



6.13 WORKER'S COMPENSATION

Purpose The purpose of this Administrative Rule is to insure that employees injured on the job are treated in accordance with Oregon Workers' Compensation Laws.

Employees Not Covered By this Rule Sworn members of the Police Bureau and the Bureau of Fire, Rescue & Emergency Services covered under the [Fire and Police Disability and Retirement Fund](#), consultants not on the City's payroll and any temporary employees employed through a temporary agency are not covered under this rule.

Definitions

Workers' Compensation Related Leave: Employees are paid their full wage when they are absent for three days following an on the job injury or illness. This payment is not charged against the employee's industrial accident leave credits.

Sick Leave: Benefits payable to City employees for injuries and illnesses that are not covered by the City's workers' compensation insurance.

Temporary Disability Benefits: Workers' compensation benefits paid by the City's workers' compensation insurance for lost wages pursuant Chapter 656 of the Oregon Revised Statutes.

Workers' Compensation Supplement: Bureau paid supplemental income payable to City employees for injuries or illnesses that are covered by workers' compensation insurance. The supplement is paid in addition to temporary disability benefits for those days an employee is off work as a result of accepted workers' compensation claim.

Industrial Accident Leave: The amount of workers' compensation supplement available to an employee if he/she has an accepted claim during the first two years of employment.

Industrial Accident Leave Credits: The amount of workers' compensation supplement the employee is entitled to use on an accepted claim, and is based on the number of accumulated sick leave hours available at the time of injury. This amount is in addition to that provided during the first two (2) years of employment under the Industrial Accident Leave provision in this administrative rule.

Leave on the Day of the Injury City employees shall be paid their regular wage by the bureau for any time lost on the date of injury or onset of disease for which a employee has filed, or will file, a workers' compensation claim.

Employee Responsibility

Responsibility for claiming compensation is on the injured employee. The employee or the employee's representative shall give notice of an accident and provide an incident report to the employee's bureau as soon as possible and file a claim with Risk Management. A claim is considered filed upon the employer's or Risk Management's, receipt of a completed form 801 (State of Oregon Workers' and Employer's Report of Occupational Injury or Disease) or form 827 (First Medical Report) which includes the employee's signature and the date.

Industrial Accident Leave

On an employee's date of hire, he/she shall be credited with a total of fifteen (15) days of industrial accident leave. Such leave shall be available for time lost because of industrial injury for two years from the employee's date of hire. Such leave credits shall be used prior to the supplement measured by the employee's accrued sick leave as set forth below. The additional 15 days is not available to any employee after two years of employment. If a permanent employee leaves City employment and is re-hired or reinstated more than two (2) years after the employee's initial hire date with the City, the employee shall be credited another fifteen (15) days Industrial Accident Leave unless the employee's previous sick leave credits are reinstated upon re-hire or reinstatement.

Workers' Compensation Supplement

Any City employee who is unable to work due to an injury or illness that has been accepted under workers' compensation insurance is eligible to be paid workers' compensation supplement as provided for below. The bureau paid supplemental income is paid in addition to temporary disability benefits for those days an employee is absence from work due to an accepted workers' compensation claim.

Supplemental Days Available to City Employees

The number of days of supplemental pay an employee may receive shall be calculated by dividing the number of sick leave hours accrued by the employee at the close of the pay period preceding the date on which the injury or illness occurred by eight (8), and rounding up to the nearest whole number. Supplemental pay will be paid on a continuous basis until exhausted.

If the employee's workers' compensation claim is accepted, supplement payments based upon sick leave accrued shall not be charged against the employee's sick leave balance.

Bureaus *shall not* compensate any employee with supplemental pay until the Workers' Compensation claim has been accepted by Risk Management.

Supplemental Days available to Sworn Fire Personnel

The number of days of supplement available to sworn PERS Fire personnel shall be paid by the City for each accepted claim OR during the employee's employment with the City a period equal to the lesser of:

1. The number of days for which payment is made by Risk Management; or
 2. One calendar year.
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Payment of the Workers' Compensation Supplement

1. If a workers' compensation claim is accepted by the first payroll ending date after the claim is filed;
 - a. The bureau will pay workers' compensation supplement for all days of time lost for which the employee is entitled.
2. If the claim is denied by the first payroll ending date after the claim is filed;
 - a. The employee shall use sick leave for any time lost from work. If no sick leave is available in the employee's sick leave bank, the employee may use vacation leave or such other leave that the employee may be entitled but such other leave shall not be reimbursed under this section.
3. If the claim is deferred by the first payroll ending date after the claim is filed;
 - a. The employee will receive time-loss pay from Risk Management;
 - b. The employee will not be paid supplemental pay while a claim is deferred. The employee may use sick leave equal to the amount of supplemental pay. **In no event shall supplemental pay be paid to employee before a claim is accepted.**

Subsequent Events

If the **deferred claim is later denied**, the employee's sick leave bank will not be re-credited for any sick leave used in lieu of supplemental pay for time away from work.

If the **deferred claim is later accepted** the bureau will re-credit any sick leave used for the first three days of time lost and any sick leave used in lieu of supplement.

If a claim is **denied and then later accepted**, Risk Management will pay the employee any time-loss funds due. The bureau will, upon payment by the employee to the bureau for the value of any sick leave used for the first three days of time lost and sick leave used in lieu of supplement, re-credit the sick leave to the employee's sick leave bank

If the **claim is accepted** at any point in the process and the time lost exceeds 14 consecutive days from the onset of the injury/disease, any Workers Compensation supplement credit or sick leave credit used for paying supplement for the first three days will be re-credited. Risk Management will not make temporary disability payments for the first three days regardless of the length of time loss, if the first fourteen days lost were not consecutive.

The Rate of Payment of Workers' Compensation Supplement

1. The employee's base hourly rate will be multiplied by the number of regular hours in a pay period to determine the regular gross pay. From this amount the mandatory deductions of FICA and State and Federal withholdings based on the reported exemptions prior to the time of the accident are taken. The result is the regular net pay amount that will be met with any combination of time loss pay, regular hours pay, and workers' compensation supplement.
2. The total mandatory deductions in Step one (1) above will be divided by the regular gross pay as calculated in Step one (1) above. The result is the employee's standard mandatory deduction rate.
3. The amount of net workers' compensation supplement will be determined by taking the regular net pay from Step (1) above, subtracting workers' compensation time loss payments, then subtracting the product of gross pay from regular hours worked (including pay for approved time off) times one minus the employee's mandatory deduction rate determined in Step (2) above.
4. The net supplemental pay determined in Step (3) above will be divided by one minus the employee's mandatory deduction rate as determined in Step (2) above to determine the amount of gross supplement pay required to yield the target net pay.
5. If the above calculations determine a negative net supplemental pay amount, the workers' compensation supplement amount will be zero.

Gross Workers' Compensation Supplement

$$\frac{[Base Rate * Regular Hours] - Deductions - W.C. Timeloss - [Gross Pay * [1 - \frac{Deductions}{Normal Gross Pay}]]}{1 - \frac{Deductions}{Normal Gross Pay}}$$

For the purpose of this section, base hourly rate is defined as the rate at which the employee would be paid sick leave or vacation time loss.

6. This method of computing workers' compensation supplement will begin for all injuries reported after passage of this provision by the City Council and for existing claims on the first day of the pay period following the passage of this provision by City Council. Workers' compensation supplement shall be made only after verification by the employee's timekeeper as to the daily rate of the Bureau of Risk Management benefit to the employee. The amount of supplemental pay is designed to provide no more net compensation while on time loss than the employee would have received working their regular hours.
7. The City shall maintain the employee's health and welfare insurance benefits for a period not to exceed twelve (12) months while on time loss for an accepted claim, providing he/she was eligible for City-paid benefits at the time of the accident.

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8. Supplemental payments made by the City under this section shall not be charged to accrued sick leave.
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Exhaustion of Accrued Leave

An employee shall exhaust all forms of accrued paid leave, except for accrued compensatory time, before electing leave without pay during any period of time for which workers' compensation benefits are not paid by Risk Management due to a work-related injury or illness.

Reimbursement of Overpaid Employee Benefits

If an employee is paid by the City more than one of the benefits defined in this administrative rule for the same day, and as a result the employee is paid more than their regular wage, the amount of overpayment shall be recovered by the City under the provisions of ORS 652.610 as a credit against future salary payments to the employee.

No employee should receive full wages in paid sick leave while also receiving time loss payments and/or supplemental pay on a workers' compensation claim. Where a dual payment results from Risk Management accepting a claim after and being required to pay time loss to the employee for an injury or disease that employee has already received sick leave the City may recoup the sick leave deductions from gross wages per pay period in an amount not exceeding 20% gross wages until the total overpayment is recovered. The City and the employee may provide for some other means for repayment by mutual agreement.

Upon repayment of the total amount of the excess, the employee's sick leave account shall be credited with the sick leave used. For claims that were originally denied and then later accepted, the bureau will recredit any sick leave used in lieu of time loss benefit from Risk Management or supplemental pay from the bureau. The employee will be required to reimburse the City for such funds.

If Risk Management pays the first three days, employee pays back the bureau. If Risk does not pay the first three days, the employee does not pay back the bureau for the first three days of sick leave but does pay back all other sick leave that Risk also pays time loss.

Damages From a Third Party

If an employee collects damages from a third party for an on-the-job injury or disease for which the City has paid any benefits under its workers' compensation program or other benefits outlined in this Administrative Rule, the City shall have a lien on any recovery of damages as provided under Chapter 656 of the Oregon Revised Statutes. Any supplemental pay made on the claim shall be included in the City's lien.

Follow-up Outpatient Medical Treatment

If after return to work from an injury or disease that has been accepted under workers' compensation insurance, an employee requires outpatient medical treatment for the accepted injury or disease prior to becoming medically stationary, Risk Management shall pay temporary disability benefits if the employee's treatment requires that they leave work for more than 4 hours.

If the employee leaves work for less than four (4) hours, the hours lost shall be paid as wages by the bureau. This payment is not to be charged against the employee's sick leave accrual or their Industrial Accident Leave Credits.

Employees will be required to have a physician indicate the actual time at the appointment and are responsible for presenting such notification to the bureau timekeeper. Only actual office visit time and reasonable travel and clean-up time, if necessary, will be reimbursed as straight wages. If an employee leaves work for any amount of time for doctor's appointments after the employee has become medically stationary, the employee will be required to use accrued sick leave.

Any time loss for Independent Medical Examinations (IMEs) requested by the Bureau of Risk Management related to a Workers' Compensation Claim will be paid by Risk Management.

Vacation and Sick Leave Credits Continue

Vacation and Sick Leave credits shall be allowed to accrue to an employee during the first 12 months of continuous absence because of a claim accepted by Risk Management.

Leave in Excess of Maximum Accrual Hours

If an employee is unable to take vacation leave during a year due to an accepted claim may carry the unused vacation leave to the to the next calendar year. The excess may be used after returning to work or carried on the leave account until the end of the calendar year, at which time any excess vacation shall be forfeited.

However, in the event that an on-the job injury or disease results in a disability retirement, resignation or medical layoff, the employee will only be paid for such accrued vacation up to the one-year maximum accrual.

Health Benefits

Full or part-time employees eligible for benefits who file a workers compensation claim under chapter 656 of the Oregon Revised Statutes, or a claim for service connected disability under the FPD&R, shall, upon acceptance of the claim, be entitled to medical, dental, vision and life insurance benefits for a maximum of 12 months, on the same terms and conditions, if any, that existed for the employee immediately prior to the filing of the claim. The 12-month period shall run continuously from the date of filing of the claim, regardless of whether the employee is working during all or any part of the 12-month period. Each employee with an accepted claim shall be entitled to only one 12 month period per claim regardless of the length of treatment, the necessity for time loss, or the occurrence of aggravations during the life of the claim.

Automatic Leave of Absence while Receiving Time Loss Benefits

Barring resignation or dismissal from City service, an employee shall be considered on automatic leave of absence during any period for which the employee is receiving time loss benefits from the City. Workers' Compensation leave may also qualify for family medical leave and therefore run concurrently. [See Administrative Rule on Family Medical Leave](#). Leave of absence upon termination of time loss benefits is governed by the [Administrative Rules on General Leaves of Absence](#).

Injured Worker Return to Work

Reinstatement of any employee absent from work due to an accepted workers' compensation claim is governed by the [Administrative Rule on Injured Workers Return to Work](#).

Seniority Accrual

An employee will continue to receive seniority credit when on time loss for an accepted claim.

Administrative Rule History

Adopted by Council March 6, 2002, Ordinance No. 176302
Effective April 5, 2002
