



**DEPARTMENT OF PUBLIC SAFETY
POLICIES & PROCEDURES**



POLICY NUMBER	
PRS:04	
EFFECTIVE DATE: 05/23/2016	ORIGINAL ISSUED ON: 06/25/2015
REVISION NO: 1	

SUBJECT: WORKERS' COMPENSATION PROGRAM

1.0 PURPOSE

The purpose of this policy is to provide Department of Public Safety employees with direction for the administration of and requirements under the Department's Workers' Compensation program. This policy also sets forth procedures related to handling workers' compensation claims.

2.0 POLICY

It is the policy of the Department of Public Safety to comply with the New Mexico Workers' Compensation Act and the Rehabilitation Act of 1973. Employees who sustain injuries or illnesses arising out of and in the course of their employment with the Department are entitled to compensation under the New Mexico Workers' Compensation Act. Therefore, the Department of Public Safety provides a fair workers' compensation program that assists employees in returning to full employment as quickly as possible.

3.0 APPLICABILITY

This policy applies to all employees of the Department of Public Safety.

4.0 REFERENCES

- A. New Mexico Workers' Compensation Act**
- B. State Personnel Board Rule 1 NMAC 7.10**
- C. Rehabilitation Act of 1973**

5.0 DEFINITIONS

- A. Controlled Substance** – Any medication or drug that has not been prescribed by a licensed health care provider; or the use of alcohol, drugs, or other substances in conjunction with a prescribed medication to create intoxication
- B. Department** – The Department of Public Safety.
- C. Intoxication** – A temporary state or condition of impaired physical, mental, or cognitive function by means of alcohol, drugs, other controlled substance, or a combination of two or more substances.
- D. Modified Duty Assignment** – See *PRS: 19 Modified / Limited Duty*.
- E. Workers' Compensation** – Compensation mandated by State law that includes payment of authorized, incurred medical costs and a partial reimbursement of lost wages to a state employee who sustains injury by accident or illness arising out of and in the course of employment.

6.0 PROCEDURE

A. Program Management Responsibilities

1. The Human Resource Bureau (HRB) will coordinate all Workers' Compensation claims for the Department.
2. The Human Resources Director will provide specific expertise and support for effective claim management as follows:
 - a. Coordinate activities with outside investigation, bureau chiefs, commanders and the General Services Department (GSD) Workers' Compensation Claims Management;
 - b. Consult on case management with the goal of returning the employee to work as quickly and efficiently as possible;
 - c. Maintain a thorough knowledge of workers' compensation laws and reporting procedures; and
 - d. Serve as a member of the DPS Loss Control Committee that identifies the history of past claims and injuries in order to pinpoint trends of injuries and accidents.
3. The Human Resources Leave Manager(s) will be the focal point of all case management activity. This person(s) will be a Human Resources Bureau employee(s), unless otherwise designated by the Secretary, and will be responsible for:
 - a. Facilitating all case management activity;
 - b. Maintaining Contact with GSD Workers' Compensation Claims Adjusters on case management issues;
 - c. Coordinating organizational activities with outside investigation and rehabilitation vendors; and
 - d. Maintaining a thorough knowledge of workers' compensation laws and reporting procedures.
4. The supervisor of an employee who incurs a work-related injury or illness will be responsible for:
 - a. Initiating immediate medical treatment for the injured employee if necessary;
 - b. Reporting the injury to the Human Resources Leave Manager within five (5) working days, investigating its cause, and initiating corrective work place measures if necessary;
 - c. Preparing the required forms;
 - d. Maintaining contact with the employee during the recovery period; and,
 - e. Establishing a caring attitude toward the employee.

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5. The GSD Workers' Compensation Claim Examiner is responsible for administering the claim for the Risk Management Division of the General Services Department. The Workers' Compensation Claim Examiners provide support as follows:
 - a. Determining the compensability of the claim;
 - b. Paying the appropriate bills and indemnity benefits;
 - c. Providing cost containment services, such as medical treatment utilization review, medical bill audit, medical rehabilitation, and investigation services;
 - d. Coordinating benefit provision and informing the injured worker of his or her benefit options;
 - e. Developing strategies for handling difficult or questionable claims;
 - f. Providing recommendation for physicians, rehabilitation consultants, and other outside support; and,
 - g. Providing information on workers' compensation benefits.

B. Reporting Injuries and Illnesses

1. Employees must immediately (or if medically unable to do so, as soon as possible) report all work-related accidents, illnesses, injuries, or occupational disease exposure to their supervisor by completing a Notice of Accident Form, regardless of the severity. Incidents not reported within fifteen (15) days of the injury/illness may not be compensable under the Workers' Compensation Act. This includes all accidents in which an injury is not immediately apparent.
2. To process a workers' compensation claim, supervisors will ensure that all the appropriate and current forms (available from HRB and on The Insider) are completed, including:
 - a. Notice of Accident;
 - b. Employer's First Report of Injury or Illness;
 - c. Worker's Authorization for Disclosure of Protected Health Information (HIPAA Release Form);
 - d. Workers' Compensation Health Care Provider Certification Form;
 - e. Benefits Explanation Form;
 - f. Claim Explanation; and,
 - g. Injury Incident Investigation Form, providing detailed information inclusive of diagrams, photographs, and any and all applicable facts that will assist in taking appropriate actions to mitigate future risk.
3. Supervisors will complete all required forms and forward them to HRB within three (3) work days of becoming aware of the illness or injury for processing.
4. Employees will fax or forward any medical bills in sealed envelopes marked "confidential" directly to their assigned workers' compensation adjuster from the General Services Department Workers' Compensation Bureau.

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5. Employees will provide HRB within three (3) working days of each visit a copy of the Workers' Compensation Health Care Provider Certification completed by the treating physician. It is the employee's responsibility to ensure that all documentation from the treating physician is provided on this form, including the diagnosis and duration of the work-related injury or illness, if maximum medical improvement has been reached, if the employee can return to normal or limited/restricted duty, the nature and duration of any restrictions, the estimated date of recovery/return to full duty, and date of the next schedule visit. HRB will forward this information to the State Risk Management Division. If this documentation is not provided, the employee's continued absence from work may be considered unauthorized, and the workers' compensation benefits, and/or duty injury for NMSP Commissioned Officers may, be suspended.
6. The HRB will maintain the appropriate records in accordance with the Department's Personnel Records Policy.
7. The State Risk Management Division will cover treatment by authorized medical providers for employees injured on the job. The Department is not responsible for payment of unauthorized treatment.
8. Workers' compensation claims are subject to investigation by the Department and the State Risk Management Division.
9. Reporting a false claim and/or falsifying required documents under this policy is cause for disciplinary action up to, and including, dismissal.

C. Injuries or Illnesses Requiring Medical Attention

1. Supervisors are responsible for ensuring that injured employees receive necessary medical attention and escorting the injured employee, if necessary, to the health care provider of the employee's choice, or to the nearest medical facility (emergency room) if the situation warrants.
2. Employees (except New Mexico State Police Recruits) are permitted to choose their own health care provider to provide medical treatment at the beginning of the treatment period.
3. The health care provider used to provide emergency medical care will not be considered an employer-chosen health care provider under this policy.
4. Supervisors will not refer employees to health care providers other than for the provision of initial emergency care.

D. Injuries or Illnesses Requiring a Leave of Absence

1. Injuries or illnesses requiring a leave of absence will have the same documentation requirements as set forth in DPS Policy *PRS: 15 Absences from Work*. The Workers' Compensation Health Care Provider Certification or other acceptable certification that provides sufficient information to designate FMLA would meet this requirement.
2. The employee is required to immediately submit to HRB medical certifications (typically the Workers' Compensation Health Care Provider Certification) providing updated information on the prognosis for recovery, duration and status of

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condition, and other information set forth in this form within three (3) days of each doctor's visit, and no less than every thirty (30) days.

3. Medical certifications must be sent directly to the Human Resources Bureau in a sealed envelope marked "confidential" or faxed by the employee directly to the Human Resources Bureau - do NOT send medical certifications "up through the chain" of supervision. Failure to provide this documentation to HRB within the timelines set forth by law, DPS policy and/or reasonable direction from HRB is cause for disciplinary action and/or may impact eligibility for workers' compensation benefits.

E. Compensation (Indemnity) and Leave Benefits - Employees Not Receiving Duty Injury Benefits

1. The workers' compensation benefit will be equal to 66 2/3% of the employee's gross weekly base salary up to a specified weekly cap. For most individuals, this figure is equal to the pay received in 5.3 hours of the normal 8 hour work day and is recorded as Workers' Compensation Leave without Pay (WKRCP). The remaining 2.7 hours are charged to sick and/or annual leave or authorized Leave without Pay (LWOP).
2. §10-7-13 NMSA prohibits public employees from receiving monthly salary for leave time in combination with workers' compensation benefits that exceeds 100% of the employee's monthly base salary.
3. The first five (5) work days (forty [40] hours, seven [7] calendar days) that an employee loses time is NOT compensated with the workers' compensation benefit until the employee has been off work for more than twenty-eight (28) calendar days. The first week is initially charged to sick and/or annual leave or authorized LWOP.
4. After twenty-eight (28) calendar days off work, the first week's workers' compensation benefit check is paid. At this time, unless the employee was on LWOP, or in other words, did not have or use any sick or annual leave for that first forty (40) hours, the first week's benefit check will constitute an overpayment and violates §10-7-13 NMSA. Therefore, the HRB will enter an adjusting entry into the state's time and labor system to lower the amount of paid leave for the first week to 2.7 hours per day and reinstate the applicable amount of sick and/or annual leave used during the first week.
5. Service credit for retirement under the Public Employees Retirement Act (PERA) requires contributions of at least 50% each month to receive service credit for that month. Workers' compensation indemnity payments do not apply toward this 50% minimum threshold. Therefore, the date of retirement eligibility may be delayed as a result of applicable workers' compensation and/or other unpaid leave.

F. Early Return-To-Work/Modified Duty Assignments

See *PRS: 19 Modified/Limited Duty Policy*

G. Unable to Meet Essential Functions

See *PRS: 19 Modified/Limited Duty* – Duration of Modified/Limited Duty

H. Reemployment of Injured Former Employees

1. A former employee who has separated from the Department due to an injury and who has received, or is due to receive, benefits under the Workers' Compensation Act will have reemployment rights to positions in the Department with the same classification as that held at the time of separation, a classification with the same pay grade, or a classification with a lower pay grade.
2. The former classified employee must notify the Department's HRB in writing, with a copy to the State Personnel Office, of their desire to be reemployed. The notification will include the titles and locations of positions which the former employee is willing to accept and an appropriate application for employment.
3. When the Department is to fill a vacant position which is the title and location indicated by the former employee, the Department will offer the job to the former employee provided he or she meets the established requirements and obtains certification from the treating health care provider that he or she is fit to carry out the established requirements of the position without significant risk of re-injury.
4. Former employees reemployed under this policy do not have to serve a probationary period if they were in non-probationary status at the time of separation.
5. The HRB will notify Risk Management and the State Personnel Office of any injured former classified employee who applies for a position and subsequently declines a job offer.

I. Additional Requirements

When an employee has been released by his or her treating physician to return to work, either at full or modified duty, the employee must immediately notify HRB and the State's Risk Management Division. Return to work may be delayed if the complete and appropriate documentation is not provided in a timely manner. Written clearance from HRB before returning to work is required.

J. Reduction in Benefits as a result of Intoxication

1. If determined that injuries suffered are the result of intoxication, benefits otherwise payable, may be reduced to a degree to which the intoxication contributes to the worker's injury or death.

7.0 ATTACHMENTS

NONE

8.0 APPROVAL

APPROVED BY: S/ Scott Weaver DATE: May 23, 2016
DPS Cabinet Secretary