



NCA 14-197

CLASSIFICATION: #48. WORKER'S COMPENSATION

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 48, §2-103H., §6-103A., §7-101A., §9-101C., §9-102C., ENTITLED "Worker's Compensation"

Be it enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. AMENDMENT. This amendment shall be codified in Title 48 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Codification Committee is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval:

CHAPTER TWO. TRIBAL WORKERS' BENEFIT ADVISORY COUNCIL

§2-103 Powers of TWBAC. TWBAC shall have the following duties and powers:

H. To select arbitrators consisting of people trained to adjudicate the disputes regarding benefits provided under this Code. A single arbitrator shall be used to adjudicate disputes arising under this Code unless the TWBAC, in its sole discretion, determines that a panel of three arbitrators is necessary to adjudicate a dispute.

CHAPTER SIX. BENEFITS

§6-103 Total Disability and Partial Disability Income Benefits.

A. When the Worker is disabled from work duty as determined by the Attending Physician, or in the Administrator's discretion, the Consulting Physician, by reason of a compensable Injury or Occupational Disease, benefits shall be payable as follows:

1. If the Covered Worker is 100% disabled, Benefits are payable at 75% of the Worker's pre-injury average weekly wage, subject to a maximum benefit payment of \$750 per week. During the continuance of such total disability, in case of temporary total disability, seventy-five percent

(75%) of the employee's average weekly wages shall be paid to the Worker during the continuance thereof, but not in excess of twelve (12) weeks, except as otherwise provided for in this Code. After compensation has been paid for a period of ten (10) weeks, the Worker may request a review of the case by the Administrator for continued temporary total disability benefits. Upon a finding that Benefits should be extended beyond the initial twelve (12) week period, compensation may be continued for additional successive twelve (12) week periods, provided that Worker requests a review of the case at ten (10) weeks during each period involved, and upon a finding by the Administrator that Benefits should be extended. Total payments of compensation for temporary total disability may not exceed the limits set out in Section 104.U.

2. If the Covered Worker is less than 100% disabled, Benefits are payable at 75% of the difference between a Worker's pre-Injury average weekly wage and the wage the Covered Worker is earning or capable of earning in his partially disabled condition, subject to a maximum benefit payment of \$750 per week. However, temporary partial disability Benefits shall not, when added to the wages received by the Covered Worker after such Injury, amount to a sum greater than eighty (80) percent of the average weekly wages the Covered Worker received prior to the Injury.

CHAPTER SEVEN. DEATH BENEFITS

§7-101 Distribution of Death Benefits. When death ensues to the Covered Worker by reason of a compensable Injury or Occupational Disease, Benefits shall be payable to the Covered Worker's Dependents upon the basis of 75% per week of the Worker's average weekly wage, subject to a maximum benefit payment of \$750 per week, commencing from the date of death as follows:

- A. If there are no children entitled to Benefits, then all Death Benefits shall pass to the surviving spouse for the earlier of 1) the date at which the Worker would have reached sixty-five (65); 2), 260 weeks after the death of the Covered Worker ~~the life of the surviving spouse~~ or 3) until remarriage of the living spouse. To be an eligible "surviving spouse," the surviving spouse must have been married and living with the decedent at the time of the compensable Injury. If there are surviving eligible children, the surviving spouse shall be entitled to one-half of Death Benefits and the remaining one-half of Death Benefits shall be paid to each surviving eligible child in equal shares.

CHAPTER NINE. ADJUDICATION OF DISPUTES

§9-101 C. Third Level- District Court. Any and all appeals from a decision of the ~~arbitrator or panel~~ shall be heard by the Muscogee (Creek) Nation District

Court. The ~~arbitration panel~~ arbitration panel's decision shall be upheld unless the District Court finds that the decision was:

1. Unsupported by evidence;
2. Arbitrary and capricious;
3. An abuse of discretion by the Administrator or TWBAC; or
4. Contrary to this Code or other applicable law.

§9-102 Hearings.

C. A full and complete record of the arbitration ~~panel~~ proceedings shall be kept by the TWBAC by a method provided for in their rules and regulations and shall be available to any party at their expense who requests the record in writing, demonstrating reasonable need for such record, and by paying the fee set forth in the rules and regulations of the TWBAC.

SECTION TWO. EFFECTIVE DATE. This Act shall become effective immediately. In the event that any provision of this Code is held to be unconstitutional or unenforceable, all other provisions of this Code shall remain in full force and shall be construed in a manner to effectuate the purpose and intent of this Code.

ENACTED by the Muscogee (Creek) National Council on this 22nd day of November, 2014.

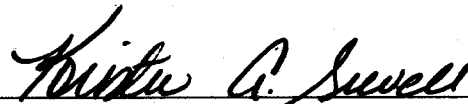
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Thomas Yahola, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Fifteen** members attending this meeting on the **22nd** day of **November, 2014** and that the above is in conformity with the provisions therein adopted by a vote of **14** in favor, **0** against, and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



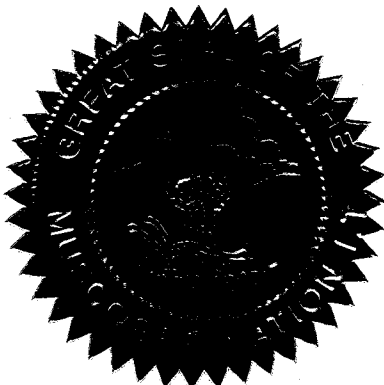
Kristie A. Sewell, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 14 day of Dec, 2014 to the above Law, NCA 14-197 authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



George Tiger, Principal Chief
Muscogee (Creek) Nation





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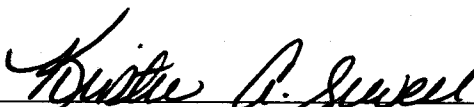
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Thomas Yahola, Speaker
National Council
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I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with Fifteen members attending this meeting on the 22nd day of November, 2014 and that the above is in conformity with the provisions therein adopted by a vote of 14 in favor, 0 against, and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Kristie A. Sewell, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 1st day of Dec, 2014 to the above Law, NCA 14-197 authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



George Tiger, Principal Chief
Muscogee (Creek) Nation

