

calendar year 2020

Annual Report

on the impact of the
Workers' Compensation Reform Act
of 2013

Published July 1, 2021



Administrator's Letter

July 1, 2021

*Honorable Members of 112th Tennessee General Assembly
Legislative Plaza
320 6th Avenue North
Nashville, TN 37243*

Dear Members:

In 2013 the General Assembly passed an act to reform Tennessee's workers' compensation system. It wasn't the first attempt at reform since the first legislation was passed over one hundred years ago in 1919. However, many considered it among the most substantive reforms. Governor Bill Haslam stated that the legislation "brings clarity and fairness to the system and builds on our ongoing efforts to make Tennessee the No. 1 location in the Southeast for high quality jobs."

Today the reforms have been in place for seven years. The effective date of the 2013 legislation was July 1, 2014. Enough time has passed to make initial evaluations of the reform's impact on the system. It is interesting to consider the outcome of the 2013 legislation through the lens of many who in 2013 had doubts about whether it could be implemented in a year, doubts that it could be implemented without another layer of bureaucracy and increased budgets, and doubts about the effectiveness of an administrative court for workers' compensation claims.

Those doubts have proved to be unfounded. The reform was implemented successfully in a year without increasing staff or budgets. Tennessee now has a Court of Workers' Compensation Claims that issues sound, consistent opinions based on the law in less time than pre-reform courts and that has received outstanding marks from attorneys in the Bureau's annual survey. The post-reform Appeals Board has provided an appellate court that has resulted in a 90% drop in cases appealed to the Supreme Court. Today more assistance is available to injured workers who do not have an attorney or whose employer did not provide workers' compensation benefits. Now fewer cases must go through a court hearing because of a mediation settlement rate above 80%.

And in the last year, the Bureau successfully addressed new issues such as a global pandemic, the rapid expansion of telehealth, and a need for employers to shorten the periods of their employees' disabilities caused by work related injuries.

The 2021 "review of the impact of the Workers' Compensation Reform Act of 2013" required by T.C.A. § 50-6-134 shows the reform resulted in a system that is more consistent, more focused on the needs of employees and employers, and more cost effective than the pre-reform system even in difficult times. We appreciate the General Assembly's vision in passing the 2013 Reform Act and additional legislation in the ensuing years that has continued to improve Tennessee's workers' compensation system.


Abbie Hudgens, Administrator



We're changing this report's data reporting period.

Previous reports were based on fiscal year where data was reported from July 1 through the end of the following June (when available). Because of the date legislation requires annual reports to be sent to legislators, it is not possible to provide a full year's data for the most current fiscal year. The change to calendar year (unless otherwise noted) will make it possible for data comparisons in complete twelve-month periods.

Data will now be reported in *calendar years* instead of fiscal years (unless otherwise noted).

The change results in data that is:



Easier to understand **at a glance.**



Reflects a **full 12 months** of data instead of 11 months and a week or so.

However, keep in mind that:



Data may **not be directly comparable** to previous reports due to timeframe shift.

Last year's report was based on a **fiscal year**.
Reporting Period: July 1, 2019 - June 30, 2020

This report is based on a **calendar year**.
Reporting Period: January 1, 2020 - December 31, 2020

[View previous reports](#)

Preface

This year's annual report is arranged into sections:

- Impact of 2013 Reform Act on Resolution of Claims
- Impact of 2013 Reform Act on Benefits to Injured Workers
- Impact of 2013 Reform Act on Medical Issues Related to Workers' Compensation
- Changes in the Workers' Compensation Law since 2013
- New Developments/Issues in the Workers' Compensation System
- Final Thoughts

The first three sections provide information on the changes the 2013 Reform Act made to a particular area of the workers' compensation law, changes, if any, made in the last seven years to that area, and information on the impact of the 2013 Reform Act on that area of the law. Statistics and commentary from the National Council on Compensation Insurance (NCCI) about the effect of the Reform Act are also included in applicable sections.¹

Following the first three sections is a recap of legislative changes to the workers' compensation law since the Reform Act. The final two sections of the report reflect on the challenges and issues facing the workers' compensation system.

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6. Final Thoughts

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¹ Post-Reform Study of Tennessee Senate Bill 200 (2021 Update, June 2021)

1. Impact on Resolution of Claims

Ombudsmen (p. 5)

Ombudsman Attorney (p. 6)

Mediation (p. 7)

Court of Workers' Compensation Claims (CWCC) (p. 8)

Workers' Compensation Appeals Board (WCAB) (p. 10)

Length of Time to Claim Resolution (p. 11)

Ombudsmen

The 2013 Reform Act created a new program to aid injured workers, family members, people claiming death benefits, and employers who are not represented by an attorney. The program answers benefit questions, directs people to published educational materials (both online and hard copy), and provides dispute resolution assistance. The program also directs people to federal, state, and charitable sources of aid and information such as: Jobs4TN.gov, 211, SNAP, and legal aid for non-workers' compensation related assistance. In 2016 the program was expanded through legislation (PC 1056) to allow ombudsmen to be attorneys. (See the following section for more information on Ombudsmen attorneys.)

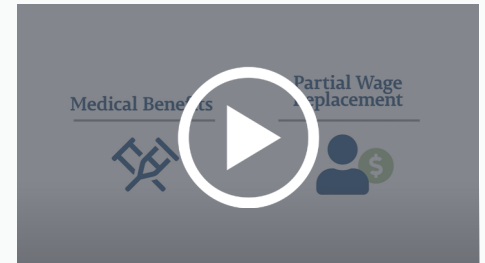
2020 Update

In 2020, the ombudsman program developed an interactive resource titled "Work Comp Dispute Essentials" to help ombudsmen explain how injured workers can solve their claim problems. The resource directs customers to educational videos and calculators to help them understand workers' compensation benefits. It also contains information regarding common practices and legal standards.

In 2020 ombudsmen:

- Helped 499 injured workers receive benefits.
- Provided 7,887 with educational materials.
- Sent 1,648 forms to start alternative dispute resolution.

Workers' Comp 101 in Tennessee



<https://youtu.be/CuLqYbbPQSY>

Ombudsman Assistance

12,994

Contacts via phone, email, chat,
or in-person

9,768

Claim issues addressed

- Helped 941 complete forms to start alternative dispute resolution.
- Helped resolve 1,164 claim disputes
- Provided workers' compensation information to 765 employers asking questions about how to report a claim, benefit eligibility, and benefit provision.

Impact

The ombudsman program has made the Tennessee workers' compensation system more effective, reduced delays, and has clarified the benefits available under the law for all parties. Survey responses from people who received assistance have been consistently favorable each year.

Ombudsman Attorney

Assistance for Self-Represented Litigants who are in Court

The ombudsman attorneys were added to the workers' compensation system by statute in 2016. The amendment allows the Bureau to provide limited legal advice and guidance to injured workers and employers who do not have an attorney. While ombudsman attorneys are prohibited from providing legal representation, they provide more legal assistance to self-represented litigants who are navigating the court system than ombudsmen who are not attorneys.

2020 Update

In 2020, the ombudsmen attorneys worked with the Tennessee Alliance for Legal Services and LawDroid to create a new online resource. The ChatBot is an interactive computer program that helps injured workers and employers file a petition for benefit determination (PBD). The petition is required to initiate mediation. The ChatBot also helps employees and employers file a request for an expedited hearing. Those claims that do not settle through mediation go to court via this form.

The ombudsmen attorneys also collaborated with the Tennessee Alliance for Legal Services to increase workers' compensation awareness. Vanderbilt University Law School, Lincoln Memorial University Law School, and the Workers' Dignity Project are currently working with the Bureau to educate law students, injured workers, and community

Ombudsman Survey Results

93%

Positive overall experience reported by customers

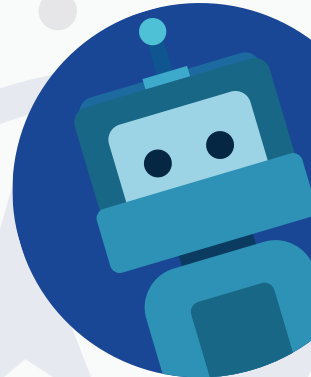
94%

Customers report that the ombudsman understood and listened to their concerns

92%

Customers report the ombudsman provided helpful information regarding the Court of Workers' Compensation Claims

I can help you fill out your petition for benefit determination form via chat or **with your voice.**



activists about workers' compensation and the services provided by the Bureau.

Impact

The ombudsman attorney program is a significant addition to the workers' compensation system because of its positive impact on unrepresented parties. Injured workers assisted by ombudsmen attorneys are better prepared for court.

Mediation Program

Alternative Dispute Resolution resolves disputes without going through a court hearing.

The 2013 Reform improved the mediation program first created in 1992. Mediators focus on dispute resolution through compromise. They educate, develop trust, and establish rapport to achieve resolution sooner and more effectively. The 2013 reform made all mediations mandatory and required that disputes be identified during mediation. Both of these changes led to a higher number of settlements and fewer court hearings.

2020 Update

The mediation program adapted to the pandemic with a wholesale conversion to telephonic mediation. Few mediations have been conducted in-person after social distancing protocols were implemented.

During the pandemic mediations took four days longer, but the delay did not reduce the settlement rate of mediation. Many wrongly expected the move away from in-person mediation would adversely impact the mediators' ability to help parties resolve disputes, but it did not. As a result, the mediation program will continue to use virtual mediation in the future when it works best for the parties.

3,034

Mediations conducted in 2020

2,479

Claim disputes resolved through mediation

555

Claims sent to the Court of Workers' Compensation Claims

82%

Claim disputes resolved through mediation

Impact

Agreed resolutions have increased by nearly twenty percent since the 2013 Reform was enacted.

Mediators help injured workers, attorneys, employers, and insurance companies resolve workers' compensation disputes through compromise, education, and information exchange.

Mediation benefits employees by saving them time, money, and reducing the risks associated with court, where they carry the legal burden to prove their claims. Employers benefit from lower litigation costs, a shortened claims process, and improved relationships with employees.

Mediation improves satisfaction with the workers' compensation claim process for both employees and employers. Understanding other perspectives and priorities changes perceptions and allows parties to agree on terms. Parties' ability to work together on settlement terms avoids the win-lose scenario in court and allows both sides to benefit from resolution.

Court of Workers' Compensation Claims

The Legislature created the Court of Workers' Compensation Claims to be a specialty court dedicated solely to workers' compensation. A desire for consistent outcomes and expedient claim resolution motivated the Court's creation. The Court achieved these anticipated results in 2020 as it has in every preceding year while being innovative, creative, and responsive. We innovated by introducing a different settlement process. We created by establishing safety guidelines for conducting hearings/trials during the pandemic. And, we responded to a crisis by anticipating the effect of the pandemic and preparing for it before it occurred. The Court received positive feedback from employees, employers, and attorneys expressing their appreciation for the modifications made to allow settlements and hearings to proceed rather than being placed on indefinite hold.

2020 Update

Throughout 2020, the Court continued working as if no pandemic existed. The Court approved approximately 8,000

Attorney Involvement and Settlement Rates

70%

of employees had an attorney during mediation

81%

of those mediations settled (with employee attorney)

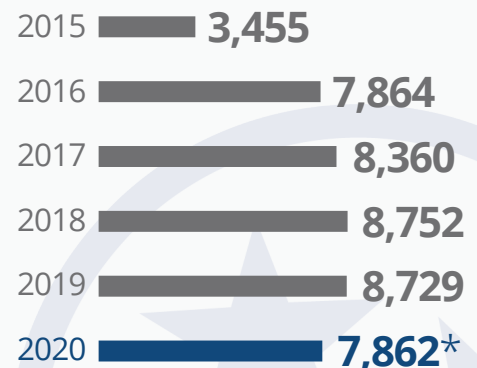
30%

of employees did **not** have an attorney during mediation

82%

of those mediations settled (without employee attorney)

Court of Workers' Compensation Claims Settlements



**This number reflects a drop in settlements over the last 9 months of 2020 likely due to the COVID pandemic.*

settlements, conducted close to 3,000 status and related hearings, tried 142 cases – mostly in-person – and delivered decisions to the parties on an average of seven business days from trial for expedited cases and eleven business days from trial in compensation cases.

Experience shows that under pre-reform law it was rare that an unrepresented employee represented him/herself in a trial setting. This is not rare at all in the post reform world. And, when they do represent themselves, they are successful in part.

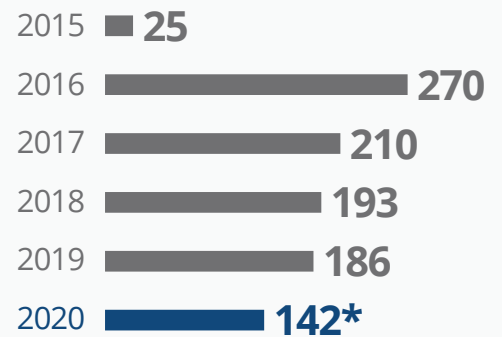
Of 298 expedited hearings since 2016, where the employee represented him/herself they have won 37% of those cases. Of 350 expedited hearings where the employee is represented by an attorney, the employee has won 64% of those cases. And, since 2016, in 33 compensation hearings, the self-represented employee has won 24%, while a represented employee won 75% of the time in 89 such hearings.

Attorney involvement looks different when all workers' compensation claims are analyzed. The 2021 NCCI study of the Reform Act compared the percent of attorney involvement in all cases for Fiscal Years 2012 through 2017 at a common maturity of 42 months. (See NCCI Chart 7) This study showed a decrease, but not as great as what CWCC observed in the cases that came before the court.

Impact

The Court of Workers' Compensation provides an efficient, consistent, and reliable system for adjudicating claims. Time from injury to a "day in court" has dramatically shortened. The Court's focused and experienced judiciary apply consistent legal principles creating a more reliable system. Due to the consistent application of legal principles, more than 98% of claims with compensable injuries in 2020 resulted in a voluntary settlement, while less than 2% proceeded to a final hearing. The increased number of voluntary settlements results in a savings of two valuable resources to parties: time and money. The statutory change in 2015 that required all settlements to be approved by a CWCC judge has protected both employees and employers from additional litigation.

Court of Workers' Compensation Claims Trials

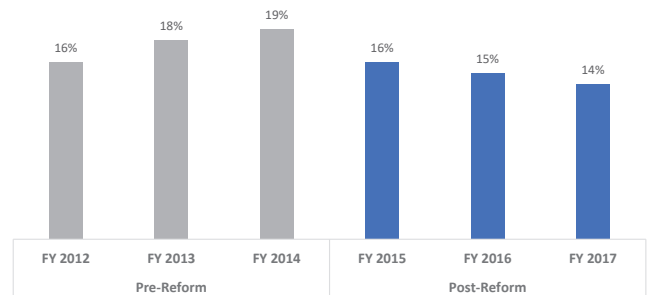


**This number reflects a drop in trials over the last 9 months of 2020 likely due to the COVID pandemic.*

The **slow decline** in actual trials reflects a **stabilization** of the effects of the reform in two areas:

Predictability of Outcome
and
Consistent Application of the
Legal Principles

Chart 7: Percent of Cases with Attorney Involvement by Fiscal Year



Source: NCCI's *Detailed Claim Information* data.

NCCI Chart 7
POST-REFORM STUDY OF
TENNESSEE
SENATE BILL 200
(2021 UPDATE)

Workers' Compensation Appeals Board

The Workers' Compensation Appeals Board, created by the 2013 Reform Act, hears appeals of interlocutory and final orders from the Court of Workers' Compensation Claims. Between July 1, 2014 and December 31, 2020, the Board received 486 appeals and issued 363 opinions (which does not include dismissals). As a direct result of the 2013 reforms, the number of workers' compensation cases appealed to the Tennessee Supreme Court has decreased significantly.

In the six years before the Reform Act became effective (2009-2014), 384 workers' compensation appeals were filed with the Supreme Court. In the six years since, 52 "new law" cases were appealed to the Supreme Court.

2020 Update

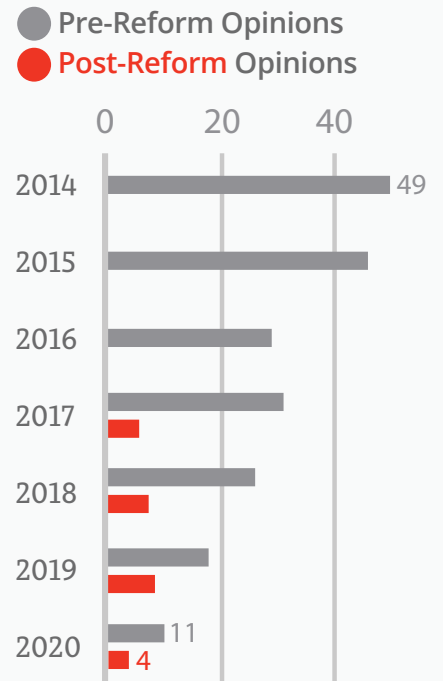
In calendar year 2020, despite the reduction of trial court hearings caused by COVID-19 restrictions, the Board received 49 appeals and issued 42 opinions. This was a 24% decrease from the number of Board opinions issued in 2019. The Board instituted virtual oral argument hearings and conducted two sessions of oral arguments virtually in 2020. Only 5 WCAB opinions issued in 2020 were appealed to the Tennessee Supreme Court. In three of those cases, the Supreme Court's Special Workers' Compensation Panel affirmed the decision of the Appeals Board and adopted its opinion as their own. The other two appeals remain pending.

Impact

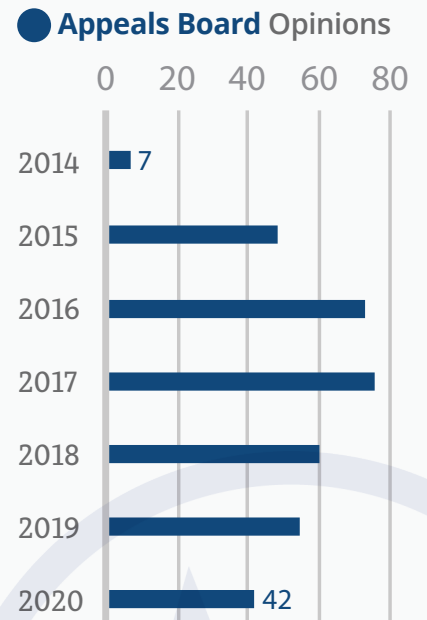
Appeals are resolved much more quickly as compared to pre-reform appeals, with interlocutory appeals being resolved in an average of 16 days after receipt of the record, and final compensation order appeals being resolved in an average of 28 days after the briefing period ended (or after oral argument, whichever is later).

Of the 363 Board opinions issued since July 1, 2014, the injured worker has received some or all the relief sought

Supreme Court Opinions Issued



Appeals Board Opinions Issued



"Pre-Reform" refers to workers' compensation opinions based on pre-7/1/14 law.

"Post-Reform" refers to workers' compensation opinions based on post-7/1/14 law.

in approximately 53% of the cases. In calendar year 2020, this percentage was somewhat lower at 45%. Although the Appeals Board does not have statistics showing the percentage of employees who were self-represented on appeal prior to the implementation of the Reform Act, they noted that, since July 2014, approximately 42% of all appeals have involved self-represented employees. In 2020, the Board made several changes intended to provide quicker and easier access to information about the appeals process, including the addition of an FAQ page on the Bureau's website and the revision of our published Guide for Injured Workers (available in both English and Spanish and in both digital format and hard copy).

Length of time to claim resolution

Timeliness data helps us measure recovery.

The average length of time to conclude a claim is an indication of the efficiency of a workers' compensation system. This time-period was shorter after the 2013 Reform Act went into effect. There are two ways to analyze the change in the length of time. One measures from the time the employee reaches maximum medical improvement (MMI) and the other is to measure the time from the date of accident.

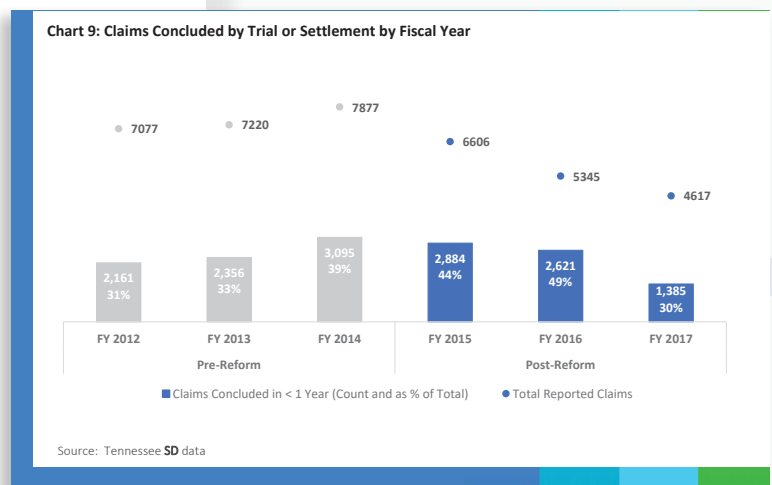
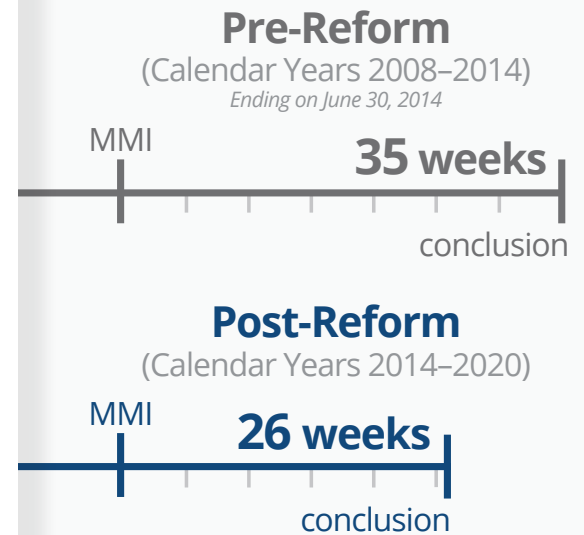
2020 Update

The chart on the right illustrates the result of measuring the time to claim conclusion from the date an employee reaches MMI based on the Date of Injury records and Statistical Data Forms (SD-2) submitted to the Tennessee Bureau of Workers' Compensation through December 31, 2020.

The 2021 NCCI study of the Reform Act measured the length of time between accident date and claim conclusion. NCCI Chart 9 displays an increase in the percentage of cases concluded within one year of the accident date. When considering these results, note that other factors such as the severity of injuries may affect the length of the dispute resolution process when it is measured from the date of accident. This suggests that the measurement from MMI to conclusion is a better indicator of the effectiveness of the adjudication process after the Reform Act. This chart only shows data

Timeliness MMI to Conclusion

Maximum Medical Improvement is the point in which the physician states the injury has plateaued.



NCCI Chart 9
POST-REFORM STUDY OF
TENNESSEE
SENATE BILL 200
(2021 UPDATE)

from three years post-reform, but the report also includes statistics from the FY 2018 and FY 2019 which are below.

Impact

Shorter periods to resolve disputed claims mean that employees and employers get resolution on disputed claims more rapidly, which is better for all and a sign of a well-functioning workers' compensation system. Employees benefit from receiving disability benefits sooner. Employers benefit financially and from improved operations and reduced costs when claims are resolved more efficiently.

Year	Number of Disputed Claims	% Resolved within a Year of the Accident Date
FY 2018	3,228	47%
FY 2019	2,951	55%



2. Impact on *Benefits*

Definition of injury (Causation) (p. 13)

Construction of Workers' Compensation Law (p. 14)

Temporary Total Disability Benefits (p. 15)

Permanent Partial Disability (PPD) Benefits (p. 16)

Permanent Total Disability Benefits and Social Security
(p. 17)

Death Benefits (p. 18)

Definition of Injury (Causation)

The reform clarified what qualifies as a compensable injury.

One of the most noteworthy changes to the workers' compensation law in the Reform Act of 2013 was the definition of "injury."

For dates of injury on or after July 1, 2014, the worker must prove that the injury arose "primarily" out of and in the course and scope of employment when all other possible causes are considered. "Primarily" means that work must have contributed greater than 50 percent in causing the overall injury. The opinion of the treating physician shall be presumed correct on the issue of causation but may be rebutted by a preponderance of evidence.

2020 Update

There have been no changes to this section of the Reform Act since it went into effect.

Impact

"Primarily" is a greater burden of proof for employees to meet to prove the injury/illness was work related than in pre-reform injuries. Under pre-reform case law, state courts consistently held that an award for workers' compensation benefits was proper if based upon medical testimony that a given incident "could be" the cause of the employee's injury, when there was also lay testimony that the incident was the cause of the injury. The change means employers may have fewer compensable workers' compensation claims and lower costs.



Construction of Workers' Compensation Law

No longer liberally construed, favoring neither party.

Before the 2013 reforms, the workers' compensation statute was "remedial" in nature, to be equitably or liberally construed by the courts in favor of the injured worker. For injuries occurring on or after July 1, 2014, the law is applied fairly and impartially, favoring neither the employee nor employer. See T.C.A. § 50-6-116.

Stated in another way, before the 2013 reforms, the law was interpreted to benefit the injured worker, and any "close calls" were to favor the injured worker. Since the 2013 reform, however, the law has been interpreted "fairly and impartially," favoring neither the employer nor the employee. This method of interpretation results in a more consistent application of the law to facts.

2020 Update

No change in the construction of the Workers' Compensation Law has occurred since the 2013 Reform Act.

Impact

The impact on employees of this construction of the statutes is most apparent in the application of the causation analysis for workers' compensation injuries in contested cases. The law now requires a medical opinion stating that the injury contributed more than fifty percent in causing the "death, disablement or need for medical treatment." Most injuries are accepted as work-related and necessitating medical treatment. For example, the impact affects employees where evidence exists of similar problems before the alleged work-related injury. Those cases depend on the doctor's opinion. The matter then becomes a dispute for the judges of the Court of Workers' Compensation to decide.

The impact on employers of this change is that they can expect less ambiguity about whether a claim is compensable and a consistent application of the law in court.



Impact of the Combination of Changes in Construction of the Statute and Definition of Injury

NCCI hypothesized that the impact on costs related to these two changes might be inferred by changes in claim frequency (per million dollars of premium) for lost time claims. Chart 5 from the NCCI report illustrates the decrease in lost time claim frequency in the period of accident year 2013 to accident year 2018. It should be noted that claims frequency in workers' compensation claims has been decreasing across the country during the period in this chart although Tennessee's decrease is higher than many other states.

Temporary Total Disability Benefits

Temporary Total Disability (TTD) benefits stop when an employee reaches Maximum Medical Improvement (MMI) and the treating physician has stopped all active medical care except for pain management treatment, even if the impairment rating has not been issued by the treating physician. Before the 2013 Reform Act an employee could receive TTD benefits after reaching MMI if an impairment rating had not been assigned by the treating physician, which could result in weeks of additional TTD even when the worker could return to work. The provision to provide TTD benefits for 104 weeks after reaching MMI if the employee suffered a mental injury with a physical injury was eliminated. TTD payments made after the date of MMI are now offset against permanent benefit payments, which was not always the case before the 2013 Reform.

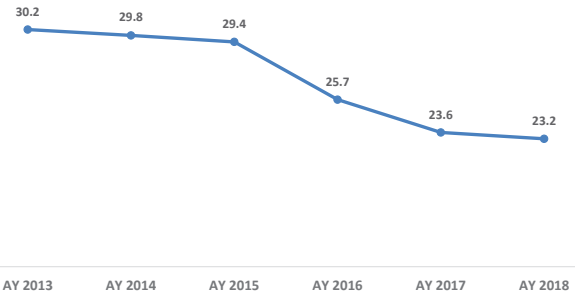
2020 Update

There have been no changes in this part of the 2013 statute.

Impact

The cost of temporary total disability payments has been lowered for employers. There is no longer a financial incentive to the employee to delay returning to work after reaching maximum medical improvement when all active medical treatment has stopped other than pain management treatment. TTD payments are no longer made after MMI.

Chart 5: Lost-Time Claim Frequency Per Million of Premium by Calendar-Accident Year



Source: NCCI's *Financial Call* data. Based on premium and claim counts developed to ultimate.

NCCI Chart 5
POST-REFORM STUDY OF
TENNESSEE
SENATE BILL 200
(2021 UPDATE)

Permanent Partial Disability (PPD) Benefits

The reform simplified the PPD benefit calculations

Employees whose injuries result in a permanent disability that is “partial in character” are eligible for a PPD benefit at the time they reach maximum medical improvement (MMI). The 2013 Reform Act changed some aspects of PPD but not others.

Under the pre-reform law, if an employee returned to work at a wage equal to or greater than the employee’s wage at the time of the injury, he/she could receive a PPD award equal to:

The impairment rating assigned by the physician multiplied by the number of weeks set by law (400)

multiplied by the compensation rate (66 2/3% of the employee’s average weekly wage

multiplied by the state multiplier (up to 1.5)

The 2013 Reform made a change in this benefit. Now an employee can receive PPD benefits at the time he/she reaches MMI whether the employee has returned to work or not. The PPD is now called the “original award” and is equal to:

The impairment rating assigned by the physician multiplied by the number of weeks set by law (450, an increase of 50 weeks)

multiplied by the compensation rate (66 2/3% of the employee’s average weekly wage

multiplied by the state multiplier (1)

If an injured employee is not able to return to work for any employer after the period of time covered by the “original award” or after 180 days from reaching MMI, whichever is later, or makes less than the pre-injury wage, the employee is eligible for an additional PPD benefit calculated in the same way as the original award but with multipliers that can total up to 3.05. Now there are specific multipliers for the following: not being able to return to work, age, education, and/or the unemployment rate in the worker’s county.

For injuries that occurred before July 1, 2014, if the employer did not return the employee to work at a wage equal to or greater than his/her wage at the time of injury, the employee

How are PPD Benefits Calculated?



<https://youtu.be/SQS06q-yd1o>

could receive an award based on a variable multiplier of up to 6. The multiplier was based on settlement negotiations or the decision of the judge.

Prior to the Reform Act impairment ratings were based on either the body as a whole or a schedule member. The Reform Act required all impairment ratings to be based on the body as a whole.

In the 2021 NCCI study of Tennessee's 2013 Reform Act, they determined that the average PPD indemnity cost per claim decreased by approximately 28% as illustrated in Chart 1 of the NCCI report.

2020 Update

There has been no change in this part of the statute since the 2013 Reform Act.

Impact

Employees can now receive an award when they reach MMI even if they have not returned to work, which helps them financially if they are not able to return to work yet. Claims can be concluded more rapidly since there is no need for negotiation or a court determination about the amount of the PPD award. The litigation process before the reform could take many years and caused animosity between the employer and employee when there was a dispute about a claim. Awards are consistent across the state, which gives the workers' compensation system more stability and predictability.

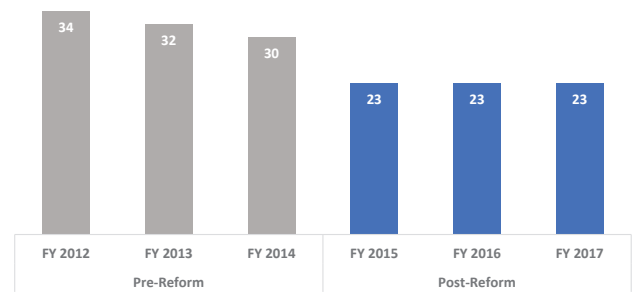
However, the current formula tends to result in lower awards for PPD than under the pre-reform law even though they are based on an extra 50 weeks.

Permanent Total Disability Benefits and Social Security

Adjusting the Cap on Benefits for Retirement-Aged Injured Workers

A little-known change in benefits was to the provision that provided for up to five years of benefits for injured employees 60 years old with a permanent total impairment. The basic benefit for employees with permanent total injuries was to receive periodic indemnity benefits (66 2/3% of their wages at the time of the injury) until they were entitled to full Social Security benefits. However, if employees were older than

Chart 1: Average Permanent Partial Indemnity Cost Per Case (\$000s) by Fiscal Year



Source: NCCI's Workers Compensation Statistical Plan data as of 4th report, adjusted to FY 2017 wage and benefit level

NCCI Chart 1
POST-REFORM STUDY OF
TENNESSEE
SENATE BILL 200
(2021 UPDATE)

sixty when they suffered an injury, they received 260 weeks (five years) of indemnity benefits (66 2/3% of their wages at the time of the injury) as compensation for their impairment since there was a shortened period for permanent total disability compensation. At the time this provision was enacted the normal retirement age was sixty-five, and five years of benefits would pay an employee benefits until they were eligible for Social Security benefits. But by 2013 the eligibility age had been moved to sixty-seven, which left a two-year gap between receiving permanent total benefits and eligibility for Social Security benefits. The 2013 Reform changed this to provide 260 weeks of benefits to employees who had less than five years before they were eligible for Social Security. This simple change in wording prevented the gap from occurring for employees who would not be eligible for Social Security until they were 66 or 67.

2020 Update

This section of the statute has not been changed since the 2013 was enacted.

Impact

The cap on permanent and total disability became aligned with the change in Social Security retirement age, which protected injured employees from a gap between permanent total disability benefits and Social Security benefits.

Death Benefits

The 2013 Reform Act did not make any changes to Death Benefits.



3. *Impact on Medical Programs*

Physician Communication and Medical Records (p. 19)

Physician Panels (p. 19)

Treatment Guidelines/Drug Formulary (p. 20)

e-Billing (p. 22)

Physician Communication and Medical Records

This change allowed the employer or employer's representative to freely communicate with the treating physician. It removed the requirement that the employee had to sign a waiver before the employer could review the medical records related to the workers' compensation injury.

2020 Update

There have been no changes to this section of the statute since it went into effect.

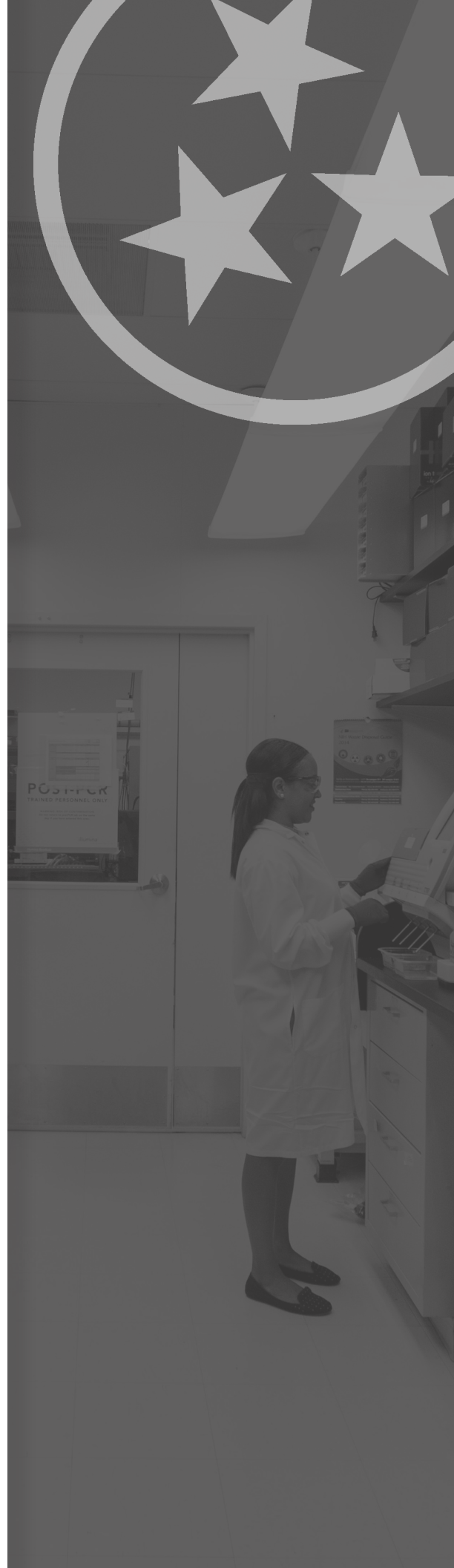
Impact

The employer or their representative gets timely access to the information needed to investigate the claim. This allows them to provide the necessary medical treatment faster and enables more effective resolution of claims.

Physician Panels

Referrals and subspecialty panels

The requirement to provide a panel of medical providers was simplified in the 2013 Reform Act by requiring the employer to provide the injured worker one panel of at least three appropriate physicians or chiropractors from which to make a choice of an authorized treating physician (ATP). Once chosen, this panel physician may make direct referrals to a specialist unless the employer provides a panel of



specialists to the employee within three business days of the ATP's referral. The law also gave the ATP's impairment rating and course of treatment the presumption of correctness.

The new law also clarified that if an employee is given a physician selection form and does not sign and return it to the employer, and subsequently accepts treatment from a physician on the panel, that action constitutes acceptance of the panel. Prior to the reform employers were required to provide a panel with various numbers of physicians depending upon the nature of the injury. The employer also had to provide an additional panel of three specialists when the ATP referred the patient to a specialist.

Finally, the 2013 Reform Act included provisions that all physicians on a panel must be willing to treat workers' compensation patients in what was dubbed as the "no dead doctor" rule. Employers also faced penalties for not providing an employee an appropriate panel promptly.

2020 Update

There have been no changes to this section of the statute since the 2013 Reform Act went into effect.

Impact

Doctor shopping by claimants is now more difficult. It is also more difficult for employers to avoid providing panels timely. Employees can no longer accept treatment from a panel physician and then contend they didn't get a proper panel because they didn't sign the physician selection form.

Treatment Guidelines/Drug Formulary

Comprehensive treatment guidelines (ODG by MCGTM) were adopted in 2016 and included a drug formulary. Well accepted by the carriers and third-party administrators (TPAs), the guidelines and formulary provide one source as the reference to evaluate the medical necessity of requested treatments for injured workers. Updates to the guidelines are reviewed for acceptability in Tennessee quarterly by the Bureau's Medical Advisory Committee, comprised of stakeholders in workers' compensation: labor, medical providers, employers, and insurers.

What is an "Authorized Treating Physician"?



<https://youtu.be/UOrbTmjQXOI>

2020 Update

There has been no change in this section of the Reform Act since the legislation went into effect.

Impact

Most medical providers remain unaware of or choose to ignore the guidelines despite an extensive statewide educational initiative. The best doctors already practice to the standards set by the guidelines, but the “best” doctors are not always chosen to be on panels. Some unnecessary or repetitive procedures have been eliminated, which has benefitted injured workers.

The expenses for some drugs and unnecessary procedures have been reduced after the implementation of the drug formulary. Almost all topical compounds not approved by the US Food and Drug Administration (FDA) are no longer covered, which results in savings up to \$1,000 per prescription. A 2019 NCCI Research Brief reported that prescription drug utilization decreased in a study of the eighteen-month period after implementation of the drug formulary.ⁱⁱ The percentage of claims receiving any drugs and the number of prescriptions per claim decreased. The number of drugs that required prior authorization decreased 20% as illustrated in Exhibit 3 of the Research Brief.

The impact of the 2013 Reform on medical costs is difficult to quantify because they are affected by the severity of claims in a year, the demographics of injured workers, and other factors not related to the 2013 Reform, such as Tennessee initiatives to reduce opioid usage. The 2021 NCCI study of the Reform Act noted that the “average medical paid-plus-case severity” decreased by 4.3% in accident year (AY) 2018 after increasing by an average of 8.2% between AY 2015 and AY 2017. Chart 6 in the NCCI Post Reform Study shows the medical average paid + case severity by accident year.

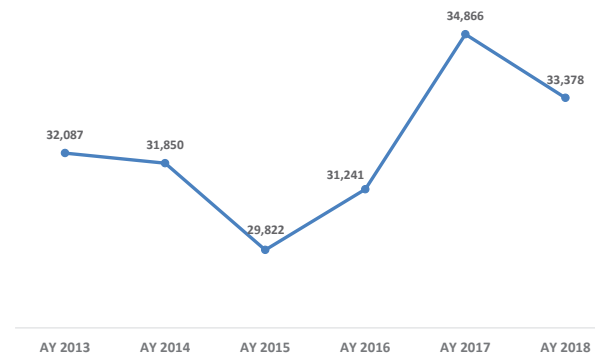
NCCI Exhibit 3
2019 NCCI
RESEARCH BRIEF

	Pre-Reform	Post-Reform	% Change
Share of Claims With at Least One Prescription Drug	41%	38%	-6%
Share of Claims With at Least One N-Drug Script	12%	10%	-20%
Share of Claims With at Least One Y-Drug Script	39%	37%	-5%
Scripts per Claim With at Least One Prescription Drug	6.3	6.1	-4%
N-Drug Scripts per Claim With at Least One N-Drug Script	4.1	4.0	-3%
Y-Drug Scripts per Claim With at Least One Y-Drug Script	5.3	5.2	-1%
Price per Script	\$162	\$160	-2%
Price per N-Drug Script	\$282	\$284	+1%
Price per Y-Drug Script	\$135	\$136	+1%
Drug Cost per Claim With at Least One Prescription Drug	\$1,030	\$975	-5%

Based on MDC data for prescriptions paid between 3/1/16 and 8/31/17

Exhibit 3

Chart 6: Medical Average Paid + Case Severity (in \$) by Accident Year



Source: NCCI's *Financial Call* data.
Based on losses and claim counts developed to ultimate.

NCCI Chart 6
POST-REFORM STUDY OF
TENNESSEE
SENATE BILL 200
(2021 UPDATE)

ⁱⁱ Insights-Research-Brief-Formulary-Post-Reform-june2019.pdf (ncci.com)

e-Billing

Moving billing from paper to electronic transfer improves response time (payment cycle) by as much as two weeks. This improvement has been well-accepted by all larger payers and medical groups. Once the combining of records with bills was automated, the requests for exemptions has fallen by 57% from 2019 to 2020.

The system provides payers and providers with improved accounts receivables, reducing the use of paper and mail.

Impact on Employees

With more rapid reimbursement and reduced staff time, providers are more likely to accept injured workers.

Impact on Employers

Lower costs may result in more choices for panel physicians.



90%

of payers now use e-Billing



4. Changes in TN Workers' Compensation **Law** since 2013

The following changes have occurred since the Reform Act was implemented July 1, 2014:

2014

PC 765: Authorized the Bureau to provide temporary disability and medical benefits from the Uninsured Employers Fund to any eligible employee who suffered an injury arising primarily within the course and scope of employment with an employer who failed to have workers' compensation insurance at the time the employee suffered the injury (**Uninsured Employer Fund Benefits**).

Impact: Employees of employers who did not provide workers' compensation insurance coverage as required by law have been able to receive temporary disability and medical benefits. Bureau mediators have helped employers and employees settle workers' compensation claims where an uninsured employer agrees to pay for these benefits out of pocket.

2015

PC 341: The Reform Act of 2013 included a provision that workers' compensation would be an autonomous unit of the department of labor and workforce development for administrative purposes under the direction of an administrator who was appointed by the Governor for a maximum of two terms of six (6) years each. This change was made to ensure its independence and to recognize "Tennessee's endeavor to reform the workers' compensation law in a manner designed to ensure the health and safety of Tennessee workers and to promote Tennessee as an attractive destination for business." **PC 341 changed the name of the workers' compensation agency from Division of Workers' Compensation to Bureau of Workers' Compensation to clarify the change in structure in the Reform Act of 2013.**



PC 341 (2): **Settlement agreements must be approved by a workers' compensation judge.** Any settlement not approved is void.

Impact: By having a workers' compensation judge review and approve a settlement agreement, injured workers and their employers are protected from unfair settlements.

PC 341 (3): Extended the **statute of limitations for filing a claim** for workers' compensation benefits to two years from the date of the last payment of permanent partial disability benefits where an employer has paid those benefits to settle a claim but without a court-approved settlement agreement.

Impact: Protects injured workers from insurance carriers using a statute of limitations defense to avoid paying the employee's entire permanent partial disability benefits because of a deliberate delay in benefit payments.

PC 342: Required that **utilization reviews** be conducted by providers accredited by either the utilization review accreditation commission (URAC) or the national committee for quality assurance (NCQA).

Impact: Employees and employers benefit from having utilization review organizations being audited and accredited by URAC or NCQA to ensure certain standards are met. Utilization review organizations must offer timely and efficient service for workers' compensation medical treatment.

2016

PC 816: When enforcing open medical provisions, the Court of Workers' Compensation Claims may award **attorney fees and reasonable costs** incurred in the enforcement of medical benefits provisions in all orders.

Impact: This provision benefits the injured worker who must retain counsel to enforce an open medical benefit provision in their settlement agreement or order.

PC 816 (2): Removed 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**.

Impact: This provision has rarely been used by the Court, but it offers protection for an injured worker who has suffered a serious injury. The Court can award additional benefits if limiting the employee's recovery to the standard



Injured
workers
can retain
counsel
to
enforce
an open
medical
benefit
provision.

benefits would be “inequitable in light of the totality of the circumstances” and certain conditions are met.

PC 1056: Provided 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, or
- Wrongfully denies a claim by failure to timely initiate any of the benefits to which the employee is entitled. **Note:** The two-year sunset provision was extended in PC 757 (2018) to June 30, 2020, and was not extended in 2020 due to the pandemic-shortened legislative session but was revived in PC 152 in 2021 and extended until June 30, 2023.

***Impact:** This provision has made it easier for injured workers to retain counsel when their claim has been wrongfully denied by their employer and/or insurance carrier.*

PC 1056: Allowed for ombudsmen who are licensed attorneys to assist self-represented litigants by providing **limited legal advice** and **reduced the period of reporting** of a work injury from 30 days to 15 days.

***Impact:** The Bureau’s ombudsman attorney program has helped hundreds of injured workers who needed help with their claims and did not have an attorney. The ombudsmen attorneys may not represent any party, but they can provide limited legal assistance. As to the impact of reducing the period for reporting a work injury from 30 to 15 days, there has been no known direct impact on the reduction of claims attributable to the shorter reporting period.*

PC 803: Required all **case managers** and case manager assistants be certified by the Bureau before offering case manager services and established a penalty for any violation of these requirements and standards. Authorized 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 Bureau.

***Impact:** Injured workers have benefited from better case management services and better claims handling because of the passage of this statute.*



Requiring **certified** case managers improves claim handling quality.

2017

PC 380: Raised **burial expense benefit** in workers' compensation cases to \$10,000 (from \$7,500).

Impact: Families of deceased workers who were killed in the course and scope of employment benefited from this increase in burial expenses.

PC 344: Provided an education benefit for injured employees who are not able to make a meaningful return to their pre-injury job (Vocational Recovery Program a/k/a the "**Next Step Program**").

Impact: This important initiative offers educational and vocational assistance to injured workers who are unable to return to work after a work injury. This program will pay up to \$5,000 per year for up to 4 years for educational assistance.

2018

PC 629: Allowed **farm and agricultural employers** to accept the workers' compensation laws by purchasing a workers' compensation insurance policy.

Impact: This legislation was permissive in nature and will allow farmer and agricultural employers to offer workers' compensation insurance to their workers.

PC 648: Provided that a **marketplace contractor** is an independent contractor and not an employee of the marketplace platform if 10 conditions in a written agreement between the marketplace platform and the marketplace contractor are met.

Impact: This legislation changed the 6-factor test to a 10-factor test for marketplace contractors. This new law does not apply to construction service providers.

PC 757: Extended the termination date to June 30, 2020, on the recovery of **attorney fees** and other costs against an employer in a workers' compensation action who wrongfully denies a claim, and the workers' compensation judge subsequently makes a finding that these benefits were owed at an expedited hearing or compensation hearing; defined "wrongfully" as "erroneous, incorrect, or otherwise inconsistent with the law or facts." Note: Due to the pandemic-shortened legislative session in 2020, this legislation expired in 2020 but was revived in 2021 for an additional two years in PC 152.



Next Step Scholarship program approved its first award-recipient in 2020. Douglas isn't letting his past work injury stop him now.

Impact: This law has allowed a workers' compensation judge additional latitude in awarding attorney fees to an employee's attorney in cases where the employee was wrongfully denied benefits.

PC 563: Extended the Bureau of Workers' Compensation for six years to June 30, 2024.

PC 513: Extended the Medical Advisory Committee for six years to June 30, 2024.

PC 514: Extended the Medical Payment Committee for six years to June 30, 2024.

*Impact: These three **sunset extensions** were a vote of confidence by the legislature in the Bureau's administrative processes and medical committees.*

2019

PC 490: Created a presumption that certain conditions or impairments of full-time **firefighters** caused by certain cancers occurred in the course of employment unless the contrary is shown by competent medical evidence.

Impact: There have been few firefighter cancer cases heard by the Court of Workers' Compensation Claims since this law passed. This may be due to a lack of disputes about these claims. Also, claims for these benefits from a public entity that has not accepted the workers' compensation statute are not reported to the Bureau. Firefighters with these cancers should benefit from this law, since they will not have the burden of proving their claim by a preponderance of the evidence, as in other workers' compensation claims.

PC 373: Prohibited a medical review officer from considering **prescriptions** issued more than six months prior to a positive confirmed drug result for purposes of determining a valid prescription.

Impact: This law prevents an injured worker who tests positive for drugs from being able to assert having a prescription as a defense unless that worker has a valid prescription issued in the six-month period prior to the positive test. This statute makes it more difficult to use drugs inappropriately.

2020

PC 682: Required all **construction services providers**



Cancer-
causing
injuries
now
covered
for fire
fighters.

(including out-of-state providers) to maintain primary Tennessee workers' compensation insurance coverage while working in Tennessee and imposes liability on a successor in interest of a penalized construction services provider.

***Impact:** The requirement for out-of-state employers to maintain primary workers' compensation insurance on employees in Tennessee protects workers in the event of an injury. Liability of successors in interest will prevent companies from closing their businesses and re-opening under a different name to avoid paying a workers' compensation coverage penalty.*

PC 731: Extended the minimum deadline to 180 days for an injured employee to qualify for and to file a claim for **increased benefits** with the Bureau of Workers' Compensation; lengthens the period of time from 60 days to 180 days following an injury that an employee has to provide notice to the Bureau of the failure of an employer to have workers' compensation insurance coverage to qualify for benefits from the Uninsured Employers Fund; removes the 60-day requirement for a full and final hearing on entitlement to benefits from the Uninsured Employers Fund.

***Impact:** Provides additional protection to injured workers.*



5. *New Developments & Issues in the Workers' Compensation System*

Telehealth Rules (p. 29)

COVID-19 (p. 31)

Opioids (p. 32)

Access to Care (p. 32)

Compliance (p. 33)

REWARD Program (p. 34)

New Telehealth Rules

Rules offering guidance on telehealth's role in workers' compensation

These rules will establish a framework and guidance for the voluntary provision of medical services by telehealth.

These rules simply create a voluntary option to receive medical treatment by telehealth if the employee, medical provider, employer, and insurance carrier all voluntarily agree.

For well over a year, a working group of medical providers, employers, attorneys, insurers, and health care experts met, reviewed, provided input, and made recommendations in drafting rules on telehealth. By making the use of telehealth completely voluntary under TN workers' compensation, if one party does not agree to telehealth, medical care and treatment for work-related injuries shall be provided through in-person medical office visits. The rules also promote access to care by employees injured at work, especially in rural or more remote areas.

A public rulemaking hearing was held on February 19, 2021. After hearing public comments and making suggested edits, upon approval of the Attorney General, the rule will be filed with the Secretary of State and will go into effect subject to the approval of the Joint Government Operations Committee.

Here are highlights of the new rules:

The provision of medical services via telehealth does not



change or in any way affect the requirements for causation, date of maximum medical improvement, or permanent impairment ratings required of an authorized treating physician pursuant to the workers' compensation law. In all workers' compensation claims, statements of causation, date of maximum medical improvement, permanent restrictions, and permanent impairment rating(s) must be provided by a medical doctor, doctor of osteopathy, or doctor of chiropractic, in accordance with the workers' compensation law.

Telehealth providers may be considered as additional options to the three (3) provider panel. A medical provider who provides in-person office visits may also offer telehealth to injured workers, but the employee, provider, employer and insurance carrier must all voluntarily agree to the telehealth option.

Before receiving medical benefits in the form of telehealth, an injured worker must be given an opportunity to request and receive in-person medical assessment and treatment.

An injured worker may refuse a telehealth encounter at the time of the panel choice, without affecting future care or treatment to which the injured worker is entitled. If at the time of the panel choice, the injured worker refuses a telehealth choice, the panel offered shall include three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups who are qualified, willing and able to timely see and treat the injured worker in person.

The injured worker has the option to refuse telehealth during the initial visit or follow-up visits and to request that visits occur in person.

The Tennessee medical fee schedule, including but not limited to Tennessee-specific conversion percentages, shall apply to the providers of telehealth services rendered pursuant to the workers' compensation law.

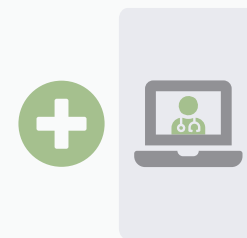
The list of health conditions not appropriate for telehealth that is provided in the rules is not exhaustive or proscriptive. There may be extraordinary or extenuating circumstances where some of the conditions listed might be appropriate for telehealth.

Expected Impact

The injured worker who chooses telehealth would not have to travel to the office of the medical provider, which should be helpful to those in remote areas and to those who have

Panels including **Telehealth**

Three in-person physicians are still required on a panel.



Telehealth providers may be considered as additional options.

transportation issues, other health considerations, or busy schedules. It may lead to greater access to medical care and more rapid access.

COVID-19 Effects on Workers' Compensation

The COVID-19 pandemic affected Tennessee's workers' compensation as it did all other areas of life in the state. The first report of injury that listed COVID-19 as the cause of the injury came in the first week of March 2020. The number of COVID related claims climbed steadily, and by the end of May 2021, the Bureau had received notice of almost 8,000 claims for benefits. The figure below illustrates the number of COVID claims that were accepted as a claim since the first report was received. While these notices of claims were received, many would ultimately be denied for a number of reasons, such as lack of evidence that COVID-19 had been contracted at work or a claim filed when a COVID test was taken when a COVID test was taken but yielded a negative result.

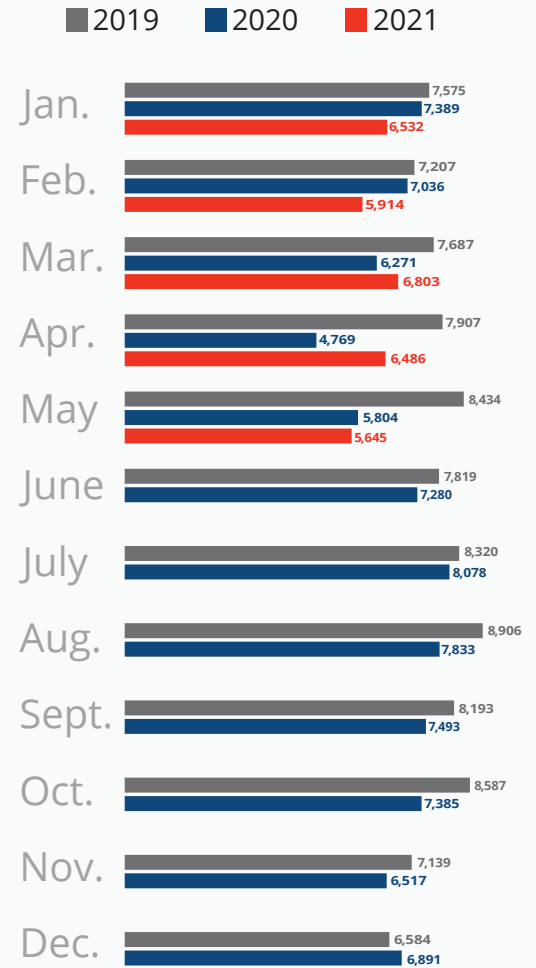
While some states found a large decrease in the number of all workers' compensation claims, Tennessee's reduction was not large and averaged 18% for the heaviest months. The difference was only 4% in May 2021.

Expected Impact

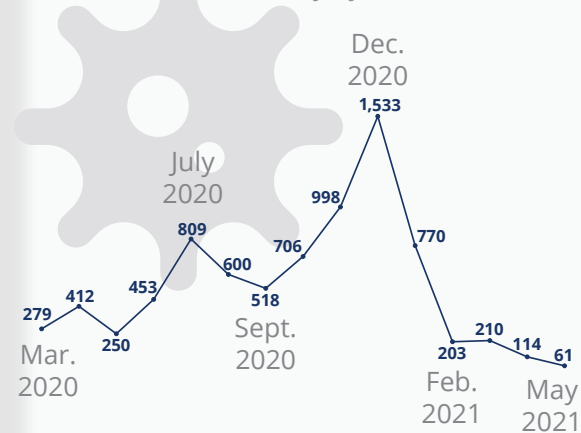
The effects of COVID-19 on Tennessee's workers' compensation were not as severe as expected in the early months of the pandemic. The cost of these claims in Tennessee and across the country have been relatively low, but it is too early to know their ultimate cost.

The pandemic is not behind us yet, and there are still unknowns. We don't know whether the changes in work patterns due to the pandemic, such as work from home, will continue when the pandemic is over and whether these changes will decrease or increase the frequency of workers' compensation injuries. We also do not know how many workers who had COVID will have residual symptoms or physical conditions (Post-Acute COVID Syndrome (PACS) or "long Haulers") which may require subspecialty assessment and treatment. Some of these individuals may not be able to return to their previous employment. More time will have to pass before the total impact of COVID-19 is known.

Total Number of Claims reported to the Tennessee Bureau of Workers' Compensation



Claims Reported with COVID Injury Code:



Opioids

In combination with legislation, the Department of Health Chronic Pain Management Guidelines, and the Bureau's adopted guidelines, the share of claims with opioid prescriptions and the amount of opioids per claim have dropped over the last 5 years by 14% and 30% respectively (NCCI, September 2020). Higher doses have been reduced. However, for Tennessee workers' compensation claims, the number of claims getting opioids and those claims that involve opioids in combination with other addictive drugs remain above the national average. Unfortunately, progress in the workers' compensation population has not been better than the state's overall experience. There have been savings from reduced opioid use, but they have been modest, \$100 per opioid claim over 5 years (14%). The Bureau's appeal process for the utilization review denials of treatment by carriers continues to use the Department of Health Chronic Pain Management Guidelines to accurately assess the continued use of opioids.

Expected Impact

The use of opioids continues to be a problem in the medical care for employees with workers' compensation claims.

Access to Care

Access to care remains a challenge in an increasing number of areas across the state for specialties like neurology, dermatology, pulmonology, ophthalmology, psychiatry, and cardiology. In the past few years there has been an increase in physicians who decline to take workers' compensation patients or who demand an "access fee" to accept an injured worker as a patient. These access fees can be several thousand dollars.

Multiple factors contribute to physicians' reluctance to accept workers' compensation patients and include: the administrative burden of workers' compensation patients, objections to giving a deposition and dealing with attorneys who they perceive as being overly aggressive, problems with case managers, lack of patient compliance, delays or denial of authorizations for requested treatment, and unexpected discounts taken on fees from "silent PPOs." The most recent problem may be the most serious. The Bureau has been receiving complaints from physicians who are not paid at all for the services they have provided.



Expected Impact

The reluctance of some specialists to provide medical care for employees with workers' compensation claims is a growing concern for employers, insurance companies, third party administrators, and the Bureau of Workers' Compensation. If solutions are not developed, there will be injured workers who will not have access to the care that they need.

Compliance

It is critical that employers provide the workers' compensation coverage the law requires for their employees. Unless employers pay workers' compensation benefits voluntarily, injured workers do not have wage replacement benefits or a way to pay for medical care. They are left to rely on their savings, family assistance, or public relief programs.

Compounding these problems is the unfair advantage noncompliant employers gain when they bid on jobs. Because they save on workers' compensation costs and other employer benefits they don't pay, they can submit lower bids than employers who follow the law. Employers who follow the law lose jobs and can lose their businesses.

Over the past few years there has been increasing evidence that noncompliant employers have become bolder in their refusal to follow the law. They have learned that they can ignore penalties without consequences and continue to make large profits at others' expense.

There have been some hopeful developments in this troubling situation. Legislation passed in 2021 may help the Bureau's efforts to reduce employer noncompliance with the workers' compensation law. This new legislation will primarily affect 3 areas: subpoenas, penalties, and collections. (1) Subpoenas can be issued by the Bureau with an extended response time of twenty-one (21) days and may be served on an employer or any other party believed to have information relevant to our investigations. After the twenty-one days, if a response is not received, a penalty can be issued in the amount of \$50 per day up to a total penalty of \$5,000 per subpoena. Additionally, Chancery Court can find an employer in contempt of court for failure to comply with a subpoena. (2) Penalties will be issued for both an employer understating or misrepresenting its number of employees, payroll, or job duties, as well as an employer's failure to secure and maintain the payment of



workers' compensation insurance coverage. Penalties for misclassifying employees will now apply to construction and non-construction businesses in the state. (3) Effective July 1, 2021, if the Bureau has made a good faith effort to collect penalties owed without success, the Bureau will have the authority to issue a distress warrant for collection of past-due penalties.

R.E.W.A.R.D. Program

In February of this year the Bureau unveiled the REWARD program, which stands for "Return Employees to Work and Reduce Disabilities." This initiative began with a collaboration of Bureau staff, employers with successful return to work programs, medical professionals, and insurance companies with advice from other states that have successful return-to-work programs. REWARD is intended to bring all the parties involved in a workers' compensation claim together to achieve the best outcomes for all concerned, which is employees' return to the workplace doing meaningful work as soon as possible.

The centerpiece of the REWARD program is a toolkit with information and sample documents to help employers implement a program for their company. Included in the toolkit are:

- Advice on actions to take before and after an injury occurs, for identifying transitional work assignments, and for assisting employees who are unable to return to work due to their work-related injury.
- Sample return-to-work and transitional job offer policies.
- Information to share with authorized treating physicians concerning the successful return-to-work program.
- A return-on-investment calculator to help employers predict their savings from implementing a REWARD program.
- Information about the Certified Physician Program that will train, test, and certify physicians beginning in 2022.
- Information about the Bureau's new Honor Roll, which will annually recognize employers who have outstanding return-to-work programs.

Currently, Bureau staff, with the assistance of members of the group that helped develop the REWARD program,

introducing the
REWARD Toolkit

Download at bit.ly/reward-toolkit



are making presentations around the state to acquaint employers with the new program and its advantages. The first training for return-to-work coordinators, an important element of REWARD, will begin July 15th.

Helping injured employees find their way back to meaningful work is REWARD's goal and will benefit employees, employers, and the state. When someone works, they have a purpose, and they can provide for their family. Employers can save money and gain productivity by bringing experienced employees back on the job. It is the Bureau's hope that the REWARD program can help make this a reality for employees and employers across Tennessee.



6. *Final Thoughts*

In 1919 the first workers' compensation law went into effect in Tennessee. It took years of negotiations among many interests to arrive at a bill that could gain enough support for passage. The law was described as The Grand Compromise because employees gave up the chance for a large award in civil court in return for salary replacement and medical treatment without regard to fault or the need for a long, expensive legal process. Employers had to give up the defense that they weren't negligent for the accident and provide benefits for all injuries that occurred as part of employees' jobs. The first law wasn't perfect but provided a foundation for a social insurance program that has evolved over the past 102 years and has helped maintain the social fabric in the state.

Workers' compensation touches the lives of hundreds of thousands of people each year if injured workers, families, coworkers, employers, and the taxpayers of Tennessee are included in the count. Today a better description of workers' compensation than Grand Compromise is Fragile Balance. Once the Grand Compromise became institutionalized, maintaining the balance of many different interests has been difficult. In the last fifty years complaints raised by employers about unfair costs led to reforms that have since led to complaints that states are in a "race to the bottom." It is the role of each state to find the right balance between competing demands, and it is a Fragile Balance. Fortunately, even with differences among interests, the promise of workers' compensation has not changed, and that is to provide "security to injured workers while furthering the economic interests of their employer and, hopefully, returning injured workers to the status of productive members of society."ⁱⁱⁱ In Tennessee there is a commitment to maintain that Fragile Balance and that commitment is reflected in the implementation of the 2013 Workers' Compensation Reform and the continuing work to improve the system through the joint efforts of all the special interests.

ⁱⁱⁱ *A Century of Progress and Perspective, Workers' Compensation in Tennessee*, 2019, Tennessee Bureau of Workers' Compensation.

