

ADMINISTRATIVE ORDER

**TITLE: ON-THE-JOB INJURIES
AND WORKERS' COMPENSATION**

NUMBER: AO-10
CANCELS: January 22, 2001
APPROVED: November 2008
ORIGINATOR: Human Resources
REVIEW: November 2011

I. PURPOSE AND SCOPE

To specify rights and responsibilities of employees, supervisors, and departments by providing information regarding Workers' Compensation procedures in the event of an accidental injury, occupational disease, or death arising out of and in the course and scope of employment in compliance with Florida Statute 440.

II. DEFINITIONS AND REFERENCES

- A. Chapter 440, Florida Statutes, Workers' Compensation.
- B. Approved Workers' Compensation Primary Provider List.
- C. Managed Care Grievance Form.
- D. "First Report of Injury or Illness"; LES Form DWC-1.
- E. Supervisor's Report of Accident; Form BCC-207.
- F. Return to Work/Release Form.
- G. Employer's Supplemental Report of Injury; Form BCL-3.
- H. Request for Wage Loss/Temporary Partial Benefits; LES Form DWC-3
- I. PRIMARY and/or APPROVED MEDICAL PROVIDER – unless otherwise specifically described, means a medical provider from the Approved Worker's compensation Primary Provider list or a medical provider approved by the Third Party Administrator to provide services for the employee.
- J. THIRD PARTY ADMINISTRATOR – The administrative entity providing workers compensation claims handling services for Brevard County workers' compensation claims.

III. EMPLOYEE RIGHTS, RESPONSIBILITIES AND BENEFITS UNDER WORKERS' COMPENSATION

Workers Compensation is a valuable benefit which is mandated by the State and provided by Brevard County to protect employees in case of a work related injury or illness. However, employees have an obligation to conduct their work activities in such a manner as to promote a safe work environment. **If an injury is determined to have been caused by the injured employee's use of drugs or alcohol, or if required safety equipment and procedures were not utilized, the injured employee's benefits may be reduced or denied. All compensability decisions are determined by the Third Party Administrator in accordance with Florida Statute 440.**

A. EMPLOYEE RESPONSIBILITY TO REPORT A CLAIM

All work-related injuries or illnesses must be reported to the injured employee's supervisor immediately after the injury or illness is discovered. **Failure to report work-related injuries or illnesses within 30 days may jeopardize benefits.**

When an employee reports a work-related injury to his/her supervisor, a State mandated *First Report of Injury or Illness* form (LES Form DWC-1) must be completed by the supervisor or designee. This form collects the information related to the employee and the accident which will be required to process an employee's Workers' Compensation claim.

The supervisor is responsible for asking the employee to sign the *First Report of Injury or Illness* form if he/she is available. A copy of the completed form should be provided to the employee at that time. Before signing the form, it is important that the employee check to see that all information is correct. *Any person knowingly providing false information is guilty of a felony of the third degree.*

If the employee has questions, he/she should call the Brevard County Risk Management office at 633-2037 or the State Division of Workers' Compensation.

B. EMPLOYEE RIGHT TO MEDICAL TREATMENT

In the event of life-threatening or serious work-related injuries, 911 should be called and/or the employee should seek treatment at the closest emergency medical facility.

For non-emergency work-related injuries occurring during normal business hours, the employee must seek treatment from an authorized primary medical provider from the approved Workers Compensation Primary Provider List. A supervisor or designee should call Risk Management to assist with directing the employee to the appropriate authorized medical provider.

For non-emergencies after-hours and on weekends, the supervisor or designee will direct the employee to an Approved Primary Care Physician or an Urgent Care Facility

taken from the Approved Medical Providers List. A supervisor or designee can obtain a copy of the Approved Medical Providers List from Risk Management. Treatment for work-related injuries is **excluded** under the **Group Health Insurance Plan**. Personal physicians cannot provide treatment for work-related injuries.

The employee must provide identification and a copy of the completed *First Report of Injury or Illness* form, when possible, to the approved medical provider. If the employee does not have a copy of the *First Report of Injury or Illness* form, the approved medical provider may call the Office of Risk Management at 321-633-2037 or the Third Party Administrator for authorization.

Payment for all authorized medical treatment for work-related injuries is covered by Workers' Compensation. By law, an employee cannot be charged for these services. Workers' Compensation will reimburse the employee for any expenses incurred to obtain required medications or treatment. Mileage to and from medical providers, physical therapy, and diagnostic tests will also be reimbursed. However, the time used for medical appointments is not paid by Workers' Compensation. An employee may use accrued sick leave, annual leave, or compensatory time for such appointments with adequate prior notification to his/her supervisor. To assure coverage under Workers' Compensation, referrals from the primary care physician to a specialist must be authorized by the Third Party Administrator (TPA).

An employee must submit to their Supervisor documented information (DWC-25) received from the approved medical care provider about their work status as soon as possible. An injured employee is required to maintain contact with his/her supervisor regarding appointments and work status related to their work-related injury.

If an employee has questions or concerns relating to the medical care rendered by an approved medical provider, prescriptions, physical therapy or any other issues related to their work-related injury, he/she needs to contact Risk Management or the Third Party Administrator (TPA).

C. EMPLOYEE RECEIVING WORKERS' COMPENSATION BENEFITS

If an approved medical care provider provides a written statement that the employee is temporarily and totally unable to work while recovering from a work-related injury or illness, the employee may be eligible for Workers' Compensation benefits. These benefits are defined by state law and are based on 66 2/3% of average weekly wages (up to a maximum established by law)

The benefits are calculated based on the date of accident and paid through the County's Workers' Compensation Third Party Administrator.

On the first day the employee seeks medical care from an approved medical provider for a work related injury or illness, the employee will receive a full day of **regular pay**. The first day of excused absence from work after that is considered the first day of disability when calculating benefits.

1. WORKERS' COMPENSATION BENEFIT SCHEDULE:

Day 1 The waiting period which is defined as the first seven calendar days that an authorized medical provider states an employee is unable to work. The seven calendar day waiting period is not paid by Workers' Compensation unless the disability exceeds 21 days. The employee may be paid through a regular payroll check by electing to use available sick, annual or compensatory leave (in that order).

Day 8 The employee no longer receives a check from Brevard County and should code their time sheet using the code "IN", which denotes the employee's no-work status due to their work-related injury. A check will be issued by the Third Party Administrator at the rate of 66 2/3 of the employee's average weekly wage.

Day 22 If still unable to work, the employee will be entitled to receive reimbursement of their sick, annual or compensatory time used during the waiting period, which has been defined as the first seven calendar days an employee is unable to work due to an authorized medical provider placing them in a no-work status.

NOTE: At no time will an employee be permitted to receive a combination of benefits and wages which exceed 100% of his/her base pay at the time of the injury.

At a minimum, checks will be issued every two weeks if the disability continues, subject to limitations as prescribed by Workers' Compensation law.

2. SUPPLEMENTAL BENEFITS

An employee classified as Temporarily Totally Disabled (TTD) for more than 21 days may elect to supplement his/her Workers' Compensation benefits, up to an amount equivalent to 85% of his/her Average Weekly Wage (Firefighters, Paramedics and EMTs, per Union Contract, may supplement up to 90%) by using accrued sick, annual or documented compensatory leave. Donated time cannot be "accrued" therefore it cannot be used to supplement benefits. At the employee's request, Risk Management will assist the employee in completing the appropriate form and arranging for these supplemental benefits. This will give the employee a second check that is issued by County Finance. Regular payroll deductions will be taken out. If the deductions exceed the amount of the check, the employee must make arrangements for payment of the remainder.

3. OTHER COUNTY BENEFITS

Group Health and Basic Life insurance will continue to be paid by the department for permanent full-time employees who are unable to work because

of a work-related injury or illness, unless the employee is transferred or separated from employment. However, employees losing time from work and receiving a check from the Workers' Compensation Third Party Administrator will need to make arrangements with Human Resources /Employee Benefits to pay for any optional benefits (dependent health, dental, vision and supplemental life insurance) that are usually paid through payroll deduction. These arrangements should be made as soon as possible so that there is no lapse in coverage.

Employees who have been out of work for more than 30 days will stop accruing sick and annual leave.

IV. SUPERVISOR AND DEPARTMENT RESPONSIBILITIES

A. SUPERVISOR RESPONSIBILITY FOR EMPLOYEE MEDICAL TREATMENT

1. In the event of life threatening or serious on-the-job injuries, call 911. As soon as possible, report work-related injuries that result in hospital admission to Risk Management.
2. **During normal business hours.** For non-emergency work-related injuries, call Risk Management for assistance with directing the employee to an approved medical provider. A list of approved primary care facilities and physicians is provided by Risk Management. This list will be updated and distributed periodically. ***Do not authorize the employee to use any other provider without consulting Risk Management.*** If the individual is not in danger, but needs immediate attention and can be safely transported by car, arrange to have him/her treated at the closest emergency medical facility. On-the-job injuries which result in hospital admission must be reported to Risk Management as soon as reasonably possible.

In the event of non-emergency on-the-job injuries, direct the employee to an approved medical provider. A list of approved primary care facilities and doctors is provided by Risk Management. This list will be updated and distributed periodically. ***Do not authorize the employee to use any other provider without consulting Risk Management.***

All on-the-job injuries must be reported immediately or as soon as reasonably possible by phone to Risk Management.

B. SUPERVISOR RESPONSIBILITY TO COMPLETE FORMS

A *First Report of Injury or Illness* form (DWC-1) must be completed for all work-related injuries or illnesses reported by employees. The form should be signed by the supervisor or designee and the employee. If the employee is not available to sign, the supervisor or designee should not delay in filing this report, but enter "not available to sign" in the signature box and immediately FAX the report to Risk Management

Failure to submit the “First Report of Injury or Illness” form with all the information completed and legible to Risk Management on time may result in a State imposed \$1000 fine that will be assessed against the department’s budget.

The *First Report of Injury or Illness* form (DWC-1) can be located on the Brevard County Intranet (http://intranet.brevardcounty.us/content/dsp_forms.cfm). In non-emergency cases, the employee should sign the form and receive his/her designated copy before going to a medical a provider. ***Even if an employee does not require or rejects medical treatment, the “First Report of Injury or Illness” form must still be completed.*** It should be sent to Risk Management in the normal time frame for filing. If at anytime, the employee requests medical treatment for the injury, Risk Management should be notified immediately.

C. SUPERVISOR RESPONSIBILITY TO COMMUNICATE WITH EMPLOYEE

The supervisor should maintain weekly contact with an injured employee. This promotes the County’s policy of caring for its employees and will help in expediting the return of the injured employee to work.

Any pertinent information regarding an employee’s progress should be reported immediately to Risk Management. The Department shall notify Risk Management within 24 hours in the event any of the following occurs:

1. The employee begins to lose time from work due to a work-related injury or illness any time after the initial “First Report of Injury or Illness” form has been submitted.
2. When the employee returns to work after losing time.
3. The employee experiences additional “lost time” after returning to work from a previously reported injury for which the employee also lost time.
4. When there is a change in any of the employee information reported on the initial “First Report of Injury or Illness” (change of address, telephone number, etc.)

It is important that all information regarding the medical/work status of an employee be forwarded to Risk Management as soon as possible. This information is important in determining the employee’s benefits.

D. DEPARTMENT RESPONSIBILITY TO INVESTIGATE AN ACCIDENT

Within THREE WORKING DAYS after a work-related injury or illness is reported, the department shall submit a “Supervisor’s Report of Accident” to Risk Management. The Supervisor’s Report of Accident form can be found on the Brevard County Intranet site: http://intranet.brevardcounty.us/content/dsp_forms.cfm. This report shall summarize the findings of the department’s investigation into the cause of the accident and what corrective action has been taken, or is required, to prevent similar future occurrences. All items on the form should be completed with the purpose of giving a clear narrative

of the events. Single words or phrases are usually not sufficient. *The form should be completed after the investigator has conducted an inquiry into the “what, who, when, how and why” of the accident.* The investigator’s notes can then be summarized in responding to the items on the questionnaire. If necessary, additional pages should be attached in order to provide a clear, comprehensive explanation.

The investigator should keep in mind that the purpose of the investigation is to determine the cause of the accident to prevent re-occurrence. Employee cooperation is usually required for a successful analysis of the accident and will not be obtained unless the investigator maintains an uncritical attitude toward the employee.

If the employee is not available to sign the form, indicate “not available”. Risk Management will forward the form to the County’s Safety and Loss Control Specialist for follow-up review. The department should retain a copy for submission to its departmental safety committee for accident review.

E. COMPLETING THE TIME CARD OF AN INJURED EMPLOYEE

Time sheets for employees who are absent from work due to a work-related injury or illness should continue to be submitted to Payroll by the employee’s department. A full day of regular time should be recorded for the day the employee first seeks medical care from an approved physician for a work-related injury or illness. The first day of an excused absence per the approved medical provider from work is considered the first day of disability.

Workers’ Compensation wage benefits do not begin until the eighth calendar day of disability following the injury. To receive compensation for scheduled work time falling within the first seven calendar days of disability, the employee may choose to use accrued sick or annual leave and this would be entered in the usual manner on the time sheet.

After the first seven calendar days of disability, any time lost from work per the authorized medical provider should be coded on the time sheet as “IN”. Do not record any leave time after the first seven calendar days of disability up through the 21st day of disability if the employee continues to lose time from work because of this injury. After the 21st day of disability accrued leave may be used to supplement the workers’ compensation benefits provided (see section III.C.2 – Supplemental Benefits of this Administrative Order).

At no time will the employee receive a combination of benefits and wages which exceeds 100% of his/her base pay at the time of injury.

If an employee who already has seven calendar days of disability later begins losing time from work record “IN” for days lost due to injury. The timekeeper can call Risk Management to assist with proper coding of an injured worker’s time sheet.

If an employee returns to work and has a scheduled appointment for medical care related to the injury, he or she may use available leave time, as an absence of this nature is not covered by Workers’ Compensation.

V. EMPLOYEE WORK STATUS

Brevard County Board of County Commissioners is committed to the well-being of its employees. To ensure this, Risk Management works closely with employees so they can return to work as soon as it is safely possible after a work-related injury or illness. **However, an employee cannot return to work until the doctor has given the employee a written release (DWC-25).** The employee must immediately contact Risk Management and his/her supervisor when the approved medical care provider releases him/her to work. The release form (DWC-25) must be given to the employee's supervisor when he/she reports back to work on the designated date. A copy should be sent to Risk Management and a copy should be retained by the Department.

A. EMPLOYEE NOT RELEASED TO RETURN TO WORK

If an employee is unable to return to work in any capacity due to the nature of the injury or illness, his/her position will be kept open by the appointing authority as long as the appointing authority determines that this would not create any undue hardship to the department's operations. Upon consideration of the totality of the circumstances, an appointing authority may choose to terminate the employee through a medical dismissal as described in Merit System Policy, XIV, "Separation From County Service"; Subsection C," Medical Dismissal. Such a dismissal does not alter or modify any workers' compensation benefits owed an injured employee, or excuse the County from any obligations imposed on the employer, under the rules of the Workers' Compensation Act, FL Statute 440.

B. EMPLOYEE RELEASED TO RETURN TO WORK PRIOR TO MAXIMUM MEDICAL IMPROVEMENT

An employee's medical care provider may release the employee to return to work with temporary restrictions (such as no lifting over 10 lbs. or no bending) prior to reaching Maximum Medical Improvement (MMI). These restrictions may mean the employee cannot perform his/her regular duties. If reasonably possible, the employee's appointing authority will modify the job or find a temporary job that meets the employee's restrictions and the employee will be paid at his/her regular rate of pay. The appoint authority may contact Risk Management for assistance with job modification.

C. EMPLOYEE RELEASED TO RETURN TO WORK AFTER MAXIMUM MEDICAL IMPROVEMENT – WITHOUT MEDICAL RESTRICTIONS.


An employee who has reached Maximum Medical Improvement and is released for full duty with **no restrictions** should, where reasonably possible, be returned to his or her original position. If the employee has exhausted the 12 weeks of the Family Medical Leave Act (FMLA) Leave (if qualified for such) and the original position is no longer available, a Personnel Officer, together with Risk Management, will attempt to find another permanent placement for the employee.

D. EMPLOYEE RELEASED TO RETURN TO WORK AFTER MAXIMUM MEDICAL IMPROVEMENT – WITH MEDICAL RESTRICTIONS

If the employee's medical care provider determines that the employee has reached Maximum Medical Improvement with medical restrictions that will not permit the employee to perform some or all the duties of his/her original job, the appointing authority will make every reasonable effort to modify the job to accommodate the restrictions or, after the twelve (12) weeks of FMLA (if qualified), find another position that meets the restrictions.

VI. RESERVATION OF AUTHORITY

The authority to issue and/or revise this Procedure is reserved to the County Manager.



Peggy Busacca
County Manager