing maximum fees, except for hospital fees pursuant to N.C. Gen. Stat. §97-26(b), which may be charged for medical, surgical, nursing, dental, and rehabilitative services, and medicines, sick travel, and other treatment, including medical and surgical supplies, original artificial members as may reasonably be necessary at the end of the healing period and the replacement of such artificial members when reasonably necessitated by ordinary use or medical circumstances. The fees prescribed in the applicable published Fee Schedule shall govern and apply in all cases. However, in special hardship cases where sufficient reason is demonstrated to the Industrial Commission, fees in excess of those so published may be allowed. Persons who disagree with the allowance of such fees in any case may make application for and obtain a full review of the matter before the Industrial Commission as in all other cases provided. Copies of this published Medical Fee Schedule may be obtained by telephoning [Ingenix, Inc.](http://www.shopingenix.com/) at **(800) INGENIX (464-3649)**, **option 1**, or going to <http://www.shopingenix.com/> and ordering a CPT® code book online.

A provider of medical compensation shall submit its statement for services within seventy-five (75) days of the rendition of the service; or, if treatment is longer, within thirty (30) days after the end of the month during which multiple treatments were provided; or within such other reasonable period of time as allowed by the Industrial Commission. However, in cases where liability is initially denied but subsequently admitted or determined by the Industrial Commission, the time for submission of medical bills shall run from the time the

health care provider received notice of the admission or determination of liability. Within thirty (30) days of the receipt of the statement, the employer, or carrier, or managed care organization, or administrator on its behalf, shall pay or submit the statement to the Industrial Commission for approval or send the provider written objections to the statement. If an employer, carrier/administrator, or managed care organization disputes a portion of the provider's bill, it shall pay the uncontested portion of the bill and shall resolve disputes regarding the balance of the charges through its contractual arrangement or through the Industrial Commission. If any bill for medical compensation services is not paid within sixty (60) days after it has been approved by the Industrial Commission and returned to the responsible party, or when the employee is receiving treatment through a managed care organization, within sixty (60) days after the bill has been properly submitted to an insurer or managed care organization, there shall be added to such unpaid bill an amount equal to ten percent (10%), which shall be paid at the same time as, but in addition to, such bill, unless late payment is excused by the Industrial Commission. When the ten percent (10%) addition to the bill is contested, any party may request a hearing by the Industrial Commission pursuant to N.C. Gen. Stat. §§97-83 and 97-84.

When the responsible party seeks an audit of hospital charges, and has paid the hospital charges in full, the payee hospital, upon request, shall provide all reasonable access and copies of appropriate records, without charge or fee, to the person(s) chosen by the payor to review and audit the records.

The responsible employer or carrier/administrator shall pay the statements of medical compensation providers to whom the employee has been referred by the authorized treating physician, unless said physician has been requested to obtain authorization for referrals or tests, provided that compliance with such request does not unreasonably delay the treatment or service to be rendered to the employee.

A health care provider may not pursue a private claim against an employee for all or part of the costs of medical treatment that have been provided to that employee unless (1) the employee's claim for treatment is finally adjudicated to be non-compensable; or (2) the employee fails to request a hearing following a denial of liability by the employer. Subsequent to an unanswered denial of liability or an adjudication that the treatment is non-compensable, the insurer (or self-insured employer) is liable to any medical care providers whose services had previously been authorized by the insurer or employer.

## **MOST FREQUENTLY ASKED QUESTIONS**

**1. Who is required to provide workers' compensation coverage?**

Any employer who employs three or more employees.

**NOTE:** Every executive officer selected or appointed and empowered in accordance with the charter and bylaws of a corporation is considered an employee of such corporation. For example, a corporation with two officers and one employee would be required to provide workers' compensation coverage. Any employer in which one or more employees are employed in activities that involve the use of or presence of radiation is required to have coverage.

**2. What if my employer does not have workers' compensation insurance?**

The employee should report the lack of workers' compensation insurance or approved self-insurance to the NCIC Fraud Section and, if injured, should file a Form 18 and Form 33 with the Commission.

**3. What must an employee do when an injury occurs?**

Report the injury to the employer, orally and in writing, **immediately** and in any event within 30 days.

**4. What should be done if the employer fails or refuses to report an injury?**

Employee should file a claim (Form 18 or 18B) within two years of the accident with the Industrial Commission.

**5. Who provides and directs medical treatment?**

The employer or its insurance company, subject to any Commission orders, provides and directs medical treatment. The employee may petition the Commission to change physicians or approve a physician of employee's selection when good grounds are shown. However, payment by the employer or carrier is not guaranteed unless written permission to change physicians is obtained from the employer, carrier, or Commission before the treatment is rendered.

**6. Chiropractic Rules:**

If the employer grants permission to seek medical treatment from a chiropractor, the employee is entitled to 20 visits if medically necessary. If additional visits are needed, the chiropractor should request this authorization from the employer.

**7. When can reimbursement for sick travel be collected?**

If employees travel 20 miles or more round trip for medical treatment in workers' compensation cases, they are entitled to collect for mileage at the rate of 25 cents a mile for travel prior to June 1, 2000; 31 cents a mile for travel between June 1, 2000 and January 17, 2006; 44.5 cents a mile for travel between January 18 and December 31, 2006; 48.5 cents a mile for travel between January 1 and December 31, 2007; 50.5 cents a mile for travel between January 1 and June 30, 2008; 58.5 cents a mile for travel between July 1 and December 31, 2008; 55 cents a mile for travel between January 1 and December 31, 2009; and 50 cents a mile for travel on or after January 1, 2010. Special consideration will be given to employees who are totally disabled.

**NOTE:** The Industrial Commission has given the self-insurers and insurance carriers permission to pay drug and travel expenses directly to the employee without approval from the Commission.

**8. What happens if, in an emergency, the employer fails or refuses to provide medical treatment?**

The employee may obtain the necessary treatment from a physician or hospital of his own choice, but must promptly request the Commission's approval.

**9. When do I become eligible for lost wage compensation?**

No compensation is due for the first seven (7) days of lost time unless the disability exceeds 21 days. Therefore, the first check will not include payment for days 1-7. Payment for those days will be made should the disability continue beyond 21 days.

**10. How often are compensation payments made?**

Weekly, but the Commission can authorize payments on a monthly basis in some circumstances.

**11. At what rate of pay?**

66 2/3% of the average weekly wage, not to exceed \$834.00\* (2010 maximum) per week.

\*The maximum weekly benefit is adjusted annually.

**11. How long is the employee eligible to receive lost-time weekly benefits?**

Until the employee is able to return to work.

**12. What is permanent partial disability?**

Total loss or partial loss of use of a member of the body or inability to earn the same wages in any employment as earned at the time of injury.

**13. Who determines permanent partial disability?**

The Commission, based on the impairment ratings of physicians or evidence of consideration of wage earning capacity.

**14. What happens when the employer refuses to acknowledge the claim?**

When liability for payment of compensation is denied, the Commission, claimant, his or her attorney (if any), and all known providers of health care shall be promptly notified of the reason for such denial. The denial Form 61 shall not be worded in general terms, but must detail the exact reason for the denial of liability.

- (a) If a claim is denied by the insurance company or self-insurer, the employee may request a hearing before the Industrial Commission by submitting a Form 33, *Request for Hearing*.
- (b) Medical providers may bill the employee only after it has finally been determined that it is not a compensable workers' compensation claim.

## **NOTICE**

**THIS BULLETIN IS NOT INTENDED TO ANSWER ALL QUESTIONS REGARDING WORKERS' COMPENSATION OR ALL PROBLEMS ARISING UNDER THE WORKERS' COMPENSATION ACT.**

For further information, contact:

**North Carolina Industrial Commission  
4340 Mail Service Center  
Raleigh, North Carolina 27699-4340**

## **Need Workers' Compensation Information? Need Help with a Claim?**

For information, help with a claim, or workers' compensation inquiries—if you have **not** hired an attorney—call:

### **Workers' Compensation Information Specialists:**

**(800) 688-8349, (919) 807-2501, or Fax: (919) 715-0280**

Workers' Compensation Information Specialists assist unrepresented claimants, employers, and other parties to enable them to protect their rights. In addition, the Workers' Compensation Information Specialists serve as the information source for the North Carolina Industrial Commission and answer questions pertaining to all aspects of workers' compensation.