

Town of Windham

Work Related Injury Policy

I. Policy

It is the policy of the Town to provide a safe and healthy work environment for all employees. In the event of an injury sustained by an employee and arising out of and in the course of employment or disability due to an occupational disease, it is the Town's policy to provide light duty work when reasonably available and for a reasonable period of time to employees for the purpose of enabling them to return to work; to provide for reasonable and proper medical services, lost-time compensation benefits, and other treatment as may be required by law for work-related injuries/illnesses; and to abide by all applicable laws with regard to training, postings, and mandated reporting as set forth by the Maine Workers' Compensation Act¹, the Maine Department of Labor (DOL) and the Occupational Safety and Health Board.

II. Governance

In compliance with Maine's Worker's Compensation Act (the Act), the Town has retained a Third-Party Administrator (TPA) to manage all Workers' Compensation Claims. The TPA will manage all claims from all Town employees in compliance with the Act. The Town, as a public employer, will be responsible for all mandated reporting of work related fatalities or injuries or illnesses when one or more employees is admitted to a medical facility overnight and recording of all occupational injuries and illnesses as required by the DOL occupational safety and health regulations for public sector workplaces.

III. Overview

Workers' Compensation is a government mandated benefit for employees who incur a work-related injury/illness. There is a seven (7) day waiting period from the date of injury/illness for all employees, except firefighters, to receive compensation for incapacity to work. During this period, there will be no compensation for lost time paid by the TPA or the Town, unless the employee is a firefighter, or the injury/illness keeps the employee from work beyond the 14th day. During this period, employees will be required to use sick/vacation/comp time in order to receive their regular pay. Voluntary deductions (i.e. health, dental, IPP, FSA, DCA, union dues, retirement contributions, etc.) will continue to be deducted from the employee's gross pay².

Should the work-related injury/illness keep the employee out of work beyond the 7th day, the TPA will compensate the employee for lost time beginning the 8th day. The compensation issued to the

¹ 39-A M.R.S.A. §§ 101-909.

² If there is no vacation/sick/comp time available, the time away from work will be unpaid and the employee will be responsible for voluntary deductions that cannot be covered through payroll.

employee is based upon the employee's level of incapacity and a percentage of the employee's gross average weekly wage, subject to benefit maximums under the Act, and is not subject to state or federal taxes. The employee is responsible for payment of voluntary deductions to the Town if they cannot be covered through payroll.

If an Injury/Illness keeps an employee away from work beyond the 14th day, the TPA will compensate the employee for all lost time from the date of injury. Any compensation from the TPA shall be submitted to the Town allowing for the continuation of weekly deductions for benefits and sick and vacation time accruals. Sick/vacation/comp time will be reallocated to the employee through payroll.³

Any expenses for reasonable and proper medical, surgical and hospital services due to a workplace injury will be paid by the TPA from the date of injury. The Town reserves the right to select a health care provider for the employee; provided, however, that the employee may select a different health care provider after ten (10) days from the inception of care with the Town's health care provider. The employee must provide the name of its selected health care provider and a statement of intention to treat with that provider to the Town prior to doing so. Following this selection by the employee, the employee may not change health care providers more than once without approval from the Town or the Workers' Compensation Board.

Employees who qualify for leave under the federal or state Family Medical Leave Act (FMLA) have specific reinstatement rights during their FMLA leave. Employees who are unable to return to their positions at the end of the FMLA leave, upon request, shall be entitled to reinstatement to the employee's former position if it is available and suitable to the employee's physical condition, or to another available position suitable to the employee's physical condition within two years of the date of the injury. However, the Town shall not be required to reinstate an employee in a position for which the employee is not otherwise qualified.

The Town shall not discriminate against employees in any employment decision on the basis of the employee's assertion of claims under the Workers' Compensation Act. This policy shall not preclude any other rights to which an employee may be entitled under the Family Medical Leave Act, the Americans with Disabilities Act or the Maine Human Rights Act. In the event of conflict between this policy and a collective bargaining agreement, the provisions of the collective bargaining agreement shall govern to the extent the provision does not otherwise attempt to diminish an employee's entitlement to benefits guaranteed by or violate the provisions of the Workers' Compensation Act.

A. Procedures/Responsibilities

In the event of workplace injury/illness the following procedures are to be used for reporting and processing occupational injuries/illnesses. This policy is to ensure

³ The Worker's Compensation benefit will be divided by the employee's rate of pay to determine the number of hours for reimbursement.

compliance with applicable laws and consistency in the handling of work-related injuries/illnesses and any resulting Workers' Compensation claims.

NOTE: Public sector employers are required to report all work related fatalities, and/or serious physical injuries⁴.

All incidents must be reported as soon as possible to the Maine Department of Labor at (207) 592-4501 or email: accident.bls@maine.gov. At a minimum, all fatalities must be reported within 8 hours, and serious physical injuries must be reported within 24 hours.

B. Employee Responsibility

- 1) Any new injury or aggravation of a previous injury occurring "out of and in the course of employment" must be reported to the employee's supervisor or Human Resources within 24 hours or the next business day. The employee must complete and sign the First Report of Injury Form (Attachment A)⁵. Notice must include the time, place, cause and nature of the injury, as well as the name and address of the injured employee. Notice of injury must be given no later than thirty (30) days from the date of injury for purposes of receiving benefits under the Workers' Compensation Act.
- 2) If medical attention is necessary, the employee must notify their supervisor or Human Resources. The Supervisor or Human Resources will assist the employee in contacting and arranging an appointment with one of the Town's Occupational Health Providers⁶. The Provider will evaluate and treat all work-related injuries as deemed necessary.
- 3) The injured employee must keep his/her Supervisor and Human Resources informed regarding their work status, work restrictions, anticipated return-to-work dates, and changes in light duty work status.
- 4) The injured employee must provide Human Resources with all documentation (receipts, instructions, invoices, benefit checks etc.) relating to the injury/illness.
- 5) Employees may choose to use sick/vacation/comp time to supplement the difference between any compensation received and their regular pay.

C. Supervisor Responsibility

⁴ Title 26 §2(3) "Serious physical injuries," as used in this section, means an incident that results in an amputation, loss or fracture of any body part or that necessitates immediate hospitalization or formal admission to the inpatient service of a hospital or clinic for care or treatment.

⁵ If an employee is unable to complete the report due to the nature of the injury, the supervisor or human resources will be responsible to complete the report for them.

⁶ 39-A M.R.S.A. §206

- 1) If an employee suffers a work-related injury that is witnessed by, or reported to a Supervisor, the Supervisor must assist the employee in filling out the First Report of Injury form or ensure that the employee immediately reports the injury to Human Resources for that purpose. The Supervisor must provide or arrange for transportation to a medical facility if deemed necessary.
- 2) The Supervisor must maintain contact with the injured employee.
- 3) The Supervisor must conduct a safety investigation and complete the Incident Report Form. (Attachment B)
- 4) The Supervisor must take corrective action to prevent similar injuries in the future.
- 5) The Supervisor must provide light duty or transitional work assignments to the injured employee, working with Human Resources, the Health Provider, and the employee regarding such assignment.

D. Human Resources Responsibility

- 1) Post information about the safety rights of employees on bulletin boards in all work locations. (Attachment C)
- 2) Serve as the liaison between all Departments and the TPA including ensuring that all First Reports of Injury are transmitted to the TPA.
- 3) Conduct periodic training sessions, including communication of the Workers' Compensation Preferred Provider List; and schedule case management meetings with Department Heads as necessary.
- 4) Develop and maintain a Light Duty/Transitional Work Program in conjunction with Department Heads and Bargaining Units.
- 5) Provide the Health Provider and/or the TPA with updated job descriptions to ensure compliance with occupational restrictions and assessment of light duty opportunities.
- 6) Transfer all medical and other bills to the TPA immediately.
- 7) Maintain complete files on all cases for five years; complete Occupational Injuries and Illnesses Survey forms; and prepare and post the logs of occupational injuries and illnesses each February 1st as required by the Board of Occupational Safety and Health rules.
- 8) Visit hospitalized employees.

- 9) Notify the Department of Labor of any injuries/illnesses that require immediate hospitalization within 24 hours⁷; and notify the Department of Labor of any fatalities within 8 hours.
- 10) Assist the TPA in all matters requiring legal action. Attend mediations and hearings before the Workers' Compensation Board when necessary.
- 11) Investigate accidents and prepare necessary reports and recommendations for improvement(s) in working conditions.
- 12) Receive benefit checks and provide instruction to payroll.

E. Department Head Responsibility

- 1) Cooperate with Human Resources in developing modified or light duty work assignments for injured employees who have restrictions. Monitor transitional work assignments to ensure employee stays within restrictions.
- 2) Obtain names, addresses, telephone numbers and names of insurance carriers in vehicle/equipment accidents. When an injury occurs as a result of defective equipment which has not been altered after receipt from the manufacturer, the equipment must be preserved in its defective condition for use in a subrogation (third-party) action.

F. Third Party Administrator Responsibility

- 1) Administer the Town's Workers' Compensation Program in accordance with the applicable laws and the negotiated Town contract, ensuring compliance with proper legal standards and with the Act.
- 2) Send necessary authorizations, such as discontinuances to the employee, Human Resources, and the Workers' Compensation Board.
- 3) Monitor treatment programs recommended by physicians, specialists and other providers.
- 4) Attend case management meetings, mediations and hearings when necessary.

G. Preferred Occupational Health Facility Responsibility

- 1) Examine injured employees, by appointment, no later than 24 - 48 hours after incident.

⁷ 26 M.R.S.A. §2

- 2) Complete M-1 and give Employee Copy to employee before he/she leaves the office; fax or email Employer Copy to the Town within 24 hours of all visits.
- 3) Communicate and when necessary clarify work restrictions with Human Resources and the TPA.
- 4) Communicate follow-up visit results to the employee, the TPA, and Human Resources.

G. Payroll Responsibility

- 1) Complete all Wage Statements as requested by the TPA.
- 2) Deposit benefit checks to the employee payroll account.
- 3) Process reimbursement for any sick/vacation/comp time per instructions received from Human Resources.

APPROVED: _____



Date: _____

6/30/2020

Barry Tibbetts
Town Manager

February 12, 2018

February 15, 2019

June 26, 2020