



# **JUSTICE ADMINISTRATIVE COMMISSION**

## **POLICY AND PROCEDURES FOR WORKERS' COMPENSATION**

### **Policy Statement**

The Justice Administrative Commission (JAC) strives for a safe and secure place to work, but there are times when a work-related injury may occur. If one does occur, we have the Workers' Compensation program. The purpose of the program is to coordinate and manage claims relating to work-related injuries sustained by employees with the JAC. Some aspects of the claims process include: reporting an injury, obtaining medical treatment, and returning the employee to work. The ultimate goal is to return the employee to work as quickly and efficiently as possible.

### **Authority**

Chapters 284 and 440, Florida Statutes  
Rule 60L-34.0061, Florida Administrative Code  
JAC Attendance and Leave Policy  
JAC Sick Leave Transfer Plan

### **Definitions**

Accident – An unexpected or unusual event or result that happens suddenly. It does not include a mental or nervous injury due to stress, fright or excitement exclusively. The term accident also does not include a disease that expresses

itself in the fear or dislike of an individual because of the individual's race color, religion, sex, national origin, age or disability or the accidental acceleration or aggravation of a venereal disease or of a disease due to the habitual use of alcohol or controlled substances or narcotic drugs.

Agency Location Codes – Four (4) digit numeric identifiers provided by the Division of Risk Management for each state agency. The JAC's four digit agency location code is 5350.

Alternate Duty – Temporary assignment of an employee to duties other than those regularly performed by the employee which are commensurate with his/her abilities and medical restrictions and which may include temporary reassignment to a different job class when physical restrictions prevent the employee from performing his/her regular duties or light duties.

Carrier – The Division of Workers' Compensation

Operations & Management Consultant in the Operations Section – JAC's  
Workers' Compensation Coordinator

Disability (due to work-related injury) – The inability of an employee to earn the same wages in the same or any other job as the employee was earning at the time of injury. The different types of disability benefits are temporary total disability benefits, temporary partial benefits, permanent impairment benefits, wage loss benefits, impairment income benefits, permanent total disability benefits and death benefits.

Disability Leave – Leave taken by a salaried employee who sustains a work-related injury or illness that is compensable under Chapter 440 of the Florida Statutes.

Injury – Personal injury or death by accident arising out of and in the course of employment and diseases or infection that naturally or unavoidably result from such injury.

Maximum Medical Improvement (MMI) – The date when an injured employee is no longer in the process of recovery and will not medically improve any further (i.e., medically as well as they are going to be).

Medical Managed Care Provider (MMCP) – The vendor selected by the Division of Risk Management responsible for receiving reports of work-related injury or illness, producing the First Report of Injury, Form DFS-F2-DWC-1, arranging for and scheduling appointments for medical treatment and coordinating the prescription drug program. As of January 1, 2014, the Medical Managed Care Provider is AmeriSys.

Nurse Case Manager – Registered Nurse(s) or Licensed Practical Nurse(s) employed by the Medical Managed Care Provider who will coordinate the worked-related injury medical care. The Nurse Case Manager will schedule and authorize all necessary physicians' appointments, answer medical-related questions and assist an injured worker in staying at work or in some cases, returning to work after treatment/care.

Workers' Compensation – Coverage provided to all JAC employees and volunteers by the Division of Risk Management, Workers' Compensation program. This program coverage pays all medically necessary and approved care to treat an employee or volunteer that suffers a work-related injury or exposure. The program also pays employees for part of their lost wages due to a work-related injury or exposure.

### Coverage

All employees of the JAC are covered through the Department of Financial Services, Division of Risk Management, and the Division of Workers' Compensation. This includes full-time, part-time, temporary employees (i.e., OPS), and volunteers (medical benefits only).

Coverage is not extended to contracted employees, independent contractors, or vendors who provide services to the JAC. Employees who sustain an injury or illness in transit to and from work are not typically eligible for Workers' Compensation benefits unless they are performing special errands or duties required by the employer.

### Procedures

These procedures outline the steps to be followed in the event of a work-related injury or illness and when the approved workers' compensation physician releases the injured worker to return to work with restrictions. Cooperation among all individuals will ensure that the employee receives needed medical attention and appropriate workers' compensation benefits.

A. Reporting Medical Emergencies:

1. The injured worker shall immediately report, as soon as practical, the injury to their supervisor or designee.
2. If the injured worker cannot transport themselves to the nearest medical facility, the supervisor or designee shall call 911 for emergency assistance. **Failure to provide a notice of injury within 30 days after the date of or initial manifestation of the injury may bar any workers' compensation benefits for that injury.**

***Note: A coworker shall not transport the injured employee to the nearest medical facility due to liability concerns. A friend or relative of the injured worker who is not a coworker may be contacted to transport them to the nearest medical facility.***

3. The supervisor or designee shall notify the Operations & Management Consultant in the Operations Section or designee of the injury as soon as practicable.

B. Reporting Non-Medical Emergencies:

1. The injured worker shall immediately report the injury to the Operations & Management Consultant in the Operations Section or designee. **Failure to provide a notice of injury within 30 days after the date of or initial manifestation of the injury may bar any workers' compensation benefits for that injury.**
2. The Operations & Management Consultant in the Operations Section or designee shall call the medical managed care provider (MMCP) (1-800-455-

2079) for authorization and scheduling of treatment prior to proceeding to the designated physician or clinic.

3. The injured worker shall seek medical attention from the nearest participating network approved workers' compensation physician in the Workers' Compensation Network Directory received from the MMCP.
4. If at any time the injury requires emergency treatment and the Operations & Management Consultant in the Operations Section or designee is not present, the injured worker shall proceed to the nearest medical facility.
5. The injured worker or the Operations & Management Consultant in the Operations Section shall inform the medical provider of the employee's participation in the State of Florida/Managed Care arrangement.
6. **Failure to obtain medical treatment from a participating medical provider will jeopardize workers' compensation benefits.**
7. The injured worker shall follow the medical treatment as prescribed by the provider or attending physician.

C. Medical Managed Care Provider (MMCP):

1. The nurse case manager with the MMCP may contact the injured worker to assist in the medical treatment, referral process and return to work plans.
2. The First Report of Injury will be provided by the nurse case manager within 3 business days to the Operations & Management Consultant in the Operations Section after the initial report to the MMCP.
3. The MMCP will allow for one referral to a similar specialist within the approved provider network, should the injured worker wish to see a specialist other than the one chosen by the approved workers' compensation physician.
4. All referrals must be coordinated by the nurse case manager with the MMCP assigned to the injured worker.

D. Time Off Work:

1. If the injured worker is required to be out of work due to any work-related injury, the employee shall:
  - a. Submit a physician's certification from the workers' compensation physician for the specified period he/she will be unable to work.
  - b. Provide the Operations & Management Consultant in the Operations Section or designee any medical excuses or medical releases immediately following the medical visit.
  - c. With the assistance of the supervisor, ensure his/her timesheet is kept up-to-date in BOMS for each monthly pay period.
2. It is imperative that the injured worker notify the Operations & Management Consultant in the Operations Section or designee of any changes in the status of the injured worker/employee, specifically date returned to work, off work, etc. The Operations & Management Consultant in the Operations Section or designee will keep the supervisor of the injured worker up-to-date of any changes in work status.
3. An employee who sustains a work-related disability that is compensable under Chapter 440, Fla. Stat. and is not able to return to work on a full-time basis, shall be carried in full pay status for a period not to exceed seven (7) calendar days immediately following the injury, for a maximum of forty (40) work hours if taken intermittently, without being required to use accrued leave credits. Salaried employees will be paid regular work hours for the date of injury.
4. The above period of time is considered the "waiting period" and does not apply to OPS employees.
  - a. If the employee has not been released to return to work by the approved workers' compensation physician at the end of the waiting period, the employee may choose to use accrued compensatory, annual, sick or no accrued leave in coordination with the normal workers' compensation benefits.
  - b. For each eight-hour workday that an employee is out, the employee may charge up to 2.75 hours of accrued leave and 5.25

hours of Leave Without Pay. The employee will be paid indemnity benefits for 5.25 hours from Workers' Compensation.

c. Refer to Rule 60L-34.0061, F.A.C., for specific leave procedures when an employee is off work due to a work-related injury. ("The employee may elect to use accrued sick, compensatory, or annual leave in an amount necessary to receive salary payment that will increase the Workers' Compensation payments to the total salary being received prior to the occurrence of the disability.")

d. If the employee elects not to use accrued leave, or after the employee has exhausted all accrued leave, the employee shall revert to normal workers' compensation benefits.

5. When the employee returns to work from a work related disability, the employee shall be granted additional administrative disability leave, up to and not to exceed six (6) workdays or forty-eight (48) hours for follow-up examinations, treatment, or physical therapy only.
  - a. This leave is not intended to be used for days off to recuperate and may not be used in that manner.
  - b. This leave is not required to be charged in eight (8) hour increments.
6. Employees receiving indemnity payments from the carrier continue to earn their full monthly leave accruals each pay cycle.

## OPS Employees

1. OPS employees have the same rights and responsibilities as salaried employees except for the compensation during the initial "waiting period" and the 48 hours of leave allowed for follow-up exams and treatment.
2. Administrative leave is not available to OPS employees. Therefore, if an OPS employee is injured on the job, the first 40 hours off from work are not paid for by JAC.
3. After the "waiting period", if the OPS employee continues to be disabled, workers' compensation benefits will be paid by the workers' compensation carrier.

4. The “waiting period” will be paid retroactively by the carrier if the OPS employee is disabled after 21 days.

E. Medical Bills:

1. The injured worker should send all medical bills directly to the MMCP for processing.
2. It is not necessary to send copies of medical bills to the Operations & Management Consultant in the Operations Section or designee.
3. Injured workers’ with claims considered compensable by Risk Management are not responsible for payment of any medical bills relating to their workers’ compensation injury.

F. Benefit Deductions:

Injured workers who are disabled from work for more than the initial forty (40) hours, are receiving benefit payments from the workers’ compensation carrier, and have elected not to charge any accrued leave credits **will be responsible for ensuring that their insurance premiums and other miscellaneous deductions remain current.**

G. Alternate Duty:

1. If alternate duties are not available, the employee shall continue to receive workers’ compensation benefits if eligible, or may use personal leave to cover his/her absence from work.
2. The injured worker shall be considered as a candidate for alternate duty when the approved workers’ compensation physician provides medical documentation that the employee can perform some type of beneficial work within the agency.
3. The injured worker shall perform alternate duty assignments commensurate with his/her abilities and medical restrictions, as assigned in writing by the JAC Executive Director.



4. The injured worker shall continue to receive his/her regular hourly rate of pay while performing alternate duties.
5. The injured worker shall be assured to receive full pay, by combination of regular hourly rate of pay and workers' compensation benefits, if his/her alternate duty hours are less than a normal 40 hour work period.
6. The injured worker shall be precluded from continuing workers' compensation benefits if an alternate duty assignment is rejected.
7. The injured worker shall not be eligible to perform alternate duty assignments upon receipt of Maximum Medical Improvement (MMI) documentation.
8. The injured worker must be able to perform the essential functions of his/her regularly assigned duties with or without an accommodation, upon reaching MMI from the MMCP.
9. The injured worker shall complete and submit time sheets in a timely manner during the duration of his/her workers' compensation injury and alternate duty assignment.

## Supervisors

1. Upon being notified by the Operations & Management Consultant in the Operations Section or designee that an injured worker cannot perform his/her regularly duties, the supervisor in consultation with HR shall determine if there are alternate duty assignments which will be beneficial to the agency that the employee can perform, given his/her medical limitations or restrictions.
2. Upon determination that alternate duties exist, the supervisor shall request written approval from the JAC Executive Director to assign alternate duty to the injured worker.
3. The supervisor shall ensure time sheets are completed for the injured worker for the duration of the injured workers' injury and alternate duty assignments.
4. The supervisor will make every reasonable effort to accommodate the needs of staff that qualify for alternate duty and will assign alternate duties, whenever possible.
5. The supervisor shall provide injured workers with written notification prior to implementing changes in alternate duty assignments.

6. The supervisor shall notify the Operations & Management Consultant in the Operations Section or designee of any adjustments to the injured workers' alternate duty assignments.
7. The supervisor shall notify the injured worker, in writing, of the duties to be performed; hours of work; expected length of time for the alternate duty assignment; and the physical location of the alternate duty assignment and reporting supervisor.
8. The supervisor in consultation with the Operations & Management Consultant in the Operations Section or designee shall ensure that the initial alternate duty assignment does not exceed 90 days, unless an approved workers' compensation physician re-examines the injured worker to determine a possible return to normal duties.
9. The supervisor should not receive any medical documentation from the injured worker or workers' compensation physician. If they do, they shall forward the medical documentation to the Operations & Management Consultant in the Operations Section or designee.
10. The Operations & Management Consultant in the Operations Section or designee shall make the supervisor of the injured worker aware of medical documentation of a change in the limitations originally provided by an approved workers' compensation physician. The supervisor shall reinitiate the review of alternate duty.
11. The supervisor shall ensure that as physical limitations improve, as stated by approved workers' compensation physician, the injured worker's duties will be adjusted accordingly, assisting the employee to return to his/her regularly assigned duties.

Operations & Management Consultant in the Operations Section or designee

1. Shall receive information from the injured worker's supervisor of any adjustments to the alternate duty assignment.
2. Shall maintain medical documentation concerning the injured worker's injury and any alternate duty provided.
3. Shall advise the MMCP of the injured worker's alternate duty arrangement and ensure that all paperwork regarding the worker's compensation injury and alternate duty assignments, if any, are maintained in a confidential file, separate from the employee's official personnel file.

4. Shall, within two working days of receipt, advise the medical managed care provider of any adjustments to hours of work of the injured worker or termination of the injured worker's alternate duty assignment.

#### Approving Authority

1. The approving authority for all alternate duty is the JAC Executive Director or designee.
2. The approving authority shall review requests for approval of alternate duties, and approve or deny requests based upon whether the duties are beneficial to the agency/assigned work unit.
3. If the alternate duty request is denied, the approving authority shall request the assistance of the Office of General Counsel in preparing a written explanation of denial.

#### H. Maximum Medical Improvement:

1. The Operations & Management Consultant in the Operations Section shall receive notification that the injured worker has been assigned MMI by the approved workers' compensation physician.
2. The Operations & Management Consultant in the Operations Section or designee shall contact the injured worker's supervisor to advise of MMI determination and permanent work restrictions.
  - a. If there are no permanent work restrictions, the Operations & Management Consultant in the Operations Section or designee shall advise the employee and immediate supervisor and the employee returns to regular pre-injury duties.
  - b. If the injured worker has permanent work restrictions that prevent returning to pre-injury duties, HR will:
    - (1.) Conduct search of agency vacancies to place employee.
    - (2.) If no vacancies exist, inform immediate supervisor.

3. The supervisor, upon notification that the employee is unable to perform regular duties and no vacancies exist, may request termination for Inability to Perform Assigned duties.
4. The supervisor shall follow regular protocol for termination of employees.
5. The supervisor, in consultation with HR, recommends to the JAC Executive Director of request to terminate.
6. The JAC Executive Director or designee signs the MMI letter and informs the employee of the determination.
7. The Operations & Management Consultant in the Operations Section or designee shall maintain the MMI letter in the workers' compensation file, separate from the employee's official personnel file.
8. Human Resources shall inform the workers' compensation adjuster of the determination of employment status.
9. As per rule, 60L-34.0061, F.A.C., in no event shall the employee be allowed to continue performing the alternate duties once maximum medical improvement has been determined by the Division of Risk Management.

#### I. In Case of Death:

If a work-related injury or illness results in the death of an employee, the supervisor in charge shall notify the Operations & Management Consultant in the Operations Section or designee **immediately. Florida law requires that the death be reported to the Department of Financial Services, Division of Risk Management, Workers' Compensation Section, within 24 hours by telephone at (850) 413-1601 or fax (850) 921-2572. Death claims should also be reported to the Medical Managed Care Provider just like any other claim.**

#### J. Fraud:

1. Any person who, knowingly and with intent to injure, defraud, or deceive any employer or employee, insurance company or self-insured program, files a statement of claim containing any false or misleading information is

guilty of committing insurance fraud, punishable as provided in s. 817.234, Fla. Stat.

2. Any public officer or employee who is convicted of a specified offense committed prior to retirement, or whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense, shall forfeit all rights and benefits under any public retirement system of which he or she is a member, except for the return of his or her accumulated contributions as of the date of termination.
3. Any information related to workers' compensation fraud can be reported to the Department of Financial Services hotline by calling 1-877-693-5236, or on the Internet at <http://www.myfloridacfo.com/sitePages/agency/sections/InsuranceFraud.aspx>, or the JAC Director of Human Resources.