

2010

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Payment of Processing Fees for Clinchers and other Forms

Effective October 1, 2009, the processing fee for clinchers, Form 21 and Form 26/26A Agreements, and Form 24 Applications shall be paid at the time of submission of the documents to the Industrial Commission. If a clincher or Form 24 Application is electronically submitted, it shall be accompanied by a written certification attesting that payment of the processing fee has been mailed. The Commission requires a mandatory certification letter that can be found at www.ic.nc.gov/ncic/pages/CSAfeeform.pdf.

Increase in Processing Fees

Effective January 1, 2010, processing fees for Form 24 Applications increased to \$175.00 and processing fees for Form 21, 26 or 26A Agreements increased to \$250.00. The processing fee for a clincher is \$375.00.

Communication With Medical Providers

NC Gen. Stat. 97-25.6 allows an employer or carrier to question medical providers without violating the prohibition on ex parte communication found in *Salaam v. North Carolina DOT*. If an employer or carrier is paying compensation in an admitted claim or where payment is being made without prejudice under a Form 63, the employer or carrier may ask specific questions concerning 1) diagnosis, 2) reasonable and necessary treatment, 3) anticipated time out of work, 4) the relationship of the condition to the employment, 5) restrictions, 6) the kind of work the patient is eligible for, 7) the anticipated time of restriction, and 8) the permanent impairment. The Industrial Commission has prepared and adopted a "Workers' Compensation Medical Questionnaire" that must be used when communicating with medical providers. When submitting the questionnaire, you must provide the employee with a copy using the same means of delivery that was used for the medical provider.

The "Workers' Compensation Medical Status Questionnaire" can be found online at <http://www.ic.nc.gov/forms/wcmsques.pdf>.

An employer or carrier may communicate with a medical provider using other forms if 1) there is a valid authorization from the employee, 2) there is an agreement by the parties, or 3) there is an Order from the Industrial Commission.

Time Periods

Employer's First Report of Injury (§ 97-92)
 Within 5 days from knowledge or allegation of injury if more than 1 day missed or \$2,000 in medical expenses

Admit or Deny Employee's Right to Compensation (§ 97-18)

At the earliest practicable time; subject to sanctions if not filed within 30 days of receiving a Form 18

Payment Without Prejudice (§ 97-18)

Payments may continue for 90 days from date employer has written or actual notice of injury or death (may apply for 30 day extension). Must file form to deny before expiration of 90 day period (or extension) or waive right to contest compensability of and liability for claim.

Waiting Period (§ 97-28) 7 days

Waiting Period Recoverable after Disability (§ 97-28) 21 days

Notice to Employer (§ 97-22) 30 days

Statute of Limitations

File Initial Claim (§ 97-24 & § 97-58) 2 years

Change of Condition (§ 97-47) 2 years

Indemnity Calculations

Temporary Total Disability

If disability exceeds 7 days, benefits of 66 2/3% of AWW not to exceed the maximum compensation rate for year in which injury occurred. (§ 97-29)

Temporary Partial Disability

66 2/3% of the difference between the AWW before the injury and amount able to earn after the injury for up to 300 weeks from date of injury. (§ 97-30)

Death Benefits

Death Benefits of 66 2/3% of the average weekly wage for 400 weeks are paid to dependants for death within 6 years of the accident or 2 years of the final determination of disability. Burial expenses of \$3500 are also allowed. (§ 97-38). Rule 409 sets forth procedures for death claims.

Rule 607

Upon written request, either party must provide the requesting party a copy of the following documents within 30 days: medical, vocational and rehabilitation reports, employment records, Industrial Commission Forms, and written communications with medical providers.

Fees for Records from Medical Providers (§ 97-26.1)

The provider can charge a minimum fee of \$10.00, or the provider may charge \$0.50 per page for the first 40 pages and \$0.20 for all additional pages.

Travel Expenses

Claimant is entitled to travel reimbursement if the travel is medically necessary and the mileage is 20 miles or more roundtrip. The Commission adjusts the mileage reimbursement rate automatically when the Internal Revenue Service adopts its yearly mileage reimbursement amounts. The maximum fees set forth for travel to and from the place of medical attention for 2010 are as follows: 50 cents per mile for travel pursuant to the January 27, 2009 memorandum of the Commission; \$45.00 per night for lodging; and up to \$28.00 per day for meals. These fees are subject to adjustment by the Commission.

Maximum Compensation

January 1, 2010	\$834.00
January 1, 2009	\$816.00
January 1, 2008	\$786.00
January 1, 2007	\$754.00
January 1, 2006	\$730.00
January 1, 2005	\$704.00

Fractional Weeks

One Day	.1428571
Two Days	.2857142
Three Days	.4285713
Four Days	.5714285
Five Days	.7142857
Six Days	.8571428

Scheduled Injuries § 97-31

Bodily Loss	Max. Weeks	Bodily Loss	Max. Weeks	Bodily Loss	Max. Weeks
Thumb . . . . .	.75	Great Toe . . . . .	.35	Leg . . . . .	.200
First Finger . . . . .	.45	Another Toe . . . . .	.10	Eye . . . . .	.120
Second Finger . . . . .	.40	Hand . . . . .	.200	Hearing (One Ear) . . . . .	.70
Third Finger . . . . .	.25	Arm . . . . .	.240	Hearing (Both Ears) . . . . .	.150
Fourth Finger . . . . .	.20	Foot . . . . .	.144	Back* . . . . .	.300

*Loss of 75% or more of the back is total industrial disability & compensated for 100% loss.

2010

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as of January 1, 2010**

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Commonly Used Forms

- Form 18 Notice of Accident to Employer and Claim of Employee Representative or Dependant**
Filed by the employee. Employee has two years from date of injury or from last payment of medical compensation to file the Form 18. Within thirty (30) days of the worker filing the Form 18, defendants must file a Form 60, 61 or 63 or face potential sanctions.
- Form 18M Employee's Claim for Additional Medical Compensation**
Filed by employee to request medical treatment beyond the normal time limit. Defendants have thirty (30) days within which to accept or deny plaintiff's request for additional medical compensation and respond to the motion.
- Form 19 Employer's Report of Injury to the Industrial Commission**
Must be filed within five (5) days of knowledge of injury if the employee missed more than one (1) day of work OR the medical compensation is greater than \$2,000.00. Form 18 must be attached.
- Form 21 Agreement for Compensation for Disability**
NO LONGER used to pay permanent partial impairment rating. NOT RECOMMENDED for acceptance of claim as it creates presumption of continuing disability.
- Form 22 Statement of Days Worked and Earnings of Injured Employee**
Required by Industrial Commission to determine average weekly wage.
- Form 24 Application to Terminate or Suspend Payment of Compensation**
Used to request termination of benefits in situations where:
 - ◆ There has been a release to return to work without restrictions.
 - ◆ The worker is incarcerated.
 - ◆ There is a failure to comply with medical treatment or vocational rehabilitation when an order to compel has been entered.
 - ◆ There has been an unjustified refusal to return to suitable employment.
 - ◆ There has been a failure by the worker to return the Form 90, Report of Earnings.
- Form 26A Employer's Admission of Employee's Right to Permanent Partial Disability**
Pays the permanent partial disability rating, disfigurement, loss of teeth and hearing loss. Must be accompanied by Form 25R, Evaluation for Permanent Impairment.
- Form 28 Return to Work**
- Form 28T Notice of Termination of Compensation by Reason of Trial Return to Work**
To be used if the employee has returned to work with work restrictions. Includes a nine (9) month trial period during which the employee can file a Form 28U, Unsuccessful Return to Work, for immediate reinstatement of benefits.
- Form 29 Supplemental Report for Fatal Accident**
If the injury resulted in death, Form 29 must accompany the Form 19.
- Form 33 Request that Claim be Assigned for Hearing**
Requests full evidentiary hearing before a Deputy Commissioner. Results in case being referred to mediation.
- Form 33R Response to Request that Claim be Assigned for Hearing**
Due within 45 days of receipt of Form 33.
- Form 60 Employer's Admission of Employee's Right to Compensation**
Accepts the compensability of the event. A Form 60 does NOT create a presumption of disability. There is a presumption that medical treatment is related.
- Form 61 Denial of Workers' Compensation Claim**
State with specificity the reason for the denial.
- Form 63 Notice to Employee of Payment of Compensation without Prejudice**
Only to be used if there is a substantial question regarding the compensability of the claim. (Ex.: intoxication defense while awaiting lab results.) UPDATE: Form 63 is used to respond to a Form 18 in a medical only claim.
- Form 90 Report of Earnings**
Used to confirm whether or not the employee is earning wages while receiving indemnity compensation. Must be sent certified mail, return receipt requested, and include a self-addressed stamped envelope for the return of the form, to the employee or his attorney, if represented.