

ADMINISTRATIVE REGULATION

Effective Date: December 8, 1992

Administrative Regulation: 1-22

Revision Date: November 18, 2021

Supersedes: April 1, 2021

Approved By: William H. Ashton II

Subject: Workers' Compensation Program

I. Authority

Title 65.2 of the Code of Virginia requires the town to provide workers' compensation coverage for employees who are injured by accident or develop a disease that is caused by their employment.

II. Purpose

The purpose of this administrative regulation is to establish and clarify basic procedures for the administration of the town's Workers' Compensation Program. It outlines steps to be followed after an injury or accident occurs on the job and sets forth guidelines to be followed before payment is made to an employee for any costs incurred incidental to an on-the-job injury or accident. All on-the-job injuries must be properly reported and documented.

III. Employees Involved

All town employees are covered by the provisions of this administrative regulation. For employees who are minors, please see "Administrative Regulation 1-22 Supplement: Handling Injuries for Employees who are Minors" for additional requirements.

IV. General Information

- A. An employee must report all work-related injuries/illnesses to his or her supervisor immediately on the occurrence of such injury/illness or as soon thereafter as practical. All accidents resulting in injury are to be reported whether the employee chooses to seek medical treatment.
 - B. The supervisor must give the employee a current copy of the panel of physicians.
 - C. The supervisor and the employee immediately call Virginia Risk Sharing Association (VRSA) **injury reporting service at 1-877-234-0898**. VRSA's injury reporting service is available 24 hours/day, seven days/week. A nurse will provide the employee with first aid/self-care advice and determine what kind of treatment, if any, is necessary.
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- D. VRSA's injury reporting service will handle all initial reporting of workplace injuries or illness and will contact the Risk Manager.
- E. The Risk Manager will handle related claims processing and follow-up activities. However, cooperation from the injured employee and supervisor in providing accurate information is necessary.

V. Medical Treatment

A. Panel of Physicians

Employees who are injured or become ill as a result of work activities may seek treatment from a physician listed on the town's approved "Panel of Physicians" list. Supervisors are responsible for making the approved panel of physicians available to the employee and for ensuring that the employee signs acknowledging receipt of the panel. The unjustified refusal of an employee to use a physician on the approved panel may result in a denial of benefits until such refusal ceases. The panel of physicians will be reviewed and updated annually by the Risk Manager.

It is expected that medical treatment will be continued by the treating panel physician. If the employee is referred to a specialist for further treatment, a specialist from the town's Panel of Physicians must be used.

B. Emergency Treatment

1. In the event of a medical life or limb threatening situation -- dial 911 or transport the injured employee directly to the emergency room immediately.
2. The supervisor and/or employee should then contact VRSA's injury reporting service as soon as possible.
3. All follow-up treatment should be through one of the doctors listed on the town's approved panel of physicians.

C. Follow-Up

The injured or ill employee is required to communicate with the Risk Manager and his/her supervisor on a daily or weekly basis depending on the situation and the length of disability. The employee is required to contact the Risk Manager before each visit to the doctor's office and provide written documentation from the authorized treating physician following each visit.

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VI. Injury Leave/Wage Reimbursement

- A. Injury leave applies only to regular status full and part-time employees. Temporary and part time flexible employees will receive compensation as authorized in accordance with the law and will not receive supplemental salary from the town.
- B. Time off from work for medical reasons, supported by documentation, due to an on-the-job injury, which is considered compensable under the Virginia Workers' Compensation Act, will be considered "injury leave." An employee is only permitted to be off work for a job-related injury if an approved doctor has certified the time off prior to taking of the time. This certification must be submitted to the supervisor and the Risk Manager.
- C. When an employee is unable to report to work because of a work related disability that is authorized by a panel physician and is the result of a compensable injury under the Virginia Workers' Compensation Act, the employee will receive full salary (minus normal payroll deductions) for the first seven (7) days of incapacity (weekends/holidays are included in the count and the days do not have to be consecutive). This first seven days of workers' compensation leave will not be charged to the employee's earned leave. There will be no more than 7 days of incapacity permitted under injury leave, regardless of periodic absences, flare ups, presumption cases, or total or partial disability.
- D. If the absence is longer than seven days, VRSA will provide compensation benefits in accordance with the provisions of the Virginia Workers' Compensation Act.
- E. When an employee is out of work over twenty-one days for a covered injury/illness, which disability is authorized by a panel physician, the town will receive from VRSA reimbursement for compensation paid to the injured employee for the first seven days.

If such payment is received by the employee, the employee shall turn this payment over to or reimburse the Town of Herndon for compensation awarded to the employee for the first seven days of absence.

Because workers' compensation benefits are not taxable, the Town of Herndon shall make a taxable adjustment on this first seven days of pay.

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- F. If the compensable injury requires follow up visits with an approved provider, injury leave **may** be permitted. The town strongly encourages employees to make their medical appointments at the beginning or end of their shift, if not off working hours. Appropriate documentation will be required to substantiate appointment times, as well as efforts to make medical appointments at the beginning or end of shifts. Failure to adhere to the above can affect the application of any potential injury leave.

VII. Benefits

- A. Injured employees who are out of work for a full pay period due to a workers' compensation injury/illness do not continue to accrue sick and annual leave.
- B. Work related disability will be designated under the Family Medical Leave Act (FMLA) and will run concurrently with workers' compensation benefits, when the disability constitutes a "serious health condition".
- C. During designated Family and Medical Leave (FML) (see Administrative Regulation 1-25), the town will continue to pay the monthly employer share of applicable benefits and the employee will be responsible for continuing to pay the employee share to maintain coverage.
- D. During FML the employee may request to use their accrued leave to pay for the employee portion of benefit premiums, provided the amount of leave used does not exceed 100% of the employee's gross earnings when combined with the workers' compensation benefit received. Usage of leave will end at the conclusion of FML.

If the employee chooses not to use their accrued leave during the FML period, they will be billed by the Department of Finance for benefit premiums the employee elects to maintain and payment will be due as indicated on the bill. There will be a 15-day grace period for late payment; no or partial payment may result in retroactively canceled coverage.

- E. At the conclusion of Family Medical Leave, or if the employee is not eligible for FML, the employee must pay the full employer group rate (rather than the employee rate) for all applicable benefits, to maintain coverage. Employees will be placed on leave without pay status with the Virginia Retirement System. The employee will be billed by the Department of Finance for the total benefit premiums the employee elects to maintain and payment will be due as indicated on the bill. There will be a 15-day grace period for late payment; no or partial payment may result in retroactively canceled coverage.

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VIII. Employee Responsibilities

- A. An employee on injury leave is specifically prohibited from engaging in activities that may impair his/her recovery. These activities include:
 - 1. Engaging in strenuous recreational or other strenuous physical activities without the approval of the authorized treating physician.
 - 2. Performing work for another employer (including self-employment) without the prior written approval of the authorized physician and the Town Manager.
- B. Failure of an employee on injury leave to follow prescribed procedures or to accept appropriate medical treatment, vocational rehabilitation, or medically appropriate light duty assignments, may jeopardize their workers' compensation benefits.

IX. Return to Work

An employee is required to return to work immediately upon release by his/her doctor.

At the conclusion of family medical leave or if the employee is not eligible for family medical leave, if the department head determines that the position cannot remain vacant, the Town Manager may advertise and fill the position. In that case, the injured employee may be considered for reemployment when a suitable vacancy within the town becomes available.

X. Modified Duty Assignment

A modified duty assignment may be made for an employee who is temporarily disabled. Modified duty assignments may or may not be in the same occupation, department or hours as the employee was performing prior to the work-related injury or illness. Modified duty assignments may or may not have the same rate of pay and benefits. Modified duty status will be granted on a temporary basis and will be reevaluated periodically. At the conclusion of family medical leave or if the employee is not eligible for family medical leave, if the employee's authorized treating physician determines the employee is unable to return to his/her regular position without limitations, the department head in conjunction with the Director of Human Resources will determine whether a reasonable accommodation may be made which would allow the employee to perform the essential functions of his/her job, or if a job reassignment is possible without undue hardship to the town. If a reasonable accommodation can not be made, the Town Manager may advertise and fill the position. In that case, the injured employee may be considered for reemployment when a suitable vacancy within the town becomes available.

All modified duty assignments must be reviewed with the Risk Manager to ensure compliance with modifications provided by the medical provider.

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XI. Enforcement of Safety Regulations

Department heads are responsible for ensuring that all safety regulations adopted by the town for their department are known to all employees and are consistently enforced. Department heads will ensure that work-related injuries caused by a violation of a safety regulation will result in appropriate disciplinary action.

Employees who have violated known safety regulations may be denied workers' compensation benefits by the insurance provider.



William H. Ashton II
Town Manager

ADMINISTRATIVE REGULATION 1-22 SUPPLEMENT

HANDLING INJURIES FOR EMPLOYEES WHO ARE MINORS

Report of an Injury:

When an employee who is a minor is injured at work, attempt to contact the employee's parent or legal guardian to advise of the situation.

Do not delay reporting the injury, if the town is unable to contact the parent/legal guardian.

The supervisor, or other upper-level manager, must call CompCare On-Call to report the claim on behalf of the minor employee. Minors should **not** call CompCare On-Call to report their own injuries and should not receive triage advice from a nurse without a parent/guardian's permission.

If a parent/guardian is available, the parent/guardian may call CompCare On-Call to report the claim if they would like and the parent/guardian may select option 1 to speak with a medical professional (RN) and receive triage services for their minor.

Documents:

The parent/legal guardian for minors **must** sign the Panel of Physician offered when a minor employee is injured as well as any another other documents related to a minor's workers' compensation claim. This is addressed in various sections of the Virginia Workers' Compensation Act.

It is necessary for the employer to not only educate the minors regarding workers' compensation and safety procedures, but the parents/guardians as well.

Follow Up:

In order to follow up about the employee's injury status, or return to work, you **must obtain permission from the parent/legal guardian**. If you do not receive permission, only communicate with the parent/legal guardian.