



Operating Procedure

Effective Date October 1, 2017	Number 261.3
Amended	Operating Level Department
Supersedes Operating Procedure 261.3 (7/1/14)	
Authority COV §2.2-1832, §2.2-2900 et seq., §9.1-400, §40.1-2.1, §53.1-10, §53.1-25, §65.2-100 et seq.	
ACA/PREA Standards 4-4041; 4-APPFS-3D-27; 2-CO-1B-11, 2-CO-1C-05; 1-CTA-1B-09, 1-CTA-3B-07	
Office of Primary Responsibility Workers' Compensation Manager	

Subject
WORKERS' COMPENSATION

Incarcerated Offender Access Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Attachments Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
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I. PURPOSE

This operating procedure ensures accountability and responsibility for coordination of Workers' Compensation benefits for all covered Department of Corrections employee injuries or occupational diseases arising out of and in the course of employment. The DOC provides guidance for temporary adjustments in work assignments for employees who have experienced a Workers' Compensation injury or illness. Implementation of this procedure enables the DOC to utilize affected employees to the fullest extent of their capabilities.

II. COMPLIANCE

This operating procedure applies to all units operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

III. DEFINITIONS

Adjusted Work Assignment - A temporary work placement made by management consistent with the needs of the organizational unit, security procedures, and/or to satisfy restrictions established by the treating panel physician

Authorized Treating Physician - The selected panel physician or the physician to which the injured employee has been referred by the panel physician

Department of Human Resource Management Workers' Compensation Services (DHRM/WCS) - The state entity that oversees the third party administrator contract for workers' compensation claims

Employee Accident Recording System (EARS) - The Risk Management reporting system that captures the number of days out of work and the number of restricted duty days for each of the major facilities and field units as maintained on the OSHA 300 Logs

Modified Duty - Duties that are modified or created to satisfy restrictions established by the authorized treating physician

Organizational Unit Head - The person occupying the highest position in a DOC unit, such as a correctional facility, regional office, probation and parole office, Virginia Correctional Enterprises (VCE), Academy for Staff Development, Corrections Construction Unit, Agribusiness Unit, and individual headquarters unit (i.e. Human Resources, Offender Management, Internal Audits)

Panel Physician - The physician selected by the employee from a panel offered by the employing agency at the time the injury or illness was reported

Third Party Administrator - The insurance company that administers workers' compensation claims for the Department of Corrections

Workers' Compensation Injury - An injury by accident arising out of and in the course of the employment and accepted as a compensable claim by the DHRM/WCS

IV. PROCEDURE

A. Administration

1. This operating procedure and the related *DOC Workers' Compensation Claims Manual* are applicable to all employees, and all organizational units within the Department of Corrections (DOC).
2. Injuries and illnesses not covered by Workers' Compensation shall be addressed in Operating Procedure 150.3, *Reasonable Accommodation*.
3. The DOC Procurement and Risk Management Unit (PR&RMU) has oversight responsibility for the workers' compensation modified duty program within the DOC. This unit's responsibilities include:
 - a. Develop, implement, and revise DOC procedures relating to Workers' Compensation modified duty
 - b. Provide modified duty training to DOC employees as needed
 - c. Issue supplemental instructions to DOC organizational units as needed to support compliance with State and DOC policies and procedures
 - d. Review individual unit's modified duty recordkeeping and reporting functions and make recommendations to ensure compliance with current policies and procedures.

B. Benefits

1. The [Virginia Workers' Compensation Act](#) provides coverage for partial salary and medical treatment as defined in the Act. (4-4041; 4-APPFS-3D-27; 2-CO-1B-11; 1CTA-1B-09)
2. In addition to the [Workers' Compensation Act](#), salaried employees, both full-time and part-time, have supplementary salary and leave benefits for a limited period of time as defined in the [Virginia Personnel Act](#) and outlined in the *DOC Workers' Compensation Claims Manual*.
3. Wage (WE-14) and temporary salaried (P-3) employees have only the provisions guaranteed by the Virginia Workers' Compensation Act. Additional benefits stipulated in the Virginia Personnel Act do not extend to these employees.
4. When an employee is disabled or killed in the line of duty, there may be benefits available under the [COV §9.1-400 Line of Duty Act](#), [Public Safety Officers' Benefits Programs](#), [Workers' Compensation Act](#) (COV §65.2-100 et seq.), Social Security, [Virginia Public Safety Foundation](#), and [Virginia Retirement System Death in Service Benefits](#). (see Operating Procedure 150.4, *Line of Duty Death or Injury*)

C. Employee Notice of Accident

1. When an accident occurs, or there is exposure to an occupational disease, the employee or the employee's representative shall immediately, or as soon thereafter as practical, give written notice of the accident or occupational disease to their supervisor. (2-CO-1C-05)
2. The notice shall state, at minimum, the name and address of the employee, the time and place of the accident or exposure, the nature and cause of the accident/exposure, and the injury or occupational disease.

D. Employer's Duty to Provide Medical Attention

1. The Organizational Unit Head, or designee, shall ensure a panel of at least three physicians is immediately offered to every employee who reports a work-related injury or exposure to an occupational disease. (1-CTA-3B-07)
2. The Institutional Unit Head, or designee, shall ensure that written verification of the employee's selection is entered on the DOC [Workers' Compensation Selection of Panel Physicians](#) 261_F2 and in accordance with the DOC [Workers' Compensation Claims Manual](#).
3. The Community Corrections Unit Head or designee shall ensure that the panel of physicians

presented to the employee and the written verification of the employee's selection is entered on the [Workers' Compensation Panel and Physician Selection for Community Corrections](#) 261_F7

E. Employer Reporting Responsibilities

1. The Organizational Unit Head, or designee, shall ensure required forms are completed and disseminated in accordance with specific instructions and time frames provided by their designated Human Resources Officer. (2-CO-1C-05, 1-CTA-3B-07)
2. Institutional Human Resources Officers, or their designees, shall submit the *First Report of Injury* to the DOC Risk Management Unit for review and quality control using the York FROI Portal within three business days of notification or knowledge of the injury.
3. Community Corrections Units shall send the required information as outlined by the Community Corrections Human Resources Officer using the [Employer's Accident Report](#) 261_F8 to the Community Corrections Workers' Compensation e-mail box. (DOC_CCWC@virginia.gov) The Community Corrections Human Resources Officer, or designee, shall submit the *First Report of Injury* to the DOC Risk Management Unit for review and quality control using the York FROI Portal.
4. The DOC Risk Management Unit shall submit the *First Report of Injury* to MC Innovations using the York FROI Portal as required by the Department of Human Resources Management and Workers' Compensation Services within three business days of receipt.

F. Problem Resolution

1. The Organizational Unit Head or designee shall be responsible for facilitating prompt resolution of problems relating to Workers' Compensation claims.
2. If all attempts to resolve the problem have been exhausted at the organizational unit level, the Organizational Unit Head or designee shall refer the problem to the DOC Procurement and Risk Management Unit for resolution.

G. Claims Management

1. The DOC Procurement and Risk Management Unit shall serve as liaison with the Department of Treasury, Division of Risk Management, the [Virginia Workers' Compensation Commission](#), the [Department of Human Resource Management](#), Workers' Compensation Services, and commercial insurance providers regarding Workers' Compensation claims management procedures for the Department of Corrections.
2. Upon request, the DOC PR&RMU and the Human Resource Unit shall provide timely advice and assistance to DOC organizational units regarding resolution of Workers' Compensation claims management issues.

H. Visits and Advise ment of Rights

1. The Organizational Unit Head, or designee, shall visit any employee who is seriously injured in the line of duty, or the next of kin of any employee killed in the line of duty, to express the DOC's sympathy and to advise of rights under the state benefits programs. (see Operating Procedure 101.6, *Line of Duty Death or Injury*)
2. Specific information regarding rights/benefits should be obtained from the Virginia Workers' Compensation Commission.

I. DOC Workers' Compensation Claims Manual

1. Each organizational unit shall maintain access to an updated copy of the *DOC Workers' Compensation Claims Manual*.
2. Making and handling Workers' Compensation claims shall be in accordance with the *Manual*.
3. The *DOC Workers' Compensation Claims Manual* must be reviewed and updated as necessary by

the DOC Procurement and Risk Management Unit.

4. Copies of the *DOC Workers' Compensation Claims Manual* are available from the DOC Financial Services, Risk Management Section. An updated version of the *Manual* is available on the Virtual Library.

J. Workers' Compensation Temporary Adjustments to Work Assignments

1. Adjusted Work Assignment - In accordance with requirements of the Department of Human Resource Management Workers' Compensation Services (DHRM/WCS), every effort shall be made to enable an employee experiencing a workers' compensation injury to return to work as soon as practical.
2. Establishment of Adjusted Work Assignment
 - a. If an employee is unable to return to their regular position and perform the required functions, a temporary adjusted work assignment shall be offered in accordance with:
 - i. The employee's qualifications
 - ii. Any restrictions set forth by the authorized treating physician
 - iii. The needs of the agency and security procedures
 - b. Prior to offering the employee a temporary adjusted work assignment:
 - i. It shall be approved by the authorized treating physician
 - ii. The Organizational Unit Head or designee shall notify the employee, and the employee's supervisor, in writing of the employee's modified duty assignment. This notification shall include:
 - (a) A description of the physician's restrictions
 - (b) Duties and responsibilities
 - (c) Beginning date and review date of assignment
 - iii. The Organizational Unit Head or designee shall ensure that temporary adjustments to work assignments do not relieve the employee from meeting mandated performance requirements (e.g., firearms recertification).
3. Prior to returning to work, the employee shall provide the Organizational Unit Head a written statement from the panel or authorized treating physician that includes the following:
 - a. Releases the employee to return to work in accordance with any specified work restrictions or physical limitations
 - b. Includes an anticipated length of time before the employee can fully resume the responsibilities of the regular position
4. Return to Work
 - a. When presented with an adjusted work assignment, the employee shall return to work in accordance with the [Virginia Workers' Compensation Act](#) § 65.2-510.
 - b. As determined on a case by case basis, an employee who refuses the adjusted work assignment offered by the DOC may lose entitlement to all wage compensation during such refusal.
5. Recordkeeping
 - a. Within three working days of the employee's return to work, the Organizational Unit Head or designee, shall provide a [Notification of Adjusted Work Assignment](#) 261_F1 concerning the employee's work restrictions and adjusted work assignments to the Human Resource representative for that organizational unit, with a copy to the DOC Risk Management Claims Manager and the DHRM/WCS claim administrator.
 - b. When an employee under the Traditional Sick Leave Plan returns on an adjusted work assignment with a reduced work schedule, the employee shall be reported as employed full-time.
 - i. Personal leave will be used for the hours the employee is not working.
 - ii. If the employee does not have personal leave or chooses not to use personal leave, the third-party administrator, Payroll Unit and DOC Risk Management Claims Manager must be

- notified immediately beyond the 92nd calendar day.
- iii. The employee's leave will be restored at the workers' compensation rate (66 2/3%) when the DOC is reimbursed by the third-party administrator.
 - iv. Employees under the Virginia Sickness and Disability Program (VSDP) will be reported similarly under VSDP guidelines.
- c. In order to document any change in the employee's work status, a *Supplementary Report* shall be provided to the Third Party Administrator at least every 30 days with a copy to the Procurement and Risk Management Unit.
6. Reporting
- a. The Organizational Unit Head or designee shall provide quarterly reporting to the PR&RMU, through Employee Accident Recording System (EARS), to include number of days out of work and number of restricted work days.
 - b. Based on the data received from all organizational units, PR&RMU shall provide quarterly reporting to DOC Senior Management.
7. Review and Documentation
- a. The Organizational Unit Head or designee shall provide ongoing review and coordination of all work assignments within the organizational unit that have been adjusted due to workers' compensation restrictions.
 - b. In accordance with Operating Procedure 110.1, *Hours of Work and Leave of Absence*, an employee who is on an adjusted work assignment shall submit a panel physician statement every thirty calendar days to the Organizational Unit Head describing:
 - i. The employee's updated medical status
 - ii. The employee's ability to continue workers' compensation adjusted work assignments
 - iii. A tentative projected date for the employee to resume regular position duties; general duration guidelines for the injury or illness are acceptable.
 - iv. In instances where a physician's statement is submitted, that contains all the above information and outlines a specific time frame or date exceeding the thirty calendar days, an updated statement would only be required at the expiration of the stated time frame.
 - c. The Organizational Unit Head or designee shall review physician statements in considering the continuance of adjusted work assignments.
 - d. If the employee is assigned to a new supervisor for adjusted work assignments, that supervisor shall document attendance and job performance of the employee, and provide the documentation to the regular supervisor every thirty days.
 - e. When an employee continues to work in an adjusted work assignment for more than ninety calendar days, the Organizational Unit Head or designee shall contact the Procurement and Risk Management Unit, Claims Manager who shall ensure proper steps are taken to review the duties and determine if a transfer or demotion is appropriate. Additionally, options under the *Alternatives to Adjusted Work Assignments* Section of this operating procedure may apply.
8. Alternatives to Adjusted Work Assignments
- a. If an adjusted work assignment for the employee is not feasible or if the adjusted work assignment is not extended beyond the initial ninety calendar days, the Organizational Unit Head or designee shall immediately contact the Procurement and Risk Management Unit, Claims Manager who shall notify the DHRM/WCS claims administrator to coordinate providing assistance from rehabilitation agencies or other sources. Potential job placements must be coordinated through the Benefits Manager in the headquarters office of Human Resources.
 - b. Additionally, the Organizational Unit Head or designee shall advise the employee of the following options:
 - i. Use of paid sick leave, annual leave, or compensatory leave
 - ii. Leave without pay or conditional leave without pay

- iii. Disability retirement or long-term disability
 - iv. Seeking other positions, either within or outside the DOC
 - v. Separation
9. Decision Not To Offer an Adjusted Work Assignment
- a. The Organizational Unit Head shall justify in writing any decision not to offer an employee an adjusted work assignment.
 - b. Once the employee has been notified of this decision, a copy of the written justification must be placed in the employee's file and a copy shall be provided to the DHRM/WCS claim administrator and the DOC Procurement and Risk Management Unit Claims Manager, within five working days of issuance.

V. REFERENCES

DHRM Policy 1.45, [Probationary Period](#)

[DOC Workers' Compensation Claims Manual](#)

Operating Procedure 110.1, *Hours of Work and Leave of Absence*

Operating Procedure 150.3, *Reasonable Accommodations*

Operating Procedure 150.4, *Line of Duty Death or Injury*

[Public Safety Officers' Benefits Act of 1976, 42 U.S.C. 3796, et seq., Public Law 94-430, 90 Stat. 1346 \(September 29, 1976\)](#)

VI. FORM CITATIONS

[Notification of Adjusted Work Assignment](#) 261_F1

[Workers' Compensation Selection of Panel Physicians](#) 261_F2

[Workers' Compensation Panel and Physician Selection for Community Corrections](#) 261_F7

[Employer's Accident Report](#) 261_F8 (Community Corrections only)

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

Signature Copy on File

8/15/17

N. H. Scott, Deputy Director for Administration

Date