

TITLE Workers' Compensation Leave & Modified Duty	APPROVAL DATE: August 21, 2016
DEPARTMENT CUSTODIAN Human Resources & Risk Management	DATES REVISED: October 2016, March 2018, April 2024

PURPOSE: To assist current employees who have suffered an on-the-job injury or occupational disease (hereinafter "Injury") by providing paid Workers' Compensation Leave benefit.

DEPARTMENT(S) AFFECTED: All

POLICY:

Workers' Compensation Leave shall be provided to current Employees for the purpose of allowing paid time off during an absence from normally scheduled working hours due to an Injury. This policy applies to open Workers' Compensation claims and current Employees. This will include any related doctor's visits or other medical treatment approved as a result of the Injury. Workers' Compensation Leave will be considered as a qualified medical leave under the County's leave policies, including the Family and Medical Leave Act (FMLA), and will run concurrently, provided the employee meets the eligibility requirements.

Paid Leave Benefits

Douglas County shall provide paid leave benefits at 100% of current salary for scheduled hours missed due to an Injury for a Maximum Benefit Period of the lesser of:

1. The duration of the time period the employee receives treatment for the Injury, OR
2. A maximum of one (1) year beginning at the original date of Injury.

If a County approved paid Holiday should occur during the time an employee is receiving paid Workers' Compensation benefits, the employee shall record Workers' Compensation hours on their timesheet for normally scheduled work hours.

Insurance Benefits

During Workers' Compensation Leave, the County will continue to pay the premiums for medical, dental and vision insurance coverage (in that order) as elected by the employee, for themselves and their enrolled dependents, up to the maximum monthly County Contribution. The employee is responsible for any difference in premiums. The County will also pay any required premiums for Basic Life, Basic AD&D and LTD coverage, while all other remaining insurance premiums and/or voluntary insurance premiums must be paid by the employee during the medical leave period.

Job Status

Unless the employee is currently protected by medical leave under the Family and Medical Leave (FMLA), their position may be filled at the discretion of the Department Official based on the business needs of the department.

Succeeding Periods of Disability

Two or more successive periods of disability will be treated as one period of disability unless;

1. The employee returns to work on a full-time basis without restrictions for at least 180 consecutive calendar days between periods of disability, OR
2. The succeeding period of disability is due to Injury unrelated to the cause of the prior period of disability for which leave was approved.

Medical Certification

An employee receiving Workers' Compensation Leave or approved modified duty assignments may be required to undergo additional medical examinations certifications by a physician or health facility designated by Douglas County or the Division of Workers' Compensation with the expense of such examinations to be borne by Douglas County. Failure of an employee receiving Workers' Compensation Leave to submit to a medical examination by a Douglas County designated physician or health facility may result in termination of Workers' Compensation leave pay.

Non-Compensable Injury

In the event it is determined by the Workers' Compensation insurance company or third party administrator that the medical issue is not compensable through Workers' Compensation, any leave hours paid by Douglas County may be charged against the employee's accrued sick leave balance or other paid leave balances.

Exhausting Douglas County Workers' Compensation Leave

If a current employee exhausts the one (1) year of wage continuation or one (1) year has passed from the first date of injury, and the employee remains unable to return to work, or if they have been released to return to work with restrictions and modified duty is not available, the following may apply:

- The employee should begin entering LWOP (Leave With Out Pay) on their timesheet. Reimbursement for lost wages would no longer be paid by Douglas County.
- The employee may receive Temporary Total Disability (TTD) or Temporary Partial Disability (TPD) compensation, from the Workers' Compensation insurance fund subscribed to by Douglas County, up to the maximum amount set by state statute.
- While on TTD or TPD, an employee will be paid for the hours they are unable to work, through the Workers' Compensation insurance fund up to the maximum amount set by state statute.
- The employee will not be allowed to record hours actually worked on their timesheet and receive TTD and TPD compensation from the Workers' Compensation insurance fund for the same exact hours.

- The employee may be eligible for Long Term Disability benefits and should contact Human Resources with questions about this program.
- Sick leave, Vacation leave, Personal time, Comp time, Floating Holiday, and/or other forms of paid time off hours are not available to cover absences pertaining to a work-related Injury.

Return to Work

A “Physician’s Release to Return to Work” form should be completed by a designated Douglas County physician prior to the employee’s return to work. An employee is expected to provide the original release form to the County on or before their return to work.

In the event that job restrictions are noted by the physician, the Office or Department will determine if an appropriate modified duty assignment/schedule is available.

Sheriff’s Office employees and/or employees in safety sensitive positions may have to meet return to work certification requirements prior to reinstatement.

Employees who miss more than 40 hours of work due to a work-related injury will be placed on an applicable leave of absence, running concurrently with Workers Compensation.

If work is available and offered by the County and an employee refuses to return to work after the designated medical provider(s) states they can return to work in a modified duty status, the employee’s wage benefits may be modified, terminated or suspended, per Rule 6 of Colorado Division of Workers’ Compensation Rules of Procedure.

Guidelines for providing/evaluating Return to Work/Modified Duty options are attached to this policy as a reference tool, but are not meant to constitute a mandate or requirement.

GUIDELINES FOR RETURN TO WORK/MODIFIED DUTY RELATED TO WORK RELATED INJURY/OCCUPATIONAL DISEASE

These guidelines are offered to provide Elected Offices and Departments with a framework for evaluating options to provide modified duty in the event an employee who has suffered a work-related injury or occupational disease (hereinafter “Injury”), is cleared by their treating physician to return to work on a less than full release. While these guidelines attempt to provide a comprehensive, best-practice outline of options, the County recognizes the differences that exist in each individual’s return to work process. Risk Management should be consulted with for additional ideas or alternatives as may be required by Offices or Departments.

An employee’s ability to return to work after experiencing an Injury must be accompanied by a release by their treating physician to:

- Return to work on a regular schedule without restrictions; OR

- Return to work on a regular schedule with job duty restrictions and/or work schedule restrictions, with a corresponding request for a modified assignment.

Physician's Release to Return to Work

A "Physician's Release to Return to Work" form must be completed by a physician who is a designated provider identified by Douglas County to provide Workers' Compensation treatment. This form shall include the probable length of the restrictions and the nature of the restrictions. An additional statement confirming the ability to perform a Modified Duty assignment may also be required. Once the employee receives the Physician's Release to Return to Work form, the following outline may be followed:

1. Return to work on a regular schedule **without restrictions**:
 - a. The completed physician's release form indicating no restrictions is required in order to fully return to work without modifications to the employee's normal schedule and job duties.
 - b. Employee shall provide the original physician's release form to Risk Management with a copy given to their immediate supervisor IMMEDIATELY upon returning to work if no restrictions are indicated.
2. Return to work on a regular schedule **with restrictions** (job duties and/or work schedule), and a corresponding request for a modified assignment:
 - a. Job duty restrictions: (ex. limitations on lifting, walking, stooping, bending, etc.)
 - b. Work schedule restrictions: (ex. limitations on number of hours worked per day or week, with or without limitations on the job duties performed)
 - c. In the event job duty or work schedule restrictions are indicated, the employee must provide the original physician's release form to Risk Management with a copy provided to their immediate supervisor PRIOR to returning to work. Risk Management and the supervisor shall review the restrictions and determine if the employee is eligible for an available modified duty assignment. The supervisor will be responsible for communicating the approval of a modified duty assignment to the employee and discussing job duties and related work schedule.
 - d. If the employee is approved for a modified duty assignment or modified schedule, the employee must comply with all restrictions outlined in the physician's release. Should the employee's restrictions change, they must notify their immediate supervisor and Risk Management with a copy of the revised physician's release to determine if new restrictions need to be put into place or if prior restrictions should be removed.
 - e. While working a modified assignment or modified schedule, the employee may be required to provide periodic updates from their physician up to every 30 days. In

conjunction with such review, the employee may be required to submit to a periodic physical examination as a condition for continued modified duty status.

- f. In the event that no modified assignment/schedule is available, Risk Management will work with the employee to discuss alternative options or may require the employee remain on leave.
3. Unable to return to work:
 - a. In the event an employee is unable to return to work, with or without restrictions, as noted on the physician's release, the employee must notify Risk Management as soon as possible.
 - b. Periodic updates from the employee's physician may be required up to every 30 days. In conjunction with such review, the employee may be required to submit to a periodic physical examination as a condition of continued leave.
 - c. While off work, it is the responsibility of the employee to ensure the County including the supervisor, Risk Management and Human Resources has a current telephone number (listed or unlisted), email address and mailing address where the employee can be reached.
 - d. The employee must notify Risk Management as soon as practicable of all changes in medical condition.

Modified Duty/Schedule Assignments

1. Employees who have been released to return to work on a modified duty or reduced schedule basis, as supported by a documented release from their treating Workers' Compensation physician, may be eligible for a modified duty/schedule assignment. Modified duty assignments are at the discretion of the County.
2. The goal of a Workers' Compensation modified duty program is to enable employees to continue using their skills and abilities that have been temporarily limited due to an Injury.
3. Workers' Compensation modified duty assignments are for a specified and limited period and fulfill a necessary job function, appropriate to the employee's skills and levels of experience, and which the employee can perform without violating medical restrictions. These temporary assignments allow the employee to perform work duties at his or her normal rate of pay and benefits.
4. Modified duty assignments are not a matter of a "right." The number, availability and duration of such temporary assignments are limited by Office or Departmental needs as defined by the Department Official.

Limitations of Modified Duty Assignments:

Temporary modified duty assignments are not provided to employees who have permanent work restrictions. Permanent work restrictions would have accommodations reviewed in accordance with the Americans with Disabilities Act (ADA). This Policy is not intended to address disabilities that fall under the Americans with Disabilities Act (ADA) or its amendments.

Modified duty assignments generally end on the earliest of:

- The date the employee is released to his/her regular schedule without restrictions as evidenced on the physician's release form;
- The date the physician determines the employee has permanent restrictions;
- The date the employee fails to take a required medical examination, without good cause.

Assignment to a Modified Duty position does not in any way create a right for the employee to occupy that or any other position on a regular basis.

At the end of the Modified Duty assignment, if an employee is unable to return to work without restrictions, Risk Management will work with Human Resources to determine if there is an alternative leave on which the employee may be placed.

If an employee is unable to resume working or unable to resume working their full schedule, without accommodations (excluding ADA accommodations as noted above), their employment with the County may end and they may be eligible for rehire.

Related policies may be located on the '[Administrative Policies](#)' page on the Douglas County website.