

Human Resources Policy Bulletin

City of Lincoln

Number: 2023-7

Date: June, 2023

Reference:	Title:
Supersedes: AR-19 of 2/18/2014	Workers' Compensation Policy

I. PURPOSE

To ensure fair, equitable and consistent treatment of all eligible injured city employees, the Human Resources Department complies with the Nebraska Workers' Compensation Act, Union Bargaining Agreements, City Personnel Policies, Nebraska Workers' Compensation Court Rules, City Ordinances, and other applicable policies.

II. WORKERS' COMPENSATION DEFINED

Workers' Compensation benefits are provided to eligible employees who sustain an injury by accident or occupational disease arising out of and in the course of their employment and who are not acting willfully negligent at the time of the injury or whose claim is not barred or invalidated by state law.

III. REPORTING REQUIREMENTS

An employee shall notify his/her supervisor immediately of any work-related injury or occupational disease and shall immediately fill out and submit the Nebraska Report of Alleged On The Job Injury or Illness form. If an employee did not receive medical treatment and is submitting the report for record keeping purposes only, submit only the state form.

If the employee is submitting a report for more than a record only incident because the employee sought medical care or because the employee was unable to work at the time of the accident or after the accident and the employee wants to be considered for workers' compensation benefits, the employee must also immediately complete a City of Lincoln Report of Alleged on the Job Injury or Illness Form. The employee must fill out Section III "Employee's Notice of Rights to Choose a Doctor" of the form, obtain the supervisor's signature as provided on the form, and submit the form to Human Resources.

[City Report of Alleged on the Job Injury or Illness Electronic Form](#)

[City Report of Alleged on the Job Injury or Illness Paper Form](#)

The City's Report of Alleged on the Job Injury or Illness Form may be sent by any of these approved methods:

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- 1) Scanned and emailed to risk@lincoln.ne.gov
- 2) Complete report mailed to Human Resources: Workers' Compensation at 555 S. 10th Street, Suite 302, Lincoln, NE 68508
- 3) Completed and sent by interoffice mail
- 4) Faxed to Human Resources: Workers' Compensation at (402) 441-6800
- 5) Via hand-delivery to the Human Resources Department

IV. MEDICAL DOCUMENTATION

Human Resources will investigate claims to determine compensability. To do so, Human Resources will need access to your relevant medical records. Please fill out and submit the Authorization for Medical Records Release for your general physician, the treating physician for the injury, and any other facilities which treated the injury.

City's Medical Records Release Form

During this investigation, employees may elect to use other leave options such as sick or vacation leave if they are unable to work or not approved to work reduced hours. If the claim is later approved by Human Resources, the department will be notified to convert the selected leave to injury leave hours if applicable.

For employees who are off work or on reduced work hours, medical information must be provided to Human Resources stating why the employee is unable to perform normal work duties. After each doctor's visit a note from the doctor is required indicating if it is medically necessary for the employee to remain off work. While the employee is under physical therapy, chiropractic or other medical care, a note is needed after every appointment from the medical provider indicating if the employee is to remain off work. The note should be sent to: risk@lincoln.ne.gov.

V. INJURY LEAVE BENEFITS

Injury leave is a benefit created and administered by the City of Lincoln to eligible employees who are temporarily totally disabled and off work for a compensable injury per LMC 2.76.390. Under injury leave, employees are eligible to receive their full salary for up to a maximum of six

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consecutive calendar months from the date of injury. For employees who are unrepresented or subject to the LCEA, M Class and PAGE union bargaining agreements, injury leave expires six calendar months after the injury date.

Police are eligible to receive up to six months of injury leave benefit to be used within one year from the date of injury.

Fire employees will receive a maximum of up to either six or twelve consecutive calendar months of benefits from the date of injury, depending upon the pension plan chosen. Under 'Plan A', employees will be eligible for up to six months of injury leave benefits. Under fire pension plans 'B' and 'C,' employees are eligible for up to twelve months of injury leave benefits. Extensions may be granted dependent on current collective bargaining agreements.

Injury leave benefits, per LMC 2.76.390, are affected and reduced by having a second injury in the same contract year. For employees subject to the LCEA, M Class, IAFF, LPU, and PAGE bargaining agreements and who have a second injury during the same contract year, the period of eligibility shall be deemed to commence on the seventh (7) day from the date when the employee incurred the injury. Before an employee may receive injury leave benefits for the second injury an investigation of the new claim must be completed and the injury determined to be compensable. However, if there was no lost time with the first injury and the second injury is approved, then injury leave is effective immediately.

Injury leave benefits do not apply to city officials who are elected/appointed to public office such as the Mayor, City Council Member or temporary seasonal workers and ATU employees.

VI. PAYMENT OF INJURY LEAVE BENEFITS

Employees eligible for injury leave with an approved work-related injury who have missed time from work for the injury will have the missed time coded as "injury leave" on the employee absence request and timesheet, irrespective of which benefits payments, if any, the employee receives. As administered by the City, the injury leave benefit is deemed payment of all statutorily imposed benefits under the Nebraska Worker's Compensation Act. Human Resources will determine how much of the injury leave benefit is considered Workers' Compensation temporary total disability (TTD) benefits. Under state law, Workers' compensation temporary

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total disability benefits (TTD) are generally calculated at two-thirds (2/3) of the employee's average weekly wage and capped at a maximum weekly amount. TTD benefits are not taxable. A payment for Workers' Compensation TTD benefits will be given to the injured employee along with a separate payment which will reflect an amount that, when combined with the workers' compensation TTD benefit reflects the employee's regular full salary. All Injury Leave benefit payments will be deemed to be payment of all imposed benefits pursuant to the Workers' Compensation Act of the State of Nebraska.

Unpaid volunteers, independent contractors or appointed members of any Board or Commission are not eligible for injury leave or Workers' Compensation benefits. The Mayor, City Council Members, and other city officials who are elected or appointed to public office are eligible to receive Workers' Compensation benefits, but they are not eligible to receive injury leave benefits. Per the union bargaining agreement, ATU employees will receive Workers' Compensation benefits as set forth by the Nebraska Workers' Compensation Act, but they are not eligible to receive injury leave benefits.

VII. WORKERS' COMPENSATION BENEFITS AFTER INJURY LEAVE EXPIRES

After the Injury Leave benefit expires, the employee may still be eligible to receive Workers' Compensation benefits as provided for in the Nebraska Workers Compensation Statute at Neb. Rev. Stat. § 48-121. These benefits include temporary total disability benefit (TTD) or temporary partial disability benefit (TPD). The benefit is equal to two-thirds of an employee's average weekly wage for twenty-six weeks prior to the date of injury, up to the state maximum. If an employee chooses to do so, they may supplement the benefit with one-third of vacation or sick leave hours, so that the total benefit and leave equal the employee's average salary for the period calculated, except as otherwise set forth herein, in the applicable union contracts or ordinances. Employees subject to bargaining agreements should refer to their current contract to determine the maximum duration of injury leave and/or temporary modified work.

VIII. TEMPORARY MODIFIED DUTY WORK

Until an injured employee is permitted by either the City's or the employee's treating physician to return to full-duty work with no restrictions, each department as an interim step will attempt to

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provide all status and probationary employees with modified duty work. An employee will need medical documentation to show they are unable to perform their full job duties but are able to work modified duty. To qualify for a modified duty assignment, either the City's or the employee's treating physician will be contacted by the City to provide the employee's medical restrictions and work with the department to determine whether any available modified duty work meets the medical restrictions. Refusal to accept available modified duty work which meets medical restrictions could result in a reduction of benefits.

IX. WHEN NO MODIFIED DUTY WORK IS AVAILABLE

If medical documentation indicates a return to work with restrictions and the department does not have modified duty work available, the employee will be eligible to remain on injury leave benefits in accordance with applicable bargaining agreements or pension plans for the six- or twelve-month period, with temporary total disability benefits provided thereafter in accordance with the Nebraska Workers' Compensation Act. When released without restrictions, the employee will resume their full job duties.

X. MAXIMUM AMOUNT OF RECOVERY TIME IS 12 MONTHS FROM DATE OF INJURY

The maximum amount of recovery time (including any combination of injury leave and modified duty work) should not exceed 12 consecutive calendar months from the date of injury. If an employee has not yet returned to full duty work within 12 months from the date of injury, either the City's or the employee's treating physician will be contacted by the City to determine if the employee can perform the essential functions of their job description. If either the City's or the employee's treating physician states that the employee cannot perform the essential functions of their job description, the employee may be separated from employment.

Prior to the end of the 12-month period, if the employee provides medical documentation indicating a strong likelihood that the employee may return to full duty within a reasonable time period, the department head may extend the recovery time depending upon business needs and pursuant to the Americans with Disabilities Act (ADA) or Family and Medical Leave Act (FMLA). Likewise, if the employee is able to perform the essential functions of their position

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with reasonable accommodations the department will make reasonable efforts to accommodate the employee when possible.

XI. PRIORITY GIVEN TO "ON DUTY" INJURIES

The department/division should try to provide all status and probationary employees with the opportunity to work modified duty. However, if there are not enough positions available, the employee with an on-the-job injury shall be given priority over an employee with an off-the-job injury.

XII. HOW INJURY LEAVE AFFECTS OTHER EMPLOYEE BENEFITS

Employees subject to bargaining agreements should refer to their current contract to determine the effect on other employee benefits. Unrepresented employees should refer to LMC 2.76.390. No taxes or contributions will be withheld from the Workers' Compensation portion of injury leave.

XIII. PAYMENTS YOU ARE RESPONSIBLE FOR

An employee who is receiving temporary total disability (TTD) benefits and has been approved by their department for Workers' Compensation leave, may also receive various benefits of health insurance, etc. It will be necessary for the employee to pay the appropriate share of their elective deductions to the City Payroll Supervisor in the Finance Department.

XIV. HOLIDAY PAY

If a holiday occurs during the time period injury leave is being paid, holiday hours are paid in lieu of injury leave hours.

If Workers' Compensation benefits are being paid, and the employee has chosen to supplement with accrued leave, placing them in an approved status, the employee will receive holiday pay in proportion to the supplemental pay as long as the employee has used supplemental pay the day prior and the day after the holiday. If the employee is not supplementing their normal salary, no holiday pay will be due to the employee.

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XV. OVERTIME PAY

Employees are not eligible for overtime pay while receiving Workers' Compensation or injury leave benefits.

XVI. FAMILY MEDICAL LEAVE ACT (FMLA) BENEFITS

FMLA is unpaid and will run concurrently with paid leaves (sick leave, personal holidays, vacation (accrued and banked), injury leave, paid parental leave, and workers' compensation leave).

XVII. AMERICANS WITH DISABILITY ACT (ADA)

Modifications to standard work practices afforded to employees under Worker's Compensation, including but not limited to modified work assignments and reduced work hours, will be considered reasonable accommodations in accordance with the ADA.



Barb McIntyre
Human Resources Director



Date



Leirion Gaylor Baird
Mayor



Date