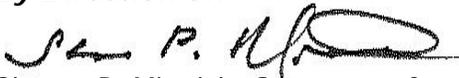


Commonwealth of Pennsylvania
Governor's Office
MANUAL

Subject: Injury Leave Manual	Number: M530.2 Amended
Date: February 2, 2016	By Direction of:  Sharon P. Minnich, Secretary of Administration
Contact Agency: Office of Administration, Office for Human Resources and Management, Bureau of Employee Absences and Safety, Telephone 717.346.4667, or email to: ra-benwc@pa.gov	

This manual has been designed to assist all employees who have responsibilities for ensuring that injured employees receive the benefits and leave they are entitled to receive under the *Workers' Compensation Act* and the commonwealth's Work-Related Injury Program. Marginal dots are excluded due to major changes.

Definitions for terms used throughout this manual may have different meanings than those of other policies. Refer to Appendix A, Definitions, for a list of terms and definitions used in this manual. In some cases, the definition includes the *Pennsylvania Workers' Compensation Act's* definition as well as translation information.

In addition to this manual, resources are available on the workers' compensation website page. Refer to [Workers' Compensation](#):

When the provisions of a collective bargaining agreement, a memorandum of understanding, or an arbitration award adopted by the Executive Board are inconsistent with this manual, those provisions take precedence.

This manual replaces, in its entirety, *Manual 530.2*, dated November 29, 2001, and Revision No. 1, dated May 1, 2002.

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PART ONE
WORKERS' COMPENSATION ACT AND ITS BENEFITS
Section One
Background Information About Workers' Compensation

- 1. Prior to Workers' Compensation Law.** Prior to the enactment of workers' compensation laws, the only recourse for an injured worker was to sue their employer under tort or negligence laws. There were several pitfalls of that system. If the worker was lucky enough to win the suit, the worker would probably lose the job, and most employees recovered nothing. Employers had three major defenses that almost assured that they would not lose. Contributory negligence on the part of an employee, assumption of risk by an employee when taking a job, or contributory negligence by another employee (fellow-servant rule) defeated any argument an injured worker could make. And, if a worker was killed, the survivors had no claim at all against the employer.
- 2. Passage of Workers' Compensation Law.** With the passage of the *Pennsylvania Workers' Compensation Act* of 1915, employees became protected by employer-financed workers' compensation insurance when injury, death, or disease resulted directly from employment. Under workers' compensation, an employer accepts liability for work injuries, regardless of fault (so the defenses of contributory negligence, assumption of risk, and the fellow-servant rule are not available to the employer). In exchange, employers are protected from civil damage suits and the payment of sizable settlements, even if there was negligence.
- 3. Pennsylvania Workers' Compensation Act.**
 - a. Periodically the Pennsylvania Legislature amends the *Workers' Compensation Act*, and through those amendments, the law has changed significantly since 1915. The most recent amendments were *Act 44 of 1993, Act 57 of 1996, and Act 147 of 2006.*
 - b. In addition to the law, regulations are promulgated to interpret the law, and from time to time they change.
 - c. Case law is the interpretation of the law and regulations by the courts. These decisions often impact the way particular claims are administered.
- 4. Workers' Compensation Insurance.**
 - a. The *Act* requires employers to have workers' compensation insurance which may be obtained through private insurance companies, self-insurance, self-insurance pooling, or the State Workers' Insurance Fund (SWIF) which is an entity of the Department of Labor and Industry.
 - b. Each insurance company or self-insured employer must maintain an Accident and Illness Prevention Program (AIPP). The AIPP must be developed, implemented, and monitored by the insurance company or employer and contain certain mandatory elements.

5. Workers' Compensation Benefits. The *Act* provides certain benefits to employees who become injured in the course and scope of employment or contract certain diseases while employed.

- a. Medical benefits for all medical, hospital, prescription, and durable medical equipment expenses related to the injury are covered.
- b. Indemnity benefits are paid for all days of disability, subject to a waiting period. In addition, when applicable to the injury, death benefits, specific loss of use benefits, and disfigurement benefits are payable.

6. Administration of the Act.

- a. The Department of Labor and Industry, Bureau of Workers' Compensation (BWC), administers, regulates, and enforces the *Act*.
- b. BWC requires that certain information be reported for all injuries resulting in absences beyond the day or shift in which the injury occurs. The information is submitted to BWC through a series of required forms. Refer to Appendix C, BWC Forms Typically Used for Workers' Compensation Claims, for forms most commonly used for commonwealth employee claims. All BWC forms are available on BWC's website at BWC Workers' Compensation Claim Forms.
- c. BWC receives information on issues in dispute in the form of petitions. The workers' compensation judges are employed by the Department of Labor and Industry to hear issues in dispute and review other matters as prescribed by the *Act*.
 - (1) Workers' compensation judges hear and rule on matters of dispute. If the workers' compensation judge's decision is appealed, the matter is heard by the Workers' Compensation Appeal Board. Workers' Compensation Appeal Board decisions may be appealed to the Commonwealth Court. Aggrieved parties may thereafter seek review by the Pennsylvania Supreme Court.
 - (2) Workers' compensation judges also provide mediation services and approve compromise and release agreements.
- d. BWC is responsible for reviewing medical fee disputes filed by providers who dispute the amount or timeliness of medical fee payments. The BWC additionally authorizes Utilization Review Organizations (UROs) and assigns cases to them for review of the reasonableness or necessity of medical treatment as requested by the employer, insurer, or employee.
- e. BWC is responsible for ensuring that adequate AIPPs are maintained by self-insured employers and insurance carriers.

7. Relationship of the Act to Other Laws. An employee who sustains an injury at work could be eligible for benefits under other laws. The law that provides the greatest benefits to the injured employee usually prevails when more than one law is applicable. The same applies when a law provides a greater benefit than an employer's policy. Refer to Appendix B, Relationship of the *Workers' Compensation Act* to Other Laws.

PART ONE
WORKERS' COMPENSATION ACT AND ITS BENEFITS
Section Two
Application of the *Workers' Compensation Act*

1. Commonwealth's Workers' Compensation Insurance.

- a. The commonwealth has been self-insured for workers' compensation since July 1, 1983. **Note:** Prior to July 1983, the commonwealth was insured through the State Workers' Insurance Fund (SWIF).
- b. All claims are paid from a workers' compensation fund. Agencies contribute to the funding of the program based on a percentage of payroll. Individual agency contribution rates are calculated each fiscal year based on commonwealth total losses, individual agency experience for the last four years, and total payroll.
- c. The administration of the workers' compensation claims is contracted to a Third Party Administrator (TPA). The current TPA contact information is available on the workers' compensation website page. Refer to [Workers Compensation](#).
- d. Each year the commonwealth must re-apply for self-insurance status to the BWC, presenting loss and financial data to prove its ability to pay for losses and providing proof of an accident and illness prevention program. The Office of Administration (OA) makes this application on behalf of all agencies.

2. Covered Employees.

- a. The definition of employee as defined in the *Act* includes "all natural persons who perform services for another for a valuable consideration, exclusive of persons whose employment is casual in character and not in the regular course of the business of the employer".
- b. All employees who receive salary, wages, or per diem wages from the commonwealth are eligible for workers' compensation benefits, including the following additional groups:
 - (1) *Section 601* of the *Act* provides employee status to volunteers in the Department of Conservation and Natural Resources, unpaid deputy game protectors, unpaid special waterway patrolmen, forest firefighters, and members of volunteer fire companies injured in State Parks and State Forest Land. Volunteers of the Pennsylvania Historical and Museum Commission are also deemed employees.
 - (2) Students who work for academic credit or for a practicum are usually deemed employees. Unpaid interns would not receive lost time benefits because there is no wage loss. They would, however, be entitled to medical benefits under the *Act*.

- c. The following are excluded from workers' compensation coverage.
 - (1) Elected officers of the commonwealth and its political subdivisions.
 - (2) Certain federal employees or others working under a memorandum of understanding may not be covered, or they may have a special agreement for coverage. The memorandum of understanding should explain how coverage is to be handled in the event of an injury.
 - (3) Non-employees are not covered by the Act. Liability may be under tort law for other injuries. **Note:** Form STD-430, Report of Incident/Accident, must be filed with the Department of General Services, Bureau of Risk and Insurance Management when there is the potential for other liability.

3. Designated Health Care Provider Lists.

- a. Employers may establish lists of [designated health care providers](#) (also known as panels of physicians).
 - (1) Lists must consist of at least six providers.
 - (2) Only four providers can be coordinated care organizations.
 - (3) No fewer than three must be physicians, as distinguished from other medical practitioners, for example chiropractors and psychologists.
 - (4) Providers may not be employees of the employer or contractors of the employer.
- b. Unions have the right to negotiate over the providers listed on a panel. **Note:** Employees of some unions, by agreement with the commonwealth, are not required to seek medical care from designated health care providers.
- c. Employees must treat with a designated health care provider for 90 days from the first visit. **Note:** The penalty for not using a designated health care provider is that the employer is not liable for the medical bills incurred. The employee is liable; the employer's health plan coverage will not pay the bills.
- d. Emergency care may be obtained from any provider, but all follow-up treatment must be with a designated health care provider.
- e. After 90 days, employees who may treat with a different provider must notify the employer or TPA within five days of the first visit. The employer may not be required to pay for treatment rendered by a non-designated provider prior to receiving this notification.
- f. Employees must be provided with written notice of their Rights and Duties for treatment with designated health care providers upon hire, when changes are made to the panel, and at the time of injury.

4. Injury Reporting.

- a. Injuries to employees should be reported promptly, but in no case later than 120 days. Notice of injury may be given to the immediate supervisor or other superior, to the employer, or any agent of the employer regularly employed at the place of employment of the injured employee. Knowledge/notice of the occurrence of the injury on the part of any such agents is knowledge to the employer.
- b. In accordance with the *Act*, an employee who fails to provide timely notification may not be eligible for workers' compensation benefits:
 - (1) Failure of an employee (or someone on the employee's behalf) to provide knowledge or notice of injury to the employer within 21 days of the injury date will prevent retroactive workers' compensation indemnity benefits from being paid.
 - (2) Failure of an employee (or someone on the employee's behalf) to provide knowledge or notice of injury to the employer within 120 days of the injury date (or knowledge of its possible relationship to employment) will result in no workers' compensation indemnity benefits being paid.
- c. An employee who is injured in the course and scope of employment cannot waive workers' compensation rights or choose to use regular paid leave instead of receiving workers' compensation benefits.

5. Eligibility Determination.

- a. Each claim must be reviewed to determine eligibility under the *Act*. A full review of injury information is done to determine if the injury falls within the scope of the *Act*. To make that determination, medical information and other information about the accident are obtained through investigations.
- b. For injuries that are not easily categorized as having "arisen in the course and scope of employment," some of the guidelines below are used to determine eligibility. **Note:** These are general guidelines and are not intended to be all-inclusive and decisions are based on individual circumstances.
 - (1) Injuries occurring on the work premises/employer's property, such as at entrances/exits and access ways are normally covered. In addition, property connected to the work premises, but not owned by the employer, can also be considered the work premises. **Note:** Injuries occurring on the employer's property, but outside the work premises, are not necessarily covered, unless the employee is engaged in the performance of official duties.
 - (2) Injuries occurring on the premises during reasonable periods of time before and after work are covered, if the reasons for being on the premises during non-work hours are pertinent.
 - (3) Injuries occurring during lunch hours and breaks on the work premises may be covered.

- (4) Injuries occurring within parking lots provided by the employer may be covered.
- (5) Injuries caused by performing a task not part of an employee's regularly assigned duties or not in accordance with a workplace procedure are normally covered. **Note:** Although the injury may be covered under the *Act*, discipline for not following procedures may be appropriate.
- (6) Broad coverage is in effect while an employee is in travel status on official business. Minor deviations from the usual route of travel and recreation that are not out of the ordinary do not necessarily negate coverage.
- (7) Injuries occurring while commuting to the regular worksite are not covered. There are exceptions to commuting which may be determined to be covered.
 - (a) The employment contract includes transportation to and from the work site.
 - (b) The employee has no fixed place of work.
 - (c) The employee is on a special assignment.
 - (d) Special circumstances exist whereby the employee was furthering the business of the employer.
- (8) Injuries sustained while the employee is operating a motor vehicle provided by the employer, if the employee is not otherwise in the course of employment at the time of injury, are not normally covered.
- (9) Injuries resulting from horseplay may be covered, unless the employer can show non-work-related or personal reasons for the injured employee's involvement.
- (10) Mental or psychological injuries without any physical basis may be covered. However, the burden of proving such an injury, in the absence of any physical injury, is much greater than if a physical injury had occurred. There must be a demonstration that the mental injury resulted from a normal reaction to abnormal working conditions. **Note:** What is "normal" is based on the job, and what is normal for one job may be an abnormal condition for another job.
- (11) Hernias, heart attacks, back injuries, and carpal tunnel syndrome are sometimes reviewed thoroughly to ensure that the condition is related to an injury that occurred at work.
- (12) Self-inflicted or intentional injuries or those inflicted by a third party may not be covered.
- (13) Injuries resulting from an employee's misuse of alcohol, illicit drugs, or misused prescription drugs are not covered.

- c. Claim decisions must be made within 21 days of notice of an injury.
- d. The BWC requires forms Workers' Compensation Claim Forms to be filed at various points during the claim. Refer to Appendix C for a partial list of forms that are typically filed.

6. Fraud.

- a. Workers' compensation fraud is subject to penalty by law. Providing false information, withholding information, and falsification of records are just a few fraudulent issues. The police or the Attorney General's Office are able to prosecute these offenses.
- b. If it is suspected that an employee is not disabled as a result of a work-related injury, surveillance and independent examinations can be used to produce evidence that does not support the employee's claim. **Note:** The commonwealth can review records to ensure that employees receiving workers' compensation indemnity benefits are not also working elsewhere or receiving public assistance or unemployment compensation benefits.

7. Subrogation.

- a. When a claimant receives a recovery through a private suit as a result of an injury, the commonwealth may subrogate (or collect) from the employee all or a portion of the recovery to offset the amount of workers' compensation indemnity and medical bills paid by the commonwealth.
- b. Until a claim is accepted, medical bills may be paid by the employee's health insurance. If the claim is later accepted retroactively, the employee's health insurance usually requests payment of the bills.

PART ONE
WORKERS' COMPENSATION ACT AND ITS BENEFITS
Section Three
Workers' Compensation Benefits

1. Claim Types.

- a. An incident only claim (sometimes referred to as a first aid) is one where an injury occurred but no time was missed from work and no medical attention was sought.
- b. A medical only claim is one where the employee sought medical attention and returned to work within seven days.
- c. An indemnity claim is one where the employee was absent for more than seven days and sought medical attention.
- d. A death claim is one in which the injury caused death to the employee, even if the death is not immediate.
- e. A recurrence claim is one where the employee is absent for a subsequent period after the employee's initial return to work following the injury.

2. Medical Benefits.

- a. All medical, surgical and hospital services, supplies, and prescription drugs are paid at the rate prescribed by the workers' compensation fee schedule, which is updated each year by the BWC. Reimbursement for prescription drugs and professional pharmaceutical services is limited to 110 percent of the average wholesale price.
- b. Payment for medical services must be made within 30 days of the receipt of the bill and medical report to avoid interest/penalties.
- c. By law, a provider cannot request or require payment in excess of the fee schedule and cannot hold an employee liable for costs related to care or service rendered in connection with an approved injury. A provider may not bill or otherwise attempt to recover from the employee the difference between the provider's charge and the amount paid.
- d. Rehabilitative services or devices such as physical therapy, orthopedic appliances, durable medical equipment (DME), and prostheses are covered.
- e. If an injury results in a physical loss requiring appliances such as hearing aids, glasses, or false teeth, those items will be paid. **Note:** Appliances or personal property broken or lost as a result of an accident, whether or not there is injury, are not covered by the *Act*. This would include but is not limited to broken glasses, broken cell phones, torn clothing, and any other personal belongings which could be damaged as a result of an injury.

3. Indemnity Benefits.

- a. Workers' compensation indemnity benefits are payable when the injury results in the loss of earnings, subject to a waiting period. There are two major types of indemnity benefits:
 - (1) Total disability benefits may last indefinitely as long as the employee remains unable to work.
 - (2) Partial disability benefits are payable for a maximum of 500 weeks.
- b. Workers' compensation indemnity benefits are payable beginning on the eighth day if the disability lasts for more than seven calendar days but less than 14 days; they are not payable for the first seven days unless disability lasts for 14 days or more.
 - (1) To determine the first seven days of disability, for continuous disability, each day of absence following the day the injury occurred is counted, including weekends and other scheduled days off.
 - (2) To determine the first seven days of disability, for sporadic absences, each day of absence following the day the injury occurred is counted. Weekends and other scheduled days off are counted only if the employee was disabled on the previous day. If the employee was not disabled on the previous day, the scheduled days off are not counted, unless a medical report indicates the actual existence of disability.
 - (3) To determine the first seven days of disability when only a few hours are lost on several days, each day of partial absence is counted as one day.
- c. Indemnity benefits are paid based on two-thirds of the employee's average weekly wage, subject to allowable maximum and minimum benefit levels that apply at the time of injury. Indemnity benefits are payable for the duration of the disability, subject to the seven day waiting period for disabilities lasting less than 14 days. The minimum and maximum benefit levels are determined by the BWC each January and are based on the statewide average weekly wage. Refer to [Historical Workers' Compensation Rate Schedules](#).
- d. The employee's average weekly wage is determined in one of the following ways as set forth in LIBC-494C, Statement of Wages.
 - (1) If the wage is fixed by the week, such wage is the basis for compensation. Or, if the wage is fixed biweekly, one-half of such wage is the basis for compensation. **Note:** This method is used for employees who receive no overtime or additional compensation.
 - (2) If the wage is fixed by the month, such wage is multiplied by 12 and divided by 52 to arrive at the weekly wage.
 - (3) If the wage is fixed by the year, such wage is divided by 52 to arrive at the weekly wage.

- (4) If the wage is not fixed by the week, month, or year, the average weekly wage is calculated by dividing 13 into the total wages of each of the highest three of the four quarters in the year prior to injury and then averaging the highest three to arrive at the employee's average weekly wage. **Note:** This method is used for employees who receive extra income such as overtime, shift differential, working out of class, uniform allowance, longevity payment, annual bonus or certification, home office allowance, meal allowance, or leased vehicle allowance.
- (a) If employment was for less than three quarters but more than one quarter, wages for any completed quarter are averaged by dividing by 13 and averaging the results for the completed quarters of work.
- (b) If employment was for less than one quarter, the hourly rate times the number of hours the claimant was expected to work per week becomes the average weekly wage.
- (5) Bonuses, incentives, and vacation payments earned on an annual basis are considered earnings for average weekly wage calculation. Those annual payments are divided by 52 weeks and the result is added to the calculated average weekly wage. **Note:** Employee benefits are not included in the average weekly wage calculation.
- (6) Employees must report other wages to be considered in their workers' compensation rate or to report other earnings that should offset the workers' compensation rate, such as wages for a part-time job when the injury causes the employee to be unable to work at the part-time job.
- e. Partial indemnity benefits are paid based on two-thirds of the employee's wage loss, subject only to allowable maximum benefit levels and are payable for a maximum of 500 weeks. Refer to Appendix G, Partial Disability Calculation Formula.
- f. To avoid penalties imposed by the BWC, the payment of workers' compensation indemnity benefits or the denial of the claim must occur within specific time frames.
- (1) Workers' compensation indemnity benefits must be paid within 21 days from the date the employer had knowledge of the injury.
- (2) Interest at ten percent is due for late workers' compensation payments and is paid to the injured employee. This is often referred to as statutory interest. A penalty may also be assessed up to 50 percent in cases of unreasonable or excessive delays as determined by a Workers' Compensation Judge.
- g. Notice to employees of claim denial and appeal rights must be made immediately after determination. **Note:** The TPA provides this notification to the employee.

- h. Indemnity benefits generally continue until one of the following occurs:
- (1) The employee actually returns to work and Form LIBC-751, Notification of Suspension or Modification Pursuant to §413(C) and (D) is completed; OR
Note: To take advantage of using the Notification of Suspension or Modification, the employee must physically return to work; therefore, the return to work date should be the actual day the employee returned, even if the employee was medically released to return to work sooner on a scheduled day off or holiday.
 - (2) The employee actually returns to work and signs, or does not return to work but agrees to sign, Form LIBC-337, Supplemental Agreement for Compensation for Disability or Permanent Injury, or Form LIBC-340, Agreement to Stop Weekly Workers' Compensation Payments (Final Receipt); OR
 - (3) A workers' compensation judge rules that benefits should be terminated or suspended; OR
 - (4) During any period of incarceration after a conviction; OR
 - (5) For partial disabilities, after 500 weeks expire.
- i. Indemnity benefits may be offset if other earnings, unemployment compensation, social security (old age) or pension benefits are received. The offset would also reduce any attorney fees being paid. **Note:** The offset for UC may only be taken for injuries occurring on or after 8/31/93. The offset for pensions may only be taken for injuries occurring on or after 6/24/96. The offset for Social Security (old age) benefits may only be taken for injuries occurring on or after 6/24/96.
- j. An employee cannot collect on two workers' compensation claims for the same time period.
- k. A Compromise & Release Agreement (C&R) may be entered into upon agreement by all parties, including the workers' compensation judge, to close the claim and release the employer of any and all future liability of the employee's alleged injury. They may be for a specific lump sum or a biweekly payment for a particular length of time.

4. Specific Loss Benefits.

- a. Specific loss benefits (also known as scheduled loss benefits) are paid when the employee has a specific loss, or loss of use of a body part. The benefits are based on two-thirds of the employee's average weekly wage, subject to allowable maximum and minimum benefit levels at the time of injury, and are paid according to a schedule of payments, plus a healing period. These benefits have no effect on the salary paid. An employee may be receiving full salary and specific loss benefits while working.
- b. The loss schedule compensation begins when the healing period ends, which is usually when the employee returns to work. **Note:** If the employee continues to receive indemnity benefits, specific loss benefits will not be paid.

- c. Payment for the full number of weeks is guaranteed.
- d. In case of multiple losses, the largest healing period and aggregate loss schedules apply.

5. Scarring Benefits.

- a. Scarring (also known as disfigurement) is paid when the employee sustains a serious and permanent disfigurement of the head, neck or face, as to produce an unsightly appearance. These benefits are not payable until the employee is no longer receiving indemnity benefits.
- b. The benefits are paid based on two-thirds of the average weekly wage not to exceed 275 weeks. The exact duration of the benefits is usually determined based on the visibility of the scar and length of the scar. Often, workers' compensation judges make the decision on the duration.

6. Death Benefits.

- a. Burial expenses, not exceeding \$3000, are paid directly to the funeral home or survivor with paid receipt.
- b. Survivors receive ongoing death benefits if the death results substantially from a work-related injury and if the death occurs within 300 weeks after the injury.
- c. Benefits continue for the life of the spouse or until the spouse remarries or cohabitates with another partner. The benefit paid is increased by the number of children who are underage. The benefit is adjusted as the children reach the maximum age as prescribed by the *Act*.

PART ONE
WORKERS' COMPENSATION ACT AND ITS BENEFITS
Section Four
Workers' Compensation Expenses

- 1. Independent Medical Examinations (IME)** are performed to obtain medical information from a doctor, other than the employee's treating provider. Board certified physicians usually perform the examination. It is used to provide a second opinion and to determine if the current treatment is appropriate.

 - a.** An IME cannot be requested more often than every six months.
 - b.** If an employee fails to attend an IME, a Petition to Compel the IME can be filed.
- 2. Field Medical Case Management** is used to closely monitor an employee's medical progress. Nurses perform the service and work as liaisons between physicians, the claim's adjuster, and employer. They review job duties to evaluate the employee's ability to return to modified work duties, monitor non-work-related health problems that interfere with a prompt recovery, and coordinate care when more than one physician is involved.
- 3. Vocational Rehabilitation** is used to evaluate an employee's limitations and recommend jobs that the employee could perform. It is usually used when an employee will not be able to return to the same job in the commonwealth, but is not totally unable to perform work from other jobs. Vocational rehabilitation could include skills assessment, training, job searches, and arranging interviews with prospective employers. The intended result is to find the employee another job, usually outside of commonwealth employment.
- 4. Surveillance** is used to follow an employee's daily routine and capture daily activities on film. It is usually used when it is suspected that the employee has outside earnings or is performing duties that the doctor has restricted. **Note:** Surveillance is very expensive and may not be admissible in court; use this tool only when you have a tip of suspected activities or after a long period of absence.
- 5. Impairment Rating Evaluations (IRE)** are performed to determine the degree of impairment due to the injury after an employee has received total disability benefits for a period of 104 weeks. A request is made to the BWC within 60 days upon the expiration of the 104 weeks to designate a licensed physician to conduct the evaluation to attempt to limit benefits to 500 weeks.
- 6. Utilization Reviews** can be requested to determine the reasonableness or necessity of all treatment provided by a health care provider which may be subject to prospective, concurrent, or retrospective utilization review to determine the reasonableness and necessity of treatment, but not any other issues. Reviews can only be performed when assigned by the BWC to a recognized Utilization Review Organization (URO).

 - a.** Utilization Reviews are governed by BWC regulations.

- b. The employee, employer, or insurer may request a Utilization Review. Specific forms are applicable to each phase of a review.
 - c. A determination by the URO is due within 30 days of the receipt of the medical records or 60 days of the receipt of the Notice of Assignment, whichever is earlier.
 - d. Reconsideration of Review can be requested if the determination is questioned. A Petition for Review may be filed with a workers' compensation judge if any party disagrees after the Reconsideration.
7. **Fee Reviews** can be requested by health care providers who dispute the amount or timeliness of payments. Because the *Act* provides a fee schedule and a 30-day period in which to pay bills, providers initiate this process when they believe compliance has not been made.
- a. Appropriate forms are to be filed along with substantiating documentation to the BWC. The BWC should render a decision within 30 days of the receipt of all relevant information.
 - b. The parties have a right to contest an adverse decision with a hearing before a workers' compensation judge.
8. **Travel/Transportation Services** should be provided upon request for an IME which is scheduled a distance from the employee's home or the employee needs assistance to travel to the appointment and could not get there on their own.
9. **Litigation** costs including, but not limited to, depositions of medical providers, court transcript fees, medical record copy fees, and attorney defense fees are usually requested and authorized by the contract attorney to defend a case before a judge.

PART TWO INJURY LEAVE

1. General Information.

- a. In addition to benefits provided by the *Act*, the Injury Leave Program covers most permanent employees and provides benefits in addition to those provided under the *Act*. **Note:** Temporary employees may not be eligible for injury leave, and employees in the Pennsylvania State Troopers Association and the Pennsylvania State Rangers Association bargaining units are not eligible for injury leave.
- b. There are two additional benefits provided to certain employees by statute; *Heart and Lung Act* and *Act 632/534*. Refer to Appendix B for additional information on these supplemental benefits. **Note:** This manual does not include procedures for these supplemental benefits; agencies with covered employees are responsible for developing procedures specific to the agency.

2. Injury Leave Benefits.

- a. To be eligible for injury leave, the claim must first be accepted. The TPA determines acceptance or denial based on the provisions of the *Act*. Injury leave is not applicable if medical documentation does not support a need for absence from work.
- b. Employees may choose paid or unpaid (injury leave without pay) injury leave for absences related to an accepted injury.
 - (1) The initial election to choose paid or unpaid injury leave will be retroactive to the first day of absence.
 - (2) After the initial leave election, the leave type may be changed only once. An election to change to/from paid or unpaid injury leave becomes effective at the beginning of the next pay period following the leave election. **Note:** Changes after the initial leave election will not be retroactive.
 - (3) If paid injury leave was chosen and is exhausted before the absence ends but within the cumulative year, unpaid injury leave will be charged, and a new election is not needed. **Note:** The change to unpaid injury leave will occur when the paid leave balances fall below one full day (7.50 or 8.0 hours), since paid injury leave may only be used in full day increments.
 - (4) An employee who does not respond to a request for leave election shall be charged paid injury leave. Any form returned after the deadline is considered a change and will be applied prospectively.
- c. For recurrences, a new, initial leave election should be offered.

- d. An employee who is dually employed and works in more than one commonwealth position and becomes injured is required to use unpaid Sick, Parental, and Family Care (SPF) Absence for absences from the position in which the employee was not injured.

3. Paid Injury Leave.

- a. Paid injury leave is the use of annual (AI), personal (PI), or sick leave (SI) for absences due to a work-related injury which entitles the employee to receive a paid injury leave supplement (PILS) in addition to the workers' compensation benefits paid. **Note:** Accrued compensatory leave and holiday leave may not be used for any injury absence or to receive the supplement. Refer to Injury Leave and Holidays for information about holiday accrual and usage.
- b. Only accrued leave may be used; leave may not be anticipated.
- c. One full day of leave is charged for each day that the PILS is paid. However, employees working reduced time hours are only charged for each hour of absence for which the PILS is paid. For reduced-time work, regardless of the number of hours worked each day or each week, each day is counted as one day toward the cumulative year. Refer to Duration of Injury Leave.
- d. The PILS amount is equal to full pay reduced by an amount that yields a net pay, including workers' compensation and social security disability benefits; this amount is equal to the employee's net pay immediately prior to the injury. Net pay prior to injury is defined as gross base pay minus federal, state, and local withholding, unemployment compensation tax, social security and retirement contributions.
- e. While on paid injury leave, the PILS is paid in accordance with the following:
 - (1) If the absence is seven days or less, normal net pay is paid because no workers' compensation indemnity benefits are paid.
 - (2) If the absence is from eight to 13 days inclusive, normal net pay is paid during the first seven days. Workers' compensation indemnity benefits and the PILS is paid beginning on the eighth day.
 - (3) If the absence is 14 days or more, workers' compensation indemnity benefits and the PILS is paid for the entire absence.

4. Unpaid Injury Leave (Injury Leave Without Pay).

- a. Unpaid injury leave (IO) is available to an employee who does not choose to use accrued leave, has no accrued leave, or exhausts paid injury leave.
- b. During periods of injury leave without pay, the commonwealth pays no supplement. Only workers' compensation indemnity benefits are paid in accordance with the following:
 - (1) If the absence is seven days or less, no workers' compensation benefits are payable so the employee will receive no income.

- (2) If the absence is from eight to 13 days inclusive, neither pay nor workers' compensation indemnity benefits are paid for the first seven days. Workers' compensation indemnity benefits are paid beginning on the eighth day.
- (3) If the absence is 14 days or more, workers' compensation indemnity benefits are paid for the entire absence.

5. Duration of Injury Leave.

- a. Injury leave with benefits is available within three years from the date of injury for an aggregate of 12 months or the duration of the absence, whichever is lesser. **Note:** Twelve months or one cumulative year is 365 days, which includes all calendar days within the absence begin and return dates. If only paid injury leave is used for the duration of the absence, paid injury leave with benefits may be used beyond 12 months until exhausted or the duration of the absence, whichever occurs sooner.
 - b. If an employee is unable to return to work at the expiration of paid injury leave, the employee is entitled to use unpaid injury leave for the remaining aggregate 12 months or the duration of the absence, whichever is less.
 - c. An employee using a combination of paid and unpaid injury leave must be removed from paid or unpaid injury leave with benefits upon reaching one cumulative year. **Note:** An employee may not choose to use remaining accumulated paid injury leave after reaching one cumulative year, if both paid and unpaid leave was used during the cumulative year.
 - d. Injury leave for temporary employees who are eligible for injury leave is available for an aggregate of up to 12 months, for the duration of the absence, or for the scheduled duration of the temporary employment, whichever is less. **Note:** Workers' compensation indemnity benefits generally are not affected by the termination of employment if the employee has not returned to work when the temporary employment period ends.
 - e. A recurrence within three years from the date of the original injury is considered part of the cumulative year.
 - f. At the expiration of injury leave with benefits, injury leave without pay without benefits is available for three years from the date of injury. Refer to the *FMLA Leave When Injury Leave is Expired or Exhausted* for information about granting absences with benefits when required by the *FMLA* for absences after the aggregate 12 months has expired or three years after the date of injury.
- 6. Return from Injury Leave in New Leave Calendar Year.** An employee who was absent due to a work-related injury, which precluded the use of earned quota during the first seven pay periods, shall have seven pay periods to use the excess quota upon return to work. To be eligible, the employee must have been absent during the entire seven pay period extension. Refer to *Manual 530.7, Absence Programs* for additional information.

- a. Injury leave absences that begin after the first day of the new leave calendar year/original extension period and do not span the entire original extension period are not eligible for an additional extension.
- b. If an employee's absence spanned multiple years, only the previous year's excess quota may be extended.

7. Family and Medical Leave Act (FMLA) Leave When Injury Leave is Expired or Exhausted.

- a. Work-related injury absences are not covered by SPF absence. However, a work-related injury is usually covered by the *FMLA* and concurrently designated as leave under the *FMLA*. It is imperative that *FMLA* be considered when injury leave is expired or exhausted, since an employee may be eligible for additional absence benefits under *FMLA*.
- b. An employee who remains unable to work at the expiration or exhaustion of the injury leave entitlement only may continue such leave with benefits if the employee is eligible for leave under *FMLA*.
- c. An employee who is unable to work due to a recurrence of a work-related injury after three years from the date the injury occurred, or before three years if the cumulative one year of injury leave entitlement has been depleted, may be eligible to use additional leave under *FMLA*. If eligible, the injury leave policies described above are followed.
 - (1) To be eligible for this additional injury leave under *FMLA*, the employee must have worked 1250 hours within the last 12 months, based on the date the absence began.
 - (2) The period of leave is up to 12 weeks, which is reduced by any other leave used within the previous 12 months that was designated as *FMLA* leave.
 - (3) If only accumulated paid leave is used during the recurrence, the leave is not subject to the 12-week limit; accumulated paid leave may be used until exhausted or until the employee returns to work, whichever occurs sooner. **Note:** The 1250 hour work requirement does not need to be met to use only accumulated paid leave.
- d. If all leave is exhausted, the workers' compensation coordinator may, at the agency's sole discretion, approve regular leave without pay without benefits, or proceed to terminate the employee through the discipline process.

8. Absences for Medical Appointments.

- a. An employee must use sick medical (SM), annual medical (AM), or personal medical (PM) leave for absences up to a full shift for continued medical treatment or therapy of the work-related injury once the employee has been released to return to work. Such leave may be anticipated and does not count toward the cumulative year of injury leave. If no paid leave is available, an employee may use injury leave without pay for a medical appointment (IM).

- (1) Each absence shall not exceed the minimum amount of time necessary to obtain the medical treatment and reasonable travel time to and from the appointment.
 - (2) A doctor's certificate may be required to substantiate each absence. As situations warrant, verification of the length of the medical appointment may also be required.
 - (3) An employee should make a reasonable effort to schedule medical appointments during non-work hours or at those times during the workday that would result in minimum absence.
- b. Time for initial medical treatment on the day of injury is not charged to the employee's accrued leave.
 - c. Medical appointment leave is not applicable for any period of time for which workers' compensation is paid.
 - d. Absences for independent medical examinations (IME) scheduled by the TPA will be charged to independent examination (IE) leave and will not affect the employee's sick, annual, or personal leave balance. Both reasonable travel time and the appointment time should be charged to leave code IE; this includes any medical appointment mandated by the TPA.

9. Absences for Denied Workers' Compensation Claims.

- a. Injury leave is not applicable if the workers' compensation claim is denied by the TPA. An employee whose claim has been denied (including claims that have been provisionally denied pending the receipt of additional medical information) may use regular sick, annual or personal leave in accordance with those policies.
- b. The SPF Absence Coordinator should be notified of all denied claims when the employee continues to be absent from work. If the employee is not eligible or entitled to SPF absence, the SPF Absence Coordinator may approve up to six months of Extended SPF Absence for a denied work-related injury claim. Extended Sick, Parental, and Family Care (ESPF) is without benefits, but the employee's position will be held during this time.
- c. In the event that entitlements under SPF have been depleted, the workers' compensation coordinator may choose to approve regular leave without pay without benefits or terminate the employee through progressive discipline.

10. Continuation of Employee Benefits.

- a. Health insurance coverage will continue during both paid and unpaid injury leave with benefits for one cumulative year or, if only paid leave is used, for the entire duration of the absence. However, if employees currently pay employee shares for their health benefits under the Pennsylvania Employees Benefit Trust Fund (PEBTF) and want to continue coverage, they must continue to pay that share during the absence. If employees are enrolled in the PEBTF and use an unpaid leave of absence, employees will receive a notice regarding the payment amount and due date. **Note:** Benefits during injury leave without pay without benefits can be continued if COBRA coverage is elected.
- b. Employer paid group life insurance benefits continue. **Note:** During injury leave without pay without benefits, the carrier will bill the employee directly to continue coverage. If the employee does not pay the monthly premium, coverage will be canceled.
- c. Voluntary benefits will continue. **Note:** During unpaid injury leave, the carrier will bill the employee directly to continue coverage. If the employee does not pay the monthly premium, coverage will be canceled.
- d. While using paid injury leave, sick, annual, and personal leave continue to be earned at the employee's regular accrual rate. Leave does not accrue when using injury leave without pay.
- e. Salary increases are granted when due. **Note:** While on injury leave without pay, the salary is not increased until the employee physically returns to work. Therefore, an employee who separates on leave without pay will receive payment for any accrued leave at the rate in effect before the leave without pay began.
- f. Retirement contributions are withheld in full, if paid injury leave is chosen. No retirement contributions are made and no credit is given if injury leave without pay is chosen. **Note:** In accordance with the *State Employees' Retirement Code*, employees who are paid for 1650 hours in a calendar year receive full retirement credit for that year. Therefore, depending on the leave history throughout the calendar year and the length of any unpaid injury leave, retirement credited service may not be affected. **Note:** For employees covered by non-SERS retirement plans refer to those specific documents for retirement credit information.
- g. Injury leave does not count toward completion of any probationary period or any extension of that period.
- h. Seniority credit continues to accrue during injury leave.

11. Right of Return.

- a. An employee has the right to return to a position in the same or equivalent classification held before the injury, provided the employee is fully capable of performing the duties of that position, subject to the furlough provisions applicable to his or her job classification and position. **Note:** The right of return for a temporary employee shall be limited to the scheduled duration of the temporary employment.

- (1) The guarantee of a right to return may last for a period of up to three years from the date the injury occurred, and extended beyond three years during FMLA leave. An employee exhausting injury leave is placed on injury leave without pay without benefits until the end of the three-year period or until the occurrence of one of the situations described below, whichever occurs first.
 - (2) The guarantee expires if (a) the employee is deemed able to resume work and the employee does not return to work immediately; or (b), if the employee retires or otherwise terminates employment; or (c), if the TPA terminates workers' compensation and the employee does not return to work immediately.
 - (3) A furloughed employee who is unable to work and has exhausted injury leave does not have a right of return. However, the employee should be considered for recall if the employee can perform the essential functions of the position for which they are being recalled; otherwise, the employee should remain on the recall list in accordance with the furlough provisions.
- b. For a period of up to three years from the date the injury occurred, an employee who is not fully capable of performing the duties of the position has, upon request, a right to return to an available position in a lower classification.
- (1) The position must be within the same geographical/organizational limitation as the employee's seniority unit, must have no seniority claims, and must be a position the agency intends to fill.
 - (2) The employee must meet the minimum requirements and qualifications essential to the work of the classification and must be fully capable of performing the duties of the position.
 - (3) An employee returning to a position in a lower classification will be demoted in accordance with *Management Directive 505.7, Personnel Rules*, but shall maintain the right of return described above and may be eligible for a partial workers' compensation benefit.
- c. An employee receiving workers' compensation must be notified 90 days prior to the expiration of the three-year right of return period. The notification must include information about applying for disability retirement, if eligible, since an employee must apply for disability retirement while still employed. **Note:** If the employee does not receive 90 day notice, the employee's right to return will not be extended. However, the leave without pay will be extended for up to 90 days from the date of notification to enable the employee, if eligible, to apply for disability retirement.

12. Impact of Injury Leave on Alternate Work Schedule (AWS).

- a. Employees who are working an AWS when they are injured have special leave provisions for absences beyond the day of the injury. The employee must be placed on a default work schedule via substitution (IT2003) during the Begin Leave Without Pay (LWOP) action, regardless of the day of the AWS period.

- (1) If the employee worked additional hours on the AWS schedule, those hours will automatically be paid as wage type 2110 (AWS Hours – Positive Bal).
 - (2) If the employee already used the AWS off day and, due to reverting to the default-work schedule, did not yet earn the AWS off day, the additional hours not worked will automatically recoup as wage type 2111 (AWS Hours – Negative Bal).
- b. The employee must remain on the default work schedule until returning to work. If the employee returns to work in the middle of his/her AWS cycle, an additional substitution to place the employee on a basic work schedule is required. The employee must remain on the basic work schedule until the next AWS cycle period begins.
 - c. For an employee who misses time only on the date of the injury and is working an AWS, the difference between the standard work schedule and the AWS work schedule must be charged to sick, annual/combined, personal, or SPF unpaid sick with benefits on the day of the injury. The additional hours not worked may not be charged to injury leave.

13. Appeal of Injury Leave Benefit Decisions.

- a. If a workers' compensation claim is denied, the denial of injury leave is not subject to the grievance procedures in collective bargaining agreements. The avenue of appeal is the workers' compensation system.
- b. If the TPA's claim denial is reversed in the workers' compensation appeal process, the denial of injury leave must be reversed. **Note:** This applies even if the claimant is no longer employed, provided the claimant filed for workers' compensation prior to termination.
- c. If a claim is settled by a compromise and release or stipulation for a lump sum, and there is no stipulation related to the dates covered by the lump sum, injury leave is not applicable.

14. Injury Leave and Suspensions.

- a. When injury leave is applicable and it overlaps a period of suspension, injury leave should not be delayed due to the suspension.
- b. For a suspension that is the result of discipline, the suspension date should be amended to be effective after the employee returns from injury leave, if possible.
- c. For an immediate suspension pending investigation, the employee must be notified that injury leave is recorded but that the absence is also concurrently considered as a suspension. If such employees are released to return to work, they may not return until the suspension ends.

- d. For retroactive approvals of injury leave when a suspension was previously recorded, enter injury leave. However, notify the employee as indicated above that although injury leave is recorded that the absence is concurrently considered a suspension as originally recorded. Remarks can be added to the absence records.

15. Injury Leave and Separations.

- a. Injury leave ends if the employee is terminated for cause, is furloughed, begins cyclical leave without pay, ends a temporary or seasonal position, or voluntarily separates. **Note:** Workers' compensation indemnity benefits are not affected by separation of employment, but the TPA must be notified, since a petition to terminate workers' compensation benefits may be needed to stop the workers' compensation depending on the circumstances.
- b. When a workers' compensation claim is accepted after the employee's separation, retroactive injury leave is available for one year, the duration of the absence, or the date of separation, whichever is less. There is no right of return guarantee. **Note:** Even though the employee is separated, the employee must be given the option to choose paid or unpaid injury leave.
- c. A recurrence occurring after the employee has separated from employment is not covered by injury leave, although workers' compensation indemnity benefits may be payable.
- d. A separated employee does not need to be reinstated as a result of a decision to reinstate or award workers' compensation indemnity benefits.

16. Injury Leave and Holidays.

- a. Holidays that fall during a period of paid injury leave are charged as a holiday (HI) when they occur, provided the holiday eligibility rules are met. **Note:** Accrued holiday leave may not be used for any injury absence or to receive the supplement.
 - (1) If the employee is working on a reduced-time schedule and is eligible for the holiday, HI is entered for the amount of non-work time for the holiday. This would normally be the same amount of time reported on scheduled workdays as AI, SI, or PI.
 - (2) The holiday is not prorated because the employee is in a workers' compensation status the entire day before and after the holiday.
- b. Holidays that fall during a period of long-term injury leave without pay do not meet the holiday eligibility rules; therefore, injury leave without pay (IO) is charged on the day of the holiday.
- c. Holidays that fall during a period of intermittent or reduced-time injury leave without pay have the following special rules to eliminate the need to adjust salary and workers' compensation amounts when holidays occur. **Note:** The policy is different than the policy for reduced-time work while using SPF absences.

- (1) An employee must be in an active pay status on the entire last half of the scheduled workday immediately before, and the entire first half of the scheduled workday immediately following a holiday. For an employee who is working on a reduced-time schedule, the above provision applies except that the employee's scheduled day is defined as the hours scheduled to work on the reduced-time schedule, and the leave without pay used due to the reduced schedule does not preclude the employee from holiday pay.

Example: A 7.5 hour employee working on reduced-time status is scheduled to work 4 hours each morning. To be eligible for holiday pay, the employee must be in a paid status the last 2 hours of the scheduled 4 hour day before the holiday and the first 2 hours of the scheduled 4 hour day after a holiday. The injury leave without pay of 3.5 hours in the afternoon between the scheduled days does not preclude pro-rated holiday pay.

- (2) Employees who work the same number of hours each day while in a reduced-time status shall have holiday leave pro-rated and paid.

Example: A 7.5 hour employee working on reduced-time status is scheduled to work 4 hours each morning. The holiday occurs on Thursday. Four hours is charged and paid as holiday leave (leave code "H") and 3.5 hours is charged as injury leave without pay.

- (3) Employees who work a variable number of hours each day shall have their holiday leave pro-rated and accrued as holiday leave. The accrued holiday leave can be used on another day. Or, it may be used on the day of the holiday if the employee would have been scheduled to work.

Example 1: A 7.5 hour employee working on reduced-time status is scheduled to work Monday, Wednesday, and Friday. The holiday occurs on Thursday, when the employee would not have been scheduled to work, so 4.5 hours of holiday leave is accrued for future use.

Example 2: A 7.5 hour employee working on reduced-time status is scheduled to work Monday, Wednesday, and Friday. The holiday occurs on Monday, when the employee would have been scheduled to work, so 4.5 hours of holiday leave is used on Monday. The employee must submit a leave request for 3 hours of annual, personal, or regular leave without pay for the remainder of the hours that would have been scheduled to work.

PART THREE
ROLES AND RESPONSIBILITIES
Section One
Employee

1. Be aware of and follow all safety rules and procedures to prevent injuries.
2. Be aware of locations where the list of designated health care providers are posted in the event treatment would be needed for a work-related injury.
3. Report all injuries to the supervisor or individual in charge as soon as they occur, but in no case later than 120 days.
4. Cooperates with investigations of accidents to prevent them from occurring again and to ensure all information is provided for the processing of injury claims.

PART THREE
ROLES AND RESPONSIBILITIES
Section Two
Supervisor

1. General Responsibility.

- a. Strives to ensure the safety of employees.
- b. Ensures that prompt medical care is provided when injuries occur.
- c. Communicates to employees the procedures for reporting injuries.

2. Before an Injury Occurs.

- a. Prevents injuries by providing training, encouraging safe work habits, and maintaining safe work areas. **Note:** Unsafe acts and safety rule violations should not be condoned. For repeat offenses which occur after the employee received training, discipline may be appropriate.
- b. Familiarizes employees with their responsibilities to report work-related injuries and "near misses" immediately to the supervisor or individual in-charge. **Note:** Employees who travel on commonwealth business should report all injuries while in travel status immediately.
- c. Obtains the TPA's Managed Care Program for Work-Related Injuries identification cards and the Return to Work Status Report to provide them to injured employees to take to the treating provider. In addition, provides workers' compensation prescription cards to employees to obtain prescriptions for their work-related injury.
- d. Works with the workers' compensation coordinator and safety coordinator to identify how emergency medical care will be obtained, and if such care will be through first responders, calling 911, or actual transportation of employees to local medical facilities.

3. Medical Care When an Injury Occurs.

- a. For a serious injury requiring emergency medical care, arranges for ambulance transportation and/or accompanies (or has another employee accompany) the employee to the emergency care facility.
- b. When non-emergency medical care is needed, issues the TPA's Managed Care Program for Work-Related Injuries identification cards, the workers' compensation prescription cards, and a Return to Work Status Report to the employee and reminds the employee that treatment must be obtained from a medical provider from the Designated Health Care Providers Lists. **Note:** Supervisors cannot direct an employee to a specific provider.
 - (1) If the selected health care provider cannot see the employee within an acceptable time frame of 48 hours or less, assists the employee in selecting a different health care provider and notifies the human resources office of the first health care provider's unavailability.

4. Reporting Injuries.

- a. Employers must report all injuries. This includes injuries that are suspicious; minor injuries that an employee may not want to report; and injuries that seem minor and result in no medical attention.
- b. For claims that are catastrophic, severe or result in death, immediately notifies the workers' compensation coordinator for prompt intervention. **Note:** In cases of catastrophic injury, the medical case manager will schedule an on-site visit within 48 hours to manage the direction of the care and ensure the quality of care for the injured worker.
- c. As soon as an injury occurs or notification is received that an injury has occurred, completes the Workers' Compensation Claim Report, using Employee Self-Service (ESS). If ESS is unavailable, completes a Workers' Compensation Claim Report, on paper and submits it to the Workers' Compensation Claims Representative for entry to SAP. Do this as soon as possible, even if the employee does not seek medical treatment.
 - (1) The workers' compensation coordinators and safety coordinators are notified of the injury through an email notification from the SAP computer system. The TPA is notified of the injury via a nightly electronic interface.
 - (2) The information provided on the claim report cannot be used as evidence against the employer in any litigation. Therefore, as much information about the injury as possible should be provided, yet be concise and abbreviate where possible since character space is limited.
 - (3) For agencies not using SAP, reports the claim directly to the TPA using their injury reporting system or to the workers' compensation coordinator as instructed.
- d. By email or telephone, notifies the workers' compensation coordinator if any of the following are suspected:
 - (1) The injury did not occur as reported by the employee, especially if the injury may not have occurred at work.
 - (2) The injury is intentionally self-inflicted.
 - (3) The injury is caused by an act of a third person intended to injure the employee because of reasons personal to him, and not directed against him as an employee or because of his employment.
 - (4) The injury is caused by the employee's violation of a law.
 - (5) The injury occurred when the employee was not in the furtherance of the business or affairs of the employer.
 - (6) The injury occurred when it is suspected that the employee was under the influence of alcohol, illicit drugs, or misused prescription drugs.

- (7) The injury may be related to other medical problems.
- (8) The injury could be related to activities/hobbies off the job or a weekend home project.

e. Accident/Incident Investigation.

- (1) Requests that witnesses complete Incident Statement Form to be used during the investigation of the incident.
- (2) Cooperates with the individual who is assigned to investigate the incident, or if it is the supervisor's responsibility, completes the Incident Investigation Form and forwards it to the safety coordinator (or workers' compensation coordinator as directed by the agency) for review.

f. Absences Due to Injury.

- (1) Receives instructions from the workers' compensation coordinator for reporting absences to ESS.
- (2) Maintains records of the date(s) of absence related to the injury and enters or has employee or timekeeper enter absences through ESS. No leave is required for the day of the absence if the employee seeks medical treatment that day. **Note:** Leave is charged on the day of the injury if the employee leaves work but does not seek medical treatment on that day.
- (3) Maintains contact with the injured employee for the duration of the absence. Contact should occur biweekly for the first three months and monthly thereafter within the following guidelines. **Note:** The employee is required to follow all call-off policies.
 - (a) Keeps the employee updated on work activities.
 - (b) Assures the employee and family of the agency's hope for a speedy recovery and possibly sends a greeting card.
 - (c) Seeks updated medical prognosis and encourages the employee to return to full-time, part-time, or modified duty work as soon as possible.

g. Return to Work.

- (1) If periodic medical updates are received, provides the information to the workers' compensation coordinator. To return the employee to work as soon as possible, works with the workers' compensation coordinator to determine if modified duty assignments are appropriate based on the type of work normally performed, nature of injury, and medical restrictions.
- (2) In most cases, the workers' compensation coordinator notifies the supervisor when employees are expected to return to work and if there are any restrictions to the employee's normal job duties.

- (3) Notifies the workers' compensation coordinator immediately when employees return to work.
 - (a) The supervisor may not allow employees to work after an absence from an injury without a clear release to return to full duty work from the treating physician, unless the workers' compensation coordinator notified the supervisor of an approved modified duty assignment.
 - (b) Contacts the workers' compensation coordinator if employees do return without a full duty medical release to obtain instructions or to determine if the workers' compensation coordinator has received the release.

h. Other Important Information.

- (1) Contacts the human resources office immediately if absences occur that were not initially reported.
- (2) Refers questions about the workers' compensation benefits to the workers' compensation coordinator. **Note:** The employee should not be referred to the Human Resource Service Center for questions about workers' compensation matters.
- (3) Cooperates with the TPA and workers' compensation coordinator by providing details concerning injuries, as requested.
 - (a) Verifies dates of absences when requested by the TPA or workers' compensation coordinator.
 - (b) Represents the commonwealth at hearings by observing the proceedings, testifying on the commonwealth's behalf, or arranging for witnesses to testify as requested by the workers' compensation coordinator.

PART THREE
ROLES AND RESPONSIBILITIES
Section Three
Workers' Compensation Representative

1. Enters Workers' Compensation Claim Reports into ESS for supervisors that do not have access to ESS.
2. If information is missing on the claim report, obtains additional information from the supervisor prior to entering the claim.
3. If no workers' compensation representative is assigned to the organization, these tasks become the workers' compensation coordinator's responsibility.

PART THREE
ROLES AND RESPONSIBILITIES
Section Four
Agency Head or Human Resource Director

1. Designates an agency workers' compensation coordinator to be responsible for the work-related injury program within the agency.
2. Provides OA, Bureau of Employee Absences and Safety, with the names, addresses, telephone numbers, fax numbers, and email addresses of individuals who have work-related injury program responsibilities in the agency's central office.

PART THREE
ROLES AND RESPONSIBILITIES
Section Five
Workers' Compensation Coordinator

1. General Responsibility.

- a. Coordinates the agency's work-related injury program and ensures that all actions regarding injuries are reported timely and all policies and procedures are followed.
- b. Attends initial and refresher training from OA, Bureau of Employee Absences and Safety.

2. Program Development.

- a. Administers the agency's workers' compensation program based on the *Act* and the commonwealth's policies and procedures for work-related injuries. As changes are made to the agency organization, the commonwealth's program, or the *Act*, ensures that the agency's program also is modified.
- b. Develops work-related injury policies and procedures that are necessary for and specific to the agency.
- c. Determines what staff will be involved in the program and what portions of the program should be decentralized. Determines locations where Workers' Compensation Representatives are needed to enter Workers' Compensation Claim Reports for supervisors that do not have access to ESS.
- d. Determines what responsibilities will be delegated to field workers' compensation coordinators for claims that occur in field sites.
- e. Develops modified duty program policies and procedures.
- f. Develops procedures to ensure representation at appropriate workers' compensation hearings. Refer to Workers' Compensation Litigation.
- g. Develops and maintains a cooperative working relationship with the OA, Bureau of Employee Absences and Safety, TPA and BCPO.
- h. Develops and maintains a cooperative working relationship with the safety coordinator to increase safety consciousness within the agency and works with the safety coordinator to develop programs that address cost control objectives for the most frequently occurring and most expensive injuries.
- i. Develops training materials specific to the agency for those who have responsibilities for work-related injuries including supervisors, workers' compensation claim representatives and field workers' compensation coordinators.

3. Administrative Procedure Development.

- a. Develops and maintains a filing system, separate from the Official Personnel Folder (OPF), to maintain all documents related to an employee's injury. **Note:** The file should be a confidential file since medical records are maintained within it. Although the file may be maintained electronically, access to the records must be restricted to only those that need the information. A shared folder where anyone from the organization could access this information is not permitted.
- b. Customizes and maintains template letters to be sent to injured employees.
- c. Maintains the claims processing tasks on the Checklist for Injury Leave.
- d. Identifies electronic or paper systems to task and track injuries and dates for next steps.
- e. Identifies and uses TPA reports to monitor claims and costs.
- f. Determines how immediate medical care will be provided to injured employees. This may be done by working with the safety coordinator to determine availability of first-aid responders. Ensures that employees know how to secure emergency assistance. In addition, works with the agency's organizations to identify the closest emergency medical treatment facilities and how transportation by ambulance is obtained.
- g. Maintains information confidentially. **Note:** Although Workers' Compensation medical documentation is not subject to the *HIPAA*, medical information is maintained in accordance with privacy rules.

4. Program Communication.

- a. Ensures lists of designated health care providers (also known as Panels of Physicians) are posted at each work location in conspicuous places. Refer to Specific Procedures for Lists of Designated Health Care Providers.
- b. Ensures new employees receive and sign the Notification to Employees of Their Rights and Duties. Provides information to new employees about workers' compensation and injury leave during their new employee orientation when electronic onboarding has not occurred or to provide information in addition to that provided during onboarding. If a paper form is signed, it is filed in the OPF.
- c. Provides or arranges for work-related injury training for supervisors. Initial training for supervisors should occur upon promotion to supervisor within six months of becoming a supervisor, and refresher training or education should occur periodically.
- d. Communicates program changes to employees as needed.
- e. Ensures that information related to workers' compensation or injury leave that is published in newsletters, intranet sites, and bulletin boards is in accordance with commonwealth policy and procedures and the *Act*.

- f. In cooperation with the safety coordinator, provides statistical information to organizations within the agency.

5. Initial Investigation.

- a. Receives initial notifications of injuries.
 - (1) The initial claim form is received by email.
 - (2) For claims that are catastrophic, severe or result in death, receives notice directly from the supervisor, usually by telephone. For these cases, immediately notifies the TPA claims supervisor, so that a medical case manager can be assigned to do an on-site visit within 48 hours to manage the direction and ensure the quality of care for the injured worker.
- b. Creates a work-related injury file for the claim.
- c. Investigates the claim through discussions with the supervisor and any witnesses to determine the relationship of the injury to the work that was being performed.
- d. Informs the supervisor of the availability of modified duty options when the employee is released to return to work.
- e. Works with the safety coordinator, as necessary, to coordinate the workers' compensation investigation with the safety investigation.
- f. Telephones the employee to determine the employee's current medical status and answer any questions the employee may have and obtains additional information about the accident as needed to share with the TPA.
- g. Corrects information on the SAP claim form as needed based on the investigation and notifies the TPA of any additional information discovered during the discussions with the supervisor, witnesses, and employee. **Note:** If the claim is suspicious, it is important to volunteer this information since the TPA may not discover it through their investigation.

6. Initial Claim Processing.

- a. Until the claim is accepted, allows the employee to use accrued and anticipated leave (not paid injury leave), and if no paid leave is available, the SPF Absence Coordinator should check eligibility and entitlement to place the employee on unpaid SPF or ESPF leave.
- b. Before the end of the pay period in which the first day of absence occurred, notifies the employee, employee's supervisor and/or timekeeper of the type of leave to enter for each day of absence. **Note:** If an employee is working on an alternate work schedule (AWS) and is absent from work beyond the date of the injury, refer to Impact of Injury Leave on Alternate Work Schedule.

- c. For injuries expected to last more than seven days, completes the Paid Injury Leave Supplement (PILS) Estimated Net Request Form and emails the information to BCPO who will complete and return the form to the workers' compensation coordinator. **Note:** It is not necessary to complete a PILS request if the employee has no accrued leave.
- d. As soon as possible, but not later than two weeks from the date of injury (or first day of absence, if the original status changed), sends the employee the appropriate letter and enclosures to provide information about workers' compensation and injury leave.
 - (1) For incident only claims, the Notification of Incident Only letter explains that the claim has been treated as an incident only and will not be reported to the TPA.
 - (2) For medical only claims with no time lost, the Notification of Medical Only Claim letter explains that the claim has been reported to the TPA and that absences due to the injury should be reported to their supervisor. The Notice to Employees Work-Related Injury Leave Information, the Rights & Duties Form and a Designated Health Care Provider Lists should be provided even if it was provided previously.
 - (3) For all claims when the employee is absent for any time beyond the date of injury, pending a decision from the TPA, the Notice of Pending Workers' Compensation Decision/Windfall letter is sent. This letter explains that the injury has been reported to the TPA and that, pending a decision to accept or deny the claim, any absences from work will be charged to sick, annual, personal, or unpaid leave at employee's request and upon receipt of medical documentation. The Notice to Employees Work-Related Injury Leave Information, the Rights & Duties Form and a Designated Health Care Provider Lists should be provided even if it was provided previously.
- e. Files and maintains in the work-related injury file, copies of the Workers' Compensation Claim Report, Form LIBC-344, Employer's Report of Occupational Injury or Disease, medical documentation, and any other information pertinent to the claim. **Note:** Do not file claim reports, medical documents, or any other information about work-related injury claims in the OPF.
- f. Files and maintains the Notification to Employees of Their Rights & Duties Form in the OPF.
- g. Contacts the TPA if additional information about the claim is discovered and provides any medical information received to the TPA. Offers assistance to the TPA to gather additional information if needed.

7. Acceptance or Denial of Claim.

- a. After 30 days from the date the Workers' Compensation Claim Report was forwarded to the TPA, determines if the TPA accepted the claim and if a copy of the LIBC form accepting liability was provided. If not received, contacts the TPA to determine the status of the claim. **Note:** For medical claims, LIBC forms may not be issued. Instead, the TPA will forward a form to indicate acceptance or denial.
- b. If a denial is recommended, discusses the denial with the TPA before the TPA issues an acceptance or denial LIBC form.
- c. Upon receipt of the acceptance or denial, notifies the employee of their further rights or options.
 - (1) If the claim is denied, notifies the employee that the claim is denied and that annual, personal, sick, and/or unpaid SPF or ESPF absence will continue to be charged for the absences.
 - (2) If the claim is accepted, for medical only claims with less than seven days lost that have been accepted by the TPA, the Notification for Absences of Less than Eight Days Beyond Date of Injury letter explains the leave options available to the employee. The Work-Related Injury Leave Election Form should be provided with all necessary information completed. **Note:** Because workers' compensation indemnity benefits are not payable for the first seven days, the PILS amount should state "regular salary."
 - (3) If the claim is accepted, for indemnity claims, the Notice of Injury Leave Benefits/Leave Election letter explains that the injury has been accepted and explains the leave options available to the employee. The Work-Related Injury Leave Election Form with all necessary information completed including the PILS amount provided by BCPO, if applicable, should be provided with the letter. **Note:** If the absence is less than 14 calendar days, the standard form will not accurately reflect the correct supplement amount, as workers' compensation indemnity benefits are not payable for the first seven days for absences of less than 14 days. An adjustment to the standard form/letter is required to provide accurate information to the employee.
- d. Sets a task for two weeks, three months, six months, and eleven months and determines the expiration of the injury leave (365 days) based on the checklist.
- e. At the two week task date, determines if the Work-Related Injury Leave Election Form has been returned and the type of leave that must be processed. Reference the Time Administration BPPs for detailed instructions on processing injury leave transactions.

- (1) If the form has not been returned, assumes that the employee elects paid injury leave as their first election and enters the appropriate begin action into SAP and appropriate absence codes beginning the first day of absence after the injury date. Enters the correct absence code or notifies the timekeeper of the appropriate absence code to enter. **Note:** Absences should be entered for the entire absence period, and not one week at a time.
 - (2) If the form has been returned and paid injury leave was elected, enters the appropriate begin action into SAP and appropriate absence codes beginning with the first day of absence after the injury date. Enters the correct absence code or notifies the timekeeper of the appropriate absence code to enter.
 - (3) If the form has been returned and injury leave without pay was chosen, enters the appropriate begin action into SAP and appropriate absence codes beginning with the first day of absence after the injury date. **Note:** If the leave is short-term, no begin action is needed. Enters or notifies the timekeeper of the appropriate absence code to enter.
- f. If accrued leave becomes exhausted and the employee remains absent, enters the appropriate begin unpaid action into SAP and appropriate absence codes beginning with the first day after the accrued leave is exhausted.

8. Other Processing Information.

- a. If the employee wishes to change the leave election, requests the employee to complete a new Work-Related Injury Leave Election Form. Changes action codes and absence codes as appropriate to affect the new leave chosen. **Note:** Changes to the type of injury leave elected may only be made once and must be prospective at the beginning of the next pay period.
- b. Maintains contact with the employee and supervisor to determine when the employee can return to work and if the return could be sooner if a modified duty assignment was permitted.
- c. If the absence continues for six months and the employee is using paid injury leave, notifies BCPO to stop Social Security and Medicare deductions. The effective date is the first day of the employee's first full pay period in the seventh month of injury. The first six months begin with the first day of the month after the employee's last date worked and continues through six full calendar months. **Note:** A recurrence of an absence following a return to work of even one day starts a new six-month period.
- d. One month prior to the expiration of injury leave with benefits, notifies the employee of the impending expiration of leave and the options available.
- e. Ninety days prior to three years from the date of injury, if the employee remains absent, notifies the employee of the impending expiration of all employment rights and benefits. **Note:** If the 90 day notification has passed, the employee should be given at least two weeks to review the options and respond; the continued absence should be recorded as regular leave without pay without benefits and not injury leave.

- f. If one cumulative year is reached, removes the employee from injury leave without pay with benefits and enters injury leave without pay without benefits. If three years from the date of injury is reached, removes employee from injury leave, and either enters regular leave without pay without benefits or separates the employee based on the option chosen by the employee.
- g. If the employee's special benefit changes from injury leave to another special benefit type, notifies the TPA of the change as soon as possible to ensure that the workers' compensation indemnity check is directed properly.
- h. If the employee retires while continuing to receive workers' compensation indemnity benefits, notifies the TPA of the retirement to ensure that the proper offset is taken from future workers' compensation indemnity payments.
- i. If the employee enters into a private third party suit relative to the injury, notifies the TPA of the suit to ensure that the commonwealth's subrogation lien is noted by the parties.
- j. If an employee with a workers' compensation claim transfers to another agency, the agency where the injury occurred should retain the claim. However, the workers' compensation coordinators of both agencies involved need to communicate with each other. **Note:** In situations where an entire organization is transferred from one agency to another, any existing workers' compensation claims should also transfer to the new agency; however, systems will continue to reflect the injury with the organization where it occurred.

9. Return to Work.

- a. Upon receipt of medical information stating that an employee is able to return to work, determines if the employee is able to:
 - (1) Resume full duties with no restrictions and no reduction in hours.
 - (2) Resume full duties but at a reduced number of hours.
 - (3) Resume modified duties with no reduction in hours.
 - (4) Resume modified duties at a reduced number of hours.
- b. When the release is to modified work duties, discusses the restrictions with the supervisor to ensure there is work available within those restrictions.
- c. Notifies the employee of the physician's release to return to work.
 - (1) If the employee is released to full, unrestricted duties, notification can usually be made orally, unless physicians disagree, in which case notification must be in writing.
 - (2) If the employee is released to modified or reduced-time work, notification should be in writing.

- (3) If the notification is made in writing for either of the above, the letter should advise the employee when, where, and to whom to report for the assignment. It should indicate the name of the physician that gave the release, position being offered, pay rate, and include all/any restrictions. A copy of the letter should be provided to the TPA.
- d. Notifies the TPA immediately of the return to work date, number of hours working, current salary, and any restrictions using the Return to Work Reporting Form. Refer to Part 4, Specific Procedures for Modified Duty Assignments.
- e. Upon the employee's return to reduced-time work, informs the supervisor and timekeeper of the leave to be charged when the employee is not working. **Note:** When an employee is able to return to work on a reduced-time basis, injury leave will continue because the employee is still experiencing a loss of earnings. Workers' compensation weekly benefits will be continued at a partial rate. Each day of absence, regardless of the percentage of time worked, is part of the cumulative injury leave year.
- (1) If the entitlement is not depleted, keeps the employee on injury leave.
- (2) If the entitlement is depleted, but the reduced-time status will last less than 60 days, returns the employee from injury leave or leave without pay. Enters short-term injury leave without pay for all time not worked.
- (3) If the entitlement is depleted and the absence is expected to last more than 60 days, returns the employee from injury leave. Changes the employee to part-time. **NOTE:** (1) and (2) above only apply if benefits have not yet been terminated. The 60 days is a grace period. If benefits have already stopped, then the employee should be immediately changed to part-time.
- f. Upon the employee's return to full-time work duties, returns the employee from injury leave effective the date the employee returns to full-time work duties. **Note:** If the employee does not return to work due to a vacation, day off, or holiday, workers' compensation will continue to be paid until the employee's return unless the employee signs an LIBC form stopping benefits sooner.
- g. Notifies the TPA of any changes in the employee's status, including a change in the number of hours working, changes in pay (increases or decreases), and returning to full duties or full-time status.
- h. Notifies the TPA if aware of other earnings from other employment, unemployment compensation, or retirement.
- i. For medical appointments during work hours, allows the employee to use medical injury leave (paid AM, SM or PM or unpaid IM) up to a full shift. The time of the appointment and reasonable travel time may be charged. Proof of the appointment may be requested. **Note:** Absence for medical appointments should not be reported to the TPA because workers' compensation is not paid for medical appointments since the employee is not disabled during that time.

10. Processing Recurrences.

- a. When notified of a recurrence of a work-related injury, ensures that it is a recurrence and not an aggravation of a pre-existing condition. **Note:** Aggravations of pre-existing conditions are usually treated as new injuries.
- b. Notifies the TPA via the Change of Claim Status Form to report the recurrence. **Note:** Do not change the original SAP entry.
- c. Contacts the employee to determine employee's current medical status and respond to any questions the employee may have.
- d. Adds the recurrence information to the original work-related injury claim file and enters follow-up tasks.
- e. Contacts the supervisor to discuss the nature of the recurrence. Provides additional information relative to the claim to the TPA. **Note:** If the claim is suspicious, it is important to volunteer this information since the TPA may not discover it through their investigation.
- f. After the recurrence is accepted, reviews previous absences related to the injury to determine if the employee is entitled to injury leave and provides the Recurrence Letter and a Work-Related Injury Leave Election Form to the employee.
 - (1) If the recurrence date is within three years from the date of the injury and the one-year injury leave entitlement was not exhausted during previous absences related to the injury, subtracts the number of calendar days used from the one year injury leave entitlement (365 days) to determine the remaining entitlement. Sets a task for 30 days as appropriate prior to the expiration of the leave entitlement.
 - (2) If the recurrence date is: within three years from the date of injury and the one-year injury leave entitlement has been exhausted or after three years from the date of injury, the employee is eligible to use injury leave in accordance with the FMLA if the employee has worked 1250 hours within the previous 12 months and has not used 12 weeks of leave for any other FMLA qualifying reason.
 - (a) If paid leave is available, at the employee's choice, places the employee on paid injury leave.
 - (b) If eligible and if no paid leave is available or the employee does not choose to use paid injury leave, places the employee on injury leave without pay with benefits for up to 12 weeks.
 - (3) If not eligible for the injury leave described in (1) or (2) above and the employee is within three years from the date of injury, places the employee on injury leave without pay without benefits for up to three years from the date of original injury.

- (4) If not eligible for injury leave as described in (1), (2), and (3) above, notifies the employee of options using the Notice of End of Three-Year Eligibility Period letter.
- g. Before the end of the pay period in which the first day of absence occurred, notifies the employee's supervisor and/or timekeeper of the type of leave to be charged for each day of absence.
- h. If a Paid Injury Leave Supplement (PILS) Estimated Net Request Form was not completed for the original injury, completes the form and emails the information to BCPO. BCPO will complete and return the Paid Injury Leave Supplement (PILS) Estimated Net Request Form to the workers' compensation coordinator. **Note:** It is not necessary to complete a Paid Injury Leave Supplement (PILS) Estimated Net Request Form if the employee has no accrued leave.
- i. As soon as possible, but not later than two weeks from the date of recurrence, sends the employee a letter to provide information about workers' compensation and injury leave. **Note:** Depending on the length of time since the original date of injury, it may be necessary to include language and additional enclosures as listed for the Notice of Pending Workers' Compensation Decision/Windfall letter.
 - (1) Pending a decision from the TPA, sends a letter explaining that the injury has been reported to the TPA and, until a decision is made, all absences relating to the injury will be charged to available leave. **Note:** The employee must provide required medical documentation to be granted these leave benefits.
 - (2) After the recurrence is accepted, sends the Notice of Injury Leave Benefits/Leave Election letter and the Work-Related Injury Leave Election Form, if injury leave is applicable. Sets a task to ensure it is returned within two weeks.
- j. At the two week task date, determines if the Work-Related Injury Leave Election Form has been received and processes the appropriate injury leave actions.
- k. Sets follow-up tasks to monitor the employee's return to work.

11. Using Services Provided By or Through TPA.

- a. Requests, or receives a request from the TPA, for a service that requires the workers' compensation coordinator's approval.

- b. These types of services can be used to determine ability to work or are used to posture a claim for closure. Such services can include vocational rehabilitation, independent medical examinations, surveillance, field case management, impairment rating evaluations, labor market surveys, and medical records review. **Note:** These claims management services are outside of basic claims services provided by the TPA and are provided at an additional cost; therefore, they require workers' compensation coordinator's approval through the Workers' Compensation Program Approval form. Refer to Part 4 for additional guidance on approving these services.

12. Program Management.

- a. Reviews administrative fee bills to ensure that the commonwealth was billed for the correct files; the claim was recorded properly as a medical or indemnity claim; and the commonwealth was not billed more than once for the same claim. If any errors are found, contacts OA, Bureau of Employee Absences and Safety. **Note:** The bills are paid through the workers' compensation account by OA, Bureau of Employee Absences and Safety, so it is not necessary to submit the bills for payment through the agency fiscal office.
- b. Retains records based on the statute of limitations for reopening claims.
 - (1) Information about workers' compensation claims should be maintained in a separate confidential workers' compensation file with restricted access. No documents should be maintained in the OPF.
 - (2) For medical only claims and indemnity claims where a Final Receipt was signed, keep the workers' compensation file for three years from the last date of service. **Note:** A LIBC-340 Agreement to Stop Weekly Workers' Compensation Payments (Final Receipt) is rarely used for indemnity files, so it is likely that files will be retained as described in (3) below.
 - (3) For indemnity claims, the file must be retained for 500 weeks (essentially 10 years), from the last date of medical or indemnity payment.
 - (4) Claims that have been settled by Compromise and Release should be retained for two years from date of settlement, unless the medical is kept open.

PART THREE
ROLES AND RESPONSIBILITIES
Section Six
Third Party Administrator

1. General Responsibility.

- a. Processes workers' compensation claims in accordance with the *Act*.
- b. Advises workers' compensation coordinators of the claims actions needed to successfully return injured employees back to work or bring the claim to closure in accordance with the requirements of the *Act*.

2. Receipt of Claim.

- a. Receives the claims each night through an interface or through the First Report of Injury web system if the agency does not use SAP.
- b. Receives notice for claims that are catastrophic, severe or result in death, the claims supervisor is notified by the workers' compensation coordinator for prompt intervention. **Note:** In cases of catastrophic injury, the medical case manager will schedule an on-site visit within 48 hours to manage the direction and ensure the quality of care for the injured worker.
- c. Based on the information provided through the interface or First Report of Injury web system, produces Form LIBC-344, Employer's Report of Occupational Injury or Disease, and distributes copies to the workers' compensation coordinator, employee, and electronically to the BWC as required.
- d. Assigns a claim number, and assigns the claim to an adjuster based on the claim type and complexity of the claim.
- e. Categorizes the claim.
 - (1) A medical only claim is used if the employee has returned or is expected to return to work in less than seven days of the injury date.
 - (2) An indemnity claim is used if the return to work date is unknown or expected to be longer than seven days. **Note:** If it is unknown if an employee's absence will be less than seven days, the claim is processed as a medical only, but follow-up occurs after seven days to determine if the employee remains absent from work.

3. Initial Claims Investigation.

- a. Reviews the file, makes an assessment to accept or deny the claim, and sets reserves (amounts expected to be paid on the claim for the life of the claim) based on claim severity and initial medical documentation.

- b. Investigates all claims by making the necessary contacts with all of the involved parties, which includes at least the employee, workers' compensation coordinator or field workers' compensation coordinator, and doctor. The investigation may also include contact with the employee's supervisor and witnesses to the injury. **Note:** Contact usually involves telephone interviews which may be recorded.

- c. Performs a comprehensive review of the lost time files with ongoing disability or complicated medical only files by the medical case manager, who is a nurse specializing in occupational health. This occurs within 48 hours of the receipt of medical information and after discussions with the claimant. The medical case manager completes an assessment plan and facilitates communications among all parties to achieve a timely and positive outcome. The assessment plan is based on:
 - (1) Facts documented at the time of the incident.
 - (2) Mechanism of the injury, verifying as necessary the diagnosis and the correlation between the mechanism of the injury and objective findings with the treating physician.
 - (3) The current treatment plan, medications prescribed, and proposed treatment plan for medical necessity.
 - (4) Accepted medical standards of care through the use of medical guidelines.
 - (5) The history of prior injuries/accidents to determine if they relate in any way to the current incident.

- d. Using medical information provided by the treating physician and other information obtained during the investigation, accepts or denies the claim in accordance with the *Act* within 21 days of the date the employee provided notice of the injury to the employer or the first day of absence whichever is later.
 - (1) For accepted medical only claims, provides notice of claim acceptance to the workers' compensation coordinator and as needed to the BWC.
 - (2) For accepted indemnity claims, prepares forms LIBC-495 Notice of Compensation Payable or LIBC-336 Agreement for Compensation, and provides copies to the employee, workers' compensation coordinator, and electronically to the BWC.
 - (3) For denied medical only or indemnity claims, prepares Form LIBC-496, Notice of Workers' Compensation Denial, and mails copies to the employee, workers' compensation coordinator, and electronically to the BWC. **Note:** Conditional denials may be issued if more information is needed and additional time is needed beyond the statutory 21 days to accept or deny a claim.

4. Ongoing Claim Processing.

- a. For accepted indemnity claims, calculates the employee's average weekly wage based on wage information provided by BCPO or the workers' compensation coordinator and authorizes payment of workers' compensation indemnity benefits. Files Form LIBC-494c, Statement of Wages, with the BWC. **Note:** The first payment authorized to the injured employee is done by advancement on either Tuesday or Thursday of the week it is authorized, except for claims coded for special benefits. Future payments are paid on a biweekly cycle that coincides with the pay periods of Pay Group Z3/T3. Payment is made on an after-the-fact cycle which is the same manner in which employees receive pay.
- b. Ensures that recurring indemnity payments are set-up on the computer system to be sent to the claimant each biweekly period.
- c. Reviews and authorizes payment of medical bills and expenses related to the claim to ensure they are paid within the *Act's* required 30 days. The medical bill repricing staff reprices bills to the amount allowed under the workers' compensation fee schedule or the network discount, whichever is lower. Bill authorizations are forwarded to the commonwealth daily for payment; payment usually takes two weeks from the date it is received by the commonwealth.
 - (1) For employees who are required to use panel providers, ensures that treatment was obtained from a panel provider (or that it was an emergency). Denies bills for non-panel treatment.
 - (2) As necessary, consults with the medical case manager prior to authorizing payment.
 - (3) Reimbursement can be made to the employee, if the employee paid for the service and has copies of the receipted bills.
- d. Usage of the PEBTF prescription benefits drug card by employees to obtain medications for an accepted work-related injury, reimbursement of the co-payment will be paid to the employee within 45 days.
 - (1) Data is exchanged through interfaces to identify prescriptions that could be related to the injury.
 - (2) There is a possibility that not all related prescriptions will be identified. In addition, some that are identified may not be related. The adjuster reviews each one before authorizing reimbursement to the claimant for the copayment and PEBTF for the cost.
 - (3) State troopers using the commonwealth issued prescription card may seek reimbursement of the co-payment through the TPA.
- e. Obtains information regarding the treatment plan from the treating physician and/or nurse after each medical appointment by the medical case manager and/or adjuster and requests that medical documentation follow within a week. Ascertains any restrictions and limitations as they apply to modified or full duties and forward medical information and communicates with workers' compensation coordinator.

- f. Continues to follow-up on the status of the case, including making telephone calls to the claimant and workers' compensation coordinator, reviewing correspondence received from the claimant or medical providers, and working closely with medical case managers.
- g. As necessary, requests approval from the workers' compensation coordinator for the services below. Note: The TPA cannot proceed with any of the services without approval from the workers' compensation coordinator.
 - (1) Independent medical evaluations (IMEs) and second surgical opinions, when it is necessary to determine present disability or need for surgery.
 - (2) Field case management, when case management cannot be handled effectively via telephone.
 - (3) Vocational rehabilitation or labor market surveys, when it is not likely that the employee will be able to return to the pre-injury job.
 - (4) Utilization review, pharmacy review, and medical bill review, when bills seem excessive for the type of injury.
 - (5) Surveillance, activity checks, or internet searches to determine if the employee's activities are consistent with the medical documentation of the disability.
 - (6) Impairment rating evaluations (IREs) when it is needed to determine the degree of impairment due to the injury.
 - (7) Compromise & Release Agreements (C&Rs) when determining if the claim can be settled for closure based on the claim's history.

5. Cost Containment.

- a. As appropriate pre-certifies proposed care or procedures to ensure they are medically necessary and the care, procedure, setting and/or length of stay is appropriate.
- b. Reviews for the appropriateness of medical treatment are completed by the medical case manager.
 - (1) Discusses treatment with providers to clarify diagnosis, treatment, utilization, and cost.
 - (2) Schedules independent medical evaluations (IME) within five days of approval.
- c. Recommends utilization reviews on medical providers as needed.

6. Return to Work Processing.

- a. Upon receipt of the Return to Work form or other notification from the workers' compensation coordinator, stops workers' compensation indemnity benefits to avoid overpayment.
- b. Forwards the proper closure form to the employee, workers' compensation coordinator and electronically to the BWC.
- c. After stopping workers' compensation benefits and if the employee is not continuing with medical treatment, closes the claim within 30 days of return to work or payment of outstanding bills.

7. Appeals and Litigation.

- a. For actions where the employee is the moving party, receives the petition from the BWC. **Note:** Although the workers' compensation coordinator should receive the petitions, the TPA should ensure that the workers' compensation coordinator received a copy.
- b. Assigns the claim to one of the approved defense law firms and provides file materials to the firm.
- c. Receives the workers' compensation judge assignment from the BWC and notifies the workers' compensation coordinator and contract attorney.
- d. Works as a team with the workers' compensation coordinator and attorney to develop case defense and strategies. Keeps in mind that the attorneys are paid by the hour and any pre-hearing contact with them should be as concise and constructive as possible.
- e. Keeps the workers' compensation coordinator informed of the progress in the case.
- f. Receives the workers' compensation judge's decision. If the outcome is not as expected based on testimony and facts presented at the hearings, with workers' compensation coordinator approval, requests that the contract attorney appeal the decision to the Workers' Compensation Appeal Board within 20 days after notice of the decision.
- g. If the Appeal Board's decision is also not what was expected, reviews the case with the workers' compensation coordinator and contract attorney to determine whether or not to appeal. If agreement to appeal is reached, appeals the Appeal Board's decision within 20 days after notice of the decision. **Note:** No new evidence is presented to any appellate court.
- h. In the event of a supersedeas, requests reimbursement from the Supersedeas Fund, forwards the recovery check to OA, Bureau of Employee Absences and Safety, for redeposit, and credits the computer system for the recovery amount.

8. Workers' Compensation Offsets.

- a. Works with the State Employees' Retirement System (SERS) to determine if the employer's share of the annuity that an injured employee is receiving can be offset from the workers' compensation indemnity payments, and obtains data to calculate the offset. If testimony is needed to defend the offset taken, contacts SERS to obtain expert witnesses. In addition, sends a report for a file match of open claims on a quarterly basis to OA, Bureau of Employee Absences and Safety, to identify any claimants who may have retired, through a file match with SERS.
- b. Determines the amount of unemployment compensation an injured employee is receiving to offset that amount from the workers' compensation indemnity benefits.
- c. Determines the amount of Social Security (old age) benefits an injured employee is receiving to offset that amount from the workers' compensation indemnity benefits.
- d. Although it is not technically considered an offset, if the employee is working in another job the workers' compensation rate can be reduced to a partial rate based on the earnings of the job.

9. Subrogation.

- a. Determines if a third party could be liable for the injury.
- b. Notifies the employee of the commonwealth's subrogation interest and intent to collect should there be a settlement or award on any private litigation related to the injury. **Note:** The commonwealth does not waive their subrogation rights and rarely compromises the lien. Should authority to compromise be considered, works with OA, Bureau of Employee Absences and Safety, to obtain such authority.
- c. Works with the parties to recover all workers' compensation costs expended in the event the employee prevails in such litigation.
- d. Provides the subrogation check recovered to OA, Bureau of Employee Absences and Safety, for redeposit into the account and credits all computer records for the refund amount.

10. Designated Health Care Providers (Panels of Physicians).

- a. Maintains relationships or contracts with networks of medical providers or specific providers or specialists who agree to rates below the workers' compensation fee schedule.
 - (1) Prepares and provides guidelines, necessary information, and forms to providers to assist them in treating of injured employees.
 - (2) Informs providers of the county panels on which they appear.

b. Works with OA, Bureau of Employee Absences and Safety, as necessary to develop, prepare, maintain and, revise Designated Health Care Provider Lists by county.

c. Recruits new providers to the network.

11. Claim Reviews. At the request of the workers' compensation coordinator, as often as quarterly, reviews all open files with the agency workers' compensation coordinator to determine the best course of action to bring files to closure.

12. Reports and Training.

a. Provides reports to workers' compensation coordinators monthly. Reports include, but are not limited to claim costs, new injuries, closed claims, and open claims.

b. Provides litigation reports to workers' compensation coordinators quarterly.

c. Provides other reports to workers' compensation coordinators or to OA, Bureau of Employee Absences and Safety, as requested or needed.

d. Provides training on the use of the TPA's computer system query tool.

e. Provides training on the use of the TPA's claim information system to enable workers' compensation coordinators to monitor their agency's claims.

f. Conducts an annual training seminar for workers' compensation coordinators.

13. Interface Files. Processes claims payment interface files to commonwealth computer systems to ensure claim payments can be made by the Treasury Department within pre-established timeframes.

PART THREE
ROLES AND RESPONSIBILITIES
Section Seven
Bureau of Commonwealth Payroll Operations (BCPO)

- 1. General Responsibility.** Ensures that each commonwealth employee receiving work-related injury leave benefits is compensated properly based on the absence records entered to the SAP computer system. **Note:** BCPO does not perform services for independent agencies participating in the workers' compensation program.

- 2. Average Weekly Wage Calculation.**
 - a. Calculates the average weekly wage for employees who receive indemnity benefits.

 - b. Receives the adjusters request for the average weekly wage using a standard form that is available on the workers' compensation website page.

 - c. Provides the wages to the adjuster within two business days.

- 3. PILS.** Receives requests via Paid Injury Leave Supplement (PILS) Estimated Net Request Form and calculates the PILS amount and returns the form by email. **Note:** Paid Injury Leave Supplement (PILS) Estimated Net Request Form are only completed when more than seven days are lost or are expected to be lost and the employee has sick, annual, or personal leave accrued.

- 4. Reconciliation.**
 - a. Receives notification of an employee's absence via internal reports based on actions entered to SAP and compares the information to reports received from the TPA that identify all workers' compensation indemnity payments authorized.

 - b. If not already done, calculates the employee's average weekly wage and workers' compensation rate.

 - c. Reconciles the absence dates and the workers' compensation rate with the indemnity payments for accuracy and compliance with established policies and procedures.
 - (1) Reports differences in dates to the workers' compensation coordinator to review the absence records with the records of the TPA.

 - (2) Reports any payment errors or questions to OA, Bureau of Employee Absences and Safety, for review.

5. Overpayments and Retroactive Adjustments to Pay.

- a. When full salary was paid to the employee for any part of the absence period, makes the appropriate adjustment or processes a salary claim to correct the employee's pay records. As necessary, issues an IRS Form W2c, Statement of Corrected Income and Tax Amounts. **Note:** All employees who initially receive full salary before workers' compensation indemnity benefits are paid will be overpaid. In accordance with policy, an employee is not entitled to both full salary and workers' compensation for the same time period.
 - (1) If the employee elects paid injury leave for a period of 42 calendar days or less, initiates collections of the overpayment by processing a compensation adjustment against the employee's salary after the employee's return to work on a day for day basis. This means that the employee's paycheck will be reduced to the PILS amount for up to three full pays after the employee returns to work.
 - (2) If the employee elects paid injury leave for a period of more than 42 calendar days, manually adjusts the employee's payroll earnings and deduction records and calculates any overpayments. Establishes a salary claim and notifies the employee by letter of the claim. **Note:** The general guideline for establishing a paid injury leave salary claim is an absence of more than 42 days. Sometimes it can be less than the 42 days due to the timing or age of the claim.
 - (3) If the employee elects leave without pay, the overpayment will be collected in accordance with the appropriate collective bargaining agreement and/or *Management Directive 315.8, Restitution of Overpayments and Collection of Employee Debts*.
 - (a) In (2) and (3) above, the employee may choose to pay the overpayment in lump sum.
 - (b) If the employee does not pay the overpayment in lump sum, deductions at the rate of 30% of gross will be started to collect the overpayment from future paychecks. **Note:** The percentage recouped may be reduced with written justification from the employee of undue hardship. Other exceptions may be considered under extraordinary circumstances.
 - (4) If the employee no longer works for the commonwealth, notifies the State Employees' Retirement System of the debt or collects the debt through the Attorney General's Office, if necessary.
- b. After the initial payment, adjusts biweekly salary based on the employee's choice for paid or unpaid injury leave on a current basis by the biweekly workers' compensation benefit paid. **Note:** Depending on the timeliness of actions, several biweekly compensation payments may be included with the initial salary claim.

- c. Workers' compensation overpayments authorized by the TPA are not collected by BCPO unless the employee requests through OA, Bureau of Employee Absences and Safety or the TPA that they be collected through salary deductions.

**PART THREE
ROLES AND RESPONSIBILITIES
Section Eight
Contract Attorneys**

1 General Responsibility.

- a. Manages the legal aspects of claims that are in litigation.
- b. Provides consultative services related to cases that may result in litigation.
- c. Meets all deadlines in accordance with commonwealth requests and all applicable laws, regulations, and deadlines imposed by the workers' compensation judges, hearing officers or subsequent appellate courts.

2. Hearing Preparation and Attendance.

- a. Contacts the adjuster and workers' compensation coordinator to gather all relevant information. Strategizes with them on the proper posture for the case.
- b. Completes the "answer" to petitions or prepares the petition if the commonwealth is the moving party within the required time limit and files it with the BWC.
- c. Determines if witnesses and specific documents/evidence are needed and discusses available witnesses with the workers' compensation coordinator and procures documents needed from them.
- d. Prepares witnesses for testimony.
- e. Ensures that the commonwealth is represented at all hearings, even if another attorney from the firm needs to attend due to scheduling conflicts.
- f. Requests that the adjuster schedule independent medical examinations (IME) if needed, or schedules depositions of the doctors who performed the IME so that the information is available on record for the workers' compensation judge to review. Recommends names of IME doctors upon request.
- g. Recommends that the adjuster obtain a labor market survey (LMS), impairment rating evaluation (IRE), or surveillance if needed.
- h. Timely notifies the adjusters and workers' compensation coordinators of all hearings. Provides updates after each hearing to the adjuster and workers' compensation coordinator.
- i. When testimony about the commonwealth's benefits is required, coordinates the testimony with OA, Bureau of Employee Absences and Safety.
- j. When there is the possibility of bad case law, the case is considered to be high profile, or multiple issues are involved, keeps OA, Bureau of Employee Absences and Safety, involved through the course of the litigation.

- k. Provides timely analysis and recommendations upon receipt of Decisions, Orders, or Opinions from the workers' compensation judges, hearing officers or subsequent appellate courts.

3. Settlement/File Closure.

- a. Prepares recommendation for realistic closure of files in litigation including settlement.
- b. Adheres to the commonwealth's settlement policies.
- c. Timely requests settlement authority.
- d. Timely notifies the adjusters and workers' compensation coordinators of all mediations.
- e. Coordinates with workers' compensation coordinators and agency counsel in cases involving special benefits (*Act 632/534 or Heart & Lung Act*).
- f. Prepares and executes all necessary forms for settlement as directed by the commonwealth including any language required by the commonwealth. Obtains authority from the workers' compensation coordinator or OA, Bureau of Employee Absences and Safety, for language changes to the required forms.

PART THREE
ROLES AND RESPONSIBILITIES
Section Nine
Office of Administration, Bureau of Employee Absences and Safety

1. General Responsibility.

- a. Manages the TPA contract.
- b. Develops policies and procedures for the administration of workers' compensation benefits.
- c. Provides training to workers' compensation coordinators, BCPO staff, and the TPA's staff.
- d. Ensures processes are in place to pay workers' compensation claimants and providers timely.

2. TPA Contract Management.

- a. Secures a TPA through the Request for Proposal contracting process.
- b. Oversees the work of the TPA.
 - (1) Reviews areas of the program as necessary to ensure compliance with the terms of the contract and meets regularly with the TPA's management team to resolve issues and identify opportunities for improvement.
 - (2) Ensures that service level agreements are maintained.

3. Workers' Compensation Payments.

- a. Approves payments authorized by the TPA, including advancement account payments.
- b. Coordinates the deletion/void of payments authorized by the TPA when the employee returns to work, the wrong amount was authorized, or benefits cease.
- c. Monitors workers' compensation overpayments and initiates collection invoices if the TPA was unsuccessful in collecting the overpayments.
- d. Coordinates payment discrepancies between the TPA and BCPO to resolve payment, average weekly wage, and workers' compensation rate issues.
- e. Reviews and approves litigation expenses for firms contracted to handle all litigated matters.
- f. Requests copies of canceled checks and requests reissuance of payments if checks were not cashed.

- g.** Works with the TPA when there are errors with an entire interface file, or specific payees.

4. Training, Consultative Services and Program Management.

- a.** Serves as the point of contact for the workers' compensation coordinators or other human resource staff by providing training and consultative services relating to commonwealth policies and the *Act*.
- b.** Monitors and evaluates the efficiency and effectiveness of the program.
- c.** In conjunction with the Office of the Budget, calculates the annual workers' compensation composite rate and the individual agency contribution rates.
- d.** In conjunction with OA, Legal Office and the Office of General Counsel, assists with the contracting process for the appointed defense counsel and coordinate billing with the TPA and OA Legal Office.

PART THREE
ROLES AND RESPONSIBILITIES
Section Ten
Comptroller Operations

1. Processes interfaces received from the TPA to Treasury for payment.
2. Processes requests for advancements, which are used when a payment must be promptly issued to avoid interest and penalties or to receive a discount.
3. Facilitates all operations where Treasury is involved.
4. Works with OA, Bureau of Integrated Enterprise Services if interface errors occur or system processes need to be adjusted. Notifies OA, Bureau of Integrated Enterprise Services, of interface errors to determine the origin of the problem.
5. Forwards to OA, Bureau of Employee Absences and Safety, checks returned by the Post Office to the commonwealth labeled as undeliverable due to an incorrect address.
6. Processes checks returned to the TPA by medical providers, claimants, or attorneys for redeposit back into the account.
7. Handles calls received in the Call Center inquiring about payments to medical providers, claimants, or attorneys.
8. Runs a report and mails IRS form 1099 to those who received taxable payments during the previous calendar year.

PART THREE
ROLES AND RESPONSIBILITIES
Section Eleven
Treasury

1. Writes checks and processes direct deposits based on the information submitted via the interface.
2. Pulls checks that are determined as not due and returns them to Comptroller Operations for refunding.
3. Obtains copies of canceled checks requested, or reissues checks that are determined to not have been cashed.

**PART FOUR
SPECIFIC PROCEDURES**

1. Modified Duty Assignments.

a. General Information.

- (1) Modified duty, also known as transitional or light duty, should be offered to an employee whenever possible if work is able to be performed in a limited capacity and if the prognosis for the injury indicates that all duties of the current position will be able to be resumed within a reasonable period of time. **Note:** A reasonable period of time is usually interpreted to be 60 to 90 days, but may be extended based on prognosis and agency's willingness to extend.
- (2) The health care provider should be made aware of the availability of modified duty. The health care provider may provide a reduced-time schedule of hours per day or number of days per week that an employee may work or simply alter tasks.

b. Modified Duty Offers.

- (1) To return the employee to work as soon as possible, duties outside the employee's classification and bargaining unit, previously assigned shift, and/or overtime equalization unit may be assigned. To facilitate the implementation of modified duty assignments, schedule and assignment changes should be implemented as soon as practicable.
- (2) To offer modified duty, a Notice to Return to Modified Duties letter should advise the employee when, where, and to whom to report for the modified duty assignment. The letter should also include all restrictions provided by the health care provider.
- (3) During the modified duty assignment, the employee will remain in the same job classification and pay group and level.
- (4) If the employee works a reduced number of hours (part-time), the employee may be eligible for partial workers' compensation indemnity benefits in addition to the salary received for the part-time work.
- (5) If the employee refuses to report for a modified duty assignment, the TPA should be notified immediately. The employee's workers' compensation benefits as well as their employment may be terminated if the employee does not return when ordered to the assignment.

c. Modified Duty Termination.

- (1) A modified duty assignment should be terminated if it becomes apparent that the employee will not be able to resume full duties within a reasonable period of time. When an assignment is terminated, the employee will again begin receiving full workers' compensation indemnity benefits.

- (2) If the employee is unable to resume all of the duties of the employee's position within a reasonable period of time, the employee may be demoted or laterally reclassified to an appropriate classification, taking into account the duties and responsibilities the employee is capable of performing and subject to the protections afforded by federal and state statutes.
- (3) A reduced-time/part-time modified duty assignment may not continue beyond the one year entitlement to benefits. If the agency agrees to continue the assignment beyond the cumulative year, the employee must be changed to a part-time employee.
- (4) An employee's rights under federal and state disability-related statutes are separate from entitlements under workers' compensation law. As such, employees with a work-related injury who qualify as individuals with disabilities are also covered under provisions set forth in *Management Directive 205.25, Disability-Related Employment Policy*. Consult with the agency disability services coordinator when modified duty assignments cannot continue.

2. Workers' Compensation Litigation.

a. General Information.

- (1) Workers' compensation litigation can be expensive. An average claim costs \$10,000 to defend, when considering legal defense fees, depositions, records copies, and other related expenses. While it can be expensive, it is often necessary to limit future exposure and liability which can cost more.
- (2) Successful claims defense relies on a team effort between the contract attorney, the TPA adjuster, and the workers' compensation coordinator. The attorney knows the law, the adjuster knows the claim, and the coordinator knows the employee, job responsibilities, and is able to procure employment evidence and witnesses if needed.

b. Petitions.

- (1) The litigation process begins by an employee or the contract attorney on behalf of the employer filing a petition. Most petitions are filed because a claim or a recurrence is denied and when medical evidence shows that benefits should be terminated, but petitions can be filed for any disputed matter.
- (2) The TPA assigns petitions to law firms in the geographical area of the hearing or to a firm with expertise related to the disputed matter. The TPA also provides the firm with pertinent file documentation and name, address, and telephone number of the workers' compensation coordinator.

- (3) Once a petition is filed, it is assigned to a workers' compensation judge. The workers' compensation judge's office mails the notice of assignment and subsequent hearing notices to the employer, TPA, and contract attorney, as well as the claimant and claimant's attorney. **Note:** If notice of the assignment or subsequent hearings is not being received, the workers' compensation judge's office should be notified of the address where notices should be sent.
- (4) Hearings are generally scheduled within 35 days after a petition is filed and assigned to a workers' compensation judge.

c. Preparation for Hearings.

- (1) The TPA adjuster will notify the workers' compensation coordinator of all upcoming hearings.
- (2) Keeping in mind that attorneys are paid by the hour, contact with the attorney should be concise and constructive. In some cases, the same information that can be obtained from the attorney is already known by the adjuster, so initial contact should be made with the adjuster. However, if the attorney or adjuster has not contacted the workers' compensation coordinator one week before a hearing, the coordinator should contact the attorney to:
 - (a) Review the objective of the hearing to determine the attorney's preferences on evidence or witnesses testimony needed for the hearing;
 - (b) Discuss the employer's position and recommendations for presenting the position;
 - (c) Notify the attorney of those who will be attending the hearing to represent the employer. The agency workers' compensation coordinator or a designee should attend the hearing if possible; and
 - (d) If a witness or agency representative cannot attend a required hearing, the workers' compensation coordinator should notify the attorney and, if necessary, request that the contract attorney ask for a continuance if the attorney believes employer representation is critical for the case.

d. Hearings to Attend.

- (1) While attendance by an agency representative at all hearings is recommended, there are certain hearings where it is more important for the agency to be represented. Attendance at the following hearings is recommended:
 - (a) Mediation or settlement conferences. **Note:** In some cases telephone availability is sufficient at a mediation conference.
 - (b) First hearings usually determine the parties' positions, so it may be a good idea to have an agency representative attend these hearings.

- (c) Attendance at hearings where live testimony is expected to be given by the claimant or witnesses is encouraged, especially when the denied claim was for a heart attack, stress, or suspicious injury is highly recommended.
 - (d) Representation at hearings for termination or modification of benefits is encouraged when the hearing relates to the claimant's refusal to return to duty offered by the agency. **Note:** If a termination or modification hearing is based on medical evidence alone, it is not necessary to be represented at the hearing.
 - (e) Representation at all hearings is encouraged when issues involve the credibility of the employee or the nature of the work environment. **Note:** The supervisor or manager may be the best representative at these hearings.
 - (f) Attendance at hearings involving issues, other than denial of benefits, should be reviewed on a case-by-case basis. In many instances, it is not necessary to be present at hearings, but the attorney should be contacted if there is any doubt.
- (2) It is generally unnecessary to have an agency representative attend the following hearing types:
- (a) Hearings involving medical evidence alone, unless the workers' compensation coordinator has medical evidence from the employee to defend the claim. **Note:** It is also unnecessary for the agency to be represented at medical depositions.
 - (b) Hearings held to submit depositions or request a continuance, as long as no testimony is anticipated.
- (3) The agency representative does not have to be the workers' compensation coordinator. A manager familiar with the claim could also represent the agency.
- (a) Because hearings are held in or near the county of the claimant's residence, local representation may be the most cost effective.
 - (b) Sometimes the personal appearance of the workers' compensation coordinator or other human resource office representative before a workers' compensation judge is compelling. Especially when credibility is at issue, someone should present testimony about the employee's duties, the availability of modified duty, or the circumstances that led to suspicions when the claim was filed.
- (4) For high profile cases, cases involving work-related injury benefits offered by the commonwealth, or payment of the workers' compensation indemnity checks, it is important to keep OA, Bureau of Employee Absences and Safety, informed to determine if testimony from OA, Bureau of Employee Absences and Safety, may be helpful to defend the case.

e. Hearings.

- (1) The workers' compensation judge is the sole finder of fact, so it is important to find a way to convince the workers' compensation judge of the employer's position.
- (2) The workers' compensation coordinator should verify with the contract attorney that the hearing has not been postponed or canceled to ensure witnesses and attendees are notified timely.
- (3) The workers' compensation coordinator or agency representative should bring all files pertaining to the claim, as well as absence and pay records, to the hearing.
- (4) Agency representatives should arrive at the hearing prior to the scheduled time to meet the contract attorney, review any last minute details, and remind the contract attorney of important information. **Note:** In the Philadelphia area, all daily hearings before one workers' compensation judge are scheduled with a morning start time. Hearings are then held in order. Unless other arrangements are made that morning, cases at the beginning of the list will be heard early; cases at the end will be heard later. The exact time is not known because the length of time varies from minutes to hours for each case. Therefore, go at the scheduled time, take other work along and be prepared to spend part of the day at the hearing.
- (5) During the hearing the workers' compensation coordinator or agency representative ensures that the attorney is aware of any inaccurate testimony by giving the attorney a note for use during cross-examination; assists the attorney in reviewing exhibits/evidence placed in the record by the claimant; and takes notes during the testimony because it is often several weeks between hearings.
- (6) At the conclusion of the hearing, the workers' compensation coordinator or agency representative reviews hearing notes with the contract attorney to determine what evidence should be gathered before the next hearing. Also, unclear statements and clarifications can be discussed.

f. Leave for Hearings.

- (1) Most collective bargaining agreements provide for civil leave for parties to workers' compensation hearings, even if the claimant/employee is not testifying at the hearing. This could include depositions if they are taken at the direction of the workers' compensation judge in lieu of live testimony.
- (2) Witnesses subpoenaed to testify at workers' compensation hearings or depositions also receive civil leave.

- (3) Agency representatives attending hearings as directed by the workers' compensation coordinator are not charged leave. Attendance at and the time to and from the hearing is considered a work assignment. Absences for workers' compensation hearings for claimants and witnesses subpoenaed by the claimant shall be in accordance with labor contracts and *Management Directive 505.7, Personnel Rules*.

g. Settlement of Claims.

- (1) Proposals to settle claims may be received from employees, contract attorneys, workers' compensation coordinators, OA, or the TPA. Settlements can end litigation or be used to close claims entirely even if there is no pending litigation. There are two types of settlements:
 - (a) A Stipulation can be entered into for a closed period of time to avoid litigation. Stipulations may be used when the defense is weak or the costs to litigate the claim may outweigh the amount of the claim.
 - (b) Compromise and Releases are used to close a claim entirely so that it cannot be reopened even if the condition would later worsen. These are more desirable agreements compared to Stipulations.
- (2) Research of the claim history should be done to determine if a settlement is practical based on the factors below. **Note:** Often before settling a claim, an independent medical examination, surveillance, vocational rehabilitation, and/or a wage check should be considered to gather additional information.
 - (a) What is/was the period of absence? Was the employee only out of work for a limited period?
 - (b) If the claim is currently in litigation, what are the chances of winning? **Note:** If chances of winning are good, it may be prudent to wait until the workers' compensation judge's decision.
 - (c) What is the severity of injury/condition?
 - (d) What are the chances that the employee will ever be able to return to work?
 - (e) How much was paid on the claim to date? What is the reserve remaining?
 - (f) How old is the employee? What is the employee's life expectancy?
 - (g) Does the employee have any other medical problems, in addition to those caused by the work-related injury? **Note:** This might be helpful to determine which medical condition is the greater reason for the absence, and it might be helpful in determining the employee's life expectancy.
 - (h) Is the employee receiving or eligible to receive other disability/retirement or medical insurance benefits?

- (i) What future claims expenses are likely if the claim is not settled?
 - (j) Does the employee have prior claims?
 - (k) Does the employee have any actions pending against the commonwealth including litigation, grievances, etc.?
 - (l) Is the employee still an active employee or has the employee separated?
- (3) Reviews the settlement demand or offers an amount for consideration based on the answers to the above questions and the written documentation provided by the TPA that values the claim over time. Determines if medical liability will remain open or will be closed with the settlement. **Note:** The workers' compensation coordinator does not have to follow the recommendation of the TPA adjuster or attorney if it is not in the best interests of the agency or employee.
 - (4) Reviews the agency budget for settlements to ensure that settlement money is available. If no money is available, contacts OA, Bureau of Employee Absences and Safety, to obtain settlement authority.
 - (5) Authorizes a settlement range for which the adjuster or contract attorney has authority to negotiate and limits the period of the authority. Or, denies settlement authority altogether. **Note:** Some workers' compensation coordinators must get approval for settling claims from the human resources director, agency legal counsel, or other agency officials.

h. Decisions.

- (1) The workers' compensation judge, upon receipt of all testimony and evidence (which may entail several hearings and several months), issues a reasoned decision. The findings of fact by the workers' compensation judge are final and binding. The judge often bases the findings on credibility determinations.
- (2) Upon conclusion of the case and receipt of the judge's decision, the workers' compensation coordinator determines if the arguments were successful and reviews the case with the attorney and adjuster to determine if an appeal is recommended.
 - (a) Losses during litigation can result in up to 50 percent penalties and many times interest is payable on amounts due. Interest is in the amount of 10% per annum. **Note:** Interest paid does not affect the basic workers' compensation amount or the injury leave supplement amount.
 - (b) Losses sometimes result in attorneys' fees being withheld from the employee's portion of the workers' compensation indemnity benefit.
 - (c) The claimant's litigation costs may also be awarded as part of the decision.

- (3) Appeals must be filed within 21 days of a decision. Courts will not overrule facts found by a workers' compensation judge unless the ruling is not supported by substantial evidence, there has been an error of law, or constitutional rights were violated. There are three levels of appeal: Workers' Compensation Appeal Board, Commonwealth Court, and Supreme Court.

3. Subrogation.

- a. The *Act* allows an employer to subrogate against (collect from) a third party who in whole or in part caused a work-related injury. For example, a third party could be the driver of the vehicle which caused a motor vehicle accident or the manufacturer of a piece of equipment that malfunctioned and caused an injury.
- b. For all cases where there is the potential for subrogation, the TPA sends a letter to the employee to inform the employee of the commonwealth's subrogation rights.
- c. Subrogation is only available to the commonwealth if the employee chooses to file a suit against the responsible party; if the employee prevails during litigation or receives a settlement before it goes to trial; and workers' compensation indemnity or medical benefits were paid by the commonwealth.
- d. The commonwealth rarely compromises or waives its subrogation lien rights. Nevertheless, the claimant's counsel for the subrogation case, which is usually not the same attorney who is representing the employee in the workers' compensation case, may request that the commonwealth compromise its interest.
- e. OA, Bureau of Employee Absences and Safety has the sole authority to make the determination to negotiate or waive our subrogation lien. All requests to negotiate the lien should be sent to OA, Bureau of Employee Absences and Safety.
- f. If an agreement is reached to settle the third party suit, the contract attorney representing us in the subrogation matter prepares the LIBC-380 Third Party Settlement Agreement to show the amount the employer will receive from the third party settlement. Expenses for the recovery are deducted before the disbursement of the settlement is made.
- g. There may be subrogation against a building owner, if the commonwealth does not own the building, and the maintenance of the building caused the injury.
Note: Do not release employee data to the building owner, but you may share general accident information with them.

4. Designated Health Care Provider Lists.

a. General Information.

- (1) Under the *Act*, an employee with a work-related injury or illness can seek medical treatment from any provider of the employee's choice, unless the employer establishes a list of designated health care providers.
- (2) The TPA has established and maintains lists of designated health care providers for use at all work locations within the county, regardless of the agency using networks of providers. Network providers agree to provide services for fees less than required under the *Act*.
- (3) The lists of designated health care providers for each county follow the requirements of the *Act* which are:
 - (a) There must be at least six providers on the list of designated health care providers. At least three of the providers must be physicians. No more than four may be Coordinated Care Organizations as defined by the *Act*.
 - (b) The name, address, telephone number and area of medical specialty of each designated provider must be on the posted list.
 - (c) The providers must be geographically accessible to the majority of work locations within the county, and their specialties must be appropriate based on the anticipated work-related medical problems of the employees.
 - (d) Providers employed by the commonwealth may not be included on the list.

b. Posting Lists.

- (1) The *Act* requires that the list of designated health care providers be posted in prominent and readily accessible places at the worksite, including places used for treatment and first aid and on employee bulletin boards. **Note:** Although the lists may be posted electronically on a website, the website cannot be the only place where they are maintained.
- (2) Although it is not necessary to include providers from areas where employees commute to work, if an employee prefers to seek treatment closer to their home, the employee may choose a provider from a neighboring county list, and those lists may be posted behind the county panel list.

c. Notification to Employees.

- (1) Employers are required to provide clearly written notices to injured employees of their rights and duties under *Section 306 (f.1)(1)(i)* of the *Act*. **Note:** Only a few unions are exempted from panel requirements.

- (2) All employees must receive and sign the Notification to Employees of Their Rights & Duties Form at the time of hire, time of injury, or when significant changes are made to the panel list. **Note:** Under no circumstances should an employee be ordered to sign the form. If an employee refuses to sign, make a note of the refusal and keep a copy for the file. This form should be maintained in the OPF, except as noted in (3) below.
- (3) When an employee is injured, the employee must be provided with a new Rights & Duties Form for signature and be given a copy of their county list of designated health care providers. **Note:** The new form should be maintained in the workers' compensation claim file, not the OPF.

d. Obtaining Medical Services from Designated Health Care Providers.

- (1) The workers' compensation coordinator provides a supply of Managed Care Program for Work-Related Injuries identification cards and Return to Work Status Report forms to work locations so that they can be provided to injured employees before seeking treatment. The card notifies providers of the TPA's address and telephone number for billing purposes and the form is used to provide complete medical information to the workers' compensation coordinator to determine if the employee can return to modified or full duty work.
- (2) Emergency medical treatment may be obtained from any provider. There are no emergency rooms listed on the panel since emergency care is not subject to the requirements of the panel. However, follow-up treatment must be with a designated provider.
- (3) The employer cannot require treatment with any one specific provider on the list, nor can the employer restrict the employee from switching from one designated provider to another designated provider. The designated providers on the list may change from time to time, but changes do not affect the options available to employees who have already commenced treatment.
- (4) It is expected that panel providers will be able to see injured employees as soon as possible or at least within 48 hours.
- (5) In the event of a group practice, the appointment must be made with the provider listed on the panel. If the provider on the list is not available, the employee is permitted to see another provider within the group as long as the provider practices within the same specialty and submits the bill using the group's tax identification number.
- (6) Treatment with a designated provider is required for 90 days from the date of the initial visit. Designated providers are encouraged to refer to designated specialists within the panel; however, referrals to a non-designated providers (usually a specialist) are covered.

- (7) The penalty for failing to use a designated provider is that the services are at the employee's expense as neither workers' compensation nor employer health benefits will pay for the services. **Note:** The workers' compensation claim will not be denied based on failure to treat with a panel provider.
- (8) After 90 days employees may continue to treat with the designated provider or seek treatment from any health care provider and reasonable necessary treatment will be paid. The employee must notify the employer of treatment by a non-designated provider within five days of the first visit to that provider. The employer may not be required to pay for treatment rendered by a non-designated provider prior to receiving this notification.

e. Maintenance of Lists.

- (1) The TPA updates the network of providers as providers are added, deleted or contact information is changed. Typically updates are provided to OA, Bureau of Employee Absences and Safety, biweekly, and these changes are communicated to workers' compensation coordinators and posted to the TPA's website.
- (2) Providers should be monitored by all parties to ensure they are offering timely medical appointments, cooperating with the workers' compensation coordinator and TPA, and providing good care to injured employees. If a designated provider is not meeting expectations, it should be reported to the TPA through the Panel of Providers Issue/Change form. A provider can be removed from the list and replaced with another if problems continue.
- (3) The workers' compensation coordinator may recommend health care providers to the TPA for network consideration. The TPA will contact the provider to determine interest, and if interested, the TPA will credential them before adding them to the network or any list. If there are a sufficient number of providers within the specialty of the recommended provider, the provider may not be added until another provider is removed.

5. Contagious Disease Exposures.

a. General Information.

- (1) Diseases proven to be contracted in the course and scope of employment are covered by workers' compensation.
- (2) Workers' compensation claims should be filed for employees that have significant exposures. Initial treatment, especially prophylactic treatment, is typically paid while the claim is pending decision.
- (3) Examples of diseases that may fall under this category include HIV/AIDS, Hepatitis, Tuberculosis, Lyme disease, West Nile Virus, and Black Lung. This is not an all-inclusive list.

- (4) If these types of exposure occur regularly, the agency workers' compensation coordinator should make the panel doctors aware of the potential to receive patients requesting treatment for these types of exposures so that they can be ready to treat them. If necessary, you may also want to inform the local emergency rooms of the possibility to receive patients with these exposures.
- (5) Coordination of exposures incidents should occur with the OA, Workplace Support Services Division.

6. Pay and Workers' Compensation Reconciliation.

- a. BCPO maintains an electronic file of each injury leave case which contains the following documentation:
 - (1) The original Paid Injury Leave Supplement (PILS) Estimated Net Request Form from the agency workers' compensation coordinator which is completed by using the SAP transaction Y_DC1_32000234 - HR-US: Calculate Pre-disability Net;
 - (2) The *Average Weekly Wage Request* form received from the TPA;
 - (3) The record card of workers' compensation payments, and either paid leave charged for PIL or unpaid absences input for injury leave without pay; and
 - (4) All overpayment/underpayment information, any correspondence, or settlements concerning the case.
- b. As soon as paid injury leave actions and absences are input and the first workers' compensation payment is made, BCPO inputs a PIL adjustment via Infotype 14 for the workers' compensation received for any of the fourteen days in that period. This adjustment plus the normal net pay less any voluntary deductions should equal the pre-disability net within \$1.00. **Note:** Voluntary deductions and other deduction items may cause the formula amount not to equal the workers' compensation payment.
- c. BCPO must process union dues adjustments for most employees in union classifications or they will be overcharged for dues.
- d. BCPO makes sure the workers' compensation payments, absences, and transactions are reconciled.
 - (1) All overpayments/underpayments are turned over to OA (workers' compensation overpayments/underpayments), or BCPO Accounts Receivable (salary overpayments).
 - (2) Absence and/or transaction disagreements are brought to the attention of the HR office.
- e. Once reconciliation of payments, absences, and transactions is complete, BCPO closes the file.

7. Program Analysis.

a. General Information.

- (1) In cooperation with the safety coordinator, the workers' compensation coordinator reviews statistical information maintained for work-related injuries, monitors injury patterns by employees and/or organizations, and analyzes the following factors to determine the causes of injuries and actions that can be taken to reduce the number and types of injuries that occur.
 - (a) Types of injuries occurring (slips, sprains);
 - (b) Day, time, or season in which injuries occur (during a busy time, around a holiday);
 - (c) Whether there are witnesses to the injuries;
 - (d) Whether unsafe acts or working conditions contributed to the injury;
 - (e) Frequency and number of injuries reported (safety problem in one area);
 - (f) Length of absences (related to severity of injury);
 - (g) Training given (proper lifting techniques); and
 - (h) Faulty or inadequate equipment.
- (2) The workers' compensation coordinator monitors accuracy of the Workers' Compensation Claim Report, completed by supervisors and the timeliness of injury reporting. Notifies supervisors of the following consequences if not reported timely. Recommends discipline for supervisors who continue to violate the reporting requirements. If reports are not accurate and/or not timely:
 - (a) Payment of workers' compensation benefits may be delayed.
 - (b) Penalties/interest to a maximum of 50% could be assessed against the commonwealth by the BWC for late payments. **Note:** Claims must be disapproved or approved and paid within 21 days from the date of notification of the injury.
 - (c) For employees with paid leave available, large salary overpayments could be created, which must later be collected.
 - (d) Investigation of the injury and payment of medical bills may be hampered.
 - (e) A return to work could be delayed since early intervention can result in timely return to work.

- (f) The *FMLA* is violated if employees are not timely advised of their rights under this Act.
- (3) The workers' compensation coordinator analyzes average number of days of absence due to work-related injuries.
- (4) The workers' compensation coordinator uses monthly reports provided by the TPA to analyze current claims.

APPENDIX A Definitions

Aggravation of Pre-Existing Injury. A new injury to an old condition that is compensated at the rate in effect on the date the aggravation occurred; this is not a recurrence.

Average Weekly Wage (AWW). The result of dividing by 13 the total earnings of the injured employee in the first, second, third or fourth period of 13 consecutive calendar weeks in the 52 weeks immediately preceding the accident. The workers' compensation rate is two-thirds of the average weekly wage.

Bureau of Commonwealth Payroll Operations (BCPO). The office that ensures that employees are paid correctly and taxes are adjusted properly after an injury occurs.

Bureau of Workers' Compensation (BWC). The regulating entity for the *Workers' Compensation Act*.

Compromise & Release. An agreement to permanently settle a workers' compensation claim that often times includes a lump sum or continuing payments for a certain period of time.

Cumulative Year. Days of absence for a work-related injury, including weekends for continuous absences, that total 365 days within a three year period following a work-related injury.

Disability. Any absence from work which is related to a work-related injury. For work-related injuries, this term does not have the same meaning as it does in the *Americans with Disabilities Act*.

Employee. As defined in the *Pennsylvania Workers' Compensation Act*, includes . . . "all natural persons who perform services for another for a valuable consideration, exclusive of persons whose employment is casual in character and not in the regular course of the business of the employer."

Human Resources Office. The office responsible for coordinating the workers' compensation program for an agency. This could be a field office or a central human resources office.

Incident Only. A claim where an injury occurred but no time was missed from work and no medical attention was obtained, other than basic first aid. These claims are entered to ESS, but are **not** forwarded to the TPA through the interface. The injury reporting form is filed in the event that the incident only claim requires medical attention or absence at a later date.

Indemnity Benefits. Compensation paid while not receiving salary.

Injury. As defined by the *Act*, includes . . . "an injury to an employee, regardless of his previous physical condition, arising in the course of his employment and related thereto, and such disease or infection as naturally results from the injury or is aggravated, reactivated, or accelerated by the injury." (*Section 301 (c)(1)*)

Injury Leave. An absence type used to record absences from work that are related to a work-related injury. The absence can be either paid or unpaid.

Long-term absence. A full-time absence in which the date of return to work is expected to be greater than one full pay period.

Modified Duty. A temporary modification of job duties to allow employees to return to work sooner than they would otherwise be able to return. The employee usually returns to the same job with restrictions to the tasks that employees cannot perform; it could also be to a different job that has duties that the employee can perform; or, it could be to the same job with the same duties for fewer hours or fewer days per week. The job duties which are restricted are determined by a health care provider. The length of a modified duty assignment can vary. It may also be referred to as Light Duty or Transitional Duty.

Offset. A reduction to an employee's workers' compensation rate due to the receipt of other income for pensions, old age Social Security, or unemployment compensation.

Paid Injury Leave. Accrued leave used while absent from work due to a work-related injury. Applicable absence codes are: SI (sick leave for injury), AI (annual leave for injury), PI (personal leave for injury), and HI (holiday leave for injury). An SAP action is needed for all paid injury leave, regardless of the length of absence.

Paid Injury Leave Supplement (PILS). The amount of pay received while using paid injury leave. The amount is equal to an employee's normal net salary minus the amount of workers' compensation paid.

Part-Time. An employment status that describes the number of hours worked in a pay period, which is less than the employee worked prior to the injury. This status would qualify as a partial disability. **Note:** Part-time work schedules are applicable at the expiration of the benefits entitlement with agency approval; however, if an employee is working a reduced number of hours, no change in the employment status is required.

Partial Disability. A return to work in which a reduced number of hours per day or per week (part-time) is worked. (**Examples:** Working 4 hours each day instead of 7.5 or 8 or working full days on only Monday, Wednesday, and Friday.) Workers' compensation paid is based on the difference between the average weekly wage at the time of the injury and the wages earned while working the reduced number of hours.

Recurrence. A subsequent period of absence after an employee's initial return to work following the injury. The workers' compensation rate is based on the original injury date.

Reduced-Time Schedule. Schedule of hours worked in a pay period that is less than the employee worked prior to the injury. This will qualify the employee for partial workers' compensation indemnity benefits. Reduced-time schedules may only be continued until the benefits entitlement has been exhausted. A reduced-time schedule does not change the employee's employment status. A reduced-time schedule should not be confused with a change to a part-time employment status.

Salary Claim. A term used by BCPO when the employee has been overpaid and a debt has been established for the collection of the overpayment. Because most employees receive full salary while waiting for the first workers' compensation indemnity check, most employees have a debt to repay when the first workers' compensation check is received.

Short-term Absence. A full-time absence for which the date of return is not expected to be greater than one full pay period. This absence could include more than one pay period if the absence begins after the first day of one pay period and concludes before the end of the next full pay period.

Specific (Scheduled) Loss Benefits. Benefits paid to employee for the loss of use of a body part. Compensation is paid even if the claimant loses no time from work. Benefits are paid when no workers' compensation indemnity benefits are being paid.

Stipulation. An agreement that identifies information to which both parties agree. It is usually used to settle litigated claims.

Subrogation. The right that enables the employer to initiate a lien against a third party responsible for the compensable injury to an employee. The lien can also be against any settlement the employee makes directly with the responsible party.

Supersedeas. An order postponing the payment of money until a further adjudication can be made.

Supervisor. Person in charge when an injury occurs. It may not be the employee's normal supervisor.

Third Party Administrator (TPA). The entity that holds the contract for workers' compensation claims administration services for injured employees.

Unpaid Injury Leave or Injury Leave Without Pay. Unpaid leave used while absent from work due to a work related injury. The applicable absence code is IO (injury leave without pay), or IW (injury leave without pay without benefits). An SAP action is needed for any long-term unpaid injury leave.

Workers' Compensation Act (Act). The Pennsylvania law that provides for certain benefits to employees injured in the course and scope of work.

Workers' Compensation Coordinator. The individual assigned by the agency head or human resource director to administer the workers' compensation program for the agency.

Work Premises. Any area occupied or controlled by the employer that the employee normally enters during the course of a workday.

APPENDIX B
Relationship of the *Workers' Compensation Act* to Other Laws

1. The *Americans with Disabilities Act (ADA)* prohibits discrimination against employees on the basis of disability. A person with a disability must be able to perform the essential functions of the job with or without a reasonable accommodation. It is the employee's responsibility to request an accommodation, unless the need for accommodation is known or obvious. An employer must provide reasonable accommodations to employees with disabilities unless to do so would result in an undue hardship to the employer, or if no accommodation exists that would eliminate or significantly reduce the risk of a direct threat.
2. The *Family and Medical Leave Act (FMLA)* protects employees who have serious health conditions. A work-related injury usually falls under the definition of a serious health condition. A serious health condition includes absences as minimal in length as more than three consecutive calendar days. It is incumbent upon the employer to notify the employee of their rights and responsibilities under this law. Absences for work-related injuries are also designated as leave under the FMLA.
3. The *Health Insurance Portability and Accountability Act (HIPAA)* privacy rule establishes regulations for the use and disclosure of Protected Health Information (PHI). HIPAA does not apply to entities that are workers' compensation insurers, workers' compensation administrative agencies, or employers, except to the extent they may otherwise be covered entities. These entities need access to the health information of individuals who are injured on the job or who have a work-related illness to process or adjudicate claims or to coordinate care under workers' compensation systems. The privacy rule recognizes the legitimate need of insurers and other entities involved in the workers' compensation systems to have access to individuals' health information as authorized by State or other law.
4. The *Heart and Lung Act 193 of June 28, 1935, P.L. 477* provides special benefits to eligible employees whose principal duty is the care, custody, and control of inmates, the criminally insane, or any enforcement officer who is injured in the line of duty and by reason thereof is temporarily incapacitated from performing his/her duties. Eligible employees shall be paid by the commonwealth his/her full rate of salary until the disability arising therefrom has ceased or becomes permanent. Any workers' compensation paid is turned over to the employer.
5. *Act 632 of December 8, 1959 P.L. 1718 as Amended by Act 534 of September 2, 1961 P.L. 1224* provides special benefits to eligible employees who are injured at the hands of a patient or inmate and shall be paid by the commonwealth his/her full rate of salary until the disability arising therefrom no longer prevents his/her return as an employee at a salary equal to that earned at the time of injury. Any workers' compensation paid is turned over to the employer.

6. *Pennsylvania's Act 101 of 1976, the Emergency and Law Enforcement Personnel Death Benefits Act*, provides for a one-time payment of death benefits to the surviving spouse, minor children, or parents of firefighters, ambulance or rescue squad members, and law enforcement officers killed in the performance of their duties. The death must be causally related to the performance of duties. Anyone applying for *Act 101* benefits must submit proof that a workers' compensation claim has been filed; however, approval of the *Act 101* claim is not contingent upon approval of a workers' compensation claim. For more information about *Act 101* benefits, contact the Department of General Services, Bureau of Risk and Insurance Management, Room 406, North Office Building, Harrisburg, PA 17125 (telephone: 717.787.2492).

7. The *Social Security Act* has provisions for disability benefits that may be applicable to an employee injured at work. Disability is defined under the *Social Security Act* as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

APPENDIX C
BWC Forms Typically Used for Workers' Compensation Claims

- LIBC-344 Employer's Report of Occupational Injury or Disease – TPA completes and submits this form only if employee missed one full shift, turn or day of work.
- LIBC-494C Statement of Wages – lists employee's wages with employer(s) for one year prior to date of injury and sets forth the proper method for calculating the average weekly wage and compensation rate.
- LIBC-495 Notice of Compensation Payable – notifies employee and the BWC that a claim has been accepted and compensation is being paid. Form must be issued within 21 days from date employer was properly notified of an injury.
- LIBC-496 Notice of Workers' Compensation Denial – informs employee and the BWC that employer is not accepting responsibility for a claim. Form must be issued within 21 days from date employer was properly notified of an injury.
- LIBC-501 Notice of Temporary Compensation Payable – used in cases where compensability of claim is questionable. This TNCP provides the employer with 90 days from date of first disability to conduct additional investigation. During this time a final decision is made to accept or deny the claim.
- LIBC-502 Notice Stopping Temporary Compensation – used in conjunction with the Notice of Denial and must be filed within the 90 days, or the TNCP converts to a regular notice of Compensation Payable.
- LIBC-336 Agreement for Compensation for Disability or Permanent Injury – accepts closed periods of disability and requires claimant's signature.
- LIBC-337 Supplemental Agreement for Compensation for Disability or Permanent Injury – documents a change in claimant's benefit status and can be used to terminate, suspend, modify, reinstate total disability benefits or define a specific loss. It must be signed by the claimant.
- LIBC-338 Agreement for Compensation for Death – used to document the future benefits due to the widow/widower and dependents of a deceased claimant whose death is directly related to the work injury.
- LIBC-339 Supplemental Agreement for Compensation for Death – used to document changes made to the amount of benefits due to the widow/widower upon remarriage or death, a posthumous child was born, or a dependent is no longer eligible.
- LIBC-340 Agreement to Stop Weekly Workers' Compensation Payments (Final Receipt) – the agreement stops compensation and must be signed by the claimant.
- LIBC-380 Third Party Settlement Agreement – used to document an employer's Section 319 subrogation interest arising out of the work-related injury resulting from the negligence of a third party.
- LIBC-601 Utilization Review Request – used to initiate the process of placing a medical provider's treatment under review in order to determine reasonableness and necessity. The request must be filed within 30 days of the TPA's receipt of the medical bill and report relating to the treatment under review.

- LIBC-750 Employee Report of Wages and Physical Condition – used to obtain from the claimant any change in physical condition, and the receipt of earnings from other employers.
- LIBC-751 Notice of Suspension or Modification – used if employee returns to work and allows employer to stop payment of indemnity benefits or reduce the amount of benefits paid without obtaining claimant's signature or filing a petition. Must be issued within seven days of the modification or suspension.
- LIBC-756 Employee's Report of Benefits – requires employees injured on or after June 24, 1996 to report receipt of Unemployment Compensation, Social Security (old age) benefits, severance benefits paid by employer liable for the workers' comp claim; and pension benefits to the extent they are funded by the employer liable for the workers' comp claim.
- LIBC-757 Notice of Availability to Return to Work – informs claimant they have been medically released to return to work in some capacity. This notice must be mailed to the claimant before the employer corresponds with the employee requesting they return to work.
- LIBC-760 Employee Verification of Employment, Self-Employment, or Change in Physical Condition – obtains information from claimant regarding employment, self-employment and change in physical condition. Can be required every six months and if claimant fails to complete and return within 30 days, the employer is entitled to an automatic suspension.
- LIBC-761 Notice of Workers' Compensation Benefit Offset – notifies employee of any benefit offsets as reported on LIBC-756.
- LIBC-762 Notice of Suspension for Failure to Return Form LIBC-760 – allows indemnity payments to be stopped automatically without a signed agreement or filing a petition.
- LIBC-763 Notice of Reinstatement of Workers' Compensation Benefits – reinstates benefits if claimant returns the LIBC-760 after issuance of the suspension, but benefits are only effective from date the completed verification form was received.
- LIBC-766 Request for Designation of a Physician to Perform an Impairment Rating Evaluation – used to limit the employer's future exposure for the payment of indemnity benefits where the claimant is determined to suffer less than a 50% whole body impairment. The request must be filed within 60 days of the expiration of the claimant's receipt of 104 weeks of temporary total disability benefits.

APPENDIX D
History of the Commonwealth's Workers' Compensation Program

1. Workers' Compensation Claims Administration.

- a. The commonwealth was insured through the State Workers' Insurance Fund (SWIF) for workers' compensation coverage through June 30, 1983.
- b. When the commonwealth became self-insured on July 1, 1983, claims continued to be administered by SWIF.
- c. The commonwealth's first TPA was Pennsylvania Insurance Management Company (PIMCO), whose name was later changed to Pennsylvania Hospital Insurance Management Company (PHICO).
 - (1) Claims that occurred on or after July 1, 1983 and remained open were transferred from SWIF to PIMCO for the Departments of Transportation on February 28, 1991, Public Welfare on March 28, 1991 and Corrections on February 4, 1991.
 - (2) Claims for all remaining departments that occurred on or after July 1, 1983 and remained open were transferred from SWIF to PIMCO on June 18, 1994.
- d. Claims were transferred from PHICO to CompServices, Inc. on December 22, 1997 for the Department of Corrections, January 5, 1998 for the Department of Transportation, January 19, 1997 for all other agencies except the Department of Public Welfare, and February 2, 1997 for the Department of Public Welfare. CompServices continued to hold the third party claims administration contract after winning the bid several years in a row through June 30, 2012.
- e. Inservco Insurance Services, Inc. began serving as the third party claims administrator on July 1, 2012. All new claims were handled by them effective July 1, 2012. Claims for the Department of Transportation were transferred on August 11, 2012; claims for the Department of Public Welfare were transferred on September 22, 2012; and all other agencies' claims were transferred on October 20, 2012.

2. Supplemental Benefits.

- a. Prior to injury leave, most employees were covered by Work-Related Disability Leave (WRDL), a supplement originally negotiated and extended to employees in November 1971. DCNR rangers continue to have work-related disability leave, instead of injury leave.
- b. Injury leave was originally negotiated and extended to employees in July 1996. Not all unions agreed to this benefit at the same time.
- c. State troopers do not have injury leave or work-related disability leave. Instead, they can use partial days of sick leave to supplement the workers' compensation payment received if Heart and Lung benefits are not paid.

3. Other Significant Changes.

- a.** Modified duty was added to most contracts in July 1, 1991.
- b.** Claims that existed before January 1, 1994 are paid workers' compensation indemnity benefits on-the-fact, in that they receive the checks on the same day as the last date covered, while all other claims are paid after-the-fact, two weeks after the period ends, in the same manner that pay is received.

APPENDIX E

SAP Roles

To access and update the SAP computer system, roles are assigned for processing work-related injury actions. There are two workers' compensation roles defined below. In addition, a supervisor has security to enter injury claims through Supervisor Self-Service.

Workers' Compensation Advisor SAP Role (RH0265) approves/rejects injury related absences and provides HR specialized guidance and direction to employees, managers, supervisors and others regarding work-related injury reports/claims.

Role Mapping Guidance

- All agencies should map this role, and at least one must be assigned for each agency.
- This role is appropriate for Human Resources positions that are responsible for administering work-related injury programs.
- This role is typically mapped to Workers' Compensation Coordinators unless the agency has decentralized these responsibilities.
- This role analyzes information, absence records, documents, and policies, which includes the review of confidential personnel records.
- This role is responsible for approving injury type absence requests.
- This role is responsible for entering work related leave actions.
- This role may oversee Workers' Compensation Service Representatives.

Role Mapping Rules

- This role may be assigned in combination with any other role except the Workers' Compensation Service Representative (RH0320) role.
- Structural Security Access - Agency wide access if in the Central HR Office or Organizational access for all field HR locations.
- Positions mapped to this role can also perform the responsibilities of the Workers' Compensation Service Representative (RH0320) role.

Processes & Transactions Involved In

- Personnel Actions
- Maintain Time Data
- Display Time Data
- Fast Entry of Time Data
- Create/Maintain Leave Request
- Quota Overview
- Personal Work Schedule
- Time Statement Form
- Attendance/Absence Data Overview
- Overview Graphic Attendances/Absences
- Attendance/Absence: Calendar View
- Attendance/Absence: Multiple Employee View
- Time Accounts
- Display Absence Quota Info
- Cumulated Time Evaluation Results: Time Balances/Wage Types
- Wage Type Reporter
- Remuneration Statement
- Timesheets: Maintain Times
- Display Timesheet Data

- Workers Comp Claim Forms
- Print Workers Comp Claim Form
- Long Term Unpaid Leave Approval Letters
- Agency Employee Locator
- Agency Employee Data
- Infotype Overview Report
- Logged Changes in Infotype Data

Workers' Compensation Service Representative SAP Role (RH0320) enters work-related information data from paper forms completed by supervisors where ESS is not available.

Role Mapping Guidance

- All agencies should map this role.
- The number of positions mapped will depend on the size and structure of the agency.
- This role is clerical in nature and does not have approval/rejection capabilities.
- This role may be mapped to a position where the individual assigned could enter a claim in the absence of a supervisor. Usually the individual in charge is responsible for completing a claim if the immediate supervisor is absent; however, in SAP, structural authorization will not allow that individual to enter the data. Instead, a delegate (management or clerical with direction from the individual in charge) could be given this role to enter the data.

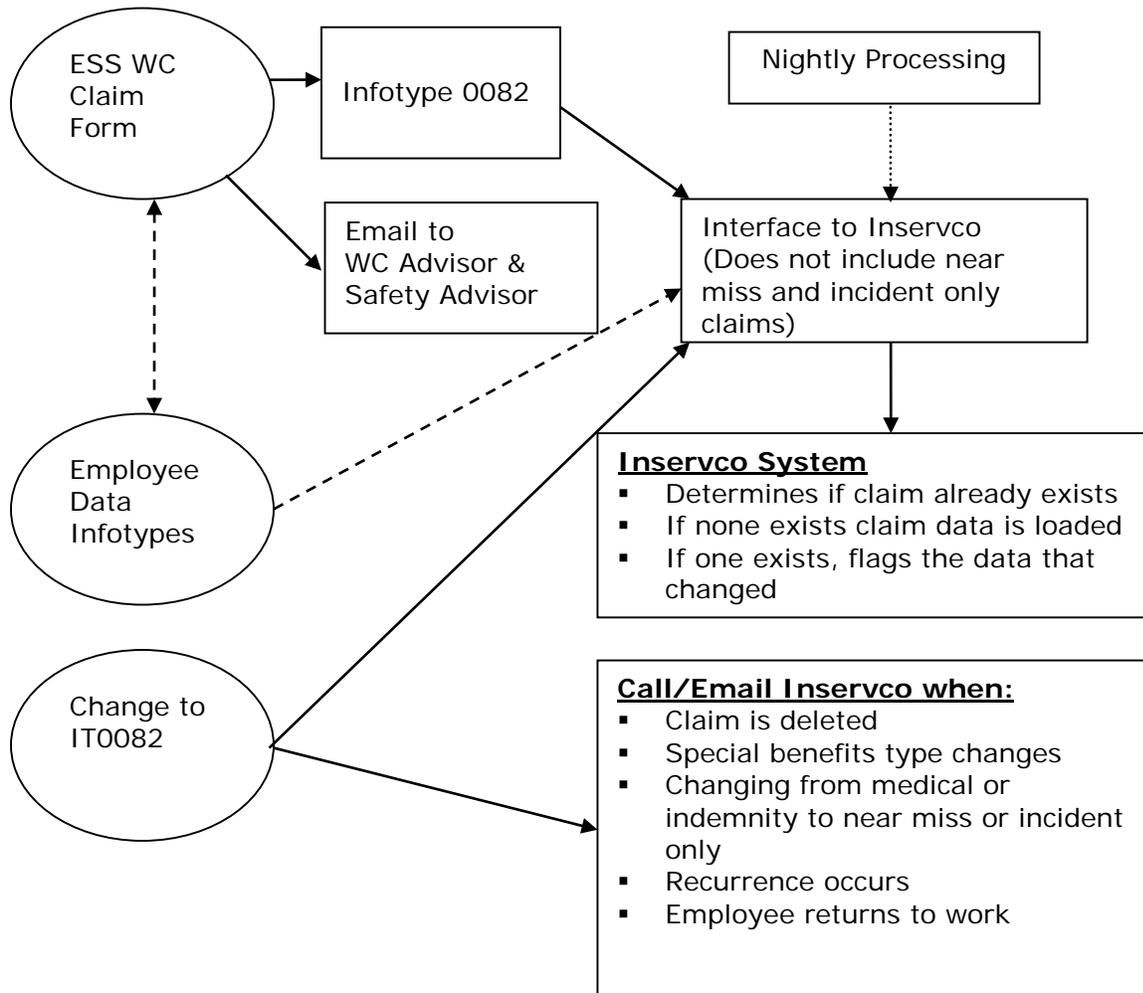
Role Mapping Rules

- This role may be assigned in combination with any other role except the Workers Compensation Advisor (RH0265) role.
- Structural Security Access - Agency wide access if in the Central HR Office or Organizational access for all field HR locations.

Processes & Transactions Involved In

- Maintain Time Data
- Display Time Data
- Workers' Comp Claim Form
- Print Workers' Comp Claim Form

APPENDIX F
Workers' Compensation Claim Form Processing Flow



NOTES:

Note 1: The workflow does not have to be approved before the data is interfaced to Inservco.

Note 2: No absence data is interfaced to Inservco.

Note 3: There is no return link, so keeping the data in sync is important.

Note 4: Interface is run nightly M-F.

APPENDIX G
Partial Disability Calculation Formula

The TPA has been instructed to calculate partial disability rates using standard methods. Examples are shown below to clarify different situations.

Information needed is: AWW, Current Hourly Salary, Regular Hours Per Day (7.5 or 8.0 hours) and Number of Hours Worked Per Day. The basic formula for calculating partial workers' compensation rates is:

$$\begin{aligned} \text{Average Weekly Wage} - \text{Earning Power} &= \text{Loss of Earnings} \\ \text{Loss of Earnings} \times 2/3 &= \text{Partial WC Rate} \end{aligned}$$

EXAMPLE 1: If the employee returned to work for 4 hours everyday:

AWW	\$510.00	Regular Hours Per Day	7.5
Current Hourly Salary	\$ 12.00	Reduced Hours Per Day	4.0
AWW	\$510.00		
Earning Capacity	<u>-240.00</u>	(\$12.00 per hour x 4 hours per day x 5 days week)	
Loss of Earnings	\$270.00		
WC Calculation	<u>2/3</u>		
Weekly WC Rate	\$180.00 / 7 days		
Daily WC Rate	\$ 25.71		
WC Due for one week:	\$180.00		

EXAMPLE 2: If that same employee worked the 4 hour schedule on Monday and Tuesday, but only worked 3 hours on Wednesday and was off of work for the remainder of the week:

AWW	\$510.00		
Earning Capacity	<u>-180.00</u>	(\$12.00 per hour x 3 hours per day x 5 days week)	
Loss of Earnings	\$330.00		
WC Calculation	<u>2/3</u>		
Weekly WC Rate	\$220.00 / 7 days		
Daily WC Rate	\$ 31.43		
WC Due for the week:	\$ 51.42	(2 days working at 4 hours at \$25.71 each)	
	31.43	(1 day working at 3 hours at \$31.43)	
	<u>291.43</u>	(4 days total at \$72.86 each) (510.00 / 7 days)	
	\$374.28		

EXAMPLE 3: If that same employee was released to work on Monday, Wednesday, and Friday for full days:

AWW	\$510.00		
Earning Capacity	<u>-270.00</u>	(\$12.00 per hour x 7.5 hours per day x 3 days week)	
Loss of Earnings	\$240.00		
WC Calculation	<u>2/3</u>		
Weekly WC Rate	\$160.00		
WC Due for the week:	\$160.00		

EXAMPLE 4: The following method is rarely used, but occasionally it is too complicated to use the other methods. The Commonwealth does not usually allow employees to work sporadic schedules and sometimes denies return to work if a pre-established schedule is not made. This is mostly used for Judge's decisions.

If that same employee worked 6 hours on Monday, not at all on Tuesday, 2 hours on Wednesday, 4 hours on Thursday, and 6 hours on Friday:

AWW	\$510.00
Earning Capacity	<u>-216.00</u> (\$12.00 per hour x 18 hours worked in the week)
Loss of Earnings	\$294.00
WC Calculation	<u>2/3</u>
Weekly WC Rate	\$196.00
WC Due for the week:	\$196.00

APPENDIX H

Standard Forms and Tools

The following standard forms and tools that are to be used in the administration of the workers' compensation program are provided as templates at: [Forms and Tools](#). Letters can be accessed from this page as well.

Agencies may not alter the letters or forms without prior approval from OA, Bureau of Employee Absences and Safety, since many of the documents include language that is required to protect the commonwealth's legal interests and comply with union agreements.

FORMS:

Rights & Duties Form: notifies employees of their rights and duties relating to workers' compensation and the use of a list of designated health care providers. It is provided to all new employees during orientation and at the time of injury.

Workers' Compensation Information Form: notifies employees of the commonwealth's workers' compensation claims administrator and their workers' compensation coordinator. Provided to new employees and posted on bulletin boards.

Workers' Compensation Claim Form JPA-797: used by supervisors to report work-related injuries in agencies that cannot file claims via Employee Self-Service.

Incident Investigation Form: A sample form to conduct initial or follow-up accident investigations including completion instructions and suggested best practices. This can assist agencies in documenting accidents to determine contributing factors and ways to prevent similar accidents from recurring in the future. The form is completed by the supervisor when a work-related injury occurs or when an accident could have caused an injury.

Incident Statement Form: This form should be used to obtain information from a witness to a work-related injury or accident.

Notice to Employees Work-Related Injury Leave Information: enclosed with all initial letters to employees when an injury occurs.

Paid Injury Leave Supplement (PILS) Estimated Net Request Form: submitted to the BCPO to obtain the estimated biweekly amount of paid injury leave supplement an injured employee will receive if paid injury leave is selected. The estimate must be included on the Work-Related Injury Leave Election Form sent to the employee.

Work-Related Injury Leave Election Form: sent to the injured employee in order to elect the type(s) of leave to be used during their absence. Agency HR staff should complete the top portion being sure to include the estimated biweekly PILS amount.

Designated Health Care Provider Lists: provides all of the designated health care providers for the treatment of injuries occurring after July 1, 2012.

KeyScripts Temporary Card: provided to injured employees to fill prescriptions that are written by a panel doctor. Please note that the workers' compensation coordinator must first activate the card using the instructions provided.

Managed Care Card: provided to every injured employee for presentation to health care provider who is treating the injury. This ensures that the health care provider has the information to correctly bill Inservco.

Checklist for Injury Leave: used as a tracking tool for the workers' compensation coordinator to ensure the appropriate letters have been sent and the appropriate steps have been taken on each claim.

Return to Work Status Report: provided to an injured employee to present to the treating provider for completion.

Workers' Compensation Program Approval Form: approves loss adjustment services related to a workers' compensation claim.

Return to Work Reporting Form: used when an injured employee returns to work.

Change of Claim Status Form: used to report a change to a previously reported workers' compensation claim (recurrence, medical changing to lost time, etc.).

Vocational Rehabilitation Approval Form: sent upon referral for vocational rehabilitation due to the inability to bring the injured worker back to their commonwealth employment.

Program Issue Form: reports problems with the handling of a claim.

Panel of Providers Issue/Change Form: reports changes to provider information, to report general complaints of a provider, or to request the addition or removal of a provider.

Historical Workers' Compensation Rate Schedule: shows historical workers' compensation rates.

LETTERS:

Notification of Incident Only Claim: sent to employees who report incident only claims.

Notification of Medical Only Claim: sent to employees who report medical only claims and miss no time from work.

Notice for Absences of Less than Eight Days Beyond Date of Injury: sent to employees who are absent for less than eight days beyond the date of injury and incur medical expenses.

Notice of Pending Workers' Compensation Decision/Windfall: sent to all employees who are absent for any time beyond the date of injury pending a decision from Inservco Insurance Services, Inc.

Notice of Injury Leave Benefits/Leave Election: sent to employees who are absent for any time beyond seven days, after the claim is accepted.

Notice of Injury Leave Without Pay: sent to employees who are absent for any time beyond the date of injury, after the claim has been accepted, but the employee has no accrued leave available or is a temporary employee with no leave accrual.

Notice of Denial: sent to employees whose claims are denied.

Notice of Recurrence: sent to all employees who are absent for any time beyond the date of recurrence pending a decision from Inservco Insurance Services, Inc.

Notice of Depletion of Paid Injury Leave and Begin of Injury Leave Without Pay: sent as a courtesy to employees who initially elect to use paid injury leave and before returning to work, exhaust accrued leave.

Notice to Return to Modified Duties: sent to employees to notify them that they have been released to modified work duties.

Notice to Return to Work: sent to employees to notify them that they have been released to return to work.

Notice of Termination of Benefits Due to Work-Related Injury: sent to employees to notify them that commonwealth benefits will be terminated after one year of absence due to the injury. It should be sent at least six weeks in advance of the expiration of leave with benefits.

Notice of End of Three-Year Eligibility Period: sent to employees to notify them that injury leave will end. It should be sent at least 90 days in advance of the expiration of the three year eligibility period.

Notice of Supplemental Agreement Signature Request Letter: sent to employees who have not signed the supplemental agreement when requested by the claims adjuster.