



CITY OF WATAUGA – PERSONNEL, ADMINISTRATION AND FINANCIAL POLICIES AND PROCEDURES MANUAL

POLICY TITLE	Workers’ Compensation
INITIAL EFFECTIVE DATE	January 23, 2017
LAST REVISION DATE	Replaces <i>Section 20.7</i> of the Personnel, Administration and Financial Policies and Procedures Manual approved on February 24, 2014.
POLICY NUMBER	7.02

OBJECTIVE The purpose of this policy is to establish guidelines for injuries sustained within the course and scope of employment. Workers’ Compensation is designed to cover the costs associated with injuries resulting from identifiable and specific accidents or injuries occurring on the job. It is not designed to cover “ordinary diseases of life.”

SCOPE This policy applies to all employees.

POLICY

The City is committed to meeting its obligation under the Texas Workers’ Compensation Act (the Act) to provide medical, rehabilitation, and wage-replacement benefits to employees who sustain work-related injuries or illnesses. All work-related injuries and illness, whether eligible for the Salary Continuation Plan or not, may be covered under the Family Medical Leave Act (FMLA), and any missed time due to the injury or illness will be counted toward the employee’s FMLA allotment. **See policy 8.04 Family Medical Leave Act**

As specified in this policy, the City goes beyond the requirements of the Texas Workers’ Compensation Act by providing a Salary Continuation Program to supplement the temporary income benefits available under state laws that do not provide full wage replacement.

A. Employee’s Responsibility

Each employee is responsible for familiarity with this policy, for becoming acquainted with City and departmental injury/accident reporting procedures, and for reporting any accidents or injuries immediately. In the event of a life threatening injury, call 9-1-1 for immediate medical attention.

B. Supervisor’s Responsibility

Supervisors shall determine the nature and extent of injury and ensure employee receives first aid or medical treatment. In the event of a life threatening injury, supervisors must call 9-1-1 for immediate medical attention. For non-emergency injuries requiring medical treatment by a doctor, the supervisor must take the employee to the City’s assigned medical treatment facility.

The Human Resources Department should also be contacted so that all proper authorization forms can be completed.

The supervisor is then responsible for completing an injury report with the help of the injured employee, if feasible. Injury reports must be turned into the Human Resources Department within (24) hours

C. Human Resources Department Responsibility

The Human Resources Department will complete all documents required for Worker's Compensation. They will communicate with the Claims Adjuster and follow the case until employee returns to work. The Human Resources Department will monitor the frequency and severity of the injury and generate reports to management depicting trends and need for further corrective action.

D. Workers' Compensation Statutory Provisions

1. **Payment Purposes:** When an employee is injured within the course and scope of employment for the City, the employee may be eligible for workers' compensation payments pursuant to Title 5 of the Texas Labor Code. These payments include 1) payments for reasonably required and necessary medical treatment; 2) a statutory amount that provides a portion of the employee's average weekly wage while the employee is unable to work because of the injury for up to 104 weeks; and 3) additional monetary benefits for permanent disability suffered as a result of the on-the-job injury.
2. **Contest of Claim/Termination of Benefits:** Workers' compensation entitlements are subject to termination for grounds specified in the Act. The City may contest any claim for reasons authorized by law. An employee whose claim is being contested by the City is not eligible for injury leave with pay or salary continuation until a final determination of eligibility is made.
3. **Physician Choice:** If the employee chooses to participate in the Salary Continuation Program, the employee must utilize a physician within the required medical network. An employee may elect their own physician, however they risk being responsible for payment to that provider and forfeits eligibility for salary continuation benefits.
4. **Temporary Income Benefits:** Under the Workers' Compensation Act, temporary income benefits do not begin until after the seventh calendar day of absence from work due to an on-the-job injury.
 - a. A regular full-time employee who initially appears to be eligible for Workers' Compensation weekly payments will be carried on the payroll in an injury leave with pay status for all work time missed during the first seven days of absence.

- b. If it appears initially that the employee is not eligible for Workers' Compensation weekly payments, or the City is contesting the claim, the employee must use accrued paid leave, if applicable. If the employee has no accrued paid leave, the employee will be carried on the payroll in an unpaid leave status. If it is determined that the employee is eligible for temporary income benefits, any accrued leave used will be restored to the employee's leave balance, or any unpaid leave time will be retroactively compensated.

E. SALARY CONTINUATION PROGRAM

1. **Eligibility:** A regular full-time employee receiving weekly Workers' Compensation temporary income benefits is eligible for salary continuation. Temporary, part-time, seasonal, and probationary employees with less than 6 months' active full-time service credit are ineligible for salary continuation.
2. **Procedure for Salary Continuation:** If the employee elects to receive salary continuation, the City will provide the employee with regular pay during the time the employee is unable to work because of the injury as follows:
 - a. The employee must elect to participate in the Salary Continuation Program within five (5) days of filing the Workers' Compensation Employee's Report of Injury form.
 - b. The employee must sign over to the City the check received from the third party administrator as Workers' Compensation temporary income benefits each pay period.
 - c. Each work day that the employee is unable to work because of the injury will be documented as one (1) work day paid through the Salary Continuation Program.
 - d. Salary Continuation Program pay will be issued as a direct deposit in the manner the employee has authorized.
 - e. Salary continuation shall not exceed the difference between Workers' Compensation temporary income benefits and net base pay. The total amount paid to an injured employee while losing time from work will not exceed the full gross pay they would have received for such period at their regular rate of pay. If an overpayment occurs, the employee is responsible for reimbursing the City. If the employee does not initiate repayment, a repayment schedule will be set up by the Director of Human Resources in order to deduct the overpayment amount from the employee's future checks.

3. **Salary Continuation Program Limits:** Salary Continuation is only available a) for 90 calendar days; b) during the 12-month period after the date of the injury; and c) if the employee has not been assessed a Maximum Medical Improvement per the Department of Insurance, Division of Workers' Compensation.
4. **Extension of Time:** If an employee is unable to return to work after a ninety (90) calendar day absence in accordance with the Salary Continuation Program policy, the City Manager may approve an extension of time up to an additional sixty (60) calendar days.
5. **Examinations:** The Director of Human Resources may require an employee to submit to examinations at City expense by a physician or psychologist within the approved network, as a condition of receiving or continuing to participate in the Salary Continuation Program. These examinations are in addition to any medical treatment secured by the employee under the Act.
6. **Payroll Status:** The employee will be carried on payroll in Injury Leave with Pay status while receiving Salary Continuation payments and unable to perform the duties of the employee's position.
7. **Salary Continuation Forfeiture:** An employee forfeits eligibility for participation in the Salary Continuation Program if the employee:
 - a. Fails to report the on-the-job injury as specified in the City's policies and receive such medical treatment as may be necessary.
 - b. Fails to use safety devices provided by the City which results in injury or accident.
 - c. Is intoxicated or the under the influence of alcohol or a controlled substance resulting in injury or accident.
 - d. Fails to follow City and/or departmental safety practices or policies or carelessness or if the accident or injury is attributed to horseplay.
 - e. Repeatedly fails to keep medical appointments. (The Director of Human Resources may reinstate eligibility if the employee later submits to examination and treatment; any such resumption does not reinstate forfeited pay benefits for the period in which the employee refused to submit to examination.)
 - f. Is found to be working another job.
 - g. Retires, resigns, is dismissed for any reason, or dies.

- h. Refuses to submit to examinations or diagnostic tests or procedures recommended as medically or psychologically necessary by the network provider.
 - i. Fails to follow, refuses to comply with, disregards, or violates the treating physician's instructions regarding treatment of the on-the-job injury.
 - j. Refuses to perform transitional (limited, partial, or part-time) duty when such has been authorized by the treating physician and offered by the Department Director or the Director of Human Resources.
 - k. Falsifies or misrepresents physical condition or capacity.
 - l. Refuses to return to regular duty on the working day after the employee has been released to regular duty by the treating physician.
 - m. Fails to contact the immediate supervisor on a weekly basis to discuss condition and expected return to work date.
 - n. Has been injured as a result of the employee's own willful misconduct, gross negligence, or is in violation of safety procedures/rules as determined by the Director of Human Resources in coordination with the Department Director.
 - o. Is receiving benefits through any disability income plan offered through the City or Texas Municipal Retirement System (TMRS).
 - p. Refuses to make application for benefits under the disability programs offered by the City and TMRS when requested.
 - q. Fails to reimburse the City the full amount of the weekly Workers' Compensation temporary income benefits each pay period.
8. **Administrative Rules:** The City Manager is authorized to promulgate necessary rules and regulations for the efficient administration of the Salary Continuation Program benefit plan.
9. **Denial:** Payment of benefits under this plan shall at all times remain subject to approval by the Director of Human Resources. Denial shall be by written notice from the Director of Human Resources to the employee with the grounds for denial stated.

F. BENEFITS/STATUS WITHOUT SALARY CONTINUATION

If an employee is not eligible for the Salary Continuation Program the employee may use accrued paid leave to supplement the Temporary Income Benefits and remain in a paid status.

While receiving Temporary Income Benefits and in any unpaid leave status, all City benefits cease (unless the employee is on approved Family and Medical Leave). The employee must pay the cost of all plans, such as health, dental, vision, life insurance.

If an employee exhausts their leave before being released by the attending physician to return to work, the employee may be granted a leave of absence without pay for up to 180 calendar days from the date of injury.

G. MAXIMUM INJURY LEAVE BENEFIT ALLOWED

In all cases, the maximum amount of injury leave available is 180 days. Injury leave can be extended on a month by month basis up to an additional six months should the employee have available leave, sick and/or vacation, time to cover the required time off. Monthly progress reports including documentation from the treating physician that indicate progress is being made are required as part of the extension approval. All requests for an injury leave extension beyond 180 calendar days should be requested in writing to the Human Resources Director with final approval authorized by the City Manager. No extensions will be granted beyond the 12 months, except as required by law in compliance with ADA. Employees may also be eligible for long-term disability.

H. MODIFIED DUTY

Every effort will be made to return injured employees to the workplace as soon as medically released. The Human Resources Department will coordinate the employee's return to work with the employee's Supervisor. Modified duty will be offered if a work assignment exists within the City which meets the employee's current abilities as documented by the employee's treating physician; and a modified duty work assignment would enhance recovery and facilitate the employee's return to the regular duty. Modified duty work assignments will not be created. A modified duty work assignment may last until the time that the treating physician has set as the expected date of return to regular duty, but modified duty will not exceed three months unless the City Manager gives written approval for a longer period. As a condition of continuing in a modified duty work assignment, an employee must adhere to the treating physicians prescribed treatment plan and make reasonable efforts toward rehabilitation; accept progressively more demanding assignments as the employee's condition improves; and make visible progress in returning to full role specification capabilities.

An employee's modified duty work assignment will be terminated immediately if:

1. The employee is found performing beyond the modified duty restrictions.
2. The work assignment is completed.
3. The employee performs unsatisfactorily in the role or task assigned.
4. Budgetary constraints do not allow continuation of the modified duty assignment.

An employee who does not agree or accept a bona fide offer of employment, including a modified duty work assignment that has been approved by their treating physician, may be subject to a reduction in income benefits, as allowed by the Texas Workers' Compensation Act. Employee may be reassigned to 40 hour work weeks by the Department Director. The City reserves the right to require an employee to be medically released with no restrictions before returning to regular duty.