

**SOUTHERN UTE INDIAN TRIBAL CODE**

**TITLE 24**

**WORKERS' COMPENSATION CODE**

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## TITLE 24

### SOUTHERN UTE INDIAN TRIBAL CODE

#### WORKERS' COMPENSATION CODE

##### Article 1. GENERAL PROVISIONS

**24-1-101. Purpose.** The Southern Ute Indian Tribe, exercising its sovereign regulatory powers, hereby withdraws all work-related injuries, illnesses, deaths, and disabilities sustained by its employees from private controversy and establishes this Workers' Compensation Code ("Code"), which shall be the exclusive procedure available to employees for redress and compensation resulting from work-related injuries, illnesses, death, and disabilities.

**24-1-102. Scope.**

- (1) All employees of the Tribe are covered by this Code for compensable injuries without regard to where the injury occurred; however, benefits are limited to those provided in this Code.
- (2) This Code applies to each employee of the Tribe acting in the course of his or her employment and performing work under direction of an authorized representative of the Tribe.
- (3) An employee determined to be acting outside of the course or scope of his/her employment is afforded no coverage, compensation, or benefits under this Code. The following are examples of injuries that will not be covered because they are not within the course or scope of employment. This list is not all-inclusive: Injury incurred during an employee's regular commute to or from work and home; Injury incurred when the employee has willfully and/or deliberately caused his or her own injury or death; Where the injury, illness, or death is occasioned by willful intention of the injured employee to bring about injury, illness or death to another; When the injury arises out of an altercation in which the injured employee is the initial physical aggressor; Injury caused by a third person or fellow employee intended to injure the employee for personal reasons; Where injury, illness, or death results from horseplay.
- (4) Injuries sustained during travel specifically requested by the employer or required by the employee's due course or scope of employment are not compensable if, at the time the injury was incurred, the employee is relieved of and is not performing any duties of employment.

- (5) The Tribe will not pay for, and no court has jurisdiction to adjudicate, any injury, illness, death, or disability where such claim is otherwise excluded by this Code.
- (6) Liability for compensation does not exist against the Tribe for any injury sustained by an employee if the injury arises from any of the following:
  - (a) Voluntary participation in any off-duty recreational, social, or athletic activity not constituting a part of the employee's work-related duties, including but not limited to, activities sponsored by employer, except where these activities are a reasonable expectation of, or are expressly required by, employment.
  - (b) An "Act of God", such as a tornado, earthquake, flood, hurricane, or lightning, except when employment puts the employee at a greater risk of injury or death than the risk to the general population.
  - (c) Non work-related natural causes, i.e., heart attack, stroke or other natural body function failures.
- (7) Liability for compensation will be reduced by 50% against the Tribe for any injury sustained by an employee if the injury, illness, or death is caused by any of the following:
  - (a) The willful failure of the injured employee to follow any reasonable safety rule adopted by the employer or use a safety device provided by employer; or
  - (b) The intoxication, by alcohol or the unlawful use under tribal or federal law of a controlled substance, of the injured employee.
- (8) **Incarceration.** No benefit is payable during an employee's incarceration. Upon release, an incarcerated employee is not entitled to retroactive payment of benefits lost during incarceration.

**24-1-103. Exclusive Remedy.** For injuries occurring on the Southern Ute Indian Reservation, the remedies described in this Code are the exclusive method of compensation by the Tribe and/or administrator for injuries sustained in the course and scope of employment. No other workers' compensation law, including the law of any state, is applicable to compensable work injuries sustained by employees. Employees covered by this Code are hereby expressly precluded from seeking any benefits or compensation under any other workers' compensation or similar law, including, without limitation, the laws of any state, territory, country, or other jurisdiction. The liability of the Tribe for all injuries arising out of or in the course of employment is limited to the compensation provided to injured, ill, or deceased employees and/or

dependents pursuant to this Code. If an employee is injured outside of the Reservation and is found to be entitled to workers' compensation benefits under the laws of any other jurisdiction, any compensation to which the employee may also be entitled under this Code shall be reduced in an amount equal to such other compensation.

**24-1-104. Definitions.**

- (1) **Administrator.** The entity appointed by the Tribe to be responsible for managing the Tribe's workers' compensation program. The administrator acts on behalf of the Tribe to receive, review, administer, accept or deny, and provide benefits in accordance with this Code. Subject to the dispute resolution provisions set forth herein, the decisions of the administrator will be binding upon the employee or dependent making the claim and the Tribe.
  
- (2) **Compensable Injury.** Any physical injury, illness, disease, disability, or death arising out of and in the course and scope of employment, i.e., that occurs during a period of employment, within the scope of such employment, and as a result of such employment, as more fully described in this Code. Compensable injury shall not be construed to include disability or death caused by or resulting from mental or emotional stress unless it is shown by competent evidence by a licensed psychiatrist that such mental or emotional stress is proximately caused solely by hazards to which the worker would not have been equally exposed outside the employment. Compensable injuries under this section are either:
  - (a) Specific occurring, which means that the injury or illness is a result of one incident or exposure; or
  - (b) Cumulative occurring, which means that the injury, disease, or illness is a result of repetitive activities or exposure extending over a period of time. The date of a cumulative injury or illness is the date upon which the employee first suffered injury and knew, or in the exercise of reasonable diligence should have known, that the injury was caused by his employment.

Compensable injury includes damage to artificial members, dentures, hearing aids, eyeglasses, and medical braces of all types; provided, however, that eyeglasses and hearing aids will not be replaced, repaired, or otherwise compensated for, unless injury to them is incident to an injury covered by this Code.
  
- (3) **Benefits Payable on Death.** As defined under the Colorado Worker's Compensation Act, Colorado Revised Statutes § 8-40-101 et. seq. in effect when the decision is made.

- (4) **Dependent.** Any spouse or family member, who, at the time of the compensable injury to the employee or death of the employee, was actually and necessarily dependent in whole or in part upon the earnings of the employee, as determined by the administrator.
- (5) **Disfigurement Compensation.** As defined under the Colorado Revised Statutes in effect when the decision is made.
- (6) **Employee.** A person in the service of the Tribe, elected, appointed, or hired, and carried on the payroll of the Tribe. Tribal employees are identified as such by the appearance of the Tribe's employer identification number on the employee's federal income tax documents. An independent contractor, contractor, or outside consultant is not an employee.
- (7) **Employer.** The Southern Ute Indian Tribe.
- (8) **Functional Capacity Evaluation (FCE).** A set of tests, practices and observations that are combined to objectively determine the ability of the evaluated to function in a variety of circumstances, most often employment.
- (9) **Independent Contractor.** One who renders service in the course of an occupation and (a) has been and will continue to be free from control or direction over the performance of the services, both under his contract and in fact; and (b) is engaged in an independently established trade, occupation, profession, or business. An individual performing services for remuneration is considered to be an employee unless the requirements of this definition are met.
- (10) **Independent Medical Examination or "IME".** A medical examination and/or evaluation of the employee scheduled by the employer, employee, or administrator, at the requesting party's expense, for the purpose of obtaining medical information or opinion.
- (11) **Maximum Medical Improvement.** The date after which further recovery from or lasting improvement to an injury can no longer be reasonably anticipated based upon reasonable medical probability as determined by the health care provider selected by the administrator.
- (12) **Permanent Partial Disability.** As defined under the Colorado Revised Statutes in effect when the decision is made.
- (13) **Permanent Total Disability.** As defined under the Colorado Revised Statutes in effect when the decision is made.
- (14) **Temporary Partial Disability.** As defined under the Colorado Revised Statutes in effect when the decision is made.

- (15) **Temporary Total Disability.** As defined under the Colorado Revised Statutes in effect when the decision is made.

**24-1-105. Acknowledgement of Ordinance.**

- (1) Each employee is conclusively presumed to have acknowledged the exclusive applicability of the terms, conditions, and provisions of this Code. Each employee is also conclusively presumed to have acknowledged that the Tribe is a sovereign nation, including, without limitation, for the purposes of workers' compensation, and is governed by the Southern Ute Indian Tribal Code.
- (2) Each Human Resources Department is responsible for explaining the provisions of this Code and posting in conspicuous locations with any other employment postings a notice as follows:

*All employees of the Southern Ute Indian Tribe are hereby notified that the Tribe is a sovereign nation, governed by the Southern Ute Indian Tribal Code. No other workers' compensation law, including the laws of the State of Colorado, is applicable to injuries, illness or death sustained by an employee. The right to receive workers' compensation benefits, the amount of those benefits, and the procedures for securing them are set forth in the Southern Ute Indian Tribe's Workers' Compensation Code and that Code establishes the exclusive remedy for any compensable work injury. IF YOU ARE INJURED ON THE JOB, WRITTEN NOTICE OF YOUR INJURY MUST BE GIVEN TO YOUR SUPERVISOR WITHIN 4 WORKING DAYS AFTER THE ACCIDENT. The Tribe shall not be required to pay for an injury, illness or death, or disability if (1) an injury, illness or death is occasioned by willful intention of the injured employee to bring about injury, illness or death to him or herself or another; or (2) such claim is otherwise excluded by the Code. If the injury results from your use of alcohol or controlled substances or your failure to use a safety device provided by your employer or failure to follow a safety rule, your workers' compensation disability benefits will be reduced by one-half.*

**24-1-106. Claim Files and Records Confidential.** All files and records related to or generated in accordance with or as a result of activities authorized by this Code are the property of the employer. Information contained in these files and records is confidential and not open to public inspection. The employee, dependents, or an authorized representative of the same may review the medical records contained in employee's claim file or receive specific medical information therefrom upon the presentation of a valid authorization and release, signed by the employee or a legally authorized representative. Nothing herein prevents reasonable access to such files and records by medical professionals or the administrator where such access is necessary to provide authorized medical treatment to an employee or administer the employee's claim in accordance with this Code.

- 24-1-107. Severability.** If any part of this Code is held to be invalid, the remainder remains in full force and effect to the maximum extent possible.
- 24-1-108. Effective Date.** This Code is effective October 1, 2014. The Code does not apply to claims that existed prior to the effective date, and does apply to all injuries, illness or death occurring on or after this date.
- 24-1-109. Sovereign Immunity.** Except to the extent authorized herein, nothing in this Code is or will be interpreted to be a waiver of the sovereign immunity of the Southern Ute Indian Tribe, its agencies or enterprises.

## **Article 2. CLAIM PROCEDURES**

- 24-2-101. Reporting Obligations.** An employee must immediately report any injury or illness, no matter how slight, to his/her supervisor. Reports must be made within 4 working days of the incident that caused the injury, illness, or death. If the injury or illness incapacitates the employee, the 4-day period will not begin to run until the incapacity ends. Another person may report an injury, illness, or death on behalf of the employee. If the employee fails to report the injury or illness within this timeframe, the employee may lose up to one day's compensation for each day's failure to so report after the 4 working-day requirement. A supervisor receiving a report or notice of an injury, illness or death from the employee or another acting on the employee's behalf, must promptly report the claim to the appropriate human resources representative, who must immediately file a claim with the administrator. If the supervisor fails to report to the appropriate human resources representative, or if the human resources representative fails to immediately file a claim with the administrator, the time period allotted to the employee is tolled for the duration of such failure.
- 24-2-102. Statute of Limitations.** Except as otherwise provided herein, the right to any compensation and benefits under this Code is barred unless a report of injury, illness, or death and claim therefore is filed with the administrator within 2 years after the occurrence of the injury, illness or death for which benefits are claimed. The time for filing a claim shall not begin to run until the employee or, in the case of the death of the employee, a dependent is aware or by the exercise of reasonable diligence should have been aware, of the relationship between the incident and the injury, illness or death for which benefits are claimed. In all cases in which the employer has been given notice of an injury, illness or death and fails, neglects, or refuses to report said injury, illness or death to the administrator as required by this Code, this statute of limitations shall not begin to run against the claim of the injured employee or the employee's dependents in the event of death until the required report has been filed with the administrator.

**24-2-103. Administrator’s Initial Review and Decision.**

- (1) Upon being notified by the employer of an injury, the administrator will review the claim to determine whether the claim was timely reported, is barred by the statute of limitations, and whether the injury that is the subject of the claim is a compensable work injury within the scope and definition of this Code. During such review, the administrator will consider all available information and may conduct additional investigation, including interviews of the employee and other relevant witnesses, to determine whether the claim is within the scope of this Code as a compensable injury.
- (2) Within 60 days of receiving first notice of a claim, the administrator will issue a written decision to the employee and employer regarding whether the claim is accepted by the administrator as a compensable work injury or denied as not eligible for coverage by this Code. If, due to the unavailability of witnesses, the employee, or other circumstances beyond the administrator’s control, the administrator is unable to render such a decision within 60 days, the administrator may provide written notice to the employee and employer that the administrator will take an additional 30 days to render such a decision. In no event will the administrator’s initial decision regarding whether the claim constitutes a compensable work injury be issued more than 90 days after the administrator first receives a report of injury. If such decision is not issued as provided above, the administrator may become liable to the claimant if the claimant is successful on the claim for compensation, for up to one day’s compensation for each day’s failure to so issue; except that the employer or, if insured, the employer’s insurance carrier shall not be liable for more than the aggregate amount of 365 days’ compensation for failure to timely admit or deny liability.

**24-2-104. Determining Benefits – Allowable Benefits.**

- (1) Coverage for compensable injuries, illness, or death is provided for an initial doctor’s visit or emergency room visit if required; however, there is no guarantee of additional coverage unless and until the administrator determines that the injury, illness, or death is compensable.
- (2) If a claim is accepted by the administrator as a compensable injury or illness, the administrator will then determine the benefits to be paid to the employee or, in the event of a death, the employee’s dependents.
- (3) Subject to the limitations set forth herein, (e.g. 24-2-104(4)) the amount of compensation and benefits available to each employee under this Code will be the same as benefits payable under the laws of the State of Colorado. The administrator will be responsible for applying such benefits to each compensable



injury, illness, or death under this Code. Generally, an employee will be entitled to payment for usual, reasonable, and necessary medical care and treatment to cure and relieve the injured employee of the effects of the injury or illness, as well as to disfigurement benefits where applicable; provided, however, that medical services and providers utilized must be designated by the employer in its policies or pre-approved by the administrator.

- (4) In no event will compensation or benefits or the combination of both payable pursuant to this Code exceed the maximum limits of liability set forth in the Tribe's Workers' Compensation Insurance Policy in effect when the decision is made.
- (5) In determining the appropriate compensation rate, the administrator will make determinations regarding the type of compensable injury, illness, or death, including whether the injury or illness has resulted in temporary total, temporary partial, permanent total, or permanent partial disability and the ratings for each such disability. Depending on these ratings, the administrator will also determine the length of time during which temporary total disability or temporary partial disability benefits are payable, the amount of permanent partial disability or permanent total disability or death benefits payable, the eligibility of any dependents and the term of any dependency benefits payable, and may also allocate dependency benefits between dependents living in different households, where necessary, based on the obligations, legal or otherwise, of the decedent. The administrator must provide written notice to the employee or dependent providing an explanation of how the determinations were reached, as more fully set forth in this Code.
- (6) Where the administrator has rated a claim or amount of disability as defined by this Code, the administrator will utilize the benefit levels, including the maximum benefit rates, established by the Colorado Worker's Compensation Act, Colorado Revised Statutes § 8-40-101 et. seq. in effect as of the date of the injury, illness, or death to determine the amount of benefits to be paid by the employer under this Code.
- (7) The amount of benefits will be reduced by the administrator if the administrator determines that any of the factors set forth in Section 24-1-102(7) apply.
- (8) The fact that an employee has suffered a previous disability or impairment or received compensation therefor does not preclude compensation for a later injury or illness or for death, but, in determining compensation benefits payable for the later injury, illness, or death, the employee's average weekly earnings at the time of the later injury, illness, or death will be used to determine the compensation payable to the employee or such employee's dependents. Notwithstanding any other provision of this Title, no employee may receive

concurrent permanent total disability awards from injury, illness, or death occurring on the Southern Ute Indian Reservation or any other state or reservation.

- (9) An employee's temporary total disability, temporary partial disability, or medical benefits will not be reduced based on a previous injury or illness.
- (10) An employee's recovery of permanent total disability will not be reduced when the disability is the result of work-related injury or work-related injury combined with genetic, congenital, or similar conditions; except that this subsection does not apply to reductions in recovery or apportionments allowed pursuant to Colorado law.
- (11) In cases of permanent medical impairment, the employee's award or settlement will be reduced:
  - (a) When an employee has suffered more than one permanent medical impairment to the same body part and has received an award or settlement under the Southern Ute Indian Tribe Workers' Compensation Code or a similar act from another tribe or state. The permanent medical impairment rating applicable to the previous injury to the same body part, established by award or settlement, will be deducted from the permanent medical impairment rating for the subsequent injury to the same body part.
  - (b) When an employee has a nonwork-related previous permanent medical impairment to the same body part that has been identified, treated, and, at the time of the subsequent compensable injury, is independently disabling. The percentage of the nonwork-related permanent medical impairment existing at the time of the subsequent injury to the same body part will be deducted from the permanent medical impairment rating for the subsequent compensable injury.
  - (c) Nothing in this section precludes employers or insurers from seeking contribution or reimbursement, as permitted by law, from other employers or insurers for benefits paid to or for an injured employee as long as the employee's benefits are not reduced or otherwise affected by such contribution or reimbursement.

#### **24-2-105. Claim Management.**

- (1) Each employee who files a claim for a compensable work injury, illness, or death is subject to the management of such claim by the administrator. Where Medical Treatment Guidelines have been established by the State of Colorado for such injury, the administrator's management will follow the Medical Treatment Guidelines in effect when the decision is made. Failure to comply

with the management or requests of the administrator for medical or other treatment may result in a denial of benefits and/or compensation to the employee.

- (2) In order to ensure that the employee's medical condition is properly and consistently monitored and to assist the administrator with determining whether the employee's condition has changed such that a modification of benefits or rating is required, the administrator will request, in writing, that the employee submit to independent medical examinations by a physician selected and paid for by the employer.
- (3) The notice to the employee of the independent medical examination will include information regarding the employee's (a) right to receive a copy of the written report produced by the physician who conducts the examination; (b) obligation to request a copy of the written report produced by the physician within 15 days of such examination or else lose the right to object to the findings of the examination; (c) right to have his or her own examination done in accordance with this Code and paid for by the employee; and (d) right to object to the findings of the independent medical examination by providing such objections in writing to the administrator within 30 days of receiving the physician's report.
- (4) At any time during treatment for the compensable work injury, the employee may request in writing to change his or her primary physician, be referred to a specialist or other (non-primary) physician, or to have any other specialist, medical or surgical procedure performed. The administrator may request an independent medical examination in order to determine whether the requested change of physician, referral or procedure is appropriate. Within 15 days of receipt of such a request, the administrator will approve or deny the request via written notice to the employee and the employer. The employee may only change his or her primary physician once during treatment for the compensable work injury.
- (5) If an employee disagrees with the findings of an independent medical examiner or the administrator denies an employee's request to change primary physicians, be referred, or have an additional procedure performed, the employee may select a physician to prepare a comprehensive evaluation of the employee's medical condition. The employee must request such evaluation by submitting a written request to the administrator within 30 days of receiving the report from the independent medical examination or the administrator's denial of the employee's request. The administrator will make available to the employee a list of approved physicians. Only the first such evaluation will be paid for by the employer; the employee will be responsible for paying for a subsequent evaluation.

- (6) The administrator may also request that the employee undergo a Functional Capacity Examination, Independent Medical Examination, or Pain Management Assessment at the employer's expense. If the employee refuses to submit to administrator's request for the employee to undergo such examination or assessment, within 5 business days from receipt of the request, all right to collect, or to begin or maintain any proceeding for the collection of, compensation will be suspended with no right to recoup benefits.
- (7) The administrator retains full medical control for the life of the claim.

**24-2-106. Claim Closure – Maximum Medical Improvement or Mutual Agreement.**

- (1) The administrator will close a claim upon employee's death; determination by the healthcare provider selected by the administrator that an employee has reached maximum medical improvement; reaching agreement with the employee and the employer on the remaining benefits to be paid; failure to appeal denial of a claim within timeline established by this Title; determination that claimant has abandoned treatment (defined as missing 3 scheduled appointments).
- (2) When the primary treating physician or independent medical examiner determines that an employee's injury or illness reaches maximum medical improvement:
  - (a) The injury or illness is considered permanent and stationary; and
  - (b) The administrator will close the claim and issue any remaining benefits that are payable to the employee or payments to be made, unless Medicare requires other certain treatment of such benefits. Upon closing the claim, administrator will issue a closed claim letter to the employee and employer that explains the benefits due to the claimant and the claimant's right to appeal.
- (3) The parties may also agree to fully and finally resolve and close a claim upon reaching a settlement for any remaining benefits to be paid on account of a compensable work injury. The administrator may facilitate the negotiation and finalization of such an agreement; however, the settlement must be agreed upon, in writing, by the employee and employer within 30 days. After reaching an agreement on a settlement, a copy of the release or compromise agreement signed by both the employee and the administrator will be presented to the appropriate HR Director or a designated representative, for approval. If approved, the administrator will enter an award based on the agreement, close the claim, and issue a close claim letter to the employee and employer. After a

settlement is finalized in accordance with this section, an employee has waived all right to reopen an award.

(4)

- (a) At any time within 6 years after the initial date of injury; within 2 years after the date the last temporary or permanent disability benefits or dependent benefits excluding medical benefits become due or payable; or within 2 years after the date the last medical benefits become due and payable, the administrator may, after notice to all parties, review and reopen any award on the ground of fraud, an overpayment, an error, a mistake, or a change in medical condition, except for those settlements entered into pursuant to section 24-2-106(3), in which the claimant waived all right to reopen an award; but a settlement may be reopened at any time on the ground of fraud or mutual mistake of material fact. Upon a prima facie showing that the claimant received overpayments, the award may be reopened solely as to overpayments and repayment may be ordered. If an award is reopened on grounds of an error, a mistake, or a change in medical condition, compensation and medical benefits previously ordered may be ended, diminished, maintained, or increased. No such reopening affects the earlier award as to moneys already paid except in cases of fraud or overpayment. Any order entered under this subsection is subject to review in the same manner as other orders.
- (b) Any case where an employee is permanently totally disabled, as determined by the administrator, may be reopened at any time to determine if the claimant has returned to employment. If the claimant has returned to employment and is earning in excess of \$4,000 per year or has participated in activities which indicate that the claimant has the ability to return to employment, such claimant's permanent total disability award will cease and the claimant will not be entitled to further permanent total disability benefits as a result of the injury or illness that led to the original permanent total disability award. Any subsequent permanent partial disability benefits awarded for the same injury or illness will be decreased by the amount of permanent total disability benefits previously received by the employee.
- (c) The party attempting to reopen an issue or claim bears the burden of proof as to any issues sought to be reopened.

### **Article 3. DISPUTE RESOLUTION**

#### **24-3-101. Request for Reconsideration.**

- (1) An employee may dispute decisions by the administrator, including, but not limited to, the initial decision of the administrator regarding compensability, the award or denial of benefits by the administrator, the denial of medical treatment by the administrator, or the decision of the administrator to close a claim based on a finding of maximum medical improvement by filing with the administrator and the employer a written request for reconsideration of such decision within no more than 30 days of receipt of the administrator's decision being disputed.
- (2) The administrator will review the request for reconsideration and the relevant facts, consult with the employer regarding the employee's request, and provide a written response, sent to both the employee and the employer, within 30 days of the date of the postmark on the appeal.
- (3) Failure by the employee to file a request for reconsideration within the required timeframe will render the administrator's decision final and not subject to additional review.

**24-3-102. Request for Hearing.**

- (1) If the employee is not satisfied with the decision of the administrator in response to the written request for reconsideration, the employee may request a hearing of the matter before the Tribe's Administrative Appeals and Hearings Office.
- (2) A request for hearing must be filed with the Administrative Appeals and Hearings Office, no more than 30 days after the date of the administrator's response to the request for reconsideration.
- (3) The request for hearing must include the following:
  - (a) The name and mailing address of the claimant;
  - (b) A brief summary of the relevant facts;
  - (c) A brief statement of the disputed issues;
  - (d) A brief statement of the relief sought; and
  - (e) A copy of the administrator's original decision that is being disputed, the request for reconsideration, and the administrator's response to the request for reconsideration.
- (4) Failure to file a request for hearing within the required timeframe and including all of the required information will render final the administrator's response to the request for reconsideration and the matter will not be subject to additional review.

### **24-3-103. Hearing.**

- (1) The hearing of any dispute hereunder will be conducted by the Administrative Appeals and Hearings Office in accordance with the Southern Ute Indian Tribal Code and applicable rules promulgated thereunder.
- (2) The hearing officer will rely upon the applicable substantive provisions of this Code for guidance in resolving the dispute. In addition, where this Code references benefit levels provided by other laws, such as the laws of the State of Colorado, the hearing officer may rely upon those other laws for guidance.
- (3) The party requesting a hearing will have the burden of proof to demonstrate by a preponderance of the evidence that the disputed decision of the administrator should be overturned or modified.
- (4) The parties will be afforded the rights to adequate notice of the hearing, to be apprised of the issues to be heard and the evidence to be presented during the hearing, and to present their own evidence at the hearing, all in accordance with this Code and with the Tribe's Administrative Appeals and Hearings Office Code and applicable rules promulgated thereunder.
- (5) Medical and hospital records, physicians' reports, and records of the employer are admissible as evidence and can be filed in the record as evidence without formal identification if relevant to any issue in the case. All relevant medical records, expert witness reports, and employer records shall be exchanged with all other parties at least 20 days prior to the hearing date.
- (6) The hearing will be scheduled by the Administrative Appeals and Hearings Office for not later than 60 days following the filing of a request for hearing, but may be rescheduled for cause.
- (7) Following the hearing, the hearing officer will issue a written decision to the employee, the administrator and the employer, which decision will be binding on all parties unless appealed by one of them in accordance with the Tribe's Administrative Appeals and Hearings Office Code.

### **24-3-104. Benefits Continue During Dispute Resolution.**

- (1) During the dispute resolution procedures, the employee will continue to receive all benefits approved by the administrator.
- (2) Payments made to the employee during the pendency of the action may not be recouped or recovered by the administrator or the employer, except in cases of fraud, overpayment, or error.

**TITLE 24**  
**WORKERS' COMPENSATION CODE**

**History and Amendments<sup>1</sup>**

The Southern Ute Indian Tribal Workers' Compensation Code adopted by Tribal Resolution No. 2014-26 on February 11, 2014, approved by the Bureau of Indian Affairs on August 4, 2016.

Resolution No. 2021-151 repealed and replaced Title 24 – Worker's Compensation Code with a reformatted Workers' Compensation Code for online publication that contained only minor technical corrections, no substantive revisions, that the Bureau of Indian Affairs concurred it did not need to formally approve (April 25, 2023).

Resolution No. 2023-079 authorized on-line publication of the 2021-151 reformatted Worker's Compensation Code and provided an effective date of May 25, 2023.

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<sup>1</sup> This page does not constitute an official part of any code. Information contained on this page is solely for informational and historical purposes and is from sources deemed reliable.