

EMPLOYMENT LAW SUMMARY

Tennessee: Workers' Compensation - Claims Process



Because You're Different

Workers' compensation is a system of no-fault insurance. Workers' compensation insurance provides wage replacement and medical benefits to employees for work-related injuries and diseases. The Tennessee Workers' Compensation Law (TWCL) sets forth employer responsibilities relating to workers' compensation in the state.

The Tennessee [Bureau of Workers' Compensation](#) (TBWC), part of the Tennessee Department of Labor and Workforce Development, investigates and handles workers' compensation claims. The processing of a claim typically begins with a notice of injury and may end up in administrative or judicial appeal.

EMPLOYEE'S REPORT OF INJURY

Employees must notify a supervisor or manager of any work-related injury either immediately or as soon as reasonable and practicable after an accident. If the employer does not have actual notice of the injury, the employee must provide **written** notice to the employer within **15 days**. Any compensation or medical expenses that accrue between the date of injury and the time when written notice is provided are not payable unless the employer had actual notice or unless the employee has a reasonable excuse for failing to provide notice. Employees who fail to provide a written notice altogether may forfeit any compensation.

For gradual or cumulative trauma, the employee's written notice is due within 15 days after the employee knows or reasonably should know he or she sustained a work-related injury that resulted in permanent physical impairment or inability to continue normal work activities. For occupational diseases, the employee's written notice is due within 30 days of the first distinct manifestation of the disease, except in cases involving asbestos-related diseases and coal workers' pneumoconiosis.

EMPLOYER'S REPORT OF INJURY AND CLAIM INVESTIGATION

Employers must notify their insurance carriers of an injury claim within **one working day** of receiving an employee's verbal or written notice of an accident or work-related condition. Employers must also notify the TBWC of the claim. Claim investigation must begin within **two working days**.

MEDICAL PANEL

Within **three days** after receiving notice of an injury that requires medical attention, an employer must provide the injured employee with a list of **at least three** medical treatment providers. Injured employees must receive treatment from one of the providers on the employer-provided list; otherwise they risk losing TWCL benefits.

DETERMINING INITIAL COMPENSABILITY

The TWCL requires employers to accept or deny a claim within **15 days** after receiving notice of an injury. Upon accepting or denying the claim, an employer must notify the injured employee and the TBWC.

If a claim is accepted, the first payment of benefits must occur within the first **15 days** after the employer has notice of the injury. Medical expenses must be paid within **45 days** of receiving an invoice.

CLAIM DENIAL

Employers can deny a claim within the first **15 days** after the notice of injury or at any time after they begin paying benefits. Employers must immediately notify an injured employee and the TBWC whenever they decide to deny a claim. Employers must be able to support their decision to deny a claim with documented results of a claim investigation.

DISPUTED CLAIMS

If a claim is denied before benefits are paid, the employee can dispute the denial until **one year** after the date of injury. Employees that do not file a Petition for Benefit Determination within one year forever waive their right to contest the denied claim. In a case involving death after injury, the petition is due within one year of the death.

If a claim denial occurs after the employer has previously accepted the claim by paying benefits, the employee's Petition for Benefit Determination is due within **one year** of either the last authorized treatment or the date the employer last issued a payment, whichever is later.

ALTERNATIVE DISPUTE RESOLUTION (MEDIATION)

After an employee files a timely Petition for Benefit Determination, the TBWC will assign a workers' compensation mediator, who will schedule Alternative Dispute Resolution Proceedings (also called mediation). Mediation is a mandatory first step for all disputed claims.

Mediation may be held in person, by telephone, electronically or by any other means the mediator may find practical for resolving the disputed issues. All parties are required to cooperate with the mediator and participate in mediation in good faith.

SETTLEMENT

If the parties resolve all of the disputed issues during mediation, the mediator prepares a Settlement Agreement and files it with the clerk of the Court of Workers Compensation Claims (WC Court). A WC Court judge must then approve the settlement before it becomes effective. Settlements reached through any other means must also be approved by the WC Court in order to be effective.

DISPUTE CERTIFICATION NOTICE

If the parties are **not** able to reach full resolution at mediation, the mediator must issue a Dispute Certification Notice, which lists:

- Issues the parties agreed upon at mediation;
- Issues remaining in dispute; and
- Defenses raised during mediation.

The parties must file any objections to the Dispute Certification Notice within **five** days. At his or her discretion, the mediator may file an amended version of the notice within 60 days. The final Dispute Certification Notice establishes a limited and final list of issues and defenses the parties may bring to the WC Court for further dispute resolution.

JUDICIAL PROCEEDINGS

To request judicial review of a disputed claim, the parties must file a **Request for Hearing** with the WC Court. The WC Court will review a dispute claim only if a mediator has issued a Dispute Certification Notice. However, the WC Court may dismiss a disputed claim if neither party files a request for hearing within **60 days** after the Dispute Certification Notice is issued.

If a request for hearing is accepted, a WC Court judge will hold an initial hearing within **30 days**. At the initial hearing, the parties discuss and agree on a schedule for further proceedings. Then the parties are given time to gather and exchange evidence. This process is generally informal but may be governed by the state rules of civil procedure.

When the period for gathering evidence ends, the parties must once again participate in mediation as described above. If this secondary mandatory mediation also fails to reach a full settlement, the mediator files a new Dispute Certification Notice, and the WC judge either conducts a **compensation hearing** as scheduled in the initial order, or, if a party requests it, reviews the evidence without holding a hearing.

In a compensation hearing, the WC Court judge decides only the disputed issues included in the most current Dispute Certification Notice and sets forth the decisions in a compensation order. Compensation orders include findings of fact, conclusions of law and awards of compensation to be paid, if any. Expedited hearings are also available, but only for certain disputes. Following an expedited hearing, the judge issues an interlocutory order. The type of order (compensation or interlocutory) determines whether and how the order may be appealed.

APPEALS

Any party dissatisfied with a WC Court order can appeal for a review by the Board of Workers' Compensation Appeals, or, if a compensation order is final, the state supreme court. The Board of Workers' Compensation Appeals (WC Appeals Board) is a panel of three judges whose sole purpose is to review WC Court decisions.

The panel's review is generally limited to the evidence in the WC Court's record, and it presumes that the findings and conclusions in the WC Court judge's order are correct. Parties to an appeal are not allowed to present testimony or oral arguments before the WC Board.

The table below shows how appeals are affected by the order that is being reviewed.

Order Issued by WC Court	Deadline for Appeal to WC Appeals Board	Time to Issue Appeal Decision	Further Appeals
Interlocutory order	Seven business days after order is issued	Seven business days	The Board's decisions are final. No further appeal is possible.
Compensation order	30 calendar days after order is issued (<i>If no party files a timely appeal, the order becomes final and the parties may appeal to the state supreme court.</i>)	Parties are given 15 days to submit supporting briefs. The Board has 45 days to issue a decision.	Order may be appealed to the Tennessee Supreme Court

STATE SUPREME COURT

Once a compensation order becomes final, dissatisfied parties have **30 days** to file an appeal with the Tennessee Supreme Court. A compensation order becomes final when:

- No party files a Request for Appeal to the WC Board within 30 days after the WC Court entered the compensation order; or
- The WC Appeals Board certifies the court's compensation order as final.

Appeals in the supreme court proceed under the state's rules of civil procedure, which give parties an opportunity to submit briefs and present oral arguments. Workers' compensation cases may be assigned to a special three-judge panel, but all cases proceed in the same manner as they would if heard before the full supreme court.

The supreme court only reviews decisions of the WC judge, and it presumes the findings and conclusions in the final order are correct.

MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the TBWC [website](#) for more information on workers' compensation laws in Tennessee.

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