

### 03.115 Workers' Compensation Insurance

1. Policy. It is the policy of the University of North Texas System to provide Workers' Compensation Insurance for all employees, under the provisions of the Workers' Compensation Act for Texas State employees. The purpose of this policy is to provide protection against injuries and occupational illness or disease that naturally arise during the course and scope of employment.
2. Eligibility. An employee is eligible to file for Workers' Compensation benefits under Article 8309g, the Texas State Workers' Compensation Act, if:
  - a. The person is an employee of the University of North Texas System.
  - b. The injury, occupational illness or disease occurred as a result of or in the course of employment.
3. Employee Benefits. Workers' Compensation provides both medical and indemnity benefit payments for and to eligible employees.
  - a. Health Care/Medical and Hospitalization Benefits. Injured employees are entitled to required medical care and medications.
    1. Selection of Doctor. Injured employees who desire medical attention with only short wait periods may see physicians in the Student Health Center on campus or physicians in the minor emergency clinic at 2438 Lillian Miller Parkway but may choose a doctor of their choice at anytime.
    2. If the injury is considered to be serious, treatment at any hospital emergency may be the individual's choice; otherwise, selection should be based upon 3.1a of this policy.
    3. If change of doctors is desired, the injured employee will contact the Claims Coordinator in the UNT-Risk Management Department for coordination with the claim adjuster in the State Office of Risk Management and any required contact with the Texas Workers' Compensation Commission. An initial choice made by the System or care provided in an emergency situation does not constitute the employee's choice of doctor.

4. Medical Fees and Charges. The medical provider rendering care to the employee is responsible for providing the employer an initial report as soon as possible, identifying the injured employee, stating the nature and extent of injury, and thereafter providing subsequent reports on the status of the employee. Employees who believe they are eligible for Workers' Compensation medical benefits should inform the medical provider that the injury may be covered by Workers' Compensation.
  - b. Disability Income. In cases of incapacity for work, an employee may be entitled to receive weekly payments of compensation. The amount of benefit payments and the benefit period are determined by the type of injury and are established by State law.
  - c. Death Benefits. Workers' Compensation provides benefits for the beneficiary(ies) of an employee who dies as a result of a physical injury, illness or occupational disease which occurred as a result of or in the course and scope of employment. The amount and method of payment is established by State law.
4. Use of Accrued Sick Leave and Vacation Leave. If an employee has to be off work due to a serious injury, occupational illness or disease, he/she has the option to use all accrued sick leave and all, a portion of, or no accrued vacation leave before receiving Workers' Compensation income benefits. The election is made by the employee when he/she completes an Employee's Election Regarding Utilization of Sick and Annual Leave Form (SORM-80.) If the employee elects to utilize sick and/or vacation leave, he/she is not entitled to weekly payments of compensation until the designated leave is exhausted. If the employee elects not to use accrued sick or vacation leave, he/she must wait seven days before receiving any income benefits. Sick and vacation leave may not be used for any time missed during the seven-day waiting period or in conjunction with workers' compensation income benefits. Sick and vacation leave will continue to accrue only while the employee is on sick or vacation leave – not while he/she is receiving Workers' Compensation income benefits and is off the System payroll.
  5. Leave Without Pay. After exhausting sick leave (if employee opted to use accrued sick leave) an employee may be allowed a leave of absence without pay in accordance with the Leave of Absence without Pay Policy. However, an employee placed on leave without pay by

electing not to use accrued leave for a Workers' Compensation claim is not required to first expend accrued sick or vacation leave.

6. Employee's Responsibilities. The employee has legal responsibilities to establish a claim.
  - a. The injured employee or a person acting on the employee's behalf must notify his/her supervisor of an injury within thirty (30) days of the injury, and for occupational illness or disease, the date the employee knew or should have known that the occupational illness/disease may be related to his or her employment, or at the first distinct manifestation of an occupational illness/disease. Applicable claim forms will be completed and submitted to the Claims Coordinator in the UNT Risk Management Department for review and processing to the State Office of Risk Management.
  - b. A claim for compensation must be filed within one year of the date of injury, or if the injury is an occupational illness/disease, the date the employee knew or should have known occupational illness/disease may be related to his/her employment.
  - c. In the case of possible exposure to AIDS (Acquired Immunodeficiency Syndrome)/ HIV (Human Immunodeficiency Virus) infection through contact with human blood or secretions, the employee claiming such exposure must be tested within ten days of the exposure to qualify for workers' compensation benefits. The employee must then document that he/she had a test result that indicated an absence of HIV infection to establish a valid claim if the existence of HIV is later found.
  - d. An employee or former employee who has filed a workers' compensation claim reporting lost time due for an on-the-job injury or illness/disease is responsible for reporting to the State Office of Risk Management any employment or income earned while receiving any type of benefits from workers' compensation, or face disciplinary action for fraud.
  - e. All employees are responsible for reporting fraud in the Worker's Compensation program, or face disciplinary action.
  - f. An employee losing time from work due to an on-the-job injury, or disease/illness must provide his/her supervisor with medical documentation accounting for all absences due to

injury or disease/illness, or face disciplinary action, up to and including termination.

7. Supervisor's Responsibilities. The supervisor has definite responsibilities when an on-the-job injury occurs.
  - a. Aid the Injured Party. If the injury is serious, get medical help as quickly as possible. All blood and airborne pathogen precautions should be taken when aiding an individual secreting blood or other body fluids.
  - b. Report of Injury. All on-the-job injuries, no matter how minor, must be reported immediately by calling the Claims Coordinator in the UNT Risk Management Department immediately.
  - c. Complete Forms. Supervisor ensures all the appropriate forms are complete. Copies of Worker's Compensation Injured Employee and Supervisor packets should be in all departments. The packets are available in the UNT Risk Management Office located at 217 North Texas Boulevard. The Claims Coordinator will assist the Supervisor and/or employee in completing the forms. The completed forms need to be submitted to the UNT Risk Management Department within 24 hours. Risk Management must submit the forms to the State Office of Risk Management within 5 days to avoid an administrative fine.
  - d. Report of Absences. If an employee misses any work due to the injury, notify the Claims Coordinator in the UNT Risk Management Department:
    1. the same day the injured employee returns to work;
    2. within one day when the employee, after returning to work, has an additional day or days of disability because of the injury;
    3. within one day after the employee resigns or is terminated.
8. Claim Coordinator's Responsibilities. A staff member in the UNT Risk Management Department is the System's Workers' Compensation Claims Coordinator. The Claims Coordinator is responsible for reporting the employee's claim to the State Office of Risk Management, and for maintaining all records of Workers' Compensation claims filed on employees of the System, assisting

injured employees and their supervisors with administrative requirements and processes associated with injury/illness claims, and liaison/coordination with providers of care to injured employees.

9. Screening for Work-Related Exposure to AIDS (Acquired Immunodeficiency Syndrome) / HIV (Human Immunodeficiency Syndrome). An employee who has been exposed to another individual's blood or other bodily fluids while in the course and scope of employment and who wishes to be screened for HIV antibody infection should seek medical attention immediately.
  - a. After Potential Exposure. An employee who has been exposed to human blood or other bodily fluids should seek counseling and testing for the possible existence of AIDS, ARC (AIDS-Related Complex), or positive HIV antibody infection. The UNT Student Health Center will provide free and confidential testing for an employee exposed to human blood or other bodily fluids while on the job. Testing is not mandatory following such exposure except for purposes of qualifying for workers' compensation benefits. To qualify for workers' compensation, the employee must be tested within ten days of the exposure through a licensed physician of the employee's choice and provide a written statement of the date and circumstances of the exposure to HIV, and also, provide the test results to the workers' compensation carrier to establish validity of payment for testing. Also, if the existence of AIDS/ARC/HIV is later found, the testing documentation will be necessary for other payments relating to the claim. Employees involved in emergency response activity could be exposed to HIV (or other communicable diseases as listed by TDH) on the job but may not be compelled in every situation to be tested. Mandatory involuntary testing would occur if System employees could have been exposed to AIDS or (other communicable diseases listed by TDH) while in specific jobs. In such an instance, requirements for AIDS testing must be followed by UNT employees (i.e. health care workers, law enforcement officers, and any other emergency responder employed by the university).
  - b. Reporting Potential Exposures. All accidents or incidents that result in membrane exposure to human blood or secretions must be documented with an Employer's First Report of Injury (TWCC-1S). To preserve employee confidentiality, the employee and supervisor need not state the words HIV or AIDS or the HIV status of the material producing the exposure.

- c. Testing Site. An employee exposed to human blood or bodily fluids while on the job who wishes to be tested for AIDS/HIV infection may contact the UNT Student Health Center for information regarding testing and counseling. If an employee wishes to be tested elsewhere, he/she may inquire through the UNT Student Health Center as to the location of an alternate facility.
  
- d. Testing Process and Duration. An employee with a documented work-related exposure to human blood or secretions should seek testing immediately. The employee shall give informed consent prior to testing for HIV antibodies. An individual who is HIV negative upon initial testing and who subsequently becomes HIV positive may pursue benefits through the workers' compensation system. The initial test that is done within the ten-day period after exposure is covered by the workers' compensation regardless of results. This test shall be repeated, at the System's expense at 16 (sixteen) weeks and 6 (six) month intervals, as long as the test result remains negative, for a maximum period of 2 (two) years. The cost of the tests shall be billed to the base account from which the employee is paid. If a positive test result follows a negative result, the individual may submit the test results to the UNT Risk Management Department for workers' compensation. Provided that the claim is approved, worker's compensation shall then cover the approved medical expenses incurred and as related to treatment for the existence of HIV infection.
  
- e. Accident Prevention. Directors, supervisors, and all employees are responsible for preventing unsafe hazardous working conditions and for preventing and minimizing unsafe or hazardous acts and behavior. All employees are required to use department supplied personal protective equipment to prevent accidents or incidents of any type. An employee who has more than one accident within a six month period shall be counseled by his/her supervisor and shall have a comment made in his/her annual performance evaluation and/or have further disciplinary action taken if work procedures are not being followed or if found to be negligent. Employees shall report all unsafe or hazardous physical working conditions and unsafe or hazardous acts and behavior by other personnel to their supervisors promptly so that corrective action and preventative measures may be taken to prevent further injuries or illnesses and to minimize workers' compensation costs.

10. Fraud. Workers' compensation benefits are intended for employees with legitimate on-the-job injuries or illnesses. Lost time benefits are intended for claimants with serious injuries who are unable to work in any capacity at the University of North Texas System or elsewhere due their injury or illness. A workers' compensation claim that is not due to a legitimate injury sustained in the course and scope of employment at the University of North Texas System is considered fraud. A current or former employee who has filed a workers' compensation claim that is determined to be fraudulent is responsible for reimbursing the workers' compensation carrier for all medical and income benefits received. In addition, the employee is subject to disciplinary action up to and including termination of employment. Fraudulent acts are punishable in accordance with Texas State law also. Administrative fines may be incurred by an employee who misrepresents facts relating to a workers' compensation claim.
- a. An employee or former employee who has filed a workers' compensation claim reporting lost time due to the injury/illness is responsible for reporting any employment or income earned during lost time from the System. Also an employee who is a candidate or participant in a modified duty or alternative duty temporary job assignment under the Return to Work program is also responsible for reporting any employment or income earned while performing modified or alternative duty. These individuals must report their income to the UNT Claims Coordinator as well as the State Office of Risk Management. Failure to do so may be considered fraud and is punishable in accordance with Texas State law as described in this policy.
  - b. Under the Texas Labor Code, an individual commits criminal fraud and can be criminally prosecuted if he or she has the intent to obtain or deny payment of benefits for him/herself or another and knowingly or intentionally does one or more of the following:
    1. makes a false or misleading statement;
    2. misrepresents or conceals a material fact; or
    3. fabricates, alters, conceals, or destroys a document other than a governmental record.

Fraud that falls under this category can result in a misdemeanor or a state jail felony.

- c. Under the Texas Labor Code, an individual commits administrative fraud and can be prosecuted if he or she has the intent to obtain or deny payment of benefits for him/herself or another and knowingly or intentionally does one or more of the following:
  - 1. makes a false or misleading statement;
  - 2. misrepresents or conceals a material fact;
  - 3. fabricates, alters, conceals, or destroys a document other than a governmental record; or
  - 4. conspires to commit an act described by a), b), or c) above.

Fraud that falls under this category can result in an administrative violation with a penalty of up to \$5,000.

- d. Employees are encouraged to report suspected workers' compensation fraud by another employee or former employee to the UNT Risk Management Department or the UNT Human Resources Department and/or to the Texas Workers' Compensation Commission as soon as possible. A report may be made anonymously over the phone or in writing, provided the reporter provides adequate details of the circumstances surrounding the alleged fraud.

#### REFERENCE:

Labor Code, Chapter 401, et. seq. (Texas Workers Compensation Act)

Workers' Compensation Handbook for State Agencies, No. 7, December, 1979 (and updates through December, 2000), published by the Office of the Attorney General, State Employee-Workers' Compensation Division and updates in 1998 published by the State Office of Risk Management, Workers' Compensation Division.

Attorney General Opinion No. H-701, September 30, 1975: Effect of a State agency's granting sick leave to an employee on weekly payments of workers' compensation. SORM Procedure 405, September, 1999, "HIV/Communicable Disease Procedures."



