

10.4 ON THE JOB INJURIES

Medical Attention It is the responsibility of the Department Head or Elected Official to notify Human Resources when an employee sustains a bona fide, on-the-job, work-related injury. Human Resources will provide the department information to obtain medical attention from a medical facility or professional that accepts Work Comp claims and is approved by Texas Workers Compensation Commission (TWCC); except in the case of an emergency injury when the employee or his/her representative shall notify Human Resources as soon as practical following the receipt of emergency attention. The county encourages employees to return to work as soon as they are able to do so. An employee returning to work must submit a physician's statement of medical condition and release to return to work to the Department Head or Elected Official and copy to Human Resources. As determined by the Commissioners Court, at the county's expense, an employee may be required to submit to examination by an independent physician.

Insurance The County provides workers' compensation insurance for all of its employees. This insurance provides medical expenses and a weekly payment if an employee is absent from work because of a bona fide, on-the-job, work-related injury for more than one week. (*Exception: Deputies and Jailers receive 100% salary continuation as guaranteed by the State Constitution*). (*Legal reference: Workers' Compensation Act, V.T.C.A. Labor Code, Chapter 504*)

Statutory Benefits Employees who sustain an injury at work may be eligible to receive benefits prescribed by the Texas Workers' Compensation Act. These benefits include compensation payments, medical care as reasonably required to cure and relieve the effects of the injury or occupational disease(s), and/or death benefits.

Exclusion Injuries caused by willful intent to harm self or another, intoxication, act of God, or act of a third party for personal reasons are excluded specifically from coverage by on-the-job injury leave with pay (see Labor Code, Section 406.32).

Initiation of On-The-Job Injury Leave On-The-Job Injury leave begins on the first scheduled workday of absence due to on-the-job injury and continues until the employee returns to work, or his or her eligibility expires.

Compensation If a full-time employee sustains a bona fide on-the-job, work-related injury which renders him or her unfit for performing the duties of the job, that employee may elect to use accrued sick or vacation leave before receiving weekly workers' compensation payments. An employee receiving worker's compensation payments does not accrue vacation or sick leave and is not entitled to receive holiday pay. Deputies and Jailers receive 100% salary continuation. EMS receive 100% salary up to one (1) year.

An employee receiving workers' compensation payments does not accrue vacation or sick leave and is not entitled to receive holiday pay.

Continuation of Group Medical Insurance for Employee To continue medical insurance for the employee while the employee is on on-the-job injury leave and no longer receiving a regular

county paycheck, the county will continue to pay the county's portion of the employee's medical insurance for a period of time not to exceed twelve (12) weeks from the beginning date of Leave Without Pay (LWOP). To continue medical insurance for the employee's dependent(s) during this period, the employee must pay his/her premium for dependent coverage. After the twelve (12) weeks the employee must pay the total premium for himself/herself and dependent(s) to the county on the schedule established by the County Treasurer's office in order to maintain coverage.

REPORTING Requirements While on leave because of a bona fide, on-the-job, work-related injury, each time the employee sees the physician for consultation or treatment or, at least weekly, he or she must provide a progress report to the Department Head or Elected Official. The Department Head or Elected Official submits the report to Human Resources. Any change in the employee's condition, which might affect his or her entitlement to workers' compensation payments, must also be reported to Human Resources. In addition, the injured employee must contact his or her supervisor at least weekly to report on his or her condition. Failure to provide the required medical status reports or to contact the supervisor on the schedule required by the Elected Official or Department Head may result in revoking the employee's leave and may result in disciplinary action.

Duration of On-The-Job Injury Leave The maximum duration of on-the-job injury leave is forty weeks, unless an extension is expressly authorized by the Commissioners Court. The twelve (12) weeks of FMLA leave runs concurrently with on-the-job injury leave. Requests for extension (without supplemental accrued leave pay) may be authorized after careful review by the Commissioners Court, in no more than three-month increments.

Return to Service A written statement from the attending physician certifying that the employee has been released to return to work and specifying the type(s) of work he or she is capable of performing, as well as any limitation(s), must be received by the county before an employee may return to work. All employees on on-the-job injury leave must report to work after approval of either the employee's attending physician or an independent physician paid by the county. Failure to return to work when directed will result in appropriate disciplinary action, up to and including termination. Written statements must be turned in to Human Resources.

The employee's Department Head or Elected Official must notify Human Resources upon the employee's return to duty so that the county may resume record keeping for purposes of payroll, benefits, leave, and length-of-service accruals.

Temporary Light Duty Status During the course of an on-the-job injury leave, if an employee is released by his or her physician for light duty, the employee's job or alternative job assignment(s) will be evaluated to determine whether a position is available in which the county can use the employee's limited services for a temporary period of time. If no acceptable light duty assignment can be found, the employee will be placed on inactive status until released by the physician to return to his or her previous job.

An employee who is able to return to work in light duty status is a temporary employee and may be required to work in a different department and perform duties not contained within his or her

current job duties. When an employee is assigned to temporary light duty status and is performing different duties, he or she will be paid according to the level of pay that he or she would receive for the temporary light duty job if the assignment were the result of reorganization. A light duty assignment cannot exceed 30 days. In addition, the employee may be eligible for workers' compensation payments in a reduced amount.

Total Disability/Retirement A determination of total disability may be rendered at any time during the course of the on-the-job injury leave. Upon such a determination, Human Resources, in consultation with the Commissioners Court, will make the necessary arrangements for the employee's retirement under the "disability retirement" clause of the coverage provided by the county's retirement plan.

Reasons for Termination of Employment during On-The-Job Injury Leave An employee may be terminated while on leave for an on-the-job injury for the following reasons:

1. Refusal to return to duty on the workday on which the employee has been released by the treating physician;
2. Failure to accept a "light duty" assignment if medically approved and if FMLA rights have been exhausted;
3. Exhaustion of all available on-the-job injury leave;
4. Failing to follow prescribed treatment, including medical appointments; and
5. Participating in activities, which according to the county's medical and legal advisor, justify termination because they are injurious to recovery or they do not aid in healing.

Final Release At the time of final release, the employee must furnish the county with a certificate from the employee's physician stating that the employee is able to return to work. The certificate must also specify any limitation(s) on the employee's physical condition and the estimated duration of the limitation(s). The county will then evaluate the employee's physical condition and determine whether he or she can perform the duties of the job previously held, with or without reasonable accommodation. If (a) the employee cannot perform his or her previous duties, or (b) no vacancy exists, or (c) no other suitable position is available, and (d) a reasonable effort has been made to place the employee in a suitable position, then he or she will be separated and paid accrued benefits if FMLA rights have been exhausted.