

**Your Skill And Experience Is A
Valuable Resource To Your
Department And To The City of
Houston. We Wish You An Expedited
Recovery And Safe Return To Work**



**Summary
Workability Guidelines E.O. 1-33
(For Injured Employees)**

MAIN CONTACT INFORMATION

Salary Continuation..... (832) 393-7233
The sum of money, before withholding and deductions, paid by City funds in conjunction with indemnity benefits to recovering employees who meet the salary continuation program requirements as defined in section 5.0 herein.

Workers' Compensation..... (832) 393-7233
Human Resources will provide oversight of your workers' compensation claim handled by the Third Party Administrator.

**Early Return-To-Work
Administrative Coordinators**..... (832) 393-7233
A representative of the HR Workers' Compensation Division responsible for facilitating a recovering employee's timely return to work through early intervention efforts; oversight and direction of contracted case managers, vocational rehabilitation specialists, network doctor compliance with the City's return to work procedures and claims adjusters; contact with recovering employees; site visits to medical providers and home visit to recovering employees (supervisor will be encouraged to attend); will assist the Designated Department Representative in locating transitional duty positions, ensure proper offer on employment is done, tracking lost time, transitional duty, and the medical separation process if necessary; follow-up with supervisors and Designated Departmental Representatives.

**Accident Prevention
Safety**..... (832) 393-7233
Safety officers will contact you or your supervisor in an effort to investigate your claim and determine the root cause of your accident. They will also take steps to make your work area a safer place.

(Continued on next page)

MAIN CONTACT INFORMATION

Tristar Risk Management..... (832) 710-4444

Third Party Administrator (TPA) – An independent administrator contracted by the City to be responsible for the adjudication of workers' compensation claims including payments to recovering employees and health care providers in compliance with the law.

**Texas Department of Insurance – Division of Workers' Compensation (TDI-WC)
To Request Assistance with a Claim..... (800) 252-7031**

State administrative agency regulating workers' compensation.

Approved Treating Physician List

Individual, group or facility approved by the City of Houston and TDI to provide treatment to recovering employees with a compensable on the job injury.

Go to <http://www.houstontx.gov/hr/wc/pages/wc.htm> or contact your Administrative Coordinator

5.0 SALARY CONTINUATION/ACCRUED LEAVE COMPENSATION

5.01. OBJECTIVES

- 5.01.01. To establish a salary continuation program that ensures correct payments are made only to eligible recovering employees for authorized time periods in accordance with established payment practices consistent with this Executive Order to minimize overpayments.
- 5.01.02. To ensure salary continuation payments are processed and paid in accordance with applicable state law and local procedures.

5.02. PROCEDURE

- 5.02.01. A recovering employee is eligible to receive salary continuation only if the recovering employee:
 - a) Has completed his/her probationary period and is not a seasonal or part-time employee.
 - b) Has his/her claim determined compensable by the TPA.
 - c) Agrees to repay, through credit against his/her accrued time balances at termination or by deductions from wages/salary, any overpayments of salary continuation or other City funds paid that result in greater than 100% (overpayment) for classified employees, or greater than the established salary continuation percent (overpayment) for municipal employee's wage/salary plus longevity and that satisfies all other salary continuation program and work ability guideline requirements. Any repayment by deduction from future wages cannot cause the recovering employee to receive less than the minimum wage for the applicable pay period in which the deduction takes place.
- 5.02.02. Classified employees who suffer a line-of-duty illness or injury requiring leave are governed by Chapter 143, Section 143.073 of the Texas Local Government Code. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury leave. If necessary, the leave may continue for up to one year as needed. At the end of the one-year period, the municipality's governing body may extend the illness or injury leave at full or reduced pay for up to one additional year.
- 5.02.03. It is the intent of the City for recovering employees to receive no reduction in their take home pay while off work due to their work-related injury. The established formula ensures that the primary goal is met while allowing the possibility of lengthening the benefit and minimizing the recovering employee's financial hardship. For municipal employees, 86.5% of their salary will be the base figure for salary continuation during the weeks a recovering employee is completely off work. Ninety-five percent (95%) of the recovering employee's salary will be the base figure for salary continuation during the weeks a recovering employee is working transitional duty less than 40 hours per week.

- 5.02.04. Recovering employees should contact their department representative to discuss how their workers' compensation claim may affect sick/vacation accruals and health benefits. Recovering employees will also need to contact their respective pension representative to discuss how their workers' compensation claim may affect their pension benefits.
- 5.02.05. Recovering employees who are ineligible or who elect not to use this benefit may use his/her accrued leave balances by supplementing TIBs payments made by the TPA. The sum may not exceed the established salary continuation percent. However, accruals will be reduced by the actual amount paid to supplement temporary income benefits.
- 5.02.06. After exhausting the salary continuation benefit, the recovering employee may elect to use his/her accrued leave balances by supplementing TIBs payments made by the TPA. The sum may not exceed the established salary continuation percent. However, accruals will be reduced by the actual amount paid to supplement temporary income benefits.
- 5.02.07. Each on-the-job injury, meeting the qualifications for salary continuation, will have its own balance. The TPA will determine the injury causing the compensable lost time.
- 5.02.08. Salary continuation for classified service workers is governed by Chapter 143 of the Texas Local Government Code. Eligible classified service workers may be paid salary continuation for up to one (1) year initially. Classified service workers may be eligible for up to an additional one (1) year of salary continuation based upon medical necessity as determined by the recovering employee's approved medical provider, concurred by the Medical Advisor and approved by the department head.
- 5.02.09. Upon properly executing the return-to-work process from a compensable injury, a recovering employee requiring subsequent medical treatment during working hours must provide his/her supervisor with a signed document from his/her doctor. The document must outline the authorized treatment plan, including dates and times of appointments, in order to receive the necessary time off from work to attend authorized medical appointments and treatments. This time off will not be charged against accrued leave balances or salary continuation providing the recovering employee has not reached MMI for the injury in question. If ineligible for this benefit, the recovering employee may elect to use accrued leave balances.
- 5.02.10. Salary continuation will be discontinued when a recovering employee reaches MMI.
- 5.02.11. A recovering employee shall forfeit all rights to any salary continuation to which he/she would otherwise have been eligible due to his/her injury or illness, if the recovering employee: (Also See Section 8.0, Consequences and Restrictions of Recovering Employee)

- a) Engages in work, either part-time or full-time, for pay, or as a volunteer, or on behalf of his/her self-employment or any other person whether for profit or nonprofit, firm, business or corporation, while receiving salary continuation payments. In-home daycare may be considered as engaging in work.
- b) Embellishes, inflates, falsifies or misrepresents his/her injured condition or physical injuries, capacity or disability as worse than it, in fact, is.
- c) Refuses to return to regular or transitional duty when released to do so by the treating physician.
- d) Engages in any physical activities that are outside of any restrictions ordered by the City and TDI-approved medical provider or that impair, impede or hinder the recuperation of the recovering employee.
- e) Fails to attend or to cooperate with scheduled medical treatments, therapy or other medically ordered appointments.
- f) If the recovering employee resigns, is terminated, or dies.

5.02.12. **Municipal Employee Salary Continuation Formula**

- a) For the purpose of formulating salary continuation, 86.5% of recovering employee's salary will include current base salary plus any permanent pay component such as longevity pay, assignment pay, bilingual pay or any other special pay to which the recovering employee is regularly entitled to, excluding clothing and car allowances.
- b) For the purpose of salary continuation, an injury that occurs at work will be initially considered compensable. This will allow for the eligible recovering employee to immediately receive the salary continuation benefit at the 86.5% rate without delay. Finding of a dispute after the TPA's initial investigation will result in the first week's payment to be redefined as an overpayment and reimbursement will be sought from the recovering employee.
- c) The amount of salary continuation is the difference between the workers' compensation benefits as mandated by TDIWC and 86.5% of salary as defined in section 5.02.12(a).
- d) The figure arrived from 5.02.12(c) is multiplied by 8. This figure is the maximum salary continuation benefit allowed for the specific injury. This figure is converted into hours that can be used by the recovering employee for the corresponding work injury as necessary until the balance is exhausted.

Example 1: 10 weeks of continuous lost time depletes the salary continuation balance in 8 weeks.

1. Injury occurs on 12/31.

2. Lost time from 1/1 to 2/25, first 8 weeks. Salary continuation is used to supplement TIBs and balance is depleted.
3. Accruals are used to supplement TIBs for lost time from 2/26 to 3/11, two weeks.
4. Employee returns to work 3/12 for a total of 10 weeks lost time.

Example 2: Less salary continuation benefit is used, per week, when a recovering employee returns to transitional duty. Transitional duty extends the salary continuation coverage from 8 weeks to 15 weeks.

1. Injury occurs on 12/31
2. Lost time from 1/1 to 1/7, first week. Salary continuation is used to supplement TIBs.
3. Transitional duty 20 hours per week from 1/8 to 4/15, 14 weeks. Salary continuation balance is depleted.
4. Transitional duty continues 20 hours per week from 4/16 to 5/20, 5 weeks; Accruals are used to supplement TIBs during this period.

- e) While receiving salary continuation at 95%, the salary continuation benefit will be reduced at the original 86.5% rate. To differentiate the salary continuation benefit being applied, timekeepers will use codes as provided by central payroll.

RESPONSIBILITIES - Injured Worker

1. Required to attend a mandatory training presentation after an injury, when feasible, at the designated treatment facility or the recovering employee's residence.
2. Classified Houston Police Department recovering employees will abide by the respective General Order along with the Executive Order 1-33. In the event there is a conflict between the General Order and the Executive Order 1-33, Executive Order 1-33 take priority over the General Order.

Municipal/Classified Houston Fire Department recovering employees will abide by Section 14-226 along with Leaves and Absences Volume No. I-22 for Fire Personnel. This is in addition to abiding with Executive Order 1-33. In the event there is a conflict between these guidelines, the Executive Order 1-33 presides over the Leaves and Absences Volume No. I-22 for Fire Personnel.

3. Notifies his/her supervisor immediately following an injury and/or accident. [NOTE: A recovering employee is required to submit to a drug and/or alcohol test following an accident in accordance with Executive Orders 1-12, 1-31, 1-32, and/or Administrative Policy 2-2.] In a non emergency, if directed to submit to a drug and/or alcohol test, the recovering employee must immediately comply with the request.
4. Completes employee accident report with the supervisor. It is extremely important the form is completed entirely (no blanks).
5. Reviews, acknowledges, and signs the on the job injury reference sheet.
6. If medical treatment is required, seek medical treatment with a City and TDI-approved medical provider. Failure to treat with an approved medical provider may make the recovering employee ineligible for benefits under the Texas Workers' Compensation Act.
7. If at any time the recovering employee is released by his/her treating physician to return to full duty or transitional duty, the recovering employee shall notify the DDR and/or his/her supervisor immediately and provide a copy of the TDIWC Mandated Medical Work Status Report from the treating physician.
8. While on injury leave, the recovering employee is expected to be available daily to receive phone calls from the DDR, supervisor, Administrative Coordinator and adjuster. Phone calls should be made between 9 am – 6 pm. Department heads are encouraged to have periodic contact with the recovering employee to promote his/her recovery.
9. **The recovering employee, while on total disability, will make himself/herself available for home visits by the DDR and Administrative Coordinator. The recovering employee will receive no less than a 24-hour notice for each visit. The treatment schedule and/or appointments will be considered with the date and time of the visit. The recovering employee is obligated to provide the correct physical address where he/she is recovering from a work injury.**

10. A recovering employee must follow the procedures below to obtain authorization for travel when receiving medical treatment:
 - a) Obtain medical authorization from treating physician stating that travel will not negatively impact the recovering employee's medical recovery or cause him/her to miss scheduled appointments.
 - b) Provide the medical authorization to the Administrative Coordinator, DDR and TPA.
 - c) Obtain final written authorization from the DDR a minimum of ten (10) days prior to travel unless the travel is deemed an emergency by the DDR.
11. A recovering employee may not work a second (outside) employment, self-employed business whether paid or unpaid, or any other business at which there is any ownership interest, even if not working as an employee while on injury leave or while working a transitional duty assignment.
12. A recovering employee on injury leave may not attend educational or other classes unless authorized by the treating physician as part of a recovery plan and/or requested by the Texas Rehabilitation Commission and/or the recovering employee's department and approved by the Medical Advisor or his/her designee or as required by procedure.
13. All recovering employees, classified or municipal, must contact their TPA assigned workers' compensation adjuster after every treating doctor's appointment and/or specialist referral. The following information must be given to the adjuster:
 - a) Current Work Status
 - b) Current Treatment Plan
 - c) Date and Time of the next scheduled appointment

In the event the adjuster is not available, the recovering employee must leave a detailed message with the information listed above in order to count as the necessary contact phone call.

14. If an injured municipal service worker depletes his/her salary continuation balance and is not medically able to return to work, the recovering employee should submit a Leave Authorization Request ("HR Form 206") requesting the use of available accrued leave balances in accordance with section 5.02.05. Once all available paid leave (sick, vacation, and/or other leave) and/or family medical leave has been exhausted, the recovering employee may request additional leave through the use of a Leave of Absence Without Pay ("LOAWOP") not to exceed ninety (90) calendar days at any one time. Subsequent extensions may be requested as long as a total of 180 calendar days of leave (LOAWOP) in one twelve-month period is not exceeded. Each requested leave of absence must have medical documentation indicating a prognosis for the recovering employee's return to work. Each request for a LOAWOP will be approved at the discretion of the department head in accordance with usual department leave procedures and departmental needs. Any additional leave of absence requests shall be considered according to City Ordinance.
15. Required to attend a mandatory training presentation prior to beginning any transitional duty assignment to be facilitated by the recovering employee's DDR.
16. If a transitional duty assignment is identified, receives, confirms, and accepts the Bona Fide Offer of Employment, the recovering employee reports to work at the date, time, and location indicated in the offer, and performs the duties and tasks assigned in conformity with his/her treating physician's medical restrictions and in compliance with all safety guidelines and standards of the department in which he/she is placed.
17. While working transitional duty, is expected to refrain from any injurious practice(s) or activity(ies) that may impede recovery or a return to full duty; refrain from working at a second or outside job or any other business at which there is ownership interest even if not working as an employee; refrain from strenuous activity (other than prescribed exercise or therapy); and do all within his/her power to do as directed by the treating physician to recuperate from the injury(ies).
18. If referred to the WRP or to other potential employment opportunities by the HR Selection Services Division or HR Workers' Compensation Division, vocational rehabilitation specialist, or the Home Department, cooperates fully and timely with filling out applications; providing information, resumes, and employment data; attending interviews; and following up on reasonable processing efforts.
19. Obtains referral by the Administrative Coordinator or contracted vocational rehabilitation specialist to options for continued benefits or alternative placement, outsourcing, or future employment.
 - a) Applies for and submits all documentation as required for long-term disability, disability pension, family and medical leave, possible selection to another position within the Home Department, or possible selection to another position outside the Home Department via the WRP whenever applicable and eligible.
 - b) Applies for and submits all documentation for referrals to Social Security Administration, Texas Rehabilitation Commission, or other possible options outside of the City.

- c) Must respond to medical-separation request.
- d) Cooperates with contracted vocational rehabilitation specialist.
- e) If referred to the WRP or to other potential employment sources by the HR Selection Services or Risk Management Divisions, vocational rehabilitation specialist, or the Home Department, cooperates fully and timely with filling out applications; providing information, resumes, and employment data; attending interviews; and following up on reasonable processing efforts.

PROBATIONARY, SEASONAL AND PART-TIME EMPLOYEES

- 20. If less than ninety (90) calendar days since the date of injury, if released to return to work to other than full duty, informs supervisor immediately of the release and the medical restrictions imposed. So long as the anticipated return to full duty is within the 90-calendar-day period, receives, confirms, and accepts the Bona Fide Offer of Employment and reports to work at the date, time, and location indicated in the offer.
- 21. If by the ninetieth (90th) calendar day following injury the recovering employee cannot return to work but may be able to return to full duty within a reasonable period of time after the completion of the ninety (90) calendar days, requests consideration by the department head to continue transitional duty and/or injury leave for a very limited period of time to allow full recovery and the return to full duty. [Note: The "very limited period of time" generally should not exceed fourteen (14) additional calendar days.]
- 22. If terminated for medical reasons not related to performance, he/she may apply for his/her former position or for any other position for which he/she may qualify if released by his/her treating physician to return to work.

CONSEQUENCES/RESTRICTIONS

NOTE: If a recovering employee is assessed discipline for conduct or infractions that occurred before the injury, except for an indefinite suspension, any discipline to be imposed shall be imposed after the recovering employee has returned to work. Any delay in the imposition of discipline less than an indefinite suspension caused by the recovering employee being on injury leave should be reflected in the documentation of the discipline and should not affect the discipline imposed because of the delay.

- 1. If a recovering employee is released to return to work with medical restrictions by his/her treating physician and placed in a transitional duty assignment and fails to return to work when released to return, such failure may result in disciplinary action against the recovering employee up to and including indefinite suspension.
- 2. A recovering employee may be subjected to possible loss of City-authorized benefits and/or disciplinary action up to and including indefinite suspension for any of the following:
 - a) Failure to report for full and/or transitional duty when released to return to work by the treating physician or other TDIWC-approved health care provider unless the Medical Advisor or his designee determines otherwise.
 - b) Failure of a recovering employee on injury leave to refrain from injurious or strenuous work or other activities or practices which may impede the recovering employee's recuperation and/or return to work. This does not prevent a recovering employee from doing exercises or physical activities prescribed by his/her treating physician.
 - c) Failure to take his/her medication as prescribed, to abuse or misuse medication whether his/her own or that of another, failure to do exercises or physical activities prescribed by his/her treating physician, or general failure to follow doctors orders.
 - d) Failure to refrain from working at a second (outside) employment, whether paid or unpaid, or any other business at which there is any ownership interest even if not working as an employee while on injury leave or while working transitional duty.
 - e) Failure to refrain from attending college, vocational, training, leisure, or trade school classes unless authorized by the treating physician as part of a recovery plan and approved by the Medical Advisor or his/her designee and/or the department.
 - f) Failure to promptly report the original or any subsequent injury.
 - g) Failure to timely and fully cooperate with or unreasonably delay cooperating with a request for additional documentation or testing.
 - h) Failure to keep scheduled appointments with health care providers.
 - i) Failure to attend safety classes or other job-related classes given by the home department, the HR Workers' Compensation Division, or any other source authorized by the City when required to do so by the Home Department and/or the Medical Advisor or his/her designee and/or vocational rehabilitation specialist.

- j) Applying for benefits or supplemental income from any source in or outside of the City to which the recovering employee is not entitled while being paid workers' compensation or other benefits.
- k) Forging, tampering with, falsifying, or making a false statement on the state approved mandated TDIWC Form or any official form, doctor's statement, or a City document related to the application or eligibility for workers' compensation, medical, or other benefits; or forging, tampering with, falsifying, or making a false statement to any other governmental agency regarding application eligibility for compensation or benefits.
- l) Colluding or conspiring with one or more persons to obtain lawful benefits by unlawful means or obtaining unlawful benefits by lawful means.
- m) Threatening, coercing, intimidating, or harassing employees of the TPA, the City, rehabilitation vendors, risk management personnel, or health care providers including support staff, in order to become eligible for, falsely obtain, or unnecessarily prolong workers' compensation or other benefits, medical care expenses, or injury leave.
- n) Failure to notify the TPA, adjustor and department of any medical status changes or to provide them basic contact information.
- o) Failure to properly follow the travel-authorization procedures.
- p) Failure to provide the correct physical address used while recovering from a work injury.
- q) Failure to properly follow any procedures and the recovering employee responsibilities outlined in this Executive Order.

