CITY OF SAN ANTONIO
HUMAN RESOURCES DEPARTMENT
Interdepartmental Correspondence

TO: Executive Team

FROM: Flor D. Garcia, Interim Human Resources Director

COPIES: Executive Leadership Team

SUBJECT: Addendum to Administrative Directives 4.4 Leave Administration and AD 4.84 Workers' Compensation

DATE: May 9, 2011

For the purpose of appropriately applying Administrative Leave With Pay payroll coding to time off from work taken for doctor's appointments or rehabilitation sessions in association with the Workers' Compensation injuries, the following provisions will become an addendum to **Administrative Directive 4.4, Leave Administration and Administrative Directive 4.84, Workers' Compensation Program.** These policy changes shall be made effective on the date of signature and shall not affect previously dated leave.

The proper Administrative Leave Payroll Code is **WC01**. To ensure accurate time tracking, this Payroll Code must not be used for any other purpose

Administrative Directive 4.4, Leave Administration, Section IV, Police Guidelines, Subsection B, 1 Administrative Leave is hereby revised to include the following paragraph:

> Administrative Leave with Pay shall be granted to employees with a qualified Workers' Compensation injury and who have returned to work on a full-time basis for the purpose of attending medical appointments, including but not limited to doctor's appointments or appointments for rehabilitative therapy. Administrative Leave for this purpose applies to employees who have not reached Maximum Medical Improvement (MMI), and who provide documentation of the appointment from the medical provider prior to the time of the appointment and documentation of the time the appointment ended. Administrative Leave for appointments shall be limited to 2.5 hours per day, unless documentation provided by the employee indicates the duration of the appointment(s) was longer. Administrative Leave shall not be approved without the appropriate documentation. Qualified employees are strongly encouraged to schedule appointments during times best suited to meet the needs of their department.

Paid Administrative Leave shall also be granted to employees requiring medical attention on the day an accident occurs; in such cases, the Paid Administrative Leave may not be for a period greater than one (1) working day.

Administrative Directive 4.84, Workers' Compensation Program, Section 3, Subsection H Injury Leave is hereby revised in its entirety to the following:

Administrative Leave with Pay shall be granted to employees with a qualified Workers' Compensation injury and who have returned to work on a full-time basis for the purpose of attending medical appointments, including but not limited to doctor's appointments or appointments for rehabilitative therapy. Administrative Leave for this purpose applies to employees who have not reached Maximum Medical Improvement (MMI), and who provide documentation of the appointment from the medical provider prior to the time of the appointment and documentation of the time the appointment ended. Administrative Leave for appointments shall be limited to 2.5 hours per day, unless documentation provided by the employee indicates the duration of the appointment(s) was longer. Administrative Leave shall not be approved without the appropriate documentation. Qualified employees are strongly encouraged to schedule appointments during times best suited to meet the needs of their department.

Paid Administrative Leave shall also be granted to employees requiring medical attention on the day an accident occurs; in such cases, the Paid Administrative Leave may not be for a period greater than one (1) working day.

Flor Garcia
Interim Human Resources Director

5/9/11
Date

A. J. Rodriguez
Deputy City Manager

5/9/11
Date

Sheryl Sculley
City Manager

5-10-11
Date

ADMINISTRATIVE DIRECTIVE NO. 4.84

EFFECTIVE DATE: February 4, 1981

REVISION DATES: March 15, 1982

SUBJECT: WORKERS' COMPENSATION

1. Purpose:

To insure proper and timely submission of employee injury reports required under the Texas Workers' Compensation Law, and to point out certain statues of the law that are of primary concern to the City and to the employee.

A. General:

The Texas Workers' Compensation Law provides employee protection for physical injuries and occupational diseases that arise out of and in the course of employment. The law does not apply to natural illnesses not caused or aggravated by physical injury nor does it apply to injury received while in a state of intoxication.

I. Benefits

(a) Medical Benefit

An injured employee is entitled to medical and hospital services which are reasonably required at the time of injury and as may be necessary to cure and relieve the injury. An employee need not expend any of his/her own money for Workers' Compensation Medical Benefits. All doctor, hospital, drug and allied bills are paid directly by the City of San Antonio through the Workers' Compensation Administrator. (Texas Employees' Insurance Association).

(b) Compensation Benefit

The City of San Antonio has, with the approval of the Industrial Accident Board and the cooperation of our Workers' Compensation Administrator has established the practice of paying Accelerated Compensation benefits to injured employees who have been removed from duty by a treating physician and are eligible for weekly compensation benefits.

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NO deductions will be withheld from the injured employee's Workers' Compensation benefits. Therefore, payment for any and all deductions normally withheld from an employee's pay will be the responsibility of the employee. (Note: Workers' Compensation Benefit, including that paid as Accelerated Compensation is exempt from Federal Income Tax and Social Security. Payment of Accelerated Compensation is in lieu of the Wage Continuation Benefit, as outlined in Municipal Civil Service Rule #XX, Section 3 (b) and applies to all employees except uniformed members of the Fire and Police Departments. Accelerated Compensation benefits are provided voluntarily by the City and may be terminated at any time without notice (except for Fire and Police Departments which are paid Wage Continuation benefits). Accelerated Compensation is defined as an amount which is equal to the difference between the employee's weekly Worker's Compensation Benefits, payable under the law, and 75% of the employee's full pay. Should the Weekly Workers' Compensation benefits be equal to, or greater than, 75% of the employee's full pay, NO Accelerated Compensation Benefits will be due, or paid.

EXAMPLE: An injured employee's weekly wages are $150.00. In no event, unless authorized by the City Risk Management Division in accordance with procedures hereinafter outlined, shall Accelerated Compensation be paid beyond period of 13 weeks from the date of the injury. Subsequent to the 13 week period, the injured employee will be paid the statutory weekly compensation benefit of 66 2/3rds % of his average weekly wage.

All pending Workers' Compensation claims (prior to March 1, 1982) wherein the 13 weeks, or more, of Accelerated Compensation have been paid, will be reduced to the statutory Weekly Workers' Compensation Wages.

All pending Workers' Compensation claims (prior to March 1, 1982) wherein less than 13 weeks of Accelerated Compensation has been paid, will be reduced to 75% for the remainder of the 13 weeks.

Any extension of the 13 week period shall be rendered on a case by case basis. Recommendations (either pro or con shall be made jointly by the Texas Employers Insurance Association and the City's Workers' Compensation Coordinator. All such recommendations shall be forwarded to the City's Risk Manager for final approval or disapproval.

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II. Reporting

In order to provide timely benefits afforded the employee under the Workers' Compensation Law, compliance with the reporting procedures contained herein is imperative. Compensation benefits CANNOT be commenced until the City's Claims Administrator has received the appropriate reports. Any delay in the submission of the required reports simply means a delay in receipt of compensation checks and other benefits.

The Workers' Compensation Law stipulates that a "First Report of Injury or Illness" (E-1) must be filed by the employer with the Industrial Accident Board within eight (8) days after becoming aware of an injury to an employee. Failure to comply with this law subjects the City and/or the responsible party to a "fine" of $1,000. The law also stipulates that an employee has thirty (30) days in which to report an injury and six (6) months in which to file a formal claim with the Texas Industrial Accident Board. The Worker's Compensation Law also provides that an employee may select his/her own physician. However, if the employee is agreeable to being seen/treated by a City doctor, a list of those doctors is attached. If the employee agrees to see a City doctor, but later becomes dissatisfied, he/she shall still have the option of selecting his/her own physician. It should be noted and explained to the employee that the law further provides that "stacking or shopping" for doctors may be challenged as unreasonable and unnecessary.

The Municipal Civil Service Rules (Rule XX, Section 3 (c) of the City of San Antonio gives the Director of Personnel the authority to require an injured employee to submit to a full and complete examination by a physician of the City's choice. In cases of disagreement of medical opinion between the employee's doctor and the doctor selected by the City concerning the physical fitness and recommended duty status of the injured employee, the Director shall make a reasonable effort to reconcile such differences. Should reconciliation fail, the Director shall have the authority to take the necessary steps to cease the City's payment of Accelerated Compensation.

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III. Termination of Benefits

Under the following situations or conditions, an injured employee may lose both the Weekly Compensation benefits payable by law, and the Accelerated Compensation paid by the City:

(1) If the employee engages in work, either part-time or full-time, for pay or as a volunteer, for himself or any other person, firm, or corporation, while receiving injured employee compensation payments.

(2) If an employee refuses to perform Light and/or Part-Time duty when authorized to perform such duties by the treating physician.

(3) When an employee refuses to accept or perform a different job with the City that is, in the opinion of the treating physician, within the employee's physical capacity and for which the employee is qualified or will be trained.

(4) If an employee refuses to return to regular duty after being released for duty by the treating physician.

Under the following situations or conditions, an injured employee may lose the Accelerated Compensation paid by the City:

(1) An employee who resigns for any reason while receiving injured employee compensation payments.

(2) An employee who is discharged for any reason while receiving injured employee compensation payments.

(3) An employee who fails or refuses to comply with/follow, disregards or violates the treating physician's instructions/advice regarding treatment of the employee's injured condition.

(4) An employee who falsifies or misrepresents his/her injured condition or physical capacity/disability as worse than it in fact is while receiving injured employee compensation payments.

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An employee who is injured after giving notice of retirement or resignation, or after receiving notice he/she is to be affected by a reduction in force or discharged, shall not be eligible for injured employee Accelerated Compensation Benefits beyond the date his/her retirement, resignation, layoff or discharge is to be effective, and/or the 13 week period herein before stipulated (whichever shall occur first) unless expressly approved by the Risk Management Division.

Willful or negligent disregard (by an employee) of the policies and procedures outlined herein, and in the departmental procedures, fall within the context of Municipal Civil Service Rule XVII, and as such, will result in disciplinary actions.

2. Responsibilities:

The City of San Antonio is responsible for compliance with the Texas Workers' Compensation Law.

All City of San Antonio employees are responsible for compliance with the Texas Workers' Compensation Law, and the procedures contained herein.

Each City employee is responsible for reporting all injuries immediately to his/her immediate supervisor. This action is also required by Administrative Directive 4.1: Accidents and Injuries (Reporting).

Each department shall be responsible for:

A. Compliance with procedures contained herein.

B. The publication of departmental directives to insure compliance with any additional compensation administrative requirements of the department. All such departmental directives pertaining to compensation must be coordinated with the City's Workers' Compensation Office.

C. Requesting assistance from the City's Workers' Compensation Office as to what actions to take on compensation situations not covered in this directive.

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3. Policy:

The immediate supervisor of an injured employee shall:

A. Upon becoming aware of the injury, investigate the accident/injury as required by Administrative Directive 4.1; Accidents and Injuries (reporting), and then prepare an "Employer's First Report of Injury or Illness" (E-1). The ORIGINAL and two copies of the E-1 Report must be forwarded directly to FINANCE, ATTN: Risk Management Division (Workers' Compensation Office) within forty-eight (48) hours after the supervisor becomes aware of the injury.
NOTE: The E-1 Report will not be delayed beyond forty-eight (48) hours in order to complete an investigation.
SPECIAL NOTE: If the supervisor is not satisfied that the injury occurred while the employee was within the course and scope of employment, or, if the injured person was engaged in "horseplay", had been drinking, or was intoxicated, the supervisor shall so state his/her opinion in the E-1 Report.

B. Upon the employee's return to duty, immediately notify the City's Workers' Compensation Office by telephone, and then prepare an "Employer's Supplemental Report" (E-2). The ORIGINAL and two copies to the E-2 Report must be forwarded directly to FINANCE, ATTN: Risk Management Division (Workers' Compensation Office) within forty-eight (48) hours after the employee has returned to duty.

C. If after returning to duty an employee is removed from duty status because of the same injury, notify the City's Workers' Compensation Office by telephone, and then prepare and submit a new "Employer's Supplemental Report" (E-2). The ORIGINAL and two copies must be forwarded directly to FINANCE, ATTN: Risk Management Division (Workers' Compensation Office) within forty-eight (48) hours after the employee is removed from duty.

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D. If an employee has another accident that reinjures an old injury, the supervisor must treat it as a new accident/injury and submit a new "Employer's First Report of Injury or Illness" (E-1). The new E-1 Report should make reference to the old accident/injury. The ORIGINAL and two copies of the E-1 Report must be forwarded directly to FINANCE, ATTN: Risk Management Division (Workers' Comp. Office) within forty-eight (48) hours after the supervisor becomes aware of the injury.

E. If an employee is off for a period of sixty (60) consecutive days, prepare an "Employer's Supplemental Report" (E-2). The ORIGINAL and two copies of the E-2 Report must be forwarded directly to FINANCE, ATTN: Risk Management Division (Workers' Comp. Office) within forty-eight (48) hours after the sixtieth (60th) day.

F. When an employee that has been on "Light or Part-Time Duty" is returned to regular duty by the treating physician, prepare an "Employer's Supplemental Report" (E-2). The ORIGINAL and two copies of the E-2 Report must be forwarded directly to FINANCE, ATTN: Risk Management Division (Workers' Comp. Office) within forty-eight (48) hours after the employee has been returned to regular duty.

G. Duty Status:

(1) Off Duty:

It shall be the responsibility of the supervisor directly in charge of the injured employee, or any person so designated by the department or division head, to keep abreast of the welfare and duty status of the injured employee at all times. This may be accomplished by personal (or telephone) contact with the injured employee, calling the doctor's office, and/or by requiring the employee to send or bring periodic duty status slips from the doctor.

The injured employee shall be responsible for providing duty status slips and/or "call-in" as required by City policy.

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(2) Light and Part-Time Duty:

Refer to Administrative Directive 4.37: Light and Part-Time Duty for detailed procedures.

H. Injury Leave:

Except for the Fire and Police Departments, payroll clerks will show employees who are on injury leave as ACC W/O PAY on the payroll.

The day of the injury, and follow-up doctor/treatment appointments requiring LESS than eight (8) hours will be charged to OTHER LEAVE W/PAY on the payroll.

If the City's Workers' Compensation Office, after coordination with the City's Servicing Contractor, determines that an employee is not eligible for Workers' Compensation because his/her claim is questionable, and is under investigation, the employee shall have the choice of being carried on the payroll as:

SICK LEAVE WITH PAY, or
ANNUAL LEAVE WITH PAY, or
LEAVE WITHOUT PAY, after all sick and annual leave is exhausted.

If the employee's injury is later determined to be compensable, all matters relating to payment of compensation pay due, or reinstatement of sick or annual leave must be coordinated with, and approved by, the City's Workers' Compensation Office.

I. Requests for Examination by City Doctors:

Departments desiring an examination of an employee by a City Doctor (as authorized by Personnel Rule XX Section 3 (c) shall submit a letter requesting such examination to the Director of Personnel. Letters of this nature shall not be indiscriminately submitted. The Department must take actions to insure that they have good and valid reasons for submitting the request, and that those reasons are substantiated in the request. A copy of all such requests shall be forwarded to the City's Workers' Compensation Office.

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J. Settlement of Claims:

Various settlements may be made in compensation claims. When a settlement is reached, the City's Workers' Compensation Office will provide notice to the appropriate Department. The notice shall include the name of the employee, date of the claim, amount of payment (if any), and other pertinent information.

The Departments shall use this information to:

(1) Submit requests for physical examination by City doctors, if appropriate.

(2) Determine if employee should/can be retrained for another job within the department, or in another department.

(3) Request transfer of the employee to another department in which there is a position the employee can fill.

(4) Help determine if the employee should be terminated.

NOTE: Departments shall not terminate an employee involved in a Compensation Claim UNTIL the proposed action has been coordinated with the City's Workers' Compensation Office.

K. Referral Slips:

When an injured employee is referred to a doctor and/or medical facility by the immediate supervisor, or by any other authorized person so designated by the department or division head, the supervisor or authorized person must complete a "City of San Antonio Referral Slip" (Form A-4a Revised). The old "short" Form A-4a will no longer be used.

Under emergency conditions, the injured employee shall be provided immediate medical care without regards to the above requirement.

In either of the above situations, it shall be the responsibility of the immediate supervisor or authorized person to submit the "Employer's First Report of Injury or Illenss" (E-1).

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L. Transportation of Injured Employees:

Transportation to and from the doctor's office and/or medical facility shall be provided by the City at the time of the injury.

Transportation for follow-up doctor's appointments/treatments for employees assigned "Light" or "Full-Time" duty status shall be provided by the City.

Employees assigned "Part-Time" duty must schedule their follow-up appointments at a time that they are off duty; and provide their own transportation. If their follow-up appointments cannot be scheduled during off duty hours, the immediate supervisor must call the doctor's office and verify this fact before the City will provide transportation.

Transportation for follow-up doctor's appointments/treatments for "Off-duty" employees shall be the responsibility of the employee.

All transportation for "follow-up" appointments/treatments provided by the City is purely voluntary and can be stopped by the Department Heads without notice after proper coordination with the Director of Personnel and the City's Workers' Compensation Office.

M. Payment of Benefits:

Normally, when the required reports are submitted in accordance with this directive, the weekly benefits will be paid promptly. However, there will be some isolated instances when there will be a delay in benefits pending investigation of a questionable claim, or a delay occasioned when problems are confronted in getting medical confirmation.

Any inquiries concerning Workers' Compensation should be directed to the immediate supervisor or designated person within each department/division. Any inquiries that cannot be answered within the division or department shall be directed, by the supervisor or designated person, to the City's Workers' Compensation Office.

Carl L. White
Carl L. White
Director, Finance

Louis J. Fox
City Manager

Dated: 3-15-82