

Number 13.9 - WORKERS' COMPENSATION

Effective Date: March 1, 1996

Applicable To: All classified employees, as well as temporary, exempt, and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

Workers' Compensation is a "no-fault" insurance program that provides medical and disability benefits for certain work-related injuries and illnesses. In certain circumstances, Workers' Compensation may also provide coverage for pre-existing conditions aggravated by work activities. Vermont law allows the employer to designate the physician that the injured employee may see. Failure to seek treatment with the designated care giver may lead to denial of the claim. Employees may seek alternate care following the initial visit to the designated physician via written request to the Department of Labor and Industry.

The Risk Management Division of the Department of General Services administers the State of Vermont Workers' Compensation Program.

DEFINITIONS

MEDICAL BENEFITS - Workers' Compensation provides coverage for all reasonably necessary medical services and supplies related to an on-the-job injury or illness. This may include not only physician visits and hospital costs, but also coverage for physical therapy, medication, chiropractic and other necessary treatments.

TEMPORARY TOTAL BENEFITS - This is wage replacement paid during the recovery period during which the employee is unable to work. Temporary total benefits are paid until the employee is able to return to work or reaches an end medical result.

TEMPORARY PARTIAL BENEFITS - These benefits are paid when an employee is able to return to work in some capacity, but is not yet back to work full time or in their original positions. Temporary partial benefits are paid until the employee is able to return to work full time or reaches an end medical result.

END MEDICAL RESULT - This is the point which the medical provider determines that there is no further treatment available that is expected to improve the employees' conditions. Often, an employee may continue receiving treatment after reaching an end medical result to help maintain their level of functioning.

PERMANENT PARTIAL BENEFITS - Employees who have a permanent impairment as a result of their injury are entitled to compensation in the form of a permanent partial

benefit. The Workers' Compensation statute provides a schedule from which these benefits are calculated based on the specific nature of the permanency and the degree of impairment. The permanent impairment is determined by employing the American Medical Association guidelines and is calculated in accordance with the Department of Labor and Industry regulations. In some circumstances, an independent medical examination may be requested by the Risk Management Division, in addition to the treating physician's evaluation, in order to obtain all necessary information. Employees must cooperate with the examination process or risk jeopardizing these benefits.

VOCATIONAL REHABILITATION - Employees who are unable to return to their original employment may be entitled to vocational rehabilitation assistance. The goal of vocational rehabilitation is to ensure that an employee is returned as quickly as possible to employment that is both safe and, given individual physical capacities, appropriate. Individual written rehabilitation plans must be developed and approved by the Department of Labor and Industry prior to implementation. Re-training plans must be reasonable and may last a maximum of one (1) year. Re-training opportunities are available to those individuals who do not have transferable skills.

WHEN TO REPORT AN INJURY OR DEATH

Injury: Every department must file an *Employer's First Report of Injury Form 1* within seventy-two (72) hours (Sundays and legal holidays excluded) of receiving notice or knowledge of each injury for which an employee loses time from work or requires medical attention. Departments must file this form whether or not they dispute the facts surrounding the injury.

Death: If the injury results in death, the fatality must be reported immediately to the Risk Management Division, 802-828-3100. An *Employer's Report of Fatal Accident Form 4*, as well as the *Employer's First Report of Injury Form 1* must be completed. The Risk Management Division will assist departments in filing these forms.

Failure to file could result in fines. The employee may file a *Notice of Injury and Claim for Compensation Form 5*, if the department fails or refuses to file an *Employer's First Report of Injury Form 1*. This action by the employee does not absolve the department from responsibility for filing an *Employer's First Report of Injury Form 1*.

Failure to file an *Employer's First Report of Injury Form 1*, whether the department agrees with the claim or not, could result in an administrative fine of up to \$5,000.

REPORTING AN INJURY

Following are the procedures to be used to report a work related injury:

1. The employee should be advised to call Community Health Plan/Workplace Health Services (CHP/WHs) toll-free at 1-800-639-8039, to report the injury. CHP/WHs will direct the employee to a network doctor and will oversee the care

given to the employee. If the employee is unable to call due to the seriousness of the injury, the supervisor, personnel officer, or designee may call and inform CHP/WHS of the accident **The employee must see a designated CHP/WHP doctor to be covered by Workers' Compensation.**

2. Within seventy-two (72) hours of the injury, the supervisor must complete an *Employer's First Report of Injury Form 1*.
3. It is the Risk Management claims adjuster's responsibility to determine compensability, process payment of Workers' Compensation lost time, and to coordinate and handle the claim.
4. The department must provide the employee with a Workers' Compensation Program information package, which may be obtained from CHP/WHP at 800-629-8039, or from the Risk Management Division at 802-828-3100.
5. Risk Management reimburses employees for specific related expenses, such as mileage to and from treatment beyond the distance normally traveled to the workplace.
6. A *Personnel Action* requesting a leave of absence for Workers' Compensation & Injury Pay must be completed when a law enforcement officer is injured due to an assault. The effective date is the first day of absence.

ABSENCE GREATER THAN THREE (3) WORK DAYS

Indemnity payments are made to an employee to replace wages lost due to a work related injury. To qualify, an employee must miss more than three (3) consecutive days of work. If the employee loses ten (10) or more consecutive days of work, the first three (3) days are then covered. An example of the first condition is an employee losing six (6) days from work due to an injury. The first three (3) days are unpaid, and the next three (3) days are paid. The second condition is demonstrated by an employee losing twelve (12) days. Since there were more than ten (10) consecutive days out, the entire twelve (12) days are eligible for wage replacement.

In the case of work-related assault on a law enforcement officer, all lost time is covered under special contract provisions.

Following are the procedures to be used for absences of more than three (3) days:

1. The employee must contact the agency/department personnel officer who must complete a personnel action for the injured employee's lost time.
2. The supervisor must fill out a *Wage Statement Form 25* for an employee who is injured and has missed more than three (3) days of work due to the injury. The specific time period to be reported is the twelve (12) full weeks prior to the date of the injury.

Days lost during the pay period of injury should be coded on time reports as sick leave. Employees who do not have enough sick leave accrued to cover their lost time may report lost days as annual leave, if they have any accumulated. Any sick or annual leave used for this injury will be reimbursed to the employee if the

claim is approved for Workers' Compensation indemnity, subject to the waiting periods outlined above.

3. The yellow copy of the *Wage Statement Form 25*. Must be sent to Risk Management along with a list of the injured employee's work schedule, stating the normal days off. The white copy of the *Wage Statement Form 25* must be sent to the Department of Labor and Industry.
4. Once the injury is approved as compensable by the Risk Management Workers' Compensation Division, beginning with the fourth day of injury the employee's time off should be reported on the time report as leave with no pay, Workers' Compensation. The first three (3) days are not covered unless the employee misses ten (10) or more days.
5. If an injury to a law enforcement officer is due to an assault, a personnel action must be completed requesting leave of absence, Workers' Compensation and Injury Pay. This is required regardless of the total days lost with the pay beginning with the first day of absence.
6. Risk Management will send the employee the *Certificate of Dependency* and *Employee Exemption* forms. The employee must complete these forms and return them to the Risk Management Division.

WHEN AN EMPLOYEE RETURNS TO WORK

When an employee returns to work either full or part-time, Risk Management must be notified in writing. This can be done by a letter or memo, by Office Vision (E-mail), or facsimile. This information is necessary so that Risk Management has an accurate record of the employee's lost time and of their return to work.

When an employee returns to work full time, the personnel officer must notify Risk Management of the employee's date of return. If the employee returns to work part-time, Risk Management must be notified each pay period of the hours worked during the pay period and the normal days off.

WORKERS' COMPENSATION MEDICAL TREATMENT

In the following situations, employees are not required to use sick or annual leave for the treatment of a Workers' Compensation injury:

- When the employee has been injured, required treatment, and returned to work on the same day.
- When the employee attends a medical examination or therapy session during work hours that could not have been reasonably scheduled during non-work hours. The supervisor may require the employee to schedule medical examinations during off duty hours if reasonable (for example, a second or third shift worker). Only under these circumstances, if the employee elects not to schedule their treatment outside of work hours, can the employee's sick leave or wages be deducted in accordance with normal personnel practices.

This provision for medical treatment does not take the place of the three (3) day waiting period for indemnity; it only applies to the time directly related to the physician visit or related treatment (physical therapy as an example). This provision does not apply to bed rest or recuperation. Normal travel time to and from appointments does apply.

SUMMARY OF BENEFITS

An employee suffering a work related injury or illness will receive payment of related medical costs without deductible or co-pay. If as a result of the injury or illness the employee is unable to work for more than three (3) days, the employee will receive temporary total benefits. These benefits are calculated at two-thirds of the average weekly wage, before taxes, for the twelve (12) weeks prior to the injury or illness beginning with the week prior to the date of injury. The benefit is subject to a maximum and minimum and is non-taxable. A supplement is allowed for each dependent child.

Temporary total benefits will continue until the employee is able to return to work or reaches an end medical result, whichever comes first. If a physician releases the employee to part-time work during an on-going period of recovery, the employee is entitled to temporary partial disability benefits. This benefit compensates the employee for two-thirds of the difference between their pre-injury and post-injury wage. These benefits will continue until the employee either returns to their former position or reaches an end medical result.

When employees reach a maximum point of improvement (and end medical result) they may be entitled to a permanent partial disability benefit as compensation for their permanent impairment as a result of their work related injury or illness. Risk Management will follow-up on these cases and make the necessary arrangements for finalization of the claims. The end medical point does not release the State from the obligation of paying for related continuing medical care. It does provide resolution regarding wage replacement benefits.