

CITY OF FRISCO PERSONNEL POLICIES
SECTION: WORKERS' COMPENSATION

Subject: **WORKERS' COMPENSATION POLICY**

Effective Date: 04/06/2021

Approved By: Ord 2021-04-31

Revision Date:

Revision Approved by:

I. STATEMENT OF PURPOSE:

The City of Frisco complies with the Texas Workers' Compensation Act (the "Act"). The Act requires the City to provide lost wages and medical benefits to employees who sustain an injury or develops an occupational illness or disease within the course and scope of employment.

The purpose of this policy is to outline the City's job protection and supplemental wage benefits provided to employees who experience a work-related injury or occupational illness.

The policy provides job protection benefits for periods of continuous leave, reduced hours, and modified duty working arrangements along with a supplemental wage benefit. The Workers' Compensation policy coordinates with the City's Family and Medical Leave (FMLA), City Leave of Absence (LOA), Return to Work, and Americans with Disabilities Act (ADA) policies.

II. ELIGIBILITY:

Employees eligible to receive job protection and supplemental wage benefits must:

- Have sustained an injury or illness while functioning in their work capacity;
- Have reported the injury timely - within 24 hours, or for injuries that may not be known timely (i.e. poison ivy), reported immediately upon discovery. Employees who do not report timely may not be eligible for the supplemental wage benefit;
- Provide documentation from a workers' compensation network approved physician that supports the employee's inability to perform work in any capacity or in any alternate position;
- Receive notice from the City's workers' compensation administrator that the injury is deemed to be work-related and compensable.

III. DEFINITIONS:

- a. **Work Related Injury** – any injury that happened while an employee is doing something on behalf of the City or in the course of employment.

- b. **Occupational Illness** - any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to factors associated with employment.
- c. **Catastrophic Injury** – an extreme, incapacitating injury and/or illness usually considered life-threatening or which may result in serious residual disability which affects the employee’s physical and/or mental health requiring immediate medical attention by a health care provider.

IV. **BENEFITS:**

The City of Frisco workers’ compensation insurance provider is responsible for compensability determinations, recording and transmitting all information related to claims, serving as a liaison between injured employees and the City, departments, medical providers, and workers’ compensation health care network; authorizing rehabilitation or other actions related to an injured employee’s claims; and facilitating resolution of cases.

Job protection benefits include:

- a. **Continuous leave** – when an employee is unable to perform work in any capacity or alternate position. Continuous leave will be administered according to the City’s FMLA, LOA, and/or ADA policies, as applicable.
- b. **Reduced hours** – leave that reduces an employee’s usual number of working hours per work week, or hours per workday; a change in a schedule for a period of time (i.e. full-time to part-time). Reduced hours will be administered according to the City’s FMLA, Return to Work, and/or ADA policies, as applicable, and to the extent an employee is eligible.
- c. **Modified duty** – a temporary accommodation assigned to an employee with limitations in a current or alternate position. Modified duty will be administered according to the City’s Return to Work and/or ADA policies, as applicable, and to the extent an employee is eligible.

An employee may utilize any combination of the above job protection benefits for which he/she is eligible, for a total of 12 months from the date of injury (one injury) or 18 months for more than one injury, in a 24-month rolling look back period for more than one injury.

V. **JOB PROTECTION BENEFIT RUNS CONCURRENT WITH OTHER LEAVES:**

If the employee is approved for workers’ compensation benefits, the employee’s absence from work is automatically approved for FMLA, provided he/she has met

the FMLA's eligibility requirements. This means that workers' compensation continuous leave and reduced hours will run concurrently with FMLA leave. In determining the amount of family medical leave available to an employee, the City will use a 'rolling calendar' by considering any family medical leave taken in the twelve (12) months prior to the date the workers' compensation leave is to begin and continuous with each additional day leave is taken. See Family and Medical Leave policy.

If the employee is approved for workers' compensation, the employee's absence from work may be approved for City Leave of Absence (LOA) once all FMLA leave is exhausted, or if the employee is not eligible for FMLA leave. This means that workers' compensation continuous leave and reduced hours will run concurrently with LOA leave. In determining the amount of LOA available to an employee, the City will use a 'rolling calendar' by considering any LOA taken in the twelve (12) months prior to the date LOA leave is to begin and continuous with each additional day leave is taken. See Leave of Absence policy.

VI. **SUPPLEMENTAL WAGE BENEFIT:**

The City provides Supplemental Wage Benefits (SWB) to full-time employees who receive, or are eligible to receive, workers' compensation temporary income benefits (TIBS). This provides employees with approximately their regular take home pay while they are unable to work due to a compensable on-the-job injury or illness, minimizing a loss of earnings while off work. SWB will be provided for 480 hours of missed work for regular full-time employees or 720 hours of missed work for shift firefighters. SWB can be extended by the City Manager for catastrophic on-the-job injuries in increments of 480/720 hours for a total of 2080/2912 hours of missed work.

In no event will Supplemental Wage Benefits be continued:

- A. After a workers' compensation agreed judgement has been reached;
- B. After TIBs payments have ceased;
- C. After maximum medical improvement has been reached; or
- D. After an impairment rating has been assigned.

An employee who does not qualify for Supplemental Wage Benefits or whose Supplemental Wage Benefits have ended before being released to regular duty will use accrued leave benefits to supplement workers' compensation TIBs benefits, in accordance with City policies and to the extent the employee is eligible.

VII. **FORFEITURE OF SUPPLEMENTAL WAGE BENEFIT:**

An employee will forfeit all rights to initial and/or further Supplemental Wage Benefits if the employee:

- A. Fails or refuses to comply with the instructions or advice of the treating physician or another physician performing an independent medical examination for the City regarding treatment of the injured condition. This would also include failure to keep medical appointments and failure to forward DWC-73 or changes to work status to Human Resources.
- B. Refuses to perform alternate, modified, or part time duty when offered by the City and authorized by the treating physician or another physician performing an independent medical examination for the City; or refuses to return to duty on the designated workday after having been released by the treating physician.
- C. Refuses to accept or perform a different job with the City that, in the opinion of a treating physician or another physician performing an independent medical examination for the City, is within the employee's physical capacity and for which the employee is qualified or will be trained.
- D. Refuses to submit to any independent medical examination or treatment required by the City in accordance with workers' compensation laws.
- E. Refuses to return to regular duty after being released for regular duty by a treating physician or another physician performing an independent medical examination for the City.
- F. Falsifies or misrepresents a physical condition or capacity.
- G. Fails to report as agreed upon with the employee's Supervisor.
- H. Is injured as a result of any of the following:
 - 1. The employee's failure to observe safety policies, procedures, or instructions, as determined by employee's department director or City Manager or designee;
 - 2. The employee's violation of any Federal, State or local law, ordinance, General Orders, operating procedures, or statute; or
 - 3. Gross negligence of the employee.
- I. Is found to be working while receiving Supplemental Wage Benefits, in any capacity without written City approval which would be inconsistent with the injury sustained or not deemed consistent with the recovery or rehabilitation, as a volunteer or otherwise, for or on behalf of himself/herself or any other person, firm, corporation, or any other employer.
- J. Terminates employment or is involuntarily terminated from employment while receiving Supplemental Wage Benefits.
- K. Has workers' compensation TIBs terminated for any reason other than a return to work or part-time duty, including the denial of the workers' compensation claim.

L. Fails to act in a manner consistent with being off work convalescing.

VIII. **JOB PROTECTION BENEFIT EXHAUSTION:**

If the employee is not able to return to his/her position and perform the essential functions of the position, with or without reasonable accommodation, after one (1) year from the date of injury, the City will begin the ADA interactive process during which the employee may seek a Leave of Absence. This Leave of Absence may be compensated by TIBs and employee paid time off (if Supplemental Wage Benefit is exhausted), to the extent the employee is eligible. Provided the employee participates in the interactive ADA process, the City will endeavor to reasonably accommodate the employee until they return to their position or reach maximum medical improvement, whichever comes first. If an employee with a **catastrophic injury** is not able to return to their position after MMI is determined, the employee will be allowed to use their leave balances until they reach maximum pay out limits. Accommodations beyond this may be extended by City Manager with consultation from department director. All decisions regarding reasonable accommodations will be made in accordance with the City's ADA policy.

IX. **OTHER EMPLOYMENT DURING LEAVE PROHIBITED:**

Under no circumstances may an employee on FMLA leave, sick leave, disability leave, or workers' compensation leave engage in outside employment during the period of leave unless expressly authorized in writing in advance by the Department Director and Human Resources Director.

X. **FRAUD**

An employee who fraudulently obtains leave is not protected by the FMLA's job restoration or maintenance of health benefits provisions. Furthermore, an employee who commits fraud will be subject to disciplinary action up to, and including, termination from City employment.