

Workers' Compensation Administration

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Statutory Authority

The Workers' Compensation law provides medical benefits and disability compensation including a weekly compensation benefit for time lost. The weekly benefit is equal to 66 2/3 of the employee's average weekly earnings up to a maximum established by the Industrial Commission each year. When an employee is injured, the employee must go on workers' compensation leave and receive workers' compensation weekly benefits after the waiting period required by G.S. 97-28.

Purpose

The purpose of this policy is to insure that employees injured on the job are provided compensation in accordance with the Workers' Compensation Act and to provide consistent application of these rules and regulations. Further, the purpose is not only to provide swift and certain remedy to an injured employee, but also to insure a limited and determinate liability for the employer.

Covered Employees

All North Carolina State government employees are covered under the North Carolina Workers' Compensation Act. This includes:

- all employees and officers of the State,
 - elected officials,
 - members of the General Assembly, and
 - persons appointed to serve on a per diem, part-time or fee basis.
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Benefits

Any employee who suffers an accidental injury or contracts an occupational disease within the meaning of the Workers' Compensation Act is entitled to benefits provided by the Act.

The employee is entitled to medical benefits and compensation for time lost from work and any disability which results from the injury.

The State has a "self-insured" program and expenditures are paid from current operating budgets.

Election of Third Party Recovery

Under certain circumstances, involving third party liability, an employee may elect to pursue recovery for a work-related injury through the third party rather than file a claim for workers' compensation. If an employee chooses to do this, a statement acknowledging that the employee was advised of his rights under the Workers' Compensation Act must be prepared by the agency and signed by the employee.

Employee Responsibility

Responsibility for claiming compensation is on the injured employee. The employee or the employee's representative shall:

- give notice of an accident to the employer as soon as possible, and not later than 30 days after occurrence of the accident or death, and
- file a claim through the appropriate person in the agency with the North Carolina Industrial Commission within two years from the date of injury or knowledge thereof.

Advisory Note: No compensation shall be payable unless written notice is given within 30 days, unless reasonable excuse is made to the satisfaction of the Industrial Commission for not giving such notice and the Commission is satisfied that the employer has not been prejudiced thereby.

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Agency Responsibilities

Each State agency is responsible for administering an effective and efficient workers' compensation program, which may include third party administration of claims. The agency shall ensure the employee receives the benefits provided by the Workers' Compensation Act. To meet these objectives and to effectively control costs associated with work-related injuries and illnesses, each agency shall:

- designate a Workers' Compensation Administrator to be responsible for ensuring effective processing and monitoring of all claims,
- fund medical treatment and compensation for loss of wages,
- effectively communicate WC policy and procedures to all employees,
- participate in compromise settlement agreements and NC Industrial Commission Hearings or Mediations, where appropriate, and
- the agency, or its designated representative, shall report an injury to the North Carolina Industrial Commission, using the NCIC Form 19, within five days from knowledge of any claim that results in more than one day's absence from work or if medical expenses exceed the reportable amount which is established by the Industrial Commission.

Office of State Human Resources Responsibilities

In the administration of the State Government Workers' Compensation Program, the Office of State Human Resources shall:

- act as technical resource, and liaison for Workers' Compensation Program,
- provide consultation to agency personnel in managing their workers' compensation programs and insuring that all agencies provide consistent application of coverage and compensation to injured employees,
- contract oversight, monitoring and evaluation of the effectiveness of third party administration of claims, and intermediary between third party administrator and the State,
- measure and evaluate the effectiveness of the workers' compensation program at each agency and recommend changes to achieve optimum results,

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- maintain a statistical data base summarizing statewide analysis of total expenditures and injuries, and
 - develop training and educational materials for use in training programs for the agencies.
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Return to Work

When an employee, who has experienced a work-related injury or illness and has been released to return to work by the treating physician, there are three possible return to work situations. The agency shall develop a structured Return to Work Program to address these situations.

1. **Has Reached Maximum Medical Improvement and Is Released to Return to Work** - When an employee has reached maximum medical improvement and has been released to return to work by the treating physician, the agency shall return the employee to the same position or one of like seniority, status and pay held prior to workers' compensation leave.
2. **Has Not Reached Maximum Medical Improvement but Is Ready to Return to Limited Duty** - When an employee has not reached maximum medical improvement and is ready to return to limited work duty with approval of the treating physician, but retains some disability which prevents successful performance in the original position, the agency shall provide work reassignment suitable to the employee's capacity which is both meaningful and productive, and advantageous to the employee and the agency. This work assignment shall:
 - be a temporary assignment and
 - not exceed 90 days without approval from the agency personnel officer.
3. **Has Reached Maximum Medical Improvement But Has a Disability** - When an employee has reached maximum medical improvement and has been released to return to work by the treating physician, but has received a disability which prohibits employment in the previous position, the agency shall:
 - a) Attempt to place the employee in another position (with an appointment like that held prior to the injury) that is suitable to the employee's capacity and is meaningful, productive, and advantageous to the employee and the agency.

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The agency shall treat reemployment of the employee with priority as described in the Selection Policy, Special Employment and Reemployment Considerations, Recruitment and Selection Section.

- b) During the work placement efforts, the employee shall be appointed to the first suitable vacancy that occurs.
- c) If the employee accepts a position in a lower pay grade than the pre-injury position, the employee's pay must be adjusted, as appropriate, within the range of the lower pay grade.
- (d) If a position is not available that is suitable to the employee's capacity, the employee shall continue on workers' compensation leave until work placement or separation.
- (e) Work placement efforts may be in the form of referral to agency internal vacancies, Office of State Human Resources vacancy listings, third party reemployment services, vocational rehabilitation, etc.

Advisory Note: The Workers' Compensation Act does not prohibit the separation of an employee in receipt of workers' compensation benefits if it is determine critical to fill the position. Separation may occur anytime in accordance with the Separation Due to Unavailability Policy, but may not occur as retaliation.

Refusal of Suitable Employment

The Workers' Compensation Act prevents employers from firing or demoting employees in retaliation for pursuing remedies under the Act, but does not speak to reemployment after an employee has been released by the treating physician to return to work. If an employee, who has been on workers' compensation leave, has reached maximum medical improvement and released to return to work by the treating physician refuses suitable employment in keeping with the employee's capacity, the employer shall request stop payment of compensation and implement dismissal procedures.
