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NORTH CAROLINA COMP LAW AT A GLANCE

• THRESHOLD REQUIREMENTS FOR COMPENSABLE INJURIES

- In all non-occupational disease cases, with the exception of back injuries and hernias, the employee must establish an injury by accident arising out of and in the course and scope of employment.
- Back injury and hernia claims are compensable if the employee can establish an injury by accident or a specific traumatic incident of the work assigned.
- Indemnity benefits are payable when the employee is disabled and the disability is causally related to a compensable injury or occupational disease.
- A claim may still be compensable despite the existence of a pre-existing condition. If an injury materially aggravates or accelerates a pre-existing condition and causes disability, it is compensable.
- In the absence of a Form 21 or 60, payment of medical bills is not an admission of compensability.

• KEY DEFINITIONS

INJURY BY ACCIDENT: An interruption of the regular work routine and the introduction of unusual circumstances, such as a slip, trip, fall or other unusual activity likely to result in unexpected consequences.

SPECIFIC TRAUMATIC INCIDENT (STI): Trauma not occurring gradually, but rather as the result of an event during a cognizable time period, causing a back injury or hernia.

OCCUPATIONAL DISEASE: A condition is a compensable occupational disease if the conditions of the employment were a significant contributing factor to its development and the employee was exposed to an increased risk of contracting it, as opposed to merely aggravating it.

AVERAGE WEEKLY WAGE (AWW): The employee's average pre-injury earnings in the employment of injury. It is typically calculated on the 52 weeks of earnings prior to the date of the injury. Benefits are paid at 2/3 of the employee's AWW.

SUITABLE EMPLOYMENT (POST MMI): A job the employee is capable of performing while considering physical limitations, education, experience and vocational skills. (For claims filed on or after June 24, 2011)

• KEY FORMS

Form 18	Employee's Notice of Accident (claim form)	Form 28T	Trial Return to Work Report
Form 18M	Employee's Claim for Additional Medical Compensation	Form 28U	Employee's Request for Reinstatement of Benefits Due to Unsuccessful Trial Return to Work
Form 19	Employer's Report of Injury	Form 30	Agreement for Compensation for Death
Form 21	Agreement for Compensation for Disability	Form 33	Hearing Request
Form 22	Wage Chart	Form 33R	Response to Hearing Request
Form 24	Application to Stop Compensation	Form 60	Employer's Admission of Liability
Form 26	Supplemental Agreement for Compensation	Form 61	Employer's Denial of Liability
Form 26A	Employer's Admission of Employee's Right to Permanent Partial Disability	Form 62	Reinstatement or Modification of Compensation
Form 28	Return to Work Report (not used with trial returns to work)	Form 63	Notice to Employee of Payment of Compensation Without Prejudice or Payment of Medical Benefits Only Without Prejudice
Form 28B	Report of Compensation Paid		
Form 28C	Report of Compensation Paid by Clincher		



• IMPORTANT DEADLINES

NOTICE OF INJURY: The employee must either give written notice to the employer within 30 days of injury or provide reasonable excuse for not doing so. The employee has 2 years to file a written notice of claim with the Commission.

DENIAL OF A CLAIM: NCGS § 97-18 requires the employer to promptly investigate injuries and admit or deny claims at the earliest practicable time. Failure to admit or deny a claim within 30 days following notice from the Commission that a claim has been filed may result in the imposition of sanctions.

PAYMENT WITHOUT PREJUDICE: When indemnity benefits are paid without prejudice under NCGS § 97-18(d), the employer has 90 days from the date it first received written or actual notice of the injury to notify the Commission it is denying compensability or the claim will be deemed admitted.

CHANGE OF CONDITION: The employee has 2 years from the last payment of compensation to notify the Commission of a claim for additional compensation due to a change in condition.

RECORDED STATEMENTS: Parties obtaining written or recorded statements may be prohibited from introducing them into evidence unless a copy is provided within 45 days of request or the filing of Form 33.

TIME FOR APPEAL:

- From an administrative decision: 15 days
- From a Deputy Commissioner decision: 15 days
- From a Full Commission decision: 30 days

• INTEREST, PENALTIES, SANCTIONS AND FILING FEES

- Whenever there is an appeal and the employee is ultimately awarded benefits, interest is owed from the date of the original hearing.
- A 10% late payment penalty may be assessed on payments not made within 14 days after they become due. Settlement proceeds must be paid within 24 days of receipt of the order of approval.
- A 10% penalty may be added to amounts owed under an Opinion and Award if the employer willfully fails to comply with any statutory requirement or lawful order of the Commission and its failure to comply is the cause of the employee's injury or death. NCGS § 97-12.
- Attorneys' fees may be awarded against the defendant if a hearing is defended without reasonable ground or it appeals and an award of benefits is affirmed.
- The following filing fees apply:
 Form 21/26/26A...\$250
 Form 24...\$175
 Clincher...\$375

• INDEMNITY BENEFITS

DEATH BENEFITS are payable if the employee dies within 6 years of an accident or contraction of an occupational disease or within 2 years of the final determination of disability. Benefits are payable for 400 weeks or longer for disabled spouses or children under 18. After June 24, 2011, benefits are payable for 500 weeks or longer for disabled spouses or children under 18.

TEMPORARY TOTAL DISABILITY (TTD) is payable under NCGS § 97-29 for total incapacity to work after a 7 day waiting period; if disability exceeds 21 days, TTD is payable from the date of disability. For claims filed on or after June 24, 2011, there is a 500 week cap on TTD benefits unless the employee obtains an extension under NCGS § 97-29(c) or is permanently and totally disabled under NCGS § 97-29(d).

TEMPORARY PARTIAL DISABILITY (TPD) is payable under NCGS § 97-30 at 2/3 of the difference between the employee's pre-injury AWW and his post-injury earnings, for a maximum of 300 weeks from the date of injury. For claims filed on or after June 24, 2011, TPD benefits are payable for a maximum of 500 weeks from the date of disability. Weeks where there is return to work following a period of disability count against the 500 weeks. TPD and TTD benefits cannot be combined to extend beyond 500 weeks.

PERMANENT PARTIAL DISABILITY (PPD) is payable under NCGS § 97-31 based on application of the percentage assigned by the physician to the following schedule:

Back: 300 weeks	Eye: 120 weeks
Arm: 240 weeks	Leg: 200 weeks
Hand: 200 weeks	Foot: 144 weeks
Thumb: 75 weeks	Great Toe: 35 weeks
Index Finger: 45 weeks	Other Toes: 10 weeks
Middle Finger: 40 weeks	Hearing:
Ring Finger: 25 weeks	One Ear - 70 weeks
Little Finger: 20 weeks	Both Ears - 150 weeks

BODILY DISFIGUREMENT awards are limited to \$10,000. Awards for Facial or Head Disfigurement and Permanent Injury to an Organ or Part of the Body are limited to \$20,000. Employees may not receive both PPD and disfigurement for the same body part.

ELECTION OF BENEFITS: At maximum medical improvement (MMI) the employee may elect between scheduled benefits/ratings under NCGS § 97-31 or, if the employee is still disabled, continuing total or partial disability benefits under NCGS § 97-29 or NCGS § 97-30. If an employee receives total or partial disability benefits past MMI and later decides to take scheduled benefits or a rating, the employer is entitled to a credit against the scheduled benefits/rating for the total or partial disability benefits that were made past MMI.

CREDITS: The employer may be entitled to a credit against its TTD or TPD liability for unemployment benefits received during the period of disability, salary continuation payments, or disability benefits paid pursuant to an employer-funded plan. If an employee qualifies for extended TTD benefits under NCGS § 97-27(c), the employer is entitled to a credit for any Social Security retirement benefits the employee receives.

• MAXIMUM COMPENSATION RATES

2003...\$675	2006...\$730	2009...\$816
2004...\$688	2007...\$754	2010...\$834
2005...\$704	2008...\$786	2011...\$836

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