



Policy and Procedures
Human Resources

POLICY AND PROCEDURES WORKERS' COMPENSATION POLICY

I. PURPOSE

Worker's compensation laws provide benefits to Employees who suffer work-related injuries or illnesses. This policy establishes guidelines for reporting, investigating, monitoring, and managing worker's compensation claims made by New Mexico Department of Finance and Administration ("DFA") Employees.

A. DEFINITIONS

"ADA" means Americans with the Disabilities Act.

"Agency Head" means the DFA Cabinet Secretary.

"Disciplinary Action" means any action taken by an Agency to influence change in an Employee's performance or behavior to the expected standard, including Formal Disciplinary Action, Informal Disciplinary Action, and Progressive Disciplinary action, including but not limited to, letters of reprimand, suspensions, demotions, and Dismissal. Disciplinary Action includes punitive action taken to change an Employee's performance or behavior to follow the classification description.

"Employee" means a person working in a position for DFA.

"HR" means the DFA Human Resources Bureau.

"RMD" means the Risk Management Division of the General Services Department.

"SPO" means the State Personnel Office.

B. REFERENCES

Worker's Compensation Act, Section 52-1-1 et seq. NMSA 1978 NMAC 1.6.4, State Loss Prevention and Control Program Rule NMAC 1.7.10, State Personnel Board Rule

II. POLICY

In the event of a work-related injury or illness requiring emergency medical treatment, 911 should be contacted immediately.

As mandated by law, Employees are provided with worker's compensation insurance to protect them in the event of a job related injury or illness arising out of and in the course of their employment. Worker's compensation claims by Employees will be handled in accordance with the State of New Mexico Worker's Compensation Act, Section 52-1-1 et seq. NMSA 1978, NMAC 1.6.4, State Loss Prevention and Control Program Rule, and NMAC 1.7.10, State Personnel Board Rule.



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III. PROCEDURES

A. ELIGIBILITY

All DFA Employees are covered by the Worker's Compensation Act including all Employees with the following status: Permanent, Probationary, Temporary, Emergency, Exempt and Term.

B. BENEFITS

Employees who suffer a work-related injury or illness will choose the initial health care provider for such injury or illness. The Employee's selection of health care provider shall be in effect for the first 60 days from the date of first treatment by the initially selected health care provider. DFA reserves the right to select a different health care provider to treat the injured Employee hereafter.

Worker's Compensation will pay 66 2/3% of an Employee's gross weekly base salary, up to the allowable amount, during the time the Employee is unable to perform his or her duties as a result of a job-related injury or illness. The first five workdays that the Employee loses time worked is not compensated until the Employee has been off work for more than 28 calendar days. The first five days is initially charged to paid leave, i.e., sick leave or authorized Leave without Pay (LWOP).

An Employee receiving worker's compensation benefits may not exceed 100% of his or her monthly base salary in combination with paid leave and worker's compensation benefits. On the eighth consecutive day of absence, in general, the pay received is equal to 5.3 hours of unpaid Worker's Compensation Leave (WKRCP), and 2.7 hours of accrued sick, annual or LWOP in an eight hour workday.

If accrued paid leave is used the first five days off from work, the first week benefit check would constitute an overpayment and the Employee must reimburse DFA for the amount of overpayment received. In return, DFA will reinstate the applicable amount and type of paid leave used during the first week.

When an Employee has exhausted all available leave balances, the Employee will only receive the Worker's Compensation benefits and will be considered on a LWOP status. An Employee who do not have enough paid leave to cover his or her insurance premiums must pay the Employee share and the state share of the insurance premiums to continue his or her insurance benefits, unless the Employee is on approved leave under the Family and Medical Leave Act (FMLA), in which case the Employee would only be responsible for paying the Employee share of benefit premiums.

Employees who have returned to a productive work status and have a claim- related medical visit during the Employee's normal work hours shall code reasonable travel time to/from the medical visit as Worker's Comp Medical (WCMED). This is paid time equal to productive time.



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IV. PROCEDURES FOR REPORTING INJURIES

The injured Employee shall fully cooperate with DFA during the investigation of the reported work injury or illness including during the completion of required forms and required interviews.

The injured Employee or witness(es) to an incident covered under this policy shall report any job-related injury or illness, no matter how minor, to their supervisor and HRB at the earliest possible time, but no later than one business day after the incident. The Employee and/or witness(es) shall complete the Employee and Witness Account of the Incident Form (Appendix H) and return the completed form to the supervisor of the injured Employee within two (2) business days of the incident.

Under any circumstance, the Employee who has had a job-related injury, regardless of whether the Employee believes medical attention is needed, must complete a "Notice of Accident or Occupational Disease Disablement" form (Appendix A). The Notice of Accident or Occupational Disease Disablement Form should be signed by both the Employee and the Employee's immediate supervisor and then promptly given to the HRB.

Employees shall keep HRB informed of work-related medical treatment, including visit dates and times, return-to-work status, and any work restrictions imposed by the health care provider.

For each visit to an authorized health care provider, the Employee must take RMD's "Doctor Visit/Modified Work Assignment" form (Appendix F) to be completed by the health care provider. The form will then be promptly provided to the supervisor and HRB after each medical visit, or upon request.

For non-emergency care, Employees will report to the health care provider of their choice. Pursuant to Section III. A. of this policy, DFA reserves the right to select a different health care provider to treat an injured Employee after the initial 60-day treatment period.

After documentation has been submitted to the RMD, the claim will be handled by the assigned RMD adjuster. Employees should address any claims-related inquiries or concerns, including those about indemnity payments or medical bills, directly to RMD.

Discipline for Misconduct - Any Employee who falsifies any document, misrepresents a material fact in connection with a workers' compensation claim, or otherwise fails to comply with this policy may be subject to Disciplinary Action, up to and including termination, in addition to any other remedies provided by law.

A. IMMEDIATE SUPERVISOR'S RESPONSIBILITY

In the event an Employee is injured, the Employee's immediate supervisor must contact and/or arrange for emergency services or ambulance services for necessary medical treatment if the situation warrants. The



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Employee always has the option as to where they want to be treated.

The supervisor shall immediately report the work-related injury or illness to his or her immediate supervisor, if any, and to the HRB.

The Employee's immediate supervisor shall investigate, and document all work related accidents, injuries, or illness within two business days.

The Employee's immediate supervisor must complete a "Supervisor's Incident Investigation Report of Loss" form (Appendix G) and collect an accompanying "Supervisor's Incident Investigation Report of Loss Employee and Witness Account of the Incident" form (Appendix H) from the Employee and witness(es). The Employee's immediate supervisor must submit Appendices G and H to his or her immediate supervisor and the DFA Loss Prevention and Control Coordinator within five days of the reported injury.

Supervisors will be evaluated on the investigative analysis and evaluation of reported job-related injuries and illnesses reported during the supervisor's evaluation period.

B. HRB RESPONSIBILITIES

HRB will serve as the liaison between DFA and RMD for reporting, documenting, monitoring, and managing work related injuries or illnesses.

HRB will complete and submit the Employer's First Report of Injury or Illness (online) (Appendix B) and will explain and assist the injured Employee in completing the claim forms required by RMD including Appendices A, C, D, E, and Hof this policy, within three business days upon HRB being notified of an incident.

The HRB will maintain communication with the injured Employee and the RMD throughout the duration of the claim.

Vacant positions resulting from job-related injuries or illness shall not be filled, except by temporary employment.

A position may be permanently filled if there is a documented medical diagnosis or evidence that an Employee with a job-related injury or illness has reached maximum medical improvement or that the Employee's impairment or condition is permanent, and that the Employee cannot perform the essential functions of the particular position.

A position may be permanently filled if there is a critical need and that need cannot be satisfied with temporary employment, and DFA has made a good faith effort to do so.



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V. EARLY RETURN-TO-WORK/MODIFIED DUTY ASSIGNMENTS

The Employee's immediate supervisor and HRB should make every effort to identify and offer modified duty/return-to-work opportunities to the injured Employee. The Employee may be assigned to his or her current classification with modified duties or to a temporary assignment, at or below his or her current grade, comprised of a combination of duties from a variety of positions.

Employees who have been unable to work because of a compensable injury under the Worker's Compensation Act may request to return to work in a modified duty assignment for up to six months, subject to eligibility and completion of required documentation, and subject to approval by the Secretary. An extension for a period of up to six additional months may be requested if substantial progress is demonstrated and it is anticipated that the Employee will be able to return to full duty within that time frame.

The Employee's immediate supervisor shall provide the HRB with a copy of the request for a return to work in a modified duty assignment and/or a request for extension.

Employees on modified duty assignment to a temporary position shall maintain their salary and status for the duration of such temporary assignment.

VI. INVOLUNTARY OR VOLUNTARY SEPARATION (job-related injury or illness)

Employees with a job-related injury or illness will not be terminated unless advanced notice is given to RMD with attention to the workers' compensation claims specialist assigned.

Employees who have suffered a job-related injury or illness that is compensable under the Workers' Compensation Act and who are physically or mentally unable to perform the essential functions of their job, as defined in DFA's ADA policy, for their pre-injury/pre-illness position, shall be involuntarily or voluntarily separated from the service without prejudice provided:

the Employee has been afforded modified duty in accordance with section 9.0 of this policy;

the Employee has reached Maximum Medical Improvement (MMI) prior to the completion of up to 12 months of modified duty; or, the Employee has not reached MMI upon the expiration of up to 12 months of modified duty;

all efforts to reasonably accommodate the medical restrictions of the Employee have been made and documented in accordance with DFA's ADA Policy; and

DFA has exhausted efforts to find other suitable vacant positions within DFA at the same or lower grade of the pre-injury/pre-illness position for which the Employee meets the job related qualification standards for the



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position, with or without reasonable accommodation in accordance with DFA's ADA policy.

Employees may request a modified duty of up to four months during the separation process with prior review of the HRB and approval of the Secretary.

Employees involuntarily or voluntarily separated in accordance with this policy shall be provided with at least 14 calendar days' written notice. The HRB shall prepare all written notices for the Secretary's signature, in accordance with DFA's policy and State Personnel Board Rules and Regulations and ensure their accuracy through consultation with the supervisor requesting the separation, and the Secretary. Such separation is not appealable to the State Personnel Board.

HRB will notify RMD of the proposed separation 30 calendar days in advance of the separation date and will submit a copy of the separation notice along with documentation to support efforts to modify pre-injury/pre-illness positions and to support efforts to find other suitable vacant positions.

VII. RE-EMPLOYMENT OF INJURED FORMER EMPLOYEES

A former Employee who has separated from employment due to an injury and who has received or is due to receive benefits under the Workers' Compensation Act shall have reemployment rights to positions in the DFA with the same classification as that held at the time of separation, another classification within the same grade, or a classification with a lower grade.

The former Employee must notify DFA's HRB in writing, with a copy to the Secretary, of his or her desire to be reemployed. The notification shall include the titles and locations of positions that the former Employee is willing to accept and an appropriate application for employment.

When DFA is to fill a vacant position that with the title and in the location indicated by the former Employee, the DFA Unit in which the position is available shall offer the job to the former Employee provided he or she meets the established requirements and obtains certification from the treating health care provider that he or she is fit to carry out the established requirements of the position without significant risk of re-injury.

Former Employees reemployed under this policy do not have to serve a probationary period if they were in career status at the time of separation.

HRB shall notify RMD and the Secretary of any injured former Employee who applies for a position and subsequently declines a job offer.

VIII. TRAINING

The DFA New Employee Orientation will include a briefing on workers' compensation, safety and loss prevention



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programs, and policies and procedures.

IX. LOSS CONTROL

DFA's Loss Prevention and Control Committee will establish a formal Loss Control Training Program directed toward the prevention of accidental injury losses and conformance with NMAC 1.6.4, State Loss Prevention and Control Program. A portion of the Loss Control Program will be devoted to consultation of Workers' Compensation claims handling and control.

X. ENFORCEMENT

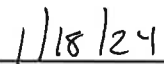
Supervisory and management personnel are assigned the prime responsibility of implementing this policy and referenced rules. They will also ensure compliance with the guidelines of this policy and referenced rules to include timely submittal of reports, claims, and return-to-work documents.

XI. REQUIRED FORMS

- Notice of Accident or Occupational Disease Disablement- Form NOA-1 (Appendix A):
- Employer's First Report of Injury or Illness; (online) (Appendix B)
- NM Worker's Compensation Administration Authorization for Use and Disclosure of Health Record (Appendix C)
- Workers' Compensation Benefits Explanation Form (Appendix D)
- Workers' Compensation Claim Explanation (Appendix E)
- RMD Doctor Visit/Modified Work Assignment (Appendix F)
- Supervisor's Incident Investigation Report of Loss (Appendix G)
- Employee and Witness Account of the Incident (Appendix H)

REVIEW AND APPROVAL. This Policy is effective upon the signature of the DFA Cabinet Secretary, below.


Wayne Propst, Cabinet Secretary


Date