



GALLIVAN WHITE BOYD

Complex experience for complex matters

# WORKPLACE PRACTICES HELPFUL HINTS North Carolina



## Most Commonly Used North Carolina Industrial Commission Forms

- Form 18 Notice of Accident to Employer and claim of Employee
- Form 19 Employer's Report of Injury to Employee
- Form 22 Employee's Wage Statement
- Form 23 Application to Reinstate Payment of Disability Compensation
- Form 24 Application to Terminate or Suspend Payment of Compensation
- Form 25N Notice to IC of Assignment of Rehab Professional
- Form 25R Evaluation for Permanent Impairment
- Form 25T Itemized Statement of Charges for Travel
- Form 26A Employer's Admission of Employee's Right to Permanent Partial Disability
- Form 28 Return to Work Report
- Form 28B Report of Carrier/Admin. Of Compensation and Medical Compensation Paid and Notice of Right to Additional Medical Compensation
- Form 28C Report of Carrier/Admin. Of Compensation and Medical Compensation Paid Pursuant to Compromise Settlement Agreement
- Form 28T Notice of Termination of Compensation (Trial RTW)
- Form 28U Employee's Request that Compensation be Reinstated after Unsuccessful Trial Return to Work
- Form 29 Supplemental Report for Fatal Accident
- Form 30 Agreement for Compensation for Death
- Form 33 Request that Claim Be Assigned for Hearing
- Form 33R Response to Request that Claim Be Assigned for Hearing
- Form 60 Employer's Admission of Employee's Right to Compensation
- Form 61 Denial of Workers' Compensation Claim
- Form 62 Notice of Reinstatement of Modification of Compensation
- Form 63 Notice to Employee of Payment of Compensation Without Prejudice
- Form 90 Report of Earnings



**J. Jared Simms**  
Partner  
704.227.1933  
C - 704.778.8758  
jsimms@GWBlawfirm.com  
\*Licensed in NC



**Thomas Lamm, Jr.**  
Associate  
704.227.1942  
tlamm@GWBlawfirm.com  
\*Licensed in NC



**Matthew Gerber**  
Associate  
704.227.1924  
mgerber@GWBlawfirm.com  
\*Licensed in NC



**Caroline Barrineau**  
Associate  
704.227.1926  
cbarrineau@GWBlawfirm.com  
\*Licensed in NC

### Maximum Compensation Rates

|      |          |
|------|----------|
| 2008 | \$786.00 |
| 2009 | \$816.00 |
| 2010 | \$834.00 |
| 2011 | \$836.00 |
| 2012 | \$862.00 |
| 2013 | \$884.00 |
| 2014 | \$904.00 |
| 2015 | \$920.00 |
| 2016 | \$944.00 |
| 2017 | \$978.00 |
| 2018 | \$992.00 |

### Minimum Compensation Rate \$30.00

**Mileage Rates:** \$0.545 per Mile  
as of January 1, 2018

### Scheduled Injuries

| Bodily Loss  | Max Wks |
|--------------|---------|
| Thumb        | 75      |
| Finger - 1st | 45      |
| Finger - 2nd | 40      |
| Finger - 3rd | 25      |
| Finger - 4th | 20      |
| Toe - Great  | 35      |
| Toe - Other  | 10      |
| Hand         | 200     |
| Arm          | 240     |
| Foot         | 144     |
| Leg          | 200     |
| Eye          | 120     |
| Back         | 300     |

### Hearing Loss

|           |     |
|-----------|-----|
| One Ear   | 70  |
| Both Ears | 150 |

### Loss of Teeth

| Age         | Amount Of Tooth<br>(Crowns 50%) |
|-------------|---------------------------------|
| Up to 23    | \$720.00                        |
| 24-26       | \$600.00                        |
| 27-29       | \$540.00                        |
| 30 and over | \$420.00                        |

*Injuries occurring after  
January 1, 1996*

### Loss of Vision

| Distance | Near    | Efficiency | % Loss  | Distance | Near   | Efficiency | % Loss |
|----------|---------|------------|---------|----------|--------|------------|--------|
| 20/20    | 14/14   | 100.0 %    | 0.0 %   | 20/90    | 14/63  | 53.4 %     | 46.6 % |
| 20/25    | 14/17.5 | 95.7 %     | 4.3 %   | 20/100   | 14/70  | 48.9 %     | 51.1 % |
| 20/30    | 14/21   | 91.5 %     | 8.5 %   | 20/120   | 14/84  | 40.9 %     | 59.1 % |
| 20/35    | 14/24.5 | 87.5 %     | 12.5 %  | 20/140   | 14/98  | 34.2 %     | 65.8 % |
| 20/40    | 14/28   | 83.6 %     | 16.4 %  | 20/160   | 14/112 | 28.6 %     | 71.4 % |
| 20/45    | 14/13.5 | 80.0 %     | 20.0 %  | 20/180   | 14/126 | 23.9 %     | 76.1 % |
| 20/50    | 14/35   | 76.5 %     | 23.5 %  | 20/200   | 14/140 | 20.0 %     | 80.0 % |
| 20/60    | 14/42   | 69.9 %     | 30.01 % | 20/220   | 14/154 | 16.7 %     | 83.3 % |
| 20/70    | 14/49   | 64.0 %     | 36.0 %  | 20/240   | 14/168 | 14.0 %     | 86.0 % |
| 20/80    | 14/56   | 58.5 %     | 41.5 %  |          |        |            |        |

### Injury to External or Internal Organ

Loss or permanent injury to any important external or internal organ or part of the body for which no compensation is payable under any other subdivision of the section, the IC may award proper and equitable compensation not to exceed \$20,000.

### Scarring

The IC shall award a proper and equitable amount for serious facial or head disfigurement not to exceed \$20,000.

The IC shall award a proper and equitable amount for serious bodily disfigurement for which no compensation is payable under any other subdivision of the section not to exceed \$10,000.

**Responding to Claims:**

Within 30 days of the Form 18 acknowledgment letter, the carrier/ employer must file a Form 60, 61 or 63 to admit, deny or pay the claim without prejudice. If this is not done, the IC will order a \$200 sanction against the carrier.

**Responding to Motions:**

You have 10 days after the Motion is served to file and serve a response. Must immediately retain an attorney.

**Medical Treatment Termination:**

The right to medical treatment shall terminate 2 years after the employer's last payment of medical or indemnity compensation unless: 1) the employee files an application for additional medical treatment which is approved by the Commission, or 2) the Commission on its own Motion orders further medical treatment.

**Time Periods**

|  |  |
|--|--|
| Waiting Period (§97-28).....   | 7 days   |
| Waiting Period Recoverable After Disability (§97-28) .....           | 21 days  |
| Employer's First Report of Injury (§97-92).....                      | 5 days from knowledge of injury                          |
| Employer must Admit, Deny, or Pay Without Prejudice (Rule 601) ..... | within 30 days notice from Commission of filing of claim |

*If Defendants deny the claim, a Form 61 should be filed within 14 days of written or actual notice of the injury. (§ 97-18(c)). If a Form 63 is filed, payments may continue for 90 days from date Employer has written or actual notice of injury/ death (may apply for extension). Must file form to deny before expiration of 90-day period/extension or waive right to contest compensability of, and liability for, the claim.*

Written Communication with Doctor..... provide contemporaneous notice to P; provide doctor's response to P within 10 days (§97-25.6(c)(2)).

Oral Communication with Doctor..... provide P prior notice of intended communication and invitation to participate; provide summary of communication within 10 days if P does not participate (§97-25.6(c)(3)).

**Statute of Limitations**

|  |         |
|--|---------|
| File Initial Claim (§97-24 and §97-58) ..... | 2 years |
| Change of Condition (§97-47) .....           | 2 years |
| Appeal to the Full Commission (§97-85) ..... | 15 days |
| Appeal to NC Court of Appeals (§97-86) ..... | 30 days |

**How do you calculate...**

**Average Weekly Wage (AWW)**

Compute wages for 1 year prior to injury, then divide by 52. Omit any period of time during which employee missed more than 7 consecutive calendar days. If employee worked less than 1 year, divide wages by number of weeks actually worked. (§97-2(5))

**Temporary Total Disability (TTD)**

If disability exceeds 7 days, benefits of 66-2/3% of AWW not to exceed the maximum compensation rate for the year in which the injury occurred may be paid to employee for an indefinite amount of time (prior to 6-24-2011) or for a cap of 500 weeks (on or after 6-24-2011) from the date of injury, unless an extension is properly requested and granted. (§97-29)

**Temporary Partial Disability (TPD)**

66-2/3% of the difference between the AWW before the injury and the amount able to earn after the injury for up to 300 weeks (prior to 06/24/2011) or 500 weeks (on or after 6/24/2011) from the date of injury. (§97-30)

**Death Claim**

Where death results proximately from injury, payments to decedent's beneficiaries may be made for a maximum of 500 weeks to conform to NCGS 97-29 (§ 97-38). Also, employer shall pay up to \$10,000.00 in burial expenses. (§ 97-40).

**EDFP**

Information on how to register for and use of EDFP is available at <http://www.ic.nc.gov/training.html>

IMPORTANT - Mandatory EDFP documents (starting February 2016) include: Forms 21, 23, 24, 26, 26A, 33, 33R, 44, MSC 2, MSC 4, MSC 5

If not in the above list, file form via email at [forms@ic.nc.gov](mailto:forms@ic.nc.gov)

**Clincher Payments:**

Payments made pursuant to a clincher agreement must be made within 10 days after the date of the IC approval order (§ 97-18(e)). Failure to make payments after the 14 day grace period shall result in a 10% penalty (§ 97-18(g)).