

# CITY OF SAN ANTONIO



**Administrative Directive**

**4.84 Workers' Compensation Program**

**Procedural Guidelines**

Guidelines to ensure consistent processing and administration of the City Workers' Compensation Program

**Department/Division**

Office Risk Management

**Effective Date**

January 31, 2006

**Revisions Date(s)**

March 26, 2012; January 8, 2016; December 1, 2016; October 1, 2019

**Last Reviewed**

December 20, 2019

**Owner**

Director, Office of Risk Management

## Purpose

The purpose of this administrative directive (AD) is to provide guidelines to ensure accurate and efficient processing of Workers' Compensation claims as required by the Texas Workers' Compensation Act and to provide guidelines to assist employees who sustain compensable on the job injuries.

## Policy

The City of San Antonio (COSA) became subject to the Texas Workers' Compensation Act in July 1974. The Act requires the COSA to pay certain benefits to an employee who sustains an injury or develops an occupational illness or disease within the course and scope of employment. Benefits are also provided to dependents in cases where employees have injuries resulting in death. The Texas Workers' Compensation Act applies to all COSA employees. However, Chapter 143.073 of the Local Government Code (Line of Duty Pay) augments this administrative directive.

The Office of Risk Management processes all workers' compensation claims through a Third Party Administrator (TPA). The TPA is responsible for recording and transmitting all information related to claims, serves as liaison between injured employees, departments, medical providers, and workers' compensation health care network; authorizes rehabilitation or other actions related to the injured employee claims; and facilitates resolution of COSA cases before the Division of Workers' Compensation (DWC) and the Office of Injured Employee Counsel (OIEC).

In accordance with Administrative Directive 4.20, Family Medical Leave Act (FMLA), workers' compensation and FMLA absences run concurrently.

Additional reference material is available in the City's Safety Manual. All applicable employees are required to adhere to the City's Safety Manual.

## Policy Applies To

External & Internal Applicants

Current Temporary Employees

Current Full-Time Employees

Current Volunteers

Current Part-Time Employees

Current Grant-Funded Employees

Current Paid and Unpaid Interns

Police and Fire Academy Trainees

Uniformed Employees Under Collective Bargaining Agreements

<b>Definitions</b>	
<b>Average Weekly Wage</b>	The average weekly wages an employee earned in the 13 weeks immediately preceding the date of injury (or the wage a similar employee earned if the employee did not work the full 13-week period).
<b>Benefit</b>	A medical benefit, an income benefit, a death benefit, or a burial benefit based on a compensable injury.
<b>Certified Workers' Compensation Health Care Network (HCN)</b>	A WC HCN is certified by the Texas Department of Insurance and consists of medical providers who are contracted and credentialed in compliance with State's requirements.
<b>Compensable Injury</b>	An injury that arises out of and in the course and scope of employment for which compensation is payable under the Texas Workers' Compensation Act.
<b>Course and Scope</b>	<p>An activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer. The term includes an activity conducted on the premises of the employer or at other locations. The term does not include transportation to and from the place of employment unless:</p> <ol style="list-style-type: none"> <li>a. the transportation is furnished as a part of the contract of employment or is paid for by the employer;</li> <li>b. the means of the transportation are under the control of the employer; or</li> <li>c. the employee is directed in the employee's employment to proceed from one place to another place; or</li> <li>d. travel by the employee in the furtherance of the affairs or business of the employer if the travel is also in furtherance of personal or private affairs of the employee unless: <ul style="list-style-type: none"> <li>• the travel to the place of occurrence of the injury would have been made even had there been no personal or private affairs of the employee to be furthered by the travel; and</li> <li>• the travel would not have been made had there been no affairs or business of the employer to be furthered by the travel.</li> </ul> </li> </ol>
<b>Disability</b>	The inability, because of a compensable on the job injury or illness, to obtain and retain employment at wages equivalent to the pre-injury wages.
<b>Employer's Wage Statement</b>	A form that provides the employee's average weekly wage to establish benefits due to the employee or a beneficiary based on gross wages earned 13 weeks preceding the date of injury.

<b>FMLA</b>	Family Medical Leave Act entitlement of up to 12 weeks of paid or unpaid leave within a 12-month rolling period according to the COSA's leave policies when an eligible employee is unable to work because of a serious health condition. The leave is normally continuous, but may also be taken intermittently or on a reduced schedule.
<b>IIBs (Impairment Income Benefits)</b>	Begins the day after the date the employee reaches maximum medical improvement (MMI) and continues at the rate of 3 weeks for each percentage point of impairment or the death of the employee, whichever is first.
<b>Income Benefits</b>	A payment made to an employee for a compensable injury as prescribed by the DWC. The term does not include a medical benefit, death benefit, or burial benefit.
<b>Injury</b>	Damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm. The term includes an occupational disease.
<b>MMI (Maximum Medical Improvement)</b>	An injured employee reaches a state where his or her condition cannot be improved with any further medical care or when the injured employee has fully recovered from the injury, but the healing process has plateau.
<b>Shared Micro-mobility Equipment</b>	Bicycle, scooter, or other low-speed mode to include station-based bike sharing (a bicycle picked-up from and returned to any station or kiosk) and dock-less bike sharing and scooter sharing (a bicycle or scooter picked up and returned to any location)
<b>Texas Workers' Compensation Act</b>	Texas statute designed to provide legal and practical guidance regarding employee and employer rights concerning issues related to on the job injuries and related illnesses.
<b>TIBs (Temporary Income Benefits)</b>	Compensation for lost wages due to the compensable injury during a period in which the employee has disability and has not reached maximum medical improvement.
<b>TPA (Third Party Administrator)</b>	The contracted company that handles the adjustment of claims and support services for COSA's Workers' Compensation Self Insured Program.
<b>Treating Physician</b>	The physician primarily responsible for the employee's health care for an injury. This medical doctor is chosen by the employee.

## Policy Guidelines

### Benefits

#### **1. Medical Benefits:**

An injured employee is entitled to medical and hospital services which are reasonably required at the time of the injury and as may be necessary to cure or relieve the effects resulting from the injury. All treating physician, hospital, prescriptions and allied bills are paid directly by the COSA through the TPA. An employee's initial choice of doctor is considered to be his or her treating physician. If an employee wants to later change treating physicians, approval must be obtained through the DWC.

#### **2. Temporary Income Benefits (TIBs):**

A civilian employee may qualify for TIBs if the employee has a disability and has not attained Maximum Medical Improvement (MMI). Payment of TIBs for time lost from work due to a compensable on-the-job injury is made directly to the employee on a weekly basis from the TPA.

The COSA has voluntarily established the practice of paying accelerated TIBs to injured, non-uniformed civilian employees who have been removed from duty by a treating physician and are eligible for weekly compensation benefits. All eligible non-uniformed civilian employees shall receive TIBs at the rate of 75% of their average weekly wage for the first 13 weeks of disability. Beginning on the 14<sup>th</sup> week of TIBs, the employee will receive 70% of their average weekly wage.

Benefits for uniformed members of the San Antonio Fire Department and the San Antonio Police Departments are subject to Chapter 143 of the Local Government Code and the Texas Workers' Compensation Act

TIBs continue until the employee reaches MMI, but in no event later than 104 weeks after income benefits have been initiated. There are state maximum and minimum rates for TIBs which are updated yearly by the DWC.

#### **3. Impairment Income Benefits (IIBs):**

Once a physician has indicated that an employee has reached MMI, the employee may be entitled to IIBs. IIBs payments are paid at 70% of the employee's average weekly wage and continue at the rate of three (3) weeks for each percentage point of the impairment rating until the total IIB payment is made or upon the death of the employee, whichever occurs first. IIBs are paid in accordance with statutory law found in the Act. There are maximum and minimum rates for IIBs which are updated yearly by the Division.

<p><b>Benefits (Cont.)</b></p>	<p><b>4. Modified Work Assignment Program for Work-related Illnesses or Injuries:</b>  The COSA’s Modified Work Assignment Program for Work-related Illnesses or Injuries is available to temporarily place employees in limited-duty work while recovering from compensable injuries that arise out of and in the course of employment which prevents full participation at work. A modified work assignment shall be made within the employee’s home department if available. If a modified work assignment is not available in the home department, then the employee may be assigned to another department. An employee shall not remain on modified-duty for more than six (6) months per work related injury/illness and/or occupational disease, returned to work full duty, or has been determined by a physician to be in a state of MMI. Refer to Administrative Directive 4.37, Modified Work Assignment Program for Work-related Illnesses or Injuries.</p>
<p><b>Termination of Benefits</b></p>	<p>TIBs ends at the earlier of:</p> <ul style="list-style-type: none"> <li>• The date the injured employee reaches MMI</li> <li>• The date the injured employee is physically able to earn their average weekly wage or,</li> <li>• At the end of 104 weeks from the eighth day of disability.</li> </ul> <p>An employee may lose Workers’ Compensation benefits under the following conditions:</p> <ol style="list-style-type: none"> <li>a. If an employee fails or refuses to comply with or violates the treating physician’s instructions or advice regarding treatment of the injured condition.</li> <li>b. If an employee refuses to accept a bona fide offer of a modified duty position or refuses to perform the modified duties within the employee’s physical capacity and for which the employee is qualified to do, or has been instructed on how to perform the modified duty assignment.</li> <li>c. If an employee falsifies or misrepresents the injured condition or physical capacity or disability while receiving workers’ compensation benefits.</li> </ol>
<p><b>Roles &amp; Responsibilities</b></p>	
<p>Efficient and cost effective administration of the City-wide Workers’ Compensation Program is the responsibility of all injured employees, supervisors, departmental Workers’ Compensation Representatives, Department Directors, and the Office of Risk Management.</p> <p>Risk Management and the employee’s home department are mutually responsible for implementing and completing their respective assignments in a timely manner.</p>	

**Employee**

1. Notify your supervisor within 24 hours of any accidental on-the-job injury, occupational illness or disease and complete the certified WC health care network acknowledgment form.
2. Speak directly with your department supervisor on a regular basis and keep them advised of any progress as it relates to your continued absence and injury.
3. Attend all medical appointments and obtain a “Work Status Report” (DWC-73) (Attachment B) from the physician after each office visit. Furnish a copy of this work status report to your immediate supervisor.
4. Paid leave for medical 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.
5. Complete a Notice of Leave form documenting duration of medical appointment and provide to immediate supervisor for approval.
6. Employees engaged in outside employment who are receiving TIBs, must report their outside employment income to the TPA. Failure to report outside employment income is a violation of this policy and under certain circumstances may be a violation of the Workers’ Compensation Act.
7. Transportation for employee on-the-job follow-up appointments shall be the responsibility of the employee.
8. Use of alcohol, non-prescription drugs or controlled substances is prohibited while participating in the Workers’ Compensation Program. Drugs prescribed by a physician in the course of treatment are excluded from this prohibition.
9. Employees will adhere to the City’s Dockless Vehicle Ordinance (Article XIX, City Code of San Antonio, Texas), in the course and scope of employment. In addition to the City’s ordinance, the City strongly encourages all employees in the course and scope of employment to wear a helmet while operating any vehicle defined under the ordinance as well as any vehicle defined as shared micro-mobility equipment.
10. Employees will adhere to the City’s Safety Manual guidelines for shared micro-mobility equipment.

**Department**

1. Ensure compliance with the procedures contained herein. The Human Resources Specialist (HRS) for each Department is responsible for forwarding the following forms to the TPA (Attachments A – D):
  - a. “City of San Antonio Supervisor’s Report of Injury or Illness”, (Attachment A)
  - b. “Work Status Report” (DWC-73), (Attachment B)
  - c. “City of San Antonio Vehicle Accident Report”, (Attachment C) if applicable,
  - d. “Supplemental Report of Injury” (DWC-6), (Attachment D). The HRS is responsible for completing.
2. The Departmental Time and Attendance Specialist is responsible for forwarding the following forms to the TPA (Attachment E):
  - a. “Employer’s Wage Statement” (DWC-3)
3. Communicate this administrative directive when applicable to ensure compliance with the Workers’ Compensation Program.
4. Paid leave 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 treating physician’s appointments or appointments for rehabilitative therapy. Leave for this purpose applies to employees who have not reached (MMI), 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. 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. 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.
5. The proper paid leave Payroll Code is **WC01**. To ensure accurate time tracking, this Payroll Code must not be used for any other purpose
6. Monitor the progress of the employee through periodic contacts and encourage the employee to keep all physician appointments and medical treatment appointments.
7. Transportation to and from the physician’s office and/or medical facility may be provided by COSA at the time of the accident and on the same date as the accident.

<p><b>Supervisors</b></p>	<ol style="list-style-type: none"> <li>1. Complete a “City of San Antonio Supervisor’s Report of Injury or Illness (SRII)”, and provide the document to the HRS (Attachment A) within the next business day from first knowledge of the injury or illness.</li> <li>2. Ensure injured employee completes the certified workers’ compensation health care network employee acknowledgment form (Attachment F) at time of injury and send with the SRII to Risk Management.</li> <li>3. If an injury is a result of a motor vehicle accident, complete a “City of San Antonio Vehicle Accident Report” for damages to a COSA vehicle or privately owned vehicle and forward report to Risk Management, Safety Section within 72 hours. (Attachment C).</li> <li>4. Notify the HRS, on a timely basis of any changes in the injured employee’s work status, such as returning to work or going back on “off work” status, being placed on modified duty, or when modified duty restrictions are lifted.</li> </ol>
<p><b>Risk Management</b></p>	<ol style="list-style-type: none"> <li>1. Ensure compliance with the Texas Workers’ Compensation Law.</li> <li>2. Coordinate all COSA Workers’ Compensation claims with COSA departments, the TPA, and the DWC.</li> <li>3. Act as liaison between the TPA and COSA departments.</li> <li>4. Assist the TPA, COSA departments, and injured employees as necessary.</li> <li>5. Conduct training sessions and updates on changes in the Workers’ Compensation law, policies and procedures.</li> <li>6. Provide claim status reports to Department Directors upon request.</li> </ol>
<p><b>Appeal Process</b></p>	
<p>Under the provision of the Texas Workers’ Compensation Act an employee has the right to engage in the administrative appeals process as described in the statute. For details regarding an appeal contact the Office of Injured Employee Counsel.</p> <p>Time associated with this appeals process is not COSA paid time and must be conducted on the employee’s own time.</p>	
<p><b>Reporting Fraud</b></p>	
<p>Fraud occurs when a person knowingly or intentionally conceals, misrepresents, and/or makes false statements.</p> <p>Investigations often lead to prosecution and recovery of money gained through fraudulent schemes. Fraud can be committed by employers, employees, health care providers, attorneys, insurance agents, and others.</p> <p>To report any possible fraudulent activity, contact the TDI Division of Workers’ Compensation (DWC) at 1-888-327-8818</p>	

<b>Discipline</b>	
Violations of this Administrative Directive may result in disciplinary action up to and including termination. In addition violations fall within the context of Municipal Civil Service Rule XVII.	
<b>Attachments</b>	
<b>Attachment A</b>	City of San Antonio Supervisor's Report of Injury or Illness (SRII)
<b>Attachment B</b>	Work Status Report (DWC-73)
<b>Attachment C</b>	City of San Antonio Vehicle Accident Report
<b>Attachment D</b>	Supplemental Report of Injury (DWC-6)
<b>Attachment E</b>	Employer's Wage Statement (DWC-3)
<b>Attachment F</b>	Certified Workers' Compensation Health Care Network Employee Acknowledgment Form

This directive supersedes all previous correspondence on this subject. Information and/or clarification may be obtained by contacting the Office of Risk Management.



**EMPLOYEE ACKNOWLEDGMENT FORM  
FOR**

**ADMINISTRATIVE DIRECTIVE 4.84  
Workers' Compensation Program**

**Employee:**

I acknowledge that on \_\_\_\_\_, 20\_\_\_\_, I received a copy of Administrative Directive 4.84 Workers' Compensation Program. I understand if I'm placed off work for a workers' compensation injury, my lost time days will be designated as FLMA in accordance with the Family Medical Leave Act. I should contact my Human Resources Representative if I have any questions.

\_\_\_\_\_  
Employee Name (Print)

\_\_\_\_\_  
Department

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Employee SAP ID Number