

City of Yuma, Arizona  
ADMINISTRATIVE REGULATION

Issued by: **Greg Wilkinson**  
Authority: City Administrator

**SUBJECT:**  
**INDUSTRIAL INJURY/ILLNESS AND WORKERS' COMPENSATION**

Issued: April 11, 2016

- 1.0 PURPOSE:** This policy is issued to set forth provisions relating to the City of Yuma workers compensation program for all Employees who suffer an industrial injury or illness (occupational disease). Benefits are provided for work-related injuries or illness as outlined in Arizona law. Benefits given under City policy are in addition to the benefits required under Arizona's workers' compensation law (as set forth in A.R.S. §23-901 et seq. or successors thereto).
- 2.0 DEFINITIONS:**
- 2.1 City Mediator** – An individual outside an injured/ill Employee's department who has been selected by the City Administrator to oversee the appeal process for Employees determined ineligible for full industrial pay.
- 2.2 City Designated Facility** – The facility designated by the City where medical care for industrial injuries is provided.
- 2.3 City Supplemental Wage** – Supplemental income provided by the City above the Industrial Pay required by state law.
- 2.4 Employee** – A person who works for the City of Yuma including full-time, part-time, temporary, seasonal and/or probationary workers, as well as volunteers, reserve police officers, and reserve firefighters.
- 2.5 Family Medical Leave Act (FMLA)** – Federal legislation that provides Employees who qualify with up to 12 work weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons, including industrial injury/illness.
- 2.6 Full Compensation** – One-hundred percent (100%) compensation equal to minimum base pay.
- 2.7 Illness or Occupational Disease** – A disease resulting from exposure during employment to conditions, pathogens or substances that are detrimental to health.
- 2.8 Independent Medical Examination** – An independent medical examination (IME) occurs when a doctor who has not previously been involved in a person's care examines an individual. There is no doctor/therapist-patient relationship. IMEs may be conducted to determine the cause, extent and medical treatment of a work-related or other injury where liability is at issue; whether an individual has reached maximum benefit from treatment; and whether any permanent impairment remains after treatment. An IME may be conducted at the behest of an employer or an insurance carrier to obtain an independent opinion of the clinical status of the individual.

- 2.9 Industrial Commission of Arizona** – The agency that administers and enforces state laws relating to the protection of life, health, safety and welfare of Arizona's Employees. This includes laws relating to workers' compensation, occupational safety and health.
- 2.10 Industrial Pay** – Income provided to an Employee who is unable to work due to a work-related injury or illness and mandated by the Industrial Commission of Arizona to equal two-thirds of an Employee's wages.
- 2.11 Injury** – Wound or trauma; harm or hurt; usually applied to damage inflicted on the body by an external force.
- 2.12 Light Duty** – Temporary or permanent work that is physically or mentally less demanding than normal job duties.
- 2.13 Modified Duty** – An Employee's regular assignment which is temporarily modified to meet physical restrictions as identified by a medical professional.
- 2.14 No Work Status** – An Employee who is not able to work due to a medical professional's direction.
- 2.15 Permanent Disability** – As determined by a medical professional, an injury which impairs the physical and/or mental ability of a person to perform his/her normal work or non-occupational activities for the remainder of his/her life.
- 2.16 Personal Protective Equipment (PPE)** – Clothing or equipment worn by an Employee for protection against a hazard.
- 2.17 Temporary Disability** – An injury, as determined by a physician, which impairs the physical and/or mental ability of a person to perform his/her normal work or non-occupational activities for a designated period of time.
- 2.18 Third-Party Administrator (TPA)** – An organization that processes claims on the employer's behalf.
- 3.0 APPLICABILITY**: The statutory provisions of workers' compensation coverage (e.g., payment of all medical expenses, industrial pay, and payment for temporary and/or permanent disability) apply to all Employees and volunteers who have suffered an industrial injury or illness that has been accepted by the City's Third-Party Administrator (TPA).
- 3.1** This Administrative Regulation will also serve as the Workers' Compensation Plan.
- 3.2** "Plan" means the arrangement under which City provides self-insurance for obligations arising pursuant to the provisions of Title 11, Chapter 7, Article 5 and Title 23, Chapters 6 of the Arizona Revised Statutes and/or pursuant to or any other compensation due to a former or current City of Yuma employee which is in the nature of workers' compensation.
- 3.3** The Workers' Compensation Plan does not include all policies and procedures to carry out all functions of the workers' compensation process. Additional information can be located in the Human Resources office regarding employee and supervisor report forms and instructions, and relevant operating policies. Contract information regarding the current contracted Third Party Administrator is available upon request.

3.4 Any claim may be denied for benefits by the City's TPA. Reasons for denial, include but are not limited to, failure to promptly report the claim; a delay in seeking medical treatment; the Injury or Illness does not appear to be connected with job duties; or the medical reports do not support the claim or Injury or Illness. An Employee will be notified by the Industrial Commission of Arizona if a claim is denied, and the notification will include any appeal rights available.

4.0 **RESPONSIBILITY OF CITY:** The City shall strive to provide a safe and healthy working environment for its Employees including providing appropriate training to Employees and supervisors to allow jobs to be safely performed. The City has the responsibility to carry workers' compensation insurance pursuant to Arizona law and is recognized as being self-insured.

5.0 **RESPONSIBILITY OF SUPERVISORS:**

5.1 All supervisors shall be responsible for assuring their Employees have received the appropriate training to perform their duties and ensure that each Employee is knowledgeable and understands safe operating practices, applicable safety rules and regulations.

5.2 Each supervisor shall evaluate an Employee's safety record and safety work habits in the basic criteria used to judge each formal performance evaluation.

5.3 Supervisors have the obligation and authority to investigate all accidents and take appropriate steps to prevent future accidents and/or injuries.

6.0 **RESPONSIBILITY OF EMPLOYEES:**

6.1 As a condition of employment, every Employee is accountable for performing his/her duties in a safe and efficient manner, following all applicable rules and regulations, and wearing any Personal Protective Equipment (PPE) required for the job.

6.2 Each Employee is responsible for reporting any unsafe work habits, hazards and/or potential hazards to his/her immediate supervisor and to perform all job duties in a manner so as not to cause Injury or Illness to themselves or others. Corrective measures and disciplinary action will be taken for unsafe working habits.

7.0 **REPORTING REQUIREMENTS:**

7.1 An Employee who is injured in the course of employment must report the Injury to a supervisor immediately. An Employee's Report of Industrial Injury/Illness ("Employee Report") should be completed by the end of the Employee's shift, but no later than twenty-four (24) hours from the time of the injury. Failure to report an Injury or Illness within such time may cause a claim to not be accepted without a more thorough investigation. For Injuries or Illnesses that are cumulative in effect, the Employee will report the Injury or Illness immediately when the Employee is aware that an Injury or Illness has occurred. An Injury or Illness is not considered reported if the Employee Report has not been completed and submitted to the immediate supervisor. In addition, the supervisor is to complete the Supervisor's Supplemental Report. A copy of both reports shall be routed for signatures by the appropriate department personnel, and sent to Human Resources immediately upon completion (personal delivery, e-mail, fax or inter-office mail) so a timely claim can be filed with the TPA and the Industrial Commission.

7.2 Per Arizona Revised Statutes (A.R.S.) §23-1061(A), no claim for compensation shall be valid or enforceable unless the claim is filed with the Industrial Commission by the Employee in writing within one (1) year after the Injury occurred.

## 8.0 **MEDICAL TREATMENT:**

8.1 **Initial Treatment:** In accordance with A.R.S. § 23-908(F), when an accident occurs to an Employee, the employer may designate in writing a physician chosen by the employer, who shall be permitted by the Employee, or any person in charge of the Employee, to make one examination of the injured Employee in order to ascertain the character and extent of the injury occasioned by the accident. Employees must seek initial treatment at a City-Designated Facility, or appropriate out-of-town medical facility for police cadets or during City travel. Failure to seek initial treatment at a City-Designated Facility may result in the Employee only receiving the state mandated Industrial Pay, to equal two-thirds of the Employee's wage.

8.2 **Follow-up appointments:** An Employee may return to the City-Designated Facility for follow-up appointments as directed by medical staff at the facility. An Employee may seek treatment from any Arizona physician of his/her choice before the second appointment. The Employee must advise the physician that he/she is under workers' compensation, because a physician has the choice to refuse to accept workers' compensation. An Employee may not change physicians after the second appointment without first contacting the Industrial Commission to approve the change in physicians. An Employee will receive industrial pay for follow-up medical appointments or any appointments that are mandated by the TPA if the appointment must be made during the Employee's scheduled working hours. Medical appointments during non-work hours are not compensated as industrial leave.

(a) The City will pay travel expenses to attend a medical examination or treatment as set forth in Arizona Administration Code R20-5-116.

8.3 **Medical Documentation Requirements:** In order to receive City Industrial Pay, Human Resources must have current documentation showing an Employee is unable to work due to the Employee's industrial Injury.

8.4 **FMLA Coverage:** If an Employee's Injury results in the Employee's absence from work for three or more days, the Employee may be entitled to the benefits under the Family and Medical Leave Act (FMLA). The Employee's time off will be deducted from the Employee's available FMLA leave.

8.5 **Release to Light Duty:** An Employee with an accepted workers' compensation claim that is cleared by a physician to return to work in a light duty capacity shall work with his/her department to identify a light duty position available. Human Resources will assist in locating an assignment outside the department if needed. If an Employee refuses a light duty position when one is available, he/she will lose City Supplemental Wages and must use accrued leave time from his/her General, Holiday or Compensatory leave bank accruals for time off work to supplement his/her pay check. Major Medical Leave may not be used in this situation. If an injured Employee is placed in a light duty position, a formal review process will take place at thirty day intervals from the date the light duty status begins.

## 9.0 **INDUSTRIAL PAY:**

9.1 **Full Industrial Pay:** If an Employee has followed the requirements set forth in Sections 7.0-7.2 (Reporting Requirements), Section 8.1 (Initial Treatment), and Section 8.3

(Medical Documentation Requirements), the Employee shall receive pay from the City of Yuma equivalent to the Employee's regular net wage through the mandated Industrial Pay (two-thirds of the Employee's regular net wage) and the City Supplemental Wage (one-third of the Employee's regular net wage). No overtime, assignment pay or other remuneration above base pay will be paid.

- 9.2 Partial Industrial Pay:** If an Employee's Department Director determines that (1) the Employee was injured because the Employee failed to follow standard operating procedures and reasonable safety practices, or (2) the Employee did not follow the reporting requirements as outlined under Section 7.0-7.2, or (3) the Employee did not seek initial treatment as outlined in Section 8.1, the Employee will only receive Industrial Pay and the Employee is considered ineligible for the City Supplemental Wage. The Employee may still supplement his/her Industrial Pay by drawing from General Leave, Holiday or Comp bank accruals. No overtime, assignment pay or other remuneration above base pay will be paid. The Employee's Department Director will review every Employee Report and Supervisor Report to determine if the Employee was performing his/her duties in an appropriate manner according to standard operating procedures and following all safety practices reasonable under the circumstances.
- 9.3 Appeal Process for Employees Determined Ineligible for Full Industrial Pay:** If the Employee's Department Director determines the Employee is ineligible for Full Compensation or if the Department Director is unable to determine if the Injury was due to the Employee's failure to follow standard operating procedures and reasonable safety practices, the Employee will submit in writing to the Department Director the request for a review of the information. The written appeal request, in addition to the Employee Report, the Supervisor Report and any other non-medical information supporting the decision will be forwarded to a City Mediator and the Employee will be paid Industrial Pay, but may supplement drawing from General Leave, Holiday or Comp bank accruals. When the City Mediator has reviewed the appeal and determined whether or not the Employee was injured due to the Employee's failure to follow standard operating procedures and reasonable safety practices, the City Mediator report will be returned to the Department Director for signature and approval. If the City Mediator determines the Employee was following procedures and safety rules, the Employee will be credited for the time previously paid out of the Employee's personal leave and the City Supplemental Wage will be paid in accordance with the rules described in this Administrative Regulation. All decisions made by the City Mediator shall be in writing and delivered to the Employee and the City.
- 9.4 Maximum Time Periods for Full or Partial Industrial Pay:** The status of an injured Employee who is off work will be formally reviewed by Human Resources every 30 days from the date of the Employee's Injury. If the Employee is eligible for the FMLA entitlements and protections, the Employee's time off work will be counted towards the 480-hour maximum allowance (672 hours for Fire Suppression) while the Employee is on a No Work status.
- (a) If the medical provider addressing the work-related injury determines that the Employee cannot return to work, or the FMLA eligibility has run out, or the Employee is not FMLA eligible, then an option of accommodating the disability created by the Injury or administrative separation will be considered due to the Employee's inability to perform his/her essential job duties.
- 9.5 Accrual of Leave Benefits:** An Employee will not accrue leave (holiday, medical, or general) while off work on full Industrial Pay with the City Supplemental Wage, but will accrue one-third of the Employee's designated amount when using leave as described in Section 8.5.

**10.0 REPAYMENT TO THE CITY OF WAGES THAT ARE REIMBURSED TO EMPLOYEE THROUGH SETTLEMENT, AWARD IN LITIGATION, OR ANY OTHER FORM OF RECOVERY FROM RESPONSIBLE THIRD-PARTY:**

**10.1 Definitions:**

- (a) Lien - An official and legal claim or charge against property or funds for payment of a debt or an amount owed for services rendered.
- (b) Third-party - An individual who is not an Employee, an agent, or an elected official with the City of Yuma.
- (c) Tortfeasor - An individual who commits a wrongful or negligent act that injures another and for which the law provides a legal right to seek relief.
- (d) Subrogation - An action at law where an entity, such as an insurance company or other entity that provides benefits, assumes the legal rights of a person for whom expenses or a debt has been paid. Typically, an insurance company which pays its insured client for injuries or losses asserts the claim of its client through subrogation and may file a lawsuit against the alleged tortfeasor.

**10.2** By statute the City is entitled to an automatic Lien for any compensation and medical benefits the City provides as industrial benefits. If an Employee's Injury or Illness is caused by the fault or negligence of a third-party (a tortfeasor), who was not an agent of the City, the Employee may be able to bring a claim against the Third-party causing the Injury or Illness. If the Employee pursues an action against a Third-party responsible for the Injury or Illness of the Employee and obtains a settlement, an award in litigation, and/or any other form of recovery from the responsible Third-party, the Employee must reimburse the City for all industrial benefits paid to the Employee due to the Injury or Illness. The Employee must notify the City of the lawsuit and provide the City with timely and periodic updates on the litigation. No settlement or satisfaction of judgment is valid without the City's written consent. The Employee has the option of rejecting any industrial benefits provided by the City. If the Employee rejects the industrial benefits provided by the City, the Employee is not required to reimburse the City from any recovery received by the Employee in the lawsuit.

**10.3 The City's Right To Subrogation:** An Employee who sustains an Injury or Illness caused by the fault or negligence of a Third-party (a Tortfeasor), who is not an agent of the City, has one-year from the date of the Injury or Illness to bring a claim against the responsible Third-party. If the Employee does not bring a claim within this one-year time frame, the cause of action automatically reverts to City and the City may pursue reimbursement through Subrogation of the industrial benefits paid and payable to the Employee. If the Employee brings an action against the Third-party within the one-year time period, the City reserves the right to intervene to protect the City's Subrogation interests.

**11.0 PROHIBITION OF OUTSIDE EMPLOYMENT DURING INDUSTRIAL LEAVE:** No Employee shall engage in any outside employment while receiving any City-provided industrial pay, unless the outside employment is performed during hours/days that the Employee would not be scheduled to work at the City and the outside employment does not worsen the Employee's medical condition or delay recovery.

**12.0 CITY'S RIGHT TO WAIVE OR AMEND:** When it is deemed in the best interest of the City to do so, the City Administrator, or designee, may waive or amend any portion of this Regulation, not in conflict with the Personnel Rules, City Charter, City Ordinances or state or federal law.