

UNIVERSITY of **HOUSTON**

DEPARTMENT OF RISK MANAGEMENT

**WORKERS' COMPENSATION
MANUAL**



www.uh.edu/risk-management

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I. PREFACE

Filing a workers' compensation claim is often a very tedious, time-consuming process for both the employee and the supervisor. This manual has been produced to simplify the process and better equip departments, supervisors and employees by providing general information concerning Workers' Compensation, the responsibilities for all parties involved in the workers' compensation process and information for completing the paperwork involved.

The University of Houston's Risk Management Department wishes to acknowledge the use of the following as references in the production of this manual:

The State Office of Risk Management (SORM)-Claims Coordinator Handbook and Texas Workers' Compensation Commission Risk Management For State Agencies, Volume III, Workers' Compensation Exposures.

II. RISK MANAGEMENT CONTACTS & USEFUL INFORMATION

Risk Management Worker's Compensation Specialist	713-743-5865
Risk Management Fax	713-743-1501
State Office of Risk Management (SORM)	512-475-1440 877-455-0006
Texas Department of Insurance-Division of Workers Compensation (TDIC-DWC)	800-372-7713
Office of Injured Employee Counsel (OIEC)	866-393-6432
University of Houston Department of Public Safety (UH DPS)	713-743-3333

- Business hours: Monday through Friday 8:00 a.m. – 4:30 p.m.
- In the event of an after-hours emergency: Contact the University of Houston DPS.
- Risk Management works closely with Environmental Health & Life Safety who offers various safety services and training programs. Please contact EHLS for additional information or a complete course listing.

III. WORKERS COMPENSATION BENEFITS

What is Workers' Compensation Insurance?

Workers' Compensation laws are based upon the theory that the burden of on-the-job injuries should be shifted from the worker to the employing business, and ultimately to the consuming public, as a cost of doing business. The intent of these laws is to protect and benefit the employee by providing prompt, simple, effective, and inexpensive relief without regard to the fault of the employer, the employee or third parties.

Prior to the enactment of such laws, injured workers were often totally denied any compensation for work-related injuries. In those situations where they were granted relief by the courts, it was usually only after a lengthy and expensive process.

In 1913, the Legislature passed Texas' first Workers' Compensation law, but it did not apply to state employees. It was not until 1973 that a Workers' Compensation Statute was passed that is applicable to most state employees (Texas Civil Statutes, Article 8309g, now recertified as Chapter 501 of the Texas Labor Code). Under this statute, the state is self-insuring.

Who is covered?

A University of Houston employee who sustains an injury or occupational disease in the course of employment is entitled to receive compensation under the State Workers' Compensation System. In the case of a fatality, the deceased employee's legal beneficiaries are entitled to benefits.

Generally speaking, a University employee is a person who is in the service of the university and is on the university payroll. However, the following people are not considered employees for purposes of workers' compensation:

- Independent contractors
- Volunteers, except during a Governor-declared State of Emergency
- Members of the state military forces, except while on active duty
- Persons covered by federal workers' compensation
- Offenders
- Consumers or patients of a state institution or agency
- Non-employed students receiving a scholarship stipend

In most cases it is easy to determine if an on-the-job injury has occurred. Some cases, however, may require further investigation. It is not the Workers' Compensation Specialist's or the supervisor's responsibility to make this determination. If the injured employee feels that the injury or illness is work-related, then it should be reported. The determination of compensability is made by the State Office of Risk Management, whose decisions may be disputed before the TDI-DWC. Supervisors may include any additional information that they feel is appropriate with the injury report.

What does it pay for?

Medical Services Payments:

SORM will pay only for those services or prescriptions that are determined to be reasonable and necessary and related to the injury.

- Medical providers should bill on the prescribed forms and according to the medical fee guidelines established by DWC.
- A Preferred Prescription Drug Service is also available to injured employees.

Income Benefits:

- Payment of compensation for time lost from work due to an on-the-job injury is made directly to the employee on a weekly basis, unless the monthly TIB election is chosen.
- Only those employees who are physically unable to perform their usual job task for more than seven (7) days following the date of injury are eligible to receive weekly/monthly compensation payments.
- The first seven consecutive or cumulative days following the injury date are called the waiting period and no weekly compensation payment is due for the time lost for that period. However, if an employee is off work for more than 14 calendar days, the weekly/monthly compensation for the waiting period is paid retroactively.
- An injured employee may elect to use sick and/or annual leave instead of receiving lost-time benefits. While sick/annual leave is being used, lost-time benefits will not be paid.
- These benefits continue until maximum medical improvement has been reached or 104 weeks have elapsed (whichever comes first). At that time, Impairment and /or Supplemental Income Benefits may become available. Lifetime Income Benefits and Death Benefits may also be available in some cases.

Compensation Due in Fatal Cases:

- Beneficiaries of a deceased employee are due weekly compensation payments equal to a percentage of the employee's average weekly wages subject to a maximum amount and a minimum amount established by the Texas Workers' Compensation Act.
- Weekly payments to the surviving spouse are payable for life or until the spouse remarries.
- Weekly payments to a child shall continue until the age of 18 or beyond such age if the child is actually dependent (disabled at time of the injury), or until 25 years of age if enrolled as a full-time student in an accredited educational institution.

- All other beneficiaries (where there is neither a surviving spouse nor child) are due weekly payments for 364 weeks.

IV. RESPONSIBILITIES

The university is required to fully cooperate with SORM to properly administer the state employee workers' compensation program.

SUPERVISOR'S RESPONSIBILITIES

The supervisor has a key role in the Workers' Compensation claim process, responsibilities include:

- a. Assuring that proper medical attention is provided for the employee should it be required.
- b. Immediately reporting to the Workers' Compensation Specialist any serious injury to an employee, incidents involving more than three (3) employees, or work-related illness or injury resulting in the death of an employee.
- c. Completing the Supervisor's First Report of Injury Form and returning it to the Workers' Compensation Specialist within 24 business hours to assist in meeting stipulated deadlines.
- d. Assisting with the proper investigation of claims by documenting any additional information regarding the circumstances that are known or reported by coworkers. This is crucial for the denial of fraudulent claims.
- e. Determining actions to prevent similar accidents from reoccurring in the future.
- f. Informing employees that if they lose time from work due to the work-related injury or illness, work status information must be provided. The employee must submit a doctor's excuse/slip/release from their treating to cover each day off work, and call the supervisor and the Workers' Compensation Specialist weekly to give updates on work status. **The supervisor must inform the employee that failure to comply will result in disciplinary action.**
- g. Notifying the Workers' Compensation Specialist immediately upon receiving notification that an employee, who had filed a previous first report of injury, is seeking medical attention and/or losing time for the previously reported injury or occupational exposure.
- h. Notifying the Workers' Compensation Specialist if an employee loses time other than what is shown on the original first report of injury.

- i. Notifying the Workers' Compensation Specialist immediately if an employee retires, resigns or is terminated while on Workers' Compensation Leave or is granted Family and Medical Leave.
- j. When modified/light duty can be provided to employees on work restriction release to work, please contact the Workers' Compensation Specialist for assistance.

EMPLOYEE'S RESPONSIBILITIES

An injured employee has clear responsibilities in order to establish a claim for compensation, these include:

- a. All work related injuries or illnesses should be reported to their immediate supervisor immediately, even if there is no medical treatment or lost time anticipated. The Employee Forms should be completed within 48 business hours. No benefits can be paid until a first report of injury is received and processed by SORM.
- b. The employee is the key to ensuring his/her claim is processed properly through prompt and accurate notification to the supervisor. Submitting notice is solely the responsibility of the employee and neither the University of Houston nor SORM, has any legal responsibility in the matter.
- c. If medical attention is necessary, the employee should seek treatment with a doctor within the Workers' Compensation Health Care Network and request that his/her doctor file a medical report of the injury or illness promptly with SORM. The doctor's bills may not be paid until a report of the employee's condition is filed with SORM.
- d. Employees who are losing time must contact their immediate supervisor and the Workers' Compensation Specialist on a weekly basis. However, they must also submit a doctor's excuse/slip/release from their treating doctor to cover each day off work. **This contact is mandatory, failure to maintain contact with their immediate supervisor and the Workers' Compensation Specialist regarding work status could result in disciplinary action up to and including termination.**
- e. Filing a claim for compensation with the TDI-DWC, no later than one year after the date of injury. If the injury is an occupational disease, filing must take place not later than one year after the employee knew (or should have known) that the disease was related to the employment. Forms are sent to the employee directly by TDI-DWC.
- f. For the purposes of qualifying for workers' compensation benefits, the law requires that an employee who claims work-related exposure to HIV infection must provide a written statement of the date and circumstances of the exposure. According to 25 Texas Administrative Code 97.17 (b), by reference to 25 Texas Administrative Code 97.10 (a) (2), the following conditions constitute a possible exposure to HIV: needle stick or other penetrating puncture of the skin with a used needle or other contaminated item; or either

a splatter of aerosol into the eye, nose, or mouth or any significant contaminated item; or either a splatter of aerosol into the body or body fluids. The law also requires the employee to document that, within 10 days after the exposure; the employee had a test result that indicated an absence of HIV infection (Section 85.116(c) Health and Safety Code).

- g. Family and Medical Leave is an additional option available to eligible employees for continuing insurance benefits (except disability insurance plans) and receiving the premium sharing from the state or the university toward the cost of health insurance. Employees should contact the Benefits Office in the Human Resources Department to determine eligibility and obtain more details on this leave. Employees should also advise their supervisor of their intent to use Family and Medical Leave.

WORKERS' COMPENSATION SPECIALIST RESPONSIBILITIES

The University of Houston's Workers' Compensation Specialist is responsible for processing the first report of injury and serves as the liaison between an injured employee and SORM. The Workers' Compensation Specialist is responsible for submitting the required injury reports and notices to SORM.

Liaison

The Workers' Compensation Specialist is the primary point of contact between the SORM claims adjuster and the university. The adjuster will contact the Workers' Compensation Specialist upon receiving the first report of injury to verify the information provided and investigate the claim.

Early contact with the adjuster helps establish the facts of the claim in complicated cases and aids in prompt medical treatment and payment of benefits if applicable. Early personal contact may also help to determine the possibility of third-party liability. The adjuster will call the Workers' Compensation Specialist periodically to obtain updates or to verify that the employee has returned to work. It is important that the Workers' Compensation Specialist immediately notify SORM when an employee returns to work. Timely notification ensures that benefits are paid appropriately and to avoid overpayment.

Claims Processing

The Workers' Compensation Specialist is responsible for supplying SORM with the appropriate information and forms so that their adjusters can properly process claims. There are various forms that the Workers' Compensation Specialist must file with SORM to ensure that the adjuster can manage the claim appropriately and remain in compliance with TDI-DWC rules. There are important time guidelines that must be adhered to when filing these forms.

Prompt Reporting

Once an injury occurs, it is important the injury be reported to the Workers' Compensation Specialist promptly. The Workers' Compensation Specialist works with the supervisor to remind them that early reporting of injuries is crucial to investigate the accident evaluate the claim and manage the employee's medical care appropriately. Promptness ensures that proper medical care starts quickly and allows the claims adjuster to start benefits in a timely manner. It is equally important that the Workers' Compensation Specialist reports to SORM when an injured employee returns to work in a timely manner. **Supervisors must relay this information promptly to prevent overpayment of income benefits.**

Return to Work Coordination

When an injury occurs, it is incumbent upon the university to help the injured employee to return to work as soon as possible.

The university structures the return-to-work program around each individual case. This program involves maintaining frequent contact with the employee and the treating doctor, providing a modified work environment and/or work assignment, or providing alternate-duty assignments that return the employee to the workplace within his or her physical abilities. These measures assist the employee in maintaining a positive attitude and reduce the costs associated with a lengthy absence from work.

The university's return-to-work program allows injured employees to work within their abilities and within certain medical restrictions. During this time of work restriction, the employee is said to be on modified or light duty. The employee may be doing their regular job with modification or they may be assigned alternate responsibilities unrelated to their usual job. Along with programs aimed at loss prevention and loss reduction, the return-to-work program can lower the university's compensation costs and reduce the necessity to hire additional staff. Providing the injured worker with an opportunity to return to the workplace in a productive capacity will encourage the worker to return to their regular position sooner. Although some job modification and/or accommodations may need to be made, many positions can be modified with very little expense.

Bona Fide Offer of Employment

A Bona Fide Offer of Employment should be completed once the employee has been given modified duty or work restrictions by their treating Physician. The Workers' Compensation Specialist will work with the employee's supervisor to ensure the appropriate position requirements are indicated correctly. A Bona Fide Offer letter must be signed by the employee before starting a light/modified duty assignment.

The written offer should clearly state the following:

1. The position offered
2. The duties of the position
3. That the employee is aware of and will abide by the physical limitation under which the employee or his treating physician have authorized the employee to return to work
4. The maximum physical requirements of the job
5. The wage
6. The location of employment

Once at work, the employee's income benefits are suspended. If the employee is cleared to work in a light duty position by their physician but refuses to accept the assignment, SORM will stop income payments.

V. FILING A WORKERS COMPENSATION CLAIM

The following describes the workers' compensation forms that should be completed in the event of a work related accident/incident. There are important timelines that must be adhered to.

All necessary Workers' Compensation forms & Health Care Network Information can be found at <http://www.uh.edu/risk-management/workers-compensation/>

Supervisor's Forms

Supervisors are responsible for submitting the Supervisor's First Report of Injury within 24 business hours and the witness statement within 48 business hours to Risk Management. Supervisors should collect all appropriate employee forms and submit to Risk Management within 48 business hours.

- Supervisor's First Report of Injury or Illness
- Witness Statement (SORM 74)

Employee Forms

Employee should provide a verbal description of the accident to their supervisor, immediately even if there is no medical treatment or lost time anticipated. The following forms should be completed within 48 business hours:

- Employee's Report of Injury (SORM-29)
- Authorization for Release of Information (SORM 16)
- Employee Election Form (SORM 80)
- Workers' Compensation Network Acknowledgement Form
- Employees should review the Employee Network Notification Packet before signing the network acknowledgement form. Additional information can be found on SORM's Health Care Network page.

The Workers' Compensation Specialist will submit all required forms to the SORM who will assign a claims representative to process the claim.