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File Date: 2/10/2023

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Labor and Workforce Development
Division:	Bureau of Workers' Compensation
Contact Person:	Amanda Terry
Address:	220 French Landing Dr. 1-B, Nashville, TN 37243
Phone:	615-253-1847
Email:	amanda.terry@tn.gov

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) and require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Amanda Terry
Address:	220 French Landing Dr. 1-B, Nashville, TN 37243
Phone:	615-253-1847
Email:	amanda.terry@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Tennessee Room			
Address 2:	220 French Landing Drive, 1-A			
City:	Nashville, TN			
Zip:	37243			
Hearing Date:	April 14, 2023			
Hearing Time:	11:00 am	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT	

Additional Hearing Information:

Please bring identification so that you may be checked into the building.

Written comments will be accepted until close of business on April 28, 2023 and can be sent to amanda.terry@tn.gov.

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
0800-02-21	Court of Workers' Compensation Claims and Alternative Dispute Resolution
Rule Number	Rule Title
0800-02-21-.02	Definitions
0800-02-21-.10	Alternative Dispute Resolution
0800-02-21-.11	Docketing of Cases, Setting Cases for Hearing, and Continuances
0800-02-21-.14	Scheduling Hearing
0800-02-21-.15	Expedited Hearing
0800-02-21-.16	Medical Records
0800-02-21-.18	Motions
0800-02-21-.22	Compensation Hearing
0800-02-21-.23	Settlement Approval
0800-02-21-.24	Voluntary Dismissal

Amended Rules
Chapter 0800-02-21
Court of Workers' Compensation Claims and Alternative Dispute Resolution

Rule 0800-02-21-.02 Definitions is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) Administrator. The chief administrative officer of the Bureau of Workers' Compensation.
- (2) Appeals Judge. A judge of the workers' compensation appeals board.
- (3) Appeals Board. The workers' compensation appeals board.
- (4) Bureau. The Bureau of Workers' Compensation.
- (5) Catastrophic Injury. For the purposes of this chapter only, any of the following injuries is catastrophic:
 - (a) Spinal cord injury involving severe paralysis of an arm, leg, trunk, or any combination of these;
 - (b) Amputation of an arm, hand, foot, leg, or any combination of these involving the effective loss of use of that appendage;
 - (c) Severe brain or closed-head injury evidenced by:
 - (i) Severe sensory or motor disturbances;
 - (ii) Severe communication disturbances;
 - (iii) Severe complex integrated disturbances of cerebral function;

- (iv) Severe disturbances of consciousness; or
 - (v) Severe episodic neurological disorders;
- (d) Second- or third-degree burns to twenty-five percent (25%) or more of the whole person or third-degree burns to five percent (5%) or more of the face or hands;
- (e) Total or industrial blindness; or
- (f) Total loss of hearing.
- (6) Chief Judge. Supervises the judges and coordinates all activities in the court of workers' compensation claims.
- (7) Claim. An employee's request for benefits available under the Workers' Compensation Law.
- (8) Clerk. Unless otherwise provided, the clerk of the court of workers' compensation claims and any deputy clerk.
- (9) Compensation Hearing. A trial conducted to fully resolve all pending issues on the merits including but not limited to disability and/or medical benefits.
- (10) Compensation Order. An order by a judge that fully resolves all pending issues of the claim including but not limited to additional permanent disability benefits and/or additional medical benefits. A judge may issue a compensation order based on a decision on the record.
- (11) Court. The court of workers' compensation claims.
- (12) Decision on the record. A decision by a judge based on a review of the written materials without an evidentiary hearing.
- (13) Dispute Certification Notice. The notice the mediator files with the clerk after alternative dispute resolution that identifies the issues for a judge's determination.
- (14) Electronic signature. A document submitted by electronic transmission signed or verified electronically in the manner approved by the bureau.
- (15) Expedited Hearing. A hearing conducted before a trial on the merits to determine temporary disability and/or medical benefits. A judge may issue an expedited hearing order based on a decision on the record. An expedited hearing is not the appropriate procedure for the Court to determine post-settlement or post-judgment medical issues.
- (16) Filed.
 - (a) For purposes of this chapter, a document is considered filed:
 - 1. On the date and time received by the clerk if hand-delivered to any bureau office during normal business hours;
 - 2. On the date postmarked to the clerk if sent by U.S. certified or registered mail, return receipt requested, or its equivalent;
 - 3. On the date the document reaches the clerk if transmitted by first-class mail, facsimile, or by electronic transmission approved by the bureau; or
 - 4. On the date and time filed in TNComp, the Bureau's electronic filing system.
 - (b) For purposes of this chapter, a petition for benefit determination is considered filed when received as listed in subparagraph (a) and contains the required information set forth in Rule 0800-02-21-.02(23).

- (17) **Hearing Request.** A form filed by either party requesting a status, scheduling, compensation, or expedited hearing. Either party may file a hearing request after the mediator issues a dispute certification notice.
- (18) **Interlocutory Order.** Any order by a judge that does not dispose of the case in its entirety.
- (19) **Judge or Workers' Compensation Judge.** A judge of the court of workers' compensation claims.
- (20) **Mediating in Good Faith.** Appearing at a mediation and demonstrating honest and sincere attempts to find a resolution to the dispute.
- (21) **Ombudsman.** A bureau employee who assists any unrepresented party.
- (22) **Ombudsman Attorney.** A bureau attorney who provides limited legal advice to any unrepresented party.
- (23) **Petition for Benefit Determination.**
- (a) A petition for benefit determination (PBD) is a written request for the Bureau to assist in resolution of disputed issues and is the document that initiates the litigation process as described in Tennessee Code Annotated section 50-6-203(b). Any party may file a petition as provided under Tennessee Code Annotated section 50-6-203(b) on a form approved by the Administrator at any time after a dispute arises.
 - (b) A **petition for benefit determination** is considered filed for the purposes of Tennessee Code Annotated section 50-6-203(b) only if it contains all the following information:
 - 1. Identifying information of the employee and employee's attorney, if applicable;
 - 2. The name of the employer;
 - 3. The date of the alleged injury or accident;
 - 4. A short plain statement describing the alleged injury or accident;
 - 5. The signature of the employee, employee's attorney, **employer, or employer's attorney.**
- (24) **Scheduling Hearing.** A hearing where the judge considers efficient processing of the case and issues a scheduling order containing a discovery plan, including but not limited to dates for post-discovery alternative dispute resolution and the compensation hearing.
- (25) **Status Hearing.** A hearing where the judge considers the efficient processing of the case.
- (26) **Unserved petition for benefit determination.** A complete petition for benefit determination that the filing party has not served on the other party(s) in the case.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 76, 79, 82, 83, and 106.

Rule 0800-02-21-.10 Alternative Dispute Resolution is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) Resolution of a dispute for benefits begins when a party files a petition for benefit determination on a form prescribed by the Administrator as required by Tennessee Code Annotated section 50-6-203 and as defined in Rule 0800-02-21-.02(23).
- (2) (a) If a party files a petition for benefit determination without all of the required information as defined in Rule 0800-02-21-.02(23)(b), the petition for benefit determination will be forwarded to a

program coordinator, who will contact the party to obtain the required information.

(b) Once the requested information is provided to the program coordinator, the petition for benefit determination will be stamped filed.

- (3) If a party files an unserved petition for benefit determination as defined by Rule 0800-02- 21.02(26), the mediator will not schedule alternative dispute resolution until the filing party provides notice of service on all parties.
- (4) After referral of a petition, a mediator will schedule alternative dispute resolution and conduct it in compliance with T.C.A. § 50-6-236. The mediator may conduct alternative dispute resolution as is practical for the effective resolution of the issues, including by telephonic, electronic, or in-person interactions.
- (5) After referral of a petition to the mediator, the parties must exchange any medical records they possess related to the claimed injury within 14 days. Each party must continue to provide copies of any medical records received during the course of the claim within fourteen (14) days of receipt. The mediator or judge may refer any party that does not comply with this rule for the assessment of a civil penalty.
- (6) Within seven (7) business days after the request of the mediator or within fifteen (15) calendar days after a dispute certification notice is filed with the clerk, the employer must provide a wage statement on a form approved by the Administrator detailing the employee's wages over the fifty-two (52) weeks before the injury. The form must be fully completed and signed by the employer or counsel. If the employee was employed for fewer than fifty-two (52) weeks, the employer must provide a wage statement detailing the employee's wages during the period of employment. If the mediator requests the wage statement, the employer must send the wage statement directly to the mediator. If the dispute certification notice is filed with the clerk, the employer must file the wage statement with the clerk. Under either circumstance, the employer must serve a copy of the wage statement on all parties. Any employer who does not file a wage statement within the timeframe in this paragraph may be assessed a civil penalty.
- (7) Parties to a scheduled alternative dispute resolution proceeding must cooperate with scheduling, produce documents requested in writing or orally by a mediator, provide a representative authorized to settle the matter, be prepared to mediate all disputed issues at the time of the scheduled alternative dispute resolution proceeding, and mediate all issues in good faith. Alternative dispute resolution must be conducted in compliance with T.C.A. § 50-6-236.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-216, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 76, and 106.

Rule 0800-02-21-.11 Docketing of Cases, Setting Cases for Hearing, and Continuances is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) After a dispute certification notice is filed with the clerk, either party may file a hearing request with the clerk on a form approved by the administrator and serve a copy of the request on all parties or their counsel. If no hearing request is filed within sixty (60) days after the dispute certification notice is filed, the clerk will set a show-cause hearing. The clerk will send notice of the hearing to the parties, indicating the docket number, the date and time of the hearing, and the judge assigned to the case. The parties must appear to show cause why the case should not be dismissed.
- (2) Except in cases where an employee suffered a catastrophic injury or for similar reasons as determined by the bureau, all cases must be placed on the docket by the clerk in the order that the request for hearing is received. The clerk will assign a date for the hearing based on available dates provided by the parties whenever practicable.
- (3) The clerk will consolidate all hearing requests related to a single dispute certification notice into a single setting on the docket. If two or more filings that should be consolidated are not, then the

cases will be combined and assigned to the judge who received the assignment for the first request, unless otherwise directed by the chief judge. Consolidation may occur on the motion of a party or on a judge's own motion.

- (4) Special settings may be requested. Only a judge may grant a special setting.
- (5) Once a case is assigned to a judge, all matters dealing with that case must be brought before the assigned judge.
- (6) Trials and/or hearings may be held at locations other than the bureau office where the judge is assigned. However, only a judge may grant approval to hold the hearing at a location other than where the judge is assigned.
- (7) The parties or their attorneys must advise the judge's staff as soon as practicable if they anticipate a trial or hearing will last more than four (4) hours.
- (8) Expedited or compensation hearings may be continued only by an order from the judge. Absent good cause as determined by the judge, the date of the expedited or compensation hearing will not be modified. Good cause does not include absence of witnesses unless subpoenaed in accordance with Rule 0800-02-21-.17(6). In the event attorneys are notified of a hearing on a date when they have a conflict with another court's previous setting, the attorney must immediately notify the judge's staff and other parties to request a continuance.
- (9) Neither counsel nor a party to a pending claim may contact the judge unless an emergency arises, except by letter or verbally with all counsel or parties present. A copy of all written communications must be sent to all counsel or parties and the clerk.
- (10) Nothing in this section will be construed to allow any ex parte communication with a judge about any issue in the case that would be prohibited by Tennessee Code Annotated section 4-5-304.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 33, 73, 79, and 106.

Rule 0800-02-21-.14 Scheduling Hearing is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) All parties or their counsel must participate in a scheduling hearing with a judge no more than sixty (60) days after a hearing request is filed.
- (2) After the scheduling hearing is set, the clerk will send a docketing notice to all parties with the case number, time of the scheduling hearing, and judge assigned to the case. The clerk will also send information to the parties detailing the actions required to prepare for and participate in the hearing. Unless the judge determines that an in-person hearing is necessary, all scheduling hearings will be conducted telephonically or through other electronic means as determined by the judge.
- (3) At the scheduling hearing, the parties will develop a discovery plan and a scheduling order to ensure timely, efficient, and fair resolution of the case.
- (4) At the conclusion of the scheduling hearing, the judge may set a date for completion of post-discovery alternative dispute resolution and the compensation hearing.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-233, 50-6-233(c), 50-6-239, and 50-6-239(c)(1); and Public Chapter 289 (2013), Sections 73, 79, 82, and 106.

Rule 0800-02-21-.15 Expedited Hearing is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) When the parties dispute temporary disability and/or medical benefits, either party may file a hearing

request. The hearing request must be accompanied by an affidavit or a T.R.C.P. Rule 72 declaration under penalty of perjury, which must contain a plain, concise statement of the facts and any other documents demonstrating the party is entitled to the requested relief. The party requesting an expedited hearing must list any witnesses it intends to call at the expedited hearing on the request form. The affidavit or Rule 72 declaration requirement is not met by the filing of an affidavit or Rule 72 declaration in which the party's attorney is the affiant or declarant. The party filing the hearing request may supplement its request with additional documents by filing them no later than fifteen (15) business days before the date of the expedited hearing.

- (a) The party opposing the hearing request must file documents, including any affidavits or T.R.C.P. Rule 72 declarations, demonstrating the moving party is not entitled to the requested relief no later than ten (10) business days before the date of the expedited hearing. The party opposing the expedited hearing request must also provide a plain, concise statement detailing why the relief requested should not be granted and listing any witnesses it intends to call at the expedited hearing. The affidavit or Rule 72 declaration requirement is not met by the filing of an affidavit or Rule 72 declaration in which the party's attorney is the affiant or declarant.
 - (b) Evidence or witnesses not disclosed in accordance with this rule, except for witnesses or evidence intended for impeachment or rebuttal purposes, will not be considered unless good cause is shown for why the evidence/witness was not timely disclosed. The court will entertain requests for reasonable extensions of the deadlines in this rule. The request should be made by motion and filed with the clerk before the expiration of the time the party seeks to extend. Any response in opposition to the motion for extension of time must be filed with the clerk and served on all parties or their counsel within five (5) business days after the filing of the motion. The response must be in writing and state with particularity the grounds for the opposition. The motion will be decided on the written materials unless the judge determines argument is needed.
 - (c) Documents attached to the dispute certification notice and filed by the mediator with the clerk should not be refiled with the request for expedited hearing or the opposing party's response.
 - (d) Any party may request that the judge issue a decision on the record instead of convening an evidentiary hearing. Any party opposing the request for a decision on the record has ten (10) business days from the date the hearing request is filed to file an objection with the clerk. The judge may either set an evidentiary hearing or enter a decision on the record. If the judge determines that issuing a decision on the record is appropriate, the clerk will send a docketing notice to all parties with the docket number and the assigned judge. The clerk will also send information to the parties detailing the actions required to present the case for a decision on the record.
- (2) Letters or written statements addressing medical causation and/or the reasonableness and necessity of treatment and medical bills signed by a physician are admissible at an expedited hearing and need not be in affidavit form. At a compensation hearing, these letters or statements, even if in affidavit form, may be excluded through valid objection under the Tennessee Rules of Evidence. This rule has no effect on the admissibility of a standard form medical report for industrial injuries (Form C-32) when properly presented at any hearing.
 - (3) A motion for summary judgment under Rule 56 of the Tennessee Rules of Civil Procedure may be filed only after a judge issues a scheduling order. The motion must also comply with Rule 0800-02-21-.18(1).
 - (4) During an expedited hearing, a judge may take testimony in any manner that is practical for the fair, effective resolution of the request for temporary disability and/or medical benefits, including testimony by telephone or video conference. Any party seeking permission to attend a hearing by telephone or present witness testimony by telephone or video conference must file a motion no later than ten (10) business days before the hearing.

Rule 0800-02-21-.16 Medical Records is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) If requested, a medical provider treating an injured employee must furnish copies of records at a cost allowed by T.C.A. § 50-6-204 for paper records and Rule 0800-02-17-.24 for non- paper records. The medical provider must forward the records within ten (10) business days of receipt of a written request.
 - (a) For the purposes of paragraphs (1) and (2) of this rule, “medical provider” includes the authorized treating physician, a hospital, and any other entity or person who provides medical care to the injured employee for the claimed work-related injury under the employer’s obligation under T.C.A. § 50-6-204. A “medical provider” also includes any physician, hospital, or other person or entity that treated the worker for injuries or conditions that were not provided under the employer’s obligation in Tennessee Code Annotated section 50-6-204 for treatment of the claimed work-related injury.
 - (b) A medical provider is entitled to a reasonable fee not to exceed the maximum charge provided by Rule 0800-02-17-.15(4) for preparation of a written report in response to a request from a party.
 - (c) Records from a medical provider as defined in paragraph (a) of this rule may be provided with the appropriate HIPAA-compliant, written authorization of the employee, which the employee must provide if ordered to do so by the judge.
- (2) Medical records must be exchanged among the parties as in Rule 0800-02-21-.10(2).
 - (a) Medical records to be presented as evidence at a hearing must be filed with the clerk no later than ten (10) business days before the hearing. Absent good cause as determined by the judge, failure to comply may result in the exclusion of any medical record that is not timely filed or the assessment of costs or sanctions against the party or the party’s attorney. Absent good cause as determined by a judge, no other medical records may be filed with the clerk.
 - (b) Medical records and/or bills are self-authenticating and **not excluded by the rule against hearsay** when signed by a physician or accompanied by a form signed by a medical provider or records custodian certifying that the records and/or bills are true and accurate. The judge may exclude medical records in response to a proper objection other than to authenticity or **hearsay** under the Tennessee Rules of Evidence or other applicable law. An electronic signature suffices if the judge finds the electronic signature demonstrates that the provider approved the contents of the medical record.
 - (c) Medical records to be presented as evidence at a hearing that exceed ten (10) pages must include a chronological table of contents. The medical records must be filed with the clerk, and each of the records must be identified by author and date and numbered as in the table of contents. The parties, not the medical providers, must prepare the chronological table of contents required by part (c) of paragraph (2). A self-represented party may, but is not required to, provide the chronological table of contents.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-204, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239; and Public Chapter 289 (2013), Sections 73, 79, 82, and 106.

Rule 0800-02-21-.18 Motions is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) Except as otherwise provided in these rules, any party may file a dispositive motion in accordance with the Tennessee Rules of Civil Procedure.

- (a) The moving party must provide any non-moving, self-represented party with a copy of the rule or statute on which the dispositive motion is based and must state any deadline and/or requirement to respond.
 - (b) The Court of Workers' Compensation Claims will not entertain a motion for summary judgment until after a judge issues a scheduling order.
 - (c) It is the responsibility of the moving party or their attorney to contact the judge's staff to obtain a hearing date for the dispositive motion. The motion shall not be heard until thirty (30) days after its filing date. The moving party shall write the date on the motion in bold print as follows: THIS MOTION WILL BE HEARD ON _____, 20____, at _____AM/PM. Failure to obtain a hearing in a timely manner may be construed as an abandonment of the motion.
 - (d) If a dispositive motion is opposed, a written response to the motion must be filed and served on all parties or their counsel no later than five (5) business days before the motion hearing. The response must state with particularity the grounds for opposition. If no opposition is filed, the dispositive motion will be considered unopposed. The judge may **without the need for an affidavit** from the non-moving party grant additional, reasonable time for the non-moving party to respond, obtain affidavits, engage in discovery, or take depositions.
- (2) Any party may file a non-dispositive motion in accordance with the Tennessee Rules of Civil Procedure.
- (a) All non-dispositive motions will be decided on the written materials unless the judge determines a hearing is appropriate.
 - (b) If a non-dispositive motion is opposed, a written response to the non-dispositive motion must be filed and served on all parties or their counsel on or before five (5) business days after the filing of the non-dispositive motion. The response must state with particularity the grounds for the opposition. If no opposition is filed, the motion will be considered unopposed.
- (3) Additional Parties.
- (a) At any time after a petition for benefit determination has been filed AND a docket number has been assigned, any party to the petition for benefit determination that determines it is necessary to add an additional party, including the Subsequent Injury Fund, must file a motion to add the additional party citing the reasons in support of adding the additional party and certifying a copy of the motion is served on all parties, including the party to be added, to that party's authorized representative.
 - (b) If the motion is granted by the **court**, the case will be remanded to mediation.
- (4) Any party seeking disqualification or recusal of a judge must do so by timely filing a written motion. The motion must be supported by an affidavit under oath or a T.R.C.P. Rule 72 declaration on personal knowledge and by other appropriate materials. The motion must state with specificity all factual and legal grounds supporting disqualification of the judge and must affirmatively state that it is not being presented for improper purpose, such as to harass or to cause unnecessary delay or increase in the cost of litigation. The motions must be timely filed so as not to delay an expedited hearing and/or compensation hearing. While the motion is pending, the judge will make no further orders and take no further action on the case, except for good cause stated in the order in which the action is taken.
- (5) The judge will prepare and issue an order reflecting the decision unless otherwise ordered. All parties or their counsel must sign an agreed order before submitting the order to the judge for approval. An attorney must not sign a self-represented litigant's name "by permission."

Rule 0800-02-21-.22 Compensation Hearing is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) The compensation hearing will be conducted at the time and place specified in the scheduling order. Absent good cause, no motion for a continuance will be considered at the compensation hearing.
- (2) Ten (10) business days before the date of a compensation hearing or as otherwise directed by the judge, each party must file a prehearing statement either jointly or individually.
- (3) Concurrent with the submission of the prehearing statement, each party must file the following:
 - (a) A copy of each proposed exhibit not previously filed, except for those intended for impeachment or rebuttal purposes; and
 - (b) A copy of any expert's deposition transcript not previously filed that the party intends to introduce at the hearing.
- (4) With the exception of witness testimony and exhibits intended for impeachment or rebuttal purposes, no witness whose name and address was not included in the prehearing statement may testify at the hearing, and no exhibit excluded from the list of proposed exhibits in the prehearing statement may be presented at the hearing, unless permission to present the testimony or exhibit is granted by the judge. Permission may be granted only on finding that:
 - (a) The party seeking to present the witness or exhibit did not have knowledge of the witness or exhibit before submitting the prehearing statement and could not have discovered the witness or exhibit despite reasonable investigation; and
 - (b) Prohibiting the presentation of the witness or exhibit would result in prejudice.
- (5) Absent good cause, a party failing to provide a prehearing statement as required by these rules may be sanctioned by the judge, including prohibiting the party from introducing evidence or exhibits or calling witnesses, except for impeachment or rebuttal purposes.
- (6) Absent stipulation of the parties or by leave of Court, affidavits or Rule 72 declarations shall not be admissible at the Compensation Hearing.
- (7) Any party may request that the judge issue a decision on the record instead of convening an evidentiary hearing. Any party opposing the request for a decision on the record has ten (10) business days from the date the request is filed to file an objection with the clerk. If the judge determines a decision on the record is appropriate, the clerk will send a docketing notice to all parties detailing the actions required to prepare the case for a decision on the record.
- (8) During a compensation hearing, a judge may take testimony in any manner that is practical for the fair, effective resolution of the request for temporary disability and/or medical and/or permanent disability benefits, including testimony by telephone or video conference. Any party seeking permission to attend a hearing by telephone or present witness testimony by telephone or video conference must file a motion no later than ten (10) business days before the hearing.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239.

Rule 0800-02-21-.23 Settlement Approval is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) In any case where the parties reach a full settlement, the settlement will not become effective until it has been signed by all parties and approved by a judge.

- (2) Unless the settlement is of a disputed claim as provided by T.C.A. § 50-6-240(e), the settlement agreement must contain language stating that the employee is receiving substantially the benefits provided by the Workers' Compensation Law.
- (3) If the settlement is of a disputed claim under T.C.A. § 50-6-240(e), the settlement agreement must contain language stating that the settlement is in the best interest of the employee.
- (4) If the parties agree to close future medicals, the settlement must contain a statement advising the employee of the consequences of the settlement, if any, with respect to Medicare and TennCare benefits and liabilities.
- (5) When the parties reach an agreement, they must file a petition for benefit determination for settlement approval. Before the settlement approval, they must prepare and sign a settlement agreement, statistical data form, explanation of benefits, and an order approving workers' compensation settlement agreement. The required documents must be prepared using the most recent templates on the court's webpage.
- (6) In addition to the required forms, the parties must attach a copy of the impairment rating as an exhibit to the settlement agreement, except in disputed claims settled under T.C.A. § 50-6-240(e). The parties must attach any other documents requested by the local bureau office or judge. In cases where the parties agree to close future medical benefits, the parties may attach a written statement from the treating physician stating that no further medical treatment is anticipated, documentation of the anticipated cost of future medical treatment, and/or medical documentation supporting the requested closure of future medical benefits.
- (7) Settlements by affidavit are permitted for good cause as determined by the judge.
 - (a) Good cause may include but is not limited to distance from the judge's office or adverse health of the parties or their counsel. Settlement approvals by affidavit in cases involving closure of future medical benefits are unlikely to be granted absent proof of exceptional circumstances.
 - (b) Requests for approvals by affidavit must be made in writing to the local bureau office two (2) business days in advance of the requested approval hearing and must include a copy of the proposed settlement documents. The assigned judge may require appearance of the party or counsel by telephone.
- (8) Any settlement that is denied by a judge may not be presented for approval before another judge.
- (9) Absent good cause as determined by the judge, settlements must be presented in the bureau office closest to the employee's residence.
- (10) If the parties reach a settlement before a scheduled hearing, the parties must immediately notify the judge's staff and schedule a settlement approval.
- (11) At the settlement approval hearing, the employer is required to pay the filing fee.

Authority: T.C.A. §§ 4-3-1409, 50-6-233, 50-6-239, and 50-6-240.

Rule 0800-02-21-.24 Voluntary Dismissal is hereby amended deleting the rule in its entirety and substituting instead the following language:

- (1) A party may move to voluntarily dismiss a petition for benefit determination only once. If an employee has been awarded temporary benefits through an interlocutory order or a motion for summary judgment is pending, a party may not move to voluntarily dismiss the petition. If the motion for voluntary dismissal is granted, either party may file a new claim within ninety (90) days of the order granting the voluntary dismissal.

- (2) A voluntary dismissal is effective as of the date the order of dismissal is issued by the clerk.
- (3) If a claim is voluntarily dismissed, the party that sought the dismissal must pay a filing fee of one hundred fifty dollars (\$150). The fee is due and payable on the date the order of voluntary dismissal is entered.

Authority: T.C.A. §§ 4-3-1409, 50-6-233, and 50-6-239.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: February 8, 2023

Signature: _____



Name of Officer: Troy Haley

Title of Officer: Administrator

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Filed with the Department of State on: 2/10/2023



Tre Hargett
Secretary of State

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