



STANDARD PROCEDURE

SUBJECT	NUMBER	EFFECTIVE DATE	SUPERSEDES
Transitional Duty Program	E-6	March 2021	9/2013

Prepared By: Human Resources

Approved By: Harry Tyson, Deputy City Manager

- Build trust between the physician, the employee and the City.

**Individual Departments**

- Maintain an experienced work force.
- Reduce lost time days.
- Reduce Workers' Compensation liability, particularly wage loss expenses.
- Enhance communication between employee, employer and treating physicians.

**North Carolina Industrial Commission**

- The Industrial Commission administers the Workers' Compensation Act, along with other laws, to ensure parties in each category are treated fairly and equally in accordance with North Carolina State Law. This entity and the laws it administers helps with the following:
  - Providing reliable, accurate and efficient claims servicing;
  - Providing quick resolutions to disputed issues in an administrative forum;
  - Promoting active resolution of disputes through mediation;
  - Resolving controversies by rendering impartial and well-reasoned decisions;
  - Facilitating high quality, effective medical care and rehabilitation for injured workers in complex medical/legal situations;
  - Providing education and training to employers to reduce accident potential in the workplace;
  - Providing prompt, efficient medical bill review in accordance with the NCIC Medical Fees Schedule;
  - Investigating potential criminal violations of the NC Workers' compensation Act, ensuring compliance and confidence in our state's workers' compensation system.

4.2 **Functional Capabilities Evaluation (FCE)**

Documentation completed by a certified specialist in determining the physical abilities of the employee.

4.3 **Salary Continuation, Sickness and Disability**

Salary continuation programs based on disability, as applicable by law and City policy.

4.4 **Family and Medical Leave Act**

A federal program that outlines unpaid time off allowances for illness and injury. This period lasts up to twelve (12) weeks.

4.5 **Americans with Disabilities Act (ADA)**

A federal program that outlines requirements for work for qualified disabled employees who can perform the essential functions of specific employment, taking into account reasonable accommodations for their disability.

4.6 **Modified Work (Light Duty)**

Activities other than the employee's pre-injury/illness tasks and duties that meet the physical capabilities of the employee as defined by a physician.

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**5.0 Procedures**

- 5.1 Reporting of injuries and accidents  
Per City policy, all employees are to immediately report any personal injury or illness arising out of employment to their supervisor. The supervisor is then to notify Human Resources. *(Upon notification by the employee about a non-work related injury, the employee should be directed to the Employee Health & Wellness Center).*
  
- 5.2 For work related injuries:
  - 5.2.1 Human Resources will appropriately contact the Industrial Commission for claim notification
  - 5.2.2 The employee shall be provided appropriate documentation regarding benefits applicable to their situation. In many cases, multiple programs will apply to the same period of disability and will run concurrently. All necessary paperwork should be completed by the employee within 24 hours or as requested by Human Resources.
  - 5.2.3 Human Resources will complete all necessary paperwork for claim filing with the Industrial Commission. A job description will be provided to the medical care provider for determination of the of the employee’s return to work potential.
  - 5.2.4 Upon determination of physical abilities by the medical care provider, a determination will be made by the department supervisor and Human Resources as to a return to full duty or participation in the TDP. If modified or light duty is necessary, the plan will be coordinated by Human Resources in conjunction with department management.
  
- 5.3 For non-work related injuries:
  - 5.3.1 The Finance Department (Payroll) shall be notified by Human Resources of potential salary continuation or sick leave coverage if employee is not able to return to work.
  - 5.3.2 Human Resources shall provide the employee with all documentation regarding benefits applicable to their situation (FMLA, wage loss). In many cases, multiple benefit programs will apply to the same period of disability. All necessary paperwork should be completed by the employee within 24 hours as requested and/or indicated in the leave type paperwork.
  - 5.3.3 Human Resources will notify payroll of any other wage loss benefits which apply.
  - 5.3.4 Upon determination of physical abilities by the medical provider, the supervisor and Human Resources will schedule return to full duty, if applicable, or the ability to accommodate the identified restrictions in the employee’s customary employment for return to work.
  
- 5.4 Transitional employment opportunities:
  - 5.4.1 Each department shall be responsible for establishing a list of available transitional employment available to employees during their recovery period. Transitional work can include both customary job titles and jobs designated by the department to allow the employee to work within identified restrictions while performing a variety of tasks designated as beneficial to the department.
  - 5.4.2 Transitional employment is offered at the discretion of the department and Human Resources, and is only available as the City’s needs allow.

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- 5.4.3 If no transitional employment is available within the department, alternate assignments may be made which may include opportunities outside the department.
- 5.4.4 Transitional employment may include assignments less than 40 hours per week, but shall not exceed 40 hours per week or 26 weeks per incident, unless determined otherwise by the department and human Resources for specific reasons relating to the situation.
- 5.4.5 Transitional employment schedules, locations and duties will be determined by operational need and assigned by Human Resources staff.
- 5.4.6 Transitional employment may be intermittent in nature for a total of 26 weeks and no more than 1040 hours annually.
- 5.4.7 An alternate wage may be established for the transitional employment period.
- 5.4.8 Transitional employment may not be available during a period of reduction in force due to business trends.
- 5.4.9 Transitional employment may not be allowed if the employee also has secondary employment, including self-employment or second jobs requiring physical ability more demanding than the employee’s designated transitional employment.

5.5 Coordination of Benefits

- 5.5.1 In an effort to maintain a fair and consistent program of disability management, all programs will run concurrently. If an employee is unable to return to work due to a work-related or non-work related injury, FMLA will run concurrently with either Workers’ Compensation and/or sick leave, as applicable.
- 5.5.2 The employee who is entitled to wage loss benefits will be notified of all wages received for any given injury. Wage loss benefits may be due under multiple programs and will be coordinated so that the employee receives all wages due under the multiple lines of coverage.

*Example: When an employee is out as the result of a workers’ compensation eligible injury/illness, during the initial seven (7) days, the employee is required to charge that time off to either sick leave, vacation or comp time. Once an employee has been out for twenty-one (21) days on an approved workers’ compensation claim, the employer is responsible for paying the employee for the first seven (7) days which were initially charged against the employee’s accrued personal leave. Beginning on the eighth day, workers’ compensation will begin paying the employee two-thirds (2/3) of their average weekly wage. An employee’s average weekly wage is determined by adding the gross amount earned for the previous fifty-two (52) weeks and then dividing the sum by fifty-two (52). This amount is then multiplied by 0.6667 to determine the employee’s workers’ compensation weekly rate. The employee’s weekly rate is multiplied by two (2) to determine the employee’s pay for the pay period.*

5.6 Department Specific Considerations

- 5.6.1 Additional department specific procedures should include a process for Human Resources and payroll related functions
  - 5.6.1.1 Process for tracking the hours and wages worked for reporting to the Industrial Commission and City of Wilson payroll, to include:

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- 5.6.1.1.1 Employee shift assignments for transitional work;
- 5.6.1.1.2 Employee job classification and pay rate;
- 5.6.1.1.3 Allowances for probationary periods and the extension of same during period of transitional work;
- 5.6.1.1.4 Allowances for sick and vacation time accrual during periods of transitional work;
- 5.6.1.1.5 Holiday pay eligibility;
- 5.6.1.1.6 Employee contributions for retirement, health and life insurance, and other benefits, during periods of transitional work.

**6.0 Administrative Guidelines**

- 6.1 If transitional employment is necessary, a Transitional Duty plan will be completed by Human Resources, in conjunction with the department head or designee.
- 6.2 During the period of transitional duty, every reasonable effort will be made to accommodate the employee during their functional recovery, as long as they are making progress towards return to full duty.
- 6.3 TDP participation is limited to 26 weeks from the date of injury/illness, and may be extended on an exception basis, for a limited period of time, after collaboration between the department and Human Resources.
- 6.4 If an employee is unable to perform the essential functions of his/her usual and customary employment (after consideration of the feasibility of reasonable accommodations per ADA requirements) at the end of 26 weeks of Transitional Duty, the employee may be placed on a temporary leave of absence, with pay, while feasible options, including Transitional Duty Program exit, are evaluated.
- 6.5 Transitional Duty Program Exit Criteria
  - 6.4.1 Transitional Duty for an individual will be terminated when:
    - 6.4.1.1 The employee achieves full duty status and has obtained a written release from the health care provider/physician of record. (Note: The City of Wilson reserves the right to require a Functional Capacity Evaluation (FCE) to determine fitness for duty prior to return to work);
    - 6.4.1.2 The 26 week limited time period has been exhausted;
    - 6.4.1.3 The employee is not making medical progress toward return to regular job duties; and/or
    - 6.4.1.4 The City of Wilson determines the need to discontinue the individual's transitional duty for other reasons, including but not limited to, conduct/performance violations or failure to comply with program requirements.