



**STATE OF MONTANA  
DEPARTMENT OF CORRECTIONS  
POLICY DIRECTIVE**

Policy No. DOC 1.3.3	Subject: <b>WORKERS' COMPENSATION/EARLY RETURN TO WORK</b>
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 4 and Attachments
Section 3: Human Resources	Effective Date: April 1, 1996
Signature: /s/ Mike Batista, Director	Revised: 03/01/2016

**I. POLICY**

The Montana Department of Corrections maintains workers' compensation insurance through the Montana State Fund to ensure that in the event of workplace injuries or occupational illnesses, Department workers will receive reasonable care costs and wage-loss payments in accordance with the State of Montana's medical fee schedule and applicable statutes and rules to establish wage-loss payments and medical care cost benefits. The Department is committed to assisting injured employees return to work as soon as medically appropriate.

**II. APPLICABILITY**

All Department divisions, facilities, and programs.

**III. DEFINITIONS**

**Accident** – As defined in *Mont. Code Ann. § 39-71-119(2)(a-d) (2014)*, an accident is (a) an unexpected traumatic incident or unusual strain; (b) identifiable by time and place of occurrence; (c) identifiable by member or part of the body affected; and (d) caused by a specific event on a single day or during a single work shift.

**Injury** – As defined in *Mont. Code Ann. § 39-71-119(1)(a-c)(2) (2014)*, (a) internal or external physical harm to the body that is established by objective medical findings; (b) damage to prosthetic devices or appliances, except for damage to eyeglasses, contact lenses, dentures, or hearing aids; or (c) death. (2) An injury is caused by an accident.

**Occupational Disease** – Harm, damage, or death arising out of or contracted in the course and scope of employment caused by events occurring on more than a single day or work shift.

**Recordable Injuries** – Injuries which go beyond minor injuries requiring only first aid treatment, and may involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

**State Fund** – The workers' compensation policy holder for state government.

**Transitional Duty** – Modified, temporary work assigned by a state agency to an injured worker that allows the injured worker to return to the work place prior to the time when he or she is able to perform all normal job functions; fosters fast, more complete recovery.

**Transitional Duty Team** – A team of individuals consisting of the injured employee, their immediate supervisor, the division, program or facility Human Resource Generalist, and as needed or requested a member of the Department of Administration's Health Care and Benefits Division, Workers Compensation Management Bureau to administer its Return to Work Program.

**Transitional Duty Team Coordinator** – The Department's Human Resource Generalist

appointed by management to participate in every Early Return to Work team meeting regarding an injured employee.

#### **IV. DEPARTMENT DIRECTIVES**

##### **A. Department Responsibilities**

1. The Department will:
  - a. immediately address any employee-related injuries or occupational diseases;
  - b. investigate conditions, and implement environmental and/or procedural changes as necessary to reduce the number of occupational injuries and workers' compensation costs; and
  - c. ensure that injured employees resume work as soon as possible and are provided transitional modified duty assignments until a release to full duty is advised or until it has been determined the employee cannot perform the essential duties of the position with or without appropriate accommodations.
2. Office of Human Resources (OHR) staff members will finalize the [First Report](#) form for recordable injuries, establish tracking, and submit the form to State Fund within two days of the accident.

##### **B. Reporting an Injury or Occupational Disease**

1. Employees will report all work-related injuries or occupational diseases to their immediate supervisor as soon as practical.
2. If medical care is necessary, the supervisor should encourage and assist the employee to obtain the required care.
3. The employee and supervisor will complete the [First Report](#) form prior to the end of the assigned shift unless precluded by reasonable circumstances. However, all injuries must be reported no later than twenty-four (24) hours after occurrence.
4. The First Report form will be forwarded to OHR for reporting to State Fund.
5. The supervisor will analyze the accident, utilizing the [Accident Investigation Report](#), within five business days to determine what, if any, action will be taken to prevent future safety issues. The Accident Investigation Report will be submitted to OHR and the local safety committee for review.

##### **C. Compensation for Lost Time**

1. State Fund will provide wage loss benefits (temporary total disability) only when the wage loss exceeds four days or 32 hours. Employees may request use of other available leave or leave without pay for the lost time prior to receipt of State Fund benefits. Should an injury cause an employee to be off work beyond 21 days, they may be eligible to apply for retroactive benefits lost during this initial 32-hour period, unless sick leave benefits were used to provide compensation during this time.
2. Sick leave and temporary total disability benefits from the workers' compensation insurance carrier may not be paid concurrently unless provided within a collective bargaining agreement.

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3. Leave, other than sick leave, may be used concurrently with State Fund wage loss benefits, i.e., annual and compensatory time.
4. OHR will work closely with the state's Workers' Compensation Management Bureau, State Fund, and Department employees to address concerns and questions about employee workers' compensation rights, payments, and other issues of coordinated employee benefits.

**D. Requesting Leave of Absence**

1. Employees must request a leave of absence due to a work-related injury or occupational disease covered by workers' compensation. Failure to request leave may result in disciplinary action.
2. Supervisors who question the need for employee leave requests as a result of a workers' compensation injury may consult with the OHR to seek medical certification.
3. A member of the Transitional Duty Team will maintain weekly communications with employees on workers' compensation leave, either in person or by phone. These communications will allow employees to update the team on their progress and request assistance, where necessary.
4. An employee will submit a completed and signed medical status from their medical provider to the OHR after each medical appointment.

**E. Worker's Compensation Leave of Absence and FMLA.**

1. Leaves of absence taken in connection with a workers' compensation injury or illness will run concurrently with any FMLA leave entitlement for all eligible employees. Once FMLA leave expires, employees will need to be in a pay status for 40 hours a pay period or be responsible for self-paying the state share in order to maintain health benefit eligibility.

**F. Transitional Work**

1. The Department is committed to implementing the state's Early Return to Work Program which involves working closely with injured workers and their health care providers to return injured employees to work as soon as medically appropriate.
2. The Transitional Duty Team will identify and coordinate transitional or light-duty work assignments when possible depending on a particular position and the employee's circumstances, including work limitations.
3. Employee's pay during a transitional work assignment will be maintained at its current rate.
4. The Transitional Duty Team will review current work ability and progress toward the time of injury duties at least once a month.
5. An employee who returns to work in a transitional work status will have his or her job retained for a reasonable amount of time, which will be determined based on Department needs, union contract, and medical prognosis for full-time release, or until a medical

decision establishes that the employee will not be able to perform the essential duties of the employee's job.

6. Transitional duty positions are not considered permanent.
7. Employees must provide a signed medical status form indicating there are no restrictions before returning to regular duty.

#### **G. Reemployment to Time-of-Injury Position**

1. Employees will be returned to the time-of-injury positions according to Department needs.
2. During an employee's absence, his or her position may be temporarily filled.
3. Employees who return to work for a brief period (30 calendar days or less) and suffer a reoccurrence of injuries will be considered on cumulative leave from the date of the original injury.
4. Injured employees who have been terminated and then released to regular duty by attending physicians will be given preference over other applicants for the same or another comparable vacant position for a period of two years from the date of injury.

#### **H. Retirement**

1. Employees covered by a Montana Public Employees Retiree Administration (MPERA) or Teachers Retirement Administration (TRA) retirement system who are absent from work because of a compensated job-related injury may elect to qualify the absence for retirement credit.

#### **V. CLOSING**

Provisions of this policy not required by statute will be followed unless the provisions conflict with negotiated labor contracts, which will take precedence to the extent applicable.

Questions concerning this policy should be directed to the Office of Human Resources.

#### **VI. REFERENCES**

- A. 19-3-504, MCA; 19-20-411, MCA; 39-71-119, MCA
- B. 24.29.101 through 24.29.213; *Administrative Rules of Montana*
- C. *Work Comp Benefits Summary (Department of Labor & Industry)*

#### **VII. ATTACHMENTS**

[First Report](#)

[Accident Investigation Report](#)

[Early Return to Work Funding Request](#)