



**State of New Mexico
Workers' Compensation Administration
Employee Policies**



SUBJECT: Workers' Compensation

POLICY NUMBER:
EFFECTIVE DATE:

Purpose:

Workers' compensation laws provide benefits to employees who suffer work related injury or illness. This policy establishes guidelines for the reporting, investigation, handling, and control of workers' compensation claims by WCA employees.

Policy:

- A. Workers' compensation claims by WCA employees will be handled in accordance with the State of New Mexico workers' compensation laws. To the extent there exists a contradiction between the laws and this policy, the laws will control.
- B. WCA employees shall report any work accident to their supervisor within 48 hours of an accident's occurrence or the employee's knowledge of the injury (repetitive motion injuries, illness, etc.).
- C. In the event of a work related accident or illness, the WCA's first priority is to ensure the employee receives prompt and necessary medical attention.
- D. WCA employees who suffer a work-related injury or illness will choose the initial health care provider for such injury or illness. The employee's selection of health care provider shall be in effect for the first sixty days from the date of first treatment by the initially selected health care provider.

Procedures:

A. Medical treatment for work accidents or illness

- a. If a work injury or illness requires emergency medical treatment, the immediate supervisor or another person designated by the supervisor is responsible for contacting 911 to arrange for emergency medical transport.
- b. WCA employees on agency business away from their worksite will report to the nearest emergency services medical facility in the event of an accident necessitating such care.
- c. For non-emergency care, WCA employees will report to the health care provider of their choice. The WCA reserves the right to select a different health care provider to treat an injured employee after the initial sixty-day treatment period.
- d. WCA employees shall keep their immediate supervisor informed of work-related medical treatment, including visit dates and time, return-to-work status, and any work restrictions imposed by the health care provider.

Whenever possible, the employee visiting a medical services facility will take a "Doctor Visit / Modified Work Assignment" form to be completed by the health care provider, which will then be promptly provided to the immediate supervisor or the HR office. If the "Doctor Visit / Modified Work Assignment" form cannot be completed, the employee should request a copy of any medical report regarding the visit which discusses diagnosis, treatment, return to work status, and physical restrictions.

B. Reporting Injuries / Illness

- a. A "Notice of Accident" form must be completed by any WCA employee who has had a work accident or work related injury. The notice should be signed by both the employee and the employee's immediate supervisor. The notice must then be promptly submitted to the HR office.
- b. Upon receiving the initial medical care from any work-related injury or illness, injured employees shall promptly notify their immediate supervisor. The supervisor will complete the "Employer's First Report of Injury or Illness" form (E-1.2) within 48 hours of a medical services visit and forward the completed form to the HR office for review.
- c. All reports of injury or illness by WCA employees shall be promptly investigated by the immediate supervisor, who will submit a report of findings to the HR office.
- d. The HR office shall submit documentation regarding the claim, including the "Notice of Accident" form, the "Employer's First Report of Injury or Illness" form (E-1.2), investigative reports, and medical reports, to the Workers' Compensation Bureau of the New Mexico Risk Management Division.

C. Claims Management

- a. After documentation has been submitted to the Risk Management Division, the claim will be handled by the assigned adjuster from that Division. Claims related inquiries or concerns, including those about indemnity payments or medical bills, should be addressed to the Risk Management Division.
- b. The HR office will maintain communication with both the injured employee and the Risk Management Division during the duration of the claim regarding the employee's work status.
- c. Any disputes regarding an employee's claim will be handled in accordance with workers' compensation laws.
- d. Where a WCA employee files a Workers' Compensation Complaint, the Director may appoint a pro tem mediator to mediate the dispute. If the Complaint is not resolved through mediation, the Director may appoint a pro tem judge to adjudicate the matter.

D. Return to Work

- a. Employees who are released after initial treatment should resume work for the remainder of the workday. Time spent acquiring medical care will normally be recorded as sick leave. Employees released to work at a later date should report to work as directed by the authorized health care provider.
- b. Employees who are not released to work by the authorized health care provider will need to use sick or annual leave for the first seven workdays missed due to the injury or illness. After an employee has lost seven workdays due to the work related injury or illness, the employee will be eligible for indemnity payments as set forth by law. WCA employees should consult with the HR office and the Risk Management Division concerning the usage of sick and annual leave after the first seven days of lost time.
- c. The WCA will make reasonable effort to find work for employees who have been released to work with restrictions imposed by the authorized health care provider.

Other:

- A. Any WCA employee who falsifies any document or otherwise misrepresents a material fact in connection with a workers' compensation claim will be subject to administrative discipline, including termination, in addition to any other remedies provided by law.
- B. The WCA Loss Control Committee Coordinator will have access to information regarding workplace accidents, injuries and illnesses in order to develop safety controls as needed.

Approved:

Ned S. Fuller

Director, NM Workers' Compensation Administration

Date

	State of New Mexico Workers' Compensation Administration Employee Policies		
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Purpose:

The purpose of this policy is to clarify the appropriate occasions for using different types of leave as provided in the State Personnel Board Rules and Regulations and to define the Agency's procedure for requesting leave.

Employees are to request leave as early as is practicable.

Definitions:

Degrees of Relationship:

- 1st degree includes spouse, father, mother, son, daughter, stepchild.
- 2nd degree includes brother, sister, grandfather, grandmother, grandson, granddaughter
- 3rd degree includes great grandfather, great grandmother, great grandson, great granddaughter, uncle, aunt, nephew, niece

Healthcare Provider: a licensed healthcare professional.

Leave: permission to be absent from work; permission of any kind should be cleared in advance.

Medical Emergency: an unanticipated, sudden or severe injury or illness that requires the employee to be absent from work full-time.

Primary Care Giver: an employee who is needed to provide support for daily living activities and supplemental medical care to a relation by blood or marriage within the first degree, or to a member of the employee's household who is experiencing a medical emergency.

Policy:

Annual Leave

- A. All annual leave or personal day will be pre-approved and will accrue in accordance with State Personnel Board Rules and Regulations.

- B. Annual leave may not be used before it is accrued and must be authorized before it is taken. Leave is not accrued until after the pay period in which it is earned.
- C. All leave is subject to the immediate supervisor's approval. On occasions where the immediate supervisor is not available, employees will request approval from another supervisor in their chain of command. It is not acceptable for employees to request leave from a co-worker or report leave to a co-worker.

Sick Leave

- A. All sick leave will be accrued in accordance with State Personnel Board Rules and Regulations.
- B. Sick leave may not be used before it is accrued and must be approved before it is paid.
- C. All leave is subject to the immediate supervisor's approval. On occasions where the immediate supervisor is not available, employees will request approval from another supervisor in their chain-of-command. It is not acceptable for employees to request leave from a co-worker or report leave to a co-worker.
- D. An employee may use sick leave for personal medical treatment or illness or for medical treatment or illness of a relation by blood or marriage within the third degree, or of a person residing in the employee's household.
- E. A supervisor may approve the use of up to three (3) days of accrued sick leave for an employee to attend the funeral of a relation by blood or marriage within the third degree, or of a person residing in the employee's household.

Leave Without Pay

- A. As provided in the State Personnel Board Rules, leave without pay may not exceed 30 consecutive calendar days in the case of a probationer or 12 consecutive months in the case of an employee who has completed their probationary period.

NOTE: Employees must receive at least 27 hours of paid time (i.e. duty time, annual, sick or administrative leave) per pay period to be eligible for the state-paid portion of insurance premiums. Employees should contact the agency Human Resource Office to coordinate an absence from work which includes both paid time and leave without pay to maintain the state-paid portion of insurance premiums.

- B. The Agency will not routinely approve leave without pay. Leave without pay longer than 5 work days is normally intended for 1) hardship situations where an employee has run out of annual and sick leave, but is not yet able to return to work, 2) where an employee is combining annual or sick leave with leave without pay under Family Medical Leave,

30) other situations deemed by the Director, or his designee, to be in the best interests of the Agency and public service.

- C. Requests for leave without pay must be accompanied by written justification including an explanation of the circumstances and the steps taken to minimize adverse impact on the Agency. The Director, or his designee, may consider all relevant factors including reasons why leave cannot be used, potential hardship to employee, potential impact on the Agency, the length of the requested leave, the employee's leave history and the amount of lead time given.
- D. Long term periods of leave without pay may be conditioned upon the employee's agreeing to waive their right to the position. In such circumstances, leave without pay may be granted for the requesting employee only if the employee agrees in writing to accept a position of equal or lower status and in a different geographical location if a position of the same classification is not available in the same geographic location.

Absence without leave

- A. Employees who fail to appear for work without authorized leave or who arrive for work but are unprepared or unable to perform their duties will be considered to be "absent without leave." Absence without leave is considered a serious disciplinary matter. Absence without leave will not be paid. The Agency reserves the right to administer strong disciplinary action up to and including termination for the first or subsequent instances of absence without leave after considering the length or recurrence of the absence or its impact to the job.
- B. Where an employee is absent without leave, the immediate supervisor must consult with the next level of supervision and the HRO to recommend appropriate action.

Donation of Annual Leave

- A. State Personnel rules and regulations allows employees to donate annual leave to another employee in the same agency for a medical emergency that requires an absence from work of a minimum of 3 weeks.
- B. The Director may approve the transfer of annual leave up to a maximum of 480 hours of donated leave in any calendar year to an eligible employee who meets the criteria established in this policy. Under extenuating circumstances, the Director may grant approval for donations exceeding 480 hours.
- C. Employees are required to submit a request to their supervisor along with a medical certification form from the employee's healthcare provider. Medical certification forms are available through the Human Resource Office and include information such as a statement that the employee is unable to perform the functions of the job, the nature and severity of the condition, the probable duration of the condition and the healthcare provider's licensure and certification to ensure the provider is a qualifying healthcare

provider.

- D. In cases where the employee is acting as the primary care giver for a relation of the 1st degree, the employee must submit a medical certification from the relation's healthcare provider.
- E. Ordinarily, employees must be employed with the WCA for one year on a full-time basis to be eligible to receive annual leave donations.
- F. Family Medical Leave will be taken in conjunction with approved annual leave donations.
- G. The recipient of donated annual leave may not use such leave until all the recipient's accrued annual and sick leave, compensatory time and personal leave day have been exhausted.
- H. Prior abuse of leave by the employee may affect management's decision in approving the request for donations.
- I. Donated annual leave shall revert to the employees who donated the leave on a prorated basis when the medical emergency ends or the employee separates from the classified service.

Administrative Leave

- A. Except as otherwise provided in the State Personnel Rules, the Director may grant an employee administrative leave for up to five consecutive days under unusual circumstances and when it is in the best interests of the State to do so.
- B. Pursuant to SPO regulations, supervisors may grant administrative leave to employees who are registered voters.
- C. Pursuant to SPO regulations, the Director and Executive Deputy Directors may grant administrative leave to employees who are members of a legally constituted state board or commission to attend meetings or transact business.

Bereavement Leave

- A. The Director and Deputy Directors may grant up to three (3) workdays of administrative leave to employees who have experienced a death of a family member through blood or marriage of up to the 3rd degree of consanguinity.
- B. Bereavement leave must be designated as such on a Leave Request Form signed by the Director or Executive Deputy Director approving the leave.

Interviews For WCA Positions

- A. Duty time may be used to interview for a WCA vacancy when the employee and the interviewing supervisor are housed in the same office.
- B. In the instance that the interviewing supervisor and the interested WCA employee are not located in the same geographic location, the employee will be interviewed by telephone, unless the candidate requests a personal interview.
- C. Employees who request a personal interview may be granted administrative leave by their immediate supervisor to travel to the interview and for the actual interview. Such administrative leave must be requested in advance of the interview. An employee may be granted no more than twenty-four (24) hours of administrative leave pursuant to this policy each calendar year. Administrative leave may not be used for interviewing purposes with other agencies or employers.
- D. WCA employees electing a personal interview will not be compensated per diem, mileage or other time outside of their normal work hours. In addition, employees will not be authorized to use a state vehicle to attend the interview.

Procedures:

Annual Leave

Employees requesting annual leave will notify their supervisor in writing. Employees are required to request annual leave as far in advance as possible to allow supervisors adequate time to coordinate employee schedules. The supervisor will evaluate the employee's workload and that of the unit of supervision when considering approval for annual leave.

Sick Leave

- A. Employees requesting sick leave in advance should notify their supervisor as far in advance as possible for approval.
- B. Employees requesting sick leave unexpectedly will contact their supervisor no later than 30 minutes past the employee's regular starting time. The employee will notify their supervisor in writing upon return to work.
- C. When an employee is ill but has not been seen by a doctor, the employee will be required to call their supervisor on each day of absence.
- D. In cases where abuse of sick leave is suspected or an absence is expected to exceed three (3) or more consecutive workdays, an employee may be required to submit medical certification to the HRO to determine if sick leave is prescribed or indicated. The supervisor must first consult with the next level supervisor and the HRO prior to requesting any medical certification.
- E. If, upon review of the Medical Certification, the WCA determines that the

circumstances fall within the regulations of the Family Medical Leave Act, the Agency will place the employee on family medical leave.

Leave Without Pay

- A. An employee requesting leave without pay must submit a “WCA Leave Request Form” which includes the requested leave dates.
- B. The employee requesting leave without pay must also attach a written statement explaining the circumstances for which the leave has been requested.
- C. The employee will submit the request for approval through the appropriate supervisors. The request should then be submitted to the HRO.
- D. The HRO will review all requests for leave without pay for compliance with Agency and SPB rules. The HRO will forward the request to the Director or his designee. All requests for leave without pay require the Director’s or his designee’s approval.
- E. Following review, the HRO will advise the employee and the employee’s supervisor of approval or disapproval.

Annual Leave Donations

- A. The employee who wishes to request donations of annual leave must submit a written request through their supervisor to the HRO. The request must include a medical certification form completed and signed by their physician.
- B. The request, along with all documentation, will be evaluated by the HRO. A recommendation will be forwarded to the Director for final approval.
- C. Upon approval, the request for donations will be circulated by memo from the HRO to all WCA employees at the earliest possible opportunity.
- D. Upon receipt of an employee’s written authorization for donation, the HRO will transfer the dollar value of the donated annual leave to an equivalent dollar value of sick leave to the recipient based on the recipient’s hourly pay rate.
- E. The recipient of donated leave must contact the HRO at least monthly to provide a medical certification on the continuing need for the use of donated leave.
- F. The employee must provide a written release, which includes the employee’s fitness for duty from the health care provider to their supervisor and the HRO when the medical emergency or the need for donated leave ceases to be in effect.
- G. The recipient of donated leave must submit a time sheet for every pay period.
- H. The HRO will cease processing of donations of annual leave when the recipient has received the maximum allowable donation of 480 hours.

- I. The HRO will return all unused leave to the donors on a pro-rated basis when any of the following events occur:
- a. The health care provider states, in writing, that the medical emergency has ended and provides a statement of the employee's fitness for duty.
 - b. The employee states, in writing, that the need for the donated leave no longer exists.
 - c. The maximum allowable donations (480) have been reached.
 - d. The employee terminates with the Workers' Compensation Administration.

Approved:

Ned S. Fuller
Director, NM Workers' Compensation Administration

Date



**State of New Mexico
Workers' Compensation Administration
Employee Policies**



SUBJECT: Family and Medical Leave

POLICY NUMBER:
EFFECTIVE DATE:

Purpose:

The Family and Medical Leave Act (FMLA) of 1993 is intended to allow employees to balance their work and family life by taking reasonable unpaid leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. This policy establishes guidelines on the use of Family and Medical Leave (FML).

FML provides for time off from work because of qualifying medical needs, but it does not provide additional paid leave beyond what the employee has already accrued as annual and sick leave. Pursuant to the review and approval process outlined in this policy, the employee may take accrued annual and sick leave or, in certain circumstances, leave without pay as FML.

The Agency has the right to require the use of accrued annual and sick leave when FML is approved. Under extenuating circumstances, the Agency may authorize the use of leave without pay prior to or in conjunction with the use of annual and sick leave. All annual and sick leave and leave without pay taken during the approved period will be counted towards the maximum of twelve weeks available under FML.

Definitions:

Healthcare Provider: A licensed healthcare professional.

Immediate Family Member: An employee's spouse, child or parent. Does not include parent "in-law" or individuals age 18 or over unless they are incapable of self-care.

Primary Care Giver: An employee who is needed to provide support for daily living activities and supplemental medical care to a relation by blood or marriage within the first degree or to a member of the employee's household.

Policy:

A. An eligible employee may request FML for the following contingencies:

- a. the birth of his or her child;
- b. the placement of a child with the employee for adoption or foster care;
- c. the care of an immediate family member who is seriously ill or;
- d. his or her own serious health condition which prevents the employee from performing the essential functions of the job.

- B. An eligible employee is entitled to receive a maximum of 12 work weeks of FML for qualifying events once every twelve months. Such leave may be taken on an "intermittent" or "reduced leave schedule," subject to approval.
- C. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of unpaid FMLA leave in a single 12 month period to care for that service member. This military caregiver leave is available during a single 12 month period during which the eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave. The 12 month period is calculated forward from the date an employee's first FMLA leave begins.
- D. To be eligible for FML, an employee must have been employed in the classified, exempt, legislative or judicial branch for at least 12 months, and have worked at least 1250 hours during the 12 month period immediately preceding the start of FML.
- E. Employees must submit a written request which includes the reason and the dates for the requested FML as well as a medical certification form, provided by or acceptable to the Human Resources Office (HRO), completed and signed by the appropriate health care provider. The documentation must be submitted to the HRO prior to approval of FML. The HRO will be available to employees and managers to answer questions regarding the leave, return date, benefit status, procedures and any other related questions.
- F. Employees shall not accrue annual or sick leave while on unpaid FML.
- G. Employees must report paid time on the normal work day prior to or directly following a holiday in order to receive holiday pay.
- H. Employees returning from an approved period of FML of twelve weeks or less will be restored to their former position or to a position of like status, contingent upon the employee's continued ability to perform the essential functions of the position.
- I. The WCA may, with notice to employees, place employees on FML whenever circumstances qualify for FML.
- J. Failure of the employee to report to work upon the expiration of approved FML will result in Absence Without Leave and may result in disciplinary action.
- K. If additional time is required beyond the 12 week entitlement under FMLA, an employee may request additional time off in writing. Any additional time off will be made pursuant to annual or sick leave and leave without pay and not FML. See Leave Policy.
- L. All medical records and correspondence relating to employees and/or their families are confidential.

Approved:

Ned S. Fuller
Director, NM Workers' Compensation Administration

Date