

**RULES
OF THE
DEPARTMENT OF LABOR
DIVISION OF WORKERS' COMPENSATION**

**CHAPTER 0800-02-07
GENERAL RULES OF THE WORKERS' COMPENSATION PROGRAM
CASE MANAGEMENT**

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0800-02-07-.01 DEFINITIONS - GENERAL.

As used in this chapter, the following terms are used as follows:

- (1) "Administrator" means the administrator of the Tennessee Bureau of Workers' Compensation.
- (2) "Bureau" means the Tennessee Bureau of Workers' Compensation.
- (3) "Case management" means medical case management or the ongoing coordination of medical care services provided to an injured or disabled employee and for the purpose of this chapter shall only be provided by a registered case manager or case manager assistant under the direct supervision of a registered case manager.
- (4) "Case manager" means an individual who provides or supervises the provision of case management services under this chapter and who is either:
 - (a) A licensed registered nurse, licensed under T.C.A., Title 63, Chapter 7, who possesses one or more of the following:
 1. A Master's Degree in Vocational Rehabilitation Counseling; or
 2. Certification as a Certified Disability Management Specialist (CDMS); or
 3. Certification as a Certified Rehabilitation Registered Nurse (CRRN); or
 4. Certification as a Certified Occupational Health Nurse (COHN); or
 - (b) Certified as a Certified Case Manager (CCM).
- (5) "Case manager assistant" means an individual who provides case management services under the direct supervision of a case manager and who meets one of the following:
 - (a) The individual is a registered nurse, licensed under T.C.A., Title 63, Chapter 7; or
 - (b) The individual possesses one of the following:
 1. A Master's Degree in Vocational Rehabilitation Counseling; or

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2. Certification as a Certified Insurance Rehabilitation Specialist (CIRS). (Note: This certification is now called "Certified Disability Management Specialist" (CDMS); or
 3. Certification as a Certified Rehabilitation Counselor (CRC).
- (c) Registered Case Manager Assistants may continue their present duties under direct supervision of a Registered Case Manager for 24 months from the date of the effect of these rules. A Case Manager Assistant, at the end of a 24-month period must be certified by one of the categories under the definition of a Case Manager or their registration with the Bureau will terminate. Persons who are not current Case Manager Assistants shall have a 24-month period from the date they become Case Manager Assistants under the supervision of a Registered Case Manager to obtain certification.
- (6) "Catastrophic injury" means any injury which is one of the following:
- (a) Spinal cord injury involving severe paralysis of an arm, a leg, or the trunk;
 - (b) Amputation of an arm, a hand, a foot, or a leg involving the effective loss of use of that appendage;
 - (c) Severe brain or closed head injury as evidenced by:
 1. Severe sensory or motor disturbances;
 2. Severe communication disturbances;
 3. Severe complex integrated disturbances of cerebral function;
 4. Severe disturbances of consciousness;
 5. Severe episodic neurological disorders; or
 6. Other conditions at least as severe in nature as any condition provided in subparagraphs 1 through 5 of this paragraph;
 - (d) Second or third degree burns over 25 percent of the body as a whole or third degree burns to 5 percent or more of the face or hands; or
 - (e) Total or industrial blindness.
- (7) "Commissioner" means the Commissioner of the Department of Labor and Workforce Development.
- (8) "Contractor" means that organization or organizations referred to in T.C.A. § 50-6-124 [Section 8 of Public Chapter 900 of the Acts of 1992].
- (9) "Department" means the Tennessee Department of Labor and Workforce Development.
- (10) "Medical Director" means the Medical Director appointed by the Administrator of the Bureau of Workers' Compensation pursuant to T.C.A. § 50-6-126.

Authority: T.C.A. §§ 4-5-202, 50-6-102, 50-6-122, 50-6-123, 50-6-124, 50-6-126, 50-6-233, Public Acts 1992, Chapter 900, § 2, and Public Acts 2013, Chapters 282 and 289. **Administrative History:** Original

(Rule 0800-02-07-.01, continued)

rule filed January 28, 1993; effective May 13, 1993. Amended by Public Chapter 467; effective May 31, 1993. Amendment filed March 20, 2007; effective July 27, 2007. Amendment filed December 26, 2013; effective March 26, 2014. Repeal and new rule filed May 31, 2016; effective August 29, 2016.

0800-02-07-.02 CASE MANAGEMENT SYSTEM.

- (1) An insurer who provides workers' compensation insurance regulated by the provisions of T.C.A., Title 50, Chapter 6 or a self-insured employer may provide for a system of case management for cases involving compensable injuries under T.C.A., Title 50, Chapter 6.
 - (a) Any insurer providing workers' compensation insurance under T.C.A., Title 50, Chapter 6, may provide for or contract for case management services when such services are provided.
 - (b) The insured employer may choose to provide case management services itself or through a third party administrator. If so, the insured employer shall inform its insurer in writing of its choice.
- (2) The Administrator may provide or contract for certain case management services. The case management services which may be provided or contracted for may include, but are not limited to, providing:
 - (a) A review of an individual case when an employee, employer, or health care provider seeks review of a decision or action by the employer's case manager by the Bureau of Workers' Compensation;
 - (b) A review of case management services provided by case managers or case management firms for an employer for workers' compensation cases; and
 - (c) Development of reports and summaries of case management of medical care and services in workers' compensation cases in Tennessee.
- (3) It shall be the responsibility of every employer who elects to provide case management services to injured workers, either directly or through its insurer or third party administrator, to give basic information to and encourage the injured worker's participation in case management. It shall further be the responsibility of those parties to inform the injured worker of the identity of the contractor and of the case management providers for workers' compensation cases for the employer, and of the possibility that the injured worker will be contacted by the case management provider for the employer. Those parties shall also inform the injured worker that provision of information to the contractor and to the case management provider for the employer for purposes of case management is strongly encouraged.
- (4) In all cases in which the employer uses case management services, it is the responsibility of the injured worker to cooperate with the case manager in all reasonable requests including, but not limited to, requests for information, provider appointments (and changes to provider appointments), and other communication relevant to helping the employee progress toward the best medical outcome.

Authority: T.C.A. §§ 4-5-202, 50-6-102, 50-6-122, 50-6-123, 50-6-126, 50-6-233, Public Acts 1992, Chapter 900, § 3 and 7, and Public Acts 2013, Chapters 282 and 289. **Administrative History:** Original rule filed January 28, 1993; effective May 13, 1993. Amendment filed March 20, 2007; effective July 27, 2007. Amendment filed December 26, 2013; effective March 26, 2014. Repeal and new rule filed May 31, 2016; effective August 29, 2016.

0800-02-07-.03 CASE MANAGEMENT THRESHOLD.

- (1) **Catastrophic Injuries.** An employer or insurer should provide case management services in all cases where an employee has suffered a catastrophic injury. The employer or insured should assign a case manager within seven (7) calendar days of receiving notice that the employee has suffered a catastrophic injury. There shall be one face-to-face meeting within fourteen calendar days after the assignment. After the initial meeting, there should be face-to-face meetings or other communications as necessary for the progress of the patient until such time as case management services are concluded. Should an employee experience a significant decline in their medical condition, there should be a face-to-face meeting between the case manager and the employee within fourteen (14) calendar days of notification of such a change. Documentation evidencing the first face-to-face meetings shall be submitted to the Medical Director of the Tennessee Bureau of Workers' Compensation within thirty (30) calendar days of the first meeting on the Bureau's required case management form.
- (2) **Non-catastrophic Injuries.** For non-catastrophic injuries, there should be one initial face-to-face meeting if and when a case manager is assigned to the claim. This should occur within 14 days of the assignment. It is appropriate to consider case management services if medical expenses over \$10,000 (ten thousand dollars), an impatient hospitalization, or lost work time over three months is anticipated. Further meetings and communication should occur as the case warrants. Documentation evidencing the initial face-to-face meetings shall be submitted to the Medical Director of the Tennessee Bureau of Workers' Compensation within thirty (30) calendar days, if medical expenses over \$10,000 (ten thousand dollars), an impatient hospitalization, or lost work time over three months is anticipated, on the Bureau's required case management form.

Authority: T.C.A. §§ 4-5-202, 50-6-102, 50-6-122, 50-6-123, 50-6-233(c)(6), and Public Acts 1992, Chapter 900, § 3. **Administrative History:** Original rule filed January 28, 1993; effective May 13, 1993. Amendment filed May 13, 1997; effective July 27, 1997. Amendment filed March 20, 2007; effective July 27, 2007. Repeal and new rule filed May 31, 2016; effective August 29, 2016.

0800-02-07-.04 ELEMENTS OF CASE MANAGEMENT.

- (1) Case management services shall include, but not be limited to, the following elements required in T.C.A. § 50-6-123 [Section 7(b) of Public Chapter 900]:
 - (a) Developing a treatment plan to provide appropriate medical services to an injured or disabled employee;
 - (b) Systematically monitoring the treatment rendered and the medical progress of the injured or disabled employee;
 - (c) Assessing whether alternate medical care services are appropriate and delivered in a cost-effective manner based on acceptable medical standards;
 - (d) Ensuring that the injured or disabled employee is following the prescribed medical care plan; and
 - (e) Formulating a plan for return to work with due regard for the employee's recovery and restrictions and limitations, if any.
- (2) A case manager shall not:
 - (a) Prepare the panel of physicians or influence the employee's choice of physician;

(Rule 0800-02-07-.04, continued)

- (b) Determine whether the case is work related;
 - (c) Question the physician or employee regarding issues of compensability;
 - (d) Conduct or assist any party in claims negotiation, investigation, or any other non-rehabilitative activity;
 - (e) Advise the employee as to any legal matter including settlement options or procedures, monetary recovery, claims evaluation, or the applicability of the workers' compensation act to the employee's claim;
 - (f) Accept any compensation or reward from any source as the result of settlement;
 - (g) Discuss with the employee or physician what the impairment rating should be;
 - (h) Reschedule medical appointments without first discussing the scheduling change with the employee;
 - (i) Refuse to provide case management reports to parties to the claim;
 - (j) Assist in any way in recording the employee's activity for the purposes of disproving the employee's claim; or
 - (k) Deny or authorize treatment for the purpose of guaranteeing prepayment or precertification.
- (3) Any case manager that commits any of the actions provided in paragraph (2) may be assessed a civil penalty of up to five hundred dollars (\$500) for each action committed. The Administrator shall have discretion to suspend the registration of any case manager assessed more than three (3) penalties in any two (2) year period for up to sixty (60) days. The Administrator shall have discretion to suspend the registration of any case manager for up to one (1) year for offenses after the three-penalty limit within any two (2) year period. Any case manager suspended by the Administrator pursuant to this paragraph shall not provide case management services to any employee receiving treatment for a workers' compensation injury during the period of suspension. Any case manager who has had their registration suspended by the Administrator who provides case management services during the period of suspension shall be assessed a civil penalty of one thousand dollars (\$1,000) and shall have their registration suspended for six (6) months.
- (4) Failure to submit the required forms within thirty (30) days of referral and within thirty (30) days of closing the case may result in a civil penalty of one hundred dollars (\$100) per occurrence.
- (5) It is the intent of the case management system to expedite communication and provide a conduit for improving the efficiency and timeliness of care in all cases where case management is undertaken. To that end, all providers, injured workers, adjusters and employers should utilize case management to its fullest extent and provide expedited responses to the case manager's requests.

Authority: T.C.A. §§ 4-5-202, 4-5-301, 50-6-102, 50-6-118, 50-6-122, 50-6-123, 50-6-126, 50-6-233, Public Acts 1992, Chapter 900, § 7, and Public Acts 2013, Chapters 282 and 289. **Administrative History:** Original rule filed January 28, 1993; effective May 13, 1993. Amendment filed March 20, 2007; effective July 27, 2007. Amendment filed December 26, 2013; effective March 26, 2014. Repeal and new rule filed May 31, 2016; effective August 29, 2016.

0800-02-07-.05 INVESTIGATION OF COMPLAINTS; SANCTIONS AND APPEALS OF AGENCY DECISIONS

- (1) Any physician, other provider, or an injured employee who is receiving case management services may report instances of inappropriate case management services to the Bureau of Workers' Compensation Medical Director. The Medical Director may investigate and report the results of the investigation to the Administrator. At the discretion of the Administrator, a report may be sent to the Board of Nursing or other certifying board for appropriate disciplinary proceedings.
- (2) Failure by an party to comply with any requirement in this Chapter 0800-02-07 shall subject such party to a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) per violation at the discretion of the Administrator. The Bureau may also institute a temporary or permanent suspension of the right to perform case management services for workers' compensation claims, if the utilization review agent has established a pattern of violations.
- (3) An agency decision assessing sanctions and/or civil penalties shall be communicated to the party to whom the decision is issued, and the party to whom it is issued shall have fifteen (15) calendar days from the date of issuance to either appeal the decision pursuant to the procedures provided for under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-101, et seq., or to pay the assessed penalties to the Bureau or otherwise comply with the decision.
- (4) In order for a party to appeal an agency decision assessing sanctions and/or civil penalties, the party must file a petition with the Commissioner within fifteen (15) calendar days of the issuance of the decision. This petition shall be considered a request for a contested case hearing within the Department pursuant to the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-101, et seq., and the procedural rules of Chapter 0800-02-13 are incorporated as if set forth fully herein. The Department is authorized to conduct the hearing pursuant to T.C.A. § 50-6-118.
- (5) If the agency decision assessing sanctions and/or civil penalties is not appealed within fifteen (15) calendar days of its issuance, the decision shall become a final order of the Department not subject to further review.

Authority: T.C.A. §§ 4-5-314, 50-6-102, 50-6-118, 50-6-123, 50-6-126, and Public Acts 1992, Chapter 900, §§ 7 and 10. **Administrative History:** Original rule filed January 28, 1993; effective May 13, 1993. Repeal and new rule filed May 31, 2016; effective August 29, 2016.

0800-02-07-.06 CONFIDENTIALITY OF RECORDS.

- (1) Subject to any applicable requirement of law concerning confidentiality of records, a case manager or a firm providing case management services shall provide the Administrator, or the Administrator's designee, with any appropriate case management records or permit the Administrator or the Administrator's designee to inspect, review, or copy such records in a responsible manner.
- (2) For case management purposes, the Bureau of Workers' Compensation and its contractor(s) will maintain any required confidentiality of any personally-identifying information concerning employees claiming workers' compensation benefits which the Bureau may obtain. Provision of these records pursuant to this rule shall not constitute a waiver of an applicable privilege or confidentiality.

Authority: T.C.A. §§ 4-5-202, 50-6-102, 50-6-122, 50-6-123, 50-6-126, 50-6-233, Public Acts 1992, Chapter 900, § 2, and Public Acts 2013, Chapters 282 and 289. **Administrative History:** Original rule

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0800-02-07-.07 CASE MANAGEMENT INFORMATION.

- (1) The contractor or the employer's case management provider shall have the right to contact the injured or disabled worker, employer, insurer, third party administrator, legal representative, and all health care providers involved in the case. The contacted parties shall have the duty and responsibility to cooperate and provide information to the contractor or employer's case management provider, to the same extent as provided in Rule 0800-02-06-.02 of these rules.
- (2) All injured or disabled workers and their legal representatives are required to cooperate with the contractor or employer's case management provider with respect to all reasonable requests for information necessary for case management purposes. The contractor shall report any refusal to cooperate to the Medical Director.
- (3) Any dispute concerning the reasonableness of any request for information may be submitted, in writing, to the Bureau of Workers' Compensation's Medical Director. The determinations of the Medical Director concerning the reasonableness of such requests are final.
- (4) Any party that fails to provide information pursuant to a request for information that the Medical Director has determined to be a reasonable request may be assessed a civil penalty of up to five hundred dollars (\$500).

Authority: *T.C.A. § 50-6-123 and Public Acts 1992, Chapter 900, § 7. Administrative History:* *Original rule filed January 28, 1993; effective May 13, 1993. Repeal and new rule filed May 31, 2016; effective August 29, 2016.*

0800-02-07-.08 REGISTRATION AND CONTINUING EDUCATION REQUIREMENTS.

- (1) The provision of case management services to employees who have suffered a workers' compensation injury is a privilege and no case manager or case manager assistant may provide case management services in workers' compensation cases in Tennessee unless the case manager or case manager assistant has registered with the Bureau and paid the appropriate fee.
 - (a) All case managers and case manager assistants must complete the registration form provided by the Bureau and submit the form and pay the fee of one hundred dollars (\$100) to the Bureau. Case managers and case manager assistants who are currently registered shall be required to pay the renewal fee of fifty dollars (\$50) only when the regular renewal date occurs. The initial registration fee shall be due and payable commencing with existing renewal registration dates, beginning 90 days from the effective date of these rules.
 - (b) Every two (2) years thereafter, all case managers and case manager assistants must complete a registration renewal form and submit the form and a renewal fee of fifty dollars (\$50) to the Bureau when the regular renewal date occurs.
 - (c) Upon receipt of the completed form and fee, the Bureau shall review the registration and issue a registration letter to the case manager. A registration letter for a case manager assistant shall be sent to the supervising case manager as well as the case manager assistant. If the registration is rejected, the Bureau shall return the registration form and fee to the case manager.

(Rule 0800-02-07-.08, continued)

- (d) The above-referenced fees shall be in effect for registrations received by the Bureau thirty (30) or more days from the effective date of these rules.
- (2) All case managers must undergo at least four (4) hours of continuing education every year that is specific to the treatment of injured workers, under the Tennessee Workers' Compensation law and procedures.
- (3) All case managers must complete the continuing education requirement before the case manager can renew their registration with the Bureau. No registration renewal form will be accepted by the Bureau unless the case manager has completed the continuing education requirement and supplied the Bureau with documentation.

Authority: T.C.A. § 50-6-123 and Public Acts 1992, Chapter 900, § 7. **Administrative History:** New rule filed May 31, 2016; effective August 29, 2016.