



Workers' Compensation Policy
Administrative Policy #43

May 2020

I. PURPOSE

We strive for the safest possible work environment and conditions for our employees. The purpose of this policy is to outline procedures for conducting the basic structure of the Virginia Workers' Compensation Law, the procedures department heads, supervisors, and employees must follow an on-the-job injury and authorizes supplemental payments for injured employees in certain circumstances.

The Workers' Compensation Law enacted by the legislature of the Commonwealth of Virginia sets the requirements for the employer in the handling of employee illness, injury, and disability arising from a job-related accident. Enforcement and interpretation of this law rest primarily with the Virginia Workers' Compensation Commission. The intent of this law is to provide for the financial needs of the employee and provide an incentive for the individual to return to work.

II. DEFINITIONS

- A. Accident: Refers to an identifiable incident or sudden precipitating events that result in obvious sudden mechanical or structural change in the body.
- B. Agreement to Pay Benefits: This form is completed by the Third-Party Administrator whenever a claim has been accepted as compensable and the injured worker is entitled to an award. The Award Agreement provides the basis for the award of compensation.
- C. Arising out of: Refers to the causal connection between employment and the injury. There must be a connection between the accident and the risk under which the work is performed. The risk must be peculiar to work and does not include an injury from a hazard to which the employee would have been equally exposed apart from the employment.
- D. Average Weekly Wage: The earnings of the employee in the employment in which he/she was working at the time of the injury. This is usually calculated by adding the wages of the employee for the 52-weeks prior to the injury divided by 52.
- E. Compensable Injury: All injuries that occur on the job are not covered by the Virginia Workers' Compensation Act. To be covered, there must be an injury by accident that arises out of and occurs in the course of employment
- F. Death Benefits: A specific sum payable for a specified period to survivors of an employee who dies as the result of a compensable injury or disease.

- G. *In the course of:* Refers to time, place and circumstances under which the injury occurred. An accident occurs in the course of employment when it takes place within the period of the employment, at a place where the employee may reasonably be and while the employee is reasonably fulfilling duties of his employment or doing something related to employment.
- H. *Injury/Illness:* Is defined as an impairment of sufficient severity to prevent an employee from performing the essential function(s) of the job or temporary limited duty.
- I. *Injury Leave:* Is defined as leave permitted due to a job-related injury or illness deemed compensable by the City of Portsmouth under Workers' Compensation.
- J. *Job-Related Injury:* Is defined as an injury sustained by an employee while in the course and scope of his or her job with the City of Portsmouth as defined in the Virginia Workers' Compensation Act and covered by Workers' Compensation.
- K. *Job-Related Illness:* Is defined as an illness or occupational disease sustained by an employee while in the course and scope of his or her job with the City of Portsmouth as defined in Virginia Workers' Compensation Act and covered by Workers' Compensation.
- L. *Maximum Medical Improvement (MMI):* An injury that is well stabilized and unlikely to change substantially, with or without medical treatment. Once an injured worker reaches MMI, a physician can assess how much, if any, permanent partial disability resulted from the work injury.
- M. *Medical Expenses:* Reasonable and authorized medical, surgical, hospital and rehabilitation costs incurred as a result of a compensable injury or occupational disease.
- N. *Net Pay:* For an employee who has sustained an "injury on the job" net pay is the monetary compensation received in a normal pay cycle prior to going on Workers' Compensation less Federal, State and FICA taxes.
- O. *Occupational Disease:* Is a disease arising out of and in the course of employment, but not an ordinary disease of life to which the general public is exposed outside of the employment. A condition must be a disease to receive benefits under the Virginia Workers' Compensation Act.
- P. *Panel of Physicians:* This is a list of physicians approved by Virginia Workers' Compensation Third-Party Administrator and the City of Portsmouth for the injured worker to seek medical attention from. These physicians are to be used to seek medical attention outside of an emergency situation that may be considered as life-threatening.
- Q. *Permanent/Temporary Disability Payments:* A specific sum payable for a specified period for disability compensation incurred as a result of a compensable injury or occupational disease as set by the Workers' Compensation Commission. This is an amount equal to 66 2/3 percent of the average weekly wage of an employee or a scheduled amount as set by the Workers' Compensation Act. A specific sum payable for a specified period for a permanent or partial disability incurred to a specific part of the body, as a result of a compensable injury or occupational disease.
- R. *Light Duty:* Is defined as a medically-required temporary; (1) restriction in the essential function(s) of the job performed by the employee, (2) reduction in the number of hours the employee is scheduled to work, and/or (3) assignment to a set of job duties that are within the employee's capabilities. Temporary limited duty assignments may be made within the employee's department, or to another City of Portsmouth department.
- S. *Subrogation:* This is the City's claim for recovery of all monies paid to or to be paid pursuant to the workers' compensation laws set forth in the Code of Virginia that constitutes a lien against any recovery obtained against a third-party responsible for the accident/injury. The City will be reimbursed from any settlement with