



Agenda

8:30 - 9:00	Registration Breakfast Visit Vendor Booths Kids' Chance Silent Auction
9:00 - 9:15	Welcome & General Membership Meeting
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3:00 - 4:00	Employer Panel: Focus on Safety
4:00 - 4:15	Closing Remarks Vendor Bingo Drawing Kids' Chance Silent Winner Pick Up



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TNSIA Welcome & Update



Bailey Pipkin,
TNSIA Chair



John Hayes,
TNSIA Treasurer



Tennessee Self-Insured Association
 Statement of Income and Expense
 2024

	2024	2023
Cash Reporting of Prior	ADA	From 1/1/2024 \$ 95,049.02
Memberships Due		
2024 Memberships	\$ -	\$ 3,760.00
2023 Memberships		
Collected	480.00	1,800.00
Accounts	7,800.00	45,500.00
Total Revenue	\$ 8,280.00	\$ 51,060.00
Expenses		
Web Hosting Monthly Charges (Historic)	\$ 285.96	\$ 1,881.72
Web Host Fees and Other Charges		182.44
E.O. Taylor Club Resilience (52,000 Members)	2,600.00	18,375.00
Liability Management		200.00
Administrative Management	490.00	4,802.00
National Council of Self-Insurers	-	-
Meet Expenses (Executive Luncheon, etc. - historic)	-	-
Tennessee Chamber of Commerce		1,000.00
Conference		1,075.00
Travel	294.07	1,437.13
Tax Preparation		-
AGU National Conference		-
AGU Dinner		180.00
E.O. Taylor Annual Dinner		-
Insurance		-
Office Rent/Leasing Charge		-
Printing		-
PAC Expenses	33.88	230.75
Bank Charges		-
Total Expenses	\$ 3,709.91	\$ 38,518.97
Total Income	\$ 4,570.09	\$ 12,541.03
End of Month Cash		75,600.00
Trust Balance as of July 31, 2024		98,200.00
Profit/Loss		12,541.03
Total		75,600.00

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Tennessee Chamber Update



Bradley Jackson
President & CEO

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TNSIA
Legislative Update 2024
September 5, 2024
Amanda Young, Esq.

Workers' Compensation Administration Bill


Public Chapter 532 (SB2094 by Johnson/HB1694 by Lamberth) was signed by Governor Lee on March 7, 2024, and became effective on July 1, 2024.

- Consistent, uniform period of 14 days for electronic filing purposes for filing First Report of Injury (FROI) electronically with the BWC.
- Deletes the Notice of Controversy form requirement. (NOT Notice of Denial) There is no longer such a paper form. A filing is made electronically via EDI (Electronic Data Interchange).
- Clarifies that uninsured employer penalties may apply to construction and non-construction entities.



Workers' Compensation Administration Bill (Continued)

- Extends sunset of PC 189 (2021) for 5 years so that BWC can continue to enforce workers' compensation insurance coverage laws.



Tennessee Self-Insurers Guaranty Association

Public Chapter 666 [SB2909 by Bailey/HB2306 by Vaughan] was signed by Gov. Lee on April 9, 2024, and became effective upon signing.

- Enacts the Tennessee Self-Insurers' Guaranty Association Act
- Creates non-profit unincorporated legal entity to be known as the Tennessee Self-Insurers' Guaranty Association



Military

Public Chapter 687 [SB2083 by Johnson/HB1887 by Lamberth] Public Chapter 687 was signed by Gov. Lee on April 11, 2024, and became effective upon signing.

- Requires that workers' compensation benefits to a member of the Tennessee National Guard must be based on the average weekly wage of the guard member as determined by the greater of the average weekly wage earned by the guard member in the guard member's civilian employment at the time the state active duty orders were issued, or the average weekly wage the guard member would have received while on active federal duty.



Local Government Insurers

Public Chapter 0813 [SB2378 by Watson/HB2010 by Vaughan] was signed by Gov. Lee on April 29, 2024, and became effective upon signing.

- Requires the Comptroller of the Treasury (COT) to conduct a study of all insurers, including insurance pools, that provide policies of workers' compensation coverage to local governmental entities, including a review of each insurers' solvency, a comparative rate study, and an analysis of the process to bid out, procure, or otherwise obtain such a policy.
- Requires the COT to report findings of the study to the Speaker of the Senate and House of Representatives by January 1, 2025.



Sunsets

- PC 492—Extends the Bureau of Workers' Compensation to June 30, 2029
- PC 498—Extends the Medical Advisory Committee to June 30, 2029
- PC 499—Extends the Medical Payment Committee to June 30, 2029



Thank you!





TNSIA
Medical Update 2024
September 5, 2024

Dr. Robert Snyder/Suzy Douglas, RN


Topics

- Fee Schedule Rate Tables Utilization
- Review Appeals
- Case Management
- Medical Impairment Rating Registry
- Medical Payment Committee
- Medical Advisory Committee
- Certified Physician Program
-


Fee Schedule

- Updates went into effect September 23, 2023
 - Adoption of rate tables similar to GA and SC
 - Increased rates to subspecialty physicians-neurology, psychiatry, pulmonology, etc.
 - State specific “Z” codes to clear up billing confusion
 - Copies
 - Secondary causation opinions
 - Discussions with case manager
 - IME codes
 - Behavioral health (substance/alcohol)
 - Final Medical Report (C-30A)
 - Certified Physicians Program (Office visits and rating)




Rate Tables

- Effective April 1, 2024 to March 31, 2025
- Stabilizes payments for WC even if Congress or Medicare make changes
- Free through Fairhealth: [FH Orders \(fairhealth.org\)](https://www.fairhealth.org)
- Downloadable spreadsheets
- Includes almost all codes and devices, “gap fill codes”
- Removes the need for providers and payers to have to make their own calculations





Utilization Review Appeals

- Resolved 1223 appeals in fiscal 2023-24
 - 40% of denials upheld
 - 45% of denials overturned
 - 15% administratively closed
 - Late submission
 - Out of state or others ineligible for review by the Bureau
 - Determinations were distributed to the parties in an average of less than one day once the records were available





Case Management

- Over 1300 registered case managers and assistants
 - Bi-annual registration
 - Qualifications
 - Licenses
 - Certifications
 - Continuing education
 - Log all case management activity, each completed case



Medical Impairment Rating Registry

- Administrative dispute resolution process for disputed permanent impairment ratings
 - Before going to court
 - Upheld by the Tennessee Supreme Court
 - Grown to over 95 trained physicians
 - AMA Guides® 6th Edition



Medical Payment Committee

- Administrative resolution process for disputed payments to providers
 - 63 cases in fiscal 2023-2024
 - 33 resolved before the committee
 - 21 more payment due provider
 - 6 no additional payment
 - 3 overpayment or no action



Medical Advisory Committee

- 18 members for all stakeholders
 - Open to the public via TEAMS or in person
 - Quarterly meetings to advise the Administrator
 - Changes to the Treatment Guidelines
 - Forum for Complaints
 - AMA Guides® revisions evaluation due this Fall






Certified Physician Program

- Part of REWARD (Return Employees to Work and Reduce Disability) Program
 - Over 50 physicians on the Registry in the first 8 months
 - Added reimbursement
 - Accept WC patients
 - Within the norms of their practice qualifications
 - Extra training
 - Best Practices
 - AMA Guides®

Questions


**TNSIA
Court Update 2024**
September 5, 2024


Chief Judge Kenneth Switzer



Court of Workers' Compensation Claims

Fiscal Year 2023/24

- 8,891 settlements presented for approval
- 8,834 were approved (99.994%)
- 3,394 closed medical settlements approved (39% of all approved settlements)
- 87 Expedited Hearings
- 39 Compensation Hearings
- 45 Motions for Summary Judgment addressed
- 3,344 Hearings held




Workers' Compensation Appeals Board

Fiscal Year 2023/24

- The Appeals Board received 60 notices of appeal and 53 records. (Some of those cases were dismissed, withdrawn, or settled before we received the record, or the notice of appeal was filed late in the fiscal year, and we didn't receive the record until after July 1).
- In expedited appeals, 55% of the employees were self-represented.
- In compensation appeals, 43% of the employees were self-represented.
- We released 69 opinions/orders in FY23-24 (some of which were "holdovers" from the previous fiscal year).
- Of that 69 total, 57 were either affirmed or dismissed (83%).
- Of that 69 total, 12 were reversed, vacated, or otherwise modified in some way (17%).
- All WC appeals to the Supreme Court in FY23-24 were affirmed or dismissed. Currently, there are 5 WC cases pending at the Supreme Court.

Also, since 7/1/2014, self-represented employees have achieved a **favorable or mixed result in 38% of** **appeals** they have filed.



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State of the Market Panel

Presented by 



Scott Buchholz
Brown & Brown RS
Insurance Services



John Hayes
Ingram Industries, Inc.



David Morgan
Zurich




Joseph Gaspero
Chubb

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**Trials and Tribulations:
Successes and Nightmares from the Trenches**
Donald "Bo" Kirkpatrick & Chancey R. Miller
Carr Allison, P.C.

Agenda

1. Facts Over Opinions
2. Tennessee Case Study
3. War Stories with Bo

44 Trials and Tribulations September 5, 2024

Facts Over Opinions

The judges care about the facts underlying the causation opinion.

1. What was the treatment status of the employee's pre-existing condition at the time of incident?
2. What was the mechanism of injury?
3. What fact witness information did the physician consider in forming the opinion?

The more specific and granular these facts, the stronger the opinion.

1. A causation opinion based on little underlying fact –or incorrect information –is of little value at trial
 - It is unlikely to overcome the presumption in favor of an authorized treating physician
 - But it could provide some leverage toward a doubtful and disputed settlement before trial
2. Good supporting facts require thorough claim investigation and a physician willing to review the results
 - Fact witness statements
 - Prior medical records, and don't forget the actual films!

45 Trials and Tribulations September 5, 2024

Facts Over Opinions

The judges rely on underlying fact more than physician credentials.

1. Historically, the judges are not spending much time comparing physician CVs
2. The underlying facts are most important, even if the physician attended a superior school like the University of Tennessee –Go Vols!
3. Caveat: Judges may take into consideration competing physicians of different specialties
 - Ortho vs. Neuro
 - Surgeon vs. Not
 - Consideration given to treating physician

46 Trials and Tribulations September 5, 2024

Tennessee Case Study

Ridley v. Mature Care Standifer Place, LLC

Background

1. CNA reports gradual onset of low back pain from lifting heavy patients
2. Panel provided; CNA diagnosed with lumbar disc protrusion with radiculitis
3. Causation letter: Employment contributed more than 50% considering all causes
4. Diagnostic tests completed, DDD with disc protrusions noted at lower three lumbar levels
5. Second causation letter: Work-related injury temporarily aggravated pre-existing DDD
6. Claim denied, PBD filed with Bureau
7. Employee IME physician opines all disc herniations more than 50% caused by work injury

47 Trials and Tribulations September 5, 2024

Tennessee Case Study

Ridley v. Mature Care Standifer Place, LLC

Discovery

AIP testified:

- Change in opinion came as a result of additional testing not available during first visit
- Diagnostic testing showed calcifications, which take a long time to develop and at least six months prior to work injury
- Pathology led to opinion that disc protrusion was more degenerative than acute
- Condition of low back not primarily caused by lifting incident, more degenerative in nature
- Future pain management treatment not part of work injury

48 Trials and Tribulations September 5, 2024

Tennessee Case Study

Ridley v. Mature Care Standifer Place, LLC

Holding

Trial court found:

- ATP's testimony inconsistent compared to IME physician
- IME overcame ATP presumption of correctness
- Employee likely to prevail at final trial
- Employer ordered to provide panel of pain management providers

Tennessee Case Study

Ridley v. Mature Care Standifer Place, LLC

Holding

Appeals Board found:

- ATP clearly explained evolution of causation opinion; not inconsistent
- AMA Guides: Aggravation (permanent) vs. Exacerbation (temporary)
- Trial court abused discretion in holding IME overcame ATP presumption of correctness
- Employer must provide general panel of physicians for causally related medical treatment because Employee moved to a new community but not a panel of pain management physicians given ATP's opinion

Tennessee Case Study

Ridley v. Mature Care Standifer Place, LLC

Takeaway

A single fact allowed Employer to prevail using ATP's causation opinion:

- The existence of calcifications in the lumbar spine that scientifically meant the disc protrusions pre-existed to the date of loss

War Stores with Bo

1. Well doc --What were you actually looking at when you came to this rating?

2. Fake it 'til you make it . . .

Questions

Thank You

Donald "Bo" Kirkpatrick, Esq.
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Chancey R. Miller, Esq.
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Employer Panel: Focus on Safety

Moderator



Vik Ramaswamy
Safety National



Tom Rodriguez
International Paper



Amy Moses
McKee Food Corporation



Dr. Summer Shaffer
Premise Health

Additional comments for the panel and questions from the audience.

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ADVOCACY AND INFORMATION RESOURCE

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WORKERS' COMPENSATION
ADVOCACY AND INFORMATION RESOURCE

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Thank you for joining us and we look forward to seeing you next year!