



**NEW MEXICO JUDICIAL BRANCH
GENERAL PERSONNEL POLICY AND PROCEDURE:
WORKERS' COMPENSATION**

Policy No. 2016.NMJB.200

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Inquiries: AOC HRD 505/827-4810

WORKERS' COMPENSATION

1. PURPOSE

To establish procedures and implement guidelines for the administration of the New Mexico Judicial Administrative Office of the Courts Workers' Compensation program, including the reporting of work-related accidents and injuries; the processing, monitoring and management of Workers' Compensation claims, and to provide employees a healthy and successful return-to-work procedure.

2. REFERENCES

New Mexico Workers' Compensation Act, NMSA 1978, Section 52-1-1 et seq.
New Mexico Judicial Branch Personnel Policy Family Medical Leave Act (FMLA)
Family Medical Leave Act [29 U.S.C. § 2601 et seq.]
1.6.4 NMAC State Loss Prevention and Control Program Rule

3. DEFINITIONS

- A. **Health Care Provider** - A person or organization that provides health care services. By law, the health care provider may be any person licensed in New Mexico in one of these professions: medical doctors, optometrists, chiropractors, dentists, podiatrists, osteopathic physicians, physician assistants, certified nurse practitioners, physical therapists, occupational therapists, acupuncture practitioners, psychologists, athletic trainers and certified nurse-midwives.
- B. **Judicial Entity** – The Supreme Court, Court of Appeals, Administrative Office of the Courts, District, Metropolitan and Magistrate Courts, Supreme Court Building Commission, New Mexico Compilation Commission, Supreme Court Law Library and Judicial Standards Commission. (Added 3/01/12; Amended 9/16/14)
- C. **Maximum Medical Improvement** - A treatment plateau. A condition is at maximum medical improvement if it is believed that further recovery from or lasting improvement to an injury can no longer be reasonably anticipated based upon reasonable medical probability as determined by a qualified health care provider.



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- D. **Modified Work** - Work that has been changed to allow an injured worker to complete the work.
- E. **Occupational Diseases** - Includes any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment. A disease that is caused or partly caused by the specific job a worker does.
- F. **Workers' Compensation** - A state law which mandates payment of incurred medical costs and a partial reimbursement of lost wages, to a state employee who sustains injury by accident or a disease or illness arising out of and in the course of employment.
- G. **Work-Related Injury** - An illness, injury or occupational disease arising out of and in the course of an employee's employment, and caused at least in part by such employment, and otherwise compensable under the Workers' Compensation Act.

4. POLICY

It is the policy of the New Mexico Judicial Branch Administrative Office of the Courts to comply with all provisions of the Workers' Compensation Act, the Americans with Disabilities Act, and the Rehabilitation Act of 1973. If a conflict arises with the interpretation of the Workers' Compensation Policy and any provision of the federal acts, or with the Workers' Compensation Act, federal or state laws prevail.

Under workers' compensation law, when a worker is injured on the job or becomes ill as a result of conditions at work, the employer pays the medical bills and provides partial wage support to that worker. The worker is guaranteed that necessary care will be provided quickly in almost all cases where the law applies. The employer is protected against excessive liability. The worker accepts limits on the amount of money he or she can recover from any injury, no matter how serious or who was at fault, in return for the guarantee of prompt necessary care. Through the "exclusive remedy" doctrine, the worker's recovery is limited to workers' compensation. The worker is barred from suing the employer in tort for an accidental work-related injury.

This policy establishes guidelines for reporting, processing, monitoring and managing workers' compensation claims.

The Workers' Compensation Bureau of the Risk Management Division, General Services Department handles all claims for work-related injuries occurring after July 1, 1994.



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The yearly workers' compensation premium is \$17.20 per employee; the employee portion of the premium is \$2.00 per quarter and is automatically deducted from the employee's paycheck.

Safe Work Environment: The Administrative Office of the Courts is committed to providing a safe work environment for court officials, staff and visitors. The Administrative Office of the Courts recognizes that prevention is essential to a safe work environment and provides ongoing training. Employees shall perform their jobs in a safe manner with concern and care for their safety and the safety of others. Employees who perform their jobs in an unsafe manner, or who engage in behavior or activities that endanger the health or safety of themselves or others may be subject to disciplinary action. Employees are encouraged to report any possible hazards in the workplace utilizing their chain of command.

A NMJB employee may not be disciplined or terminated for filing for Worker's Compensation Benefits. Supervisors should support, promote and enforce a safe work environment.

5. REPORTING REQUIREMENTS

5.1 Employee's Responsibility:

- A. If you or another employee needs emergency medical care, call 911.
- B. Employees should immediately report all work-related injuries to their supervisor and human resources regardless of severity. The New Mexico Workers' Compensation Administration requires that employees report all accidents to their employer within 72 hours. Immediate reporting of injuries and illnesses can be important in establishing that injuries are covered by workers' compensation.
- C. Regardless, employees must notify their supervisor and human resources in writing within 15 days of any work-related injury from the time the employee is aware of it, or should be aware of it, unless by reason of the work-related injury or some other reason beyond his or her control, the employee is prevented from giving notice within that time.
- D. The Administrative Office of the Courts does not determine if an illness or injury is covered by workers' compensation and all claims are submitted for review to the Workers' Compensation Bureau of the Risk Management Division. Employees are not automatically qualified for workers' compensation benefits just by reporting an



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illness or injury that determination is made by the Workers' Compensation Bureau of the Risk Management Division. If the illness or injury is not covered, the employee has the right to appeal the decision to the Risk Management Division.

- E. It is the employee's responsibility to request an extension if he or she cannot report to work on their anticipated and approved return date. Failure to report to work on the return date or failure to request an extension prior to the return date is just cause for disciplinary action.
- F. It is the employee's responsibility to comply with his or her medical treatment plan as it relates to his or her work-related illness or injury.

5.2 Supervisor's Responsibility:

- A. Supervisors shall ensure that all the appropriate workers' compensation forms are completed and returned to their Judicial Entity's Human Resources department within 72 hours of being notified of an injury or illness, and must report if the employee will lose any time from work, if the employee receives medical care, or if the claim is for an Occupational Disease.
- B. Supervisors shall work with their Human Resources department investigating all work-related injuries or illnesses to determine root causes and preventative measures to reduce and prevent future loss and future work-related injuries or illness.

5.3 Human Resources Responsibility:

- A. The Human Resources department shall complete and submit the Employer's First Report of Injury or Illness form to the Workers' Compensation Bureau of the Risk Management Division.
- B. The Human Resources department shall provide and review with the employee the Workers' Compensation Benefits Explanation form, the Workers' Compensation Claim Explanation form, and the Workers' Authorization for Disclosure of Protected Health Information for the Workers' Compensation Purposes (HIPPA Compliant) form.

5.4 Leave:

- A. Up to 4 hours of administrative leave may be used for the initial visit to the designated medical provider for work-related injuries with the approval of the



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employee's Administrative Authority; leave must be requested through employee's chain of command.

- B. An employee is not compensated beyond their regular work day, regardless of when their injury occurred or how long it takes to receive treatment.
- C. Thereafter, an employee who misses work due to a work-related injury must use the appropriate amount of his or her own pre-approved accrued leave, or leave without pay to make up the time not paid by workers' compensation.
- D. All leave requires supervisory approval in accordance with the New Mexico Judicial Branch Personnel Rules Part I Section 5.0 and Part II Section 19.0 Leave and Holidays.
- E. If the employee meets the definition of a Family Medical Leave Act (FMLA) qualifying event due to a work related injury or illness, the employee will be placed on FMLA leave and shall receive all benefits afforded under FMLA.
- F. Employees receiving Worker's Compensation benefits are not eligible for annual leave donations.
- G. Employees are expected to return to work after the accident or injury unless the treating physician provides a statement that the employee is not fit to return to work.

6. INJURIES REQUIRING MEDICAL ATTENTION

Supervisors and employees are responsible for ensuring that injured employees receive the necessary medical attention. If the employee is in need of immediate care they should go to the nearest emergency room. If the employee cannot drive he or she should be taken by ambulance or arrange transportation with a friend or family member if they cannot drive. Another court employee should not be responsible for taking the injured employee for treatment. The employee may be able to drive themselves for treatment. Medical care takes precedence over paperwork.

The employee chooses the medical provider and type of treatment. This is permitted for the first 60 days. Workers' Compensation Bureau of the Risk Management Division will have a right to change the medical provider after 60 days. The injured employee must inform the treating physician that he or she is covered by Worker's Compensation insurance and that their injury or illness is work-related. Employees are also responsible for informing the medical provider of the cause of the incident, their job duties and any



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other pertinent information, which will assist the doctor in the evaluation, treatment and follow-up care. If the employee does not yet have a workers' compensation claim number they may give the medical provider their social security number or contact Workers' Compensation Bureau of the Risk Management Division.

Injured employees should retain all receipts, medical records, bills, forms and correspondence to share with the Workers' Compensation Bureau of the Risk Management Division related to his or her injury.

7. REQUIRED WORKERS' COMPENSATION FORMS

- A. Notice of Accident or Occupational Disease Disablement form (Form NOA-1-W) (Attachment A);*
- B. Employers' First Report of Injury or Illness form (NM WCA Form E1.2) (Attachment B); (Note: Risk Management Division requires this form to be completed and submitted online)*
- C. Workers' Compensation Claim Explanation form (Attachment C);*
- D. Workers' Compensation Benefits Explanation form (Attachment D);*
- E. Workers' Authorization for Disclosure of Protected Health Information for Workers' Compensation Purposes form (HIPAA Compliant) (Attachment E); and*
- F. Doctor Visit / Modified Work Assignment form (RMDWC1.RFM) (Attachment F).*

These forms must be completed even if the supervisor disputes the workers' claim that the injury or illness is work-related. The supervisor does not have to have been a witness to the accident, the supervisor's signature on the Notice of Accident or Occupational Disease Disablement form acknowledges the employee informed him or her about an alleged accident, injury or illness. The supervisor may not refuse to accept notice, nor interfere with an employee's right to file a work-related claim; it is not intended to be an agreement by the supervisor that an accident or work-related injury took place. The Administrative Office of the Courts may not propose disciplinary action for an employee filing for Workers Compensation Benefits.



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8. EARLY RETURN TO WORK OR MODIFIED WORK ASSIGNMENTS

An employee returning to work following a leave of absence from a work-related injury or illness must submit a physician's statement certifying that the employee can return to work and can perform the essential functions of the job, with or without a reasonable accommodation. If an employee returning to work following a work-related injury or illness needs a modified work assignment, the employee must have his or her attending physician complete a Doctor Visit/Modified Work Assignment form, which must be submitted to the Human Resources Department on the date of the employee's return to work.

The Administrative Office of the Courts shall make every effort to identify and offer modified duty/return to work opportunities to accommodate injured employees. Employees who have been unable to work because of a work-related injury may request to return to work in a modified duty assignment for up to six months. Requests should be submitted to the employee's Administrative Authority and Human Resources department through their chain of command.

Employees on a modified duty assignment who are assigned to a temporary position shall maintain their salary and status for the duration of such temporary assignment.

Every effort shall be made to provide a reasonable accommodation in order to allow an injured or ill employee to return to duty. Any employee failing to provide a doctor's certification or the Doctor Visit/Modified Work Assignment form shall not be permitted to return to work until such paperwork is completed and turned in. An employee's leave balances or unpaid leave will be charged during this time.

9. DISABILITIES

If a work-related injury or illness gives rise to a disability covered by the Americans with Disabilities Act, reasonable accommodations that allow the employee to perform the essential functions of the job may be made. The Human Resources department shall work with the employee's health care provider and management to determine what accommodations are appropriate. If a temporary disability prevents an employee from performing essential job duties, the employee may be temporarily reassigned other job duties.



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10. MEDICAL BENEFITS, COMPENSATION RATE AND DISABILITY BENEFITS

An employee is entitled to timely medical benefits after injury, continuing as long as medical or medical-related treatment is determined to be reasonable and necessary by the employee's health care provider. The amounts of such medical and related benefits are not limited to any specific monetary amount.

The weekly compensation rate for disability as a result of an injury or disease is determined pursuant to the New Mexico Workers' Compensation Act. Employees may make up for the portion of their pay not compensated by workers' compensation by using annual or sick leave [1978 NMSA 258] or compensatory time. An employee cannot receive dual compensation, which exceeds 100% of his or her base salary.

For specifics on current Workers' Compensation rates, waiting periods, and medical-related benefits, limitations on such benefits and on selection and determination of health care providers, employees may contact their Human Resources department or the Workers' Compensation Bureau of the Risk Management Division.

11. FRAUDULENT WORKERS' COMPENSATION CLAIMS

The Workers' Compensation Bureau of the Risk Management Division investigates all claims of fraudulent workers' compensation claims, which may also be reported to the appropriate authorities. Employees who report a false claim and/or falsify required documents under this policy are subject to disciplinary action up to and including dismissal.

12. INVOLUNTARY OR VOLUNTARY SEPARATION

Employees who have suffered a work-related Injury, which is compensable under the Workers' Compensation Law, and are physically or mentally unable to perform the essential functions of their pre-injury/pre-illness position may be involuntarily or voluntarily separated from service without prejudice:

- A. To separate an employee see the General Government Administration Risk Management Division State Loss Prevention and Control Program Rule [1.6.4 NMAC];
- B. The employer may only fill a vacant position of an injured or ill employee with a temporary employee, if the injured or ill employee is unable to return to work pending treatment;



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- C. The Judicial Entity has provided advance notice to the Workers' Compensation Bureau of the Risk Management Division; and
- D. The employee with a job-related injury or illness has reached maximum medical improvement or the employee's impairment of condition is permanent and the employee cannot perform the essential functions of the particular job and no reasonable accommodation can be made.

Vacant positions resulting from a job related injury or illness may only be filled in compliance with the Risk Management State Loss Prevention and Control Program Rule Section 1.6.4 NMAC 14, section F.

13. CONFIDENTIALITY

Medical employment records are considered confidential records and may only be inspected with the written permission of the employee or pursuant to a lawful court order.

Effective Date: June 1, 2017

Arthur W. Pepin, Director
Administrative Office of the Courts

5/18/2017

Date