

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
WORKERS' COMPENSATION DIVISION**

**CHAPTER 0800-02-24
ENFORCEMENT PROCEDURES FOR THE COURT OF WORKERS' COMPENSATION CLAIMS**

TABLE OF CONTENTS

0800-02-24-.01	Scope	0800-02-24-.05	Assessment of Civil Penalty
0800-02-24-.02	Securing Compliance with Orders	0800-02-24-.06	Appeals of Civil Penalty Assessment
0800-02-24-.03	Referrals for Penalty Assessment	0800-02-24-.07	Payment
0800-02-24-.04	Investigation of Referrals for Penalty Assessment		

0800-02-24.01 PURPOSE AND SCOPE.

These rules are intended to ensure the effective and expedient resolution of workers' compensation claims within the adjudication process provided through the court of workers' compensation claims and the attendant mediation process. These rules govern only the procedures for the assessment of civil penalties that arise from actions related to the adjudication of claims with a date of injury that is on or after July 1, 2014, in the court of workers' compensation claims and the attendant mediation process. In addition to these penalties, the Division may also assess civil penalties, where appropriate, pursuant to Division rules.

Authority: T.C.A. § 50-6-118. **Administrative History:** Original rule filed December 22, 2014; effective March 22, 2015.

0800-02-24-.02 SECURING COMPLIANCE WITH ORDERS.

- (1) Whenever a judge has issued an interlocutory or final order in a workers' compensation claim and a party has failed to comply with that order, the party seeking enforcement of the order may file a motion to compel with the court requesting that the court enforce the order. Prior to filing the motion, the moving party must make an attempt to contact the opposing party to inform the party that a motion to enforce the order will be filed.
- (2) Before filing the motion, the moving party must contact the clerk's office to obtain a date that the judge is available to hear the motion. The moving party shall include a notice of hearing in the motion setting forth the date and time of the hearing before filing the motion with the clerk. The moving party shall serve a copy of the motion and notice upon all other parties to the claim in the manner provided by rule 0800-02- 21-.09.
- (3) All parties may file a response to the motion. Any response must be filed with the clerk and served upon all other parties to the claim in the manner provided by rule 0800-02-21-.09. All responses must be filed and served not later than five (5) calendar days before the scheduled hearing.
- (4) If at the hearing, the judge determines that a party has failed to comply with the order at issue, the judge, in addition to ordering compliance with the order, may refer the noncompliant party to the Division's penalty program for the assessment of a civil penalty.

Authority: T.C.A. §§ 50-6-118 and 50-6-239. **Administrative History:** Original rule filed December 22, 2014; effective March 22, 2015.

(Rule 0800-02-24-.05, continued)

0800-02-24-.03 REFERRALS FOR PENALTY ASSESSMENT.

In addition to referrals made by a workers' compensation judge, any Division employee may refer any person or entity to the penalty program for the assessment of a civil penalty whenever the referring employee believes that there may have been a violation of the Division's rules or the Tennessee Workers' Compensation Act. Pursuant to this chapter, the penalty program shall be responsible for investigating all referrals for civil penalties, making determinations of whether assessment of a civil penalty is appropriate under the circumstances, assessing civil penalties, collecting civil penalties, and appearing at contested case hearings whenever a party that has been assessed a civil penalty chooses to challenge the assessment.

Authority: T.C.A. §§ 50-6-118 and 50-6-239. **Administrative History:** Original rule filed December 22, 2014; effective March 22, 2015.

0800-02-24-.04 INVESTIGATION OF REFERRALS FOR PENALTY ASSESSMENT.

- (1) Upon receipt of a referral, the referral shall be assigned to an employee of the penalty program who shall attempt to collect all information necessary to determine whether a civil penalty should be assessed.
- (2) In investigating a referral, the investigating employee may contact any person or entity involved in the claim.

Authority: T.C.A. § 50-6-118. **Administrative History:** Original rule filed December 22, 2014; effective March 22, 2015.

0800-02-24-.05 ASSESSMENT OF CIVIL PENALTY.

- (1) The investigating employee may assess a civil penalty for each action of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that is the subject of the referral for the following acts:
 - (a) Failed to attend a scheduled alternative dispute resolution proceeding;
 - (b) Arrived more than thirty minutes late to any scheduled alternative dispute resolution proceeding without previously notifying the mediator of their tardiness;
 - (c) Denied or stopped providing benefits for a claim of temporary disability or medical benefits without first performing a reasonable investigation of the claim;
 - (d) Provided medical providers on a Form C-42 that the party knew, should have known, or had good reason to believe, would not provide treatment for the injured employee;
 - (e) Provided medical providers on a Form C-42 in an untimely manner;
 - (f) Failed to comply within a reasonable amount of time with any appropriate request or directive of an ombudsman;
 - (g) Failed to timely provide documents as required by the Tennessee workers' compensation act or the Division's rules; or
 - (h) Failed to provide a representative with authority to settle a case at alternative dispute resolution proceeding.

(Rule 0800-02-24-.05, continued)

- (2) In addition to the assessment authority provided in paragraph (1), the investigating employee shall assess a civil penalty of not less than fifty dollars (\$50) but no more than five thousand dollars (\$5,000) against the person or entity that has failed to comply with any order of a workers' compensation judge in a timely manner or has performed any of the actions enumerated in § 29-9-102 in relation to any proceedings in the court of workers' compensation claims. In assessing a penalty under this subsection, the investigating employee shall not be required to determine that the person or entity acted in bad faith.
- (3) The investigating employee shall send written notice of the assessment to the assessed party in the manner provided by rule 0800-02-21-.09.
- (4) The person or entity against whom the penalty has been assessed shall have fifteen (15) calendar days from the date the penalty is assessed to challenge the assessment by requesting a contested case hearing. If a contested case hearing is not timely requested, the penalty shall become due and payable and shall not be subject to further review.
- (5) Failure to pay the penalty within five (5) business days after it has become due and payable may result in the assessment of additional civil penalties.
- (6) In addition to these penalties, the investigating employee may assess a civil penalty of up to five thousand dollars (\$5,000) for a violation of rule 0800-02-01-.25(1).

Authority: T.C.A. § 50-6-118. **Administrative History:** Original rule filed December 22, 2014; effective March 22, 2015

0800-02-24-.06 APPEALS OF CIVIL PENALTY ASSESSMENT.

- (1) All requests for a contested case hearing must be made in writing, received by the Division, and must include a copy of the penalty assessment.
- (2) A request for a contested case hearing shall not be timely unless the request is received by the Division before the close of business on the fifteenth (15th) calendar day after the date the penalty was assessed.
- (3) If the referral for a civil penalty was made by a workers' compensation judge, the judge who made the referral shall not be required to provide testimony, via deposition or in person, at the contested case hearing.
- (4) After the request has been filed, the contested case hearing shall be conducted in the manner provided by rule 0800-02-13-.17.

Authority: T.C.A. § 50-6-118. **Administrative History:** Original rule filed December 22, 2014; effective March 22, 2015.

0800-02-24-.07 PAYMENT.

- (1) Unless otherwise provided by law, penalties shall be made payable to the Division of Workers' Compensation. Payment may be made by check or credit card and, if made by check, must be mailed to the Division at the address provided on the penalty assessment notice.
- (2) All penalties collected by the Division from an employer for failure to provide workers' compensation coverage or failure to qualify as a self-insurer shall be paid into and become a part of the uninsured employers fund. All other penalties collected pursuant to an assessment

(Rule 0800-02-24-.07, continued)

made under this section shall be paid to the division for use by the division, at the discretion of the administrator, to offset the cost of administering this chapter.

Authority: T.C.A. § 50-6-118. *Administrative History:* Original rule filed December 22, 2014; effective March 22, 2015.