



City and County of Denver

Worker's Compensation Procedure

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DENVER
THE MILE HIGH CITY

Office of the Controller
201 West Colfax • Dept. 1106 • Denver CO 80202
Phone: 720 913-5751 • Fax: 720 913-5249
CentralizedHR.Help@Denvergov.org • www.denvergov.org/controller

Workplace Safety
201 West Colfax Avenue • Dept. 1105 • Denver, CO 80202
Risk.Management@Denvergov.org • [Workplace Safety Home Page](#)

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WORKER'S COMPENSATION PROCEDURE

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Overview

The state, through legislation, requires all employers to have insurance or be self-insured to cover workers injured in the course and scope of employment. The City and County of Denver is self-insured and self-administered for worker's compensation. The unit responsible for worker's compensation is the [Worker's Compensation Unit](#) which is part of [Risk Management](#).

The Act provides for certain benefits to be paid a worker when he/she suffers a compensable injury or occupational disease; however, it is the claimant's (worker's) burden to establish rights to workers' compensation benefits. The [Worker's Compensation Unit](#) investigates and determines "compensability" of Workers' Compensation claims based on the statutes, case law and precedents. Questions about whether a particular injury or circumstance qualifies an injured employee for Workers' Compensation benefits should be directed to the Risk Management department at 720.913.3330.

WORKERS' COMPENSATION BENEFITS

The basic benefits provided by the Act can be summarized in the following categories:

Medical Benefits

When a case has been accepted as work-related, the self-insured employer is responsible for all reasonable and necessary medical care related to the effects of the work injury, as long as the care is provided by any authorized treating physician ("ATP") designated by the City, or any referral from the ATP. Employees have the right to choose between two designated providers. Currently, these are the Center of Occupational Safety and Health (COSH) at Denver Health or Concentra.

Wage Continuation Benefits

Temporary Total Disability

Any worker who has not yet achieved maximum medical improvement ("MMI"), and who is totally disabled for more than three shifts/days of work (in the opinion of the authorized treating physician) is entitled to receive two-thirds (2/3) of their average weekly wages up to a maximum amount which the State adjusts each year. This payment is known as Temporary Total Disability Benefits ("TTD"). The first three lost shifts/days are considered a "waiting period", and are not payable as TTD unless the disability from the work injury exceeds 14 days. After the 14th day of disability, these first three days are then paid as TTD.

Temporary Partial Disability

Some work-related injuries result in restrictions which cause an employee's hours/earnings to be reduced. In such a situation, Temporary Partial Disability ("TPD") is payable at a rate of 2/3 of the difference between the pre-injury wage and the temporarily-reduced wage (up to the annually-calculated maximum benefit).

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Salary Continuation

For qualified full-time and part-time City employees, the City and County of Denver provides salary continuation which exceeds state requirements. Police, Fire, Sheriff and Career Service employees have different salary continuation benefits.

- For Career Service Authority employees, salary continuation is the difference between the employee's temporary disability rate and eighty (80) percent of his/her gross salary for up to ninety (90) consecutive calendar days for the date of injury.
- For Sheriff Department employees please refer to the effective Collective Bargaining Agreement.
- Civil Service employees (Police, Fire) please refer to the effective Collective Bargaining Agreement

Permanent Disability Benefits

Permanent Partial Disability ("PPD") is a benefit designed to monetarily compensate a worker from any permanent impairment resulting from a work-related injury. If applicable, permanent medical impairment ratings are assigned by a Level II accredited ATP.

Other Benefits

Other Workers' Compensation benefits to which an employee may be entitled include:

- Disfigurement, should the accepted work-related injury cause permanent scarring or disfigurement to most areas of the body, this benefit is determined at the discretion of an Administrative Law Judge (ALJ).
- Permanent Total Disability, which would apply in the case of a compensable injury which renders a worker permanently unable to earn a wage,
- Death benefits payable to surviving eligible dependents of a worker whose death arises out of a compensable work-related injury.

WORKERS' COMPENSATION ELIGIBILITY DETERMINATION

Employees may be entitled to Workers' Compensation benefits when they incur an injury or occupational disease on the job. There are two questions central to every workers' compensation case:

1. Was the employee's injury sustained within the "course and scope" of employment?
2. Was the employee's injury caused by an activity which "arises out" of the employment relationship?

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If the answer to both questions is “yes”, a workers’ compensation case is established and the employee is entitled to benefits. If the claim is accepted, the [Workers’ Compensation Unit](#) is responsible for all aspects of the case and the payment of benefits.

If the answer to either question is “no”, the claim is not “compensable”, and will be denied. The Workers’ Compensation will not pay the employee any Workers’ Compensation benefits. The Workers’ Compensation Unit may continue to pay medical benefits while a claim is under investigation but not compensation to the employee.

The Workers’ Compensation Unit may deny a claim for other reasons as well, including, but not limited to, further investigation and failure by the employee to provide necessary information.

Each injured employee has access to Workers’ Compensation hearing process that involves an Administrative Law Judge. The Workers’ Compensation Unit and the Department of Law deal with any hearings before an Administrative Law Judge within the State Division of Administrative Hearings.

SUPERVISOR DUTIES – WORKERS’ COMPENSATION CLAIMS

Employee Injury Reports

It is important that an employee report all injuries as soon as soon as possible in order to receive prompt medical attention and assure proper handling of the claim for compensation. A supervisor must provide the “[Employee Work Injury Report](#)” (ADM 4) to the employee, or inquire about the potential of work related injuries. State law mandates that an employee shall report in writing a suspected on the job injury or occupational disease within four days from the knowledge of injury or occupational disease. The City encourages employees to report the injury or occupational disease immediately so that it may begin the claims process and provide the employee with immediate medical attention, and drug/alcohol testing if appropriate.

If in doubt about whether an employee is claiming a work-related injury/illness, the Supervisor should ask the employee, “Are you reporting a work-related injury or illness?” or “Are you claiming a work-related injury?” Any affirmative response should be handled as a work-related injury and the employee must complete an [Employee Work Injury Report](#) (ADM 4). If the answer is not clear, when in doubt, error on the side of caution and ask the employee to complete the [ADM 4 form](#). If the employee refuses medical attention, keep the form in the Agency’s employee file in the event that the employee later changes their mind.

Arrange for Medical Care

The employee should be directed to treat with one of the two designated providers of the employee’s choosing, either Denver Health’s COSH or Concentra. If the employee is physically unable to transport themselves, the supervisor should arrange for suitable transportation to the designated provider as may be necessary. In an emergency situation, emergency help should be summoned.

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Determine Whether Drugs or Alcohol Were Present

Ensure that guidelines established in [Executive Order 94](#) are followed to determine whether drugs or alcohol may have contributed to the injury. In accordance with the Order, post accident alcohol and drug testing shall take place as soon as practicable following a driving or other workplace accidents when the accident:

1. May have been the fault of the employee and the accident involves a fatality
2. May have been the fault of the employee and any individual was injured severely enough to receive medical treatment immediately away from the scene of the accident
3. May have been the fault of the employee and the accident resulted in disabling damage to any vehicle or any equipment
4. There is reasonable suspicion to test the employee

Post accident alcohol and drug testing should be administered within two (2) hours following the accident.

The Workers' Compensation Act of Colorado requires that "a duplicate sample from any test conducted shall be preserved and made available to the worker for purposes of a second test to be conducted at the worker's expense." If this is not done, no penalty may be taken against the employee in a workers' compensation claim.

If the supervisor does not initiate the alcohol testing within eight (8) hours of the accident or drug testing within thirty-two (32) hours of the accident, the supervisor shall cease attempts to administer the tests and shall state in writing for the record the reasons for not administering the tests. Supervisors who do not test employees within the established time frames may be subject to discipline, up to and including dismissal.

Investigate the Accident

The supervisor shall inspect the accident scene and abate any hazardous conditions found. Determine whether proper procedures and required safety equipment were used. Identify any potential violation of safety rules and/or witnesses to the event.

The supervisor shall contact a safety officer if additional investigation may be necessary or if there is a hazardous condition or unsafe work place or practice that needs attention. Similar accidents and injuries can and will be avoided by diligence and follow-through.

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Complete the Supervisor Report of Accident or Incident

The supervisor shall complete the [Supervisor Report of Accident or Incident](#) as soon as he/she can after becoming aware of the event. Don't wait to do this – fresh recollections will make a better and more detailed report. This is the place where the Supervisor should make notations concerning witness statements, the observed scene of the incident, and statements made by witnesses as well as the employee.

Advise Citywide Human Resources Services

The supervisor shall advise the Citywide Human Resources Services department of the employee's injury date once you have received an [Employee Work Injury Report](#) (ADM 4). You can send an e-mail to CitywideHR Svcs.Help@Denvergov.org.

The Citywide Human Resources Services Department will work with the supervisor to create and maintain an employee data calendar recording the first 90 days post-injury for Career Service employees, and longer for uniformed employees. It is important that the time be tracked so that appropriate adjustments to leave balances may be made depending upon whether the Workers' Compensation Unit accepts or rejects the claim, and to determine when salary continuation ends.

Frequent communication among the adjuster, Citywide Human Resources Services Department, Citywide Payroll and the supervisor will assure the proper coding of timecards and that payments to the employee are not duplicated or missed.

Leave under the Family Medical Leave Act (FMLA) should run concurrently with a work-related injury that requires an employee to be taken off work by the ATP more than three (3) shift periods and for other intermittent leave thereafter related to the admitted on-the-job injury or occupational disease. A supervisor should consult their Human Resources department regarding the initiation of FMLA in such cases.

- On the day the injury occurs and the employee seeks medical attention, the employee will be paid a full day's regular pay for the day.
 - The first three full lost, scheduled shifts/days (not counting the date of injury) that an injured worker is authorized off work by an ATP are considered a "waiting period", and are not payable as salary continuation for Temporary Total Disability (TTD) unless the employee is taken off work by an ATP for more than two (2) weeks. The employee should use accrued sick, vacation or leave without pay to cover the first three shifts/days of lost time. If the employee is taken off work by the ATP for more than two (2) weeks, the first three days are then paid as salary continuation for TTD.

No injured worker should be off work following a compensable on-the-job injury or occupational disease unless the worker has a written "off work slip" from an ATP. An injured employee is not entitled to salary continuation or temporary disability benefits without an "off work slip" from an ATP. Each agency should require a copy of the employee's release to return to work form or release from work slip.

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Employee Medical Appointments

An employee who has scheduled a medical appointment must advise his/her supervisor well in advance of the appointment date, and must provide written evidence of the scheduled appointment.

Employees should make every effort to schedule doctor's appointments, physical therapy appointments and other medical treatment appointments before or after work, or on days off. If appointments must conflict with work hours, this time should be recorded on the employee's timecard as "Worker Compensation Doctor". When possible, an employee can request this time in advance in the Kronos system. Following a medical appointment the employee must provide to the supervisor a time-in/time-out note from the medical provider. A supervisor must insist on the required documents.

A supervisor should contact the Risk Management Worker's Compensation claims adjuster in the event medical appointments make work scheduling difficult. The claims adjuster may be able to work with the medical provider to reschedule doctors and therapy appointments. The Workers' Compensation Unit will reimburse the employee (with a "compensable" claim) for per-mile expenses for travel to and from doctor's appointments. In general, The Workers' Compensation Unit does not pay salary continuation or TPD benefits for work time lost for medical appointments which could have been scheduled during times that did not conflict with an employee's work schedule.

Temporary Modified Duty Program

The purpose of the Temporary Modified Duty Program is to accommodate employees who are temporarily unable to do their usual job. This program is applicable for full time, permanent employees when an employee is being treated for an accepted work related injury or illness and the authorized treating physician determines that the employee is temporarily unable to return to regular duty, but is able to perform work within specific restrictions.

Eligible employees with an accepted work-related injury or illness will be required to return to work immediately on a modified duty basis when the City is able to accommodate the restrictions placed on the injured worker by the authorized treating physician.

The employee's supervisor will identify modified tasks within the regular job position that are consistent with the limitations imposed by the ATP and this temporarily modified position will be documented by Risk Management's Modified Duty Coordinator. The employee's supervisor will make every effort to accommodate restrictions within the employee's primary agency. However, if no work is available in the employee's regular work area or agency, the Modified Duty Coordinator may place the employee in an alternative agency that may have available temporary modified duty assignments.

Modified Duty Letter

The Modified Duty Coordinator will verify in writing an offer of a modified duty assignment to a qualified employee. This offer letter will be sent to the employee by certified mail within (5) business days of receiving work restrictions from the authorized treating physician ("ATP"). The employee's "letter" or "offer of modified duty" will describe the modified duty assignment and

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shall be signed and dated by the ATP. The employee will sign the delivery verification and continue (or begin) the modified duty assignment. A copy of the Modified Duty letter will be forwarded to the employee's primary agency, supervisor, the agency safety representative, and the Citywide Human Resource Services Department.

The employee shall record their time on their timesheet as Worker' Compensation Modified Duty.

Return to Work Pass

After each appointment with the ATP the employee shall update his or her regular duty and/or the modified duty supervisor if different and provide a copy of the return-to-work pass ("RTW" pass) or other documentation of work abilities from the ATP to each supervisor. The Supervisor should review and sign this pass in the appropriate place acknowledging the employee's restrictions. The signed pass should be kept in the Supervisor's file for the employee. The employee shall be advised in writing that it is their responsibility to within the restrictions given by the ATP.

If there are any changes in the work restrictions, the supervisor must contact the Modified Duty Coordinator immediately. The employee shall be advised in writing that it is their responsibility to work within the restrictions given by the ATP. If an employee complains that she/he cannot perform a modified duty assignment, the employee must be sent to the ATP for further evaluation. The adjuster handling the claim must also be notified immediately of this development.

Maximum Medical Improvement

A modified duty assignment is temporary in nature, and ends when either the six month timeframe (from the date of injury) allotted for this program has elapsed, or the workers' compensation doctor determines that the employee has reached the point known as Maximum Medical Improvement ("MMI") or is released to full duty. The Modified Duty Coordinator in conjunction with the Supervisor may elect to extend the modified duty program beyond six months in certain cases based on a number of factors and variables.

If an employee is at the point of MMI and is released to return to work with permanent restrictions, the agency must consider whether the employee is able to perform the essential functions of the position and/or is able to complete his/her job effectively and safely, from the standpoint of the employee, co-workers, and the general public. If the permanent medical restrictions exceed the essential functions of the requirements of the job, legal advice should be sought concerning whether the employee has a qualified disability and may be entitled to a reasonable accommodation. If a worker is disabled within the meaning of the Americans with Disabilities Act ("ADA"), the question of whether "reasonable accommodations" can or should be made is one to be made after careful consideration by the agency involved and the City's ADA Coordinator.

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FORMS & DEFINITIONS

Employee Work Injury Report –

The [ADM 4 Form](#) is an employee work injury report form used by the City to satisfy statutory requirements. The [ADM 4 Form](#) must be completed by the employee immediately after the injury or occupational disease is reported to the supervisor. The Completed form must be sent to [Risk Management](#) as soon as possible. The authorized treating physician will fax any ADM4 that is completed by an employee at the Clinic to Risk Management so that Risk Management can start the process of investigating and handling the claim.

Supervisor Report of Accident or Incident –

A report form to be completed by the supervisor once he/she is aware of employee injury; it is a form for compiling information gleaned from the accident investigation and from the employee and/or witnesses. The completed form must be sent to the Risk Management Department.

Return to Work Pass –

A form completed by an ATP that specifically lists any work limitations or restrictions applicable due to the accepted Workers' Compensation injury. To be reviewed and signed by the employee's supervisor.

General Admission of Liability (GAL) –

The GAL is a state form which the City is required to file if admitting liability for an on the job injury involving statutory lost time. When it is required, the GAL shall be filed by the Risk Management Workers' Compensation Unit with the state Division of Workers' Compensation ("DOWC"). The workers' compensation unit will forward copies of the GAL to the employee and the agency contact person.

Notice of Contest (NOC) –

The NOC is a state form which the City is required to file if it is contesting liability for an alleged work related injury or occupational disease. The City may always change a Notice of Contest to an Admission should the facts warrant. However, since it is very difficult for the City to change an Admission to a Notice of Contest, it may be necessary for the City to file a Notice of Contest on claims under investigation.

Final Admission of Liability (FAL) –

The FAL is a state form which the City is required to file at the conclusion of a compensable claim; summarizes benefits, permanent restrictions, and medical maintenance care after the point known as "MMI".

Maximum Medical Improvement ("MMI") –

MMI means that the work-related injury or illness has become medically stable and no further medical treatment will substantially improve the condition, although future

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treatment may be needed to maintain MMI. This is the point where permanent restrictions may be determined.

Authorized Treating Physician (“ATP”) –

The physician(s) designated by the employer for the treatment of work-related injuries. Any doctor that an ATP refers an injured worker to for authorized treatment is also an ATP.

Division of Workers' Compensation (“DOWC”) –

The section of the Colorado Department of Labor and Employment that provides oversight and regulation of the Workers' Compensation claims process for injured workers, employers and insurers statewide.

Executive Order 94 –

Order dated 10/29/02 from the Mayor outlining the City and County of Denver Employees' Alcohol and Drug Policy.

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Appendix

[Employee Work Injury Report](#)

Denver Health

[Safety & Health Return to Work Pass](#)

[General Instructions for Return to Work Pass](#)

Concentra Medical Centers

[Physician Activity Status Report](#)