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| TITLE: Injured Worker | | PROCEDURE #: 505-A |
| DEPT: Business Services | | DIVISION: Risk Management |
| EFFECTIVE DATE: 11/05 | REVIEWED: 4/08 | REVISED: 4/12 |

OBJECTIVE: To establish procedures to guide the supervisor and injured worker through the paperwork and time deadlines required by the workers’ compensation rules and laws after a worker is injured on the job.

REFERENCE: Policy #505 (D-9)

POLICY STATEMENT: It is the policy of Marion County to:

1. Return injured workers to good health and productive employment at the earliest medically appropriate opportunity.
2. Minimize the impact of workers’ compensation benefits on the county’s self-funded insurance program by lowering claim-related costs.
3. Develop temporary modified jobs for injured workers in all county departments.
4. Comply with State of Oregon Workers’ Compensation and Bureau of Labor and Industries laws
5. Provide consistent countywide guidelines for managers, supervisors and workers on the coordination of workers’ compensation claims.
6. Maintain effective communications with workers, physicians, departments, and the claims administrator to promote fair and cost-effective claims management.

APPLICABILITY: For the purpose of workers’ compensation benefits, this policy applies to:

1. Regular, trial service and temporary workers
2. Sheriff reserve deputies in the enforcement and corrections divisions
3. Sheriff cadets
4. Marion County Search and Rescue volunteers while under the direction and control of the sheriff’s office, including crew 18, jeep patrol, posse, search and rescue communications (SARCOM), special vehicle unit, northwest search dogs, and chuckwagon

All volunteers not listed above are covered under the Marion County Volunteer Injury Coverage policy #514.

The early return-to-work sections of the injured worker procedures involving temporary modified jobs apply to all workers.

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PROCEDURES:

1. Definitions:

“Claim” means a written request for compensation from a worker or someone on the worker’s behalf, or any compensable injury of which the county has notice or knowledge.

“Compensable Injury” means an accidental injury arising out of and in the course of employment requiring medical services or resulting in disability or death, subject to the limitations set forth in ORS Chapter 656.

“Doctor” means the injured worker’s attending physician or nurse practitioner. In accordance with ORS Chapter 656, only an attending physician can authorize temporary disability.

“Managed Care Organization” (MCO) means a health care provider or group of medical service providers who contract with insurers or self-insured employers to provide a wide variety of managed health care services to workers through participating panel providers. The Oregon State Department of Consumer and Business Services certifies MCO’s.

2. Administration of the Program:

Risk management is responsible for the implementation and revision of these procedures and ensuring that they conform to ORS Chapter 656.

The county’s claims administrator CCMSI in cooperation with risk management processes claims for workers’ compensation benefits. CCMSI can be reached at:

CCMSI
750 Front Street NE, Suite 260
Salem, OR 97301
Phone: 503-589-4727

The injured worker’s supervisor will coordinate investigation, documentation, and return-to-work with risk management to ensure applicable rules and policies are followed.

All workplace injuries must be documented on an *Occupational Injury Report*, regardless of whether medical services are required. Marion County cannot refuse to allow a worker or covered client/volunteer to file an *801 Claim* form. When a worker or covered client/volunteer has an occupational injury or illness that results in medical treatment, a workers’ compensation *801 Claim* form must be completed and filed.

State law requires that the *801 Claim* form be completed and submitted to the county’s claims administrator within **five calendar days after the employer’s first date of knowledge** of the worker seeking treatment for injury or illness. Failure to do so can result in fines and citations. It

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is the responsibility of both the supervisor and the injured worker to submit all necessary forms to risk management within the required time frame.

3. Injuries That Do Not Require Medical Services:

All work-related injuries and illnesses must be reported to the supervisor immediately or as soon as possible even if the injury does not require medical services and an *Occupational Injury Report* shall be completed for all such incidents.

The injured worker shall complete the first page of the *Occupational Injury Report* and submit it to the supervisor on the day the incident occurs or the next business day. The supervisor is responsible for investigation and follow-up of all workplace injuries and illnesses and for ensuring the *Occupational Injury Report* is completed in its entirety and submitted in a timely manner. Copies of the *Occupational Injury Report* are then sent to management, the department/building safety committee, and Risk Management.

IMPORTANT: Do not complete an 801 Claim form if the worker does not actually seek medical care for the injury.

4. Claims Investigation:

The supervisor, risk management, and the claims administrator initially investigate all claims. The purpose of the investigation is to gather all the facts so that a compensability decision can be made. This may include contact from a claims examiner, nurse, doctor, investigator, or attorney, and/or participation in an independent medical examination.

5. Injuries That Require Medical Services:

If a worker seeks medical services for an injury, the supervisor shall immediately begin the process of completing an *Injured Worker Packet*, which can be obtained from the risk management intranet site at:

<http://intra.co.marion.or.us/Dept/BS/Risk/workercomp.htm>

This packet contains all the necessary forms and quick guide instruction sheets for a workers' compensation claim, including:

- a. Supervisor's Duties (quick reference guide)
- b. Injured Worker's Duties (quick reference guide)
- c. Occupational Injury Report (both pages)
- d. 801 Claim form
- e. Understanding Workers' Compensation Claims
- f. Doctor's Release To Return To Work
- g. Notice Of Available Employment (for modified duty)
- h. Workers' Compensation Augment form (for time loss)

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6. Selecting a Doctor:

All workers' compensation claims are subject to the provisions of the Managed Care Organization (MCO). Workers will be required to select a doctor who is part of the MCO. If the injured worker has documented history of treatment with a primary care doctor and the doctor agrees to the terms and conditions of the MCO regarding service delivery, the worker may be allowed to continue receiving service from that physician.

The county's current MCOs are Kaiser On-the-Job and Providence MCO. In order to avoid the possibility of being required to change doctors, workers are encouraged to seek initial treatment with a physician who is part of the MCO provider panel.

Kaiser On-the-Job is associated with the Kaiser health plans. The Salem location is:

Kaiser Permanente Occupational Health
North Lancaster Medical Office
2400 Lancaster Drive NE
Salem, OR 97305
For appointments and advice: 503-370-4867

Providence MCO is comprised of a network of independent physicians. A list of the individual medical providers in the Providence MCO can be obtained by accessing the online directory at:

<http://www.providence.org/oregon/provdir/default.asp>

Go to the drop-down list for "Choose Your Health Plan" and select Providence MCO. You can also contact the workers' compensation claims administrator CCMSI or risk management.

Additional information about MCOs and selecting a physician can be obtained from risk management or the county's workers' compensation claims administrator CCMSI.

7. Modified Duty:

Temporary modified jobs will be made available whenever feasible for transitional placements of injured workers under the provisions of this program and all other applicable rules, laws or statutes.

The temporary modified work that is made available to the injured worker is not intended to become a permanent job. Each job is subject to department needs and available funding. If no work is available in the worker's regular department, risk management shall be contacted to assist in locating other temporary work within the county.

All modified-duty work will be consistent with, and will not exceed, the hourly and physical restrictions cited by the medical provider.

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Temporary modified jobs will be evaluated at least monthly by the supervisor and risk management to determine if the restrictions have changed and if there is still a benefit to the department to continue with the modified work. Temporary modified jobs may end if there is no longer a business need or modified work available.

If a department is unable to provide a temporary modified position, an explanation shall be provided to risk management with the circumstances describing why the department is unable to provide a temporary modified job for the injured worker.

Workers will be paid their regular hourly wages while working in their temporary modified duty assignments. An injured worker is required to follow the daily timekeeping requirements of a non-exempt worker, even if s/he is an overtime-exempt worker. That worker's timesheet must indicate the dates (daily) and hours worked, which will be paid by the department at injury.

Temporary modified jobs shall be made in the following order of priority:

- a. Regular job with duty modifications.
- b. Different job within the same department.
- c. Different job in a different department.

If a temporary modified position still cannot be found, the worker will then be paid time loss until a suitable modified position can be found that meets the doctor's restrictions.

8. Supervisor's Responsibilities During Modified Duty:

The supervisor shall carefully review the modification requirements and determine if the worker's existing job can be modified to meet the medical provider's restrictions. If unsure, the supervisor should contact risk management for assistance.

Upon determining that temporary modified work is available, the supervisor shall meet with the worker and make a formal offer of temporary modified job. The offer should include the work location, working hours, and job duties expected of the worker. If the worker refuses the offer of modified work, the supervisor should immediately contact risk management.

The supervisor must track the worker's modified-duty hours and days worked on a timesheet, **even if the worker is a unit 2, unit 13, or any other overtime-exempt worker.**

The supervisor should continue to request and obtain all medical notes and modified duty restrictions from the worker after each and every doctor's visit, and continue to fax and mail all original documents to risk management.

The supervisor shall notify risk management immediately via email or telephone of any status changes, such as a change from time loss to modified duty, or a change from modified duty to regular duty.

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9. Worker's Responsibilities During Modified Duty:

All modified-duty assignments will be consistent with, and will not exceed, the hourly or physical restrictions cited by the doctor. It is the worker's responsibility to make sure s/he does not work beyond these restrictions.

If any of the modified duty tasks aggravate the work-related injury, the worker must immediately stop the activity and report the problem to his/her supervisor. Further modifications may be made to the work assignment.

If the worker's doctor changes the work restrictions, the worker must report this information to the supervisor immediately and provide a copy of the new modified-duty release. The supervisor will then make the appropriate adjustments to the modified work duties.

The worker must provide his/her supervisor with any duty releases received from the doctor no later than the next business day, even if the duty restrictions remain unchanged.

10. Time Loss:

Temporarily disabled workers will be compensated in accordance with ORS 656.210. Contact the county workers' compensation claims administrator for claims specific questions regarding time loss.

11. Payroll Documentation of Time Loss:

A timesheet must be submitted to payroll that accounts for all hours that an injured worker missed from work, even if s/he is an exempt worker and would not otherwise need to complete a timesheet.

Any claim-related time the worker misses from work that is not paid by workers' compensation may be charged against the injured worker's sick leave balance in accordance with the department's policy and supervisor approval. This includes all time missed from work to attend medical appointments. If the worker does not have any remaining sick leave balance, other leave balances or leave without pay may be used.

Timesheets should be coded as follows:

- a. Sick W Comp (first choice – if none remaining, use next available option in this list)
- b. Vacation W Comp
- c. Comp W Comp (compensatory time – not compensation credits)
- d. Personal Day W Comp (credited in full-day increments)
- e. Comp Credit W Comp (credited in full-day increments)
- f. LWOP W Comp (last choice – use only if no other leave balances exist)

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12. Scheduling Medical and Physical Therapy Appointments:

Injured workers are expected to schedule their medical appointments and physical therapy for non-work hours, whenever possible. The supervisor must approve all appointments requiring time away from work. All such missed work time will be covered by that worker's accrued sick leave or other forms of leave balances. Leave without pay (LWOP W Comp) may be authorized if no other leave balances are available.

13. Exceptions for Charging Leave Balances for Appointments:

If the county's workers' compensation claims administrator or the Workers' Compensation Division requires a worker to attend an independent medical examination, the worker's leave balances shall not be charged. Time cards should be coded as "Regular W Comp".

14. Time Off for Hearings on Disputed Claims:

The county is not responsible to pay for a worker's time to attend a hearing when the workers' compensation claim is in dispute. Workers may use appropriate leave balances or leave without pay (LWOP W Comp) to cover such time away from work, which would include appointments with their attorneys, doctor appointments their attorneys have made, and actual time spent at the hearings.

15. Time Off During the Claim:

If an injured worker's doctor-authorized time off coincides with a previously scheduled vacation, the vacation time may be rescheduled. If a worker chooses to take vacation time after being offered temporary modified work, the time off will be deducted from the worker's leave accrual.

Time missed from work as a result of an illness or injury that is not related to the workers' compensation claim will be deducted from the workers' leave accrual. In order for time missed from work to be covered under workers' compensation, the worker's doctor must provide written authorization of the time and that the time loss was related to the workplace injury.

16. Payment to the Injured Worker:

An injured worker on doctor-authorized modified duty will be paid by Marion County Payroll at his/her regular hourly rate plus any merit increases or cost of living increases that would normally be granted.

Benefits-eligible workers may supplement their workers' compensation time loss benefits with any accrued leave by completing an *Augment* form.

17. Continuation of Worker Benefits During a Claim:

Workers are not eligible for vacation donations during the time they have an open workers' compensation claim with Marion County.

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The county shall continue all county-paid benefits for up to six months from the date of injury during the period that a worker is receiving workers' compensation time loss payments.

Workers will receive a notice informing them of their right to self-pay health and dental benefits through COBRA for a maximum of 18 months (which includes the first six months). After the six months are up, workers must make arrangements to continue their health, vision and dental benefits on a self-pay basis.

18. Reinstatement Provisions: Returning to Work After Six Months:

In accordance with ORS 659A.043, a worker who has been off work for more than six months because of an on-the-job injury or illness has the right to reinstatement. Upon receipt of a release to return to regular full-duty work, the injured worker will be considered for reinstatement to his/her former position. A worker's refusal of a position offered may result in loss of compensation or reinstatement rights.

19. Release for Regular Work:

If an injured worker is able to return to his/her regular job with no restrictions, s/he must provide a release from the doctor and inform the supervisor prior to returning to the next scheduled shift.

20. Release with Permanent Restrictions:

When a worker is declared medically stationary and given permanent restrictions, that worker will be returned to his/her regular job if possible or a comparable position if one is available and the worker meets the minimum job qualifications. If no suitable jobs are available, the worker will be referred to CCMSI for vocational assistance eligibility.

If a worker is unable to return to work under the procedures listed above, s/he may request accommodation under the Americans with Disabilities Act. The required forms are available from the supervisor or human resources. Human resources will review all such requests for accommodation.

21. Non-Occupational Injuries and Illnesses:

If an injured worker is authorized modified duty by the doctor, the policy of the worker's department would determine whether s/he is allowed to return to work in a modified capacity with a non-work-related injury.

22. Training:

Training regarding injured worker laws and/or procedure changes will be held periodically for supervisors and shop stewards.

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23. Denied Claims:

A claim must be accepted or denied within 60 days after the county receives notice of the claim; the claims examiner will notify the injured worker in writing of the decision. If the claim is denied, this notification will include information about how the injured worker can appeal the denial.

When a claim is denied, workers' compensation benefits end as of the date of the denial. An injured worker with doctor-authorized time loss would then stop receiving time loss payments. Upon denial of the claim, ongoing medical restrictions will be addressed in the same manner as any other non-work-related condition.

Medical bills related to a denied claim are managed in accordance with the county's MCO contracts and appropriate administrative rules. Questions regarding the payment of medical bills on specific denied claims should be directed to the claims examiner at the county's workers' compensation claims administrator CCMSI.

24. Records Retention:

Risk management shall be responsible for retaining all records related to workers' compensation claims. Departments may keep copies of records as necessary to manage open workers' compensation claims. At the time the claim becomes inactive or closes, the department shall forward all records related to workers' compensation claims to risk management.