

HUMAN RESOURCES POLICY
Fauquier County, Virginia

Policy Title: Workers' Compensation
Section No.: 36

Effective Date: 05/17/04
Supersedes Policy: 09/04/90

I. PURPOSE

It is the objective of the Board of Supervisors that all County employees receive benefits provided by the Virginia Workers' Compensation Act upon suffering a work-related injury or illness (occupational disease).

II. SCOPE

This policy applies to all employees.

III. DEFINITIONS

A. Injury

An injury is defined as an accident arising out of and in the course of employment.

B Occupational Disease

An occupational disease is defined as a disease arising out of and in the course of employment, but, unless otherwise provided by the Virginia Workers' Compensation Act, not an ordinary disease of life to which the general public is exposed outside of employment.

C. Workers' Compensation

Workers' Compensation is defined as a type of leave from employment which results from an employee's incapacity to work, and which has been determined to have resulted from an injury or occupational disease such that the employee is entitled to benefits required by the Virginia Workers' Compensation Act.

IV. PROCEDURES

A. Responsibilities

1. Employees

Employee responsibilities are as follows:

- a. Report any job related injury or illness to the supervisor immediately and complete the required forms.
- b. If medical treatment is needed, select a physician from the County approved list of designated physicians. In the event of an emergency requiring immediate medical treatment employees should obtain treatment at the nearest medical facility.
- c. Notify the physician selected that all reports and bills are to be sent to the attention of the Human Resources Department.
- d. Cooperate with the insurance carrier's claims adjuster during the investigation of the claim.
- e. Cooperate with the insurance carrier's claims adjuster during the continued handling of the claim, including supplying additional information as necessary and keeping appointments for scheduled medical evaluations.
- f. Keep the department supervisor advised of disability status while out on injury leave.
- g. Cooperate with the Patient Advocate and return to work efforts.

2. Departments

Department responsibilities are as follows:

- a. Ensure all employees within the department are aware of procedures, changes, and regulations regarding Workers' Compensation.
- b. Submit required and completed forms to the Human Resources Department.
- c. Forward all medical bills or other correspondence received from an employee, physician, or medical care facility to the Human Resources Department.
- d. Notify the Human Resources Department immediately when an employee is able to return to work either in a light duty or full duty capacity.
- e. Upon receipt of the completed Quick-Fax Report (Section D) by

the Human Resources Department, notify the employee of the date, time, and capacity (regular or light duty) of return to work.

- f. Cooperate with the insurance carrier during investigation of claims and assist in back-to-work, light duty and vocational rehabilitation programs.

3. Human Resources Department

Human Resources Department responsibilities are as follows:

- a. Develop and manage the County Workers' Compensation Claims program.
- b. Maintain records of all Workers' Compensation claims sent to the claims service company.
- c. Monitor the progress of all Workers' Compensation claims handled by specific insurance companies and, where necessary, provide status reports to departments.
- d. Assist departments with Workers' Compensation claims processing and coordination of the employee's timely return to light, restrictive, or regular duty.
- e. Answer questions and respond to inquiries regarding Workers' Compensation claims.
- f. Review and approve for payment all bills related to medical or disability claims.
- g. Coordinate the defense of contested claims with the specific insurance carrier.

B. County Designated Physicians

- 1. Section 65.1-88 of the Virginia Workers' Compensation Act requires that injured employees chose a physician from a panel selected by the employer.
- 2. Employer authorized physicians and medical treatment facilities must be used at all times by employees receiving treatment for job-related injury/illness.
- 3. Exception to employer authorized physicians and medical treatment

facilities may be made in the case of an emergency requiring immediate medical treatment that occurs outside of normal working hours.

4. Failure to secure treatment from an authorized physician could result in a denial of benefits.
5. Any change in treating physician requires approval of the individual insurance carrier prior to treatment.

C. Second Opinions and Changes of Physicians

1. Employees receiving medical treatment for a compensable injury or illness may request a second medical opinion or a change in treating physician by contacting the individual insurance carrier and requesting prior approval.
2. If an employee obtains a second medical opinion or seeks treatment from a physician not on the County's Panel without prior approval of the insurance carrier, the employee will be responsible for the cost of such treatment.

D. Salary/Wage Benefits

1. In accordance with Section 65.2-509 of the Code of Virginia, 1950, as amended, no compensation shall be allowed for the first seven (7) calendar days (including Saturday, Sunday and holidays) of incapacity resulting from a job related injury or illness.
2. During this seven (7) day period, the employee may use accrued annual, sick, or compensatory leave. If the employee does not have sufficient annual, sick or compensatory leave balances, the employee may request leave through the Leave Donation Program. If the employee has no leave balance and receives no leave through the Leave Donation Program, the employee will be placed in a leave without pay status for the seven (7) day period.
3. If the incapacity extends beyond the initial seven (7) day period, Workers' Compensation benefits (compensation) shall commence with the eighth (8th) day of disability. If such incapacity continues for a period of more than twenty-one (21) consecutive calendar days, not including the day of injury, compensation shall be allowed from the first day of such incapacity.
4. Workers' Compensation benefits are provided at the rate of two-thirds (2/3) of the average weekly, pre-tax wage of the employee, subject to

weekly maximums as approved by the Virginia Workers' Compensation Commission. This amount is not subject to payroll taxes.

5. Employees may supplement the workers' compensation benefit by one-third (1/3) using accrued annual, sick or compensatory leave. If the employee does not have sufficient annual, sick or compensatory leave to supplement the workers' compensation benefit, the employee may request leave through the Leave Donation Program.
6. Overpayments resulting from wages paid for part or all of a pay period shall be recouped by the Payroll Department by:
 - a. adjusting leave balances;
 - b. adjusting future leave payments;
 - c. adjusting future pay; or
 - d. billing for repayment, whichever is appropriate.

E. Return to Work

1. An injured employee must return to work as soon as he/she is released for regular, restrictive, or light duty by the treating physician.
2. A Functional Capacities Form must be completed by the treating physician and submitted to the Human Resources Department prior to the employee returning to regular, restrictive or light duty.
3. If the return to work is restrictive or light duty, then the Human Resources Department shall submit to the attending physician a copy of the proposed light duty job description for approval.
4. The employee shall not be permitted to perform light duty unless approved by the attending physician.
5. Employees on light duty assignment may return to their regular duties upon receipt of a Functional Capacities Form signed by the employee's attending physician attesting to the employee's physical and mental fitness to resume regular duties.

F. Light Duty Assignment

1. Whenever an injured or ill employee is temporarily unable to return to his/her regular duty, but is considered medically fit to perform less strenuous tasks, efforts shall be made by the Human Resources Department in consultation with the employee's department head or designee to find a light duty assignment for that employee.

2. Such an assignment may not necessarily be in the employee's regular department.
3. Fitness for light duty assignment shall be coordinated with the treating physician and shall be such that accommodates identified restrictions.
4. During the period of light duty assignment, no employee shall be permitted to work more than their normal working hours.
5. A light duty assignment shall not be made in any case where there is no possibility of full recovery. Proper medical certification shall be utilized in arriving at this decision.

G. Family and Medical Leave Act (FMLA)

1. Injuries or illnesses approved by workers' compensation generally meet the eligibility for FMLA.
2. An absence due to workers' compensation will be charged to the employee's annual 12-week entitlement to FMLA benefits, providing the employee meets the definition of eligibility as listed in the current version of Regulation 4835, Family Medical Leave.

H. One-Year Limitation

1. Employees who have not returned to work within one calendar year after a compensable work-related illness or injury shall be placed on leave without pay status or terminated.
2. Employees may apply for disability retirement if they meet the eligibility requirements established by the Virginia Retirement System.

I. Claim Denials

1. Leave Time
 - a. If a claim is denied, the employee shall be charged sick leave for all work time for which the employee was absent.
 - b. Compensatory leave, annual leave, or leave without pay shall be used if sick leave is exhausted.
 - c. If the employee has no accumulated leave, the Human Resources Department shall make arrangements with the employee to repay any compensation advanced.

2. Letter of Denial

- a. If an employee receives a letter of denial from the insurance carrier, there are two courses of action that may be pursued:
 - a1. Forward the letter along with the proper forms to the employee's health insurance carrier.
 - a2. File a request for a hearing with the Industrial Commission of Virginia. The commission's address will be provided in the letter of denial.

J. Workers' Compensation Appeal

- 1. An employee has the right to appeal denial of workers' compensation coverage to the Virginia Workers' Compensation Commission.
- 2. Forms for this purpose are available in the Human Resources Department.

K. Limitations and Exclusions

- 1. Workers' compensation benefits do not cover injuries incurred while traveling to and from work or during activities not required by the employee's position or work assignment.
- 2. Not all injuries that occur during work hours are compensable under the definitions provided by the Virginia Workers' Compensation Commission.
- 3. An employee receiving workers' compensation wages is prohibited from engaging in activities that may impair his or her recovery, such as strenuous recreational or other physical activities, including vacations, without approval of the authorized treating physician and notification to the third-party administrator.
- 4. Failure to report such activities may affect benefits from workers' compensation.