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Effective Date: 5/31/18

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Labor and Workforce Development
Division:	Bureau of Workers' Compensation
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(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0800-02-01	General Rules of the Workers' Compensation Program
Rule Number	Rule Title
0800-02-01-.01	Scope of Rules
0800-02-01-.02	Definitions
0800-02-01-.03	Designation of Insurance Rate Service Organization
0800-02-01-.04	Required Proof of Coverage Filings
0800-02-01-.05	Employer Claims Reporting Requirements
0800-02-01-.06	Medical Panels
0800-02-01-.07	Claims Form and Claims Resolution Filing Requirements
0800-02-01-.08	Additional Forms
0800-02-01-.09	Medical Reports
0800-02-01-.10	Civil Penalties
0800-02-01-.11	Records/Copies
0800-02-01-.12	Required Posting

CHAPTER 0800-02-01
GENERAL RULES OF THE WORKERS' COMPENSATION PROGRAM
Amendments

Chapter 0800-02-01 General Rules of the Workers' Compensation Program is amended by deleting the prior rule and replacing it with the following:

0800-02-01-.01 Scope of Rules

This chapter shall apply to all employees, employers, adjusting entities, and providers of services related to workers' compensation claims subject to the Tennessee Workers' Compensation Law.

Authority: T.C.A. § 50-6-101 et seq., Title 50, Chapter 10.

0800-02-01-.02 Definitions

The terms contained within these rules that are not specifically defined within these rules shall have the same definitions as those established by the Workers' Compensation Law and the case law interpreting it. When any terms that are used in these rules differ from the definition established by the Tennessee Workers' Compensation Law, the definition established by the Tennessee Workers' Compensation Law shall govern.

- (1) "Adjusting entity" means a trade or professional association, managing general agency, pool, third party administrator and/or insurance company licensed to write workers' compensation insurance in Tennessee and shall also mean a self-insured employer or group of self-insured employers possessing a valid certificate of authority from the commissioner of commerce and insurance pursuant to T.C.A. § 50-6-405.
- (2) "Adjuster," "claims adjuster", "med-only adjuster" or "claims handler" means a representative of an adjusting entity who investigates workers' compensation claims for purposes of making compensability determinations, files or causes claims forms to be filed with the Bureau, commences benefits, and/or makes settlement recommendations based on the insured's liability on behalf of a self-insured employer, trade or professional association, third party administrator, and/or insurance company.
- (3) "Administrator" shall have the same definition of "Administrator" as in T.C.A. § 50-6-102.
- (4) "Bureau" means the Tennessee Bureau of Workers' Compensation as defined in T.C.A. § 50-6-102, an autonomous unit attached to the Department of Labor and Workforce Development for administrative matters only, pursuant to T.C.A. § 4-3-1409.
- (5) "Electronic Data Interchange" or "EDI" means the electronic communication method that provides standards for exchanging data via any electronic means. The term "EDI" encompasses the entire electronic data interchange process, including the transmission, message flow, document format, and software used to interpret the documents using the standards established by the IAIABC and the Release Version accepted by the Bureau at the time of the filing.
- (6) "Employee" shall have the same definition of "Employee" as in T.C.A. § 50-6-102.
- (7) "Employer" shall have the same definition of "Employer" as in T.C.A. § 50-6-102.
- (8) "File" means to successfully submit claims information in the manner required by Bureau Rules. Success is achieved when claims information is filed in the manner required by the Bureau Rules and its acceptance is acknowledged by the Bureau. Success is not achieved if the Bureau receives and its acceptance is not acknowledged by the Bureau or if the Bureau subsequently rejects or returns claims information that has been submitted but is incomplete or fails to use the correct form or formats.
- (9) "Form" means the original document as is available on the Bureau's website on the date of the filing.

(10) "IAIABC" means the International Association of Industrial Accident Boards and Commissions.

(11) "Insured" shall have the same definition of "Employer" as in T.C.A. § 50-6-102.

(12) "Rate Service Organization" shall have the same definition of "Rate Service Organization as in T.C.A. § 56-5-102.

Authority: T.C.A. §§ 50-6-101 et seq., 50-6-102 and 56-5-102.

0800-02-01-.03 Designation of Insurance Rate Organization

The Insurance Rate Service Organization designated for purposes that include the filing of insurance policy provisions and coverages and the determination of job classifications for applicable Bureau Rules shall be posted on the Bureau's website.

Authority: T.C.A. §§ 56-5-120, 56-5-110, 50-6-901, and 56-5-320.

0800-02-01-.04 Required Proof of Coverage Filings

- (1) An adjusting entity must file appropriate evidence with the designated Rate Service Organization of an employer's procurement or renewal of workers' compensation insurance within thirty (30) calendar days of the procurement or renewal. Failure to timely file the appropriate evidence would subject the offending party to a potential penalty as described in 0800-02-01-.10(2) below.
- (2) An adjusting entity must file appropriate evidence, with the designated Rate Service Organization, of the cancellation of an employer's workers' compensation insurance within fifteen (15) calendar days of the cancellation. Failure to timely file the appropriate evidence would subject the offending party to a potential penalty as described in 0800-02-01-.10(2) below.
- (3) Self-insured employers and pools are exempt from this section, but must file with the Department of Commerce and Insurance in accordance with T.C.A § 50-6-405 and provide a copy to the Bureau of Workers' Compensation coverage unit.
- (4) Not later than five (5) business days of the date of the procurement and each subsequent renewal of a policy, the adjusting entity is required to mail a copy of the Notice of Employer Rights and Responsibilities in a Workers' Compensation Claim and a copy of the Tennessee Workers' Compensation Posting Notice via electronic mail or first class US Mail to the employer at the address provided on the policy. These documents, produced by the Bureau, provide information regarding employer and employee rights, responsibilities, duties, and obligations under the Workers' Compensation Law. Failure to timely mail a required form would subject the offending party to a potential penalty as described in 0800-02-01-.10(2) below.

Authority: T.C.A. §§ 50-6-118, 50-6-405, 50-6-406, and 50-6-402.

0800-02-01-.05 Employer Claims Reporting Requirements

- (1) An employer must accept any notice of a claim for workers' compensation benefits from any employee or employee's representative alleging an injury.
- (2) In order to ensure that Workers' Compensation claims are acted on promptly, employers shall report all known or reported accidents or injuries to their adjusting entity within one (1) business day of knowledge of injury.
- (3) Unless otherwise specifically authorized by law, employers are prohibited from paying any benefits that are due because of a work-related injury in any manner that unlawfully shifts the responsibility away from the adjusting entity or conceals the occurrence of the injury or the extent of payments for benefits.

- (4) To assist the Bureau in its efforts to implement and enforce any of its program rules in a timely and efficient manner, a party shall provide the Bureau with any requested and relevant information. When the request includes specific instructions, only the information that complies with those instructions shall be sent.

Authority: T.C.A. §§ 50-6-207, 50-6-114, 50-3-701, 50-6-201, 50-6-128, and 50-6-419.

0800-02-01-.06 Medical Panels

- (1) Following receipt of notice of a workplace injury and the employee expressing a need for medical care, an employer shall, as soon as practicable but no later than three (3) business days after receipt of such request, provide the employee a panel of physicians as prescribed in T.C.A. § 50-6-204. A medical provider must be qualified, willing, and able to treat in a timely manner the injury or condition reported to be listed on a panel.
- (2) In the absence of evidence establishing a defense, where the employer fails to provide an appropriate initial panel of physicians to the employee within three (3) business days from the date the employer has notice of a work-related injury and the employee expressed a need for medical care, or provides a panel of physicians to the employee that does not meet statutory requirements, the employer may be assessed a civil penalty as provided in 0800-02-01-.10. The determination of whether a penalty is appropriate is a determination separate from and not dependent upon the ultimate compensability of the claim.
- (3) The employer shall immediately provide proper emergency assistance (i.e. EMT, ambulance, etc.) for any workplace injury that causes the need for emergency care. After the injured employee's medical condition has stabilized, the employer shall follow the requirements of subsection (1) above, the same as any alleged workplace injury not requiring emergency care.
- (4) Employers may direct injured employees to onsite, in-house or other similar employer-sponsored medical providers prior to providing an initial panel of physicians for an examination as allowed in T.C.A. § 50-6-204(d)(1). Having such a provider examine the injured employee does not satisfy nor alleviate the requirement for providing an appropriate panel within the three (3) business days referenced in 0800-02-01-.06(2) above. Employers may list that employer-sponsored medical provider as an option on the medical panel provided the provider meets the statutory requirements; however, the employee has the ultimate decision regarding which physician is selected.
- (5) Walk-in clinics, urgent care facilities and other similar providers may be an option on a medical panel if the provider is staffed by at least one physician and the name of the staff physician or medical director is also indicated on the panel. Associated walk-in clinics, urgent care facilities and other similar providers may be listed on the same medical panel to the extent allowed by law provided different staff physicians or medical directors are named for each different location.
- (6) When the name of a specialty practice group, consisting of multiple physicians willing to treat workers' compensation employees, is provided as an option on any panel provided by the employer rather than an individual physician's name and that group is chosen by the employee, the employee will have the final choice as to which appropriate physician from within that group shall become the authorized treating physician.
- (7) Nurse Practitioners, Physician Assistants and other mid-level practice extenders under the supervision, direction and ultimate responsibility of a licensed physician accountable to the Board of Medical Examiners may provide medical treatment ordered by an attending physician to an injured employee in accordance with their licensing. Notwithstanding this use of practice extenders in treatment settings, only the supervising physician may be listed on an Employee Choice of Physician Form C-42, may determine medical causation regarding the injury, may issue a permanent impairment rating, and may determine the date of an injured employee's maximum medical improvement.
- (8) In cases involving an injury that occurred on or after July 1, 2014, and the authorized treating physician, selected by the employee from an initial panel, refers the employee for specialized care, the employer shall be deemed to have accepted the referral, unless the employer, within three (3) business days, provides a panel of three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups to the employee pursuant to T.C.A. § 50-6-204(a)(3)(A).
 - (a) If a panel of three (3) specialists is provided, the employee shall select a provider from the panel and that provider shall become the employee's authorized treating physician.

- (b) For purposes of this section, receipt of the referral by the employer shall be accomplished whenever a copy of the referral is received at the employer or carrier's place of business by facsimile, email, post, hand delivery or commercial delivery service.

Authority: T.C.A. §§ 4-3-1409, 50-6-204, 50-6-233, 50-6-116, 50-6-419, and 50-6-118.

0800-02-01-.07 Claims Form And Claims Resolution Filing Requirements

- (1) When forms are reproduced, they shall be reproduced in their entirety, including any instructions, and shall not be modified without written consent of the Administrator. A form may be revised by the Bureau at any time at the discretion of the Administrator and shall be made available by the Bureau at no cost.
- (2) Each adjusting entity shall file all required claims forms and claims resolution documents in accordance with Rules 0800-2-14 Claims Handling Standards.

Authority: T.C.A. § 50-6-419.

0800-02-01-.08 Additional Forms

- (1) Any corporate officer who personally elects to be exempted from the Workers' Compensation Law shall file written notice of such election with the employer with a copy provided to the Bureau in accordance with the provisions of T.C.A. § 50-6-104 on Form I-6. Any corporate officer who had previously filed a Form I-6 and elects to revoke that decision and wishes to be covered by the Workers' Compensation Law shall immediately notify the employer and the Bureau on Form I-7.
- (2) Employers that are exempt from the Workers' Compensation Law and elect to be covered shall indicate that election by properly securing workers' compensation coverage. Such employers that subsequently wish to withdraw their acceptance of the provisions of the Workers' Compensation Law shall notify each of their employees affected by the withdrawal of the acceptance via certified mailing to the last known address of each affected employee at least ten (10) working days prior to canceling or not renewing the coverage. Such withdrawal shall not be effective until this notification has occurred.
- (3) An employee or prospective employee who wishes to waive compensation for claims arising out of aggravation or repetition of the conditions of heart disease, heart attack, or coronary failure or occlusion or who wishes to waive receipt of compensation for any aggravation of a specific identified occupational disease, pursuant to the provisions of the Workers' Compensation Law, or who are diagnosed as epileptics and who elect, pursuant to the provisions of the Workers' Compensation Law, not to be subject to the Workers' Compensation Law for injuries resulting because of epilepsy shall request the approval of the Bureau of the waiver on Form I-10, 11, 12. Requests for the revocation of a previously approved Form I-10, 11, 12 shall be furnished to the Bureau on Form I-13.
- (4) Common carriers who wish to provide workers' compensation insurance coverage under the Tennessee Workers' Compensation Law to a leased operator and/or a leased owner/operator shall notify the Bureau on Form I-14 & 16. Any such previously filed Form I-14 may be terminated by the leased operator, leased owner/operator, or common carrier by providing written notice of such termination to the Bureau and to all other parties on Form I-16.
- (5) General contractors who wish to provide workers' compensation insurance coverage under the Workers' Compensation Law to an individual subcontractor shall notify the Bureau on Form I-15. Such previously filed Form I-15 may be terminated by the subcontractor or general contractor by providing written notice of such termination to the Bureau on Form I-17.

Authority: T.C.A. §§ 50-6-102; 50-6-104; 50-6-106; 50-6-307; 50-6-213; and 50-6-902.

0800-02-01-.09 Medical Reports

A party, in lieu of a physician's deposition, may file a Standard Form Medical Report for Industrial Injuries- Form C-32 with the Administrator. The attending physician may charge a fee of up to One Hundred and Fifty Dollars (\$150.00) for completion and certification of the form.

Authority: T.C.A. §§ 4-3-103; 4-3-1403; 50-6-101 et seq., 50-6-118; 50-6-126; 50-6-204; 50-6-235 and 4-5-202.

0800-02-01-.10 Civil Penalties

- (1) The Bureau shall assess and collect civil penalties as defined in the Bureau's Rules.
- (2) A violation of any Workers' Compensation Rule included in Chapters 0800-02 without a defined penalty may result in a civil penalty of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000), per violation.
- (3) Prior to assessing a civil penalty against a party, the Bureau shall provide the party appropriate written notice of any potential penalty(ies) and allow the party an opportunity to submit evidence of compliance with the applicable Rules. If compliance is not established, a civil penalty shall be assessed pursuant to the applicable rules. The Bureau's Rules shall be posted on the Bureau's website. Where a civil penalty is imposed pursuant to the applicable rules, the assessed party may request a contested case hearing under Rules 0800-02-13.
- (4) Uncontested penalties shall be paid within 20 days of the date of the Bureau's notice of assessment of penalty and in the form of a check or money order made payable to the Treasurer, State of Tennessee and submitted to the Administrator.
- (5) Unpaid penalties may be collected in a civil action in the name of the State of Tennessee in any court of competent jurisdiction.

Authority: T.C.A. §§ 50-6-101 et seq., 50-6-102, 50-6-104; 50-6-106; 50-6-213; 50-6-307; 50-6-213.

0800-02-01-.11 Records/Copies

- (1) Workers' compensation settlement documents are public records.
- (2) Pursuant to T.C.A. § 50-3-702(b) workers' compensation claims records are exempt from public disclosure.
- (3) Pursuant to T.C.A. § 50-6-131 medical records held by the Bureau are not public records and are exempt from public disclosure or inspection.
- (4) Any person has a right to inspect public records. The right to "inspect" encompasses a right to view existing records and request a copy of them. It does not include a right to request searches for records not known to exist. Subject to an offer of employment, employers may request the Bureau to confirm the truthfulness of an applicant's answers regarding prior workers' compensation claims.
- (5) Copies of the Workers' Compensation records disclosable under state law may be obtained by written request made to:

Tennessee Bureau of Workers' Compensation
ATTN: Records' Custodian
220 French Landing Drive, 1-B
Nashville, Tennessee 37243-1002

- (6) Fees for researching and copying shall be ten dollars for the first twenty-five (25) pages and twenty-five cents (25¢) for each page after 25 pages.

(7) The Bureau shall charge an additional fee of \$10.00 for certified records.

(8) Payments of fees for records shall be made by credit card, check or money order payable to Treasurer, State of Tennessee and submitted to the Administrator. Payment in cash will not be accepted. Payment is due upon receipt of the requested material. Requestors will not be entitled to receive additional records until all payments for records provided within the previous sixty (60) days have been received.

Authority: T.C.A. §§ 50-6-238; 50-6-131.

0800-02-01-.12 Required Posting

- (1) Within five (5) business days of the date of the procurement or renewal of a policy, the adjusting entity is required to mail a copy of the Tennessee Workers' Compensation Posting Notice, available on the Bureau's website, via electronic mail or first class US Mail to the employer at the address provided on the policy. Failure to timely mail this form would subject the offending party to a potential penalty as described in 0800-02-01-.10(2).
- (2) Each employer is required to notify their employees of the services offered by the Bureau, the duties and obligations of the employer and employee and the name, address and telephone number employees may contact for additional information. This requirement shall be met by the continuous posting of the Tennessee Workers' Compensation Posting Notice, available on the Bureau's website, in one (1) or more conspicuous place(s) at each worksite.

Authority: T.C.A. § 50-6-407.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Bureau of Workers' Compensation on 12-13-17 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on June 30, 2017.

Rulemaking Hearing Conducted on August 29, 2017.

Date:

December 13, 2017

Signature:

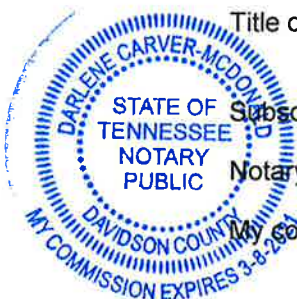
Abbie Hudgens

Name of Officer:

Abbie Hudgens

Title of Officer:

Administrator, Bureau of Workers' Compensation



Subscribed and sworn to before me on:

Notary Public Signature:

Darlene Carver-McDonald
March 8, 2021

My commission expires on:

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
2/15/2018
Date

Department of State Use Only

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SECRETARY OF STATE
PUBLIC AFFAIRS

Filed with the Department of State on:

3/2/18

Effective on:

5/31/18

Tre Hargett

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

PUBLIC COMMENTS AND RESPONSES:

Comment: In 0800-02-01-.04 Required Proof of Coverage Filings:

Subsection (2): While we do not object to the requirement that notices of cancellation be filed with NCCI within one working day of cancellation, we recommend that penalties be suspended when failure to file is due to technical difficulties beyond the insurer's control, such as an interruption in system availability.

Response: The Bureau agrees and will take into consideration all applicable circumstances before issuing any penalty in any situation.

Subsection (4): Instead of requiring adjusting entities to send the Notice of Employer Rights and Responsibilities in a Workers' Compensation Claim and the Tennessee Worker's Compensation Posting notice, it would be more efficient and cost-effective for these notices to be available for download from the Bureau's website, making employers responsible to download and post them.

Response: The bureau agrees and will generate this notice.

Comment: In 0800-02-01-.06 Medical Panels:

Subsection (1)(b): Requiring physicians to be "qualified, willing and able to treat in a timely manner" before being listed on a panel is impractical, since in some instances willingness to treat cannot be ascertained until the physician reviews medical records of a specific injured worker.

Response: The bureau agrees in part and this subsection has been amended. The bureau agrees that there is a need to improve care to injured workers. Willingness to treat is a requirement in T.C.A. § 50-6-204 to be listed on a panel of physicians.

Subsection (6): Giving employees the final choice as to which physician from within a specialty practice group shall become the authorized treating physician inappropriately undermines the employer's ability to direct medical treatment in order to ensure that injured workers return to work as quickly and successfully as possible.

Response: The bureau disagrees with the comment.

Comment: In 0800-02-01-.06(1), chiropractors should be included in the rule to mirror TCA 50-6-204(a)(3)(A)(i). In 0800-02-01-.06, we request that the following language be struck from (7): "may determine medical causation regarding the injury". TN WC statutes do not require the ATP to determine medical causation. We believe that if the ATP delegates this to a Physician Assistant, the PA should be the one making this determination under the ATP's supervision.

Response: Regarding chiropractors, the bureau agrees and the suggested change was made. Regarding determination causation, the bureau disagrees. There is no statutory authority for a Physician Assistant to determine causation. The definition of "injury" in TCA 50-6-102 and discussion of medical treatment in TCA 50-6-204 only reference "physician" regarding compensability and authorized medical treatment.

Comment: The proposed rules are too specific and detailed in many instances. The rules are notable for their lack of basic due process. The rules provide "after the fact" due process instead of a contested case hearing prior to the imposition of a penalty. The contested case hearing should occur before the penalty is assessed.

Response: The bureau disagrees with the comment regarding a pre-penalty contested case hearing, which is

contrary to the workers' compensation law and bureau rules. The bureau has statutory authority and rule authority to follow the UAPA contested case hearing process, as utilized by the Secretary of State. See TCA 50-6-118(c) and Bureau Rule 0800-02-13.

Comment: The rules are focused on protections for the injured worker and few safe harbors for regulated entities.

Response: The bureau disagrees with the comments regarding the bureau rules being focused on "protections for the injured worker and few safe harbors for regulated entities." See TCA 50-6-419 for the Tennessee General Assembly mandate through rulemaking, including civil penalties, in order to assure that injured employees are treated fairly and to assure that claims are handled in an appropriate and uniform manner.

Comment: Definition of "adjuster" is too broad and may capture persons who do not adjust claims. The rules conflate the concepts of risk-bearing and non-risk bearing entities with the definition of "adjusting entity" in the rules.

Response: The bureau agrees in part, and the definition of "adjuster" has been amended to be consistent with other rules. There was no suggestion as to how to modify the definition of "adjusting entity."

Comment: The rules introduce significant and unnecessary costs into the wc system.

Response: The bureau disagrees. Costs should be minimal.

Comment: It may be helpful to have the Advisory Council and possibly the MAC and MPC to review and comment on the proposed rules.

Response: The bureau disagrees. The roles of the Medical Advisory Committee and Medical Payment Committee do not extend to rules related to the adjustment of claims. The Advisory Council on Workers' Compensation may, but is not required to, make recommendations "relating to the promulgation or adoption of legislation or rules." The Advisory Council will receive a copy of the rules that are submitted to the Attorney General.

Comment: In 0800-02-01-.04(2), providing notice to NCCI within one calendar day is unrealistic and unduly burdensome.

Response: The bureau agrees and the notice period has been changed to fifteen (15) calendar days.

Comment: 0800-02-01-.04. Self-insurance groups are not members of NCCI and have no current obligation to provide info to NCCI so they should be exempt from NCCI filing requirement.

Response: The bureau agrees and has made the requested change,

Comment: In 0800-02-01-.05(1), this is too broad. It should be limited to claims that are properly subject to the workers' compensation law.

Response: The bureau agrees with the comment, but the Scope section confirms that these rules are for those entities subject to the TN Workers' Compensation Law.

Comment: In 0800-02-1-.06(b): Willingness to treat is unduly burdensome and costly for employer to investigation doctor every time panel is provided. "Timely" services by physician is not defined and is ambiguous and should not be the ER's responsibility.

Response: The bureau agrees and this section has been amended for clarification purposes.

Comment: In 0800-02-01-.06(5): It is unduly burdensome and costly for a particular physician's name to be on the panel. The name of the clinic should be sufficient.

Response: The bureau disagrees. T.C.A. § 50-6-204 specifies that a panel of physicians be provided.

Comment: Rule 0800-02-01-.06(5) and (6) appear inconsistent. With clinics a particular doctor must be identified, but not with a specialty practice group.

Response: The bureau disagrees that it is inconsistent. With clinics, the Medical Director must be included to ensure that an MD is available to review the records of the injured worker's medical treatment. TCA 50-6-204(a)(3)(A)(i) allows specialty practice groups to be listed on panels.

Comment: 0800-02-01-.06(7): If adjusters have to reject info signed off on by practice extenders, this will have the effect of additional unnecessary costs to the adjusting of a claim.

Response: Adjusters don't have to reject this information. The rule specifically allows mid-levels to treat injured workers. It just prohibits mid-levels from being listed on the panel.

Comment: 0800-02-01-.12 duplicates .04(4). Can a link to the bureau website be provided?

Response: Yes, the form is available on the bureau's website.

Comment: Providing the Beginner's Guide is too burdensome for employers.

Response: The bureau disagrees. The bureau will provide a link on its website for this information.

Comment: Requiring an employer to provide a copy of the Beginner's Guide to Tennessee Workers' Compensation would be onerous for many unsophisticated employers. Small businesses and sole proprietors do not maintain a human resources office or personnel equipped to provide the Beginner's Guide within three days of the notice of injury. Under the proposed rules, the adjusting entity does not have to advise the employer of the requirement to provide the Beginner's Guide until the third business day after the notice of injury (the employer must report the injury to the adjusting entity within one business day and then the adjusting entity must contact the employer within two business days of the employer's reporting the claim). Thus, the employer would have mere hours to obtain a copy of the Beginner's Guide and provide it to the employee.

Response: The bureau agrees, and the Beginner's Guide may be distributed by the insurance carrier. A link to this will be provided on the bureau's website.

Comment: How will the beginner's guide be given to the injured worker? Needs clarification on electronic mail or in person, etc.

Response: The Beginner's Guide may be provided electronically and is to be provided by the adjuster.

Comment: Tenn. Code Ann. §50-6-101 specifically states, "This chapter shall be cited to as the 'Workers' Compensation Law'..." Further, in other Rules, the law is referenced as the Workers' Compensation Law.

Response: The bureau agrees and has made the recommended change.

Comment: Employee is not a defined term under the Rules, as the proposed Rules define "claimant."

Response: The bureau agrees and the term has been changed to "employee".

Comment: Definitions of "adjuster" and "adjusting entity" are inconsistent with other rules.

Response: The bureau agrees and edits were made for consistency in the definitions in other rules.

Comment: Rule 0800-02-01-.04. Required Proof of Coverage Filings. Pursuant to subsection (3), self-insured employers are exempt from subsections (1) and (2), but what about the Adjusting Entity for the self-insured employer? Under subsection (3), self-insured employers must file evidence of procurement, renewal, and/or cancellation of workers' compensation insurance, so the Adjusting Entity would have no obligation in this regard. Is this correct?

Response: The bureau agrees, as proof of coverage filings are not applicable to self-insured employers.

Comment: Under the current Rule 0800-02-01-.06(2), self-insured employers are exempt from this requirement so it is suggested they be exempt under the proposed Rule as well.

Response: The bureau agrees. Self-insured employers would be exempt from this reporting requirement.

Comment: Employers and adjusters generally do not know if the medical provider can treat the employee in a timely manner at the time the Panel of Physicians is offered but may be subject to a penalty if the medical provider is not able to provide timely treatment after the fact? This is a harsh result when an employer and adjuster are dealing with a situation out of their control.

Response: The bureau disagrees. Doctors should not be on panels if they are unable or unwilling to treat injured workers. The employer has a responsibility to ascertain the provider's willingness to provide treatment at the time the doctor was placed on the panel, as there are existing penalties for in the Enforcement Procedure Rule 0800-02-24-.05(d) and (e).

Comment: In 0800-02-01.06(5) Walk-in clinics, urgent care facilities and other similar providers may be an option on a medical panel if the provider is staffed by at least one physician and the name of the staff physician or medical director is also indicated on the panel. Associated walk-in clinics, urgent care facilities and other similar providers may be listed on the same medical panel to the extent allowed by law provided different staff physicians or medical directors are named for each different location. This proposed Rule is burdensome in that it would require employers to phone every medical provider every time a Panel of Physicians is offered to ensure the name of the staff physician and/or medical director is unchanged.

Response: The bureau disagrees with the comment. Employer/carrier should not list a doctor on panel if the doctor will not treat an injured worker.

Comment: Rule 0800-02-01-.06(6) is wholly unreasonable if it would allow an employee to choose any physician who accepts workers' compensation injuries within a specialty practice to treat the employee as it would negate the right of the employer to control the medical treatment provided to the employee. Also, how does this interact with Tenn. Code Ann. §50-6-204(a)(3)(B) which requires the employee be provided a list of 3 independent reputable physicians, surgeons, chiropractors, or specialty practice groups not associated in practice together that are within a 125 mile radius of the employee's community of residence when 3 or more independent reputable physicians, surgeons, chiropractors, or specialty practice groups not associated in practice together are not available in the employee's community? Further, please clarify if this Rule only pertains to Panel of Physicians provided after a referral to a specialist.

Response: The bureau agrees in part and has clarified the rule to ensure that employers know how to maintain their rights regarding creation of panels.

Comment: In 0800-02-01-.06(7) ...Notwithstanding this use of practice extenders in treatment settings, only the supervising physician may be listed on an Employee Choice of Physician Form C-42, may determine medical causation regarding the injury, may issue a permanent impairment rating, and may determine the date of an injured employee's maximum medical improvement. Aside from the concerns noted above in subsection (5), it is very possible the "supervising physician" overseeing the employee medical treatment may not be the staff physician and/or medical director required to be listed on the Panel of Physicians.

Response: It would not apply to the one physician the ATP referred, but would apply if the employer chose to provide a panel of three. No change is recommended or needed in this rule.

Comment: In 0800-02-01-.06(8) In cases involving an injury that occurred on or after July 1, 2014, and the authorized treating physician, selected by the employee from an initial panel, refers the employee for specialized care, the employer shall be deemed to have accepted the referral, unless the employer, within three (3) business days, provides a panel of three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups to the employee pursuant to T.C.A. 50-6-204(a)(3)(A). Is this Rule necessary when the same is codified at Tenn. Code Ann. § 50-6-204(a)(3)(A)(ii)?

Response: The bureau disagrees. The rule adds clarity to the statute.

Comment: In 0800-02-01-.06(8):

a. If a panel of three (3) specialists is provided, the employee shall select a provider from the panel and that provider shall become the employee's authorized treating physician.

Is this Rule necessary when the same is codified at Tenn. Code Ann. § 50-6-204(a)(3)(E) and is a bit different?

Response: The rule adds clarity to the statute.

Comment: Rule 0800-02-01-.08. Additional Forms. (2) Employers that are exempt from the Act and elect to be covered shall indicate that election by properly securing workers' compensation coverage. Such employers that subsequently wish to withdraw their acceptance of the provisions of the Workers' Compensation Law shall notify each of their employees affected by the withdrawal of the acceptance via certified mailing to the last known address of each affected employee at least ten (10) working days prior to canceling or not renewing the coverage. Such withdrawal shall not be effective until this notification has occurred.

This proposed Rule would apply to our municipal entities who can opt of workers' compensation. This proposed
SS-7037 (Dec 2017)

RDA 1693

Rule is unduly burdensome in terms of providing notice to employees and the notice is of no effect as the employee could not change the decision. This raises the issue of why notice would have to be provided at all? Please advise as to the purpose. Under the current Rule the only required notice is to the Administrator.

Response: The bureau disagrees. The cities and municipalities are exempt from the WC Law unless they opt in. They will no longer have to file notice with the bureau or administrator that they are electing to be included in the wc law. Employees need to know whether their employer is included or not in the wc system.

Comment: Three business days is too aggressive. The first panel is the difficult one. The current five business day requirement more appropriate. Also, two business days to send out the notice of reported injury is too restrictive and will increase the workload of the adjuster. This might be addressed by the liaison requirement. If there is a change of adjuster, there should be a notice, but maybe either one or the other (notice of reported injury or notice of a change) go out to the injured worker to serve the same purpose.

Response: The bureau disagrees that three business days is too short to provide a panel. Many states require the panel to be provided within one business day. The bureau disagrees with the comment about two business days to send the notice of reported injury being too restrictive. Both of these notices are important and should be provided to the injured worker.

Comment: In .06 (7), the Physician Assistant should be able to address causation since the PA is more familiar with the patient, and since working under the ATP, the PA can do this.

Response: The bureau disagrees. The PA is not a physician as required in TCA 50-6-204 and cannot address causation or provide an impairment rating.

Comment: Rule 0800-02-01-0.05 Employer Claims Reporting Requirements

I am concerned about the language "An employer must accept any notice of a claim". The language is broad and could circumvent what has been established as proper notice. My suggestion would be to change the language to "Once notice is received of a claim". I would also like the ability to point the employee to the Bureau's website rather than actually providing a copy of the Beginner's Guide to Tennessee Workers' Compensation.

Response: The bureau agrees in part with the comment and has edited this rule. Providing a link to the beginner's guide on the bureau website is permissible.

Comment: Regarding reporting the claim to the TPA within 1 business day when we know about an injury, will this affect self-insured employers? I'm not sure how that will affect us since we "hold" some claims in EHS(Our nurses dept) for a while on occasion depending on the circumstances (i.e. employee wants us to be aware of a strain or soreness but doesn't feel a need for treatment at the time of report, etc.).

Response: The reporting requirement to the TPA/Carrier does not apply to self-insured employers.

Comment: We also send occasional "for report only" claims to our TPA which require no investigations. As a part of this, we do include the form with the MD choice with the employee's signature so hopefully this will suffice. However, I'm not sure how they will look at it based on these potential regulations. I suspect other employers do these very same things which I feel are proper but may be questioned according to the new proposals.

Response: The bureau agrees that the reporting requirement and panel of physician requirements should be met. No changes to the rules were recommended.

Comment: In 0800-02-01-.06, the term "appropriate panel" needs defining or clarification.

My suggestion is to define "appropriate panel" with an example that includes the name of the physician, State medical license number and that the physician's office and distance from the EE home. An appropriate panel must include physicians within the EE community if available. If the EE with an ortho knee injury lives in Smyrna then it is not appropriate to give him physician list of orthos with one in Murfreesboro and one in Smithville (50 miles away) and one in McMinnville (70 miles away) when Nashville has 250 within 25 miles.

I think the Bureau needs to define what an "appropriate panel" clearly within these rules based upon the statute and case law. An appropriate panel to me is a panel of physicians within the specialty to treat the work related injury within the EE community whereby at least one of the three are not in the same practice or practice group and are not located more than twenty-five (25) miles from the EE residences unless there are not enough physicians within twenty-five (25) miles to produce the panel of 3, in which case the panel may include no more than two (2) physicians

that are no greater than seventy-five (75) miles from the EE residence.

Putting a definition out there that has true consequences will reduce the number of PDBs filed on this issue. If the WCATP is going to be presumed correct and is chosen from a list produced by a very knowledgeable EE and Carrier and given to an unknowledgeable injured worker, then rules need to be made and followed by the ER and Carrier on the panel issue. 90% of the time the EE is unrepresented at the time the panel is given.

Response: The bureau agrees with the comment, and a clarifying change has been made to the medical panel section of these rules.

Comment: Regarding the requirement that employers give a copy of the Beginner's Guide to everyone filing a claim. The Guide is very explicit in explaining that the employee's SUPERVISOR should be the one first notified, and that the SUPERVISOR is the one who must complete the 'required forms' which are listed on the website. (And the website (tn.gov/workforce/topic/forms) lists 137 forms with no indication as to which the supervisor is supposed to complete, so this is confusing.) The Guide says the SUPERVISOR must give the employee the panel of doctors....

So I fear giving the Beginner's Guide attached here will cause some confusion and possibly some unnecessary backlash if the worker think's we aren't following the rules.

Also, Can you change the 1st (1) requirement for employer's: 0800-02-01-.05 to instead of providing a copy of the Beginner's Guide with every claim filed, to requiring the employer to tell/give the employee information about the website, where they can look-up/read the Guide for themselves as well as maybe get some other info.

Response: The beginner's guide refers to supervisor instead of employer, which may be confusing. The bureau has changed the language in beginner's guide to read "employer" instead of "supervisor". An employer may refer an injured worker to the bureau's website for this information.

Comment: TAA has a Worker's Compensation Pool, TENNESSEE AUTOMOTIVE ASSOCIATION SELF-INSURED TRUST (TAASIT) which provides primarily franchised motor vehicle dealers with worker's compensation insurance. TAASIT requests that you exempt their type of pools from the rules proposed by TDLWFD. It is a duplication of regulation and effort in many instances and is unnecessary in this instance.

Response: Self-insured employers and pools are subject to the workers' compensation law and rules. However, under Rule 0800-02-01-.04(3), self-insured employers and pools are exempt from this section, but must file proof of coverage with the Department of Commerce and Insurance in accordance with T.C.A. § 50-6-405 with a copy to the bureau.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rulemaking process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule: The amended rules should not affect small employers that fall under the Tennessee Workers' Compensation Laws, which would be employers with at least five employees, or for those in the construction industry at least one employee. There should be no additional costs associated with these rule changes.
2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record. There is no additional record keeping requirement or administrative cost associated with these rule changes.
3. A statement of the probable effect on impacted small businesses and consumers: These rules should not have a negative impact on consumers or small businesses.
4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business: There are no less burdensome methods to achieve the purposes and objectives of these rules.
5. Comparison of the proposed rule with any federal or state counterparts: None.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule: Exempting small businesses could frustrate the small business owners' access to the services provided by the Bureau of Workers' Compensation and timely medical treatment for injured workers, which would be counter-productive.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These proposed rules will have little, if any, impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rules are amendments to existing general rules of the Bureau of Workers' Compensation concerning forms and procedures regarding workers' compensation claims in Tennessee.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 50-6-233: The bureau's administrator may promulgate rules and regulations implementing the workers' compensation law.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Workers' compensation insurance carriers and employers, including self-insured employers, will be affected by the adoption or rejection of these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The overall effect will have little fiscal impact upon state or local government.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Troy Haley, Legislative Liaison and Director of Administrative Legal Services

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Troy Haley, Legislative Liaison and Director of Administrative Legal Services

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees:

Tennessee Bureau of Workers' Compensation
220 French Landing Drive, Floor 1-B
Nashville, TN 37243
(615) 532-0179
troy.haley@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR
BUREAU OF WORKER'S COMPENSATION**

**CHAPTER 0800-02-01
GENERAL RULES OF THE WORKERS' COMPENSATION PROGRAM**

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0800-02-01-.01 PURPOSE AND SCOPE. Scope of Rules

This chapter shall apply to all employees, employers, adjusting entities, and providers of services related to workers' compensation claims subject to the Tennessee Workers' Compensation Law Act (the Act).

- (1) ~~Purpose. The purpose of this chapter and the within rules is to set out the reporting requirements and procedures for the state's Workers' Compensation program. These rules set out the forms required for reporting, time limits, and civil penalties which may be assessed by the Division of Workers' Compensation. They also establish the records available from the Division and procedure for obtaining records.~~
- (2) ~~Scope. This chapter and the within rules apply to all employers, self-insured employers, insurance carriers, and/or employees subject to the "Workers' Compensation Law."~~

Authority: T.C.A § 50-6-101 et seq., Title 50, Chapter 10. **Administrative History:** Original rule certified June 10, 1974. Amendment filed September 19, 1974; effective October 19, 1974. Repealed and new rule filed February 19, 1987; effective April 5, 1987.

0800-02-01-.02 DEFINITIONS.Definitions

(1) The terms contained within these rules shall have the same definitions as those established by the Workers' Compensation Law and the case law interpreting it. When any terms that are used in these rules differ from the definition established by the Tennessee Workers' Compensation Law, the definition established by the Tennessee Workers' Compensation Law shall govern.

(2) ~~"Director" shall mean the Director of the Workers' Compensation Division of the Tennessee Department of Labor. As of the date of filing these rules, the Director may be contacted as follows:~~

~~Director, Division of Workers' Compensation
Tennessee Department of Labor and Workforce Development
220 French Landing Drive
Nashville, Tennessee 37243~~

(3) ~~"Division" shall mean the Division of Workers' Compensation within the Tennessee Department of Labor.~~

(Rule 0800-02-01-.02, continued)

- (4) ~~"Filing" shall be effective when received by the Division and shall be done through electronic data interchange whenever possible.~~
- (5) ~~"Self-insured Employers" shall include group self-insured employers.~~
- (1) "Adjusting entity" means a trade or professional association, managing general agency, pool, third party administrator and/or insurance company licensed to write workers' compensation insurance in Tennessee and shall also mean a self-insured employer or group self-insured employers possessing a valid certificate of authority from the commissioner of commerce and insurance pursuant to T.C.A. §50-6-405.
- (2) "Adjuster," "claims adjuster," "med-only adjuster" or "claims handler" means a representative of an adjusting entity who investigates workers' compensation claims for purposes of making compensability determinations, files or causes claims forms to be filed with the Bureau, commences benefits, and/or makes settlement recommendations based on the insured's liability on behalf of a self-insured employer, trade or professional association, third party administrator, and/or insurance company.
- (3) "Administrator" shall have the same definition of "Administrator" as in T.C.A. §50-6-102.
- (4) "Bureau" means the Tennessee Bureau of Workers' Compensation as defined in Tenn. Code Ann. § 50-6-102, an autonomous unit attached to the Department of Labor and Workforce Development for administrative matters only, pursuant to Tenn. Code Ann. § 4-3-1409.
- "Claimant" means an individual who is claiming benefits under the Act.
- (5) "Electronic Data Interchange" or "EDI" means the electronic communication method that provides standards for exchanging data via any electronic means. The term "EDI" encompasses the entire electronic data interchange process, including the transmission, message flow, document format, and software used to interpret the documents using the standards established by the IAIABC and the Release Version accepted by the Bureau at the time of the filing.
- (6) "Employee shall have the same definition of "Employee" as in T.C.A. §50-6-102.
- (7) "Employer" shall have the same definition of "Employer" as in T.C.A. §50-6-102.
- (8) "File" means to successfully submit claims information in the manner required by Bureau Rules. Success is achieved when claims information is filed in the manner required by the Bureau Rules and its acceptance is acknowledged by the Bureau. Success is not achieved if the Bureau receives and its acceptance is not acknowledged by the Bureau or if the Bureau subsequently rejects or returns claims information that has been submitted but is incomplete or fails to use the correct form or formats.
- (9) "Form" means the original document as is available on the Bureau's website on the date of the filing.
- (10) "IAIABC" means the International Association of Industrial Accident Boards and Commissions.
- (11) "Insured" shall have the same definition of "Employer" as in T.C.A. §50-6-102.
- (12) "Rate Service Organization" shall have the same definition of "Rate Service Organization as in T.C.A. §56-5-102.

Authority: T.C.A §§ 50-6-101 et seq. and 50-6-102. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987. Amendments filed March 25, 2013; effective June 23, 2013.

0800-02-01-.03 CIVIL PENALTIES. ~~The Workers' Compensation Law requires the filing of forms as outlined in the following section, and the Director shall assess and collect civil penalties as defined in Rule 0800-02-01-.04 through Rule 0800-02-01-.16.~~

Authority: ~~T.C.A. §§ 50-6-101 et seq. and 50-6-102. Administrative History: Original rule filed February 19, 1987; effective April 5, 1987.~~

0800-02-01-.03 Designation of Insurance Rate Organization

The Insurance Rate Service Organization designated for purposes that include the filing of insurance policy provisions and coverages and the determination of job classifications for applicable Bureau Rules shall be posted on the Bureau's website.

Authority: T.C.A. §§ 56-5-120, 56-5-110, 50-6-901, 56-5-320. New rule filed _____; effective _____.

0800-02-01-.04 REPEALED.

Authority: ~~T.C.A. §§ 50-6-118, 50-6-233, 50-6-412, and 50-6-801. Administrative History: Original rule filed February 19, 1987; effective April 5, 1987. Repeal filed January 3, 2003; effective May 30, 2003.~~

0800-02-01-.04 Required Proof of Coverage Filings

- (1) An adjusting entity must file appropriate evidence with the designated Rate Service Organization of an employer's procurement or renewal of workers' compensation insurance within thirty (30) calendar days of the procurement or renewal. Failure to timely file the appropriate evidence would subject the offending party to a potential penalty as described in 0800-02-01-.10(2) below.
- (2) An adjusting entity must file appropriate evidence, with the designated Rate Service Organization, of the cancellation of an employer's workers' compensation insurance within fifteen (15) calendar one (1)-working days of the cancellation. Failure to timely file the appropriate evidence would subject the offending party to a potential penalty as described in 0800-02-01-.10(2) below.
- (3) Self-insured employers and pools are exempt from the requirements of paragraphs (1) and (2) of this subsection, but must file evidence with the Department of Commerce and Insurance in accordance with T.C.A §50-6-405 and provide a copy to the Bureau of Workers' Compensation coverage unit.
- (4) Not later than five (5) business days of the date of the procurement and each subsequent renewal of a policy, the adjusting entity is required to mail a copy of the Notice of Employer Rights and Responsibilities in a Workers' Compensation Claim and a copy of the Tennessee Workers' Compensation Posting Notice via electronic mail or first class US Mail to the employer at the address provided on the policy. These documents, produced by the Bureau, provide information regarding employer and employee rights, responsibilities, duties, and obligations under the Workers' Compensation Law. Failure to timely mail a required form would subject the offending party to a potential penalty as described in 0800-02-01-.10(2) below.

Authority: T.C.A §§ 50-6-118, 50-6-405, 50-6-406, and 50-6-402. Administrative History: Original rule filed February 19, 1987; effective April 5, 1987. Repeal and new rule filed _____; effective _____.

0800-02-01-.05 FAILURE TO FILE CERTIFICATE OF INSURER. ~~Employers and/or insurance carriers of an employer must file with the Director of Workers' Compensation written evidence of compliance with the insurance coverage requirements of TCA §50-6-405. Self-insured employers are exempt from this section, but must file with the Department of Commerce and Insurance in accordance with T.C.A §50-6-405(a)(2).~~

- ~~(1) Workers' Compensation Form I-1 (Certificate of Insurer) is the written evidence required by Rule 0800-02-01-.05, and a copy can be found in Appendix A (together with copies of all other Forms). Form I-1 shall be submitted within thirty (30) days after procurement or renewal~~

~~of suitable workers' compensation insurance.~~

- ~~(2) The penalty for non-compliance with Rule 0800-02-01-.05 is \$100 for each fifteen (15) days past the required date for filing until Form I-1 is received.~~
- ~~(3) "Notice of Cancellation." Upon cancellation of any Workers' Compensation insurance policy, Form I-2 shall be immediately filed with the Director.~~

~~**Authority:** T.C.A. §§ 50-6-118 and 50-6-405. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

0800-02-01-.05 Employer Claims Reporting Requirements

- (1) An employer must accept any notice of a claim for workers' compensation benefits from any employee or employee's representative alleging an injury, or the employee's representative and must provide a copy of the Beginner's Guide to Tennessee Workers' Compensation, available on the Bureau's website, to the injured employee contemporaneously with the provision of the panel described in 0800-02-01-.06.
- (2) In order to ensure that Workers' Compensation claims are acted on promptly, employers shall report all known or reported accidents or injuries to their adjusting entity within one (1) business day of knowledge of injury.
- (3) Unless otherwise specifically authorized by law, employers are prohibited from paying any benefits that are due because of a work-related injury in any manner that unlawfully shifts the responsibility away from the adjusting entity or conceals the occurrence of the injury or the extent of payments for benefits.
- (4) To assist the Bureau in its efforts to implement and enforce any of its programs rules in a timely and efficient manner, a party shall provide the Bureau with any requested and relevant information. When the request includes specific instructions, only the information that complies with those instructions shall be sent.

~~**Authority:** T.C.A. §§ 50-6-207, 50-6-114, 50-3-701, 50-6-201, 50-6-128, and 50-6-419. Repeal and new rule filed _____; effective _____.~~

0800-02-01-.06 — FIRST REPORT OF INJURY.

~~Each employer, self-insured employer, and/or insurer shall file a Form C-20 (Tennessee Employer's First Report of Work Injury or Illness) in accordance with the following:~~

- ~~(1) The Form C-20 shall be filed with the Division in all cases where the injury or illness results in the receipt of medical treatment outside of the employer's premises, absence from work, retention of a permanent impairment, or death. Except as provided in paragraph (2) of this Rule, in no event shall the requirement to file Form C-20 differ based upon the number of days between the injury or illness and the employee's return to employment.~~
- ~~(2) Employers, other than self-insured employers, shall report the injuries or illnesses described in paragraph (1) of this Rule to their insurer within one (1) business day of knowledge of the injury or illness. Insurers, and self-insured employers, shall file the Form C-20 with the Division as soon as possible, but not later than fourteen (14) days after knowledge of an~~

(Rule 0800-02-01-.06, continued)

~~injury or illness of a nature that an employee does not return to his or her employment within seven (7) days after the occurrence of the injury or illness. Reports of injuries or illnesses in which an employee returns to his or her employment within seven (7) days or fewer shall be filed as soon as possible, but not later than the fifteenth (15th) day of the month following the month in which the injury or illness occurred.~~

- ~~(3) The penalty for non-compliance with Rule 0800-02-01-.06 is \$25 for each fifteen (15) days past the required date for filing. Where non-compliance is the result of the employee's failure to provide the employer with notice of the injury, the employer shall submit written evidence of the lack of knowledge of the injury upon the Division's request. The Division may adjust and/or eliminate the penalty based on such written evidence.~~

~~**Authority:** T.C.A. §§ 50-3-701; 50-3-702; 50-6-102; 50-6-118; 50-6-201; and 50-6-233. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987. Repeal and new rule filed March 25, 2013; effective June 23, 2013.~~

0800-02-01-.06 Medical Panels

~~The employer shall provide the employee an appropriate initial panel of physicians on an Employee Choice of Physician Form C-42 upon report of a workplace injury, other than those requiring emergency care, as defined in the workers' compensation statutes.~~

~~The panel shall list the names of medical providers made available by the employer to treat the injured employee.~~

~~A provider, physician or specialty practice group must be qualified, willing and able to treat in a timely manner the nature of the injury or condition reported in order to be listed on a panel.~~

~~An injured employee seeking medical treatment shall select one of the listed providers to become the treating physician.~~

- ~~(1) Following receipt of notice of a workplace injury and the employee expressing a need for medical care, an employer shall, as soon as practicable but no later than three (3) business days after receipt of such request, provide the employee a panel of physicians as prescribed in T.C.A. § 50-6-204. A medical provider must be qualified, willing and able to treat in a timely manner the injury or condition reported to be listed on a panel.~~

- ~~(2) In the absence of evidence establishing a defense, where the employer fails to provide an appropriate initial panel of physicians to the employee within three (3) business days from the date the employer has notice of a work-related injury and the employee expressed a need for medical care, or provides a panel of physicians to the employee that does not meet statutory requirements, the employer may be assessed a civil penalty as provided in 0800-02-01-.10. The determination of whether a penalty is appropriate is a determination separate from and not dependent upon the ultimate compensability of the claim.~~

~~In any case where the employer fails to provide an appropriate initial panel of physicians to the employee within three (3) business days from the date the employer has notice of an injury, or provides a panel of physicians to the injured employee that does not meet statutory requirements, the employer may be assessed a civil penalty as provided in 0800-02-01-.10.~~

- ~~(3) The employer shall immediately provide proper emergency assistance (i.e. EMT, ambulance, etc.) for any workplace injury that causes the need for emergency care. After the injured employee's medical condition has stabilized, the employer shall follow the requirements of subsection (1) above, the same as any alleged workplace injury not requiring emergency care.~~

(Rule 0800-02-01-.06, continued)

- (4) Employers may direct injured employees to onsite, in-house or other similar employer-sponsored medical providers prior to providing an initial panel of physicians for an examination as allowed in T.C.A. §50-6-204(d)(1). Having such a provider examine the injured employee does not satisfy nor alleviate the requirement for providing an appropriate panel within the three (3) business days referenced in 0800-02-01-.06(2) above. Employers may list that employer-sponsored medical provider as an option on the medical panel provided the provider meets the statutory requirements; however, the employee has the ultimate decision regarding which physician is selected.
- (5) Walk-in clinics, urgent care facilities and other similar providers may be an option on a medical panel if the provider is staffed by at least one physician and the name of the staff physician or medical director is also indicated on the panel. Associated walk-in clinics, urgent care facilities and other similar providers may be listed on the same medical panel to the extent allowed by law provided different staff physicians or medical directors are named for each different location.
- ~~When a specialty practice group, consisting of multiple physicians willing to treat workers' compensation employees, is provided as an option on any panel provided by the employer and chosen by the employee, the employee will have the final choice as to which appropriate physician from within that group shall become the authorized treating physician.~~
- (6) When the name of a specialty practice group, consisting of multiple physicians willing to treat workers' compensation employees, is provided as an option on any panel provided by the employer rather than an individual physician's name and that group is chosen by the employee, the employee will have the final choice as to which appropriate physician from within that group shall become the authorized treating physician.
- (7) Nurse Practitioners, Physician Assistants and other mid-level practice extenders under the supervision, direction and ultimate responsibility of a licensed physician accountable to the Board of Medical Examiners may provide medical treatment ordered by an attending physician to an injured employee in accordance with their licensing. Notwithstanding this use of practice extenders in treatment settings, only the supervising physician may be listed on an Employee Choice of Physician Form C-42, may determine medical causation regarding the injury, may issue a permanent impairment rating, and may determine the date of an injured employee's maximum medical improvement.
- (8) In cases involving an injury that occurred on or after July 1, 2014, and the authorized treating physician, selected by the employee from an initial panel, refers the employee for specialized care, the employer shall be deemed to have accepted the referral, unless the employer, within three (3) business days, provides a panel of three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups to the employee pursuant to T.C.A. 50-6-204(a)(3)(A).
- a. If a panel of three (3) specialists is provided, the employee shall select a provider from the panel and that provider shall become the employee's authorized treating physician.
- b. For purposes of this section, receipt of the referral by the employer shall be accomplished whenever a copy of the referral is received at the employer or carrier's place of business by facsimile, email, post, hand delivery or commercial delivery service.

Authority: T.C.A. §§ 4-3-1409, 50-6-204, 50-6-233, 50-6-116, 50-6-419, and 50-6-118. Administrative History: Original rule filed December 22, 2014; effective date March 22, 2015. Repeal and new rule filed : effective

0800-02-01-.07 NOTICE OF FIRST PAYMENT OR DENIAL. Upon making the first payment or upon denying a claim after proper investigation, the employer, self-insured employer, or insurance company must notify the Director immediately by submitting one of the following:

- *Notice of First Payment of Compensation, Form C-22; or
- *Notice of Denial of Claim for Compensation, Form C-23.

- ~~(1) "First Payment of Compensation." Employers, self-insured employers, and/or insurance~~

(Rule 0800-02-01-.06, continued)

~~companies must file Form C-22 (Notice of First Payment of Compensation) with the Director.~~

- ~~(a) The penalty for failure to immediately notify the Director of the first payment of compensation is \$10 for each fifteen (15) days past the required date the payment was issued until the notice is received by the Director. Said penalty shall not exceed Two Hundred (\$200.00) Dollars for any individual violation of this regulation.~~
- ~~(b) The penalty for failure to pay the first payment in accordance with TCA §50-6-205(b) is \$50 for each fifteen (15) days past the date when payment is due. Said penalty shall not exceed One Thousand Five Hundred (\$1,500.00) Dollars for any individual violation of this regulation.~~
- ~~(2) "Notice of Denial." Insurance carriers and/or self-insured employers must submit to the Director notice of denial of compensation on Form C-23.~~
 - ~~(a) The penalty for failure to immediately notify the Director of denial of workers' compensation benefits is \$10 for each fifteen (15) days past the date of denial until the notice is received.~~
 - ~~(b) Bad Faith Denial. The penalty for a bad faith denial of a claim shall be an amount equal to the amount of unpaid benefits up to a maximum of \$500.~~
 - ~~(c) Bad faith shall be determined by the Director and shall include such conduct as denial of a claim based on the fact that the employee filed a lawsuit.~~

~~**Authority:** T.C.A. §§ 50-6-101; 50-6-118; 50-6-205(b); 50-6-205(c); 50-6-303 and 4-5-202.~~
Administrative History: Original rule filed February 19, 1987; effective April 5, 1987. Amendment filed March 5, 1993; effective April 19, 1993.

0800-02-01-.07 Claims Form And Claims Resolution Filing Requirements

- (1) When forms are reproduced, they shall be reproduced in their entirety, including any instructions, and shall not be modified without written consent of the Administrator. A form may be revised by the Bureau at any time at the discretion of the Administrator and shall be made available by the Bureau at no cost.
- (2) Each adjusting entity shall file all required claims forms and claims resolution documents in accordance with Rules 0800-2-14 Claims Handling Standards.

Authority: T.C.A. § 50-6-419. New rule filed _____; effective _____.

0800-02-01-.08 NOTICE OF CHANGE OR STOP IN BENEFIT PAYMENTS FOR ANY CAUSE OTHER THAN FINAL SETTLEMENT. Insurance carriers and/or self-insured employers must submit to the Division notice of change or stop in benefits payment on Form C-26. Form C-26 must be filed immediately upon change or stop in the payment of benefits.

(Rule 0800-02-01-.08, continued)

- ~~(1) The penalty for non-compliance with Rule 0800-02-01-.08 is \$10 for each fifteen (15) days past the date the change or stop occurred until notice is received by the Director.~~
- ~~(2) The penalty for failure to pay benefits at least semi-monthly as required by TCA §50-6-205(b) is \$50 for each fifteen (15) days past the date when payment is due.~~

~~**Authority:** T.C.A. §§ 50-6-205 and 50-6-118. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

0800-02-01-.08 Additional Forms

- (1) Any corporate officer who personally elects to be exempted from the Workers' Compensation Law shall file written notice of such election with the employer with a copy provided to the Bureau in accordance with the provisions of TCA §50-6-104 on Form I-6. Any corporate officer who had previously filed a Form I-6 and elects to revoke that decision and wishes to be covered by the Workers' Compensation Law shall immediately notify the employer and the Bureau on Form I-7.
- (2) Employers that are exempt from the Workers' Compensation Law and elect to be covered shall indicate that election by properly securing workers' compensation coverage. Such employers that subsequently wish to withdraw their acceptance of the provisions of the Workers' Compensation Law shall notify each of their employees affected by the withdrawal of the acceptance via certified mailing to the last known address of each affected employee at least ten (10) working days prior to canceling or not renewing the coverage. Such withdrawal shall not be effective until this notification has occurred.
- (3) An employee or prospective employee who wishes to waive compensation for claims arising out of aggravation or repetition of the conditions of heart disease, heart attack, or coronary failure or occlusion or who wishes to waive receipt of compensation for any aggravation of a specific identified occupational disease, pursuant to the provisions of the Workers' Compensation Law, or who are diagnosed as epileptics and who elect, pursuant to the provisions of the Workers' Compensation Law, not to be subject to the Workers' Compensation Law for injuries resulting because of epilepsy shall request the approval of the Bureau of the waiver on Form I-10, 11, 12. Requests for the revocation of a previously approved Form I-10, 11, 12 shall be furnished to the Bureau on Form I-13.
- (4) Common carriers who wish to provide workers' compensation insurance coverage under the Tennessee Workers' Compensation Law to a leased operator and/or a leased owner/operator shall notify the Bureau on Form I-14 & 16. Any such previously filed Form I-14 may be terminated by the leased operator, leased owner/operator, or common carrier by providing written notice of such termination to the Bureau and to all other parties on Form I-16.
- (5) General contractors who wish to provide workers' compensation insurance coverage under the Workers' Compensation Law to an individual subcontractor shall notify the Bureau on Form I-15. Such previously filed Form I-15 may be terminated by the subcontractor or general contractor by providing written notice of such termination to the Bureau on Form I-17.

~~**Authority:** T.C.A. §§ 50-6-102; 50-6-104; 50-6-106; 50-6-106; 50-6-307; 50-6-213; and 50-6-902.~~

~~**Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987. Repeal and new rule filed _____; effective _____.~~

~~**0800-02-01-.09 NOTICE OF CONTROVERSY.** Where payments have been made without an award, and the employer subsequently elects to controvert his liability, Form C-27 (Notice of Controversy) shall be filed with the Director within fifteen (15) days of the due date of the first omitted payment.~~

~~**Authority:** T.C.A. § 50-6-205(d). **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

(Rule 0800-02-01-.08, continued)

0800-02-01-.09 Medical Reports

A party, in lieu of a physician's deposition, may file a Standard Form Medical Report for Industrial Injuries-Form C-32 with the Administrator. The attending physician may charge a fee of up to One Hundred and Fifty Dollars (\$150.00) for completion and certification of the form.

Authority: T.C.A §§ 4-3-103; 4-3-1403; 50-6-101 et seq., 50-6-118; 50-6-126; 50-6-204; 50-6-235 and 4-5-202. Administrative History: Original rule filed February 19, 1987; effective April 5, 1987. Amendment filed March 5, 1993, effective April 19, 1993. Repeal and new rule filed _____; effective _____.

~~**0800-02-01-.10 NOTICE OF LAWSUIT.** Employees and/or employee representatives shall submit to the Director notice of filing of any lawsuit concerning workers' compensation benefits. Form C-28 must be filed to satisfy this notice requirement. This notice must be forwarded within ten (10) days of filing of the lawsuit. The penalty for non-compliance with Rule 0800-02-01-.10 is \$50.~~

~~**Authority:** T.C.A. § 50-6-205(d). **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

0800-02-01-.10 Civil Penalties

- (1) The Bureau shall assess and collect civil penalties as defined in the Bureau's Rules.
- (2) A violation of any Workers' Compensation Rule included in Chapters 0800-02 without a defined penalty may result in a civil penalty of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000), per violation.
- (3) Prior to assessing a civil penalty against a party, the Bureau shall provide the party appropriate written notice of any potential penalty(ies) and allow the party an opportunity to submit evidence of compliance with the applicable Rules. If compliance is not established, a civil penalty shall be assessed pursuant to the applicable rules. The Bureau's Rules shall be posted on the Bureau's website. Where a civil penalty is imposed pursuant to the applicable rules, the assessed party may request a contested case hearing under Rules 0800-02-13.
- (4) Uncontested penalties shall be paid within 20 days of the date of the Bureau's notice of assessment of penalty and in the form of a check or money order made payable to the Treasurer, State of Tennessee and submitted to the Administrator.
- (5) Unpaid penalties may be collected in a civil action in the name of the State of Tennessee in any court of competent jurisdiction.

Authority: T.C.A §§ 50-6-101 et seq., 50-6-102, 50-6-104; 50-6-106; 50-6-213; 50-6-307; 50-6-213. Administrative History: Original rule filed February 19, 1987; effective April 5, 1987. Repeal and new rule filed _____; effective _____.

~~**0800-02-01-.11 SETTLEMENTS AND RELEASES.** Copies of all settlements and releases shall be filed by the employer with the Director within ten (10) days after such settlements are made.~~

~~**Authority:** T.C.A. § 50-6-228. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

0800-02-01-.11 Records/Copies

- (1) Workers' compensation settlement documents are public records.
- (2) Pursuant to T.C.A. §50-3-702(b) workers' compensation claims records are exempt from public disclosure.

(Rule 0800-02-01-.08, continued)

- (3) Pursuant to T.C.A. §50-6-131 medical records held by the Bureau are not public records and are exempt from public disclosure or inspection.
- (4) Any person has a right to inspect public records. The right to "inspect" encompasses a right to view existing records and request a copy of them. It does not include a right to request searches for records not known to exist. Subject to an offer of employment, employers may request the Bureau to confirm the truthfulness of an applicant's answers regarding prior workers' compensation claims.
- (5) Copies of the Workers' Compensation records disclosable under state law may be obtained by written request made to:

Tennessee Bureau of Workers' Compensation
ATTN: Records' Custodian
220 French Landing Drive, 1-B
Nashville, Tennessee 37243-1002

- (6) Fees for researching and copying shall be ten dollars for the first twenty-five (25) pages and twenty-five cents (25¢) for each page after 25 pages.
- (7) The Bureau shall charge an additional fee of \$10.00 for certified records.
- (8) Payments of fees for records shall be made by credit card, check or money order payable to Treasurer, State of Tennessee and submitted to the Administrator. Payment in cash will not be accepted. Payment is due upon receipt of the requested material. Requestors will not be entitled to receive additional records until all payments for records provided within the previous sixty (60) days have been received.

Authority: T.C.A §§50-6-238; 50-6-131, New rule filed ; effective

~~**0800-02-01-.12 JUDGMENTS AND COURT APPROVED SETTLEMENTS.** Employers, insurance companies, and/or self-insured employers shall forward certified copies of judgments or court approved settlements to the Director within ten (10) days of entry by the Court. The penalty for non-compliance with Rule 0800-02-01-.12 is \$50.~~

~~**Authority:** T.C.A § 50-6-206. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

0800-02-01-.12 Required Posting

- (1) Within five (5) business days of the date of the procurement or renewal of a policy, the adjusting entity is required to mail a copy of the Tennessee Workers' Compensation Posting Notice, available on the Bureau's website, via electronic mail or first class US Mail to the employer at the address provided on the policy. Failure to timely mail this form would subject the offending party to a potential penalty as described in 0800-02-01-.10(2).
- (2) Each employer is required to notify their employees of the services offered by the Bureau, the duties and obligations of the employer and employee and the name, address and telephone number employees may contact for additional information. This requirement shall be met by the continuous posting of the Tennessee Workers' Compensation Posting Notice, available on the Bureau's website, in one (1) or more conspicuous place(s) at each worksite.

Authority: T.C.A. §§50-6-407. New rule filed ; effective

(Rule 0800-02-01-.08, continued)

~~**0800-02-01-.13 REPORT OF ALL PAYMENTS.** Employers, self-insured employers, and/or insurance carriers must submit Form C-29 (Final Report of Payment and Receipt of Compensation) to the Director within thirty (30) days following the final payment of compensation. Form C-29 shall include all compensation benefits paid on a claim, including all medical expenses, hospital expenses, funeral expenses, and legal costs. Form C-29 must be submitted in all cases where any benefit payment has been made, including cases where settlements or judgments (with or without court approval) have been entered. The penalty for non-compliance with Rule 0800-02-01-.13 is \$50 for each fifteen (15) days past the date when Form C-29 is due, until received by the Director.~~

~~*Authority: T.C.A. § 50-6-206. Administrative History: Original rule filed February 19, 1987; effective April 5, 1987.*~~

~~**0800-02-01-.14 WITHDRAWAL FROM WORKERS' COMPENSATION LAW.** Every employer subject to the Tennessee Workers' Compensation Law that reduces the number of its employees to less than five (5) and wishes to withdraw from the Tennessee Workers' Compensation Law must file written notice of withdrawal with the Director in accordance with *Karstens v. Wheeler Millwork, CAB & Supply*, 614 S.W.2d 37 (1981). All withdrawals shall be submitted on Form I-3.~~

(Rule 0800-02-01-.14, continued)

Authority: ~~T.C.A. § 50-6-206. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

0800-02-01-.15 ADDITIONAL FORMS. Additional forms which must be filed with the Director:

- ~~(1) "Sole Proprietor Election" (I-4). A sole proprietor who elects to be considered as an employee pursuant to TCA §50-6-102(a)(2)(B) shall notify the Director of the election on Form I-4.~~
- ~~(2) "Sole Proprietor Withdrawal of Election" (I-5). A sole proprietor who wishes to withdraw the election to be an employee and the acceptance of the Workers' Compensation Law shall notify the Director by filing Form I-5.~~
- ~~(3) "Corporate Officer Exemption" (I-6). Any corporate officer who elects to be exempt from the operation of the Workers' Compensation Law shall file notice of such election with the Director in accordance with the provisions of TCA §50-6-104 on Form I-6.~~
- ~~(4) "Corporate Officer Revocation of Exemption" (I-7). A corporate officer who revokes an exemption from coverage of the Workers' Compensation Law pursuant to TCA §50-6-104 shall notify the Director of the revocation of the election of the exemption on Form I-7.~~
- ~~(5) "Exempt Employers Election" (I-8). Employers who are exempt from the operation of the Workers' Compensation Law and who elect to be covered by the Law pursuant to TCA §50-6-106(4) and (5) shall notify the Director of the election to accept the provisions of the Workers' Compensation Law on Form I-8.~~
- ~~(6) "Exempt Employers Withdrawal of Election" (I-9). Employers under TCA §50-6-106(4) and (5) who wish to withdraw their acceptance of the provisions of the Workers' Compensation Law shall notify the Director of withdrawal of the acceptance on Form I-9.~~
- ~~(7) "Occupational Disease Waiver" (I-11). An employee who wishes to waive receipt of compensation for aggravation of a specific occupational disease, pursuant to the provisions of TCA §50-6-307(a), shall notify the Director of the waiver of compensation on Form I-11. Notification of the revocation of such election shall be furnished to the Division on Form I-13.~~
- ~~(8) "Heart Waiver" (I-10). An employee or prospective employee who wishes to waive compensation for claims arising out of aggravation or repetition of the conditions of heart disease, heart attack, or coronary failure or occlusion, pursuant to the provisions of TCA §50-6-307(b), shall notify the Director of the waiver on Form I-10. Such form shall be accompanied by a copy of a medical statement giving the prior history of the condition. Notification of the revocation of such election shall be furnished to the Director on Form I-13.~~
- ~~(9) "Epileptic Waiver" (I-12). Persons who are epileptics and who elect, pursuant to the provisions of TCA §50-6-213, not to be subject to the Workers' Compensation Law for injuries resulting because of epilepsy shall notify the Director of the election not to be subject on Form I-12. Notification of the revocation of such election shall be furnished to the Division on Form I-13.~~
- ~~(10) "Agreement of Common Carrier" (I-14). Common carriers who wish to provide workers' compensation insurance coverage under the Tennessee Workers' Compensation Law to a leased operator and/or a leased owner/operator shall execute I-14 in triplicate, the original to be sent to the Tennessee Workers' Compensation Division, one copy to be sent to the workers' compensation insurance company, and one copy to remain with the common carrier.~~

(Rule 0800-02-01-.15, continued)

- ~~(11) "Termination of Agreement of Common Carrier" (I-16). Such election of coverage may be terminated by the leased operator, leased owner/operator, or common carrier by providing written notice of such termination to the division and to all other parties consenting to the prior election. Termination of this agreement shall be furnished to the Division on Form I-16.~~
- ~~(12) "Agreement of General Contractor" (I-15). General contractors who wish to provide workers' compensation insurance coverage under the Tennessee Workers' Compensation Law to an individual subcontractor shall execute Form I-15 in triplicate, the original to be sent to the Tennessee Workers' Compensation Division, one copy to be sent to the workers' compensation insurance company and one copy to remain with the general contractor.~~
- ~~(13) "Termination of Agreement of General Contractor" (I-17). Such election of coverage may be terminated by the subcontractor or general contractor by providing written notice of such termination to the division and to all other parties consenting to the prior election. Termination of this agreement shall be furnished to the Division on Form I-17.~~

~~**Authority:** T.C.A. §§ 50-6-102(a)(2)(B); 50-6-104; 50-6-106(4); 50-6-106(5); 50-6-307(a); 50-6-307(b) and 50-6-213. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

0800-02-01-.16 MEDICAL REPORTS.

- ~~(1) Medical reports filed with the Director shall include the Attending Physicians Report which is Form C-30 and the Medical Waiver and Consent form which is Form C-31.~~
- ~~(2) A party, in lieu of a deposition, may file with the Director a Standard Form Medical Report For Industrial Injuries which is Form C-32.~~
- ~~(3) The attending physician may charge a fee of up to One Hundred and Fifty Dollars (\$150.00) for completion and certification of Form C-32.~~
- ~~(4) The Director may assess a civil penalty against the attending physician of up to Three Hundred Dollars (\$300.00) for failure to timely (within two (2) weeks of the physical examination) file Form C-32.~~
- ~~(5) A party assessed a penalty pursuant to section (4) above may appeal such decision directly to the Medical Director for the Tennessee Department of Labor. Said appeal must be submitted in writing and within ten (10) working days of receipt of notice of assessed penalty. The Medical Director or his designee shall issue a decision within thirty (30) days. This decision shall be final.~~

~~**Authority:** T.C.A. §§ 4-3-103; 4-3-1403; 50-6-101 et seq.; 50-6-118; 50-6-126; 50-6-204; 50-6-235 and 4-5-202. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987. Amendment filed March 5, 1993, effective April 19, 1993.~~

0800-02-01-.17 NOTICE OF ASSESSMENT OF PENALTY. The Division shall provide written notice of penalties assessed pursuant to the within rules.

~~**Authority:** T.C.A. §§ 50-6-102(a)(2)(B); 50-6-104; 50-6-106(4) (5); 50-6-213; 50-6-307(a); 50-6-307(b) and 50-6-213. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

0800-02-01-.18 WORKERS' COMPENSATION BENEFIT CASES IN LITIGATION. Where a civil penalty may be imposed pursuant to the within rules and the action (or failure to act) which initiates the penalty is the subject of litigation, the Director shall assess the penalty after a final determination of the issue is made by the Court.

(Rule 0800-02-01-.18, continued)

~~**Authority:** T.C.A. §§ 50-6-102(a)(2)(B); 50-6-104; 50-6-106(4) (5); 50-6-213; 50-6-307(a); 50-6-307(b) and 50-6-213. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

~~**0800-02-01-.19 EFFECTIVE DATE.** The civil penalties which may be assessed pursuant to the within rules apply only after the effective date of the rules and only to those injuries occurring on or after July 1, 1985.~~

~~**Authority:** T.C.A. §§ 50-6-102(a)(2)(B); 50-6-104; 50-6-106(4) (5); 50-6-213; 50-6-307(a); 50-6-307(b) and 50-6-213. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

~~**0800-02-01-.20 PAYMENT AND COLLECTION OF PENALTIES.** The procedure for payment and collection of civil penalties is as follows:~~

- ~~(1) Payment of Penalties. Penalties shall be made payable to the Treasurer, State of Tennessee and submitted directly to the Director for remittal to the Second Injury Fund. Penalties shall be paid within 20 days of the date of the Division's notice of assessment of penalty.~~
- ~~(2) Collection of Penalties. Penalties may be collected in a civil action in the name of the State of Tennessee in any court of competent jurisdiction.~~

~~**Authority:** T.C.A. § 4-3-103; 4-3-1403 and 50-6-118. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

~~**0800-02-01-.21 FORMS.** The requirement for forms mentioned in these rules are:~~

- ~~(1) All forms may be obtained from the Director without charge;~~
- ~~(2) Copies of each form are contained in Appendix A of these rules;~~
- ~~(3) The information set out on each form in Appendix A is the information required by these rules; and~~
- ~~(4) Forms may be revised at any time at the discretion of the Director. Copies of these revised forms will be available from the Director.~~

~~**Authority:** T.C.A. § 50-6-233. **Administrative History:** Original rule filed February 19, 1987; effective April 5, 1987.~~

~~**0800-02-01-.22 RECORDS/COPIES.**~~

- ~~(1) Copies of the Workers' Compensation records disclosable under state law may be obtained by written request made to the Director.~~
- ~~(2) Fees for copying shall be \$.25 per page plus actual postage costs. Payments of copying and postage fees shall be made by check or money order payable to Treasurer, State of Tennessee. Payment is due upon receipt of the requested material. Payment in cash will not be accepted.~~

APPENDIX A - FORMS

Insurance Forms-

1-1 Coverage

1-2 Cancellation

(Rule 0800-02-01-.22, continued)

~~1-3 — Withdrawal of Coverage—Reduction in Workforce~~

~~1-4 — Sole Proprietor Election~~

~~1-5 — Withdrawal of Sole Proprietor Election~~

~~1-6 — Exemption of Corporate Officer~~

~~1-7 — Revocation of Exemption~~

~~1-8 — Exempt Employers Election Withdrawal~~

~~1-9 Exempt, Employers Election Withdrawal 1-~~

~~10 — Heart Waiver~~

~~1-11 — Occupational Disease Waiver~~

~~1-12 — Epileptic Waiver~~

~~1-13 — Withdrawal of Waiver~~

~~Claim Forms~~

~~C-20 — Report of Injury~~

~~C-21 — Monthly Report of Non-Compensable Injuries & Disease~~

~~C-22 — Notice of First Payment~~

~~C-23 — Notice of Denial~~

~~C-24 — Notice of Investigation~~

~~C-25 — Final Determination~~

~~C-26 Notice of Change or Stop of Benefits~~

~~C-27 Notice of Controversy~~

~~C-28 Notice of Lawsuit~~

~~C-29 Final Report and Receipt of Compensation~~

~~C-30 Attending Physician~~

~~C-31 Medical Waiver and Consent~~

~~C-32 Standard Form Medical Report for Industrial Injuries~~

~~Workers' Compensation Statistical Data Form~~

~~SD-1 Workers' Compensation Statistical Data Form~~

~~**Authority:** T.C.A. §§ 50-6-101; 50-6-103; 50-6-119; 50-6-233; 50-6-235 and 4-5-202. — **Administrative History:** New rule filed February 19, 1987; effective April 5, 1987. — Amendment filed January 30, 1991;~~

(Rule 0800-02-01-.22, continued)

~~effective May 1, 1991. Amendment filed March 5, 1993; effective April 19, 1993. Amendment filed April 30, 1999; effective August 27, 1999.~~

~~0800-02-01-.23 INSURANCE AND/OR ADJUSTER OFFICE.~~

- ~~(1) Each insurance carrier or self-insured employee providing workers' compensation insurance shall provide to the Director of the Division of Workers' Compensation on a timely basis the following information:
 - ~~(a) Name of insurance company.~~
 - ~~(b) Name of self-insured employer.~~
 - ~~(c) Name of contract adjuster, address and current telephone number if the insurance carrier or self-insured employer does not have an office in Tennessee.~~
 - ~~(d) Address of office in Tennessee.~~
 - ~~(e) Telephone number.~~
 - ~~(f) Name, address and telephone number of individual with authority to commence temporary total disability benefits and medical care benefits.~~~~
- ~~(2) Each insurance carrier or self-insured employer shall notify the Director of the Division of Workers' Compensation of any change in name, address or phone number of the above requirements within ten (10) days of said change.~~

~~Authority:~~ ~~T.C.A. §§50-6-101; 50-6-103; 50-6-119; 50-6-233; 50-6-235 and 4-5-202.~~ **~~Administrative History:~~** ~~Original rule filed March 5, 1993; effective April 19, 1993.~~

~~0800-02-01-.24 STATISTICAL DATA FORM.~~

- ~~(1) Filing Requirements.
 - ~~(a) Each employer or such employer's agent that is party to a workers' compensation case, at the conclusion of the case must file a Statistical Data Form SD-1 with the clerk of the court in which the case is pending, contemporaneously with the filing of the final order or settlement. An order of the court is not final until a Form SD-1 is fully completed and filed with the clerk of the court.~~
 - ~~(b) In cases involving a workers' compensation settlement which is submitted to the Division for approval, a copy of Form SD-1 shall also be completed and submitted to the Division for approval, at the time of the submission of the settlement for approval. A settlement approved by the Division is not final until a Form SD-1 is fully completed and received by the Division.~~~~
- ~~(2) On or before the tenth (10th) day of each calendar month, the clerk of the court in which the case is pending shall forward to the Director all Forms SD-1 filed with the clerk during the preceding calendar month.~~
- ~~(3) Filing Fee.
 - ~~(a) A fee of one dollar (\$1.00) shall be paid to the clerk of the court in which the case is pending for each Form SD-1 filed with the clerk.~~~~

(Rule 0800-02-01-.24, continued)

- ~~(b) The one dollar (\$1.00) fee associated with the filing of the Form SD-1 shall be a part of the court costs accruing to the clerk, and shall be collected in the same manner and in addition to the other costs in the case.~~
- ~~(4) The employee and any agent of the employee must cooperate with the employer in completing Form SD-1.~~

~~Authority: T.C.A. §§50-6-101, 50-6-419 and 50-6-244. Administrative History: Original rule filed April 30, 1999; effective August 27, 1999.~~

~~0800-02-01-.25 MEDICAL PANELS.~~

- ~~(1) Time requirement for provision of panel of physicians. Upon notice of any workplace injury, other than a minor injury for which no person could reasonably believe requires treatment from a physician, the employer shall immediately provide the injured employee a panel of physicians that meets the statutory requirements for treatment of the injury. In any case where the employer fails to provide a panel of physicians to the employee within a reasonable amount of time, but in no instance longer than five (5) business days from the date the employer has notice of an injury that would qualify for medical benefits, or provides a panel of physicians to the injured employee that does not meet statutory requirements on more than one (1) occasion for the subject injury, the employer may be assessed a civil penalty, not to exceed five thousand dollars (\$5,000).~~
- ~~(2) Provision of three (3) physician list upon referral by original treating physician. In cases where the authorized treating physician, selected by the employee from the original three (3) physician panel provided by the employer, refers the employee for specialized care, the employer shall be deemed to have accepted the referral, unless the employer, within three (3) business days, provides a panel of three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups to the employee pursuant to T.C.A. 50-6-204(a)(3)(A). If a panel of three (3) specialists is provided, the employee shall select a provider from the panel and that provider shall become the employee's authorized treating physician. For purposes of this section, receipt of the referral by the employer shall be accomplished whenever a copy of the referral is received at the employer or carrier's place of business by facsimile, email, post, hand delivery or commercial delivery service.~~

~~Authority: T.C.A. § 4-3-1409, 50-6-204, 50-6-233, and 50-6-118. Administrative History: Original rule filed December 22, 2014; effective date March 22, 2015.~~

~~0800-02-01-.26 SECOND INJURY FUND REIMBURSEMENTS.~~

- ~~(1) Any party seeking reimbursement from the Second Injury Fund pursuant to T.C.A. § 50-6-238(b) (2013) shall submit proof of the amount of money paid pursuant to the order of the specialist contemporaneously with the party's submission of a certified copy of an appropriate order to the Division via certified mail.~~
- ~~(2) A copy of a signed SD-1 form for the claim shall constitute proof of payment. If an SD-1 is not available, any of the following may be submitted as proof of payment:~~
 - ~~(a) Copies of EOB's (Explanation of Benefits) from the provider showing the provision of medical services for the claim;~~
 - ~~(b) Copies of checks demonstrating payment for temporary disability or medical benefits provided to the employee for the claim; or~~
 - ~~(c) Any other proof of payment deemed acceptable by the Division.~~

- ~~(3) — A reimbursement request that does not include documentation satisfying the requirements of this rule shall not be considered as having been received by the Division and interest as provided by T.C.A. § 50-6-238(b) (2013) shall not begin to accrue until such documentation has been received by the Division.~~

~~**Authority:** T.C.A. § 4-3-1409, 50-6-238 (2013), and 50-6-233. *Administrative History:* Original rule filed December 22, 2014; effective March 22, 2015.~~