

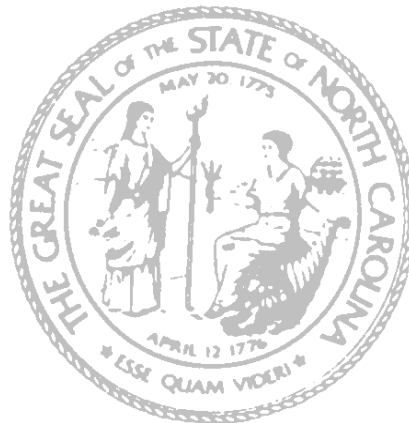
North Carolina State Government

WORKERS'

COMPENSATION

EMPLOYEE & SUPERVISOR

HANDBOOK



NORTH CAROLINA OFFICE OF STATE HUMAN RESOURCES

August 2017

PURPOSE

Notice To State Government Employees: Employees have the right to report work-related injuries and illnesses. Employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries or illnesses. If an employee is injured on the job, the employee should immediately notify their supervisor. If the employee's injury requires medical treatment, the agency/university's procedures regarding obtaining medical treatment should be followed.

The NC Office of State Human Resources (NC OSHR) administers the State Workers' Compensation Program. NC OSHR contracts with a Third Party Administrator (TPA) and other vendors to provide workers' compensation claims services for covered employees in State agencies and universities. Each State agency/university has a Workers' Compensation Administrator (WCA) who is responsible for the reporting and administration of workers' compensation in their agency/university. The North Carolina Industrial Commission (NCIC) maintains claim records, adjudicates disputes, and approves certain awards of benefits in accordance with workers' compensation law.

THIS HANDBOOK DOES NOT CONSTITUTE LEGAL ADVICE. This document provides employees of the State of North Carolina with general information regarding workers' compensation law as specified in NC General Statutes Chapter 97, the North Carolina Workers' Compensation Act. This document instructs employees on how to report and file a claim and provides an explanation of available benefits when they have suffered an injury on the job or contracted an occupational disease. This document also includes a general explanation of workers' compensation related rights and duties of the employee and employer.

WHO MAY AN EMPLOYEE CONTACT FOR HELP?

If an employee has questions about workers' compensation coverage or benefits, the employee may contact their agency/university Workers' Compensation Administrator (WCA), NC OSHR at (919) 807-4800 or workerscomp@nc.gov, or Third Party Administrator (TPA) claims adjuster at the phone number specified below.

Additional information about workers' compensation law and benefits is available from the North Carolina Industrial Commission (NCIC) website, www.ic.nc.gov, or by calling (919) 807-2501 or 1-800-688-8349.

Agency / University Name: _____

Division: _____

Agency /University Workers' Compensation Administrator

Name: _____

Telephone Number: _____

TPA Claims Adjuster – CorVel Corporation

Adjuster Name: _____

Telephone Number: 1-800-365-5998

Agency / University Safety Officer

Name: _____

Telephone Number: _____

WHAT EMPLOYEES ARE COVERED?

The State Workers' Compensation Program covers all agency and university full-time, part-time, and temporary State employees and officers. It also covers all State elected officials, members of the General Assembly or those appointed by the Governor to serve on a per diem, part time or fee basis.

WHAT INJURIES/ILLNESSES ARE COVERED?

Pursuant to North Carolina workers' compensation law, an "injury by accident" to any body part is covered if it arises out of and in the course of employment. An accident is an unusual or untoward event or interruption in the normal work routine. An injury that occurs while performing regular job duties in the usual and customary manner is not covered. There are two exceptions to the "injury by accident" requirement, back injuries and hernias. If a back injury or hernia is caused by a "specific traumatic incident" while performing work assigned, they are also covered injuries.

Certain diseases termed "occupational diseases" are compensable under the North Carolina Workers' Compensation Act. An occupational disease is any disease proven to be due to causes and conditions which are characteristic of a particular job, but excluding all ordinary diseases of life to which the general public is equally exposed outside of the employment. Occupational diseases are generally caused by a series of events of similar nature occurring regularly or at frequent intervals over a period of time in the employment.

WHAT HAPPENS WHEN AN EMPLOYEE IS INJURED?

Injury by accident: The employee should immediately tell their supervisor (or any other supervisor if unavailable) when an "injury by accident" or "specific traumatic incident" happens or as soon as possible after it occurs. In any event, the employee should tell their supervisor or agency/university Workers' Compensation Administrator (WCA) of their injury no later than 30 days after it happens or the employer may refuse compensation.

Occupational disease: An employee should give notice to their supervisor or agency/university WCA of an occupational disease when a competent medical authority first tells an employee of the nature and work-related cause of the illness.

State agencies/universities have procedures for employees to follow in order to receive medical treatment when injured at work, such as in-house treatment or referral to a list of authorized local medical providers. The injured employee's supervisor or other agency/university staff should immediately send the employee to an authorized medical provider for needed treatment. The employer should generate an initial medical treatment authorization form from the Third Party Administrator (TPA) web portal, complete it, and give to the injured employee to provide to the specified initial medical provider. If the employer does not give the employee an authorization form, the injured employee should tell the medical provider that their injury happened on the job and bills should be sent to their employing agency/university.

If the agency/university fails to send the employee to initial medical treatment, the employee may go to a medical provider of their choice and such treatment will be paid for by the agency/university. Thereafter, the injured employee is responsible for payment for any medical treatment received for their injury if such treatment is not authorized or directed by their agency/university or TPA claim adjuster.

State agencies/universities require an employee to give written notice to their employer that an injury by accident or diagnosis of an occupational disease has happened by completing one of the following forms:

1. The Office of State Human Resources (OSHR) "NC Employee Incident Report" form. This form is part of the OSHR Incident Investigation and Reporting Program. This form allows the employee to describe the accident and injury(ies). This form is available at workerscomp.nc.gov or may be obtained from the employee's supervisor or agency/university WCA.
2. An agency/university specific incident reporting form.

The agency/university WCA will complete the First Notice of Loss (FNOL) report in the TPA web portal with information included on the Employee Incident Report. The TPA will process the FNOL report based upon the type and severity of injury.

The employee may ensure their workers' compensation claim is preserved by completing and sending an NC Industrial Commission Form 18 or 18B to the NC Industrial Commission within two years from the date of injury or knowledge of an occupational disease.

The assigned TPA claim adjuster will contact an employee directly to complete a claim investigation and continue communicating with the employee throughout the claim administration process.

The injured employee should give the agency/university WCA or assigned TPA claim adjuster all requested information in a timely manner to prevent delays in claim processing.

WHAT SHOULD AN EMPLOYER DO WHEN AN EMPLOYEE IS INJURED?

When an employee is injured, the employer's immediate responsibility is to send the employee to necessary medical treatment. The agency/university WCA electronically reports the employee's injury to the TPA and an NC Industrial Commission Form 19, the employer's report of injury, is generated. The TPA claim adjuster mails the employee a copy of the NC Industrial Commission Form 19, a blank NC Industrial Commission Form 18, and the adjuster's contact information.

The TPA claim adjuster accepts or denies liability for the employee's injury on behalf of the State agency/university, monitors and processes claims, and pays benefits in accordance with the North Carolina Workers' Compensation Act. The agency/university and TPA provide the best possible medical care for the injured employee to help them reach maximum medical improvement (the end of the healing period for their work injury) and return to work as soon as possible.

WHO DIRECTS AND PAYS FOR AN INJURED EMPLOYEE'S MEDICAL TREATMENT?

The employing agency/university directs initial medical treatment for an injury. Thereafter, the TPA claim adjuster authorizes and directs all medical treatment related to an injury. Once an authorized treating physician is established for the injury, it may only be changed by the TPA claim adjuster or with NC Industrial Commission approval.

The employing agency/university pays for the injured employee's medical treatment related to a covered injury. Medical treatment as defined by state law includes medical, surgical, hospital, nursing, and rehabilitative services, including, but not limited to, attendant care services prescribed by a health care provider authorized by the employer or subsequently by the Industrial Commission, vocational rehabilitation, and medicines, sick travel, and other treatment, including

medical and surgical supplies, as may reasonably be required to effect a cure or give relief and for such additional time as, in the judgment of the Industrial Commission, will tend to lessen the period of disability; and any original artificial members as may reasonably be necessary at the end of the healing period and the replacement of such artificial members (prosthetics) when reasonably necessitated by ordinary use or medical circumstances.

Medical bills for injury related treatment are paid in accordance with the NC Industrial Commission fee schedule which sets maximum fees for all treatment. It is against state law for any medical provider to accept any fee from a person for treatment of a workers' compensation injury other than the fee approved by the NC Industrial Commission and paid by the employer.

WHAT HAPPENS IF AN EMPLOYEE'S CLAIM IS DENIED?

If the employee's claim is denied, the employee may appeal the denial by filing written notice with the NC Industrial Commission including the employee's name, employer's name, date of injury, and nature of injury. This written notice should be mailed to:

North Carolina Industrial Commission
4340 Mail Service Center
Raleigh, NC 27699-4340

An injured employee may request a hearing on any issue related to their claim by filing written notice or an NC Industrial Commission Form 33 with the NC Industrial Commission. The NC Industrial Commission Form 33 is available on the North Carolina Industrial Commission website, www.ic.nc.gov, or by calling (919) 807-2501 or 1-800-688-8349.

WHAT WORKERS' COMPENSATION BENEFITS DOES AN INJURED EMPLOYEE RECEIVE WHEN UNABLE TO FULLY OR PARTIALLY RETURN TO WORK?

Scenario 1. The injured employee's authorized treating physician issues a written statement certifying the employee is **completely unable to work** due to their injury.

The injured employee should give all work status related documents received from their authorized treating physician to their supervisor or the agency/university WCA as soon as possible after receiving them. A work note from any other medical provider may not be used to certify the employee is unable to work due to their injury.

When an employee is entirely unable to return to work due to their injury, the employee is eligible to receive weekly temporary total disability (TTD) compensation.

An employee's weekly compensation rate equals sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages in the employment in which the injury occurred during the past 52 weeks prior to the injury. The weekly compensation rate is subject to a statutory compensation rate minimum (\$30.00 per week) and maximum amount which is established annually by the North Carolina Industrial Commission in accordance with state law. If the employee has lost more than seven consecutive calendar days at one or more times during the 52-week period, these weeks are deducted when calculating the average weekly wage. If the employee has worked for less than one year in the job when injured, the average weekly wages are based on the number of weeks worked prior to the injury. **The injured employee's weekly compensation rate is calculated as of the date of injury and remains the same for the life of the claim.**

Scenario 2. The injured employee's authorized treating physician issues a written statement certifying the employee is **only able to work within certain restrictions** (i.e. physical limitations, certain number of hours per day) due to their injury.

The injured employee should give all work status related documents received from their authorized treating physician to their supervisor or the agency/university WCA as soon as possible after receiving them. A work note from any other medical provider may not be used to certify an employee is unable to work due to their injury.

When an employee can perform some work within certain restrictions, the employer may elect to provide such work and only be responsible for the payment of temporary partial disability (TPD) compensation if the employee does not receive the same or greater pre-injury wages during this period.

Temporary partial disability (TPD) compensation equals sixty-six and two-thirds percent (66 2/3%) of the difference between the injured employee's weekly earnings while working with restrictions and prior to the injury, subject to the maximum compensation rate allowed by law.

HOW IS WORKERS' COMPENSATION LEAVE TIME HANDLED?

An employee has leave options if a compensable injury results in lost time from work. The employee is paid for the entire day of injury and no leave time is charged if the employee leaves work to get needed medical treatment. An employee is expected to return to work on the date of injury unless the initial medical provider states the employee must go home for the rest of the day.

If the employee's compensable injury results in lost time from work other than the date of injury, the employee must go on workers' compensation leave of absence and is entitled to receive workers' compensation weekly benefits. There is a seven-day waiting period where no compensation for time lost from work is allowed except when the injury results in the inability to work for more than 21 days. If the employee is unable to work for more than 21 days, then weekly compensation is allowed for the first seven days.

An injured employee has the following leave options covering the seven-day waiting period (Certain law enforcement officers and public school employees eligible for salary continuation benefits are exempt from the seven-day waiting period requirement as described below.):

Option 1: The employee may elect to take earned sick or vacation leave during the required seven-day waiting period and then go on Workers' Compensation leave of absence and begin drawing workers' compensation weekly benefits. Note that if the injury results in disability exceeding 21 days no adjustment will be made in the leave used for these workdays.

Option 2: The employee may elect to go on Leave Without Pay for the required seven-day waiting period and then begin drawing workers' compensation weekly benefits.

Supplemental Leave Option: After an employee begins receiving weekly workers' compensation benefits (TTD), the employee may supplement this benefit by using partial sick or vacation leave earned prior to the injury or illness in accordance with a schedule published each year by the NC Office of State Human Resources. This supplemental leave provides an income approximately equal to the employee's pre-injury take home pay.

The agency/university WCA will give the injured employee an "Employee Use of Leave Options Election" form to complete when placed on workers' compensation leave of absence to document the employee's selection of Option 1 or 2 for the seven-day waiting period and usage of supplemental leave. This election may not be changed for the duration of the claim.

Employees injured on the job that have returned to work who need to attend medical or therapy visits during regularly scheduled working hours are not charged leave for time lost from work for required treatment. Paid time will be limited to reasonable time for the treatment and travel. Any

excess time will be charged as sick or vacation/bonus leave or leave without pay. The employee's supervisor will approve such leave as it occurs.

Salary Continuation Plans

For Certain Law Enforcement Officers: Eligible employees as defined in NCGS §143-166.13 receive their full salary for up to two years if their injury is the result of an injury by accident or occupational disease "resulting from or arising out of an episode of violence, resistance, or due to other special hazards that occur while the eligible person is performing official duties".

For Public School Employees Injured in An Episode of Violence: Full time employees of an educational institution supported by and under the control of the State when injured in an episode of violence as described in G.S. 115-C-338 are entitled to salary continuation for the shortest of the following three periods: 1) one year; 2) the continuation of the disability; or 3) the lost work time due to the injury.

In addition to salary continuation, an employee in these two groups receives all workers' compensation benefits other than weekly compensation during the salary continuation period. If an employee is unable to work for more than the allowed period of salary continuation, the employee is then entitled to the same weekly compensation benefits as all other employees.

An injured employee's supervisor is responsible for notifying the agency/university WCA when an employee returns to work after an out of work period due to the compensable injury. The agency/university WCA then notifies the TPA adjuster that the employee has returned to work.

WHAT HAPPENS TO AN INJURED EMPLOYEE'S BENEFITS WHILE UNABLE TO WORK?

An employee unable to work due to a compensable injury is placed on Workers' Compensation leave of absence and taken off the State's regular payroll. **While in this pay status, NO DEDUCTIONS are taken from the employee's weekly workers' compensation benefit. If the employee has payroll deductions made from regular pay for items such as credit union loans, etc., it is the employee's responsibility to arrange an alternate payment method while on workers' compensation leave.**

While on Workers' Compensation leave of absence an employee is eligible for continuation of the following benefits:

Vacation/Sick Leave: While on workers' compensation leave, the employee continues to accumulate vacation and sick leave to be credited for use upon return to work. If an employee does not return to work, vacation and sick leave accumulated during the first twelve months of workers' compensation leave will be paid in a lump sum along with other unused vacation/bonus credit earned prior to the injury at the time of separation.

Health Insurance: While on workers' compensation leave, the injured employee's health insurance coverage continues. The State pays ONLY the premium for the least expensive State Health Plan coverage on the employee's behalf. If the employee has elected more generous coverage, the employee must pay the remaining portion of the premium each month as well as the premium for any dependent coverage. **Premiums owed for the injured employee's and/or dependents' health insurance must be paid directly by the injured employee to the State Health Plan to keep ongoing health insurance coverage. The State Health Plan will not send a notice to the injured employee on workers' compensation leave of absence regarding premium payments.** Employees should contact their agency health/benefits representative to obtain information on how to pay monthly health insurance premiums while on workers' compensation leave of absence.

Performance Increases: Upon reinstatement from workers' compensation leave, the employee's salary will be computed based on the last salary plus any legislative increases to which the employee is entitled. Any performance increases which would have been given had the employee been at work may also be included in the reinstatement salary, or it may be given on any payment date following reinstatement.

Longevity: While on workers' compensation leave, the employee continues to receive longevity credit and, if eligible, annual payments.

Retirement Service Credit: While on workers' compensation leave, the employee **does not** receive retirement service credits. As a member of the Retirement System, the employee may purchase credits for the time period on workers' compensation leave of absence. Upon request, the Retirement System will provide a statement of the cost and the date by which purchase must be made.

Disability Income Plan of North Carolina: Eligible employees who become temporarily or permanently disabled and are unable to perform their regular work duties may receive partial replacement income on a short-term or long-term basis through the Disability Income Plan of North Carolina. For detailed information, access the Department of the State Treasurer, Retirement Systems Division handbook at https://www.nctreasurer.com/ret/Benefits%20Handbooks/TSERS_DisabilityHandbook.pdf or by calling 1-877-627-3287 (877-NCSECURE).

WHAT HAPPENS WHEN AN INJURED EMPLOYEE RETURNS TO WORK?

If an injured employee receives a payment for temporary total disability (TTD) or temporary partial disability (TPD) after returning to work, the employee should notify their supervisor or agency/university WCA immediately. If an employee fails to report any payment made in error, the employee is responsible for repaying the State for any overpayment made.

When an injured State employee with a compensable injury is released to return to work by their authorized treating physician, there are three possible return to work situations:

1. The employee has or has not reached MMI for their work-related injury and is released to return to full duty work by their authorized treating physician. The employee returns to the original or similar position held prior to the injury. The employee is not eligible for any weekly compensation benefits.
2. The employee has not reached MMI; however, the employee's authorized treating physician has assigned temporary work restrictions (i.e. physical limitations, working hours, etc.) to the employee. The agency/university may provide, if available, modified or light duty work for the employee. The employee is eligible for weekly compensation benefits: TTD (not working at all) or TPD (working within restrictions for less than pre-injury wages) during this time period.
3. The employee has reached MMI; however, the employee's authorized treating physician has assigned permanent work restrictions (i.e. physical limitations, working hours, etc.) to the employee. An injured employee may return to their pre-injury job if the employee's job duties are within the assigned permanent work restrictions or the restrictions can be reasonably accommodated in that position.

If an injured employee's permanent work restrictions cannot be reasonably accommodated in the employee's pre-injury job, the agency/university may offer the injured employee another suitable job in the same agency/university or assist the employee in seeking employment in other State agencies/universities or alternate employers.

If the injured employee refuses to return to work before or after reaching maximum medical improvement whose duties are within assigned work restrictions and has been approved by the

authorized treating physician, the employer may seek NC Industrial Commission approval for suspension or termination of the employee's weekly compensation so long as the refusal continues.

If a job is not available within the injured employee's assigned work restrictions, an employee remains on workers' compensation leave of absence until work placement or settlement and continues receiving weekly compensation (TTD) benefits in accordance with state law.

State agencies/universities have Return To Work Programs addressing the return to work situations described herein. The TPA adjuster and OSHR work closely with agencies/universities to assist with returning employees to pre and post maximum medical improvement work within assigned restrictions.

WHAT HAPPENS WHEN AN INJURED EMPLOYEE HAS PERMANENT DAMAGE TO A BODY PART?

An injured employee that suffers total or partial loss of use of a specific body part due to a compensable injury is eligible to receive permanent partial disability (PPD) compensation. The injured employee's authorized treating physician issues percentage of loss ratings to injured body parts when an employee reaches maximum medical improvement.

The PPD compensation rate is the same as the weekly compensation rate an employee receives when completely unable to work (TTD). The weekly compensation rate equals sixty-six and two-thirds percent (66 2/3%) of the average weekly wages as of the date of injury. The weekly compensation rate is subject to the statutory compensation minimum (\$30.00 per week) and maximum established by the NC Industrial Commission in accordance with state law. Below is the schedule for payment of total loss of use of specific body parts. The assigned impairment rating of 1%-99% is multiplied times the number of weeks to calculate the exact number of weeks of PPD compensation owed to the injured employee:

Thumb	75 weeks
First or index finger	45 weeks
Second or middle finger	40 weeks
Third or ring finger	25 weeks
Fourth or little finger	20 weeks
Great toe	35 weeks
Any other toe	10 weeks
Hand	200 weeks
Arm	240 weeks
Foot	144 weeks
Leg	200 weeks
Eye	120 weeks
Hearing (one ear)	70 weeks
Hearing (both ears)	150 weeks
Back	300 weeks

If an injury results in facial or head scars which seriously disfigure or cause the loss or permanent injury to an important organ of the body, an injured employee may be entitled to receive additional compensation up to \$20,000. No compensation is allowed for scars where an employee is paid for permanent loss or partial loss of use of the same body part. An employee is also entitled to payment for disfigurement due to the loss of permanent teeth resulting from a compensable injury.

HOW IS A WORKERS' COMPENSATION CLAIM CLOSED?

Claims are generally closed when the employee reaches maximum medical improvement, returns to work without restrictions, or the last medical or disability compensation payment has been paid. The claim is officially closed with the filing of a completed NC Industrial Commission Form 28B with the NC Industrial Commission. The employee receives a copy of the filed form.

As stated on the NC Industrial Commission Form 28B, an employee that has a significant change of condition within 2 years and feels they are entitled to additional compensation for lost time from work or permanent impairment to a specific body part related to the injury must request additional compensation in writing directly to the NC Industrial Commission within 2 years of the last compensation payment date. Otherwise, it is time barred.

As stated on the NC Industrial Commission Form 28B, an employee may file a completed NC Industrial Commission Form 18M to obtain approval for lifetime additional medical treatment related to their compensable injury. An injured employee must file the NC Industrial Commission Form 18M within 2 years of the last compensation payment date. Otherwise, it is time barred.

WHAT DEATH BENEFITS ARE AVAILABLE?

In the event of an employee's death resulting from an injury or occupational disease, death benefits are payable if the claim is filed with the NC Industrial Commission in writing within two years. Effective June 24, 2011, compensation for death is paid for 500 weeks at sixty-six and two thirds percent (66 2/3%) of the employee's average weekly wage. Death benefits are paid to the total dependents of the employee or next of kin in accordance with state law. If a surviving spouse is unable to support herself or himself due to physical or mental disability as of the date of death of the employee, compensation shall continue during the life of the widow or widower or until remarriage. Compensation payments due a dependent child are paid for 500 weeks or until the child reaches age 18. Funeral expenses are allowed up to \$10,000.