



**State of Tennessee
Bureau of Workers' Compensation
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2016 WORKERS' COMPENSATION LEGISLATIVE CHANGES

This is a general overview of workers' compensation legislation passed by the 109th General Assembly in 2016. For a complete, detailed review of this information and all workers' compensation bills introduced in this legislative session, please go to www.capitol.tn.gov.

MAXIMUM & MINIMUM BENEFIT CHANGES

Temporary Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2016 through June 30, 2017 is \$976.80, or 110% of the state's average weekly wage.

Permanent Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2016 through June 30, 2017 is \$888.00, or 100% of the state's average weekly wage.

Minimum Weekly Benefit – The minimum weekly benefit rate for injuries occurring July 1, 2016 through June 30, 2017 for both temporary and permanent benefits is \$133.20.

REVISIONS TO NOTICE OF INJURY, ATTORNEY FEES, ATTORNEY OMBUDSMEN, AND DRUG FREE WORKPLACE

Public Chapter 1056 (SB2582/HB2416) provides for reasonable attorney fees and costs to be awarded by the court of workers' compensation claims (subject to a two-year sunset provision) when the employer:

- Fails to furnish appropriate medical, surgical, and dental treatment or care, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus to an employee provided for in a settlement, expedited hearing order, compensation hearing order, or judgment; or
- Wrongfully denies a claim by failure to timely initiate any of the benefits to which the employee is entitled, including medical benefits under § 50-6-204 or temporary or permanent disability benefits under § 50-6-207, if the workers' compensation judge

makes a finding that such benefits were owed at an expedited hearing or compensation hearing.

- The bill also allows for ombudsmen who are licensed attorneys to provide limited legal advice, lowers the notice of injury period from 30 days to 15 days, and deletes the annual education requirement for employees in DFWP programs.

Governor Haslam signed Public Chapter 1056 into law on April 28, 2016, and it will become effective on July 1, 2016 as to DFWP provisions and for injuries on/after July 1, 2016 otherwise.

CASE MANAGEMENT/CLAIMS HANDLING RULEMAKING AND PENALTY

Public Chapter 803 (SB1880/HB2038) authorizes the Administrator of the Bureau of Workers' Compensation (BWC) to establish a system of case management for coordinating medical care services provided to employees claiming benefits that includes a minimum set of standards. It requires all case managers and case manager assistants be certified by the BWC prior to offering case manager services, and establishes a penalty for any violation of these requirements and standards. The bill also authorizes a civil penalty against any entity employing individuals who adjust workers' compensation claims that are out of compliance with the standards set forth by the BWC.

Governor Haslam signed Public Chapter 803 into law on April 14, 2016, and it became effective on immediately as to rulemaking but for all other purposes on January 1, 2017.

“SILENT PPO” PENALTY

Public Chapter 826 (SB1758/HB1720) authorizes the Bureau of Workers' Compensation (BWC) to investigate preferred provider organization (PPO) complaints against companies licensed by the Department of Commerce and Insurance (DCI) and authorizes DCI to take appropriate action in accordance with Tenn. Code Ann. § 56-2-305. It requires PPO complaints against companies not licensed by DCI to be heard by the BWC and authorizes BWC to take appropriate action in accordance with Tenn. Code Ann. § 50-6-118.

Governor Haslam signed the measure into law on April 21, 2016, and the bill is effective for claims filed on or after July 1, 2016.

ADVISORY COUNCIL ON WORKERS' COMPENSATION

Public Chapter 608 (SB1496/HB1622) extends the sunset on the advisory council on workers' compensation for four years to June 30, 2020.

Governor Haslam signed the measure into law on March 22, 2016.

GENERAL UPDATE OF THE WORKERS' COMPENSATION LAW

Public Chapter 816 (SB 2563/HB1559) makes the following statutory changes:

- Adds members of limited liability companies to “sole proprietors and partners,” for the purposes of electing for inclusion in, or withdrawal from, workers’ compensation coverage.
- Requires written workers’ compensation settlement agreements, to be approved by the court of workers’ compensation claims.
- Provides clarification to the calculation of permanent partial disability awards. Some parties read a meaning into the statute that reduces the value of the multiplier for injured workers who do not return to work.
- Clarifies that an appeal is available when the court of workers’ compensation claims grants or denies benefits.
- Clarifies the processes for Tennessee Supreme Court appeals.
- Provides that, when enforcing open medical provisions, the court of workers’ compensation claims judges may award attorney fees and reasonable costs incurred in the enforcement of medical benefits provisions in all orders.
- Allows any current or retired Tennessee judge, chancellor, or governor to swear in workers’ compensation judges.
- Clarifies that the court of workers’ compensation claims must approve lump-sum settlements, rather than chancery, circuit or criminal courts.
- Allows the Uninsured Employers’ Fund (UEF) to pay the costs of administering claims for benefits in uninsured employer cases.
- Removes the sunset/expiration date from T.C.A. § 50-6-242(a). This section allows a workers’ compensation judge to award additional benefits in extraordinary cases.

Governor Haslam signed Public Chapter 816 into law on April 14, 2016, and it became effective upon signing.