

# North Carolina Workers' Compensation Law

## Quick Reference©



ACTION	TIME	FROM	AUTHORITY	ADDITIONAL INFORMATION
Notice to employer	30 days	accident date; date advised by competent medical authority of occupational disease; <b>unless</b> reasonable excuse exists and no prejudice results to employer	G.S. § 97-22, -58	Notice must be in writing; reasonable excuses include employer's actual knowledge
<b>File Form 19</b> (Employer's Report of Injury)	5 days	knowledge of injury/allegation, if injury causes absence from work more than 1 day or med comp greater than amount set by NCIC (currently \$2000)	G.S. § 97-92; Rule 104	Provide copy of Form 19 and blank copy of Form 18 to employee; penalty for failing to file as required (G.S. 97-92(e)); not less than \$5 and not more than \$25; as of 1 Aug 2008, the employer/carrier is required to provide the carrier code and employer code; in addition, the NCIC will no longer accept the Accord Workers Compensation - First Report of Injury or Illness Form, <b>must use a Form 19</b>
<b>File one of the following w/in 14 days:</b>			Rule 601, 802	As of 1 Aug 2008, the Employer/carrier will be sanctioned \$200 for not filing forms as required w/in 30 days of notice from NCIC of filing of claim; sanctions will be lifted if the required forms are filed within 10 days of Order assessing sanction
<u>Form 60 (admit)</u>	14 days	written/actual notice of injury or death	G.S. § 97-18(b)	<b>To admit compensability:</b> first installment of compensation becomes due; thereafter, compensation paid in weekly installments; triggers presumption of compensability but not presumption of disability; not deemed award of NCIC except in cases where employee seeks judgment on award (G.S. § 97-87); not deemed a final award of NCIC for purposes of claim for change of condition (G.S. § 97-47); as of 1 Aug 2008, the "medical only" option has been removed from the Form 60; in addition, the employer/carrier must describe with particularity the body part(s) or condition(s) for which liability is admitted
<u>Form 61 (deny)</u>	14 days	written/actual notice of injury or death	G.S. § 97-18(c)	<b>To deny compensation:</b> must notify employee in writing of denial and advise of right to request hearing; detailed statement of basis of denial stating facts as alleged by employer and why employee is not entitled to compensation
<u>Form 63 (uncertain)</u>	14 days	written/actual notice of injury or death	G.S. § 97-18(d)	<b>If uncertain on reasonable grounds:</b> initial compensation w/o prejudice and w/o admitting liability; first payment must be sent with Form noting payment without prejudice; payments can continue until acceptance or denial or 90 days from written or actual notice (whichever is first to occur); 30 day extension possible on request to NCIC; as of 1 Aug 2008, the employer/carrier must file Form 63 in all medical only claims; must select whether indemnity or medical benefits are being paid during the investigation of claim; must specify body part(s) or conditions(s) involved
Waiting Period	7 days	first date of disability	G.S. §97-28; Rule 401	If employee remains unable to earn wages after first 7 days of disability, then entitled to 2/3 of AWW up to max compensation rate
<b>Ways to Terminate Benefits:</b>				Generally, payment of compensation undertaken pursuant to an award of the NCIC shall continue until terms of award are fully satisfied; if payment for TTD is being made, then must continue until there is new employer or NCIC order
<u>Return to Work</u> (w/o Restriction)-file Form 28 (RTW Report)			Rule 404A(7)	This form is <b>NOT</b> appropriate where employee has returned to work on trial basis; use if treating doctor authorized return to work w/o restrictions, but doctor still has 45 days within which to determine that employee is not able to perform the job duties; must send copy to NCIC, employee & employee's attorney; must also file Form 28B noting amount and date of last payment of comp and/or medical comp
<u>Trial Return to Work</u> - File Form 28T (Notice of Termination of Comp. because of Trial Return to Work)	16 days	termination of compensation	G.S. § 97-18.1(b); G.S. § 97-32.1; Rule 404A(1)	Must send to employee/employee's attorney; applies whether returned to work for same or different employer if total disability paid pursuant to G.S. § 97-29; trial return to work period not to exceed 9 months; <b>trial return to work provisions do not apply to:</b> (1) medical only cases; (2) cases where employee missed fewer than 8 days from work; (3) cases where employee released by authorized treating physician w/o restriction (except if physician determines w/in 45 days that employee cannot perform job, must resume benefits), but if w/in same period physician finds employee can work w/ restrictions benefits resume as of date of report, unless work is available w/in restrictions then trial return to work deemed to commence at time of initial return to work; (4) cases where employee accepted/agreed to accept compensation for permanent disability under G.S. § 97-31 (unless trial return to work follows reinstatement of compensation for total disability under G.S. § 97-29); and (5) claim pending after 1 Jan. 1995 when claim contested under G.S. § 97-18(d) within time allowed
<u>Contest claim</u> - W/in time limit after filing Form 63 to pay comp. w/o prejudice	90 days unless extension granted	written/actual notice of injury or death	G.S. § 97-18(d)	See Form 61 information above
<u>Form 24</u> - Application to Stop Compensation			G.S. § 97-18.1(c) and (d); Rule 404	<b>Application shall:</b> specify legal grounds and alleged facts, insert in blank date 17 days from mailing to employee and employee's attorney, original and attached documents sent to NCIC at same time by same method as to employee and employee's attorney, specify number of pages; formal hearing required when suspension/termination will set aside provisions of an award of NCIC; if employee/employee's attorney objects w/in time inserted on form, then it shall be set for informal hearing; informal hearing shall be conducted w/in 25 days of receipt of Form 24 by NCIC and usually by telephone; decision on application shall be made w/in 5 days of completion of informal hearing
Form 28U (Request that Comp Reinstated After Unsuccessful Trial RTW)		unsuccessful trial return to work	Rule 404A(2)	Employee must provide <b>completed</b> form to employer and carrier/administrator, including certification by physician that work related injury prevents employee from continuing trial return to work
Form 62 (Notice of Reinstatement or Modification)	14 days	date completed Form 28U is received by carrier	G.S. § 97-18(g); Rule 404A(3), (4) and (5)	For unsuccessful trial RTW - if Form 28U not complete, employer/carrier not required to resume comp; employer/carrier shall promptly return Form 28U to employee/attorney with a statement explaining reason form returned and reason comp not reinstated; even after comp resumes, carrier can contest right to reinstatement and file Form 24 to terminate/suspend benefits; Form 62 must be sent to employee & attorney
		upon voluntary reinstatement/modification	G.S. § 97-18(b)	For voluntary reinstatement/modification of TTD benefits or TPD benefits - upon suspending, reinstating, changing, or modifying comp for any cause, carrier shall immediately notify NCIC on a Form 62 that compensation has begun, or has been suspended, reinstated, changed, or modified; copy of such notice shall be provided to the employee & attorney
Form 28B (Final Payment of Comp.)	16 days	final payment of compensation	G.S. § 97-18 (h); Rule 501	Must state that final payment has been made, total amount of comp paid, name of person to which comp was paid, date of injury/death, and date to which comp was paid; must send to employee & their attorney; NCIC shall assess civil penalty in amount of \$25 for failure to file

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Form 28C - (Comp Paid Pursuant to Clincher)				As of Nov. 2003, Form 28C replaces Form 28B for reporting compensation and medical compensation paid on <b>cases settled via a compromise settlement agreement</b> ; Form 28C deletes reference to right to future benefits which is not available in clinchered cases							
Form 33R	45 days	receipt of hearing request-Form 33	Rule 603	Must be forwarded to employee or employee's attorney							
Answering Discovery	30 days	service of interrogatories	Rule 605	Note: obligation to update answers is continuing							
Responding to Motions	10 days	date Motion is served	Rule 609	NCIC can act on Motion prior to expiration of time period to respond; as of 1 Aug 2008, NCIC has adopted new procedures for "emergency" and "expedited" medical motions, including establishing shorter response times							
Employee must file claim	2 years	date of accident; date of death/disability/disablement & notice by competent med. authority of occ. disease; date of last payment of med. compensation in medical only claim	G.S. §§ 97-24, -58	Must send copies of Form 18 to employer, carrier, and NCIC							
Claim for Change of Condition	2 yrs/ 12 mths in med only	date of last payment of comp in award/date of last payment of med bills under Article	G.S. § 97-47	NCIC reviews awards of the Commission ( <i>i.e.</i> , Opinions & Awards, Form 21 agreements, Form 26 supplemental agreements)							
Form 18M Additional Medical Compensation	2 years	last payment of medical or indemnity compensation, whichever is last to occur	G.S. § 97-25.1; Rule 408	Can use form or make written request to NCIC; <b>carrier must send written statement w/in 30 days</b> to NCIC, employee & employee's attorney re: whether claim is accepted/denied; if denied, must state grounds for denial & attach documentation; in contested cases, Form 18M treated as Motion for future medical comp.; defendants have 30 days to respond; either party can appeal decision							
Appeal Administrative Decision	15 days	from receipt of decision or ruling on Motion to Reconsider	Rule 703								
Appeal to Full Comm.	15 days	notice of award	G.S. §97-85;Rule 701								
Appeal to Ct. of Appeals	30 days	date of award of Full Comm. or w/in 30 days of receipt of notice	G.S. §97-86;Rule 702								
Temp. Total Disability (TTD) -- G.S. § 97-29		If employee remains unable to earn wages after first 7 days of disability, then entitled to receive weekly benefits equal to 2/3 of AWW up to max. compensation rate; after disability continued more than 21 days then entitled to receive compensation for first 7 days of disability; days counted do not have to be consecutive; weekend days, holidays, and any workday in which injured employee does not earn full days' wages b/c of injury are counted as day of disability									
Temp. Partial Disability (TPD) -- G.S. § 97-30		Upon attaining post-injury employment, employee unable to earn wages as great as pre-injury wages is entitled to compensation equal to 2/3 difference between post-injury and pre-injury average weekly wages, so long as amount does not exceed statutory maximum weekly benefit; may not be continued beyond 300 weeks from date of injury.									
Perm. Partial Disability (PPD) -- G.S. § 97-29, -31		At end of healing period, if there is permanent impairment to one of the body parts listed, employee may receive set period of benefits w/o regard to ability to earn wages; total loss of use of the part entitles employee to 2/3 of AWW x number of weeks shown following body part listed; benefits for less than total figured on percentage basis; where employee has permanent impairment to body part listed and is unable to earn wages as great as before injury, employee may choose to receive greater of TPD (wage loss) benefits or PPD (payment of rating) benefits; percentage of disability determined based on physicians' ratings of percentage of physical impairment; if there is dispute between physicians regarding rating, NCIC will determine percentage of disability; either party may request second opinion if dissatisfied with rating provided by treating physician; upon approval by NCIC, employee entitled to single second opinion rating by doctor of his/her choice at employer's expense									
	<i>thumb</i>	75 weeks	<i>third (ring) finger</i>	25 weeks	<i>any other toe</i>	10 weeks	<i>foot</i>	144 weeks	<i>hearing (one ear)</i>	70 weeks	<b>** loss of 75% or more of back, employee deemed to have total loss and shall be compensated for total loss</b>
	<i>first (index) finger</i>	45 weeks	<i>fourth (little) finger</i>	20 weeks	<i>hand</i>	200 weeks	<i>leg</i>	200 weeks	<i>hearing (both ears)</i>	150 weeks	
	<i>second (middle) finger</i>	40 weeks	<i>great toe</i>	35 weeks	<i>arm</i>	240 weeks	<i>eye</i>	120 weeks	<i>back</i>	300 weeks	
Disfigurement/Damage to Organs -- G.S. §§ 97-31(21), (22), (24)		If injury leaves facial/head scars that seriously disfigure, or causes loss or permanent injury to important organ, employee may be awarded additional comp. not to exceed \$20,000; max. payable for serious bodily disfigurement is \$10,000; no comp. allowed for scars if employee paid for loss/partial loss of use of same member; employee entitled to payment for disfigurement for loss/crowning of permanent teeth									
Perm. & Total Disability (TPD) -- G.S. §§ 97-29, -31		Loss of both hands, both arms, both feet, both legs, both eyes, or any two thereof constitutes total and permanent disability, and entitles employee to weekly benefit and medical compensation during his/her lifetime (17)									
Death benefits G.S. § 97-38		Payable when employee dies due to occupational disease, or due to an accident if death occurs w/in 6 years thereafter, or w/in 2 years of final determination of disability, whichever is later; <b>claim must be filed w/in 2 years of date of death</b> in name of dependents/next of kin (not in name of executor for estate); compensated at 2/3 of decedent's AWW (or maximum compensation rate) for 400 weeks; \$3,500 for actual funeral expenses payable to person/firm entitled to it; medical expenses incurred due to mortal injury/disease; minor child/disabled spouse may receive more than 400 weeks									
Figuring Comp. Rate G.S. § 97-2(5)		Rate cannot be less than \$30/week or more than max for year; usually computed by averaging wages earned by employee in employment of injury during 52 wks prior to injury; if employee lost more than 7 consecutive calendar days at one or more times, days are excluded; if employee worked only for short period in employment of injury, or for other reasons formula does not fairly reflect earnings, NCIC will compute fair AW W; <b>Form 22</b> must be filed in all death cases unless max comp rate stipulated, must be filed in other cases if disagreement about earnings, and must be filed if NCIC requests									
	<b>Maximum Compensation Rate</b>	1999	\$560.00	2001	\$620.00	2003	\$674.00	2005	\$704.00	2007	\$754.00
		2000	\$588.00	2002	\$654.00	2004	\$688.00	2006	\$730.00	2008	\$786.00
Injury G.S. §§ 97-2(6), -53		Injury by accident arising out of and in the course of employment; listed disease, or any disease other than hearing loss which is proven due to causes and conditions characteristic of and peculiar to particular trade, occupation or employment, excluding ordinary diseases of life to which general public equally exposed; backs compensable using specific traumatic incident standard; hernias are separate									
Med. Treatment/Comp. G.S. §§ 97-2(19), -25, -25.6,-26; Rule 407		Medical, surgical, hospital, nursing, rehab. services, medicines, sick travel, other treatment as reasonably required to effect a cure or give relief and for such additional time as tends to lessen period of disability; employer paying medical comp. may obtain records of treatment w/o express authorization of employee; where employer not paying medical compensation, the employer, w/written notice to employee, may obtain directly from a medical provider records restricted to the injury or condition for which compensation is claimed; refusal to accept treatment ordered shall bar employee from further comp. until refusal ceases; <b>travel: \$0.585 per mile for 20 miles or more round trip, \$45 for overnight lodging, \$6 for breakfast, \$8 for lunch, \$14 for dinner</b>									
Physical Exam G.S. § 97-27		So long as employee claims compensation, employee shall submit himself to examination if requested by employer or ordered by NCIC, at reasonable times and places									
Medical Records G.S. § 97-26.1; Rule 607		Any party shall furnish w/o cost a copy of all medical, vocation and rehab reports, employment records, NCIC forms, and written communications w/ med. providers w/in 30 days of request, unless objection made; obligation continuing one and any reports that come into possession of party after receipt of request shall be provided to requesting party w/in 15 days of receipt									
Form 21 G.S. § 97-82		As of 1 Aug 2008, only Form 26A is permitted to issue payment for permanent partial impairment rating									
Form 26A G.S. § 97-31		As of 1 Aug 2008, must use Form 26A (instead of Form 21 or 26) to issue payment for permanent partial impairment rating, disfigurement, loss of teeth, or hearing loss									