

## QUICK REFERENCE FOR HANDLING TENNESSEE WORKERS' COMPENSATION CLAIMS

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### WHEN AN EMPLOYEE IS INJURED . . .

- **The Employee must:**
  - **Immediately** report any work-related illness or injury to the employer. Written notification to the employer is required within 30 days of the date of injury.
  - Select a treating physician from the panel of physicians provided by the employer.
  - Comply with medical treatment ordered by the selected physician.
- **The Employer must:**
  - Within **1 day** of notice of the injury – offer the employee a panel of physicians suitable to treat the injury. Have employee select a physician and sign an agreement indicating that choice (C-42).
    - At the same time, request a signed C-31 and HIPAA release to obtain records of medical treatment.
    - Assist the employee in scheduling an appointment with the selected physician.
  - Within **1 day** of notice of the injury - file the First Report of Injury with the insurer.
    - The claim must be reported to the insurer regardless of compensability.
    - Provide name and phone number of employer's WC insurance carrier to employee.
  - With First Report of Injury - submit a statement of the employee's wages to the insurance carrier using Wage Statement form (C-41).
    - List gross wages earned each week for the past fifty-two (52) weeks.
    - If employed less than 52 weeks, the list gross wages earned for each week of employment.
  - Within **5 days** of notice of the injury – provide to the insurer a job description and prior claim information of the employee.
- **The Insurer must:**
  - Within **2 days** of notice of the injury - contact the employer and the injured employee to confirm facts of the claim, history of prior claims, work history, wages, and job duties. This may include a recorded statement.
  - Within **5 days** of notice of the injury - obtain a job description and employee's prior claim information from employer.
  - Within **14 days** of notice of the injury - file the First Report of Injury (C-20) with the WC Division.
  - Within **15 days** of notice of the injury - accept or deny the claim with a Form C-22 (Notice of First Payment) or C-23 (Notice of Denial of Benefits) and notify the employer and the employee of the decision.
    - File a wage statement (C-41) with the C-22 or C-23.
  - All workers' compensation benefits must be issued timely (on or before due date). Late benefits are subject to penalties.

### BENEFITS. . .

- **Lost Wages:** An injured employee who is unable to work is entitled to compensation for lost wages equal to 66 2/3% of the employee's average weekly wage. No payment is made for the first 7 days of disability unless the employee continues to lose time from work through the 14<sup>th</sup> day; in that event benefits are paid back to the first day out of work. Do not count the date of injury. The days need not be consecutive. The injured employee must have a doctor's statement for time out of work.
- **How to Calculate Average Weekly Wage (AWW):** Average weekly wage is determined by employee's total gross earnings for 52 weeks prior to the date of injury, divided by 52. Gross wages must be reported on a wage statement form (C-41). If the employee has not worked at the place of employment for 52 weeks, obtain AWW by dividing total gross earnings (from hire date to date of injury) by the number of weeks employed. Or, use the average weekly wage of a similarly situated employee who has worked in the same position with the same employer at the same rate of pay.
- **How to Calculate the Compensation Rate (CR):** The AWW is multiplied by 66 2/3%. Compensation rate amount is subject to the workers' compensation maximum and minimum rates in effect on the date the employee was injured.
- **How to Calculate Permanent Partial Impairment (PPI) Benefits:**
  - Permanent Partial Impairment benefits are paid to any employee who retains a permanent impairment after reaching MMI, as determined by the treating physician. Employee's date of injury determines the calculation method for PPI benefits.
    - **Injuries Prior to 7/1/2014:**  $PPI(\%) \times Compensation\ Rate(\$) \times Body\ Part's\ Duration(\#\ Wks) \times Multiplier(1-6) = PPI\ Benefit\ Amount$
    - **Injuries On or After 7/1/2014:**  $PPI \times 450\ weeks = Compensation\ Period$ 
      - $Comp\ Period(\#Wks) \times Comp\ Rate(\$) = PPI\ Benefit\ Amount$
    - **Additional Benefits for Injuries On or After 7/1/14:** After the initial compensation period, employees may be eligible for additional PPI benefits based on vocational and education factors. Employer/Carrier are given credit for original PPI benefits paid.  $Initial\ PPI\ Benefit\ Amount\ (\$) \times Factor(s) - Initial\ Benefit = Additional\ Benefits.$
- **Mileage Reimbursement:** Employees traveling more than 15 miles one way to medical treatment from home or work may request reimbursement at the statutory rate. The mileage rate is based on current mileage allowance for Tennessee state employees. Mileage reimbursement benefits do **not** expire after 1 year, as they do in other states.

# TENNESSEE WORKERS' COMPENSATION WORKING WITH PHYSICIANS



## COMMUNICATION & OBTAINING MEDICAL RECORDS

### For Injuries Prior to July 1, 2014

- Submit a signed **C-31**, "Medical Waiver and Consent" with all requests for information from authorized medical providers.
- Any authorized medical provider who has provided treatment for a work-related injury must honor any request from the employer, insurer or their representative for medical information, medical records, or professional opinions *pertaining to the subject injury*.
- Nurse Case Managers may freely discuss elements of the claim with the treating physician. Further, there is no requirement to provide the employee or his attorney with a summary of the communication.

### For Injuries on or After July 1, 2014

- Any physician providing treatment for a work-related injury must provide applicable treatment records upon request of a party to the WC claim. No release or authorization for disclosure of medical information is required. Records should be available within 30 days of medical treatment.
- Employer, insurer, case manager or employer/insurer's attorney may communicate with treating physician(s), either orally or in writing, **without** a signed C-31 or HIPAA release, so long as the information pertains to the work-related injury.

### Obtaining Records for Pre-Existing Conditions

- Requests for medical records pertaining to pre-existing conditions or prior medical history require an appropriate release of medical information (**HIPAA compliant release**) signed by the Employee. We recommend requesting a signed HIPAA compliant release at the same time you request a C-31. Although employee is only required to sign a C-31, they will often agree to sign a more generic HIPAA release.
- If the employee will not sign a HIPAA compliant release, you can file a Request for Assistance or Petition for Benefit Determination and ask that the Division of Workers' Compensation order release of records pertaining to a suspected pre-existing condition.

## NEW MEDICAL STANDARD FOR CAUSATION

### For Injuries on or after 7/1/14

- An injury or occupational illness is compensable only if the injury is caused by specific incident(s) arising *primarily* out of and in the course and scope of employment.
- An injury arises primarily out of and in the course and scope of employment if the authorized treating physician (selected from the panel) believes, to a reasonable degree of medical certainty, that employment contributed more than fifty percent (50%) in causing the injury.
- A reasonable degree of medical certainty means that, in the opinion of the physician, it is more likely than not considering all causes, as opposed to speculation or possibility.
- The opinion of the authorized treating physician will be presumed correct on the issue of causation. However, that presumption can be rebutted by a preponderance of evidence to the contrary, usually obtained through an IME.

### Utilization Review (UR)

- Utilization Review is evaluation by an outside source of the necessity, appropriateness, efficiency and quality of medical treatment for an injured worker. Every workers' compensation insurer in Tennessee must provide UR services.
- After an authorized treating provider orders a particular treatment/surgery, the adjuster has three (3) business days to either approve the treatment or send the recommendation to the UR review agent.
- UR agent has seven (7) business days to make a decision. Approval is final and cannot be appealed.
- If UR denies the treatment, the UR agent must provide a report to the employee, his attorney and the physician that states the reasons for denial and provides information regarding the proper procedure for an appeal. Employee must file an appeal within 30 days of receipt of denial.
- Utilization review does not address issues of causation or compensability.

## CHARGES FOR MEDICAL RECORDS

The cost for medical records shall not exceed \$10.00 for reports 20 pages or less and 25¢ per page after the first 20 pages.