

POLICY 407: WORKERS COMPENSATION LEAVE

ADOPTED: AUGUST 3, 1988 (REVISED: NOVEMBER 9, 2010)

(IN ACCORDANCE WITH CHAPTER 440, FLORIDA STATUTES)

Policy:

It is the policy of Lee County to insure the availability of all reasonable and necessary authorized medical care & payment of all related medical costs to employees who are injured or develop an occupational disease as a result of the conditions of their job. Additionally, employees may be entitled to receive partial compensation for lost wages due to a qualified job-related injury or illness.

407:1 GENERAL PROVISIONS

1. Employees who sustain an on-the-job work-related injury or illness related to work should immediately inform their supervisor. Failure to notify the supervisor immediately may impact benefits under the Workers' Compensation Law.
2. The supervisor is responsible for reporting all Workers' Compensation injuries to Risk Management within 24 hours of the injury.
3. In non-emergency situations, prior to medical attention being sought for any work-related injury or illness, employees shall consult with Risk Management or for treatment or referral to an authorized health care provider. Failure to follow this procedure may jeopardize the employee's benefits under the Workers' Compensation Law.

This provision does not apply to life-threatening emergencies when immediate care must be sought through "9-1-1" dispatch. However, Risk Management must be informed as soon as possible of the injury.

4. If an authorized health care provider certifies the inability of an employee to perform work due to a work-related injury or illness, the employee must elect to use accrued sick leave (or vacation leave once all sick leave is exhausted) for the first seven (7) calendar days. On the eighth (8th) calendar day off of work, the employee will revert to workers' compensation indemnity benefits for partial or total indemnity benefits under Florida Workers Compensation Law. Employees will be paid workers' compensation indemnity benefits for the first seven (7) calendar days only if they are disabled for more than twenty-one (21) calendar days (these days do not have to be consecutive calendar days).
5. Indemnity benefits will be based upon the employee's average weekly wage for the thirteen- (13) week period immediately preceding the work-related injury or illness.
6. While receiving indemnity benefits, vacation and sick leave will still be accrued. Holiday pay is not available to an employee receiving total temporary indemnity benefits. Holiday pay may be available to an injured employee if the Holiday falls within the first seven (7) calendar days of the injury.

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7. Employees may elect to use up to one (1) hour of accrued sick leave (or vacation leave once all sick leave is exhausted) per day in addition to workers' compensation indemnity benefits in order to *approximate* net wages received prior to the occurrence of the job-related injury or illness. If the employee chooses not to use accrued leave, or no leave is available for use by the employee, the employee shall be placed on leave without pay and shall revert to any applicable workers' compensation benefits.

Workers compensation wage indemnity benefits are paid at the rate of 66.67% of gross wages and are tax-free. If an employee is allowed to use one (1) hour of paid leave to supplement the tax-free benefit the net wages received should be nearly equivalent to the net wages received prior to the covered injury.

8. An employee will be allowed reasonable time, up to two (2) hours per week at the beginning or end of a work shift, to receive authorized medical treatment during regularly scheduled work hours for qualified job-related injuries or illnesses, provided that the employee is not receiving workers' compensation indemnity benefits for that time and if it does not unduly burden the operation of the department. All other appointments will require the use of accrued sick leave or be unpaid time off.
9. Workers compensation may not be payable if the injury was occasioned primarily by the intoxication of the employee; by the influence of any drugs, barbiturates, or other stimulants not prescribed by a physician; or by the willful intention of the employee to injure or kill himself, herself, or another.
10. If injury is caused by the knowing refusal of the employee to use a safety appliance or observe a safety rule required by statute or lawfully adopted by the County, and brought to the employee's attention prior to the accident, or if injury is caused by the employee's refusal to use safety equipment provided by the County, workers' compensation indemnity benefits may be reduced by twenty-five percent (25%) and the employee will not be allowed to use accrued sick or vacation leave to supplement workers' compensation indemnity.
11. Once maximum medical improvement (MMI) has been reached, the employee shall be returned to their regular position unless the employee is unable to perform an essential job function of the position.

If the employee is unable to perform an essential job function and has a qualifying condition that may substantially limits one or more life function(s); the employee should contact Human Resources for referral to the County ADA Coordinator. If the employee cannot perform the essential functions of the position after MMI and proper certification is received for a qualifying condition under the Americans with Disabilities Act (ADA); the County will consider all requests for reasonable accommodations.

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12. *Return to Alternate Duty.* When Risk Management has been advised that the employee is entitled to receive a temporary partial disability benefit or a temporary total disability benefit, and there is medical certification that the employee cannot perform the duties of the employee's regular position, but the employee can perform some work beneficial to the County, the Department Director may return the employee to alternate duty at his/her regular rate of pay to perform any duties the employee is capable of carrying out, subject to the following conditions:
- a) Under no circumstances shall the employee be allowed to continue to perform the alternate duties once maximum medical improvement has been reached unless appointed to another existing and open position, the duties of which are within the employee's restrictions.
 - b) Alternate duty is at the sole discretion of the Department and is based on the operational needs and requirements of the County. No alternate duty positions will be created in the absence of an operational need or requirement.

407:2 RETURN AFTER A WORKERS COMPENSATION LEAVE

1. An employee has a maximum period of fifty-two (52) consecutive weeks of workers' compensation disability leave.
2. After the fifty-two (52) week period the employee must return to the essential duties of the employee's position with or without reasonable accommodation.
 - a) The ability to perform the essential duties of a position shall be determined by the County on the basis of medical information provided by the employee's treating physician.
 - b) If an employee returns to work before the end of fifty-two (52) weeks of workers' compensation leave and subsequently has a recurrence of the same illness/injury/disability or one of a different nature within thirty (30) days after his/her return to work and is once again placed on workers' compensation leave, the workers' compensation leave will continue where it left off. (Example: An employee who returns to work after twenty (20) weeks of workers' compensation leave and then returns to workers' compensation leave within thirty (30) days will only have twenty-two (22) workers' compensation leave weeks remaining to use.)

407:3 FAILURE TO RETURN AFTER A WORKERS' COMPENSATION LEAVE

1. The failure of an employee to return to work at the expiration of the fifty-two (52) week workers' compensation leave will subject the employee to immediate termination unless a leave of absence is granted. (See Leave of Absence Policy 404.)