GENERAL ADMINISTRATION
EMPLOYEE

043 GENERAL OFFICE POLICIES

043.7 Workers' Compensation Policy

043.7.1 Purpose

The Human Services Department (HSD) provides Workers' Compensation coverage for medical care, hospital care, and lost wages due to a work-related injury or occupational illness sustained by an employee. This policy establishes guidelines for reporting, monitoring, controlling, and managing Workers' Compensation claims.

043.7.2 Definitions

A. "Employee" means a person employed by HSD in a permanent, probationary, term, temporary, or emergency position.

B. "Workers' Compensation Administration (WCA)" means the New Mexico Workers' Compensation Administration.

C. "Workers' Compensation Bureau (WCB)" means the WCB Bureau in the Risk Management Division, General Services Department.

043.7.3 Policy

A. Workers' Compensation is a State law which mandates payment of medical costs and partial reimbursement of lost wages to an employee who sustains an injury by accident, or a disease or illness, arising out of the course of employment. HSD pays the entire premium for this special insurance. It is an employee benefit.

B. The Workers' Compensation Bureau (WCB) of the Risk Management Division, General Services Department handles all claims. However, **HSD supervisors are responsible for completing Workers' Compensation claim forms and returning them to the Medical Issues Coordinator in the Office of Human Resources for processing and forwarding to WCB.** All forms are available from the Office of Human Resources or the HSD Website.

C. As an employer, HSD is required to comply with all provisions of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. If a conflict arises with the interpretation of the Workers' Compensation Policy and any provision of the cited federal mandate, the federal mandate prevails.

043.7.4 Reporting Requirements

A. Employees must report all accidents or accidental injuries, no matter how minor, and all occupational disease or illness, to their immediate supervisors as soon as possible.

B. The "Notice of Accident" form, Form NOA-1, is completed by an employee and his/her supervisor to report any accident on the job, even if there is no injury. The supervisor did not have to witness the accident to be able to sign the form. The supervisor's signature is only an acknowledgement that the employee informed him/her about an alleged accident. It is not intended to be an agreement by the supervisor that an accident or work-related injury took place. The supervisor keeps the original and provides copies to the employee and the Medical Issues Coordinator. An employee has 15 days from the date of accident to file the Notice of Accident and have it signed by his/her supervisor. A delay in filing may occur if the injury, or some other cause beyond the employee's control, prevents him/her from giving notice within that time. In those exceptional cases, he/she must give notice as soon as possible.

C. The form for initiating all Workers' Compensation claims is the "Employer's First Report of Injury or Illness", Form E1.2. It is the supervisor's responsibility to correctly complete this form for every injury, sign it, and submit it to the OHR Medical Issues Coordinator with a copy to the employee. All white areas must be filled in on all claims. The E1.2 must be filed even if the supervisor disputes the worker's claim that the accident was work-related.

D. The Workers' Compensation Administration (WCA) imposes penalties for failure to submit the Employer's First Report of Accident as well as for submission of an incomplete or illegible report. Late reporting not only causes HSD to incur a penalty but may also delay benefits for employees.

E. The employee must notify the treating physician that he/she (the injured employee) is covered by Workers' Compensation insurance and that the physician will be asked to complete reports required by the WCA.

043.7.5 Medical Benefits, Compensation Rate, and Disability Benefits

A. An employee is entitled to medical benefits after injury, continuing as long as medical or surgical attention is determined to be necessary, based on communication between the WCB and the medical provider. The amount of medical and hospital benefits is unlimited.

B. The weekly compensation rate for disability as a result of an injury or disease is 66-2/3% of the average weekly gross salary of the individual at the time of the injury or disablement up to the cap determined by the WCA. A public employee of the State of New Mexico may collect up to 100% of his/her average weekly wage by using annual or sick leave to make up the wage not paid by Workers' Compensation but not more than 100% of the weekly wage.

C. Initial payment of weekly disability benefits starts on the eighth calendar day of time lost after the injury. Benefits are paid for the first five workdays only if the period of disability is more than 28 calendar days. Otherwise, the employee receives no compensation for the first five workdays. The weekly disability benefits cease when the employee is able to return to work.

D. All claims will be thoroughly investigated by the WCB. Fraudulent claims will be reported to appropriate authorities.

043.7.6 Leave for Work-Related Injuries

A. An employee who misses work due to a work-related injury must use the appropriate amount of sick leave, annual leave, Family Medical Leave or Leave Without Pay to make up the time not paid by Workers' Compensation. Approval of Family Medical Leave and/or Leave Without Pay requests is not automatic. The employee is responsible for making the request for Family Medical Leave and/or Leave Without Pay, and completion of the appropriate paperwork if the absence from work will be for more than three (3) work days. An immediate supervisor may authorize administrative leave for the day of the occurrence for transportation and emergency medical treatment for an employee who suffers an on-the-job injury or illness.

B. If Family Medical Leave or Leave Without Pay is approved, a return date must always be specified. It is the employee's responsibility to request an extension if he/she cannot report to work on the return date. Failure to report to work on the return date or failure to request an extension prior to the return date is just cause for disciplinary action, including dismissal. For specific provisions and procedures for handling Leave Without Pay and Family Medical Leave requests refer to the appropriate HSD policies.

043.7.7 Supervisor's Responsibilities

A. If no medical attention is received or requested, it is the responsibility of the immediate supervisor to:

1. Make sure the employee completes the Notice of Accident Form, NOA-1. Keep the original, give a copy to the employee, and send a copy to the Office of Human Resources. (See 043.6.4 Reporting Requirements.)

2. Complete the Employer's First Report of Accident (Form E1.2). Give a copy to the employee and forward the original within twenty-four hours to the Office of Human Resources along with the copy of the Notice of Accident Form. (See 043.6.4 Reporting Requirements.)

B. If medical attention is required or requested, it is the supervisor's responsibility to:

1. Escort the injured worker to one of the designated health care providers or to the nearest emergency room if the situation warrants.

   If a designated medical provider is available in the area, and medical care is furnished by a medical provider other than those designated, Workers' Compensation may not pay the bill, and the employee will be responsible for payment. A list of designated medical providers can be obtained on the HSD website or by contacting the Office of Human Resources. An exception exists in cases where an employee must be taken by ambulance to the nearest hospital emergency room, or is injured after normal working hours, on a weekend, or while on State business outside the service area. In those cases, if immediate care is needed, the employee should go to the nearest emergency room and then contact the approved medical providers if follow-up treatment is needed.

2. Forward the completed Notice of Accident Form (NOA-1), Employer's First Report of Accident Form (E1.2) and Authorization to Release Medical Information Form to the Office of Human Resources, within 24 hours of the accident or injury.

3. Employee turns over all paperwork received on the day of the incident to their supervisor who forwards to the Office of Human Resources.

4. Notify the Office of Human Resources immediately when an injured employee is absent from work because of a Workers' Compensation injury or illness.

043.7.8 Informal Hearings

A. Disputes as to disability or compensation for disability may be brought before the WCA for an informal hearing or mediation. The objective of the informal hearing is to resolve possible differences with the injured employee at an administrative level. The WCB may request an agency supervisor with knowledge of the incident to attend these hearings. If a supervisor is requested to attend, he/she must do so.

B. If a supervisor is served directly with a summons, he/she must send it immediately to the WCB. The WCB is required to respond to the summons within seven days of its receipt by the supervisor. A copy of the summons and cover letter must be sent to the Medical Issues Coordinator.

043.7.9 Return to Work Process

A. Since the supervisor has been personally involved and usually has current updates on the medical status of the employee, he/she will be in a position to coordinate the employee's return to work, scheduling issues, and/or modified duty assignments with the Office of Human Resources. The employee must have a release from a health care provider to return to work.

B. The Office of Human Resources along with the supervisor should try to get estimated return dates for partial and full release to work. The employee's return to work benefits HSD and the employee; HSD gets the employee back on a productive work schedule and the employee resumes gainful employment.

043.7.10 References

HSD Leave Without Pay Policy
HSD Safety, Loss Prevention and Control Policy
HSD Family Medical Leave Policy

APPROVED:

PAMELA S. HYDE, J.D., Secretary

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