

	P - §23	Policy Name: Workers Compensation	Current Version Approved:
	Prepared By: Human Resources		Adopted: September 3, 2008
	Amended: April 1, 2019		

A. PURPOSE

The purpose of this policy is to outline the basic requirements of Virginia Worker's Compensation regulations and the associated requirements of County staff.

B. DEFINITIONS

Family Medical Leave (FML) – A type of leave that provides certain employees with up to 12 weeks of unpaid, job-protected leave per rolling calendar year.

Health Care Provider (HCP) - a licensed medical care provider or any other person determined by the U.S. Secretary of Labor to be capable of providing healthcare service.

Maximum Medical Improvement (MMI) - treatment options have been exhausted and the condition cannot not be improved to allow the employee to perform the full scope of the essential functions of their position.

Virginia Worker's Compensation Act – legislation established to provide specific benefits to workers injured out of and in the course of their work and to provide employers with protection from civil suit.

Virginia Worker's Compensation Commission – carries out the requirements of the Virginia Workers' Compensation Act, while administering Virginia's workers' compensation program, meeting legal requirements and providing various protections.

C. ROLES AND RESPONSIBILITIES

Employee – Employees are required to immediately report all work-related injuries and illnesses to a department supervisor. This includes any injury that occurs while working and any illness that is believed to be caused by conducting County business. All incidents must be reported regardless of severity. Late reporting or failure to report may result in delayed or denied Workers' Compensation benefits.

Human Resources – The Department of Human Resources is responsible for providing assistance and information to employees with respect to workers’ compensation benefits and return to work procedures and requirements.

Manager/ Supervisor –

- a. Submitting a First Report of Injury immediately upon notification of a work-related injury or illness, or upon obtaining knowledge of the event. All reports must be submitted within 24 hours of the accident, injury, illness, receipt of notice, or obtaining knowledge, whichever occurs the earliest.
- b. Accurately recording absences due to a work-related injury or illness using appropriate timekeeping processes.
- c. Reporting any changes in work status or capability of the injured worker to Human Resources, as soon as possible.

Workers’ Compensation Third-Party Administrator - The Workers’ Compensation program is administered through a Third-Party Administrator, which handles all employee claims, investigations, and filings with the Virginia Workers’ Compensation Commission.

D. POLICY

It is Albemarle County’s policy to adhere to all federal and state laws pertaining to Worker’s Compensation benefits, and to strive to bring all employees back to their pre-injury/illness work capabilities.

1. LEAVE USAGE

- a. *First 7 Days of Absence* – During the first seven (7) calendar days of absence, beginning from the first full day of work missed due to injury or illness, an employee may use accrued sick leave to account for the absence. If all sick leave has been exhausted, the employee may use other accrued leave in accordance with procedures established by the Department of Human Resources. If no leave is available, these days will be unpaid.
- b. *Absence After 7 Days* – Beginning on the eighth (8) calendar day of absence due to a compensable work-related injury or illness, the employee will receive income benefits equal to 2/3 (66%) of their average weekly wages. Also beginning on the eighth (8) day, the employee may use accrued leave in accordance with procedures established by the Department of Human Resources to supplement their Workers’ Compensation income benefits as follows:
 - The leave shall not exceed 1/3 (34%) of the employee’s normally scheduled, non-overtime work hours on any shift.

- Accrued sick leave must be taken first. After sick leave is exhausted, the employee may use other accrued leave in accordance with policies and procedures established by the Department of Human Resources.
 - All leave must be accrued by the time of usage. Employees may not borrow against future leave accrual.
- c. *Benefits After 21 Days of Absence* – If the absence due to compensable injury or illness exceeds twenty-one (21) calendar days, the employee will be reimbursed for the leave used during the first seven (7) calendar days and will receive pay for 2/3 (66%) of the employee's average weekly wage. The employee will be allowed to keep this reimbursement without obligation to return any payments to the County.
- d. *Denied Claims* – If a Workers' Compensation claim is deemed non-compensable, standard leave policies shall apply to any leave taken by the employee.
- e. *Family Medical Leave* – Eligible employees will be placed on Family Medical Leave after an absence of three (3) consecutive workdays due to injury or illness, if the employee is unable to return to work at full capacity. This occurs regardless of whether the worker's compensation claim is accepted or denied.

2. CONTINUITY OF BENEFITS

The County will continue all applicable contributions toward retirement, life insurance, health insurance, and dental insurance during the period an employee is absent for a compensable injury/illness. The employee is responsible to make payment arrangements to cover their portion of required contributions.

3. RETURN TO WORK

- a. Upon the medical provider's release to return to work in any capacity, the employee is expected to return to work if the County is able to accommodate any medical restrictions. Alternate work may be assigned within the County to accommodate medical restrictions; however, the pre-injury rate of pay will be maintained. If the employee refuses to return to work in the full-duty or restricted-duty capacity approved by the treating physician/health care provider, the County may take all actions permitted under law, including but not limited to contesting the employee's entitlement to further Workers' Compensation benefits before the Virginia Workers' Compensation Commission and/or termination of employment.
- b. If an employee reaches maximum medical improvement (MMI), or an employee's absence exceeds six months, or the County's circumstances have changed such that an employee's absence creates an operational hardship, the County may seek other employment options or begin a non-disciplinary termination of employment. (*Code of Virginia* § 40.1-27.1.)

E. RESOURCES

Code of Virginia Workers' Compensation

DOL Workers' Compensation

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