

DHHS POLICIES AND PROCEDURES

Section V:	Human Resources
Title:	Safety and Benefits
Chapter:	Workers' Compensation Program
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PURPOSE

The purpose is to outline the policies for operation of the Workers' Compensation Program of the Department of Health and Human Resources ("DHHS" or the "Agency"). These policies, along with Standard Operating Procedures, which are set out separately, are set forth to ensure that the program complies with the North Carolina Workers' Compensation Act (the "Act"), the Rules of the North Carolina Industrial Commission ("NCIC" or "Commission"), promulgated pursuant to the Act, and guidelines and Standard Operating Procedures published by the Office of State Human Resources (OSHR), pertaining to the State Workers' Compensation Program, and applicable to all Departments, Agencies, and Universities of the State of North Carolina.

POLICY

1. It is the policy of the Department of Health and Human Services to provide lawful and consistent coverage for DHHS employees who suffer an injury by accident or who contract an occupational disease arising out of and in the course and scope of their employment with DHHS, within the meaning of the North Carolina Workers' Compensation Act.
2. It is the policy of DHHS to administer benefits defined under N.C.G.S. Chapter 97 (Workers' Compensation Act); N.C.G.S. Chapter 143, Article 12B (Salary Continuation Plan for Certain State Law Enforcement Officials); and N.C.G.S. §115C-338 (Salaries for Employees Injured During an Episode of Violence) in a timely manner as established under law.
3. It is the policy of DHHS to ensure that employee claims for accidental injury or occupational disease will be processed according to Standard Operating Procedures published by DHHS and OSHR and that claims will be managed to ensure that timely and appropriate delivery of medical services and indemnity compensation are provided to the injured employee as required by the Act.
4. DHHS recognizes the value of our employees. It is policy of DHHS that whenever possible, DHHS will provide injured employees the opportunity to return to work when they reach maximum medical improvement and are released to return to work by the authorized treating physician. The DHHS Human Resources Department will work with the employee to determine whether DHHS can provide suitable employment, which meets the needs of both the employee and DHHS. Pursuant to DHHS Standard Operating Procedures, all facilities and divisions shall implement and maintain return to work programs.

PROGRAM MANAGEMENT

1. Overall management and oversight of the workers' compensation program throughout DHHS shall be vested in the Workers Compensation Attorney (WC Attorney). The WC Attorney shall monitor the program overall, including pending claims, and identify claims for settlement, develop policy and procedure, provide training for workers' compensation administrators and other HR staff, coordinate with the Safety Program Director regarding potential safety hazards, and provide consultation and advice to the facilities and divisions.

2. Safety management throughout all facilities and divisions shall be carried out and overseen by the DHHS Safety Program Director. The Safety Program Director shall manage all facility and division safety officers. Safety Officers shall inspect premises and investigate accidents to identify potential safety hazards, and to make recommendations for corrective actions. The Safety Program Director shall coordinate with the WC Attorney regarding potential safety hazards, to address remedial measures.

3. Program Management within the Facilities and Divisions shall be managed through the Human Resources Department, with someone designated to fill the responsibilities of Workers' Compensation Administrator (WCA). The WCA shall be responsible for the day-to-day HR aspects of management of workers' compensation claims, in coordination with the Third-Party Administrator (TPA), which is on contract with the State of North Carolina to administer the workers' compensation program. The responsibilities and duties of the Workers' Compensation Administrator are set forth in the DHHS Standard Operating Procedures.

4. Employees. Responsibility for reporting an accident or alleged occupational disease or exposure is vested in the individual employee who alleges injury or disease, as set forth in the Workers' Compensation Act. All employees are expected to timely report any such injury or disease to DHHS and to keep DHHS HR management informed of their work status, pursuant to DHHS Standard Operating Procedures and the requirements of the Act. N.C.G.S. §97-22.

COMPENSATION FOR COMPENSABLE INJURIES

COVERAGE

1. Any employee of DHHS who sustains a compensable on the job injury by accident or occupational disease as defined by the N.C. Workers Compensation Act is entitled to compensation, both medical benefits and indemnity compensation for time the employee is unable to work due to the injuries sustained, as well as any permanent impairment, as set forth in the Act. N.C.G.S. Chapter 97. All DHHS employees (full-time, part-time, and persons

appointed to serve on a per diem or fee basis) are covered by the Act. Administration of the DHHS Workers' Compensation Program shall be carried out by DHHS consistent with the law and personnel policy and the Standard Operating Procedures promulgated by the Office of State Human Resources (OSHR), and the Standard Operating Procedures promulgated by DHHS.

2. Certain employees of DHHS may qualify for other benefits if they are injured in the course of their duty as set forth below:

a. N.C.G.S. §143, Article 12B, Salary Continuation Plan for Certain State Law Enforcement Officials; *Note: All DHHS employees who are sworn state law enforcement officers with the power of arrest and are certified by the Criminal Justice Training and Standard Act.*

b. N.C.G.S. §115C-338, Salaries for Employees Injured During an Episode of Violence. *Note: All full time (not part time, temporary or substitute) employees who are assigned to be educators within DHHS facilities or schools.*

c. DHHS management is responsible for determining the application of these statutes to employees who report injuries, and who may fall within one of these categories of coverage. Such determinations shall be made pursuant to the DHHS Standard Operating Procedures.

3. DHHS policy regarding on-the-job injury work reassignment and placement shall apply to employees who receive compensation benefits under Chapter 97, Article 12B of Chapter 143, and/or Section 115C- 338.

ADMINISTRATION

1. Within DHHS, administration of the workers' compensation program is managed overall by the Workers Compensation Attorney. Management within the facilities and divisions is handled by the Human Resources Department, through a person designated to handle the program, the Workers Compensation Administrator. The WC Attorney and the WCA shall work with the Third-Party Administrator to ensure the program is properly administered, with timely and appropriate delivery of benefits to injured employees.

2. Safety protocols shall be managed through the Safety Program under the direction of the DHHS Safety Program Director.

3. Administration of benefits is provided through a Third-Party Administrator (TPA), on contract with the State. The TPA handles all administrative matters dealing with the acceptance or denial of claims, filing of appropriate paperwork with the Industrial Commission (other than litigation), directing of medical care, and payment of benefits.

4. Litigation of workers compensation claims is handled by attorneys with the Attorney General's office, Workers' Compensation Section.

BENEFITS AVAILABLE

1. **Indemnity Compensation.** An injured employee may qualify for compensation for lost wages, i.e. indemnity payments, as Temporary Total Disability, Temporary Partial Disability, Permanent Partial Disability or Permanent Total Disability, under the Act. N.C.G.G. §97-29, §97-30, §97-31. These benefits are paid through the Third-Party Administrator, based upon salary information provided by DHHS through the Workers Compensation Administrator. The WCA shall calculate the employee's average weekly wage consistent with the method set out in the DHHS Standard Operating Procedures, which is adopted from the OSHR SOP's.

2. **Salary Continuation.** The Agency shall determine if an injured employee qualifies for salary continuation per the OSHR and DHHS Standard Operating Procedures. The Agency is responsible for payment of salary continuation.

3. **Medical Treatment.** An injured employee is entitled to receive reasonably necessary medical treatment for the injury or illness sustained. The Third-Party Administrator shall direct the provision of appropriate medical care, and shall pay authorized medical providers for all medical treatment that is determined to be reasonably necessary as a result of the accidental injury or occupational disease, in accordance with the Industrial Commission guidelines and fee schedule. N.C.G.G. §97-2(22), §97-25.

As set forth in DHHS Standard Operating Procedures, other than initial medical treatment, injured employees should not receive ongoing medical treatment for their work-related injuries or illness through DHHS facilities. Medical treatment will be directed and managed by the Third-Party Administrator, pursuant to the TPA contract with the State and consistent with DHHS and OSHR Standard Operating Procedures.

4. While on workers' compensation leave, an injured worker is also eligible for other benefits, including the following: supplemental pay, vacation and sick leave, health insurance, longevity pay, reinstatement salary, and total state service credit. These benefits are set forth in more detail in the DHHS SOP's. An employee does not receive retirement credit while on workers' compensation leave, but may purchase credit after returning to work. In addition, an employee who is eligible may apply for short-term disability or long-term disability, as set forth in the DHHS SOP's.

DETERMINATION OF COMPENSABILITY

DHHS recognizes that only those injuries that are determined to be compensable injuries by accident or occupational diseases within the meaning of the Act are covered. When injuries or illness of an employee is reported, DHHS, along with the Third-Party Administrator, shall investigate the matter to determine compensability. The final decision whether to accept or deny a claim is vested in the WC Attorney.

RETURN TO WORK

Return to work programs shall be implemented and maintained by all DHHS facilities and divisions, consistent with Standard Operating Procedures of OSHR and DHHS.

SEPARATION DUE TO UNAVAILABILITY OF WORK

Pursuant to OSHR policy, when an employee is on workers' compensation leave of absence, and the employee is unable to return to all of their position's essential duties as set forth in the employee's job description, or designated work schedule, due to a medical condition, or the vagueness of a medical prognosis, the employee may be separated due to unavailability on the earliest of the following dates:

- (1) After the employee has reached maximum medical improvement for the work-related injury for which the employee is on workers' compensation leave, and the agency is unable to accommodate the employee's permanent work restrictions related to such injury; or
- (2) 12 months after the date of the employee's work-related injury.

RESOLUTION OF CLAIMS

1. Once an employee reaches maximum medical improvement, if the employee has sustained any permanent impairment, the claim may be resolved by entering an NCIC Form 26A agreement for payment of the permanent impairment rating as assessed by the authorized treating physician, with the Form 26A to be approved by the Industrial Commission. The procedures for the same are set forth in the DHHS Standard Operating Procedures.

2. A claim may also be resolved by the parties through entering a Compromise Settlement Agreement (CSA), also known as a "clincher" which must be approved by the Industrial Commission. The parties shall follow the process set out in the DHHS Standard Operating Procedures for resolving claims through compromise settlement agreements.

3. Mediation is an informal settlement conference which allows the parties to

negotiate in attempt to settle the claim. The parties shall follow the process set out in the DHHS Standard Operating Procedures for mediation.

4. In any claim in which there is potential third-party liability which resulted in injury to the employee, for which DHHS has paid workers' compensation benefits, DHHS reserves the right to pursue subrogation in the matter. The process for subrogation is set forth in the DHHS and OSHR Standard Operating Procedures.

STATISTICAL REPORTS

The DHHS Safety Program requires that statistics be kept regarding the injuries reportedly sustained by DHHS employees. These statistics shall be used by the Safety Program and the Workers' Compensation Program to better identify hazards and risks in the workplace, to make plans to minimize those risks and to improve safety in the workplace for all DHHS employees. The procedure for preparing those reports is set forth in the DHHS Standard Operating Procedures.

For questions or clarification on any of the information contained in this policy, please contact [Human Resources](#). For general questions about Department-wide policies and procedures, contact the [DHHS Policy Coordinator](#).