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UAP 3630: Workers' Compensation

University of New Mexico

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Administrative Policies and Procedures Manual - Policy 3630: Workers' Compensation

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1. General

Pursuant to the State of New Mexico's Workers' Compensation Act, § 52-1-1 et seq. NMSA 1978, the University of New Mexico provides coverage and certain forms of compensation to employees who incur an injury or illness arising out of and in the course of their employment. The State of New Mexico's Workers' Compensation Administration administers these compensation payments and covers any person receiving a salary or wage from and acting in the service of the University. This policy sets forth the University's commitment to prevention of on-the-job accidents; treatment, care, and rehabilitation of an injured employee; and the employee's rights and responsibilities when an on-the-job injury occurs.

2. Safe Work Environment

The University strives, through various programs, to make the workplace a safe and healthful environment for all persons, including students, faculty, staff, and visitors. The key to a safe work environment is the prevention of on-the-job accidents before anyone can suffer an injury. This responsibility is shared by all, and everyone is encouraged to bring work-related safety and health concerns to their supervisors' attention and/or the University Department of Safety & Risk Services (SRS) as soon as possible. Supervisors are encouraged to conduct periodic safety inspections of all work areas under their control. Assistance is available from SRS.

Employees will perform their jobs in a safe manner, with concern and care for their safety and the safety of others. Employees who perform their jobs in an unsafe manner, or who engage in behavior or activities that endanger the health or safety of themselves or others, are subject to disciplinary action up to and including dismissal.

3. Medical Treatment

An employee who experiences a work-related injury or illness shall obtain medical care according to the following procedures.

3.1. Employees Working In Bernalillo County

An employee who experiences a work-related injury or illness Monday through Friday during the hours that the University Employee Occupational Health Services (EOHS) is open (8 a.m. to 12 p.m. and 1 p.m. to 4:30 p.m.) must seek medical care at EOHS. EOHS is located on the north campus at the University Health Sciences Center in Room 232 of the Family Practice Center, 2400 Tucker N.E. Employees should call EOHS first at 272-8043, in order to be scheduled appropriately. See Section 3.3 for information on emergency situations.

A health care professional at EOHS will treat the employee and may, depending upon the nature of the medical problem, refer the employee to a medical specialist. This decision will be at the discretion of an EOHS health care professional. If an employee, within the first sixty (60) days, chooses to seek medical care for a work-related injury or illness without being referred by a health care professional at EOHS, the employee jeopardizes coverage under the Workers' Compensation Act.

3.1.1. Outside Regular Work Hours

An employee who experiences a work-related injury or illness when EOHS is closed (after 4:30 p.m. and before 8:00 a.m., Monday through Friday) or any hour during a weekend or holiday may seek medical care at University Hospital or the nearest urgent care or emergency medical facility. The following workday, the employee should contact EOHS to schedule a follow up appointment for the work injury or illness for the next available appointment, and then bring a release form from the medical provider to EOHS. The follow-up visit must be with EOHS and not an urgent care or emergency medical provider.

3.2. Employees Working Outside Bernalillo County

Employees who work outside the boundaries of Bernalillo County may visit a medical provider of their choice. The employees should identify themselves as University employees and state that their need for medical care resulted from a work-related injury or illness. The employees shall instruct the health care provider to submit all bills for treatment, with treatment notes attached, as specified in Section 4.2.

3.3. Emergencies

When an injury or illness is life threatening in nature, such as loss of a limb or a severe burn, the employee shall go to the nearest emergency medical facility. Any follow-up treatment should be with EOHS and not the medical staff from the emergency medical facility. If possible, employees should identify themselves as University employees and state that the need for medical care resulted from a work-related injury or illness. Employees shall instruct the emergency facility to submit all bills for treatment, with treatment notes attached, as specified in Section 4.2.

4. Reporting Procedures

4.1. Accident and Illness Report - Employee Electing Treatment

All work-related accidents and/or illnesses must be reported to the employee's immediate supervisor. The immediate supervisor will ensure that SRS receives a UNM First Report of Accident within twenty-four (24) hours from the time the employee's supervisor was informed of the accident. [UNM First Report of Accident](#) forms are available from SRS, including on the SRS website. Visits to EOHS for treatment of work-related injuries or illnesses are considered time worked under [UAP 3300 \("Paid Time"\)](#).

4.1.1. Accident or Illness Report - Employee Not Electing Treatment

Even if an employee chooses not to receive medical treatment, the employee must complete a [Notice of Accident](#) form to preserve his or her rights under Workers' Compensation. The form is available from SRS. The employee should complete the form as soon as possible, but no later than fifteen (15) days after the injury occurs. The employee should send the form to SRS. Failure to meet the fifteen (15) day deadline could jeopardize coverage under the Workers' Compensation Act.

4.2. Medical Bills

All bills for medical treatment and related items that resulted from a work-related injury or illness should be sent to: The University of New Mexico, SRS, MSC07 4100, 1 University of New Mexico, Albuquerque 87131.

4.3. Missed Work

The employee's supervisor must notify the University Payroll Department and SRS, in writing, when an employee misses five (5) or more days of scheduled work due to a work-related injury or illness. The employee is paid for a full day's work on the date of injury without charging the absence to sick leave, regardless of the time of day the injury occurs.

5. Wage Compensation

The Workers' Compensation Administration provides compensation benefits to an employee for a portion of the time the employee is absent from the job due to an injury or illness covered by the applicable laws. The compensation benefits checks are either mailed directly to the injured workers or directly deposited in their bank accounts.

5.1. First Seven (7) Days of Absence

Workers' Compensation payments do not begin until the employee has been unable to work for seven (7) calendar days following the date of incident. The employee's pay for the first seven (7) days is charged to sick leave, annual leave, or leave without pay (if the employee does not have sick or annual leave available).

If the period of disablement extends past the twenty-eighth (28th) calendar day, Workers' Compensation will then pay the employee the amount allowed by law for the first seven (7) days of the disablement. If the University paid the employee sick and/or annual leave for the first seven (7) days of the disablement, the University will deduct an amount equal to this Workers' Compensation payment for the first seven (7) days from the employee's next regular University paycheck. The University will return the equivalent sick and/or annual leave to the employee's leave accounts.

5.2. After Seven (7) Days of Absence

Beginning with the eighth (8th) calendar day of disablement, Workers' Compensation will pay two-thirds (2/3) of the employee's gross weekly wage up to the maximum established by law. An employee may use any accrued sick leave to augment Workers' Compensation up to his or her base salary; however, the total of leave with pay and Workers' Compensation may not exceed one hundred percent (100%) of the employee's gross wages. If sick leave is exhausted, the employee may elect to use annual leave at the same rate. An employee may not borrow against future accruals.

5.3. Leave Without Pay

If an employee's sick and annual leave banks are exhausted, or the employee elects not to use annual leave, the employee will be placed on Medical Leave Without Pay due to a work-related injury or illness. The employee's department must send a Personnel Action Notice (PAN) to the applicable source data station.

5.4. Family and Medical Leave

If an employee experiences a work-related injury or illness, the supervisor shall notify the employee that he or she may qualify to request unpaid leave under the Family and Medical Leave Act (FMLA). FMLA leave can run concurrently with Workers' Compensation, provided the reason for the absence is due to a qualifying serious injury or illness and the supervisor has properly notified the employee, in writing, that the leave will be counted as FMLA leave. The amount of unpaid FMLA leave an employee would be eligible to take will be reduced by time off covered under Workers' Compensation. Refer to JAP 3440 ("Family and Medical Leave").

6. Return to Work Procedures

In accordance with the NM Workers' Compensation Act, the University administers a return to work program for all its employees. An injured or ill employee will be encouraged to return to work as soon as he or she is released by his or her health care provider. When an injury or illness covered by the Workers' Compensation Program involves any lost time, a medical release from EOHS is required before an employee may return to work. If an employee is only able to return to his or her existing job with restrictions on certain job activities, the return to work is encouraged but must be approved by EOHS. In such situations, EOHS may ask employees to provide documentation of visits with treating medical providers or consult with the treating medical provider directly. The EOHS medical provider will document restrictions on a Return to Work form and instruct the employee to give this form to the supervisor or Human Resources representative. The supervisors should consult with the applicable Human Resources representative and discuss the restrictions on the Return to Work form with the dean, director, or department head who will determine if the restrictions can be accommodated.

If reasonable accommodations can be made to the essential functions of the job in order to allow an injured or ill employee to return to duty, such accommodations shall be made. These accommodations are known as "restricted duty." The employee's supervisor should contact the EOHS medical provider if there are questions regarding restrictions.

6.2. Americans With Disabilities Act

In certain cases, a work-related injury or illness may give rise to a disability covered by the Americans With Disabilities Act, 42, USC 12101. In those instances, reasonable accommodations that allow the employee to perform the essential functions of that job shall be made. The employee's supervisor should work with the employee's health care provider (EOHS, if applicable); the appropriate dean, director, or department head; SRS; and the University Office of Equal Opportunity to develop these accommodations.

6.3. Temporary Disability

If a temporary disability prevents an employee from performing essential job duties, the supervisor, in consultation with the health care provider (EOHS, if applicable), may temporarily reassign the employee to other duties that do not adversely affect the disability. The reassignment should not affect the employee's pay scale. The employee must provide a statement from the health care provider that the employee can perform the reassigned or limited job duties without adverse effect on the temporary disability or the safety of others.

6.4. Unable to Perform Job

If it is determined, after Maximum Medical Improvement (MMI), that an injured or ill employee is no longer able to perform the essential functions of the job at which the employee was injured or became ill, with or without accommodation, that employee shall then be placed on the layoff roster. Individuals on the layoff roster receive first priority for vacant positions at the University of similar or lower classification. For reemployment and benefit rights refer to UAP 3225 ("Separation of Employment"). In addition to the requirements stated in UAP 3225, the individual's health care provider must certify that the individual is medically capable of performing the duties of a job offered as a result of layoff status. The University is not required to create a job that does not currently exist or that is not vacant or funded.

7. Vacant Positions Resulting From Work-Related Injury or Illness

Except as provided in paragraphs (1) and (2) below, vacant positions resulting from work-related injuries or illnesses may be filled only by temporary employees.

1. A position may be permanently filled if there is documented medical diagnosis or evidence that an employee with a job-related injury or illness has reached MMI or that the employee's impairment or condition is permanent and that employee cannot perform the essential functions of the particular job.
2. A position may be permanently filled if there is a critical need and that need cannot be satisfied with a temporary employee, and the University has made a good faith effort to do so.

8. Termination of Employee With Work-Related Injury or Illness

An employee with a job-related injury or illness will not be terminated unless advance notice is given to the State Risk Management Division.

9. References

Workers' Compensation Act, § 52-1-1 et seq. NMSA 1978

NMAC 1.6.4.14 "State Loss Control Program"

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