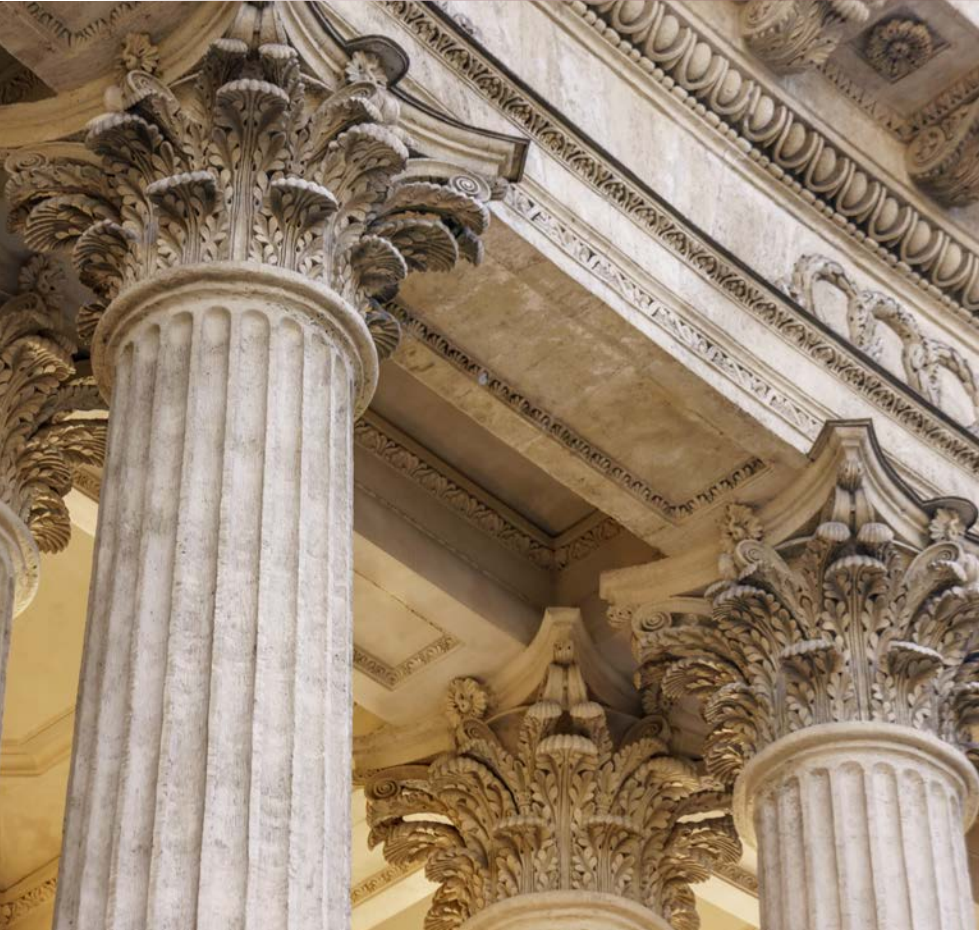




GALLIVAN WHITE BOYD



WORKERS' COMPENSATION DEFENSE GUIDE

2023

SOUTH CAROLINA | NORTH CAROLINA

Helpful Hints, Medicare Compliance, Net Present Value Tables
& Phases of Treatment Under the Opioid Utilization Rules

www.gwblawfirm.com



PHONE NUMBERS

South Carolina Workers' Compensation Commission (SCWCC)



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SOUTH CAROLINA HELPFUL HINTS

Scheduled Members

§ 42-9-30 provides compensation for the following scheduled members:

Body Loss	Max. Weeks	Body Loss	Max. Weeks
Thumb	65 weeks	Leg	195 weeks
Index Finger	40 weeks	Eye	140 weeks
Second Finger	35 weeks	Hip	280 weeks
Third Finger	25 weeks	Shoulder	300 weeks
Little Finger	20 weeks	Hearing (1 ear)	80 weeks
Great Toe	35 weeks	Hearing (2 ears)	165 weeks
Other Toes	10 weeks	Back *	300 weeks
Hand	185 weeks	Scarring	up to 50 weeks
Arm	220 weeks		
Foot	140 weeks	Total Disability **	500 weeks

* Rebuttable presumption 50% + PPD of back equals 500 week

** Unless brain damage, paraplegia or quadriplegia



Maximum Compensation Rates by Year

01/01/13	AWW	=	1,115.53	CR	\$743.72
01/01/14	AWW	=	\$1,128.19	CR	\$752.16
01/01/15	AWW	=	\$1,149.02	CR	\$766.05
01/01/16	AWW	=	\$1,175.99	CR	\$784.03
01/01/17	AWW	=	\$1,210.32	CR	\$806.92
01/01/18	AWW	=	\$1,257.25	CR	\$838.21
01/01/19	AWW	=	\$1,268.55	CR	\$845.74
01/01/20	AWW	=	\$1,299.94	CR	\$866.67
01/01/21	AWW	=	\$1,355.03	CR	\$903.40
01/01/22	AWW	=	\$1,445.06	CR	\$963.37
01/01/23	AWW	=	\$1,553.67	CR	\$1,035.78

Mileage Rate: 65.5 Cents per Mile
Effective January 1, 2023

Disability Compensation Formula
Number of Weeks for Member x Percentage of Disability x
Compensation Rate = Compensation

EXAMPLE:
If Commissioner finds Claimant has 10% permanent partial disability to his right upper extremity and Claimant has a compensation rate of \$200.00, then Claimant would be owed \$4,400.00:

220 Weeks (Arm) x .10 (Disability) x \$200 (C/R) = \$4,400.00



SOUTH CAROLINA HELPFUL HINTS (CONTINUED)



Termination of Temporary Compensation

Within 150 Days of Notice of Accident (§ 42-9-260, Reg. 67-505)

- Claimant has returned to work for at least 15 days and no temporary partial compensation is due.
- Claimant agrees that he/she is able to return to work and has signed a Form 17.
- Based on good faith investigation, the claim is denied.
- Claimant has been released to return to work without restrictions and employment has been offered.
- Claimant has been released to return to work with limited duty restrictions and Employer has provided/offered work consistent with employment.
- Claimant has refused medical treatment, examination or evaluations.

After 150 Days of Notice of Accident (§ 42-9-260, Reg. 67-506)

- If Claimant executes a Form 17, Receipt of Compensation, Carrier can immediately terminate temporary compensation.
- If Claimant returns to work for at least 15 calendar days and no temporary partial compensation is due, Carrier can suspend temporary total compensation but must refer to Defense Counsel to file a Form 21, Request for Hearing.
- Under all other circumstances, disability is presumed to continue until the issue of suspension/termination is addressed at a Form 21 hearing.

Most Commonly Used SC Forms

- Form 12A** Employer's First Report of Injury
- Form 14B** Physician's Statement
Required for settlement of cases involving a pro se claimant
- Form 15** Agreement for Compensation
File within the first 150 days of notice to suspend benefits
- Form 16A** Agreement for Permanent Disability
(DOI after 07/01/2007)
- Form 17** Receipt of Compensation
- Form 18** Periodic Report
File every 6 months
- Form 19** Status Report and Compensation Receipt
File to close claim
- Form 20** Statement of Earnings of Injured Worker
File within 30 days of Form 50 or within 30 days of beginning temporary compensation
- Form 21** Employer's Request For Hearing
File 150 days after accident to suspend or terminate benefits
- Form 27** Subpoena
- Form 50** Employee's Notice of Claim/Hearing Request
- Form 51** Employer's Answer to Form 50
File within 30 days

Note: Commission may issue a fine if certain forms are not timely filed.



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2023

SOUTH CAROLINA WORKERS' COMPENSATION NET PRESENT VALUE TABLE

Revised 2023 | 2% Annum Weeks 1-100 / 3.94% Annum Weeks 101 - 500

Week	Present Value	Week	Present Value	Week	Present Value	Week	Present Value	Week	Present Value
1	0.9996	51	50.4934	101	98.1223	151	143.5224	201	187.2353
2	1.9988	52	51.4736	102	199.0473	152	144.4130	202	188.0928
3	2.9977	53	52.4535	103	199.9715	153	145.3029	203	188.9496
4	3.9962	54	53.4329	104	100.8951	154	146.1921	204	189.8058
5	4.9942	55	54.4120	105	101.8180	155	147.0807	205	190.6613
6	5.9919	56	55.3907	106	102.7401	156	147.9686	206	191.5162
7	6.9892	57	56.3690	107	103.6616	157	148.8558	207	192.3705
8	7.9862	58	57.3470	108	104.5823	158	149.7423	208	193.2241
9	8.9827	59	58.3245	109	105.5024	159	150.6282	209	194.0770
10	9.9789	60	59.3017	110	106.4217	160	151.5134	210	194.9293
11	10.9747	61	60.2785	111	107.3404	161	152.3979	211	195.7810
12	11.9701	62	61.2550	112	108.2584	162	153.2818	212	196.6320
13	12.9651	63	62.2310	113	109.1757	163	154.1650	213	197.4824
14	13.9597	64	63.2067	114	110.0923	164	155.0475	214	198.3321
15	14.9539	65	64.1820	115	111.0081	165	155.9293	215	199.1812
16	15.9478	66	65.1570	116	111.9233	166	156.8105	216	200.0296
17	16.9413	67	66.1315	117	112.8378	167	157.6910	217	200.8774
18	17.9344	68	67.1057	118	113.7517	168	158.5709	218	201.7246
19	18.9271	69	68.0796	119	114.6648	169	159.4501	219	202.5711
20	19.9195	70	69.0530	120	115.5772	170	160.3286	220	203.4170
21	20.9114	71	70.0261	121	116.4889	171	161.2065	221	204.2622
22	21.9030	72	70.9988	122	117.4000	172	162.0837	222	205.1068
23	22.8942	73	71.9711	123	118.3103	173	162.9602	223	205.9507
24	23.8850	74	72.9430	124	119.2200	174	163.8360	224	206.7940
25	24.8754	75	73.9146	125	120.1290	175	164.7112	225	207.6367
26	25.8655	76	74.8858	126	121.0373	176	165.5858	226	208.4788
27	26.8552	77	75.8566	127	121.9449	177	166.4597	227	209.3202
28	27.8444	78	76.8271	128	122.8518	178	167.3329	228	210.1609
29	28.8334	79	77.7971	129	123.7580	179	168.2054	229	211.0010
30	29.8219	80	78.7668	130	124.6636	180	169.0773	230	211.8405
31	30.8100	81	79.7362	131	125.5684	181	169.9485	231	212.6794
32	31.7978	82	80.7051	132	126.4726	182	170.8191	232	213.5176
33	32.7852	83	81.6737	133	127.3761	183	171.6890	233	214.3552
34	33.7722	84	82.6419	134	128.2789	184	172.5583	234	215.1921
35	34.7588	85	83.6098	135	129.1810	185	173.4269	235	216.0285
36	35.7451	86	84.5772	136	130.0825	186	174.2948	236	216.8641
37	36.7310	87	85.5443	137	130.9832	187	175.1621	237	217.6992
38	37.7165	88	86.5111	138	131.8833	188	176.0287	238	218.5336
39	38.7016	89	87.4774	139	132.7827	189	176.8947	239	219.3674
40	39.6863	90	88.4434	140	133.6814	190	177.7600	240	220.2006
41	40.6707	91	89.4090	141	134.5794	191	178.6247	241	221.0331
42	41.6546	92	90.3743	142	135.4768	192	179.4887	242	221.8650
43	42.6382	93	91.3391	143	136.3734	193	180.3520	243	222.6962
44	43.6215	94	92.3036	144	137.2694	194	181.2147	244	223.5269
45	44.6043	95	93.2678	145	138.1647	195	182.0767	245	224.3569
46	45.5868	96	94.2315	146	139.0594	196	182.9381	246	225.1863
47	46.5689	97	95.1949	147	139.9533	197	183.7989	247	226.0150
48	47.5506	98	96.1579	148	140.8466	198	184.6590	248	226.8431
49	48.5319	99	97.1206	149	141.7392	199	185.5184	249	227.6706
50	49.5129	100	98.0828	150	142.6312	200	186.3772	250	228.4975

SOUTH CAROLINA WORKERS' COMPENSATION NET PRESENT VALUE TABLE

Revised 2023 | 2% Annum Weeks 1-100 / 3.94% Annum Weeks 101 - 500

Week	Present Value	Week	Present Value	Week	Present Value	Week	Present Value	Week	Present Value
251	229.3237	301	269.8481	351	308.8664	401	346.4348	451	382.6070
252	230.1494	302	270.6430	352	309.6318	402	347.1718	452	383.3166
253	230.9744	303	271.4374	353	310.3967	403	347.9082	453	384.0256
254	231.7987	304	272.2311	354	311.1609	404	348.6440	454	384.7341
255	232.6225	305	273.0242	355	311.9246	405	349.3793	455	385.4421
256	233.4456	306	273.8167	356	312.6876	406	350.1140	456	386.1495
257	264.2681	307	274.6087	357	313.4501	407	350.8482	457	386.8564
258	235.0900	308	275.4000	358	314.2121	408	351.5818	458	387.5627
259	235.9112	309	276.1907	359	314.9734	409	352.3148	459	388.2685
260	236.7318	310	276.9809	360	315.7342	410	353.0473	460	388.9738
261	237.5518	311	277.7704	361	316.4944	411	353.7793	461	389.6786
262	238.3712	312	278.5593	362	317.2540	412	354.5106	462	390.3828
263	239.1900	313	279.3477	363	318.0130	413	355.2415	463	391.0864
264	240.0082	314	280.1354	364	318.7715	414	355.9718	464	391.7896
265	240.8257	315	280.9226	365	319.5294	415	356.7015	465	392.4922
266	241.6426	316	281.7091	366	320.2867	416	357.4307	466	393.1943
267	242.4589	317	282.4951	367	321.0435	417	358.1593	467	393.8958
268	243.2746	318	283.2804	368	321.7996	418	358.8874	468	394.5968
269	244.0896	319	284.0652	369	322.5552	419	359.6149	469	395.2973
270	244.9040	320	284.8494	370	323.3103	420	360.3419	470	395.9973
271	245.7179	321	285.6330	371	324.0647	421	361.0683	471	396.6967
272	246.5311	322	286.4159	372	324.8186	422	361.7942	472	397.3956
273	247.3437	323	287.1983	373	325.5719	423	362.5195	473	398.0940
274	248.1556	324	287.9801	374	326.3247	424	363.2443	474	398.7918
275	248.9670	325	288.7613	375	327.0769	425	363.9685	475	399.4891
276	249.7777	326	289.5420	376	327.8285	426	364.6922	476	400.1859
277	250.5879	327	290.3220	377	328.5795	427	365.4153	477	400.8822
278	251.3974	328	291.1014	378	329.3300	428	366.1379	478	401.5779
279	252.2063	329	291.8803	379	330.0799	429	366.8599	479	402.2731
280	253.0146	330	292.6585	380	330.8292	430	367.5814	480	402.9678
281	253.8223	331	293.4362	381	331.5780	431	368.3023	481	403.6619
282	254.6293	332	294.2133	382	332.3262	432	369.0227	482	404.3555
283	255.4358	333	294.9898	383	333.0738	433	369.7426	483	405.0486
284	256.2416	334	295.7657	384	333.8209	434	370.4619	484	405.7412
285	257.0469	335	296.5410	385	334.5674	435	371.1806	485	406.4333
286	257.8515	336	297.3157	386	335.3133	436	371.8988	486	407.1248
287	258.6555	337	298.0898	387	336.0587	437	372.6165	487	407.8158
288	259.4589	338	298.8634	388	336.8035	438	373.3336	488	408.5063
289	260.2617	339	299.6364	389	337.5477	439	374.0502	489	409.1962
290	261.0639	340	300.4087	390	338.2914	440	374.7663	490	409.8856
291	261.8655	341	301.1805	391	339.0345	441	375.4818	491	410.5746
292	262.6665	342	301.9517	392	339.7771	442	376.1967	492	411.2629
293	263.4669	343	302.7224	393	340.5191	443	376.9111	493	411.9508
294	264.2666	344	303.4924	394	341.2605	444	377.6250	494	412.6382
295	265.0658	345	304.2619	395	342.0014	445	378.3384	495	413.3250
296	265.8644	346	305.0308	396	342.7417	446	379.0512	496	414.0113
297	266.6623	347	305.7991	397	343.4814	447	379.7634	497	414.6971
298	267.4597	348	306.5668	398	344.2206	448	380.4751	498	415.3824
299	268.2564	349	307.3339	399	344.9592	449	381.1863	499	416.0671
300	269.0525	350	308.1005	400	345.6973	450	381.8969	500	416.7513

Responding to Claims

Within 30 days of the Form 18 acknowledgment letter, Carrier or 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 \$400* sanction against the Carrier. After the fine is assessed, Carrier or Employer, has an additional 30 days to file a Form 60, 61 or 63, or an additional fine of \$200 will be assessed and the claim will be placed on the enforcement docket. *Effective 2018

Responding to Motions

The Carrier has 10 calendar days after the Motion is served to file and serve a response. The Carrier must retain an attorney.

Medical Treatment Termination

The right to medical treatment shall terminate 2 years after Carrier's or Employer's last payment of medical or indemnity compensation unless: 1) 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.

Death Claim

Where death results proximately from injury, payments to Decedent's beneficiaries must be made up to a maximum of 500 weeks to conform to N.C.G.S. § 97-29 (§ 97-38). Also, the Employer shall pay up to \$10,000.00 in burial expenses. (§ 97-40).

Electronic Document Filing Portal (EDFP)

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

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 a 14-day grace period shall result in a 10% penalty (§ 97-18(g)).

Time Periods

- Waiting Period (§ 97-28): 7 days before 1st TTD payment is due
- Waiting Period Recoverable after Disability (§ 97-28): 21 days
- Employer's First Report of Injury (§ 97-92) (Form 19) is due 5 days from knowledge of injury.
- Employer must Admit (Form 60), Deny (Form 61), or Pay Without Prejudice - Rule 601 (Form 63) 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. Defendants must file Form 61 to deny before expiration of the 90-day period or waive right to contest compensability of, and liability for, the claim. The IC may approve a 30-day extension when filed prior to the 90-day deadline.

Written Communication with Doctor:

Provide contemporaneous notice to Plaintiff; provide doctor's response to a Plaintiff within 10 business days (§ 97-25.6(c)(2)). If providing new information to the physician, provide a copy to Plaintiff and allow 10 business days to file a Motion for Protective Order. (§ 97-25.6 (d)).

Oral Communication with Doctor:

Provide Plaintiff prior notice of intended communication and invitation to participate; provide summary of communication within 10 business days if Plaintiff 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?

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 (DOI prior to 06/24/2011) or for a maximum of 500 weeks (DOI on or after 06/24/2011) from the date of first disability, 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 (DOI prior to 06/24/2011) or 500 weeks (DOI on or after 06/24/2011) from the date of first disability. (§ 97-30).

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	14/31.5	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%	30.1%	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 Industrial Commission 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.



2023

SCHEDULED INJURIES

Bodily Loss

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

Hearing Loss

Hearing Loss	Max. Weeks
One Ear	70 weeks
Two Ears	150 weeks

Loss of Teeth

Age	Amount of Tooth (Crowns 50%)	Age	Amount of Tooth (Crowns 50%)
Up to 23	\$720.00	27 - 29	\$540.00
24 - 25	\$600.00	30 and over	\$420.00

Scheduled injuries occurring after January 1, 1996.

Maximum Compensation Rates

Year	Rate	Year	Rate
2008	\$786.00	2016	\$944.00
2009	\$816.00	2017	\$978.00
2010	\$834.00	2018	\$992.00
2011	\$836.00	2019	\$1,028.00
2012	\$862.00	2020	\$1,066.00
2013	\$884.00	2021	\$1,102.00
2014	\$904.00	2022	\$1,184.00
2015	\$920.00	2023	\$1,254.00

Minimum Compensation Rate:
\$30.00 Mileage Rate: 65.5 cents
per Mile as of January 1, 2023



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COMMONLY USED NORTH CAROLINA FORMS

Form 18	Notice of Accident to Employer and Claim of Employee
Form 19	Employer's Report of Injury to the Industrial Commission
Form 22	Statement of Days Worked and Earnings of Injured Employee
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 Rehabilitation 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 of Compensation and Medical Compensation Paid Notice of Right to Additional Medical Compensation
Form 28C	Report of Carrier 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 Accidents
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 or Modification of Compensation
Form 63	Notice to Employee of Payment of Compensation without Prejudice or Payment of Medical Compensation without Prejudice
Form 90	Report of Earnings

BASIC OVERVIEW OF THE PHASES OF TREATMENT UNDER THE OPIOID UTILIZATION RULES

Phase	Acute Phase (12 weeks of treatment)		Chronic Phase (continued treatment after 12 weeks)
Rule Topic	First Prescription in Acute Phase	Prescriptions in Acute Phase after First Prescription	Prescriptions in Chronic Phase
Rule Citation	Rule 11 NCAC 23M .0201	Rule 11 NCAC 23M .0202	Rule 11 NCAC 23M .0203
Timeline	1 to 5-7 days	6-8 to 84 days (12 weeks)	>84 days (more than 12 weeks)
Prerequisite to prescribing an opioid	Document provider's medical opinion that non-pharmacological and non-opioid therapies are insufficient to treat the employee's pain.		
Number and type of opioids prescribed	Only one short-acting TCS* may be prescribed at a time.		Only one short-acting TCS may be prescribed at a time without documentation of justification in medical record. If justification is documented in medical record, up to two TCS's may be prescribed at a time, to include only one short-acting opioid and one long-acting or extended- release opioid.
Number of days' supply	Lowest number of days' supply necessary to treat the pain. Maximum 5 days' supply for pain. Maximum 7 days' supply for post- operative pain.	Lowest number of days' supply necessary to treat the pain.	
Dosage	Lowest effective dosage necessary to achieve the clinical goal. Maximum 50 mg MED/day, using short-acting opioids only. May prescribe >50 MED per day if employee was taking TCS immediately prior to first prescription. Dosage limit applies to prescription issued pursuant to this Rule.	Lowest effective dosage necessary to achieve the clinical goal. Maximum 50 mg MED/day, using short-acting opioids only. If justification is documented in the medical record (see rule for details), provider may prescribe more than 50 mg MED/day, but not >90 mg MED/day. (See rule for details.) Dosage limit applies to prescription issued pursuant to this Rule.	Lowest effective dosage necessary to achieve the clinical goal, not to exceed 50 MED per day. If justification is documented in the medical record, provider may prescribe more than 50 mg MED/day, but not more than 90 mg MED/day. (See rule for details.) If necessary to prescribe >90 mg MED/day, provider must seek preauthorization from carrier. (See rule for details.) Dosage limit applies to prescription issued pursuant to this Rule.
Non-oral opioids	No Schedule II or III transcutaneous, transdermal, transmucosal, or buccal opioid preparations without documentation in medical record that oral opioids are medically contraindicated for employee.		No Schedule II transcutaneous, transdermal, transmucosal, or buccal opioid preparations without documentation in medical record that oral opioids are medically contraindicated for employee. Schedule III non-oral preparations may be prescribed if appropriate.
Fentanyl	No fentanyl may be prescribed.		A provider must seek preauthorization for transdermal fentanyl.
Methadone	No methadone may be prescribed because only short-acting opioids may be prescribed.		A provider must seek preauthorization for methadone.
Benzodiazepines	No benzodiazepines may be prescribed for pain or as muscle relaxers.		
Carisoprodol	Carisoprodol may not be prescribed with a TCS in an acute phase.		A provider must seek preauthorization before prescribing carisoprodol with a TCS. The provider must advise the employee of the risks of combining both medications.
Medications prescribed by other providers	If an employee is already taking benzodiazepines or carisoprodol prescribed by another provider, a provider must not prescribe a TCS without advising the employee of related risks and advising the other provider of the prescription of a TCS.		
CSRS (Controlled Substances Reporting System)	Provider must check the CSRS and document the findings before the first prescription.	Provider must check the CSRS and document the findings every time an opioid is prescribed in the acute phase.	Provider must check the CSRS and document the findings at every appointment at which a TCS is prescribed or every three months, whichever is more frequent.
	Effective 11/1/18 or the date of application in S.L. 2017-74 (NC STOP Act), Section 15.(e), and any amendments thereto, whichever is earlier.		
Urine Drug Testing	No requirement in rule.	Before prescribing a TCS beyond 35-37 days in the acute phase, the provider must administer and document the results of a presumptive urine drug test. If the results show inappropriate drug use or irregularities with the prescribed drug, the provider shall obtain a confirmatory urine drug test and document the results. (See rule for additional information.)	Before first prescribing a TCS in a chronic phase, the provider must administer and document the results of a presumptive urine drug test. After the first urine drug test, a provider must administer 2-4 presumptive urine drugs tests per year. Any additional testing must be authorized by the carrier. If the results of a presumptive urine drug test show inappropriate drug use or show irregularities with the prescribed drug, the provider shall obtain a confirmatory urine drug test and document the results. (See rule for additional information.)
Opioid risk evaluation tool	No requirement in rule.	Before prescribing a TCS beyond 35-37 days in the acute phase, the provider must administer and document the results of a tool for screening and assessing opioid risk. (See rule for examples.)	If an employee's care is transferred to a different health care practice than the one that administered an opioid risk tool in the acute phase, the new provider must administer and document the results of a tool for screening and assessing opioid risk. (See rule for examples.)
Review of increased opioid risk by provider	No requirement in rule.	If a CSRS check, urine drug test, or opioid risk tool indicates an increased risk of opioid-related harm and the provider prescribes an opioid, the provider must document in the medical record the reasons justifying the prescription.	

* The abbreviation "TCS" used in this table stands for "targeted controlled substance" or Schedule II and III opioids. The table is provided for easy reference, but does not contain all the information in the Opioid Utilization Rules.

MEDICARE COMPLIANCE

Medicare Definition

Medicare is health insurance provided by the federal government. Medicare acts as a secondary payor in the context of workers' compensation and liability claims involving bodily injury. The intent of Congress is to reduce federal spending and to protect Medicare's financial integrity by expanding its recovery rights.

Medicare Benefit Eligibility

An individual is eligible to receive Medicare benefits for certain medical and hospital expenses if they meet one of the following criteria:

- 65 years of age or older
- Receiving Social Security Disability benefits for at least twenty-four (24) months
- Suffering from end-stage renal disease or Lou Gehrig's disease



Medicare's Recovery Rights

Pursuant to 42 C.F.R. § 411.24(b), The Centers for Medicare and Medicaid Services (hereinafter "CMS") may initiate recovery upon learning that payment has been made or could have been made under workers' compensation, any liability or no-fault insurance or an employer's group health plan. As to the amount of recovery allowable, if CMS does not have to take legal action to recover, CMS can recover the lesser of the following:

- The amount of the Medicare primary payment
- The full primary payment amount that the primary payer is obligated to pay under this part without regard to any payment, other than a full primary payment that the primary payer has paid or will make, or in the case of a third-party payment recipient, the amount of the third-party payment.
- However, if legal action is undertaken by CMS, CMS may recover double the amount of the payment Medicare made as a primary payer.

Medicare Set-Aside (MSA)

A Medicare Set-Aside (MSA) is an account that is created in the settlement of a claim that is used to pay for future medical expenses that are attributed to Claimant's work-related or litigation-related injury and would otherwise be payable by Medicare.

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MEDICARE COMPLIANCE

When Medicare Set-Aside Requires CMS Approval

When settling a workers' compensation claim, a Medicare Set-Aside must be submitted to CMS for approval if the future medical aspect of the claim is being settled and one of the following exists:

- Claimant is currently Medicare eligible and the total settlement amount is greater than \$25,000; or
- The settlement amount exceeds \$250,000 and there is a "reasonable expectation" of Medicare enrollment within thirty (30) months.

Funding a Medicare Set-Aside Account

Two methods can be used to fund a set-aside. Specifically, a Medicare Set-Aside can be funded via a lump-sum payment or a structured settlement annuity. Structured settlements are an effective tool in funding Medicare Set-Asides because the cost of an annuity provides a savings to either the insured or the employer. If the set-aside is exhausted between annuity payments, Medicare assumes payment for qualified medical expenses until the release of the next annuity payment disbursement.

Administration & Terms of a Medicare Set-Aside Account

A Medicare Set-Aside can be self-administered by Claimant, a custodian or a guardian. A Medicare Set-Aside can also be managed by a third-party administrator. The account must be an interest-bearing account and the administrator of the account should only allow distribution for those medical expenses related to the injury that would otherwise be covered by Medicare, thereby preventing a burden shift to Medicare after settlement. Also, the administrator must provide CMS with an annual accounting of the expenditures paid from the account. If there is a questionable expense, the administrator of the account should obtain approval from CMS before paying that expense.

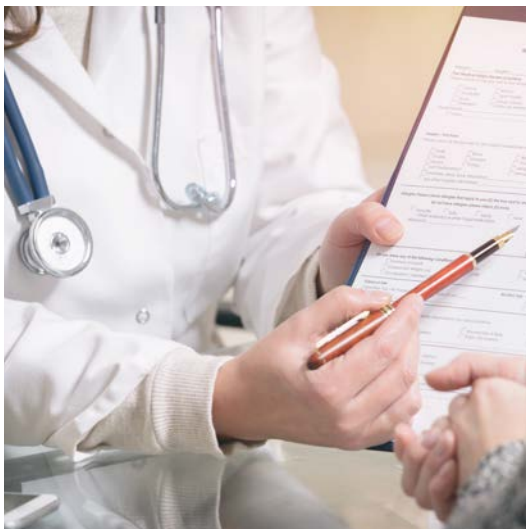
"Reasonable Expectation" Provision

A person can reasonably expect to become a Medicare beneficiary within thirty (30) months if, at the time of the settlement of their workers' compensation case, they:

- Are between the ages of 62 1/2 and 65
- Applied for or have been approved for Social Security Disability benefits
- Have been denied Social Security Disability benefits but anticipate appealing the decision
- Suffer from aforementioned renal disease or Lou Gehrig's but do not yet qualify for Medicare

Disclaimer:

In all settlements, the parties must consider Medicare's interests. CMS guidelines are "workload thresholds" and are not substantive "safe harbor" thresholds. While not required, Medicare Set-Asides are an effective mechanism for demonstrating that the parties considered Medicare's interests as a secondary payor.



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