

Policy 1312

Workers' Compensation/Return to Work

Date of Current Revision: July 2021

Responsible Officer: Director of Human Resources

1. PURPOSE

The purpose of this policy is to outline the university's reporting procedure for accidental injuries or occupational illnesses arising out of and in the course of university employment, in accordance with applicable Workers' Compensation law.

2. AUTHORITY

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia § 23.1-1600; § 23.1-1301. The Board has delegated the authority to manage the university to the president.

STATE OR FEDERAL STATUTE AND/OR REGULATION

The university is charged with managing the treatment and the processing of employees work-related injuries or illnesses that are covered under the Virginia Workers' Compensation Act § 65.2-100. The Americans with Disabilities Act Amendments Act (ADAAA), and the Family and Medical Leave Act (FMLA) also may be related to the execution of this policy.

3. DEFINITIONS

Accidental Injury

An accident arising out of and in the course of employment.

Benefits Specialist

A university Human Resource representative that assists employees and supervisors with workers' compensation and return to work practices.

Faculty Sickness and Disability Program (FSDP)

The Faculty Sickness and Disability Program is a disability plan administered by the university that provides eligible faculty members income protection if the employee cannot work because of a non-work-related or work-related injury, illness, or other medical condition.

Occupational Disease

A disease arising out of and in the course of employment, but unless otherwise provided by the Virginia Workers' Compensation Act, not an ordinary disease of life to which the general public is exposed outside of the employment.

Panel of Physicians

A list of university approved physicians who have agreed to treat JMU employees for work-related injuries or illnesses. This list will be provided to injured/ill employees. Injured employees must choose one of these physicians to provide medical care in order to be compensated for eligible work-related injuries or illnesses. No other physician will be compensated for services rendered, unless referred by the panel physician or prior approval from the Benefits Specialist is obtained. If the university panel physician cannot schedule a timely appointment with the injured or ill employee, the employee must choose another physician from the panel. The panel physician will file claims directly with the State Workers' Compensation Program's designee. Billing information is available from the Benefits Specialist. In the event the employee is treated at the Emergency Room and was unable to choose a panel physician for treatment in a critical situation, the employee is required to choose a physician from the panel of physicians for follow-up care, unless the ER physician has made a referral to a specialist.

Transitional Duty

Restricted duty or work that allows an injured worker to return to duty in the employee's original department or another department with pre-approved transitional assignments where the employee may perform modified duties, while under physical restrictions, as set forth by the treating physician, until the employee is capable of returning to full duty.

Virginia Sickness and Disability Program (VSDP)

The Virginia Sickness and Disability Program is a disability plan administered by the Virginia Retirement System (VRS) that provides eligible employees income protection if the employee cannot work because of a non-work-related or work-related injury, illness, or other medical condition.

Virginia Workers' Compensation Commission

The state agency that administers the Virginia Workers' Compensation Act.

Workers' Compensation

A state-administered insurance program designed to provide compensation to employees who are injured on the job or contract an occupational disease resulting from the employee's employment. University employees are covered by Workers' Compensation Insurance.

Work Related Injury or Illness

An injury or illness which occurs on the job to an eligible employee for which benefits are awarded by the Virginia Workers' Compensation Commission and are payable under the Workers' Compensation Act.

4. APPLICABILITY

This policy applies to all university employees.

5. POLICY

James Madison University is committed to providing a work environment that is free from recognized health or safety hazards. In the event of an accidental injury or occupational illness,

the university will work to balance the needs of the employee and the organization by providing transitional duty assignments when possible. The university will analyze reported incidents, injuries, and illnesses with the intention of gaining knowledge to assist in avoiding future accidents or occupational illnesses.

5.1 Determination of Compensability

The State Workers' Compensation Program, or their designee, determines if an injury or illness is compensable under the Virginia Workers' Compensation Act after the case is properly investigated.

5.2 Time Lost from Work

Only the treating panel physician or specialist can order days away from work due to the work-related injury or illness.

For injuries or illnesses that have been certified as compensable, the first seven calendar days serve as a wait period and employees' leave must be used to cover time away from work. If the employee is away from work for 21 calendar days (full or partial), the first seven days of leave will be reimbursed as described by the Virginia Workers' Compensation Act.

On the 8th calendar day, the State Workers' Compensation Program's designated insurance carrier will begin to pay 66-2/3% of the average weekly salary.

If the employee is enrolled in the Virginia Sickness and Disability Program or the Faculty Sickness and Disability Program the disability plan will pay the remaining portion according to the plan's provisions.

Employees who are participants in the Traditional Sick Leave Program and are absent from work on Workers' Compensation leave for more than seven calendar days will receive supplements in the form of the difference between payments required by the Workers' Compensation Act and the employee's regular salaries, for a period of up to 92 calendar days from the beginning of the employee's absences from work on Workers' Compensation leave. Agencies have the discretion to extend payment of the supplements described above beyond employees' 92nd calendar day of absence on Workers' Compensation leave, provided that such extensions do not exceed 480 work hours.

Only full-time employees are eligible for the additional supplement. Part-time employees will be paid for any lost wages directly from the workers' compensation designee.

In the event the employee is unable to return to work after 90 consecutive calendar days, the employee will cease to earn leave.

Employees may be eligible for Family and Medical Leave as detailed in Policy [1308](#) – FMLA

5.3 Transitional Duty Plan

The panel physician will communicate in writing any altered duty restrictions for the injured or ill employee with the Benefits Specialist.

The Benefits Specialist will work with the supervisor to develop a Transitional Duty Plan for the employee's return to work. During transitional duty, the Benefits Specialist will meet with the injured or ill employee to discuss concerns and to evaluate progress. This duty can be altered, upgraded, or changed in a manner consistent with medical restrictions and in accordance with an individual's improved condition. The plan will include a defined period of disability, the physical restrictions recommended by the physician, specific duties that the employee will be expected to perform, and a defined begin and end date to the plan.

Transitional duty shall be made available to those employees who are expected to return to the employee's pre-injury position. The supervisor, in consultation with the Benefits Specialist, may terminate the Transitional Duty Plan if it is determined that the employee has permanent restrictions that result in the employee's inability to perform the essential functions of the employee's primary position. The provisions of the Americans with Disabilities Act Amendments Act and other applicable laws will be applied to determine suitability for employment. The employee will continue to receive all Workers' Compensation benefits for which they are eligible. Other university/state benefits would be treated as any other employee leaving employment.

6. PROCEDURES

6.1 Accidents or illnesses must be reported to the Benefits Specialist within 24 hours by the supervisor and/or the employee, using the following method:

- [Accident/Incident Report](#)

6.2 If the injury/illness is serious in nature:

- Call 911 for transportation to Sentara RMH Medical.
- Call campus police 540-568-6911, or if using a campus phone extension 8-6911, for immediate emergency medical treatment or traffic control.
- If the accident or illness is life threatening, the supervisor or designee should accompany the employee to the Emergency Room.
- The Benefits Specialist works in conjunction with the supervisor to contact the family of the employee, if they have not already been contacted.
- The supervisor completes the [Accident/Incident Report](#) within 24 hours

6.3 If medical attention is need, but the injury/illness is not life threatening:

- The supervisor or the employee completes the [Accident/Incident Report](#) within 24 hours.
- Depending on the Panel of Physician selected, the employee may be seen on a walk-in basis, online, or the Benefits Specialist may need to schedule the employee an appointment for treatment.
- The panel physician communicates, in writing, any work restrictions to the Benefits Specialist, who provides the restrictions to the supervisor and employee.
- If restrictions are given, the department will review and decide if they can temporarily accommodate. If accommodations can be made, the supervisor and employee will complete the [Transitional Duty Plan form](#) and email a copy to the Benefits Specialist.

Transitional Duty Plans will be evaluated and updated based on medical provider documentation.

6.4 First Aid/For Record Only:

- The supervisor or the employee completes the [Accident/Incident Report](#) within 24 hours, even when no medical attention is required.

6.5 Accidents while traveling

An employee traveling on university-approved business is covered under Workers' Compensation for injuries/illnesses incurred in the course of transacting business for the university.

Employees should report to a medical facility for appropriate treatment and inform the facility that it is a work-related claim. The facility may contact the Benefits Specialist for billing information.

The employee must inform their supervisor as soon as possible so the supervisor can file the appropriate paperwork.

A panel physician will administer follow-up treatment.

7. RESPONSIBILITIES

Employee Responsibility

- Perform the job in the safest manner possible, observing all safety and health rules. Report all accidental injuries/occupational illness to the employee's supervisor regardless of the severity.
- When the injury/illness allows, complete the [Accident/Incident Report](#) within 24 hours, even if no medical attention is required,
- Follow the recommendations made by the panel physician.

Supervisor Responsibility

- Understand and follow the university's safe workplace policies.
- Encourage employees to understand and follow the university's safe workplace policies.
- Assist the employee in getting medical treatment in the event of an accidental injury or illness.
- When the employee is unable to do so, complete the [Accident/Incident Report](#) within 24 hours, even if no medical attention is required.
- Work with the Benefits Specialist to provide productive altered/transitional duty when possible, for an employee who has been released by the panel physician.

Benefits Specialist Responsibility

- Report all accidental injuries and occupational illnesses to the State Workers' Compensation Program.

- Facilitate return-to-work for an employee by communicating with the department supervisor and the employee to provide productive altered/transitional duty to an employee who has been released by the panel physician for transitional duty.
- Coordinate with the panel physician and State Workers' Compensation Program's designee regarding payment of bills for the employee.
- Facilitate investigations of accidents or occupational illnesses by coordinating the appropriate parties, compiling accident data, communicating results of the data analysis to departments.

All departments, offices, and employees that generate, receive, or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#) - Records Management.

8. SANCTIONS

Injured employees who do not comply with this policy risk not being covered by Workers' Compensation Insurance. They would therefore be subject to uncompensated medical bills and lost work time.

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

9. EXCLUSIONS

The Virginia Workers' Compensation Program, or their designee, may determine that an accident or illness is not compensable under the Virginia Workers' Compensation Act. Such injuries or illnesses would not then be covered under this policy.

10. INTERPRETATION

The authority to interpret this policy rests with the president and is generally delegated to the director of human resources.

Previous version: April 2017

Approved by the president: April 2002