

North Carolina State Government WORKERS' COMPENSATION SUPERVISOR HANDBOOK



North Carolina Office of
State Human Resources

November 2018

Notice to State Government Employees

Employees have the right to report work-related injuries and illnesses. Employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries or illnesses. If an employee is injured on the job, the employee should immediately notify their supervisor. If the employee's injury requires medical treatment, the agency/university's procedures regarding obtaining medical treatment should be followed.

The NC Office of State Human Resources (NC OSHR) administers the State Workers' Compensation Program. NC OSHR contracts with a Third Party Administrator (TPA) and other vendors to provide workers' compensation claims services for covered employees in State agencies and universities. Each state agency/university has a Workers' Compensation Administrator (WCA) who is responsible for the reporting and administration of workers' compensation in their agency/university. The North Carolina Industrial Commission (NCIC) maintains claim records, adjudicates disputes, and approves certain awards of benefits in accordance with workers' compensation law.

This Handbook Does Not Constitute Legal Advice

This document provides general information regarding workers' compensation law as specified in NC General Statutes Chapter 97, the North Carolina Workers' Compensation Act. This document instructs employees on how to report and file a claim and provides an explanation of available benefits when they have suffered an injury on the job or contracted an occupational disease. This document also includes a general explanation of workers' compensation related rights and duties of the employee and employer.

Who May an Employee Contact for Help?

If an employee has questions about workers' compensation coverage or benefits, the employee may contact their agency/university Workers' Compensation Administrator (WCA), NC OSHR at 919-807-4800 or workerscomp@nc.gov, or Third

Party Administrator (TPA) claim adjuster. Contact information should be provided to the employee in the Workers' Compensation Employee Handbook.

Additional information about workers' compensation law and benefits is available from the North Carolina Industrial Commission (NCIC) website, www.ic.nc.gov, or by calling 919-807-2501 or 1-800-688-8349.

What Employees are Covered?

The NC OSHR workers' compensation program covers all agency and university full-time, part-time, and temporary State employees and officers. It also covers all State elected officials, members of the General Assembly or those appointed by the Governor to serve on a per diem, part-time or fee basis.

What Injuries are Covered?

Pursuant to North Carolina workers' compensation law, an "injury by accident" to any body part is covered if it arises out of and in the course of employment. An "accident" is an unusual or untoward event or interruption in the normal work routine.

There are two exceptions to this general rule:

1. Hernia will be covered if it meets specific statutory requirements; and
2. Back injury will be covered if the result of a "specific traumatic incident" while performing work assigned i.e., can point to specific point in time when injury occurred but an "accident" is not required.

An injury that occurs while performing regular job duties in the usual and customary manner is not covered.

Certain diseases termed "occupational diseases" are compensable under the North Carolina Workers' Compensation Act. An occupational disease is any disease proven to be due to causes and conditions which are characteristic of a particular job, but excluding all ordinary diseases of life to which the general public is equally exposed outside of the employment. Occupational diseases are generally

caused by a series of events of similar nature occurring regularly or at frequent intervals over a period of time in the employment.

How Does a Supervisor Report an Injury?

When an employee is injured, the employer/supervisor's immediate responsibility is to send the employee for necessary medical treatment. The supervisor should then complete an Injury Data Collection Form (or agency/university specific form) with information about the injured employee and the injury. This form should be provided to the agency/university WCA or other designee as soon as possible (within 24 hours of the injury).

The supervisor also is responsible for conducting an incident investigation and completing the Incident Investigation Report within 72 hours of the injury and provide the report to the agency/university WCA. The incident investigation process and forms may be found at: workerscomp.nc.gov (Workplace Safety section).

What Happens When an Employee is Injured?

State agencies/universities require an employee to give written notice to their employer that an injury by accident or diagnosis of an occupational disease has happened by completing one of the following forms:

1. The NC OSHR “NC Employee Incident Report” form. This form is part of the NC OSHR Incident Investigation and Reporting Program. This form allows the employee to describe the accident and injury(ies). This form is available at workerscomp.nc.gov or may be obtained from the employee's supervisor or agency/university WCA.
2. An agency/university specific incident reporting form.

For an injury by accident: The employee should immediately tell his or her supervisor (or any other supervisor if unavailable) when an “injury by accident” or “specific traumatic incident” happens, or as soon as possible after it occurs. In any event,

the employee should tell their supervisor or agency/university WCA of their injury no later than 30 days after it happens or the employer may refuse compensation.

For an occupational disease: An employee should give notice to their supervisor or agency/university WCA of an occupational disease when a competent medical authority first tells an employee of the nature and work-related cause of the illness.

The employee should complete the form provided by their employer and give it to his or her supervisor as soon as possible after the injury occurs or occupational disease diagnosis is given.

How Does an Injured Employee Get Medical Treatment?

State agencies/universities have medical treatment procedures for injured employees to follow such as in-house treatment or referral to a list of authorized local medical providers. The injured employee's supervisor or other agency/university staff should immediately send the employee to an authorized medical provider for needed treatment when an injury occurs. Supervisors should maintain a list of authorized local medical providers for initial medical treatment.

For referral to external medical providers, the employer generates an initial medical treatment authorization form from the TPA web portal and gives it to the injured employee to provide to the specified initial medical provider. If the employer does not give the injured employee an authorization form, the employee should tell the medical provider that their injury happened on the job and bills should be sent to their employing agency/university.

If the agency/university fails to send the injured employee to initial medical treatment, the employee may go to a medical provider of their choice and such treatment will be paid for by the agency/university. Thereafter, the injured employee is responsible for payment for any medical treatment received for their injury if such treatment is not authorized or directed by their agency/university or TPA claim adjuster.

How Does the TPA Claim Adjuster Process a Claim?

The agency/university WCA completes the First Notice of Loss (FNOL) report in the TPA web portal based upon initial information provided by the employee and supervisor. The TPA processes the FNOL report based upon the type and severity of injury.

The assigned TPA claim adjuster contacts the injured employee directly to complete a claim investigation and continues communicating with the employee throughout the claim administration process. The injured employee should give the agency/university WCA or assigned TPA claim adjuster all requested information in a timely manner to prevent delays in claim processing.

The agency/university WCA electronically reports the employee's injury to the TPA and an NC Industrial Commission Form 19, the employer's report of injury, is generated. The TPA claim adjuster mails the employee a copy of the NC Industrial Commission Form 19, a blank NC Industrial Commission Form 18, and the adjuster's contact information. The employee may ensure their workers' compensation claim is preserved by completing and sending an NC Industrial Commission Form 18 or 18B to the NC Industrial Commission within two years from the date of injury or knowledge of an occupational disease.

The TPA claim adjuster accepts or denies liability for the employee's injury on behalf of the agency/university, monitors and processes claims, and pays benefits in accordance with the North Carolina Workers' Compensation Act. The agency/university and TPA provide the best possible medical care for the injured employee to help them reach maximum medical improvement (the end of the healing period for their work injury) and return to work as soon as possible.

Who Directs and Pays for an Injured Employee's Medical Treatment?

The employing agency/university directs initial medical treatment for an injury. Thereafter, the TPA claim adjuster authorizes and directs all medical treatment related to an injury. Once an authorized treating physician is established for the injury, it may

only be changed by the TPA claim adjuster or with NC Industrial Commission approval.

The employing agency/university pays for the injured employee's medical treatment related to a covered injury. Medical treatment as defined by State law includes:

1. Medical, surgical, hospital, nursing and rehabilitative services, including, but not limited to, attendant care services prescribed by a health care provider authorized by the employer or subsequently by the Industrial Commission.
2. Vocational rehabilitation and medicines, sick travel and other treatment, including medical and surgical supplies as may reasonably be required to effect a cure or give relief and for such additional time as, in the judgment of the Industrial Commission, will tend to lessen the period of disability.
3. Any original artificial members as may reasonably be necessary at the end of the healing period and the replacement of such artificial members (prosthetics) when reasonably necessitated by ordinary use or medical circumstances.

Medical bills for injury related treatment are paid in accordance with the NC Industrial Commission fee schedule which sets maximum fees for all treatment. It is against State law for any medical provider to accept any fee from a person for treatment of a workers' compensation injury other than the fee approved by the NC Industrial Commission and paid by the employer.

What Happens if an Employee's Claim is Denied?

If the employee's claim is denied, the employee may appeal the denial by filing written notice with the NC Industrial Commission including the employee's name, employer's name, date of injury, and nature of injury. This written notice should be mailed to:

North Carolina Industrial Commission
1236 Mail Service Center
Raleigh, NC 27699-1236

An injured employee may request a hearing on any issue related to their claim by filing written notice

or an NC Industrial Commission Form 33 with the NC Industrial Commission. The NC Industrial Commission Form 33 is available on the North Carolina Industrial Commission website, www.ic.nc.gov, or by calling 919-807-2501 or 1-800-688-8349.

What Workers' Compensation Benefits Does an Injured Employee Receive When Unable to Fully or Partially Return to Work?

The injured employee should give all work status related documents received from the authorized treating physician to his or her supervisor or the agency/university WCA as soon as possible after receiving them. A work note from any other medical provider may not be used to certify the employee is unable to work due to their injury.

Scenario 1. If the injured employee's authorized treating physician issues a written statement certifying the employee is **completely unable to work** due to their injury, the employee is eligible to receive weekly temporary total disability (TTD) compensation after expiration of the seven-day waiting period.

An injured employee's weekly compensation rate equals sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages in the employment in which the injury occurred during the past 52 weeks prior to the injury. The weekly compensation rate is subject to a statutory compensation rate minimum (\$30.00 per week) and maximum amount which is established annually by the North Carolina Industrial Commission in accordance with State law.

The injured employee's weekly compensation rate is calculated as of the date of injury and remains the same for the life of the claim.

Scenario 2. If The injured employee's authorized treating physician issues a written statement certifying the employee is **only able to work within certain restrictions** (i.e. physical limitations, certain number of hours per day) due to their injury for a

temporary period, the agency/university may offer modified/light duty work within the employee's restrictions

Collaborating with the agency/university WCA, injured employee and safety personnel, the supervisor should determine whether the employee's pre-injury job meets or can be modified to allow the injured employee to return to work within the physical capabilities outlined by the authorized treating physician. If so, the employee may immediately return to their pre-injury job.

If the pre-injury job cannot be modified, then the agency/university will need to determine whether other work duties are available that would allow the injured employee to return to work within the capabilities outlined by the authorized treating physician. If the modified work is different from the injured employee's normal job, the modified job description must be approved by the authorized treating physician before the employee may return to such modified/light duty work.

When an injured employee can return to work within certain restrictions, the employer is then only responsible for the payment of temporary partial disability (TPD) compensation if the employee does not receive the same or greater pre-injury wages during this period.

TPD compensation equals sixty-six and two-thirds percent (66 2/3%) of the difference between the injured employee's weekly earnings while working with restrictions and prior to the injury.

How is Workers' Compensation Leave Time Handled?

The injured employee is paid for the entire day of injury and no leave time is charged if the employee leaves work to get needed medical treatment. An employee is expected to return to work on the date of injury unless the initial medical provider states the employee must go home for the rest of the day.

If the employee's compensable injury results in lost time from work other than the date of injury, the employee must go on workers' compensation leave and is entitled to receive workers' compensation

weekly benefits. There is a seven-day waiting period where no compensation for time lost from work is allowed except when the injury results in the inability to work for more than 21 days. If the injured employee is unable to work for more than 21 days, then weekly compensation is allowed for the first seven days.

An injured employee has the following leave options covering the seven-day waiting period. Certain law enforcement officers and public school employees eligible for salary continuation benefits are exempt from the seven-day waiting period requirement as described below:

Option 1: The injured employee may elect to take earned sick or vacation leave during the required seven-day waiting period and then go on workers' compensation leave and begin drawing workers' compensation weekly benefits. Note that if the injury results in disability exceeding 21 days no adjustment will be made in the leave used for these workdays.

Option 2: The injured employee may elect to go on leave without pay for the required seven-day waiting period and then begin drawing workers' compensation weekly benefits.

Supplemental Leave Option: After an injured employee begins receiving weekly workers' compensation benefits (TTD), the employee may supplement this benefit by using partial sick or vacation leave earned prior to the injury or illness in accordance with a schedule published each year by the NC OSHR. This supplemental leave provides an income approximately equal to the employee's pre-injury take home pay.

The agency/university WCA will give the injured employee an "Employee Use of Leave Options Election" form to complete when placed on workers' compensation leave to document the employee's selection of Option 1 or 2 for the seven-day waiting period and usage of supplemental leave. This election may not be changed for the duration of the claim. Employees injured on the job that have returned to work who need to attend medical or therapy visits during regularly scheduled working hours are not charged leave for time lost from work for required treatment. Paid time will be limited to reasonable time for the treatment and travel. Any

excess time will be charged as sick or vacation/bonus leave or leave without pay. The employee's supervisor will approve such leave as it occurs.

Salary Continuation Plans

For Certain Law Enforcement Officers:

Eligible employees as defined in NCGS §143-166.13 receive their full salary for up to two years if their injury is the result of an injury by accident or occupational disease "resulting from or arising out of an episode of violence, resistance, or due to other special hazards that occur while the eligible person is performing official duties".

For Public School Employees Injured in an Episode of Violence:

Full-time employees of an educational institution supported by and under the control of the State when injured in an episode of violence as described in G.S. 115-C-338 are entitled to salary continuation for the shortest of the following three periods: 1) one year; 2) the continuation of the disability; or 3) the lost work time due to the injury.

In addition to salary continuation, an injured employee in these two groups receives all workers' compensation benefits other than weekly compensation during the salary continuation period. If an injured employee is unable to work for more than the allowed period of salary continuation, the employee is then entitled to the same weekly compensation benefits as all other employees. An injured employee's supervisor is responsible for notifying the agency/university WCA when an employee returns to work after an out-of-work period due to the compensable injury. The agency/university WCA then notifies the TPA adjuster that the employee has returned to work.

What Happens to an Injured Employee's Benefits While Unable to Work?

An employee unable to work due to a compensable injury is placed on workers' compensation leave and taken off the State's regular payroll. **While in this pay status, NO DEDUCTIONS are taken from the employee's weekly workers' compensation benefit. If the employee has payroll deductions made from regular pay for items such as**

credit union loans, etc., it is the employee's responsibility to arrange an alternate payment method while on workers' compensation leave.

While on workers' compensation leave an injured employee is eligible for continuation of the following benefits:

Vacation/Sick Leave: While on workers' compensation leave, the injured employee continues to accumulate vacation and sick leave to be credited for use upon return to work. If an employee does not return to work, vacation and sick leave accumulated during the first 12 months of workers' compensation leave will be paid in a lump sum along with other unused vacation/bonus credit earned prior to the injury at the time of separation.

Health Insurance: While on workers' compensation leave, the injured employee remains eligible for State Health Plan coverage. **Premiums owed for the injured employee's or dependent/family's health insurance must be paid directly by the injured employee to the State Health Plan to continue health insurance coverage. Dependent coverage may be dropped during periods of workers' compensation leave. No monthly reminders, invoices, or payment coupons will be sent to employees on workers' compensation leave.** An injured employee should contact his or her agency/university health/benefits representative to obtain information on how to pay monthly health insurance premiums while on workers' compensation leave. **An injured employee must re-enroll in the State Health Plan within 30 days of returning to work.**

NCFlex Plans: Agency/university WCA and/or human resources/benefits representative will provide written information regarding how to continue participation in NCFlex and other agency specific insurance plans to an employee who is on workers' compensation leave. **No monthly reminders, invoices, or payment coupons will be sent to employees on workers' compensation leave. Employee must re-enroll in all NCFLEX plans within 30 days of returning to work.**

Salary Upon Return to Work: Upon reinstatement from workers' compensation leave, the employee's salary will be computed based on the last salary plus any legislative increases to which the employee is entitled. Any performance increases which would have been given had the employee been at work may also be included in the reinstatement salary or may be given on any payment date following reinstatement.

Longevity: While on workers' compensation leave, the employee continues to receive longevity credit and, if eligible, annual payments.

Retirement Service Credit: While on workers' compensation leave, the employee **does not** receive retirement service credit. As a member of the Retirement System, the employee may purchase credits for the time period on workers' compensation leave. Upon request, after returning to work, the Retirement System will provide a statement of the cost and the date by which purchase must be made.

Disability Income Plan of North Carolina: Eligible employees who become temporarily or permanently disabled and are unable to perform their regular work duties may receive partial replacement income on a short-term or long-term basis through the Disability Income Plan of North Carolina. For detailed information, access the Department of the State Treasurer, Retirement Systems Division handbook at https://www.nc treasurer.com/ret/Benefits%20Handbooks/TSERS_DisabilityHandbook.pdf or by calling 1-877-627-3287 (877-NCSECURE).

What Happens When an Injured Employee Returns to Work?

The supervisor should immediately notify the agency/university WCA when an injured employee returns to work. This helps ensure the employee will not receive an overpayment of worker's compensation benefits that must be repaid to the state.

When an injured employee with a compensable injury is released to return to work by their authorized treating physician, there are three possible return-to-work situations:

1. The injured employee has or has not reached maximum medical improvement (MMI) for their work-related injury and is released to return to full duty work by their authorized treating physician. The injured employee returns to the original or similar position held prior to the injury. The injured employee is not eligible for any weekly compensation benefits.
2. The injured employee has not reached maximum medical improvement (MMI); however, the employee's authorized treating physician has assigned **temporary** work restrictions (i.e. physical limitations, working hours, etc.) to the employee. The agency/university may provide, if available, modified or light duty work for the injured employee. The injured employee is eligible for weekly compensation benefits: TTD (not working at all) or TPD (working within restrictions for less than pre-injury wages) during this time period.
3. The injured employee has reached maximum medical improvement (MMI); however, the employee's authorized treating physician has assigned **permanent** work restrictions (i.e. physical limitations, working hours, etc.) to the employee. An injured employee may return to their pre-injury job if the employee's job duties are within the assigned permanent work restrictions or the restrictions can be reasonably accommodated in that position.

If an injured employee's permanent work restrictions cannot be reasonably accommodated in the employee's pre-injury job, the agency/university may offer the employee another suitable job in the same agency/university or assist the employee in seeking employment in other agencies/universities or alternate employers.

If the injured employee refuses to return to work before or after reaching maximum medical improvement whose duties are within assigned work restrictions and has been approved by the authorized treating physician, the employer may

seek NC Industrial Commission approval for suspension or termination of the employee's weekly compensation so long as the refusal continues.

If a job is not available within the injured employee's assigned work restrictions, an employee continues receiving weekly compensation (TTD) benefits in accordance with State law until suitable employment is obtained or full and final claim settlement.

Agencies/universities have Return To Work Programs addressing the return to work situations described herein. The TPA adjuster and NC OSHR work closely with agencies/universities to assist with returning injured employees to pre- and post-maximum medical improvement work within assigned restrictions.

What Happens When an Injured Employee Has Permanent Damage to a Body Part?

An injured employee that suffers total or partial loss of use of a specific body part due to a compensable injury is eligible to receive permanent partial disability (PPD) compensation. The injured employee's authorized treating physician issues percentage of loss ratings to injured body parts when an employee reaches maximum medical improvement.

The PPD compensation rate is the same as the weekly compensation rate an injured employee receives when completely unable to work (TTD). The weekly compensation rate equals sixty-six and two-thirds percent (66 2/3%) of the average weekly wages as of the date of injury. The weekly compensation rate is subject to the statutory compensation minimum (\$30.00 per week) and maximum established by the NC Industrial Commission in accordance with State law. Please refer to the schedule on page 8 for payment of total loss of use of specific body parts.

The assigned impairment rating of 1%-100% is multiplied times the number of weeks to calculate the exact number of weeks of PPD compensation owed to the injured employee.

Permanent Partial Disability Rate

Thumb	75 weeks
First or index finger	45 weeks
Second or middle finger	40 weeks
Third or ring finger	25 weeks
Fourth or little finger	20 weeks
Great toe	35 weeks
Any other toes	10 weeks
Hand	200 weeks
Arm	240 weeks
Foot	144 weeks
Leg	200 weeks
Eye	120 weeks
Hearing (one ear)	70 weeks
Hearing (both ears)	150 weeks
Back	300 weeks
Serious facial or head disfigurement	Maximum \$20,000
Serious body disfigurement	Maximum \$15,000
Loss of/or permanent injury to any part of body not covered elsewhere in the statute	Maximum \$20,000

As stated on the NC Industrial Commission Form 28B, an employee that has a significant change of condition within two years and feels they are entitled to additional compensation for lost time from work or permanent impairment to a specific body part related to the injury must request additional compensation in writing directly to the NC Industrial Commission within two years of the last compensation payment date. Otherwise, it is time barred.

As stated on the NC Industrial Commission Form 28B, an employee may file a completed NC Industrial Commission Form 18M to obtain approval for lifetime additional medical treatment related to their compensable injury. An injured employee must file the NC Industrial Commission Form 18M within two years of the last compensation payment date. Otherwise, it is time barred.

What Death Benefits are Available?

In the event of an employee's death resulting from an injury or occupational disease, death benefits are payable to total dependents or next of kin in accordance with State law. A death claim must be filed with the NC Industrial Commission in writing within two years of the death date. Effective June 24, 2011, compensation for death is paid for 500 weeks at sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage. If a surviving spouse is unable to support herself or himself due to physical or mental disability as of the date of death of the employee, compensation shall continue during the life of the widow or widower or until remarriage. Compensation payments due a dependent child(ren) are paid for 500 weeks or until the child reaches age 18. Funeral expenses are allowed up to \$10,000.

How is a Workers' Compensation Claim Closed?

Claims are generally closed when the injured employee reaches maximum medical improvement, returns to work without restrictions, or the last medical or disability compensation payment has been paid. The claim is officially closed with the filing of a completed NC Industrial Commission Form 28B with the NC Industrial Commission.

The employee receives a copy of the filed form.