

## **DHHS POLICIES AND PROCEDURES**

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<b>Section V:</b>	<b>Human Resources</b>
<b>Title:</b>	<b>Safety and Benefits</b>
<b>Chapter:</b>	<b>Workers' Compensation Program</b>
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### **Purpose**

The purpose is to outline the administration of the Department's Workers' Compensation Program. Furthermore, the purpose is to ensure that the program complies with established rules and regulations of the North Carolina Workers' Compensation Act and guidelines published under the State Workers' Compensation Program.

### **Policy**

It is the policy of the Department of Health and Human Services (DHHS) to provide lawful and consistent coverage for employees who suffer an accidental injury or trauma, or who contract an occupational disease within the meaning of the Workers' Compensation Act.

It is the policy of the DHHS to administer benefits defined under [N.C.G.S. Chapter 97](#) (Workers' Compensation Act); [N.C.G.S. Chapter 143](#), Article 12B (Salary Continuation Plan for Certain State Law Enforcement Officials); and [N.C.G.S. 115C-338](#) (Salaries for Employees Injured During an Episode of Violence) in a timely manner as established under law.

It is the policy of the department to ensure that employee injury claims will be processed according to established standards; that claims will be managed to ensure that proper medical attention is provided; and that the employee will, whenever possible, be returned to permanent employment status when the employee has reached maximum medical improvement and has been released by the attending physician.

### **Implementation**

1. **Responsibilities**
  - A. Each division/facility/school director is responsible for administering the department's work reassignment and work placement programs according to departmental guidelines.
  - B. Each division/facility/school director is responsible for addressing accident prevention issues with agency managers, supervisors and employees. This

responsibility shall be monitored by review of the department's claim/cost reports.

- C. The Director of the Division of Human Resources (HR) shall designate the Manager of Employee Safety/Benefits to oversee the department's program. This includes the responsibility and authority for developing standards and procedures necessary for the accomplishment of this policy. Further administrative responsibilities are as follows:
- D. The Department's Workers' Compensation Administrator shall be responsible for the development and monitoring of the program and ensure consistency of operations. This shall be accomplished by:
  - 1. Developing policy and procedures.
  - 2. Providing technical assistance.
  - 3. Providing consultative services.
  - 4. Providing resource alternatives for claim management.
  - 5. Monitoring claim management activities at divisions/facilities/schools through site evaluations.
  - 6. Providing staff training.

2. **Program Management**

- A. Division/Facility/School Responsibility
  - 1. The agency will schedule and conduct necessary training.
  - 2. The agency will manage the workers' compensation fund.
  - 3. The agency will assure proper and timely processing of all paperwork affecting the workers' compensation program.
- B. Workers' Compensation Representative's Responsibility
  - 1. The workers' compensation representative will communicate administrative/technical issues to DHHS Employee Safety/Benefits.
  - 2. The workers' compensation representative will process paperwork to take employees off payroll and maintain other required employee benefits.

3. The workers' compensation representative will manage salary continuation compensation payments.
4. The workers' compensation representative will maintain proper coding requirements to identify fund sources.
5. The workers' compensation representative will coordinate settlement agreements through DHHS Employee Safety/Benefits.
6. The workers' compensation representative will verify correct billings paid by the third party administrator.
7. The workers' compensation representative will coordinate employee appeals through DHHS Employee Safety/Benefits.
8. The workers' compensation representative will verify names on billings to ensure the individual is division/facility/school employee.
9. The workers' compensation representative will participate in Industrial Commission hearings, as necessary.
10. The workers' compensation representative will review reports received by the third party administrator.
11. The workers' compensation representative will make recommendations to DHHS Employee Safety/Benefits on the effectiveness of the third party administrator.

3. **Report of Accident/Occupational Illness**

A. Employee's Responsibility to Employer

1. It is the employee's responsibility to ensure proper notification of accident and/or occupational illness to management. The employee shall immediately notify their supervisor upon occurrence of an accident or occupational illness/exposure.

B. Supervisor's Responsibility

1. If division/facility/school requires, the supervisor shall complete an Employer's Report of Injury to Employee North Carolina Industrial Commission (NCIC) Form 19 and forward the completed form to the workers' compensation representative within 24 hours of notice of incident.

2. The supervisor shall complete a Key Risk Management Service (KRMS) Incident Investigation Report to verify the accuracy of facts and forward to the workers' compensation representative within 24 hours of notice of incident.

C. Workers' Compensation Representative's (WCR) Responsibility

1. The WCR shall review/complete the NCIC Form 19 as applicable and review the KRMS Incident Investigation Report for completeness and accuracy.
2. The WCR shall provide salary information in Person Injured section of the NCIC Form 19 if:
  - a. There is a likelihood temporary total disability payments will be made.
  - b. There is a likelihood of permanent partial or temporary partial payments will be made.
  - c. There is a likelihood the case will be denied.
3. The WCR shall code the NCIC Form 19 with the employer code, department code, fund code, and three (3) digit accident type code in the upper right corner. If salary continuation is applicable, write SALARY CONTINUATION in bold letters across the top of the form. Note: The fund code will be either 1, 2 or 7. Contact the budget office for the correct fund code for employees. In addition to the codes on the stamp, show the claim type code next to the stamp. This code will be either 001 (client caused), 002 (client assault), or 003 (other).
4. The WCR shall fax a copy of the NCIC Form 19 and the KRMS Incident Investigation Report to (910) 605-7502 within 24 hours of notice of incident if outside medical care is necessary or if the employee misses more than one (1) day from work.
5. The WCR shall fax all other forms or case management information should be faxed to (910) 605-7300 as necessary.
6. The WCR shall retain the original forms in division/facility/school file.
7. The WCR shall provide every employee reporting an injury or occupational illness/exposure with a copy of the Office of State Personnel Workers' Compensation Pamphlet. Each pamphlet should have a third party administrator identification sticker attached or stamped with an identification stamp. This stamp may be borrowed

from the DHHS Employee Safety/Benefits Section.

D. Accident Investigation

1. All accidents involving injury must be investigated by the workers' compensation representative and/or safety director to assist the third party administrator in determining compensability. Accidents involving serious injury require immediate investigation as directed by policy number S-3, Serious Accident Investigation of the DHHS Workplace Safety Program.

**Serious Injuries**

1. Accidents requiring immediate investigation shall include, but not be limited to, those which result in:

- a. Death
- b. Serious occupational disease
- c. Major broken bones
- d. Paralysis
- e. Serious head injury
- f. Severe cuts
- g. Amputation
- h. Loss of sight
- i. Serious back injuries

2. In the event an accident involves a serious injury and/or hospitalization, notification shall be made to the following immediately:

- a. Key Risk Management Service (KRMS)
- b. During work hours: 1-800-942-0225 or 1-800-366-1511
- c. After 5:00 p.m. and weekends: 1-800-849-8021
- d. Agency Safety/Health Director
- e. Agency Workers' Compensation Representative

3. Notification shall be made within 24 hours to:

- a. Division/Facility/School Director
- b. Other parties as determined by the director
- c. DHHS Safety/Benefits

4. If a single accident involves three or more injured employees requiring hospitalization or the accident involves the death of a state employee,

notification shall be made within eight (8) hours to:

- a. Division/Facility/School Director
- b. DHHS Employee Safety/Benefits
- c. Department of Labor Occupational Safety and Health Administration (OSHA) at (919) 733-3322
- d. Office of State Personnel at (919) 733-6316

### **Non-Serious Injuries**

1. The WCR shall identify the proper facts to assist the third party administrator to make a compensability determination.
2. The WCR shall assist in conducting additional investigations as requested by the third party administrator.

#### **4. Establishing Disposition of Claim**

##### **A. First Aid Claims**

1. Claims are established as a first aid claim if it is a one time treatment and possible subsequent observation of a minor injury that does not ordinarily require follow-up medical care. Such treatment and observation are considered first aid whether provided in-house or by a physician or registered professional personnel.
2. First aid claims are filed and counted at the agency if treatment is rendered by the agency. Any cases that generate an outside medical bill are sent to the third party administrator for processing and are not counted for statistical purposes.

##### **B. Medical Only Claims**

1. Claims are established as medical only claims if the following criteria are met:
  - a. There is no more than one (1) lost workday,
  - b. The employee receives treatment outside of DHHS that generates a vendor bill, and
  - c. Total medical expenditures do not exceed \$2,000.
2. Medical only claims are submitted to the third party administrator for processing if treatment generates a vendor bill.

C. Industrial Commission Reportable Claims

1. Claims are established as Industrial Commission reportable cases if any of the following criteria are met:
  - a. There is more than one (1) lost workday,
  - b. Total medical expenses exceed \$2,000, and
  - c. The claim includes any compensation payment.
2. Industrial Commission reportable claims are submitted to the third party administrator for processing.

5. **Compensation Arrangement for On-the-Job Injuries**

A. Purpose

1. The purpose of this policy is to establish procedures for the administration of compensation benefits for on-the-job injuries and occupational illnesses. All North Carolina State government employees are covered under the North Carolina Workers' Compensation Act ([N.C.G.S. Chapter 97](#)). Any employee who suffers an accidental injury or contracts an occupational disease within the meaning of the Act is entitled to benefits provided by the Act to include medical benefits and compensation for time lost from work and any disability which results from the injury.
2. The North Carolina General Assembly has seen fit to provide additional compensation benefits for certain groups of state employees who are injured in the course of duty. These benefits are provided in [N.C.G.S. 143](#), Article 12B, Salary Continuation Plan for Certain State Law Enforcement Officials and [N.C.G.S. 115C-338](#), Salaries for Employees Injured During an Episode of Violence.

B. Policy

1. It is the policy of the DHHS that the following interpretive guidelines and operational procedures are established for the administration of compensation benefits for on-the-job injuries.

C. Coverage and Administration

1. All DHHS employees (full-time, part-time, and persons appointed to serve on a per diem or fee basis) are covered by the Workers' Compensation Act, Chapter 97. Administration of the Act shall be in

accordance with the provisions of law and related State Personnel policy.

2. The following DHHS employees are additionally subject to the provisions of Article 12B of Chapter 143 (143-166.13 through 143-166.20):

*Note: All DHHS employees who are sworn state law enforcement officers with the power of arrest and are certified by the Criminal Justice Training and Standard Act.*

- a. Agency management is responsible for initially determining the application of this article to a reported injury or incapacity. The initial finding shall be submitted to the DHHS Employee Safety and Benefits Section of the Division of HR for review and approval. Employee appeals from a final department determination shall be handled in accordance with [N.C.G.S. 143-166.19](#).
  - b. An eligible employee shall receive full salary and related benefits for up to two (2) years while absent from work due to an incapacity resulting from an injury by accident or an occupational disease arising out of or in the course of the performance of official duties. This benefit shall be in lieu of all compensation provided for the first two (2) years of incapacity by [N.C.G.S. 97-29](#) and [97-30](#). The absence shall not be charged against sick or other leave. This benefit begins on the first date of disability. Should the incapacity continue for more than two (2) years, the employee shall be eligible for compensation payments as provided under the Workers' Compensation Act.
3. The following DHHS employees are additionally subject to the provisions of [N.C.G.S. 115C-338](#):

- All full-time (not part-time, temporary or substitute) employees of the following educational institutions:
- The Governor Morehead School, Raleigh
- The Eastern School for the Deaf, Wilson
- The North Carolina School for the Deaf, Morganton
- The Wright School, Durham
- The Whitaker School, Butner
- Full-time (not part-time, temporary or substitute) employees of any DHHS division, facility or school who are assigned to a teacher or related educational classification subject to the

DHHS system of personnel administration for educators.

- a. Agency management is responsible for initially determining the application of this section to a reported injury or disability. The initial finding shall be submitted to the DHHS Employee Safety and Benefits Section of the Division of HR for review and for final action by the secretary's capacity with the DHHS Board of Education.
  - b. The DHHS Employee Safety and Benefits Section shall give the employee and agency management written notice of the secretary's decision within the time frame specified by law. Employee appeals from the secretary's decision shall be handled in accordance with [N.C.G.S. 115C-338\(c\)](#).
  - c. An eligible employee shall receive full salary and related benefits for up to one (1) year while absent from work due to any injury or disability resulting from or arising out of an episode of violence during the course of employment or any activity incidental thereto. This benefit shall be in lieu of all other income or disability benefits payable under workers' compensation. This benefit begins with the date of the incident. Should the incapacity continue for more than one (1) year, the employee shall be eligible for compensation payments as provided under the Workers' Compensation Act.
4. For employees subject to and eligible for compensation payments under both [N.C.G.S. 143](#), Article 12B and [N.C.G.S. 115C-338](#), the provisions of the former shall take precedence.
  5. An employee receiving salary payments under [N.C.G.S. 143](#), Article 12B or [N.C.G.S. 115C-338](#) shall be additionally eligible for non-compensation benefits as provided by the Workers' Compensation Act.
  6. Department policy regarding on-the-job injury work reassignment and placement shall apply to employees who receive compensation benefits under Chapter 97, Article 12B of Chapter 143, and/or Section 115C-338.
  7. Technical assistance in workers' compensation matters is available from the DHHS Employee Safety and Benefits Section of this Division of HR.

6. **Payment of Temporary/Total Disability**

Indemnity payments [Temporary Total Disability (TTD), Temporary Partial Disability (TPD), Permanent Total Disability (PTD), Permanent Partial Disability (PPD)] are

provided through the third party administrator and are based on salary information provided by the agency. The agency is responsible for payment of salary continuation.

A. Establishing Proper Compensation Criteria

1. The compensation arrangement the employee is paid under is determined by one (1) of the following:
  - a. North Carolina General Statute ([N.C.G.S. 97-2](#)) North Carolina Workers' Compensation Act,
  - b. [N.C.G.S. 143-166.13](#) Article 12B Salary Continuation Plan for Certain State Law Enforcement Officers, or
  - c. [N.C.G.S. 115C-338](#) Salary Continuation for Employees Injured in an Episode of Violence.
2. The compensation schedule shall be established:
  - a. If employee qualifies for compensation coverage under [N.C.G.S. 143](#) or [N.C.G.S. 115C](#):
    - Full salary continuation begins on the first day of injury for employees covered under [N.C.G.S. 115C](#) and the first day of disability for [N.C.G.S. 143B](#).
    - Salary continuation continues as established in the guidelines.
3. An Industrial Commission Form 19 Employer's Report of Injury to Employee is prepared and submitted to the third party administrator within 24 hours of the notice of incident. Salary Continuation is written at the top of the form.
4. Salary continuation rates shall be established per the following formula:
  - a. Lost Workdays - (# of calendar days out of work ÷ 7) × 5 = # of lost workdays.
  - b. Cost: Base salary ÷ # of annual workdays (260) × # of lost workdays = Cost.
    - Note: Base salary is considered to be the current salary from the Personnel Management Information System (PMIS) as of the date of the injury.
5. If the employee qualifies for compensation coverage under [N.C.G.S. 97-2](#) and it appears the employee will be out of work for eight (8) or

more days:

- a. The employee's total income for the previous 12 months is determined to include all allowances (from date of injury).
- b. Item #17 and item #18 on the NCIC Form 19 is completed using the salary amount calculated.
- c. NCIC Form 19 is submitted to the third party administrator within 24 hours of the notice of incident.

## 7. Medical Treatment

### A. Division/Facility/School Responsibility

1. All initial medical care will be provided through KRMS CompCare Network, with the exception of the following employee health care clinics. They will provide initial care to employees to their level of expertise. Clinic personnel will refer employees to a CompCare Network specialist, as necessary.
  - Black Mountain Center
  - Broughton Hospital
  - Caswell Center
  - Cherry Hospital
  - Dorothea Dix Hospital
  - John Umstead Hospital
  - Murdoch Center
  - O'Berry Center
  - Western Carolina Center
1. The division/facility/school will issue each employee referred to a CompCare Network physician a KRMS Medical Authorization Form for presentation to the physician.
2. If there are no CompCare Providers in the area, the employee should be sent to a primary care provider selected by the division/facility/school and the third party administrator should be notified immediately upon referral.
3. Any division/facility/school without a designated employee health clinic shall maintain a CompCare Provider Directory at a central location to assist the supervisor in selecting appropriate medical care for the employee.

**B. Employee Health Clinic's Responsibility**

Cases which receive initial or extended care at an employee health clinic are subject to the following conditions:

1. In every case an employee misses more time from work than the initial day of the incident, the clinic will report this to the workers' compensation representative within 24 hours. The workers' compensation representative will report this to the third party administrator.
2. In every case an employee is placed on more than seven (7) days of restricted duty cumulatively, the clinic will report this to the workers' compensation representative within 24 hours. The workers' compensation representative will report this to the third party administrator.
3. In-house medical notes must be sent to the workers' compensation representative within 24 hours for any cases which meet the above mentioned criteria. The workers' compensation representative will report this to the third party administrator.
4. Should it be necessary to refer an employee for specialty care, referral will be made to a CompCare Network specialist. Upon referral, primary care becomes the responsibility of the specialist unless the purpose for the referral is to secure a one-time medical evaluation.
5. In every case which an employee is referred to an outside physician, a Return to Work Form - Medical Authorization and Attending Physician's Report, must accompany the employee for every visit.
6. In every case an employee is referred to an outside physician, the workers' compensation representative must be notified within 24 hours so the appropriate contacts can be made.

**C. Workers' Compensation Representative's (WCR) Responsibility**

1. The WCR shall ensure the employee brings a completed Return to Work Form back to the representative after each visit to the physician.
2. The WCR shall ensure the respective adjuster is contacted immediately to inform them of the work status of the employee.

**8. Medical Bills**

Under the current third party administrator arrangement, medical and indemnity costs are paid on a monthly basis through funds established with the State Treasurer's Office.

**A. Workers' Compensation Representative's Responsibility**

1. The WCR shall verify employee entry on monthly claims payment log. If correct, no further action is necessary.
2. If any name(s) listed on the payment log are not an employee of the division/facility/school, the WCR shall immediately report this to DHHS Safety/Benefits Section.

**B. Department's Responsibility**

1. The Controller's Office shall reimburse the state fund monthly through on-line transfers in an amount which equals the monthly expenditures.
2. The Controller's Office shall on-line transfer to the state fund quarterly the administrative fee which covers overhead costs for the third party administrator.

**9. Return to Work/Work Reassignment for On-the-Job Injuries**

**A. Purpose**

1. The purpose of this policy is to establish procedures for the administration of a work reassignment program for eligible employees who sustain compensable work related injuries/illnesses as covered under the North Carolina Workers' Compensation Act ([N.C.G.S. Chapter 97](#)), [N.C.G.S. Chapter 143](#), Article 12B, Salary Continuation for Certain State Law Enforcement Officials and Salaries for Employees Injured During an Episode of Violence ([N.C.G.S. 115C-338](#)).
2. Work related accidents/illnesses may create disability rated cases which reduce the employee's income, create a period of no purposeful activity and restrict the employee's contribution to the need of the division/facility/school. In many cases, however, an injured employee can perform work to the mutual benefit of the employee and the department as an alternative to being in leave status.

B. Policy

1. It is the policy of the DHHS to provide employees who have a compensable claim, paid employment suitable to their capacity whenever possible. Such work shall be in the form of work reassignment.
2. Work reassignment is the temporary assignment of an injured employee who has been accepted as workers' compensation/salary continuation eligible pending maximum medical improvement. Such reassignment shall be offered when agency management determines there is necessary and existing work available which is suitable to the employee's capacity. The assignment will be considered suitable when authorized by a qualified physician and the employee otherwise meets the qualifications for the temporary assignment.
3. The reassignment may be to the position the employee held at the time of injury, to another position in the same classification, to a position in a different classification, or in a work against status. Reassignment shall be limited to positions within the employing division/facility/school. It is the intent to maintain the employee's rate of pay while in this work reassignment in accordance with State Personnel policies and procedures.
4. Work reassignment shall not exceed 90 days without prior written approval from the DHHS Employee Safety/Benefits Section.

C. Procedures

1. The division/facility/school personnel manager, in conjunction with the workers' compensation representative, shall identify transitional jobs which can be modified but still retain the essential functions.
2. The division/facility/school workers' compensation representative shall monitor the status of injured employees through the third party administrator consistent with relevant policy and procedures. Upon receipt of information and authorization by a qualified physician that an employee has been determined capable of performing work on a limited basis, the agency workers' compensation representative and/or the agency safety/health director shall work with appropriate agency management to determine whether temporary work reassignment is possible given the employee's qualifications, limitations and the availability of suitable work.

3. The injured employee's performance in the work reassignment shall be monitored by designated agency management. Where it is determined, with physician input, the continued employment may be detrimental to the employee's recovery, this information shall be shared with the workers' compensation representative and the employee shall be returned to workers' compensation leave status if a different suitable job cannot be identified. The third party administrator shall be notified immediately.
4. If the employee is unable to return to regular duties at the end of a 90 day period, and suitable continuing temporary work is available, the agency personnel manager and/or workers' compensation representative may secure written approval from the DHHS Employee Safety/Benefits Section to continue the work for a specified period of time.
5. If an employee refuses work reassignment suitable to the employee's capacity, the agency shall immediately contact the third party administrator to initiate termination of benefits.

**D. Division/Facility/School Responsibility for Return to Work**

Each division/facility/school shall have written return to work procedures. These procedures shall detail steps to follow in returning an employee to modified duty. The essentials of the procedures should include, but not be limited to:

1. A program statement,
2. Clear responsibilities,
3. Essential job functions to be provided to the physician upon request, and
4. Identifying alternate duties.

**E. Workers' Compensation Representative Responsibility's for Return to Work**

1. The WCR shall work with management to identify a suitable job.
2. The WCR shall contact DHHS Employee Safety/Benefits immediately if no suitable alternate duty can be identified.
3. The WCR shall contact DHHS Employee Safety/Benefits immediately if the employee has reached maximum medical improvement and is unable to return to their previous job due to limitations.

10. **Work Placement for On-the-Job Injuries**

A. Purpose

The purpose of this policy is to establish procedures for the administration of a work placement program for eligible employees who sustain compensable work related injuries/illnesses as covered under the North Carolina Workers' Compensation Act ([N.C.G.S. Chapter 97](#)), [Chapter 143](#), Article 12B, Salary Continuation for Certain State Law Enforcement Officials and Salaries for Employees Injured During an Episode of Violence ([N.C.G.S. 115C-338](#)).

B. Policy

It is the policy of the DHHS to attempt to find employment suitable to their capacity for employees who have sustained a compensable claim and can no longer perform their regular jobs. This effort will be conducted through a job search within the department, and if necessary through the Office of State Personnel and the private sector.

1. When an employee has reached maximum medical improvement, or prior to reaching maximum medical improvement and the treating physician determines the employee cannot continue employment in the employee's former position and/or classification, division/facility/school management shall attempt to identify other positions in which the employee's limitations can be reasonably accommodated. Management will make every effort to place the employee in a position comparable to the level held at the time of the injury; however, placement may be to a higher or lower classification level. The rate of pay in the new assignment shall be determined in accordance with relevant salary administration policy.
2. If the employee cannot be placed within 14 days by the employing agency, the agency personnel manager and/or workers' compensation representative shall give written notice to the Employee Safety/Benefits Section requesting assistance with possible placement in other agencies within the department. Such notice shall include a current state application for the employee and current medical diagnosis with restrictions. The Employee Safety/Benefits Section shall upon receipt, forward this information to the DHHS recruitment section for assistance with possible placement within DHHS. Work placement efforts will continue for a period not to exceed 30 days except with approval of the DHHS Employee Safety/Benefits Section. If applicable, the DHHS Employee Safety/Benefits Section may

contact the third party administrator to conduct job placement efforts through private sector vocational rehabilitation specialist.

3. Upon submitting written notice to the DHHS Employee Safety/Benefits; the division/facility/school shall complete, or assist the employee to complete, all necessary forms required to apply for long term disability if the employee has the required years of service time.
  - a. If the employee is approved for long-term disability by the Retirement System, the employee may be terminated after the 30-day period. If terminated, immediate notification in writing shall be made to the Retirement Benefits Coordinator in the [Retirement System Benefits Section](#) at 325 N. Salisbury Street, Raleigh, NC 27603-1385 and he will offer individual medical coverage under the Retirement Group.
  - b. If the employee is on workers' compensation leave at the time of termination, the employee is eligible to receive a lump sum payment for vacation/sick leave. Note: While on workers' compensation leave, the employee shall continue to accumulate vacation and sick leave to be credited to the employee's account for use upon return. If the employee does not return, vacation and sick leave accumulated during the first 12 months of leave will be paid in a lump sum along with other unused vacation which was on the books at the time the employee went on workers' compensation.
  - c. If the employee is not eligible to receive disability through the Retirement System, DHHS Employee Safety/Benefits shall be contacted for consultation prior to termination.

C. Division/Facility/School Director's Responsibility

It is the responsibility of the division/facility/school director to ensure compliance with this policy. It is the responsibility of the division/facility/school HR manager to provide necessary coordination and technical assistance in the operation and administration of this policy and procedure.

11. **Subrogation**

The third party administrator is responsible for coordinating notification to a third party carrier and reimbursement involving third party liability subrogation cases. In such cases, it is the responsibility of the workers' compensation representative to provide the third party administrator with applicable information, at the time of initial reporting, if such information is available. Workers' Compensation Representative's

Responsibility:

- A. The WCR shall review employee report of accident.
- B. The WCR shall review the KRMS Incident Investigation Report.
- C. If incident involves third party liability:
  - 1. The WCR shall contact the employee for information necessary to establish date, time, location of incident and circumstances leading up to the event.
  - 2. If incident involves a motor vehicle accident, the WCR shall provide a copy of the law enforcement accident investigation report to the third party administrator as soon as possible.
  - 3. If the insurance company of the third party is known, the WCR shall provide the company name, telephone number, and address to the third party administrator.

12. **Compromise Settlement Agreements**

A. Purpose

For purposes of this policy, *Compromise Settlement Agreement or Clincher Agreement* refers to any agreement entered into by the employer and employee in which the negotiated outcome must receive approval from the North Carolina Industrial Commission.

B. Procedures

Should an agency and/or third party express an interest in a settlement agreement, notification shall be made to the DHHS Employee Safety/Benefits Section four (4) weeks prior to the actual negotiations beginning with the plaintiff or a plaintiff's attorney.

- 1. Requests will be made to the DHHS Employee Safety/Benefits Section through completion of a Settlement Evaluation Form by the workers' compensation representative, or third party administrator. This form must be signed by the division/facility/school director, indicating settlement approval.
- 2. Upon receipt of the Settlement Evaluation Form, DHHS Employee Safety/Benefits will contact the division/facility/school for further

information/clarification if needed, and shall establish an approval level and make notification to the third party administrator.

3. The North Carolina Attorney General's Office, and/or third party administrator or their representative will consult with the plaintiff/plaintiff's attorney to negotiate mutually acceptable terms for the agreement. Upon reaching an agreement, the North Carolina Attorney General's Office or third party administrator will contact the DHHS Employee Safety/Benefits Section with a proposed amount.
4. The North Carolina Attorney General's Office or third party counsel will write the agreement and submit it to the plaintiff/plaintiff's attorney for necessary signatures and then the document will be submitted to DHHS Employee Safety/Benefits.
5. There will be only one (1) approval signature line on the document for the department and that will be DHHS Employee Safety/Benefits. There will not be a signature line for the division/facility/school. The division/facility/school approval will be reflected on the Settlement Evaluation Form.
6. Upon signatures, DHHS Employee Safety/Benefits will return the document to the NC Attorney General's Office or third party counsel for processing to the North Carolina Industrial Commission.
7. A copy of the signed settlement will be sent to the attention of the workers' compensation representative for their file management.

### 13. **Appeal Cases/Hearings/Mediation**

The Office of State Personnel has established a Level I and Level II Appeals process for decisions that are made by the third party administrator which the employee/employer disagrees with. This appeals process is established to address legal and compensability issues but is not limited to these issues exclusively.

#### A. Level I Appeal

Should an employee disagree with a decision made by the third party administrator and the employer is in agreement with the employee, the employee may request a Level I Appeal through the workers' compensation representative. The workers' compensation representative will contact DHHS Employee Safety/Benefits to appeal the decision. The third party administrator will assign three (3) supervisors not involved in the case to review the decision. This panel may overturn the original decision in favor of the employee or they may elect to let the original decision stand.

B. Level II Appeal

Should an employee have a Level I Appeal and the third party administrator does not reverse the original decision, DHHS Employee Safety and Benefits Section will automatically request a Level II Appeal with the Office of State Personnel unless findings in the Level I Appeal demonstrate compliance with workers' compensation laws in the original decision. The Office of State Personnel will assemble a review committee and provide the third party administrator and DHHS Employee Safety and Benefits with a written report outlining the opinions of the committee. After re-evaluation, a final decision will be made based on the facts of the two (2) appeals.

C. Procedures

1. The workers' compensation representative shall review all pertinent facts in the case relating to the complaint and contact DHHS Employee Safety/Benefits for consultation.
2. If the workers' compensation representative and DHHS Employee Safety/Benefits both disagree with the decision made by the third party administrator, the workers' compensation representative shall review the appeals process with the employee and confirm if the employee wants to proceed with the appeal.
  - a. If the employee wants to appeal, DHHS Employee Safety/Benefits will provide in writing to the third party administrator a request for a Level I Appeal. A copy of this request will be sent to the workers' compensation representative and the employee.
  - b. If the employee does not want to appeal, no further action is warranted.
3. If the workers' compensation representative and DHHS Employee Safety/Benefits both agree with the decision made by the third party administrator, the workers' compensation representative will refer the employee back to the third party administrator should the employee want to pursue an Industrial Commission hearing.
4. If the third party administrator reverses their original decision during the Level I Appeal, no further action is warranted. The workers' compensation representative will advise the employee of the action.
5. If the third party administrator does not reverse their original decision during the Level I Appeal, DHHS Employee Safety/Benefits will

provide in writing to the Office of State Personnel a request for a Level II Appeal unless findings now warrant acceptance of the TPA decision. A copy of this request will be sent to the workers' compensation representative and the employee.

6. The Office of State Personnel will provide a written report of findings to DHHS Employee Safety/Benefits. A copy of this report will be sent to the workers' compensation representative for them to share the findings with the employee.
  - a. If the third party administrator reverses their original decision after the Level II Appeal, no further action is necessary.
  - b. If the third party administrator does not reverse their original decision after the Level II Appeal, the workers' compensation representative will refer the employee back to the third party administrator should the employee want to pursue an Industrial Commission hearing. The workers' compensation representative will assist the employee in filing an Industrial Commission Form 33 to request for a hearing.

D. Mediation/Settlement Conference

The workers' compensation representative will attend any mediated settlement conference in which attendance is requested by the third party administrator, the Attorney General's Office, third party counsel or the plaintiff's counsel. It is the workers' compensation representative's responsibility to contact the third party administrator at least 48 hours prior to the scheduled conference for case discussion.

14. **Program Audits**

A. Audit Procedures

The Department Employee Safety and Benefits Section is required to conduct program reviews. The audits are to ensure consistency of application and compliance with standards at each DHHS division/facility/school. The intent of program audits will also serve to improve service delivery, establish future program direction, identify agency needs, and foster agency training to meet program compliance:

1. Audits shall be conducted on a yearly basis, or as deemed necessary.
2. Reviews shall consist of monitoring activity in compliance with department procedures and the Workers' Compensation Act.

3. A written review of findings shall be presented to the division/facility/school within 30 days of the audit completion. A copy shall be presented to the workers' compensation coordinator, personnel manager and director.
4. If necessary, follow-up action plans shall be prepared and presented to the DHHS Employee Safety and Benefits Section within 30 days of notification on issues requiring further program development/improvement.
5. A follow-up audit will be conducted within six months of the original audit date for any division/facility/school with less than 50% compliance rate.

**15. Purchase of Retirement Credit for Workers' Compensation Leave**

**A. Purpose**

The Retirement System permits employees who have been on workers' compensation leave to purchase service credit for that period. The purpose of the policy is to ensure that consistent application of this benefit exists within the department.

**B. Policy**

It is the policy that when an employee who has been on workers' compensation leave returns to work the employee can elect to purchase retirement service credit back for that period. Note: Retirement credit does not continue while employees are on workers' compensation leave. The employee and employer shall make a matching lump sum payment to the Pension Accumulation Fund within six (6) months of the return to work date an amount equal to the employee percentage rate of contribution in effect at the time of purchase applied to the annual rate of compensation of the member immediately prior to the leave of absence [[N.C.G.S. 135-4\(r\)](#)].

1. If purchase is made after the six (6) month period has expired, then the contribution shall be assessed a one percent per month penalty for each month or fraction thereof that the payment is made after the six (6) month period.
2. An application must be completed with the Retirement System for the purchase back of time.

3. Upon application, the Retirement System will identify the amount of the employer's and the employee's contribution for lump sum pay back.
4. It shall be the responsibility of the division/facility/school HR office to inform eligible employees of this benefit.

16. **Statistical Report of Injury/Illnesses and W.C. Expenditures**

A. Statistical Report

Statistical reports shall be prepared quarterly and submitted to the DHHS Employee Safety and Benefits Section. Reports are due by the 10th day of the preceding month as shown below:

- |              |                             |                    |
|--------------|-----------------------------|--------------------|
| 1st Quarter: | January, February, March    | - Due April 10th   |
| 2nd Quarter: | April, May, June            | - Due July 10th    |
| 3rd Quarter: | July, August, September     | - Due October 10th |
| 4th Quarter: | October, November, December | - Due January 10th |

*In completing reports (copies of this report may be obtained by contacting DHHS Employee Safety/Benefits) the following definitions/procedures apply:*

B. To be completed by all Divisions/Facilities/Schools:

1. **Number of Employees** - Total number of employees on payroll for the current reporting period. Year-to-date figures should reflect the number of all employees on payroll from January 1st through the end of the current reporting period (average employment).
2. **Number of Man-Hours** - Total number of hours worked by all employees this period. Year-to-date should reflect total man-hours from January 1st through the end of the current reporting period. An average employee works approximately 2,000 man-hours per year or 500 per quarter.
3. **Report Only Cases** - An incident which did not initially result in an injury requiring medical treatment. Any reported incident should be investigated and appropriate measures taken to prevent future occurrences. Insert the number of such incidents which occurred during the current reporting period. This is the same as a non-tabulated case. The year-to-date figure should reflect all such incidents from January 1st to the end of the current reporting period.

4. **First Aid Cases** - Any one-time treatment and possible subsequent observation of a minor injury which does not ordinarily require follow-up medical care. Such treatment and observation are considered first aid whether provided in-house or by a physician or registered professional personnel. Insert the number of first aid cases which occurred during the current reporting period. The year-to-date figure should reflect all first aid cases from January 1st to the end of the current reporting period. If a medical bill is obtained or the case is reported to the third party administrator, do not report as first aid because KRMS will also be reporting the claim.
  
5. **Number of Lost Workdays Resulting From Injuries or Number of Lost Workdays Resulting From Illnesses** - Enter in the appropriate category, the total number of days (consecutive or not) during the reporting period on which employees would have worked, but were unable to because of a work-related injury or occupational illness. The number of lost workdays should not include the day of injury or onset of illness, or any days which the employee would not normally have worked, if able to do so. Lost workdays occurring during the reporting period which are associated with cases reported in a prior period should be counted in the current report, unless the employee has been separated or retired. The year-to-date figure should reflect the total number of lost workdays from January 1st to the end of the currently reporting period.
  
6. **Number of Restricted Workdays Resulting From Injuries or Number of Restricted Workdays Resulting From Illnesses** - Enter the total number of days (consecutive or not) during the reporting period where, due to a work related injury or occupational illness, the employee: (a) worked a permanent job, but was not able to perform all duties normally connected with it; (b) was assigned to another full time job on a temporary basis; or (c) worked reduced hours. Restricted workdays occurring during the reporting period which are associated with cases reported in a prior period should be counted in the current report unless the employee has been separated or retired. The year-to-date figure should reflect the total number of restricted workdays from January 1st to the end of the current reporting period.
  
7. **Cost of State Equipment and Private Property** - Total estimated cost of replacement or repair of state equipment and private property damaged as a result of an accident this reporting period (equipment, tools, furniture, vehicles, etc.). Year-to-date figures should reflect the total expenditures paid from January 1st through the current reporting period.

C. To be Completed Only by Division/Facilities/Schools With Employee Health Clinics. Items 8-12 on the Statistical Report:

1. **Injuries Without Lost Workdays Cases** - Enter the number of cases occurring for the first time during the reporting period where there was an injury involving medical treatment and/or loss of consciousness without lost workdays or restricted work activities (OSHA Reportable). If the case is reported to the third party administrator, do not count the case. The year-to-date figure should reflect all cases without lost workdays due to injuries from January 1st to the end of the current reporting period.
2. **Injuries With Restricted Workdays Only Cases** - Enter the number of cases occurring for the first time during the reporting period where, due to a work related injury, the employee: (a) worked the regular job, but was not able to perform all duties normally connected with the job; (b) was assigned to another full time job on a temporary basis; (c) worked reduced hours. If the case is reported to the third party administrator, do not count the case. The year-to-date figure should reflect all restricted workday cases due to injuries from January 1st to the end of the current reporting period.
3. **Illnesses Without Lost Workdays Cases** - Enter the number of cases recorded for the first time during the reporting period where there was an occupational illness involving medical treatment without lost workdays or restricted work activities. If the case is reported to the third party administrator, do not count the case. The year-to-date figure should reflect all illness cases without lost workdays from January 1st to the end of the current reporting period.
4. **Illnesses With Restricted Workdays Only Cases** - Enter the number of cases recorded for the first time during the reporting period where, due to an occupational illness, the employee: (a) worked the regular job, but was not able to perform all duties normally connected with the job; (b) was assigned to another full time job on a temporary basis; or (c) worked reduced hours. If the case is reported to the third party administrator, do not count the case. The year-to-date figure should reflect all restricted workday cases due to illness from January 1st to the end of the current reporting period.
5. **In-House Medical Cost** - Cost associated with treatment of injured employees by an in-house medical facility where normal outside medical charges are not incurred.

- D. In Addition to the Above, the WCR Shall Complete and Submit the Following Pages With the Statistical Report:
1. Immediate Cause/Incident Type Summary,
  2. Part of Body, and
  3. Nature of Injury.

*For questions or clarification on any of the information contained in this policy, please contact [Human Resources](#). For general questions about department-wide policies and procedures, contact the [DHHS Policy Coordinator](#).*