

HEWITT TEXAS

CITY OF HEWITT POLICIES AND PROCEDURES

Procedure: Injury Leave/ Workers' Compensation

Section: 4.13

Adopted: 10/07/2002

Amended: 11/12/2008; 08/24/2015; 6/15/2017

4.13 INJURY LEAVE / WORKERS' COMPENSATION

All Employees:

An employee injured in the line of duty will be eligible for workers' compensation according to established State law. Employees who sustain work-related injuries or illnesses shall immediately inform their supervisor and the Human Resources Department. A First Report of Injury form must be completed as soon as practicable by the injured employee and/or supervisor (no later than 8 days). This includes injuries that may be considered minor at the time of incident.

Non-Civil Service Employees:

After a formal diagnosis of an injury or illness has been completed by a licensed physician the employee shall provide all appropriate documentation to the Human Resources Department. If an employee is determined to be eligible for Workers' Compensation, the employee becomes eligible for temporary income benefits on the eighth day of disability. By law, workers' compensation benefits must be paid directly to the employee. These income benefits are calculated at a rate of at least 70% of the employee's weekly income prior to the injury. The worker must be disabled by the injury for at least seven (7) days to be eligible for income benefits.

A. SALARY CONTINUATION PAYMENTS

Salary continuation payments are made to eligible employees authorized to be off duty as the result of an on-the-job injury. Salary continuation payments are meant to make up the difference between what an injured employee receives from Workers' Compensation and their regular rate of pay.

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Under no circumstances will an injured employee receive more pay during an absence than if they had worked their regular hours at their current rate of pay.

Workers' Compensation leave, to the extent that it qualifies, will automatically be treated and designated as FMLA and will run concurrently with FMLA.

B. ELIGIBILITY

Only regular full/part time employees who have worked for the City for a period one year or more are eligible for salary continuation. Employees are ineligible to receive salary continuation pay beyond the date of retirement, resignation, death, lay-off, or termination.

C. DURATION

Employees may receive a 100% salary continuation for a maximum of ninety (90) days from the first day the employee was unable to work.

D. START OF PAYMENT

Salary continuation payments will begin only after the City has received proper documentation from a licensed physician that an employee is unable to return to work because of an on-the-job-injury. Under no circumstances will any continuation be made prior to receiving proper documentation.

E. PROCEDURE FOR RECEIVING SALARY CONTINUATION

1. The injury, accident, or incident must be reported to the employee's supervisor immediately.
2. Employees involved in an on-the-job-injury that results in an absence from work for one or more days will be placed on Workers' Compensation leave.

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3. When an employee misses less than eight (8) days of work as the result of a compensable injury, they will receive their regular pay from the City.
4. When an employee misses eight (8) days or more from work as the result of a compensable injury the employee will receive temporary income benefits (TIB) from Workers' Compensation.
5. On the 15th day of absence as a result of a compensable injury Workers' Compensation will pay the injured employee for the first seven (7) days of absence.
6. If an employee is receiving salary continuation from the City, they must turn over the TIB check from Worker's Compensation to the City.

F. PROCEDURE FOR RETAINING SALARY CONTINUATION

Injured employees must notify the Human Resources Department and their supervisor of all treatment rendered and requirements imposed by the employee's attending physician. Employees must submit medical statements, signed by their physician that account for and justify all missed work to the Human Resources Department. Injured employees must contact the Human Resources Department and their supervisor on a weekly basis.

G. SUSPENSION OF PAYMENTS

Salary continuation payments may be suspended or initially denied if an employee fails to comply with City policy and directions. Specific grounds for suspension or denial are:

1. If the employee is awaiting a final chargeability decision;
2. If the employee fails to report an injury in compliance with City policy;
3. If the employee suffers an injury as a result of their own gross negligence. This may include but is not limited to an injury suffered while engaging in horseplay, while intoxicated, while participating in sports or physical activities not related to

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job activities, while attending to personal matters, or while violating any law, general order, rule, or regulation of the City, State, or Federal Government;

4. If the employee submits a claim that is denied by the City's Workers' Compensation carrier;
5. If the employee engages in any full time, part time or volunteer work while receiving salary continuation;
6. If the employee fails to act in a manner consistent with being off work recuperating;
7. If the employee fails to comply with the directions of their treating physician;
8. If the employee refuses to submit to an independent medical examination in accordance with the Texas Workers' Compensation Statutes;
9. If the employee refuses to accept any modified duty assignment that is deemed within the employee's capability in the opinion of the employee's treating physician, and that is consistent with the employee's training and/or abilities;
10. If the employee refuses to return to work after being released by their treating physician;
11. If the employee refuses to cooperate with the City in ascertaining facts and information surrounding the cause, nature, and day-to-day status of the employee's injury;
12. If the employee refuses to keep the Human Resources Department informed each week as to the status of the injury while receiving salary continuation;
13. If the employee refuses a post-accident drug or alcohol test (refusal may result in disciplinary action up to and including termination);
14. If the Workers' Compensation TIBs are stopped;

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Any time lost from work will be charged against the employee's sick leave, vacation leave, compensatory time or leave without pay under the following circumstances:

- If the injury is deemed not compensable by workers' compensation;
- If the City determines an employee does not qualify for salary continuation benefits;
- The employee is unable to work in a modified duty capacity;
- Expiration of the ninety (90) day salary continuation benefit and the employee is unable to work.

H. PAYMENT SUSPENSION APPEAL

Denial or suspension of payments as a result of employee violation of City policy or direction is not appealable or subject to formal complaint.

I. MODIFIED DUTY

When a work related or non-work related injury prohibits a non-civil service employee from performing the essential functions of their job with or without reasonable accommodation, the employee may be granted a modified duty assignment. No modified duty assignment will consist of activities restricted by the employee's physician. Modified duty accommodations are not permanent. When needed, accommodations will be made in compliance with federal and state law.

1. QUALIFICATIONS

The following qualifications have been established for eligible employees who request a modified duty assignment. In no way is this section meant to infer that as the result of being qualified, that any employee has a right to a modified duty assignment.

- a. There must be a need within the City the recovering employee could possibly fill. Employees may be temporarily reassigned to other Departments.

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- b. Employees must be qualified for and able to perform the essential functions of the alternate duty position. No assignment may be made to modified duty without approval of applicable Department Director(s) the Human Resources Department, and the City Manager.
- c. Prior to starting a modified duty assignment the employee must provide applicable Department Director(s) and the Human Resources Department with a written statement of work restrictions and how long such restrictions are in effect, when the employee may begin modified duty and when the employee may return to full duty; all of which must be signed by the employee's treating physician. At this time the employee will receive a formal modified job offer from Human Resources.
- d. Employees assigned to modified duty may not engage in any outside employment, including self-employment. Failure to adhere to this policy may result in disciplinary action up to and including termination.

2. PROCEDURE

- a. An employee may be involuntarily assigned to modified duty or request such an assignment. Refusal to return to work for the modified duty assignment may be considered insubordination and may result in termination of modified duty offer and /or disciplinary action up to and including termination.
- b. Workers' Compensation claimants will provide the Human Resources Department with copies of all medical restrictions/releases concerning their injuries within 24 hours of each doctor visit.
- c. Employees assigned to modified duty will be paid at the same rate of pay prior to the modified duty.
- d. Employee work schedules will be determined by the employee's assigned supervisor in accordance with need for service.
- e. Employees assigned to modified duty are expected to keep their temporary supervisor and regular supervisor aware of scheduled medical appointments. Failure to do so may result in disciplinary action up to and including termination.
- f. No modified duty assignment will last longer than 90 days without authorization from the employee's original Department Director and the

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Human Resources Department. Under no circumstances will a modified assignment last more than one year from the original date the employee is unable to work in their full capacity.

- g. While an employee is on modified duty, they will have their work status reviewed by the Department Director and Human Resources Department every 30 days.
- h. In the event a temporary disability is determined by a medical authority to be a permanent disability, the modified duty assignment will be reevaluated.

J. RETURN TO FULL DUTY

1. An employee released to return to work by their physician must provide their Department Director or the Human Resources Department a copy of the written release.
2. When an employee returns to work and finds they have not fully recovered to the extent necessary to perform their essential functions of the job, the employee should notify their supervisor as soon as possible. Additionally, the employee should set an appointment with their treating physician. If it is determined the employee is unable to perform essential functions of the job, the employee may take any available paid leave or may request another modified duty assignment.
3. When a treating physician decides an employee will never be capable of returning to work in their full duty capacity, the City will accommodate such disability to the extent required under the Americans with Disabilities Act, or the employee may apply for available positions within the City.

K. TERMINATION

The City reserves the right to fill any position vacated by an employee who is unable to perform the essential functions of their job, with or without reasonable accommodation, to the extent permitted by law.