

**RULES
OF
THE TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
BUREAU OF WORKERS' COMPENSATION**

**CHAPTER 0800-02-21
COURT OF WORKERS' COMPENSATION CLAIMS AND ALTERNATIVE DISPUTE RESOLUTION**

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0800-02-21-.02 DEFINITIONS.

- (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:
 1. Severe sensory or motor disturbances;
 2. Severe communication disturbances;
 3. Severe complex integrated disturbances of cerebral function;
 4. Severe disturbances of consciousness; or
 5. 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. **The judge may grant the parties permission to present issues that have not been certified by the mediator.**
- (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. **After a Dispute Certification Notice has been filed, attorneys must use the Court's electronic filing system for all filings. A document is considered filed on the date and time filed in the Court's electronic filing system.**
 - b. For purposes of this chapter, a document is considered filed **by a self-represented party**:
 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 **the Court's electronic filing system, the bureau's electronic filing system.**
 - c. 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.
 - d. 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. Any party may file a petition as provided under Tennessee Code Annotated section 50-6-203 on a form approved by the Administrator at any time after a dispute arises.
 - e. A petition for benefit determination is considered filed for the purposes of Tennessee Code Annotated section 50-6-203 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, 50-6-237, 50-6-238, and 50-6-239.

0800-02-21-.09 OMBUDSMAN PROGRAM.

- (1) The ombudsman program assists injured or disabled employees, persons claiming death benefits, employers, and other persons in protecting their rights, resolving disputes, and obtaining information. The ombudsman program is available only to those individuals or organizations who are not represented by legal counsel under T.C.A. § 50-6-216.
- (2) Any unrepresented person or organization seeking the services of an ombudsman must contact

the bureau, and the bureau will assign an ombudsman if the person is qualified to receive services. The bureau retains sole authority to determine services the ombudsman will provide under T.C.A. § 50-6-216(a).

- (3) Any unrepresented party seeking the services of an ombudsman attorney must submit a request on a form approved by the Administrator. The ombudsman attorney must provide services in compliance with T.C.A. § 50-6-216(e)(3) and Formal Ethics Opinion 2017-F-162.
- (4) **The Administrator shall have the authority to terminate ombudsman services to any injured worker or employer who engages in verbal or physical abuse of an ombudsman.**

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-216, and 50-6-233.

0800-02-21-.10 ALTERNATIVE DISPUTE RESOLUTION.

- (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), 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 in these rules, 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 fourteen (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.

- (8) If requested, the assigned mediator may allow a nonparty to attend a mediation to assist an injured worker. Any nonparties allowed to attend a mediation to assist an injured worker shall not actively engage in legal representation of or otherwise act on behalf of the injured worker in any negotiation of any party's rights and obligations. No provision of this chapter shall authorize a representative of a collective bargaining agent to engage in the "practice of law" or "law business" prohibited by statute or rules of the Tennessee Supreme Court as part of the mediation. If the parties cannot agree regarding who may attend and participate in a mediation, the mediator shall have the final decision-making authority.

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-216, 50-6-217, 50-6-233, 50-6-236, 50-6-237, 50-6-238, and 50-6-239.

0800-02-21-11 DOCKETING OF CASES, SETTING CASES FOR HEARING, AND CONTINUANCES.

- (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 ~~judge may clerk will~~ set a ~~show-cause~~ hearing ~~to determine the intention of the parties~~. The ~~parties shall receive 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 these rules. 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, 50-6-237, 50-6-238, and 50-6-239.

0800-02-21-.13 COURT REPORTERS, INTERPRETERS, AND AUDIOVISUAL.

- (1) All hearings, except settlement approvals, are recorded for the judge's use. **The court cannot guarantee the quality of the recording.** The parties may purchase an audio recording of the hearing from the clerk for twenty-five dollars (\$25). The parties may have the audio recording transcribed by a certified court reporter at their own expense for an appeal.
- (2) The parties **are encouraged to may** hire a court reporter. The parties or their counsel are responsible to arrange for court reporters.
- (3) The employer **or putative employer** or their counsel must arrange for court-approved interpreters at all hearings. The interpreters must be either (1) state-certified court interpreters or (2) state-registered court interpreters. In areas where state-certified or state-registered court interpreters are unavailable, the judge may waive this requirement.
- (4) **Employers shall arrange and pay for translation services of written documents as determined necessary by the presiding judge.**
- (5) The parties or their counsel are responsible for providing equipment necessary to operate any audiovisual used during the hearing. The parties or their attorneys must set up or install all equipment before the judge begins the hearing. All equipment takedown or dismantling must take place during recess or after court adjourns.
- (6) The parties or their counsel must provide any audio and video recordings intended to be introduced into evidence in the proper format. Permissible audio formats include, but are not limited to, ".wav" and ".mp3." Permissible video formats include ".wmv," ".wma," and ".avi."

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-216, 50-6-217, 50-6-233, 50-6-236, 50-6-237, 50-6-238, and 50-6-239.

0800-02-21-.14 SCHEDULING HEARING.

- (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, 50-6-236, 50-6-237, 50-6-239, and 50-6-239(c)(1).

0800-02-21-.15 EXPEDITED HEARING.

- (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, **including medical records**, 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.
 - (c) 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.
 - (d) 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.
 - (e) 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 these rules.
- (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 videoconference. 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, 50-6-237, 50-6-238, and 50-6-239.

0800-02-21-.16 MEDICAL RECORDS.

- (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 **fifteen (15) business days before an expedited hearing** and ten (10) business days before **a compensation** ~~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, 50-6-237, 50-6-238, and 50-6-239.

0800-02-21-17 DISCOVERY.

- (1) Parties are encouraged to obtain any necessary discovery informally to avoid undue expense and delay. When these attempts fail or the complexity of the case makes informal discovery impracticable, discovery must be sought in accordance with the Tennessee Rules of Civil Procedure unless these rules provide an alternative procedure.
- (2) A party may serve written discovery requests on any other party at any time after a petition for benefit determination is filed.
 - (a) All written discovery requests must be answered under oath and in accordance with the Tennessee Rules of Civil Procedure. The responding party must supplement its answers in a timely manner whenever additional information becomes available or the responses provided in a previous response change.
 - (b) No party may serve more than twenty (20) interrogatories, twenty (20) requests for production, and twenty (20) requests for admission on any party without approval of the judge. Any subpart is counted as its own **interrogatory or request**.
 - (c) The judge may increase or decrease the time allowed for answering written discovery requests.
 - (d) Except as required when filing a discovery-related motion, no written discovery requests or answers may be filed with the clerk.
- (3) All depositions must be taken within the timeframe in the scheduling order, or if no scheduling order exists, within the time allowed by the Tennessee Rules of Civil Procedure.
 - (a) The deposition must be taken as provided by the Tennessee Rules of Civil Procedure.
 - (b) Written notice must be provided in accordance with the Tennessee Rules of Civil Procedure.
 - (c) No oral deposition may continue for more than four (4) hours, excluding breaks.
- (4) Licensed physicians may charge their usual, customary fee for providing testimony by deposition, provided that the fee does not exceed seven hundred fifty dollars (\$750) for the first hour.
 - (a) Depositions longer than one (1) hour will be pro-rated at the licensed physician's usual, customary fee as above, not to exceed four hundred fifty dollars (\$450) per hour for deposition time in excess of one (1) hour. Physicians may not charge for the first fifteen (15) minutes of preparation time. In instances requiring over fifteen (15) minutes of preparation time, a physician's preparation time in excess of fifteen (15) minutes may be added to and included in the deposition time and billed at the same rate as for the deposition.

- (b) Physicians may require pre-payment of seven hundred fifty dollars (\$750) maximum for a deposition or in-person appearance. Following the deposition, the physician may bill for any additional amount due. The payer may recover any amount overpaid.
 - (c) An additional fee of up to two hundred fifty dollars (\$250) may be charged for a video deposition.
 - (d) Physicians who are late for a deposition may only be reimbursed for the time in attendance and not from the time of the scheduled deposition.
 - (e) Instead of a physician's deposition, a party may file a standard form medical report for industrial injuries (Form C-32) with the clerk. The physician may charge a fee of up to one hundred fifty dollars (\$150) for completion and certification of the form.
- (5) In the event of a discovery dispute, either party may file a motion at any time after a petition for benefit determination is filed. All discovery-related motions will be decided on the written materials unless the judge determines that argument is needed. Affidavits may be provided in support of any motion or response; live testimony is prohibited. Any motion to compel discovery, motion to quash, motion for protective order, or other discovery-related motion must:
- (a) Quote verbatim the interrogatory, request, question, or subpoena at issue or be accompanied by a copy of the interrogatory, request, subpoena, or excerpt of a deposition that shows the question and objection or response if applicable. If the entire set of discovery requests were unanswered, the moving party need not file the entire set with its motion;
 - (b) State the reason or reasons supporting the motion; and
 - (c) Include a statement certifying that the moving party or his or her counsel made a good-faith effort to resolve by agreement the issues in the motion and an agreement was not achieved. The statement must detail the efforts to resolve the dispute.
- (6) If requested, the clerk will issue signed subpoenas in blank in accordance with the Tennessee Rules of Civil Procedure.
- (a) Parties must complete and serve their own subpoenas.
 - (b) Service of subpoenas for records may be by certified, return-receipt mail in addition to means of service provided by the Tennessee Rules of Civil Procedure.
 - (c) Service of subpoenas compelling witnesses' appearance at a hearing must be made in the manner provided by the Tennessee Rules of Civil Procedure, and a signed copy of the original must be filed with the clerk.
 - (d) All subpoenas compelling witnesses' appearance at a hearing must be served no later than five (5) business days before the hearing unless the judge extends this period.
 - (e) Anyone who fails to timely respond to a subpoena for documents or testimony or who fails to appear at a hearing under a properly-served subpoena may be assessed a civil penalty.

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.

0800-02-21-.18 MOTIONS.

- (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 ____ A.M./P.M. 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 on the motion. ~~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." If the parties file a joint or unopposed motion, they shall submit a signed proposed agreement for the presiding judge's consideration. An attorney may not sign the order for a self-represented party.~~

Authority: T.C.A. §§ 4-3-1409, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-237, 50-6-238, and 50-6-239.

0800-02-21-.20 BRIEFS.

- (1) Prehearing briefs for expedited and compensation hearings are encouraged. Unless the scheduling order provides otherwise, prehearing briefs must be filed at least ten (10) business days before the hearing. Briefs submitted by attorneys shall utilize size fourteen (14) Times New Roman font and one-inch margins.
- (2) Post-hearing briefs for expedited and compensation hearings are permitted only with the judge's advance approval.
- (3) Briefs should contain the facts and law with appropriate citations. Any brief that refers to a transcript or deposition must specify the relevant page(s) of the transcript or deposition. Any brief that cites an unpublished or foreign case must attach a copy of the case, or the judge may disregard the case. Briefs must not exceed ten (10) pages exclusive of attachments unless permission is granted by the judge.

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

0800-02-21-.21 POST-DISCOVERY ALTERNATIVE DISPUTE RESOLUTION.

- (1) All parties must participate in alternative dispute resolution after discovery is completed unless the judge determines it unnecessary.
- (2) Alternative dispute resolution under this section must be conducted as provided by Rule 0800-02-21-.10.
- (3) If the parties do not reach a full settlement, the mediator will file a new dispute certification notice identifying the remaining issues and defenses. If any party disagrees with the dispute certification notice, the party may file an objection under T.C.A. § 50-6-236. If the parties fail to reach a full settlement after the mediator issues a dispute certification notice, they will ~~must~~ appear before the judge for a compensation hearing.

Authority: T.C.A. §§ 4-3-1409, 9-8-307, 9-8-402, 50-6-101, 50-6-217, 50-6-233, 50-6-236, 50-6-238, and 50-6-239.

0800-02-21-.23 SETTLEMENT APPROVAL.

- (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, 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, 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, **and an** explanation of benefits **form.** **They must also prepare** an order approving workers' compensation settlement agreement **for the judge to sign.** 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. 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. A party may record a settlement approval **hearing**, upon notice to all parties and request to the judge to do so, in the discretion of the presiding judge.
- (12) **If the case for which the parties are seeking settlement approval has been appealed, the parties must comply with Appeals Board or Supreme Court rules, and the case must be remanded before the parties present the settlement to the workers' compensation judge.**

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