



# NORTH CAROLINA INDUSTRIAL COMMISSION

## ***BULLETIN***

### ***Information Regarding the North Carolina Workers' Compensation Act***

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## **NORTH CAROLINA INDUSTRIAL COMMISSION**

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**Samuel Constance**, Chief of Criminal Investigations & Employee Classification Division  
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#### **Workers' Compensation Information Specialists:**

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<b>Claims Administration:</b>	(919) 716-1700	<b>Fraud Complaints:</b>	(888) 891-4895
<b>Clerk's Office:</b>	(919) 807-2504	<b>Full Commission:</b>	(919) 807-2647
<b>Compliance:</b>	(919) 716-1735	<b>Mediation:</b>	(919) 807-2586
<b>EDFP Support:</b>	(919) 807-2695	<b>Medical Fees:</b>	(919) 807-2503
<b>Deputy Commissioners:</b>	(919) 807-2501	<b>Medical Rehabilitation Nurses:</b>	(919) 807-2616
<b>Employee Misclassification Complaints:</b>	(919) 716-1733		

## FREQUENT CONTACTS LIST:

Questions About:	Contact:
General Questions	<b>Information Specialists:</b> (919) 716-1700 (800) 688-8349
Filing, Case Status, and Hearings	<b>Clerk's Office:</b> (919) 807-2504
Settlement Agreements, Medical Motions, and Administrative Motions	<b>Executive Secretary:</b> (919) 807-2580
Medical Bill Review	<b>Medical Fees:</b> (919) 807-2503
Medical Fee Schedule	<b>Medical Fees:</b> (919) 807-2503 <a href="https://www.ic.nc.gov/ncic/pages/feesched.asp">https://www.ic.nc.gov/ncic/pages/feesched.asp</a>
Rehabilitation Assistance	<b>Medical Rehabilitation Nurses:</b> (919) 807-2616
Electronic Document Filing Portal (EDFP)	<b>EDFP Support:</b> (919) 807-2695
Forms, Form Agreements, Disfigurement Claims, and Coverage Information	<b>Claims Administration:</b> (919) 716-1700 (800) 688-8349
Personnel and Contracts	<b>Chief Operating Officer:</b> (919) 807-2647
Workers' Compensation Fraud	<b>Fraud Complaints:</b> (888) 891-4895
Employee Misclassification Complaints	<b>Employee Classification:</b> (919) 716-1733
Mediation of Claims	<b>Mediation:</b> (919) 807-2586
Accounts and Invoices	<b>Accounting:</b> (919) 807-2635
Penalty Assessments and Noninsured Inquiries	<b>Compliance:</b> (919) 716-1735

## PLEASE NOTE:

This bulletin is designed to provide general information only. **It is not a legal reference.** Further information may be obtained by calling or emailing an Industrial Commission Information Specialist. An Information Specialist can be reached by phone at **(800) 688-8349** or **(919) 716-1700** and by email at **[infospec@ic.nc.gov](mailto:infospec@ic.nc.gov)**. When calling or emailing an Information Specialist about a specific case, please provide the name of the injured employee, the Commission's file number for the claim and, if available, the name of the employer and date of injury.

Injured employees may wish to consult with an attorney. For assistance locating an attorney who is familiar with workers' compensation law, employees may contact the North Carolina Bar Association's Lawyer Referral Service at **[nccbar.org/public-resources/lawyer-referral-service](http://nccbar.org/public-resources/lawyer-referral-service)** or at **(800) 662-7660** and **(919) 677-8574**. The Lawyer Referral Service will provide the name of an attorney willing to discuss the case. Be sure to mention workers' compensation when requesting a referral.

## INDUSTRIAL COMMISSION FORMS

All Industrial Commission forms can be found online and downloaded free of charge on the Commission's website at **<https://www.ic.nc.gov/forms.html#claims>**. In the alternative, Industrial Commission forms may be obtained online and free of charge by visiting the Commission's homepage at **[ic.nc.gov](http://ic.nc.gov)** and going to the "**Industrial Commission Forms**" link under "**Quick Links.**" Hard copies of forms may be requested and obtained free of charge by calling an Information Specialist at **(800) 688-8349** or **(919) 716-1700** or by emailing an Information Specialist at **[infospec@ic.nc.gov](mailto:infospec@ic.nc.gov)**.



## ELECTRONIC FILING

All documents filed with the Commission in workers' compensation cases by represented parties shall be submitted electronically. Any document filed with the Commission which requires contemporaneous payment of a processing fee pursuant to Rule 11 NCAC 23E .0203 shall not be deemed filed until the fee has been paid in full. The electronic filing requirements do not apply to claimants, medical providers, or non-insured employers without legal representation. Claimants, medical providers, and non-insured employers without legal representation may file documents with the Commission via the Electronic Document Filing Portal (EDFP), electronic mail, facsimile, U.S. Mail, private courier service, or hand delivery. The Rule governing Electronic Filings may be found in 11 NCAC 23A .0108, a link to which is available on the Industrial Commission's website at [ic.nc.gov](http://ic.nc.gov) under "Quick Links," "Industrial Commission Rules," "Industrial Commission Rules Currently in Effect," "11 NCAC 23A .0108."

## EMPLOYERS' OBLIGATION TO OBTAIN AND MAINTAIN COVERAGE

Businesses covered by the North Carolina Workers' Compensation Act, Chapter 97 of the North Carolina General Statutes, are required by law to obtain insurance or qualify as self-insureds to compensate injured workers. In general, all businesses employing three or more employees on a regular basis are covered by the Act. Certain groups are exempt from the provisions of the Act, including, but not limited to, agricultural employers with fewer than 10 regular employees, certain sawmill and logging operators, and specified domestic employers. Employers of one or more employees who are employed in activities which involve the use or presence of radiation are required to have coverage.

Corporate officers are counted in determining whether the corporation has three or more employees. However, corporate officers may specifically exclude themselves from coverage under a workers' compensation policy. Corporate officers of certain non-profit corporations that do not receive any compensation for their work are not covered under the Act, but they count towards the total number of employees. Sole proprietors, partners, and members of limited liability companies are not automatically counted as employees, but they may elect to include coverage for themselves under their workers' compensation policy. Principal contractors must obtain a certificate of coverage from their subcontractors in order to avoid liability for injuries suffered by a subcontractor's employees.

## HOW TO OBTAIN WORKERS' COMPENSATION COVERAGE

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

### Types of Workers' Compensation Coverage

There are four types of workers' compensation coverage:

1. Conventional & Open Market. An insurance agent can write coverage solely for your business.
2. Assigned Risk Market. If you do not have a sufficient history or have been unable to obtain insurance in the open market due to risk, you can call the North Carolina Rate Bureau, (919) 783-9790, and ask to speak with an insurance agent.



3. Self-Insured Fund. A Self-Insured Fund is a “blanket coverage” of workers’ compensation insurance in which you pay into a large fund that provides the coverage for your business and all other contributors who pay into that fund. Your contribution to the fund is based on your number of employees, your payroll, and the rate assigned to you by the North Carolina Rate Bureau.

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

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

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

## **How Your Workers’ Compensation Insurance Premiums Are Set**

The North Carolina Rate Bureau, (919) 783-9790, sets rates for specific types of employment and bases premiums on each \$100.00 of payroll. Policies are written annually, and premiums may increase if there is an injury and may decrease if there are no injury claims. Premiums also increase or decrease based upon the number of employees and payroll.

## **INJURIES COVERED**

Employees are entitled to benefits if, while carrying out activities for the benefit of their employer, they sustain an “injury by accident” or contract an “occupational disease.” An “accident” is an interruption of the normal work routine where there is some unusual or unforeseen event, other than the injury itself. In cases involving injuries to the neck and back, as well as in hernia cases, a “specific traumatic incident” (which may include normal work activities) qualifies as an “accident.” All injuries must arise out of and be in the course of the covered employment to be compensable.

Businesses complying with the Act and their employees may not be sued in the general courts of justice by employees for work-related injuries, except for intentional assaults and conditions that are found to be so grossly unsafe as to make injury substantially certain.

## **OCCUPATIONAL DISEASE**

If the occupational disease is a listed disease in the Workers’ Compensation Act, the employee must also prove that there is a causal relationship between the employment and the listed disease. If the occupational disease is not a listed disease in the Workers’ Compensation Act, the employee must prove that the employment exposed him or her to a greater risk of contracting the disease than the public generally and that there is a causal relationship between the employment and the disease. Where an employee is exposed to the same injurious agent at the place of business of more than one employer, the claim should be filed with the employer on whose premises he or she was last injuriously exposed.



## EMPLOYERS' OBLIGATION TO RECORD AND REPORT INJURIES

Every employer shall keep a record of all injuries, fatal or otherwise, and all work-related injuries, fatal or otherwise, shall be reported to the Commission on a Form 19 if the injury results in more than \$4,000.00 in medical expenses or more than one day's lost time from work. The Form 19 can be found at <https://www.ic.nc.gov/forms/form19.pdf>. *A COPY OF A COMPLETED FORM 19, WITH "IMPORTANT INFORMATION FOR EMPLOYEE" ON THE BACK, MUST BE FURNISHED TO THE EMPLOYEE OR HIS OR HER SURVIVORS.* In addition, the employer is required to provide a Form 18 for use by the employee with the copy of the Form 19. The Form 18 can be found at <https://www.ic.nc.gov/forms/form18a.pdf>.

## GIVING NOTICE TO EMPLOYER

An injured employee or the employee's representative shall give the employer written notice of the accident within 30 days of the accident or, in cases of occupational disease (except asbestosis, silicosis, or lead poisoning), within 30 days of being advised by competent medical authority that the employee has the occupational disease. The Commission's Form 18 (or Form 18B for lung disease claims) may be used to provide the required written notice to the employer. The Form 18 can be found on the Commission's website at <https://www.ic.nc.gov/forms/form18a.pdf>. The Form 18B can be found on the Commission's website at <https://www.ic.nc.gov/forms/form18b.pdf>.

## FILING CLAIMS

SUBJECT TO CERTAIN EXCEPTIONS, AN EMPLOYEE LOSES THE RIGHT TO CLAIM COMPENSATION UNLESS A CLAIM IS FILED WITH THE COMMISSION WITHIN TWO YEARS AFTER THE INJURY BY ACCIDENT (OR, IN CASES OF AN OCCUPATIONAL DISEASE, WITHIN TWO YEARS AFTER DEATH, DISABILITY, OR DISABLEMENT AND BEING ADVISED BY COMPETENT MEDICAL AUTHORITY THAT THE EMPLOYEE HAS AN OCCUPATIONALLY RELATED DISEASE, WHICHEVER OCCURS LAST), OR WITHIN TWO YEARS AFTER THE LAST PAYMENT OF MEDICAL COMPENSATION WHEN NO OTHER COMPENSATION HAS BEEN PAID.

The Commission's Form 18 (or Form 18B for lung disease claims) may be used by an employee to file a workers' compensation claim. The Form 18 can be found at <https://www.ic.nc.gov/forms/form18a.pdf>. The Form 18B can be found at <https://www.ic.nc.gov/forms/form18b.pdf>. If a claim is not filed on a Form 18 or Form 18B, the employee will be asked to complete the appropriate form. Claims Administration can be reached at (919) 716-1700. *NOTE THAT THE FILING OF A FORM 19 BY THE EMPLOYER OR CARRIER DOES NOT CONSTITUTE A FILING OF A CLAIM ON BEHALF OF AN EMPLOYEE.*

## DENIAL OF A CLAIM

If the employer or insurer denies an employee's right to compensation, the employer or insurer shall notify the Commission within 14 days after the employer or insurer has written or actual notice of the employee's injury or death, or within such reasonable additional time as the Commission may allow. The employer or insurer also shall advise the employee in writing of its refusal to pay compensation on a form prescribed by the Commission, and the notification of the denial shall include a detailed statement of the grounds on which the right to compensation is denied. An employee whose claim has been denied has a right to request a hearing, and the hearing request should be made by filing a Form 33. The Form 33 can be found on the Commission's website at <https://www.ic.nc.gov/forms/form33.pdf>.



# BENEFITS

## Disability Compensation

**Temporary Total Disability (TTD):** If the employee remains unable to earn wages after the first seven days of disability, the employee may be entitled to weekly benefits at a weekly compensation rate equal to two-thirds of his or her average weekly wage, up to the applicable maximum weekly compensation rate. For claims arising on or after June 24, 2011, these benefits are payable for a period not to exceed 500 weeks from the date of first disability, unless the employee qualifies for extended compensation. After disability has continued for more than 21 days, the employee is entitled to receive compensation for the first seven days of disability. The days counted do not have to be consecutive. Weekend days, holidays, and any workday in which the injured employee does not earn a full day's wages because of the injury are counted as a day of disability.

**Temporary Partial Disability (TPD):** If upon obtaining post-injury employment, the employee is unable to earn wages as great as those earned pre-injury, the employee may be entitled to weekly compensation equal to two-thirds of the difference between the post-injury and pre-injury average weekly wages, so long as the amount does not exceed the applicable maximum weekly compensation rate. For claims arising on or after June 24, 2011, temporary partial disability benefits may not be paid for more than a total of 500 weeks, and any weeks that temporary total disability benefits are paid will be counted when determining whether the employee has reached the 500-week maximum.

**Permanent Partial Disability (PPD):** If, at the end of the healing period, there is a permanent impairment to one of the parts of the body listed below, the employee may be entitled to receive a set period of benefits without regard to his or her ability to earn wages. Total loss of use of the body part entitles the employee to his or her weekly compensation rate (equal to two-thirds of his or her average weekly wage, up to the applicable maximum weekly compensation rate), multiplied by the number of weeks shown following the body part below. Benefits for less than total loss are figured on a percentage basis. *For example, a 20 percent permanent impairment rating of the index finger is calculated as follows: 45 weeks x .20 = 9 weeks of compensation at the employee's weekly compensation rate.*

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

The percentage of disability is determined based on physicians' ratings of the percentage of physical permanent impairment. If the employee is dissatisfied with the treating physician's rating, he or she may obtain the "second opinion" of another doctor limited solely to the percentage of the impairment rating. **The employee is entitled to a single second opinion rating by a doctor of his or her choice at the employer's expense.** If there is a dispute between physicians regarding impairment ratings, either party pay file a Form 33 to request a hearing and the Commission will determine the percentage of disability. This form is available at <https://www.ic.nc.gov/forms/form33.pdf>. To obtain the Commission's Rating Guide, visit <https://www.ic.nc.gov/ncic/pages/ratinggd.htm>.



**Permanent Total Disability:** Employees who suffer the loss of both hands, both arms, both feet, both legs, both eyes, or any two thereof are entitled to lifetime weekly total disability benefits regardless of whether or not the employee has returned to work. Employees who qualify for permanent total disability by virtue of having suffered spinal injury involving severe paralysis of both arms, both legs, or the trunk, severe brain or head injury, or certain severe burns are entitled to lifetime weekly total disability benefits unless the employer shows by a preponderance of the evidence that the employee is capable of returning to suitable employment as defined in G.S. §97-2(22). All employees who qualify for permanent total disability as defined in G.S. §97-29(d) are entitled to lifetime medical compensation.

**Disfigurement and Damage to Other Organs:** If the injury leaves facial or head scars that seriously disfigure the employee, or causes the loss or permanent injury to an important organ or body part not specifically listed in G.S. §97-31, the employee may be awarded additional compensation not to exceed \$20,000.00. The maximum compensation payable for serious bodily disfigurement to body parts other than the face or head is \$10,000.00. No compensation is allowed for scars where the employee is paid for loss or partial loss of use of the same part of the body. The employee is also entitled to payment for disfigurement due to the loss or crowning of permanent teeth.

**Calculation of the Compensation Rate:** The weekly rate of compensation cannot be less than \$30.00 or more than the maximum compensation rate, which is adjusted annually. A link to each year's maximum compensation rate, beginning in 1982, can be found at <https://www.ic.nc.gov/ncic/pages/maxrates.htm>. The average weekly wage is usually computed by averaging all wages earned by the employee in the employment in which the employee was injured (including overtime, paid holidays, and any special allowance for board, lodging, etc.) during the 52 weeks prior to the injury or during the number of weeks worked for the employer prior to the injury, if the employee worked for the employer less than 52 weeks prior to the injury. If the employee has lost more than seven consecutive calendar days at one or more times, these days are excluded from the calculation. If the employee has worked only a short time in the employment in which he or she is injured, or if for other reasons this formula does not fairly reflect earnings, the Commission may compute a fair average weekly wage for the employee as provided by the Act. If the employee is under 18 years of age, a different rate may apply (see "Minors and Incompetent Individuals" below). If the employee is a volunteer firefighter, volunteer member of an organized rescue squad, authorized pickup firefighter, duly appointed and sworn member of an auxiliary police department, or senior member of the State Civil Air Patrol, compensation payable is calculated based on the average weekly wage that the employee was earning in the employment where he or she principally earned his or her livelihood, provided, however, that the minimum compensation payable to this employee is 66 2/3% of the maximum compensation rate for the year of injury. **The compensation rate remains the same over the duration of the claim. There are no cost-of-living increases.**

## Medical Compensation

Employers must provide all reasonable medical, surgical, hospital, nursing, and rehabilitative services, including, but not limited to: attendant care services prescribed by a health care provider and authorized by the employer or by the Commission; vocational rehabilitation; and medicines, sick travel, and other treatment, including medical and surgical supplies. The costs of medical compensation are in addition to the disability benefits discussed in the preceding section, and do not offset or reduce disability benefits. The employer or its insurance carrier may select the treating physician and other providers of medical compensation, subject to orders of the Commission. If the employee is dissatisfied with the services rendered by providers selected by the employer, the employee may request that the Commission order a change of treatment or approve treatment by providers of employee's selection.\* Such requests must show that the change is reasonably necessary to effect a cure, provide relief, or lessen the period of disability, and be submitted with any medical opinions or records that support the request. A copy of the request must be simultaneously sent to the employer or its insurance company.



If an employee fails to cooperate with a provider selected by the employer after being ordered to do so by the Commission, compensation may be suspended while such refusal continues.

The right to medical compensation ends two years after the last payment of medical or indemnity compensation, whichever is later, unless prior to the expiration of this period, an employee files an application for additional medical compensation (which may be filed utilizing a Form 18M) demonstrating a substantial likelihood of a need for future medical treatment, and the application for additional medical compensation is thereafter approved by the Commission. The Form 18M can be found on the Commission's website at <https://www.ic.nc.gov/forms/form18m.pdf>.

Rules governing rehabilitative services in workers' compensation cases have been adopted by the Industrial Commission. For more information, please visit <https://www.ic.nc.gov/faqs.html#nursingfaq>.

\*Requests for Commission approval must be in writing and should be transmitted to the Commission via the Commission's Electronic Document Filing Portal (EDFP) or, if the party is unrepresented, may be filed via facsimile, private courier service, hand delivery, or U.S. Mail addressed to the Executive Secretary's Office at 1236 Mail Service Center, Raleigh, NC 27699-1236.

## Death Benefits

Death benefits are payable to beneficiaries as indicated in the Act when an employee dies due to an accident or occupational disease if the death occurs within six years thereafter or within two years of the final determination of disability, whichever is later. Death is compensated by payment of two-thirds of the decedent employee's average weekly wage, up to the applicable maximum weekly compensation rate. For claims arising on or after June 24, 2011, death benefits are payable for a period of 500 weeks from the date of death, provided, however, a minor child or disabled spouse may, under certain circumstances, receive more than 500 weeks of benefits. Medical compensation related to the fatal injury or disease also is payable under the Act. Additionally, up to \$10,000.00 is payable for actual funeral/burial expenses (payable to the person or firm who paid the expenses).

## Minors and Incompetent Individuals

Like all other covered employees, an employee under the age of 18 is entitled to receive disability benefits and medical compensation due to injury or occupational disease, and death benefits are likewise payable for a minor fatally injured on the job. However, the Act has special provisions that apply when calculating a minor employee's average weekly wage, depending on whether the disability is permanent or temporary (and, if temporary, depending on whether the disability extends more than 52 weeks) and depending, in fatal cases, on whether the minor dies leaving dependents or dies without dependents.

No time limitation under the Workers' Compensation Act runs against a minor or incompetent individual until a guardian or trustee has been appointed to represent the minor's or incompetent individual's interest or until the minor reaches age 18. The Commission may appoint a guardian *ad litem* for the purpose of pursuing a claim on behalf of the minor or incompetent individual in litigation before the Commission. No compensation due or owed to a minor shall be paid directly to the guardian *ad litem*, except that a parent, legal guardian, or legal custodian may receive compensation on behalf of a minor in his or her capacity as parent, legal guardian, or legal custodian. No compensation due or owed to an incompetent individual shall be paid directly to the guardian *ad litem*, unless the guardian *ad litem* has authority to receive the money pursuant to a federal or state court order. In certain circumstances, a minor employee may sign agreements and receipts for payments of compensation, although the Commission may require the signature of a parent or legal guardian.





## COMMUNICATION WITH MEDICAL PROVIDERS

Pursuant to G.S. 97-25.6(c)(1), an employer is entitled, without the express authorization of the employee, to obtain the employee's medical records containing "relevant medical information" from the employee's health care providers. "Relevant medical information" means any medical record, report, or information that is any of the following: (1) Restricted to the particular evaluation, diagnosis, or treatment of the injury or disease for which compensation, including medical compensation, is sought; (2) Reasonably related to the injury or disease for which the employee claims compensation; or (3) Related to an assessment of the employee's ability to return to work as a result of the particular injury or disease. In a claim in which the employer is not paying medical compensation to a health care provider from whom the medical records are sought, or in a claim denied pursuant to G.S. 97-18(c), the employer shall provide the employee with contemporaneous written notice of the request for the employee's medical records. In all claims, upon the request of an employee, the employer shall provide the employee with a copy of any records received in response to a request within 30 days of receipt by the employer.

G.S. 97-25.6(c)(2) governs the conditions under which an employer may communicate in writing with an employee's authorized health care provider without the express authorization of the employee. The employee must be provided with contemporaneous written notice of the written communication to obtain relevant medical information not available in the employee's medical records. Under this provision, the employer may request the following additional information: (a) The diagnosis of the employee's condition; (b) The appropriate course of treatment; (c) The anticipated time that the employee will be out of work; (d) The relationship, if any, of the employee's condition to the employment; (e) Work restrictions resulting from the condition, including whether the employee is able to return to the employee's employment with the employer of injury as provided in an attached job description; (f) The kind of work for which the employee may be eligible; (g) The anticipated time the employee will be restricted; and (h) Any permanent impairment as a result of the condition. The employer shall provide a copy of the health care provider's response to the employee within 10 business days of its receipt.

G.S. 97-25.6(c)(3) governs the conditions and procedure under which an employer may communicate with an employee's authorized health care provider by oral communication to obtain relevant medical information not contained in the employee's medical records, not available through written communication, and not otherwise available to the employer. The employer must give the employee prior notice of the purpose of the intended oral communication and an opportunity for the employee to participate in the oral communication at a mutually convenient time for the employer, employee, and health care provider. If the employee does not exercise his or her right to participate in the oral communication, the employer shall provide the employee with a summary of the oral communication within 10 business days of the oral communication.

G.S. 97-25.6(d) governs the conditions and procedure under which an employer may submit additional relevant medical information not already contained in the employee's medical records to an employee's authorized health care provider and communicate in writing with the authorized health care provider about the additional relevant medical information. The employer shall first notify the employee in writing that the employer intends to communicate additional relevant medical information about the employee to the health care provider and this notice shall include both the employer's proposed written communication to the health care provider and the additional relevant medical information. The employee has 10 business days from the postmark or verifiable facsimile or electronic mail either to consent or object to the proposed communication. If the employee consents or fails to timely object, the employer may submit the additional information directly to the health care provider. If the employee timely objects, the employee also may request a protective order from the Commission to prevent the proposed communication, in which case the employer shall refrain from sending the proposed communication to the health care provider until the Commission has ruled on the protective order.



## **MEDICAL FEE SCHEDULE**

To view the Industrial Commission Medical Fee Schedule, see <https://www.ic.nc.gov/ncic/pages/feesched.asp>.

## **AGREEMENTS TO PAY COMPENSATION**

All agreements to pay compensation must be approved by the Commission. The most common forms of agreements are the Form 26A and the Compromise Settlement Agreement (or “clincher”).

A Form 26A agreement may be entered into after the end of the healing period to provide for payment of permanent partial disability benefits based upon a doctor’s evaluation, or “rating,” of any remaining physical permanent impairment. The employee is entitled to a single second opinion limited solely to the percentage of an impairment rating by a physician of his or her choice at the employer or insurance carrier’s expense when the physician approved by the employer or insurance carrier has rated and/or released the employee. The employee retains the right to reopen the case for further disability compensation within two years of the last payment of disability compensation if the employee can show that there has been a compensable change in the condition that resulted from the compensable injury. The Form 26A can be found on the Commission’s website at <https://www.ic.nc.gov/forms/form26a.pdf>.

A Compromise Settlement Agreement, or “clincher,” is a voluntary complete and final settlement of the claim that provides payment of a negotiated amount for disability and medical compensation that the employee claims to be due.

## **ATTORNEY FEES**

The Industrial Commission must approve all attorney fees paid to an employee’s attorney under the Workers’ Compensation Act. Upon approval by the Commission as reasonable, the fees will be deducted from the compensation due to the employee and paid directly to the employee’s attorney by the employer, carrier, or third-party administrator.



# FREQUENTLY ASKED QUESTIONS

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

In general, any employer who employs three or more employees.

**NOTE:** Every executive officer selected or appointed and empowered in accordance with the charter and bylaws of a corporation is considered an employee of such corporation. For example, a corporation with two officers and one employee would be required to provide workers' compensation coverage. Any employment in which one or more employees are employed in activities that involve the use of or presence of radiation is required to have coverage. Volunteer executive officers of certain non-profit corporations also count as employees for the sole purpose of determining whether coverage is required.

## 2. What if my employer is required to have coverage but does not have workers' compensation insurance?

The employee should report the lack of workers' compensation insurance or approved self-insurance to the Commission's Criminal Investigations & Employee Classification Division at (919) 716-1736 and, if injured, should file a Form 18 and Form 33 with the Commission. The Form 18 can be found on the Commission's website at <https://www.ic.nc.gov/forms/form18a.pdf>. The Form 33 can be found on the Commission's website at <https://www.ic.nc.gov/forms/form33.pdf>.

## 3. What should an employee do when an injury occurs?

Immediately report the injury to the employer, orally and in writing, and, in any event, report the injury in writing within thirty days by completing a Form 18. The Form 18 can be found on the Commission's website at <https://www.ic.nc.gov/forms/form18a.pdf>.

## 4. What should be done if an employee wishes to file a workers' compensation claim?

The employee should file the claim with the Industrial Commission on a Form 18 (or Form 18B for lung disease) within two years of the accident or, in cases of an occupational disease, within two years after death, disability, or disablement and being advised by competent medical authority that the employee has an occupationally related disease. The Form 18 can be found on the Commission's website at <https://www.ic.nc.gov/forms/form18a.pdf>. The Form 18B can be found on the Commission's website at <https://www.ic.nc.gov/forms/form18b.pdf>. **NOTE THAT THE FILING OF A FORM 19 BY THE EMPLOYER OR CARRIER DOES NOT CONSTITUTE A FILING OF A CLAIM ON BEHALF OF AN EMPLOYEE.**

## 5. What happens if the employer denies the claim?

If liability for payment of compensation is denied, the Commission, employee, his or her attorney (if any), and all known providers of health care shall be promptly notified of the reason for such denial.

- (a) If a claim is denied by the insurance company or self-insurer, the employee may request a hearing before the Commission by submitting a Form 33, which can be found at <https://www.ic.nc.gov/forms/form33.pdf>.
- (b) Medical providers may bill the employee only if it is finally been determined that the claim is not a compensable workers' compensation claim.



**6. Who provides and directs medical treatment in an accepted or compensable claim?**

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

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

If an employee has traveled 20 miles or more round trip for medical treatment, he or she is entitled to reimbursement for mileage at the IRS mileage reimbursement rate in effect on the date of travel.

**NOTE:** The Commission allows self-insurers and insurance carriers to pay drug and travel expenses directly to employees without approval from the Commission.

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

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

**9. When does an employee become eligible for lost-time weekly total disability compensation?**

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

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

66 2/3% of the employee's average weekly wage, not to exceed the applicable maximum weekly compensation rate. The maximum weekly compensation rate is adjusted annually and can be found on the Commission's website at <https://www.ic.nc.gov/ncic/pages/maxrates.htm>.

**11. How long is an employee eligible to receive lost-time weekly total disability compensation?**

Until the employee is able to return to work if the injury occurred prior to June 24, 2011. For claims arising on or after June 24, 2011, the employee is limited to 500 weeks of compensation from the date of first disability unless the employee qualifies for extended compensation or permanent total disability.

**NOTICE**

**THIS BULLETIN IS NOT INTENDED TO GIVE LEGAL  
ADVICE OR ANSWER ALL QUESTIONS REGARDING  
WORKERS' COMPENSATION.**



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

If you have **not** hired an attorney and need more information or have a workers' compensation inquiry, please contact:

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

**(800) 688-8349, (919) 716-1700, Fax: (919) 715-0282, or [infospec@ic.nc.gov](mailto:infospec@ic.nc.gov)**

Workers' Compensation Information Specialists serve as the information source regarding the North Carolina Industrial Commission and answer questions pertaining to all aspects of workers' compensation. The North Carolina Industrial Commission cannot provide you with legal advice about your claim.

