



Board of County Commissioners - Staff Report

Meeting Date: November 15, 2016

Presenter: Julianne Fries

Submitting Dept: Human Resources

Subject: TC HR Policy: Workers' Comp Light Duty

Statement / Purpose:

Consideration of a policy which establishes eligibility and procedures for offering employees light duty under Wyoming Workers' Compensation.

Background / Description (Pros & Cons):

This policy applies to all regular, part-time, full-time, seasonal, temporary, and pool status employees.

Workers' Compensation offers a 'return to work' program for employees injured on the job who, dependent on their medical restrictions, are able to work under a light or modified duty capacity. The goal of offering light duty work is to reduce the employee's lost time from work, decrease the injured employee's disability experience, and ultimately return an employee to his/her original job. Once an employee has been released to work in a light or modified duty, they must complete an application from Workers' Compensation describing the physical or other functional capacity requirements, start date, proposed hours of employment, and wage. The agreement must be signed by the healthcare provider, supervisor, and the employee; the light duty assignment must begin not less than fourteen (14) days following the written offer.

Benefits under the WC Light Duty/Modified work agreement qualify an employee for Temporary Partial Disability benefits. All periods of light duty work may not exceed one (1) year for any one injury.

Stakeholder Analysis & Involvement:

This policy was presented to the County Clerk, the Sheriff, the Chief Deputy Civil Attorney, and the BCC Administrator initially for input and discussion. Remaining stakeholders include all County Elected officials and Department Directors who were presented with the policy on November 3, 2016 and then discussed in the EO/DD meeting on November 10, 2016.

Fiscal Impact:

Teton County is a self-funded program under Workers' Compensation. When an employee is performing light duty under workers' compensation, the Temporary Total Disability ends and Temporary Partial Disability payments begin. These payments are paid at the rate of 80% of the difference between the employee's light duty wage and their actual monthly earnings at the time of injury. If the employee refuses the light duty offer, their Temporary Total Disability payments will be reduced by 2/3rds.

Staff Impact:

Negligible

Legal Review:

K. Gingery has reviewed and approved the policy

Staff Input / Recommendation:

Staff recommends approval of the policy.

Attachments:

Policy attached

Suggested Motion:

I move to approve adopting the Teton County Human Resources Workers' Compensation Temporary Light Duty Policy effective immediately.

Teton County Human Resources Policy: Workers' Compensation Light Duty Policy

Purpose

To establish eligibility and procedures for offering temporary light duty work following a work sustained injury or illness pursuant to Wyoming Statute §27-14-404(j). This policy applies to all employees and will be followed whenever appropriate.

I. Policy

It is the intention of Teton County to return ill or injured employees, with appropriate medical release, to light duty on a temporary basis at the earliest possible opportunity. The County may make a written offer of temporary light duty work to an employee receiving temporary total disability benefits under Workers' Compensation.

A. Eligibility

An employee will be eligible for transitional or light duty based on:

- the employee's medically determined physical limitations,
- the availability of transitional or light duty positions or assignments,
- the employee's vocational skills, additional abilities, and work experience, and
- specific work force needs and fiscal responsibilities of the office/department/ division and the County.

Unless unusual circumstances warrant, this period shall not exceed one (1) year cumulatively for any one injury and will be evaluated monthly for appropriateness by the Workers' Compensation Case Manager, Human Resources, and the employee's physician. County leave policies and benefit programs may be impacted.

II. Procedures

A light duty offer must be in writing and detail the proposed hours, starting date, and work requirements. The employee's doctor must certify that the work proposed for light duty will not harm the employee. If there is no light duty work available, then the employee is entitled to his/her full disability (TTD) until released back to full duty work. An employee who refuses a bona fide written offer of temporary light duty work shall have a reduction of two-thirds (2/3) TTD benefits unless the employee provides written proof to the Workers' Compensation Division of their inability to perform the light duty assignment.

1. Employee Responsibility:
 - a) Sign Wyoming Worker's Safety and Compensation Division's Agreement of Temporary light Duty/Restricted Work form.
 - b) Cooperate with the Physician's treatment plan and Temporary Light Duty program.
 - c) Attend all appointments and therapy as directed by Physician.
 - d) Work as scheduled.
2. Supervisor's Responsibility:
 - a) Work with Human Resources to develop a list of modified duty activities available within the office, department or division, if applicable.
 - b) Provide employee with written light duty agreement which outlines modified schedule and/or task assignments.
 - c) Orient employee to temporary light duty tasks.
 - d) Report attendance, compliance, and tolerance of employee in the Temporary Light Duty program to Human Resources.
 - e) Identify and track time to timecards; and under FMLA if applicable.

Teton County Human Resources Policy: Workers' Compensation Light Duty Policy

In the event that a subsequent medical evaluation indicates no possibility of future assignment to full duty, or in the event there is no longer a modified or light duty available for the employee, said employee may be required to return to workers' compensation status or be laid off from the County.

Upon an employee returning to full duty status after having been off duty due to a job related injury, a complete medical release statement or fitness-for-duty form will be required from the employee's physician.

III. General Provisions

Temporary light duty assignments may be drawn from a range of technical, administrative, and support areas that include, but are not limited to, the following:

- A. Administrative: report review, special projects, research and compiling information, etc.
- B. Clerical: filing, data entry, answering phones, sorting mail, etc.
- C. Technical: Design manuals, procedures, operational standards; perform repairs, troubleshoots issues; conduct technical trainings, etc.

Temporary light duty positions and/or assignments may be limited in number and variety. In the event that a light duty assignment causes undue hardship as a result of the reassignment from normally assigned shifts, the impacted employee is to notify the Elected Official or Department Director in writing, to consider whether an alternative option is available.

- A. Assignment to temporary light duty shall not affect an employee's pay classification, pay increases, promotions, or retirement benefits.
- B. Employees on temporary light duty are prohibited from engaging in outside employment in which they may be reasonably expected to perform similar functions for which they have been determined medically unable to perform and that form the basis for their temporary light duty assignment.
- C. Depending on the nature and extent of the disability, a sworn deputy on temporary light duty will not wear the departmental uniform, drive a county vehicle equipped with lights and siren, nor shall they be authorized to carry a weapon for the purposes of on-duty police functions and otherwise are limited in employing police powers as determined by the Sheriff.
- D. If an employee refuses light duty for any reason other than to attend college, vocational retraining, general education development or other program designed to retrain the employee for employment in an occupation other than previously offered by the employer, temporary total disability benefits shall be reduced by two-thirds (2/3).
- E. If there is no light duty work available, the employee is entitled to his/her full disability under Workers' Compensation TTD benefits, until released back to full duty.

IV. References

- A. Workers' Compensation Act §27-14-404 (j)
- B. Human Resources: Workers' Compensation Policy
- C. Human Resources: Fitness-For-Duty Certification Form