

## **SECTION 10.5 WORKERS' COMPENSATION POLICY**

### **A. Statement of Purpose**

Jefferson County provides Workers' Compensation benefits for injuries or illnesses sustained in the course and scope of employment in accordance with Texas workers' compensation regulations as administered by the Texas Department of Insurance (TDI). This coverage provides payment for associated medical expenses as well as a percent of salary for lost time.

The purpose of this policy is to establish uniform guidelines and procedures, consistent with TDI workers' compensation regulations, for reports, claims, and records. This policy establishes associated responsibilities for injured employees and supervisors.

### **B. Policy**

#### **Applicable to all employees**

1. Employees must immediately report any on-the-job accident, illness, or injury to their immediate supervisor or other management personnel in their department/office. An On-the-Job Injury/Illness Report must be submitted to Risk Management within 24 hours of the occurrence. Failure to report an on-the-job accident, illness, or injury in a timely manner may result in the loss of or denial of Workers' Compensation benefits.
2. Employees will receive regular pay for the hours scheduled on the day of injury.
3. Employees will receive temporary income benefits for any compensable lost time injury in accordance with TDI regulations.
4. Employees will accrue Injury Leave the same as Sick Leave § 11.1.
5. Employees will not accrue injury leave or sick leave while on workers' compensation leave.
6. Employees who return to work for their regularly scheduled hours may use available sick leave, vacation, or compensatory time for doctor's visits, physical therapy, or any follow-up treatment related to the compensable injury.
7. Workers' Compensation benefits are subject to any deductions required by law or by court order (e.g., child support payments).
8. Employees who have exhausted all injury leave may be eligible to continue Temporary Income Benefits (TIBs) from the workers' compensation carrier.

9. If an employee is eligible under the Family Medical Leave Act (FMLA) and has a Workers' Compensation injury that is a serious health condition as defined in § 11.4, the County simultaneously designates the Workers' Compensation absences as FMLA. Intermittent time off will continue to be designated throughout the recovery period. All questions regarding FMLA should be directed to the Human Resources Department.

**Applicable to Non-Law Enforcement only**

10. Employees will be administratively separated after exhausting FMLA and accrued injury leave in accordance with County policy.
11. Employees will receive partial salary continuation of 70% of base pay for the first seven days of a compensable injury. If salary continuation benefits during the first seven days of the injury exceed maximum workers' compensation benefits, the County will be reimbursed.
12. Employees are responsible for making payment of any voluntary payroll deductions while off work.
13. Employees who have accrued injury leave available may supplement their weekly temporary income benefits with available sick leave or vacation up to 20 hours per pay period, limited to two hours per day of compensable time off. Accrued leave may be used during the first seven days of Injury Leave.
14. Employees do not receive pay for vacation and sick leave (unless supplementing TIBs), compensatory time, holidays, funeral leave, personal leave, witness or jury duty, or military leave while on workers' compensation leave.

**C. Definitions**

1. **Alternative Duty** - Determination by a physician that an employee is physically able to return to work and perform job duties within certain restrictions or limitations for a specified period of time. Alternative duty may be referred to as light duty, restricted duty, or limited duty. Positions may not exist in all departments or offices.
2. **Full Duty** - Determination by a physician that an employee is physically able and has been released to return to work and perform all regular job duties.
3. **Injury Leave** – An unpaid accrual earned at the same rate as sick leave. Time lost due to a compensable injury or illness is charged against available Injury Leave.
4. **Maximum Medical Improvement (MMI)** - Means the earlier of:

- a. the earliest date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated;
  - b. the expiration of 104 weeks from the date on which income benefits begin to accrue; or
  - c. the date determined as provided by Section 408.104 of the Texas Labor Code.
5. **No Duty** - Determination by a physician that an employee is not physically capable of performing any job duties for a specified period of time.
  6. **Temporary Income Benefits (TIBS)** – The first level of income benefits, which accrue following a compensable injury or illness if an employee is unable to work due to the injury. TIBS are payable in accordance with TDI regulations.
  7. **Workers' Compensation** - A form of compensation provided to an employee as a result of an injury or illness arising out of, and in the course and scope of employment.
  8. **Work Status Report** - A report or release signed by the treating physician indicating the current medical status and return-to-work recommendation for an injured worker.

#### **D. Procedures/Responsibilities**

1. Risk Management Department
  - a. Report, monitor, and coordinate all aspects of the workers' compensation program.
  - b. Provide ongoing claims management to ensure that the injured employee is receiving the proper care for a quick recovery and return to work.
2. Department Directors/Elected Officials
  - a. Maintain a safe and healthy work environment.
  - b. Take appropriate action to reduce on-the-job injuries and illnesses, including exposure to reportable diseases.
  - c. Establish department/office policies and practices regarding alternative duty, if applicable, and enforce them.
  - d. Implement policies and procedures for reporting all accidents or injuries.
  - e. Ensure standardized procedures are followed for reporting all injuries in an effective and efficient manner, including supervisory accuracy in report writing and timeliness of submissions.
  - f. Take appropriate action regarding Drug Screen testing as outlined in § 8, Drug and Alcohol Policy (H. Employee Testing) for:
    - on-the-job injuries which result in medical treatment or lost time;
    - any employee suspected of having caused or contributed to an on-the-job accident or injury;

- reasonable suspicion that drugs or alcohol is affecting job performance and conduct in the workplace.

The Human Resources Department should be notified as soon as practicable for drug screen testing.

3. Supervisors/Managers

- a. Report serious or life-threatening injuries immediately to the Risk Management Department.
- b. Complete and submit to the Risk Management Department a First Report of Injury (on the Risk Management link of the Jefferson County web page) within twenty-four (24) hours of any work-related injury or illness.
- c. Send a copy of all work status reports (required after each provider visit) received from the employee to Risk Management within 24 hours of receipt.
- d. Follow-up with your injured employee if weekly contact is not maintained.
- e. Contact Risk Management within twenty-four (24) hours of the following:
  - When the employee, after returning to work, has an additional day(s) off due to the original injury;
  - After the employee resigns or is terminated.

4. Employees

- a. Report all injuries or occupational illness, regardless of the severity or lack thereof immediately to your supervisor or other management personnel.
- b. Arrange for payments of any voluntary payroll deductions.
- c. Notify your supervisor if you are using any available sick leave or vacation leave to supplement your temporary income benefits.
- d. Maintain weekly contact with your supervisor.
- e. Submit to your supervisor a Work Status Report within three days of each doctor or other healthcare provider visit. The form should detail all restrictions or limitations, be signed by the provider, and be returned even if you are not released to return to work. The completed form can be mailed, faxed, or returned in person.
- f. Cooperate fully with Risk Management staff and appointed claims adjuster.
- g. Follow all treating physician restrictions while on duty or off.
- h. Return to work, full or alternative duty, as specified by the doctor's release. Failure to return to work within three days of being released may be considered job abandonment and may result in disciplinary action up to and including termination.

Failure to follow these procedures/responsibilities may result in disciplinary action up to and including termination.

**E. Duty Status and Return to Work**

Each time an employee seeks medical treatment the doctor is required to provide the employee's current work status. There are three choices:

1. **Full Duty** - Able to work without restrictions -
  - a. The employee is expected to resume regular duties at the time specified by the physician with no restrictions or limitations.
  - b. After reviewing the release to return to work, if a question of employee safety/health exists, the supervisor or employee shall contact the Risk Management Department. Alternative Duty may be provided until the medical condition and the ability of the employee to perform regular duties can be more clearly defined by the physician. Once the question of safety is satisfactorily resolved by the physician, the employee is expected to perform full duty.
  
2. **Alternative Duty** - Able to work with restrictions -
  - a. Each department/office is encouraged to provide an Alternative Duty program for its employees who sustain job-related injuries or illnesses. The purpose of Alternative Duty is to return the employee to work as quickly as possible in a meaningful and productive capacity. This duty recognizes the employee's medical and physical limitations, yet provides a mechanism for the employee to return to work at the earliest possible time.
  - b. If the treating physician releases the employee to Alternative Duty, specific detailed limitations/restrictions must be identified. The department/office may require the employee to return to the physician with a job description in order to more clearly define the limitations/restrictions. This job description will also allow the physician to evaluate the employee's ability to perform full duty. The Risk Management Department or insurance adjuster may request clarification of the light duty release from the physician. The supervisor and employee must adhere to all limitations or restrictions prescribed by the treating physician.
  - c. Alternative duty may continue for a period not to exceed 90 days.
  - d. Alternative duty is temporary and is not intended to become a regular job.
  
3. **No Duty** - Prevented from returning to work

Only the treating physician can authorize an employee to be off work on No Duty. Such authorization must be in writing, signed by the treating physician, have a beginning and ending date, and returned to the Risk Management Department.

While on No Duty, an employee must not participate in any activities that would hinder recovery. Examples of such activities include, but are not limited to, strenuous athletic activities and working at another job. Such activities shall be considered misconduct and may result in termination.

**NOTE: The provisions of this policy may not apply to those employees covered by separate provisions of collective bargaining agreements or other statutory regulations.**