

# **WORKERS' COMPENSATION**



## **MANUAL**

# WORKERS' COMPENSATION MANUAL

This Workers' Compensation Manual is for all Coordinators responsible for reporting workers' compensation claims and any information pertaining to these claims under the Commonwealth of Kentucky Workers' Compensation Self-Insurance Program. The manual is available online or by email. Every Coordinator should make sure all agency personnel working with workers' compensation has this manual available to comply with the WC Program procedures. Go to: <http://personnel.ky.gov/> for more information.

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# SECTION 1



# ADMINISTRATION

## **SECTION 1 – ADMINISTRATION**

### **WORKERS' COMPENSATION LAW**

The Workers' Compensation Law (KRS 342) is designed to compensate employees for loss of earning power due to work-related injuries or disease arising out of and in the course of their employment. This coverage includes:

- Medical
- Temporary Total Disability
- Permanent Partial Disability
- Permanent Total Disability
- Rehabilitation Services
- Death and Burial Benefits

NOTE: Refer to Department of Workers' Claims (DWC), Workers' Compensation Guidebook for more information.

### **STATE WORKERS' COMPENSATION PROGRAM**

On July 1, 1979, the Commonwealth of Kentucky established a Workers' Compensation Self-Insurance Program to be administered by the Personnel Cabinet, Division of Employee Benefits. Claims are processed and reviewed by the State Workers' Compensation Branch along with their third party administrator.

Services provided by the Third Party Administrator include:

- Investigate all reported injuries to establish compensability.
- Payment of benefits.
- Establish reserves.
- Arrange expert medical examinations.
- Assist RTW Program in returning injured employees to the workforce.
- Coordinate Managed Care Plan for medical benefits.
- Contact Workers' Comp Administrator for authorization of settlements.

# **ELIGIBILITY**

The Workers' Compensation Self-Insurance Program currently covers:

All State employees (except Transportation Cabinet)  
Kentucky Community and Technical College System  
Volunteer Firefighters  
Volunteer Ambulance Personnel  
Kentucky Lottery Corporation  
The Kentucky Center  
Murray State University  
Boone County Clerk's Office  
Boone County Sheriff's Office  
Campbell County Clerk's Office  
Campbell County Sheriff's Office  
Christian County Clerk's Office  
Christian County Sheriff's Office  
Daviess County Clerk's Office  
Daviess County Sheriff's Office  
Hardin County Clerk's Office  
Hardin County Sheriff's Office  
Fayette County Clerk's Office  
Fayette County Sheriff's Office  
Jefferson County Sheriff's Office  
Kenton County Clerk's Office  
Kenton County Sheriff's Office  
Madison County Clerk's Office  
Madison County Sheriff's Office  
Pike County Clerk's Office  
Pike County Sheriff's Office  
Warren County Clerk's Office  
Warren County Sheriff's Office  
Bluegrass Rape Crisis Center  
Lincoln Trail Advocacy and Support Ctr.  
Big Sandy Area Child Advocacy  
Lake Cumberland Children's Advocacy Ctr.

# SECTION 2



## BENEFITS

## **SECTION 2 - BENEFITS**

### **MEDICAL**

An employee who sustains a **compensable** injury or disease is entitled to immediate and continuing medical treatment at the expense of the employer. An employee **should not** use their health insurance when they are seeking treatment under workers' compensation. The employer shall pay for the cure and relief from the effects of an injury or occupational disease as may be reasonable and necessary at the time of the injury and thereafter during disability. This treatment includes:

- Medical
- Surgical and hospital treatment
- Nursing
- Medical supplies, surgical supplies and appliances

Requiring employees to make co-payments for treatment of work-related injuries is unlawful. Likewise, medical providers **may not** engage in "balance billing" by charging employees separately for amounts in excess of those set forth in the Kentucky Medical Fee Schedule in the Commonwealth.

### **TEMPORARY TOTAL DISABILITY BENEFITS**

An employee who sustains a compensable injury or disease and is unable to work after a waiting period of seven (7) days is entitled to income benefits which are calculated at:

- 66 2/3 percent of his average weekly wage, but no more than one hundred percent (100%), or less than twenty percent (20%) of the State's average weekly wage.

The weekly wage benefits for an injury have a **minimum** and **maximum** amount set by the Department of Workers' Claims. The current benefit schedule can be found at:

<http://labor.ky.gov/workersclaims/Pages/Publications.aspx>

Entitlement to these benefits begins on the eighth (8th) day of disability determined by a physician. The first seven-(7) days of disability are payable only if total disability lasts 15 days or more and do not include the date of injury. "Days of Disability" do not refer only to consecutive scheduled workdays, but also includes weekends and holidays.

Temporary total disability benefits usually continue until an employee reaches maximum medical improvement, is released to return to work by a physician, or returns to work, including modified duty -- whichever occurs first.

## **PERMANENT PARTIAL DISABILITY**

An employee, who has recovered as much as he/she will from an occupational injury or disease, but still has some permanent impairment which results in a permanent but partial loss of wages or wage earning capacity, is entitled to benefits calculated as follows:

- When an employee **does** return to work at an equal or greater wage, that employee will receive  $66 \frac{2}{3}$  percent of his/her average weekly wage, but not more than 75 percent of the State's average weekly wage, multiplied by his/her percentage of impairment caused by the injury or disease. Please refer to the DWC's guidebook for further information.

## **PERMANENT TOTAL DISABILITY**

An employee who has reached maximum medical improvement but still has permanent impairment and restrictions, which prevent him from performing regular employment of the type he was doing before his injury, is entitled to benefits calculated at:

- $66 \frac{2}{3}$  percent of his average weekly wage, but not more than one hundred percent (100%) or less than twenty percent (20%) of the State's average weekly wage. Please refer to the DWC's guidebook for further information.

## **DEATH AND BURIAL BENEFITS**

If death of employee occurs within four (4) years from date of injury as a direct result of the injury, a lump sum payment to the estate will be made, from which burial expenses are to be paid.

## **WORKERS' COMPENSATION TEMPORARY TOTAL DISABILITY CHECKS**

According to 101 KAR 2:140 Section 4(2), the employee's absence due to illness or injury for which Workers' Compensation benefits are received for lost time, accumulated leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.

Please refer to the link below for further guidance at:

<http://personnel.ky.gov/stemp/emphb/wrkrcomp.htm>

Under no circumstances should an employee receive more pay than his normal salary for that period. The payroll officer is responsible to ensure that this does not occur. Upon receipt of the Workers' Compensation check, the payroll officer would determine if the employee was entitled to receive the check by the following guidelines:

1. If the employee utilized leave for the entire period, the Workers' Compensation check would be signed over to the State to reinstate leave. To determine the number of hours to reinstate, the payroll officer would divide the Workers' Compensation check by the employee's hourly wage rate and reinstate that number of hours to the employee's leave balance.
2. If the employee was placed on leave without pay (LWOP) for the entire period, the employee would be entitled to receive the entire Workers' Compensation check.
3. If the employee utilized leave and was also placed on leave without pay for a portion of the period, the Workers' Compensation check and the employee's payroll check would be added together to determine if the total would exceed the employee's normal salary.
  - a. If the two (2) checks do not exceed the employee's normal salary, the employee is entitled to receive both checks.
  - b. If the two (2) checks exceed the employee's normal salary, the amount in excess of the normal salary must be paid back to the State to reinstate leave. The amount in excess is divided by the employee's hourly wage to obtain the number of hours of leave to reinstate to the employee's leave balance.

## **REHABILITATION**

An employee who sustains an injury under Workers' Compensation shall be entitled to prompt medical rehabilitation services for whatever period of time necessary to accomplish physical rehabilitation goals, which are feasible, practical, and justifiable. If he/she is unable to perform work which he/she has previous training or experience, he/she shall be entitled to such vocational rehabilitation services, including retraining and job placement per KRS 342.710.

## **RETURN-TO-WORK (RTW) PROGRAM**

The Personnel Cabinet has a RTW Branch with a Certified Rehabilitation Counselor/Certified Case Manager to implement the RTW Program with all employees off on Temporary Total Disability.

Responsibilities of the RTW Program include:

- Working with each agency covered under the Workers' Compensation Program to coordinate an early return to work for employees with a work-related injury. The program is designed to minimize lost time from work.
- Working with employers to modify the work environment to meet physical restrictions ordered by physicians during recovery, and to assist employers with providing specific modified duty programs.
- Coordinating services with rehabilitation nurses and claim adjusters to determine the extent of the restrictions, length of projected recovery and to work with employers to provide a successful return to modified duty and full duty work
- Work with the State Safety Program and Workers' Compensation Administrator to prevent injuries and to provide proactive management of workers' compensation claims.
- Participating in the Executive Safety Advisory Committee

It is extremely important that each agency make an extra effort to return injured workers to the job. In 1990, the Americans with Disabilities Act (ADA) was enacted and it is becoming more important than ever to meet the employee's restrictions and provide job modifications for employees with disabilities. For more information on the RTW Program visit:

<http://personnel.ky.gov/programs/return2work.htm>

**“It is usually in the patient’s best interest to remain in the workforce.”\***

\*Source: American Medical Association’s A Physician’s Guide to Return to Work-2005

# SECTION 3



**PROCEDURES FOR  
FILING FORMS-AVAILABLE  
ON WEBSITE AT:**

<http://personnel.ky.gov/benefits/workerscomp/default.htm>

## SECTION 3 - PROCEDURES AND FORMS

**EFFECTIVE 8/15/2005:** CCMSI, Inc is the third party administrator for the Commonwealth. CCMSI toll free number for adjusters and nurses is 1-866-320-8456, Fax: 502-426-9510. The Commonwealth began utilizing a Managed Care Plan (MCP) 10/1/2005 per KRS 342-020, for workers' compensation medical benefits. This is a health care system that employs a network of "gatekeeper" physicians who provide referrals to specialists when needed. Injured employees must treat within the MCP with some exceptions for emergency care and may seek a second opinion "out-of-network" when surgery is recommended. Each agency is responsible for posting and distributing information regarding the MCP to their employees. County Postings are available at:

<http://personnel.ky.gov/emprel/workerscomp/default.htm>

### **FIRST REPORT OF INJURY OR ILLNESS (IA-1)**

For Workers' Compensation benefits, there is only one requirement of the employee--to "notify his/her supervisor as soon as practicable after happening thereof" (KRS 342-185). When a supervisor has knowledge of a work-related injury or illness or *alleged injury or illness* to one of his employees, it is his/her responsibility to obtain all pertinent information and complete a First Report of Injury (IA-1) form. The supervisor responsible will enter the IA-1 online for submission directly to the Workers' Compensation Branch at: <https://secure.kentucky.gov/personnel/workerscomp/default.aspx>. For employers that have limited internet access only, the Workers' Compensation Branch call in line will continue to be available. The reporting time is Monday through Friday from 8:00 AM to 4:30 PM EST at either (502) 564-6846 or (502)564-6847 or toll free at 1-888-860-0302. If the injury occurs during the evening hours or on the weekend the injury may be reported immediately online or at the beginning of the next working day. The Claim Number will be emailed to your agency for your record. Even if the employee does not plan to visit a doctor, it is still important to report a First Report of Injury (IA-1). This must be completed "within three (3) working days", (KRS 342.038), after the injury due to the time requirement on making the first payment to the employee. This requirement cannot be met if the injury report is not received promptly. Failure to comply with this statute can result in a fine being levied of up to \$1,000.00 for each occurrence. The First Report of Injury (IA-1) must be submitted by the supervisor (or designee) immediately after notification of injury. The First Report of Injury (IA-1) must be complete and thorough. Give specifics: i.e., right arm or left arm, upper back or lower back, etc. Each question must be answered completely and accurately. Please call in the event of a serious injury or fatality.

It is unlawful to knowingly make a misrepresentation of a material fact to obtain workers' compensation benefits. Likewise, it is unlawful to misrepresent important facts to avoid responsibility under the law. Through its Insurance Fraud Unit, the Department of Insurance actively investigates and prosecutes workers' compensation fraud. Violations may result in civil fines and criminal procedures.

### **First Report of Injury (IA-1) Signature Page**

All employees reporting a work related injury must sign this signature page when the submitted form is completed. By signing this page, employees acknowledge they understand it is unlawful to file a fraudulent workers' compensation claim.

## **MEDICAL WAIVER AND CONSENT FORM (FORM 106)**

Form 106 was adopted in April 1986 and must be completed by the employee and submitted along with the First Report of Injury (IA-1). This form allows workers' compensation to obtain medical documentation on the employee's injury. The employer is entitled to a signed release of medical information when an employee reports a work-related injury or disease. Any medical bills received by the employer should be sent to the Workers' Compensation Program's third party administrator: CCMSI, Inc. P O Box 43909 Louisville Kentucky 40253, 1-866-320-8456.

Form 106 was recently revised in April 2003, to assist health care providers to comply with the federally mandated Health Insurance Portability and Accountability Act (HIPPA).

## **WORKERS' COMPENSATION TEMPORARY PRESCRIPTION SERVICES ID FORM –**

May be given to injured employees at time of injury to fill related prescriptions. This form must be presented to your pharmacist when you fill your initial prescription(s).

## **LOSS TIME AND RETURN TO WORK FORM**

Form WCF-1 must be completed by the supervisor and submitted **immediately** when one of the following occurs in order for employees to receive their lost time benefits in a timely manner:

- When an injured employee loses time from work due to a work-related injury.
- When an injured employee returns to work.
- At the time of death of an injured employee.

## **ACCUMULATED LEAVE - WORKERS' COMPENSATION FORM**

According to 101 KAR 2:140 Section 4 (2), the employee's absence due to illness or injury for which Workers' Compensation benefits are received for lost time, sick leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.

To use accumulated leave for a Workers' Compensation injury, the employee must remit his/her Workers' Compensation check to the agency by completing an Accumulated Leave - Workers' Compensation form prior to receiving accumulated leave. This form **must be signed** by the employee, witnessed, and forwarded to the payroll officer for their records.

## **REPORT OF MEDICAL STATUS FORM**

The Report of Medical Status Form (WCF-5) was adopted by the Workers' Compensation Office in October 1994, and should be issued at the time the First Report of Injury (IA-1) is completed or as soon as practicable, if the employee intends to seek medical treatment. This form must be issued to the employee prior to their first doctor's appointment. The employer is responsible for completing the first section of the form titled, "To Be Completed By Employer". The physician will then complete the remaining sections of the form and return it to the employee. Once the physician has completed the form, the employee should return the completed form to their employer. **The employer will then securely email/fax the completed form to the Workers' Compensation Office.** It is imperative that each injured employee receive this form **before** they go to the doctor's office. With the proper completion of this form, this office can better monitor the treatment of each injured employee.

**REIMBURSEMENT FORM** - Employees requesting reimbursement for eligible out-of-pocket expenses should use the Request for Payment For Services or Reimbursement Form 114 adopted by the Office of Workers' Claims.

**AVERAGE WEEKLY WAGE FORM** – This form should be completed by the employer when requested and **includes all paid leave**. In most instances, an employee's AWW is calculated by using the highest wages paid during a 13 week period in the year before the injury occurred. If the employee has not worked 52 weeks, a "like employee's" wages should be used. Overtime is included, but only at the regular hourly wages. These earnings for the highest quarter are then divided by 13 and the result is the employee's AWW. Questions regarding this form should be forwarded to the Workers' Compensation Branch.

**COMMONWEALTH OF KENTUCKY  
WORKERS' COMPENSATION NOTICE**

Employees of this business are covered by the Kentucky Workers' Compensation Act (KRS Chapter 342). Conspicuous posting of the Notice is required by law. Effective 8/15/2005:

Employer Name: Commonwealth of Kentucky  
Address: 501 High Street, 3rd Floor  
Frankfort, KY 40601

Workers Compensation TPA: CCMSI, Inc. (effective 8/15/2005)  
Policy Number: Self-Insured  
Address: P O Box 43909  
Louisville, KY 40253

Telephone: (866) 320-8456  
Contact Person: Mary Carney

**EMPLOYEES: IF INJURED – NOTIFY your supervisor IMMEDIATELY; when possible, notice should be in writing. FAILURE to notify your supervisor could result in denial of benefits. OBTAIN MEDICAL CARE. Your employer must pay for ALL NECESSARY MEDICAL CARE to treat a workplace injury.**

**If the employer is enrolled in an approved Managed Care Plan employee selection of physicians is LIMITED to the Approved Provider Network, except in certain emergencies. FOR INJURIES REQUIRING CONTINUING CARE the EMPLOYEE MUST DESIGNATE A TREATING PHYSICIAN, a Form 113 will be furnished by your employer or its insurance carrier for this purpose.**

**This employer is participating in a Managed Care Plan for medical care effective 10/1/2005. For information regarding participating physicians call 1-866-361-6899.**

**DISABILITY BENEFITS to replace wages lost due to a workplace injury are payable under the Workers' Compensation Act after seven (7) days of disability. A CLAIM MUST BE filed with the Office of Workers' Claims WITHIN TWO YEARS of the date of injury, or last payment of temporary total disability benefits for continuing benefits.**

**NEED ASSISTANCE? Contact your employer's claim representative or Workers' Compensation Branch, Personnel Cabinet at 1-502-564-6847. If your question about workers' compensation is not resolved, call THE KENTUCKY OFFICE OF WORKERS' CLAIMS AT 1-800-554-8601 to speak to an Ombudsman or Workers Compensation Specialist.**

**EMPLOYER SUPERVISORS – NOTIFY MANAGEMENT IMMEDIATELY OF ALL INJURIES SO THAT A TIMELY REPORT CAN BE MADE AS REQUIRED BY LAW.**

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# APPENDIX



## DEFINITIONS

COMPENSABLE	Entitlement to benefits
COMPENSATION	Payment to injured worker or his/her dependents
DISABILITY	A decrease of wage earning capacity due to injury or loss of ability to compete to obtain the kind of work the employee is customarily able to do.
TEMPORARY TOTAL DISABILITY	Means the condition of an employee who has not reached <i>maximum medical improvement</i> from an injury and has not reached a level of improvement that would permit a return to employment.
INCOME BENEFITS	Payments made to the disabled worker or his/her dependents in case of death, excluding medical and related benefits.
INJURY	"Injury" means any work-related traumatic event or series of traumatic events including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.
OCCUPATIONAL DISEASE	Means a <u>disease</u> arising out of and in the course of the employment.
MEDICAL RELATED BENEFITS	Payments made for medical, hospital, burial and other services other than income benefits.
MEDICAL SERVICES	Medical, surgical, dental, hospital, nursing and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices
SELF-INSURER	An employer who has been authorized to carry its own liability on its employees.