



SCDC POLICY

NUMBER: ADM-16.15

TITLE: WORKERS' COMPENSATION

ISSUE DATE: JUNE 3, 2021

RESPONSIBLE AUTHORITY: DIVISION OF OCCUPATIONAL SAFETY & WORKERS' COMPENSATION

***POLICY* MANUAL: ADMINISTRATION**

SUPERSEDES: ADM-16.15: July 1, 2011; February 1, 2007

RELEVANT SCDC FORMS/SUPPLIES: 16-2, 16-5, 16-39, 16-57, 16-70, 19-29 A, 22-1, 22-2, *22-9*, Attachments [A](#) and [B](#)

ACA/CAC STANDARDS: 4-4065, 4-4203

STATE/FEDERAL STATUTES: 42-15-10, 42-15-20, 42-15-40, 42-15-50, 42-15-55, 42-15-60, 42-15-65, 42-15-70, 42-15-80, 42-15-95, 42-19-10, 42-19-20, 42-19-30, 42-19-40, 42-19-50, and all other applicable sections of S.C. Code of Laws pertaining to Workers' Compensation.

PURPOSE: To provide a safe working environment, to promote personal responsibility, and to ensure that every employee or inmate with legitimate work related illnesses or injuries receives prompt, appropriate attention and prudent care in accordance with all State Workers' Compensation laws and regulations. (4-4203)

POLICY STATEMENT: To support the mission of the South Carolina Department of Corrections, it is necessary to establish procedures which will ensure that all work related injuries to South Carolina Department of Corrections personnel and inmates are reported, documented, and resolved in accordance with all relevant laws and regulations. It is also the responsibility of the SCDC to ensure maximum productivity from its employees, to ensure that workers receive the proper medical treatment, and to ensure that these employees return to their work as quickly as practical. While corrections is an inherently dangerous occupation, many injuries, including inmate assaults, are caused or facilitated by failure to follow Agency policies and procedures or negligence/carelessness on the part of the employee. It is also the policy of the SCDC to promote personal accountability, to obtain the lowest accident rates possible for the worker's compensation insurance program, and to monitor all claims.

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SPECIFIC POLICY:

1. REPORTING PROCEDURES:

1.1 Employee/Inmate: Each employee/inmate will have the responsibility to perform their work in a safe and efficient manner and will be expected to report unsafe acts or conditions to their respective supervisor(s). An employee/inmate who sustains an injury will report the injury to their supervisor immediately or as soon as possible and, in all instances, prior to the end of the work shift. An injured employee needs to complete and submit SCDC Form 22-2, "Employee Statement of Injury or Illness," in addition to SCDC Form 22-1, "Accident Incident Report," to the Environmental Health and Safety Officer (EHSO) or his/her supervisor prior to the end of the shift.

1.1.1 If there are any witnesses to the accident, each witness will fill out an SCDC 19-29A, "Incident Report," sign and submit it to the EHSO or shift supervisor prior to the end of the employee or inmate's shift.

1.2 Supervisor:

1.2.1 Once the supervisor or Environmental Health and Safety Officer (EHSO) has been notified of an accident, it is their responsibility to ensure that SCDC Form 22-1, (A.I.R.), SCDC Form 22-2, SCDC Form 16-39, "Election Statement," and any SCDC Form 19-29A's, are completed prior to the end of the injured employee/inmate's shift. If the employee/inmate is unable to report the accident to their supervisor, the immediate supervisor should report for the employee/inmate. (Copies of these forms may be found in the following locations: Environmental Health and Safety (EHSO) Office, Medical, Control Room, Supervisor's Office, and any other locations deemed necessary by the Warden.)

1.3 Copies of all reports will be submitted to the EHSO, who will assist the supervisor of the injured employee/inmate with the investigation of the accident, per Section 1.15 of SCDC Policy ADM-16.03, "Occupational Safety and Health *Program*."

1.4 If the supervisor or EHSO suspect that the report of the accident is of a questionable or suspicious nature, they should fill out *SCDC Form 22-9*, "Validity of Claim in Question," and forward it to the Warden, Division Director, *or Deputy Director* who will review the claim. After consultation with the EHSO, if it is determined that fraud might be involved, the Warden, Division Director *or Deputy Director* will forward a copy of *the 22-9* to the Division of Occupational Safety & Workers' Compensation for further review and possible investigation.

1.5 The EHSO should also notify Compendium to write the word "alleged" after the injury at the top of the claim form. This would alert the State Accident Fund that additional investigation may be necessary before liability is determined.

1.6 Failure by the institution, division *or deputy director* to submit the required documents to the Division of Occupational Safety & Workers' Compensation to meet the State Workers' Compensation Commission's deadline may result in a fine. If this occurs because the forms were not properly filled out and submitted in a timely manner, appropriate corrective action will be initiated against the responsible employee(s), pursuant to SCDC Policy ADM-11.04, "Employee Corrective Action."

2. FACILITY/DIVISION WORKERS' COMPENSATION: The Wardens, Division Directors *and Deputy Directors* are responsible for ensuring compliance with this policy. The EHSO at each work site will serve as the workers' compensation contact person where possible. Each Division Director will designate a Workers' Compensation contact person for his/her area.

2.1 The EHSO or the Facility/Division/*Deputy Director* designee will be responsible for ensuring all the SCDC paperwork is complete and accurate before submission to the Workers' Compensation Coordinator, Division of Occupational Safety & Workers' Compensation.

2.2 The EHSO or the Facility/Division/*Deputy Director* designee will be responsible for entering each recordable injury or illness on an Occupational Safety and Health Administration (OSHA) log. No other

information will be required for distribution except the closed out OSHA log each December 31st. OSHA Form 300A "Summary of Work-Related Injuries and Illnesses," shall be posted at the facility/work site according to OSHA guidelines.

3. MEDICAL SCREENING:

3.1 With the exception of medical emergencies, employees and inmates sustaining occupational injuries or illnesses within the SCDC work environment will be initially screened by medical personnel on duty at a SCDC institution or by the appropriate designated authority from *Medical* Services for division staff. Inmates will receive medical treatment in accordance with SCDC policies relating to inmate health care.

3.2 For those injuries requiring first-aid treatment as defined below, treatment will be afforded to the affected employee by medical personnel at the institution/division. First aid treatment will be considered to be:

- Using non prescription medications at non-prescription strength.
- Administering tetanus immunizations.
- Cleaning, flushing, or soaking wounds on the skin surface.
- Using wound coverings, such as bandages, gauze pads, or using steristrips or butterfly bandages.
- Using hot or cold therapy.
- Using simple irrigation or a cotton swab, to remove foreign bodies not embedded in or adhered to the eye; using an eye patch.
- Using irrigation, tweezers, cotton swab or other simple means to remove splinters or foreign material from areas other than the eye.
- Using elastic bandages or wraps.

3.3 If no further treatment is needed, it will not be necessary to contact Compendium. Copies of all paperwork and treatment forms will be sent to the Division of Occupational Safety & Workers' Compensation. The State Accident Fund will report the summary of injuries annually. All reports will be kept on file *in accordance with the SCDC retention schedule*.

3.4 Drug Test Screening: If it is determined that medical treatment is required beyond first aid that could be administered by SCDC medical personnel, a screening test for drugs will be administered by the SCDC medical staff according to the following procedures:

3.4.1 Drug Screening: A drug screening test will be conducted by SCDC medical staff. Results of the drug screening (positive or negative) will be recorded on SCDC Form 22-1 (A.I.R.). If the results of the drug screening test are negative, no further action is required. If the results of the drug screening test are positive, the SCDC Employee Drug Testing Coordinator in the Division of Human resources must be contacted for instructions on handling the employee and drug confirmation test procedures. The EHSO/designee or supervisor will escort the employee to the outside medical provider for further medical treatment for their work-related injury.

3.4.2 Following the completion of outside medical treatment the employee will be escorted back to the facility. S/he will be advised that they have been placed on administrative suspension pending notification from the Division of Human Resources on the results of the confirmation of the positive drug test. The employee will be allowed to make arrangements for transportation, but will not be allowed to drive home.

3.5 Emergency Medical Treatment: Outside emergency treatment will be coordinated through the EHSO/designee or the supervisor and the institutional medical staff. If an employee's injuries are so severe that outside emergency medical attention is required that prevents the administration of a drug screening test at the SCDC facility, the following procedures will be followed:

3.5.1 If possible, the EHSO/designee (can be someone from the shift) will escort the employee to the outside medical provider for emergency medical treatment. The Employee Drug Testing Coordinator must be contacted in the event an employee is sent for emergency treatment without a drug test being administered. The injured worker must be *tested* as soon as practical when returning to work or the test could be waived at the discretion of the Employee Drug Testing

Coordinator. Reasons for the waiver should be recorded and included in the Workers' Compensation file in the Division Of Occupational Safety & Workers' Compensation. If the drug test is negative, no further action is needed.

3.5.2 Refusal to submit to a drug screening test (as indicated on SCDC Form 16-70, "Employee Verification Form for Workers Compensation,") will be grounds for termination as indicated in SCDC Policy ADM-11.04, "Employee Corrective Action."

3.6 If SCDC medical staff has not recommended further treatment and the employee requests additional treatment, medical personnel or the EHSO will document such on the A.I.R and contact the Division Director of Occupational Safety & Workers' Compensation who will render a decision on whether outside medical treatment will be authorized. If sent for further treatment, the outside treating physician will be provided with a copy of "Memo to Treatment Provider" (Attachment A). If there are any restrictions given by the physician, a copy will be given to the EHSO/designee who will forward a copy to the Workers' Compensation Coordinator.

3.7 If an employee has had body fluids thrown on him/her, there may not be a need to send the employee to an outside medical facility. The employee will be allowed to clean up, provided clean clothing to put on, and referred to SCDC medical staff to fill out the necessary forms. Medical personnel will explain to the employee that, *if it is determined that an exposure to blood or other potentially infectious materials has occurred*, the inmate will be tested for HIV, Hepatitis C, and other diseases as deemed necessary by the SCDC medical authority. The employee may be referred to the PAIR representative as outlined in Agency Policy ADM-11.27, "Post Assault Information Resource." All paperwork will be completed and a copy forwarded to the Workers' Compensation Coordinator to keep on file.

4. MANAGED CARE PROVIDER:

4.1 Employees who obtain medical treatment without the recommendation/approval of the Managed Care Provider (Compendium) will do so at their own expense and will face appropriate disciplinary action if they leave work without permission of their supervisor.

4.2 An employee who desires to receive medical treatment from a provider other than those specified by the Agency must make a written request to, and receive approval from, the State Accident Fund prior to receiving treatment. Failure to follow these procedures may result in a denial of workers' compensation benefits for all unapproved treatment.

5. QUESTIONING THE VALIDITY OF THE CLAIM:

5.1 The Worker's Compensation Coordinator in the Division of Occupational Safety & Workers' Compensation or the State Accident Fund may question the validity of a claim for reasons including, but not limited to:

- Information arising out of an investigation or statements made in connection with the claim, i.e., inconsistencies in employee's account, conflicting witness statements;
- An employee's history of prior disputed or questionable claims;
- Lack of witnesses to the accident/injury or differing/inconsistent statements on the part of witnesses;
- Knowledge that the employee engages in off duty activities which may have caused the injury;
- The employee's known medical history which may account for the injury;
- The accident/injury was not reported per SCDC policy;
- The employee reports an injury immediately following a proposed or completed disciplinary action or other personnel or supervisory action which the employee opposed; or
- Employee's current activities are inconsistent with the reported physical limitations.

6. TIME LOST FROM WORK:

6.1 If the treating physician certifies that the seriousness of the injury dictates time lost from work, the employee must provide such certification to the immediate supervisor in accordance with SCDC Policy ADM-11.08, "Employee Leave." Any requests for sick leave, annual leave, or leave without pay due to a work-related injury will be processed in accordance with SCDC Form 16-39, "Election Statement" (Note: See Section 7.1). Injured employees must provide return to work documentation to their supervisor and

/or EHSO following each visit to the doctor. This must be provided in a timely manner so that transitional duty decisions can be made. (Note: See Section 8.1.1.) If an employee is notified by the treating physician that they are being placed out of work, they should immediately notify their supervisor and/or EHSO, but in all cases, within three (3) working days. Documentation should indicate **PHYSICAL RESTRICTIONS** for the injured employee (i.e. no lifting over 15 lbs., no climbing ladders or stairs, no overhead work, etc). Documentation from an authorized medical professional taking an employee out of work without accompanying physical restrictions will not be accepted. A statement of "no inmate contact" will also not be accepted without physical restrictions unless prescribed by a licensed mental health professional in a case where psychological treatment has been approved by the State Accident Fund. (There are no jobs within the SCDC that have no contact with inmates.)

6.2 The supervisor must notify the EHSO and the Human Resources Manager/Liaison at the work site immediately when an employee is injured and placed out of work. The immediate supervisor and Human Resources Manager/Liaison are responsible for documentation and offering Family Medical Leave to the injured worker at the time they are placed out of work. The EHSO must report any lost work time due to a work-related accident or illness to the Worker's Compensation Coordinator immediately upon the employee's return to work. The immediate supervisor is responsible for ensuring correct leave and attendance reporting while the injured employee is unable to work.

7. WORKER'S COMPENSATION ELECTION STATEMENT:

7.1 Election of options will apply provided that the State Accident Fund considers the case compensable and accepts liability. South Carolina Workers' Compensation law states that before the election is made, the effect of this option on the employee's remaining and future leave must be explained to him/her by the EHSO, his/her supervisor or facility/division/**deputy director** Workers' Compensation contact person. The SCDC Form 16-39 "Worker's Compensation Election Statement" must be signed by the employee and the supervisor or EHSO who explains the options to him/her as soon as possible following the accident. S.C. Code Section 8-11-145 provides that, in the event of an accidental injury or illness arising out of and in the course of employment, a disabled employee will make an election to receive compensation under the following options:

7.1.1 To be placed on paid leave status using accrued sick and annual leave. If leave credits are exhausted before the employee can return to work, the employee will be entitled to Workers' Compensation disability benefits. While in a paid leave status, the employee will accrue his/her monthly sick and annual leave. Once sick leave is exhausted and if the employee requests to use annual leave, the election statement will serve as the required written request. In the event that the number of days of annual leave taken in a calendar year exceeds the maximum amount allowed (30 days), in accordance with SCDC Policy ADM-11.08, "Employee Leave," the election statement will serve as written approval to extend beyond the 30 days. Sick and/or annual leave and lost time for on-the-job injury must be recorded on SCDC Form 16-2, "Leave and Attendance Report." SCDC Form 16-5, "Personnel Advice Form," must be submitted to the Payroll and Benefits Branch of the Division of Human Resources when the designated leave has been exhausted.

7.1.2 Employees who choose to receive Workers' Compensation disability benefits will be in leave-without-pay status with the SCDC and will receive weekly payments from the State Accident Fund. The Benefits Branch will bill the employee monthly for state group benefits only. Any other deductions must be paid by the employee directly to the provider. An employee will not be eligible for monthly annual and sick leave accruals with this option. The employee's supervisor must submit SCDC Form 16-5, "Personnel Advice Form," and SCDC Form 16-57, "Leave of Absence Request Without Pay," to the Payroll Branch and the Leave Section, Division of Human Resources. A second SCDC Form 16-5 must be submitted when the employee returns to work. The immediate supervisor is responsible for accurate and timely completion of leave and attendance while the injured employee is out of work.

7.1.3 Use sick and/or annual leave on a pro-rated basis in conjunction with Workers' Compensation according to the formula approved by the Budget and Control Board. With this option, employees will receive payment from the SCDC for eligible pro-rated leave taken and 66 2/3 percent (not to exceed the established maximum rate) of the employee's gross weekly pay compensation from the State Accident Fund. Employees will not be eligible for monthly sick and annual leave accruals

unless the total leave taken plus hours actually worked exceed one half of the normal work hours for the month. Once sick leave is exhausted, and the employee requests to use annual leave, the election statement will serve as the required written request. In the event that sick and annual leave are exhausted, the employee will only receive weekly compensation from the State Accident Fund. The Workers' Compensation Coordinator will determine the appropriate amount of pro-rated sick /annual leave to be used according to the formula developed by the Budget and Control Board. This will be reported to the work site leave coordinator and to the employee. If the employee exhausts all sick and annual leave accruals, refer to instructions in **Section 7.1.1**.

7.2 Assault Leave (Administrative Leave): If a full time employee is physically attacked while in the performance of his/her official duties, s/he will follow the reporting and screening procedures as outlined in Sections 1 through 3 of this policy. If the contracted workers' compensation physician determines that the employee will require time away from work, the employee can be placed on assault leave (administrative leave), rather than on sick leave. Assault leave may not exceed 180 calendar days and documentation and notification requirements for the time missed from work will be the same as outlined in Section 6.1. For further information refer to SCDC Policy ADM-11.08, "Employee Leave."

7.2.1 The **Deputy Director**/Division Director/Warden or designee will contact the Workers' Compensation Section giving the information necessary to authorize the use of assault leave. This initial authorization may be granted verbally, but in all cases, a Management Information Note (MIN) must be forwarded to the Workers' Compensation Section to substantiate the use of assault leave.

8. RETURN TO WORK: The Agency will make an effort to return employees who have been injured /impaired due to a work related injury to work provided they are able to perform the job duties assigned to them.

8.1 Medical Statement: No employee may be approved to return to work following a worker's compensation injury without a medical release from the treating physician. This release must indicate whether it is a full release (no restrictions) or a release with restrictions. If the release is not a full release, the Agency may choose to provide for transitional duty. In order to be eligible for transitional duty, the employee has to be able to do one of the transitional duty jobs as defined in Sections 8.1.1 through 8.1.3 of this policy. The Warden, EHSO, Workers' Compensation Coordinator, or designee from the Division of Occupational Safety & Workers' Compensation can request clarification from the treating physician on the type(s) of restrictions that are placed on the employee. A release with restrictions must indicate whether the restrictions are temporary or permanent. In the event the release is with temporary restrictions, an updated medical statement will be required immediately following each doctor's visit. *If the physician indicates the employee will have permanent work restrictions or the employee cannot return to full duty, the employee will be referred to SCDC's Employee Relations Department to determine whether SCDC is able to accommodate the employee's medical condition. This process will be interactive between the employee and SCDC. During this interactive process, Employee Relations will consult with the Office of General Counsel and assess all relevant factors under the Americans with Disabilities Act (ADA). At the conclusion of the interactive process, a decision will be made detailing the reasonable accommodation determination.*

8.1.1 Certain tasks and posts will be designated "transitional duty" based on Agency needs. An attempt to provide transitional duty accommodations in these posts will be consistent with the limited medical restrictions and the needs of the Agency. There is no right to transitional duty, even temporarily, and the posts are limited. (See Attachment C for list of "Transitional Duty Posts".) *The injured employee's Warden/Division Director/Deputy Director will be responsible for determining the availability of transitional duty.*

8.1.2 The essential job functions of a correctional officer include the ability to rotate through all posts and shifts, the ability to work any assigned shift or day of the week, and the ability to work additional shifts as required.

9. PROHIBITED ACTIVITY: Employees who are on leave due to a worker's compensation injury will refrain from engaging in any off duty employment or activity which would interfere with recovery or violates any physician's instructions.

9.1 Fraud: Employees will not engage in fraudulent acts. Workers' Compensation fraud is the altering, falsifying, forging, counterfeiting, or otherwise changing any material, statement, form, document, contract, application, or other writing with the intent to defraud, deceive, or mislead another. Employees who commit Workers' Compensation fraud may be subject to criminal prosecution, civil penalties and employee corrective action.

9.1.1 An employee's knowledge or information regarding fraudulent claims must be reported to the Division of Occupational Safety & Workers' Compensation, the Division of Human Resources, the Division of Investigations, *or the Office of the Deputy Director of Investigations and Intelligence*

10. EMPLOYEE/INMATE CORRECTIVE ACTION: It is the responsibility of the SCDC to promote personal accountability. Employees and inmates should recognize the importance of providing for a safe and healthful workplace and residence. Therefore, everyone will be accountable for safety. Violations of Agency policy or negligence/carelessness will not be ignored solely because these violations resulted in personal injury and may result in disciplinary action up to and including termination, in accordance with SCDC Policy ADM-11.04, "Employee Corrective Action."

10.1 If Agency rules, policies and procedures are not practiced or enforced by supervisors and their employees, both the supervisor and the employee will receive corrective action up to and including termination, in accordance with SCDC Policy ADM-11.04, "Employee Corrective Action".

10.2 If an employee violates Agency policy and it results in injury to anybody, that employee cannot receive an "exceeds" or higher on his/her next EPMS.

10.3 Inmates will be disciplined in accordance with operational policy for creating a health, safety, or fire hazard as stated in SCDC Policy OP-22.14, "Inmate Disciplinary System."

11. EMPLOYEE/INMATE TRAINING: Employees and inmates will be trained as outlined in Section 1.10 of ADM-16.03, "Occupational Safety and Health *Program*."

12. DEFINITIONS:

EHSO refers to the Environmental Health and Safety Officer who is the designated official to train employees at the institution or workplace in safety matters and who is also the liaison to the Workers' Compensation Coordinator.

First Aid refers to a minor work related illness/injury that requires no outside medical treatment.

Transitional Duty refers to temporary posts that have been designated by the Agency to help accommodate employees who have been injured on the job and have temporary limited medical restrictions.

Workers' Compensation Coordinator refers to the designated person in the Division of Occupational Safety & Workers' Compensation who is the liaison between the Department of Corrections and the State Accident Fund.

Work-Related Injury refers to an injury that occurred while an employee is performing assigned duties as described by his/her position description or post orders, occurs in and out of the course of their employment and is accepted by the SCDC workers' compensation insurance carrier.

Witness refers to any person who observed the accident.

SIGNATURE ON FILE

s/Bryan P. Stirling, Director

Date of Signature

ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT.

Attachment A

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

MEMO TO TREATMENT PROVIDER

TO: Treatment Provider

FROM: The South Carolina Department of Corrections

SUBJECT: Return to Work/Transitional Duty

The South Carolina Department of Corrections (SCDC) may provide transitional duty for any employee who is released to return to work with physical/medical restrictions which temporarily limit his/her ability to perform the essential job duties of an assigned position.

The SCDC has designated certain tasks and posts as "transitional duty" based on Agency needs. We will attempt to provide transitional duty accommodations on those posts consistent with Agency needs and limited medical restrictions. However, there is no right to transitional duty, even temporarily. Transitional duty positions are limited and may not be suitable for everyone or every situation.

Although we will attempt to provide transitional duty jobs that do not violate any physical/medical restrictions, the SCDC will be the sole determiner of what job duties are available and will be assigned to the employee. We will reject any opinions of the treatment provider that are not medical in nature or which direct the SCDC to assign (or not assign) specific job duties. "No inmate contact" is not a physical /medical restriction and every instance of lost time from work must be justified by physical work restrictions (i.e. no lifting over 15 lbs., no climbing ladders or stairs, no overhead work, etc.).

Thank you for all of your assistance in this matter. If you have any questions, please contact the Division of Occupational Safety & Workers' Compensation at (803) 896-1921, 896-2346, or 896-1628.

ATTACHMENT *B*

TRANSITIONAL DUTY

JOB FUNCTIONS AND POST ASSIGNMENTS

I. Institutional Operations/Security

Armory - weapon/equipment issue and maintenance

Cafeteria/Kitchen

Contraband Patrol

Control Room - *RHUs*, MSU, GPC

Education - academic class security, vocational tool control, etc.

Education/Library

Emergency/Special Event Gate Duty (i.e., escapes, executions, group tours/visits, etc.)

Infirmary

Loading Dock
Maintenance (i.e., boiler room, bar screen, dumpster, etc.)
Operations
Perimeter Security - fixed, motor & foot patrol
PRC - Driver & Job Site Visit
Prison Industries - inmate search, tool control, etc.
Property Control
Recreation
Visitation Room
Yard Duty

II. Administrative/Clerical

Driver (i.e. delivery, errands, etc.)
Filing
Fuel Station/Carwash Attendant
Keyboard Mail Sorting/Distribution

Orientation/Training - Staff and/or Inmate The above lists serve as recommended options. Transitional duty needs will vary among institutions and functions. Assignment to a transitional duty post is not guaranteed and remains at the discretion of the Warden, Division Director or Deputy Director. Transitional assignments should be neither punitive nor preferential and based on the needs of the institution/office.