GALLIVAN WHITE BOYD

Workers' Compensation Defense Guide

2026

SOUTH CAROLINA
NORTH CAROLINA

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- Medicare Compliance
- Net Present Value Tables
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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 weeks
** Unless brain damage, paraplegia or quadriplegia

MAXIMUM COMPENSATION RATES BY YEAR

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	=	$1,286.55	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
01/01/24	AWW	=	$1,640.42	CR	$1,093.67
01/01/25	AWW	=	$1,701.56	CR	$1,134.43
01/01/26	**AWW**	**=**	**$1,784.91**	**CR**	**$1,189.94**

Mileage Rate: 0.76 cents per mile
Effective July 1, 2026

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 (cont'd.)

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.

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MOST COMMONLY USED SOUTH CAROLINA 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.

SOUTH CAROLINA

Workers' Compensation Net Present Value Table

As of January 2, 2026 | 2% per annum | Weeks 1 through 100

Weeks	Present Value	Weeks	Present Value	Weeks	Present Value	Weeks	Present Value
1	0.9996	26	25.8655	51	50.4934	76	74.8858
2	1.9988	27	26.8552	52	51.4736	77	75.8566
3	2.9977	28	27.8444	53	52.4535	78	76.8271
4	3.9962	29	28.8334	54	53.4329	79	77.7971
5	4.9942	30	29.8219	55	54.4120	80	78.7668
6	5.9919	31	30.8100	56	55.3907	81	79.7362
7	6.9892	32	31.7978	57	56.3690	82	80.7051
8	7.9862	33	32.7852	58	57.3470	83	81.6737
9	8.9827	34	33.7722	59	58.3245	84	82.6419
10	9.9789	35	34.7588	60	59.3017	85	83.6098
11	10.9747	36	35.7451	61	60.2785	86	84.5772
12	11.9701	37	36.7310	62	61.2550	87	85.5443
13	12.9651	38	37.7165	63	62.2310	88	86.5111
14	13.9597	39	38.7016	64	63.2067	89	87.4774
15	14.9539	40	39.6863	65	64.1820	90	88.4434
16	15.9478	41	40.6707	66	65.1570	91	89.4090
17	16.9413	42	41.6546	67	66.1315	92	90.3743
18	17.9344	43	42.6382	68	67.1057	93	91.3391
19	18.9271	44	43.6215	69	68.0796	94	92.3036
20	19.9195	45	44.6043	70	69.0530	95	93.2678
21	20.9114	46	45.5868	71	70.0261	96	94.2315
22	21.9030	47	46.5689	72	70.9988	97	95.1949
23	22.8942	48	47.5506	73	71.9711	98	96.1579
24	23.8850	49	48.5319	74	72.9430	99	97.1206
25	24.8754	50	49.5129	75	73.9146	100	98.0828

SOUTH CAROLINA

Workers' Compensation Net Present Value Table

As of January 2, 2026 | 3.74% per annum | Weeks 101 through 500

Weeks	Present Value	Weeks	Present Value	Weeks	Present Value	Weeks	Present Value
101	98.3143	151	143.9371	201	187.9490	251	230.4068
102	99.2430	152	144.8330	202	188.8132	252	231.2405
103	100.1709	153	145.7282	203	189.6768	253	232.0736
104	101.0982	154	146.6227	204	190.5397	254	232.9061
105	102.0248	155	147.5166	205	191.4021	255	233.7380
106	102.9508	156	148.4099	206	192.2638	256	234.5692
107	103.8761	157	149.3025	207	193.1249	257	235.3999
108	104.8007	158	150.1945	208	193.9854	258	236.2300
109	105.7246	159	151.0858	209	194.8452	259	237.0595
110	106.6479	160	151.9765	210	195.7045	260	237.8884
111	107.5706	161	152.8665	211	196.5631	261	238.7167
112	108.4925	162	153.7560	212	197.4211	262	239.5445
113	109.4138	163	154.6447	213	198.2785	263	240.3716
114	110.3345	164	155.5392	214	199.1353	264	241.1981
115	111.2545	165	156.4204	215	199.9914	265	242.0240
116	112.1738	166	157.3072	216	200.8470	266	242.8494
117	113.0925	167	158.1934	217	201.7019	267	243.6741
118	114.0105	168	159.0790	218	202.5562	268	244.4983
119	114.9278	169	159.9640	219	203.4099	269	245.3218
120	115.8445	170	160.8483	220	204.2630	270	246.1448
121	116.7605	171	161.7320	221	205.1155	271	246.9671
122	117.6759	172	162.6150	222	205.9674	272	247.7889
123	118.5906	173	163.4974	223	206.8186	273	248.6101
124	119.5046	174	164.3792	224	207.6692	274	249.4307
125	120.4180	175	165.2603	225	208.5193	275	250.2507
126	121.3307.	176	166.1408	226	209.3687	276	251.0702
127	122.2428	177	167.0207	227	210.2175	277	251.8890
128	123.1542	178	167.9000	228	211.0657	278	252.7072
129	124.0650	179	168.7786	229	211.9133	279	253.5249
130	124.9751	180	169.6565	230	212.7603	280	254.3420
131	125.8846	181	170.5339	231	213.6066	281	255.1584
132	126.7934	182	171.4106	232	214.4524	282	255.9743
133	127.7015	183	172.2867	233	215.2975	283	256.7897
134	128.6090	184	173.1621	234	216.1421	284	257.6044
135	129.5159	185	174.0370	235	216.9860	285	258.4185
136	130.4221	186	174.9112	236	217.8293	286	259.2321
137	131.3276	187	175.7847	237	218.6721	287	260.0450
138	132.2325	188	176.6577	238	219.5142	288	260.8574
139	133.1368	189	177.5300	239	220.3557	289	261.6692
140	134.0404	190	178.4017	240	221.1966	290	262.4804
141	134.9433	191	179.2728	241	222.0369	291	263.2911
142	135.8456	192	180.1432	242	222.8766	292	264.1011
143	136.7473	193	181.0130	243	223.7157	293	264.9106
144	137.6483	194	181.8822	244	224.5542	294	265.7195
145	138.5486	195	182.7507	245	225.3921	295	266.5278
146	139.4483	196	183.6187	246	226.2294	296	267.3355
147	140.3474	197	184.4860	247	227.0661	297	268.1426
148	141.2458	198	185.3527	248	227.0922	298	269.9492
149	142.1435	199	186.2187	249	228.7376	299	270.7552
150	143.0407	200	187.0842	250	229.5725	300	271.5606

SOUTH CAROLINA

Workers' Compensation Net Present Value Table

As of January 2, 2026 | 3.74% per annum | Weeks 101 through 500

Weeks	Present Value	Weeks	Present Value	Weeks	Present Value	Weeks	Present Value
301	271.3654	351	310.8778	401	348.9949	451	385.7662
302	272.1697	352	311.6536	402	349.7434	452	386.4882
303	272.9733	353	312.4289	403	350.4913	453	387.2097
304	273.7764	354	313.2036	404	351.2387	454	387.9307
305	274.5789	355	313.9778	405	351.9855	455	388.6512
306	275.3809	356	314.7514	406	352.7318	456	389.3711
307	276.1822	357	315.5245	407	353.4776	457	390.0906
308	276.9830	358	316.2970	408	354.2228	458	390.8095
309	277.7832	359	317.0690	409	354.9675	459	391.5279
310	278.5829	360	317.8404	410	355.7117	460	392.2458
311	279.3819	361	318.6112	411	356.4553	461	392.9631
312	280.1804	362	319.3815	412	357.1984	462	393.6800
313	280.9783	363	320.1512	413	357.9410	463	394.9363
314	281.7757	364	320.9204	414	358.6830	464	395.1122
315	282.5724	365	321.6891	415	359.4245	465	395.8275
316	283.3686	366	322.4571	416	360.1654	466	396.5423
317	284.1642	367	323.2247	417	360.9059	467	397.2565
318	284.9593	368	323.9916	418	361.6458	468	397.9703
319	285.7538	369	324.7581	419	362.3851	469	398.6836
320	286.5477	370	325.5239	420	363.1240	470	399.3963
321	287.3410	371	326.2893	421	363.8623	471	400.1085
322	288.1338	372	327.0540	422	364.6000	472	400.8202
323	288.9260	373	327.8183	423	365.3373	473	401.5315
324	289.7176	374	328.5819	424	366.0740	474	402.2421
325	290.5087	375	329.3451	425	366.8101	475	402.9523
326	291.2991	376	330.1076	426	367.5458	476	403.6620
327	292.0891	377	330.8697	427	368.2809	477	404.3712
328	292.8784	378	331.6311	428	369.0155	478	405.0798
329	293.6672	379	332.3921	429	369.7496	479	405.7880
330	294.4554	380	333.1525	430	370.4831	480	406.4956
331	295.2431	381	333.9123	431	371.2161	481	407.2027
332	296.0302	382	334.6716	432	371.9486	482	407.9094
333	296.8167	383	335.4303	433	372.6806	483	408.6155
334	297.6026	384	336.1885	434	373.4120	484	409.3211
335	298.3880	385	336.9462	435	374.1429	485	410.0262
336	299.1728	386	337.7033	436	374.8733	486	410.7308
337	299.9571	387	338.4599	437	375.6031	487	411.4348
338	300.7408	388	339.2159	438	376.3325	488	412.1384
339	301.5239	389	339.9714	439	377.0613	489	412.8415
340	302.3065	390	340.7263	440	377.7895	490	413.5441
341	303.0885	391	341.4807	441	378.5173	491	414.2461
342	303.8700	392	342.2346	442	379.2445	492	414.9477
343	304.6509	393	342.9879	443	379.9713	493	415.6487
344	305.4312	394	343.7407	444	380.9674	494	416.3493
345	306.2109	395	344.4929	445	381.4231	495	417.0493
346	306.9901	396	345.2446	446	382.1483	496	417.7489
347	307.7688	397	345.9957	447	382.8729	497	418.4479
348	308.5469	398	346.7463	448	383.5970	498	419.1464
349	309.3244	399	347.4964	449	384.3206	499	419.8445
350	310.1014	400	348.2459	450	385.0436	500	420.5420

NORTH CAROLINA

Helpful Hints

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 within10 business days (§ 97-25.6(c)(2)). If providing new information to the physician, provide a copy to Plaintiff and allow 10business 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

NORTH CAROLINA

Helpful Hints (cont'd.)

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.

NORTH CAROLINA

Helpful Hints (cont'd.)

SCHEDULED INJURIES

Body 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%)
Up to 23	$720.00
24 - 25	$600.00
27 - 29	$540.00
30 and over	$420.00

Scheduled injuries occurring after January 1, 1996.

Maximum Compensation Rates

Year	Rate	Year	Rate
2009	$816.00	2018	$992.00
2010	$834.00	2019	$1,028.00
2011	$836.00	2020	$1,066.00
2012	$862.00	2021	$1,102.00
2013	$884.00	2022	$1,184.00
2014	$904.00	2023	$1,254.00
2015	$920.00	2024	$1,330.00
2016	$944.00	2025	$1,380.00
2017	$978.00	**2026**	**$1,446.00**

Minimum weekly compensation rate is $30.00.

Mileage Rate: 0.725 cents per mile for 1/1/2026-6/30/2026 and 0.76 cents per mile as of 7/01/2026, provided they travel 20 miles or more roundtrip.

NORTH CAROLINA

Helpful Hints (cont'd.)

MOST 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 128B	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

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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.

MEDICARE COMPLIANCE (cont'd.)

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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