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Sequence Number: 03-26-15  
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 File Date: 3/27/15

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Tennessee Department of Labor and Workforce Development
<b>Division:</b>	Workers' Compensation
<b>Contact Person:</b>	Troy Haley
<b>Address:</b>	220 French Landing Drive 1-B
<b>Phone:</b>	615-532-0179
<b>Email:</b>	troy.haley@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Troy Haley
<b>Address:</b>	220 French Landing Drive 1-B
<b>Phone:</b>	615-532-0179
<b>Email:</b>	troy.haley@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	220 French Landing Drive		
Address 2:	Side 1-A Volunteer Room		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	05/28/2015		
Hearing Time:	2:00 p.m.	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0800-02-07	Case Management
Rule Number	Rule Title
0800-02-07-.01	Definitions
0800-02-07-.02	Case Management System
0800-02-07-.03	Case Management Threshold

0800-02-07-.04	Elements of Case Management
0800-02-07-.05	Investigation of Complaints
0800-02-07-.06	Confidentiality of Records
0800-02-07-.07	Case Management Information
0800-02-07-.08	Registration and Continuing Education Requirements

**Revision Type (check all that apply):**

- Amendment  
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 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
0800-02-07	Case Management
<b>Rule Number</b>	<b>Rule Title</b>
0800-02-07-.08	Registration and Continuing Education Requirements

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

#### Rule 0800-2-7-.01 Definitions – General

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

- (1) "Administrator" means the administrator of the Tennessee Division of Workers' Compensation.
- (2) "Case management" means medical case management or the ongoing coordination of medical care services provided to an injured or disabled employee.
- (3) "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 TCA, Title 63, Chapter 7, who possesses one or more of the following:
    1. Certification as a Certified Disability Management Specialist (CDMS); or
    2. Certification as a Certified Rehabilitation Registered Nurse (CRRN); or
    3. Certification as a Certified Occupational Health Nurse (COHN); or
  - (b) Certified as a Certified Case Manager (CCM).
  - (c) Presently registered Case Manager Assistants may continue their present duties under direct supervision of a Registered Case Manager for 18 months from the date of the effect of these rules. At that time, this category will be discontinued.
- (4) "Contractor" means that organization or organizations referred to in TCA §50-6-124 [Section 8 of Public Chapter 900 of the Acts of 1992].
- (5) "Medical Director" means the Medical Director appointed by the Administrator of the Division of Workers' Compensation pursuant to T.C.A. § 50-6-126.
- (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.

Authority: T.C.A. §§ 4-5-202, 50-6-102, 50-6-122, 50-6-123, 50-6-124, 50-6-126 [Section 2 of Chapter 900 of the Public Acts of 1992.], 50-6-233, and Public Chapters 282 & 289 (2013). Administrative History: Original 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.

Rule 0800-2-7-.02 Case Management System

- (1) Each insurer who provides workers' compensation insurance regulated by the provisions of T.C.A., Title 50, Chapter 6, or self-insured employer, may provide for a system of case management for cases involving compensable injuries under TCA, Title 50, Chapter 6. Any insurer providing workers' compensation insurance under TCA, Title 50, Chapter 6, may provide for or contract for case management services when such services are provided.
- (2) 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.
- (3) 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 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 Division 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.
- (4) It shall be the responsibility of every employer, either directly or through its insurer or third party administrator, who elects to provide case management services to injured workers 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.

Authority: T.C.A. §§ 4-5-202, 50-6-102, 50-6-122, 50-6-123, 50-6-126, 50-6-233 [Sections 3 and 7 of Chapter 900 of the Public Acts of 1992.], and Public Chapters 282 & 289 (2013). 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.

Rule 0800-2-7-.03 Case Management Threshold

- (1) An employer or insurer is encouraged to provide case management services in all cases where an employee has suffered a catastrophic injury, anticipated medical expenses over ten thousand dollars (\$10,000), in-patient hospitalization, or lost work time over three (3) months. In all cases in which case management is undertaken, the employer or insured shall assign a case manager within seven (7) calendar days of receiving notice that the employee has suffered a catastrophic injury (as defined in 800-2-7-.01(6)). The assignment of a case manager should be made within seven (7) calendar days if, for non-catastrophic injuries, it is anticipated that case management services will be utilized. In all other cases, an employer or insurer is encouraged, but not required, to provide case management services if such services would prove to be beneficial in aiding communication and expediting care to the injured worker.

- (2) In all cases in which case management is undertaken, there shall be at least one face-to-face meeting between the case manager and the employee within fourteen (14) calendar days after the date a case manager is assigned to the case. After the initial meeting, there shall be face-to-face meetings between the case manager and the employee at least every three months thereafter for the first year and at least every six months during the second year. Should an employee experience a significant change in medical condition, there shall be a face-to-face meeting between the case manager and the employee within fourteen (14) calendar days of such a change. Documentation evidencing the first face-to-face meeting shall be submitted to the Medical Director of the Tennessee Division of Workers' Compensation within thirty (30) calendar days, on the Division'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) [Section 3 of Chapter 900 of the Public Acts of 1992.] 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.

#### Rule 0800-2-7-.04 Elements of Case Management

- (1) Case management services shall include, but not be limited to, the following elements required in TCA §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 understands and 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) Present an employee with a panel of physicians;
  - (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 repeated offenses after the first suspension. 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 that period. Any case manager who has had their registration suspended by the Administrator that 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) Case management services under this chapter may only be provided by a case manager.
- (6) Any physician providing treatment to an injured employee that is receiving case management services may report any instances of inappropriate case management services to the Division of Workers' Compensation Medical Director. The Medical Director shall report any instance of unprofessional or malpractice conduct by a case manager to the Administrator and to the Board of Nursing or other certifying board for appropriate disciplinary proceedings.
- (7) 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, 50-6-102, 50-6-122, 50-6-123, 50-6-126, 50-6-233, and Public Chapters 282 & 289 (2013); [Section 7 of Chapter 900 of the Public Acts of 1992.] 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.

#### Rule 0800-2-7-.05 Investigation of Complaints

- (1) The Medical Director may inquire into or investigate instances where the medical treatment or the physical rehabilitation provided appears to be deficient or incomplete. Upon a complaint from an injured employee, employer, health care provider, or a referral from the contractor, and upon reasonable cause, the Medical Director may investigate the allegations.
- (2) In cases where the inquiry or investigation substantiates that medical treatment or physical rehabilitation is deficient or incomplete, the Medical Director shall recommend appropriate corrective action.

Authority: T.C.A. §§50-6-123 and 50-6-126 [Sections 7 and 10 of Chapter 900 of the Public Acts of 1992.] Administrative History: Original rule filed January 28, 1993; effective May 13, 1993.

#### Rule 0800-2-7-.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 Division of Workers' Compensation and its contractor will maintain any required confidentiality of any personally identifying information concerning employees claiming workers' compensation benefits which the Department 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, and Public Chapters 282 & 289 (2013); [Section 2 of Chapter 900 of the Public Acts of 1992.] 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.

#### Rule 0800-2-7-.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 Division 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 [Section 7 of Chapter 900 of the Public Acts of 1992.] Administrative History: Original rule filed January 28, 1993; effective May 13, 1993.

#### Rule 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 may provide case management services in workers' compensation cases in Tennessee unless the case manager has registered with the Division and paid the appropriate fee.
  - (a) All case managers must complete the registration form provided by the Division and submit the form and pay the fee of one hundred and fifty dollars (\$150) to the Division.
  - (b) Every two (2) years thereafter, all case managers must complete a registration renewal form and submit the form and a renewal fee of seventy five dollars (\$75) to the Division.
  - (c) Upon receipt of the completed form and fee, the Division shall review the registration and issue a registration letter to the case manager. If the registration is rejected, the Division shall return to registration form and fee to the case manager.
  - (d) The above-referenced fees shall be in effect for registrations received by the Division 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 Division. No registration renewal form will be accepted by the Division unless the case manager has completed the continuing education requirement and supplied the Division with documentation.

Authority: T.C.A. §§50-6-123 [Section 7 of Chapter 900 of the Public Acts of 1992.] Administrative History: Original rule filed January 28, 1993; effective May 13, 1993.

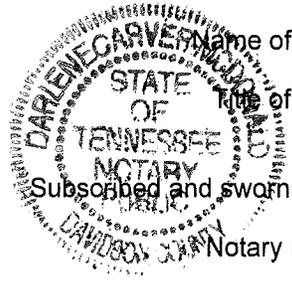
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: March 24, 2015

Signature: Abbie Hudgens

Name of Officer: Abbie Hudgens

Title of Officer: Administrator, Division of Workers' Compensation  
DL WFD



Subscribed and sworn to before me on: March 24, 2015

Notary Public Signature: Darlene Carver

My commission expires on: May 8, 2017

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Filed with the Department of State on: 03/27/15

Tre Hargett

Tre Hargett  
Secretary of State

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