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MD Military Department Policy # 5-17

5 May 2015

**ACCIDENT REPORTING AND CLAIMS MANAGEMENT**  
**FOR CERTAIN MILITARY DEPARTMENT PERSONNEL \***

**1. POLICY**

1.1 It is the policy of the State of Maryland and the Maryland Military Department's State Personnel Office to provide for the prompt, efficient, and uniform processing of work-related injuries.

1.2 It is the policy of the State and the Maryland Military Department to provide permanent employees who suffer work-related injuries with accident leave to cover periods of absence from the job due to such injuries.

**2. APPLICABILITY**

2.1 Except where otherwise noted and provided by law, this policy applies to Maryland Military Department employees, volunteers, members of the Maryland National Guard and Maryland Defense Force called to active duty by the Governor, and the Maryland Defense Force during training.

2.2 Each employee in the State Personnel Management System, except a temporary employee, is entitled to accident leave if:

2.2.1 the employee sustains a disabling personal injury that would be compensable under the Maryland Workers' Compensation Act; and

2.2.2 a physician examines the employee and certifies that the employee is disabled because of the injury.

2.3 Military Department personnel listed in paragraph 2.1 who are not entitled to accident leave may be entitled to compensation for medical expenses, lost wages, or both under State law and the Maryland Workers' Compensation Act.

**3. DEFINITIONS**

3.1 Accident Leave – Leave provided to a permanent employee who has sustained a work-related disabling personal injury that would be compensable under the Maryland Workers' Compensation Act.

\*This policy supersedes MD Mil Dept. Policy 5-17 dated January 1, 1997

3.2 Maryland Defense Force – All volunteer component of the organized militia whose primary mission is to provide competent and supplemental professional, technical, and military support to the Maryland National Guard and the Maryland Emergency Management Agency.

3.3 Maryland National Guard – Members of the Maryland Army National Guard and Maryland Air National Guard.

3.4 Medical Provider – A provider listed in § 9-504 of the State Personnel and Pensions Article who is authorized to practice within the scope of their authority including, but not limited to, a medical doctor, a nurse practitioner, a physical therapist, or a Christian Science practitioner.

3.5 Organized Militia – Members of the Maryland National Guard and Maryland Defense Force.

3.6 Payment – Equals two-thirds of the employee's regular pay which may be excluded from federal adjusted gross income and therefore is not subject to either federal or State income tax.

3.7 State Active Duty – Military duty performed in service of the State by a member of the organized militia under orders issued by the Governor by authority of Article II, § 8 of the Maryland Constitution or Md. Code Ann. Pub. Safety § 13-702. Unless the Governor specifically provides otherwise, "State active duty" does not include drill periods, preparation for drill periods, or training conducted under orders issued under Title 10 or Title 32 of the United States Code.

3.8 Subrogation – A legal action in which the State seeks to recover the actual monetary losses it experiences as the result of an injury to a State employee which is the result of a third party's actions. Subrogation allows the State to assume the rights of the employee in bringing an action against the third party.

3.9 Volunteer – A person who volunteers their services to the Maryland Military Department, except those who are members of the Maryland Defense Force, and are eligible for medical payments and treatment if he or she sustains an injury compensable under the Maryland Workers' Compensation Act.

#### **4. NOTICE OF RIGHT TO FILE WORKERS' COMPENSATION CLAIM**

4.1 Within 14 days of receiving notification that a worker has experienced a work-related injury, the State Personnel Office will notify the worker, in writing, of the worker's right to file a claim with the Maryland Workers' Compensation Commission. Said notice shall be sent to the injured worker's last known address of record.

#### **5. REPORTING**

5.1 When a work-related injury occurs, the injured worker, or an individual acting on his or her behalf, shall provide oral or written notice of the accident to the supervisor immediately after the accident occurs.

5.2 As soon as practical after having been notified of an injury, but not later than 24 hours after the accident, the supervisor should use the Injury Reporting Worksheet (Attachment 1) to provide an initial report of the injury to appropriate parties in the supervisor's chain of command, Chesapeake Employers' Insurance Company, and the State Personnel Office.

5.3 The worker's supervisor should follow all additional steps identified in the document entitled, "When an Injury Occurs," (Attachment 2) to include ensuring the injured worker receives prompt medical attention.

5.4 The medical provider may be recommended by the supervisor, preferably an occupational physician under contract with the State, but the worker may also designate a medical provider who will provide the initial assessment of the injury. For non-emergency situations, the supervisor may arrange for transportation to the medical provider and consider providing transportation back to the work site.

5.5 The worker's supervisor shall have the worker describe how the accident occurred. A written description of the accident shall be created and signed and dated by the worker and forwarded to the State Personnel Office (Attachment 3). If the worker has already received medical attention, all available medical reports should be attached to the worker's report.

5.6 The worker's supervisor shall complete the written supervisor's report (Attachment 4) and ask all witnesses to complete a written report (Attachment 5). The supervisor should forward all investigation reports to the State Personnel Office within two workdays of the injury.

5.7 The State Personnel Office shall file the written reports with Chesapeake Employers' Insurance Company no later than the workday following receipt from the supervisor.

5.8 If the injury involves a motor vehicle accident in a vehicle owned by the State, the supervisor must also submit a copy of the Acord 2 form (Attachment 6) with the investigation forms and with other appropriate parties. If the injury involves a motor vehicle accident in a vehicle owned by the Federal government, a copy of the Standard Form 91 (Attachment 7) must also be submitted with the investigation forms and with other appropriate parties.

5.9 Chesapeake Employers' Insurance Company or the State Personnel Office, or both, may refer a worker to a physician for examination to determine the nature and extent of the injury, the prognosis, the estimated length of recovery time, and an estimated date of return to work. If the worker has returned to work, this time shall be recorded as work time.

5.10 If the State Personnel Office refers a worker to a medical provider, the State Personnel Office shall file with the Chesapeake Employers' Insurance Company a report stating the circumstances of the referral and the medical provider's prognosis.

## **6. AGENCY NOTIFICATION TO THE CHESAPEAKE EMPLOYERS' INSURANCE**

6.1 When the Maryland Military Department places a permanent employee on leave following a disabling work-related injury, the Maryland Military Department shall notify Chesapeake Employers' Insurance Company of:

6.1.1 the type of leave on which the employee has been placed;

6.1.2 the date the leave is expected to begin; and

6.1.3 the date the leave is expected to expire.

6.2 This notice shall be provided to Chesapeake Employers' Insurance Company within 10 days after the employee is initially placed on leave and every 30 days thereafter until the employee returns to work.

## **7. FALSE CLAIMS**

7.1 If a manager or supervisor receives evidence that supports an inference that the employee's injury was not work related, the manager or supervisor shall immediately notify the State Personnel Office so that the insurer's claims adjuster may be advised of all available evidence.

## **8. PERIOD OF LEAVE**

8.1 The supervisor must place a permanent employee on accident leave beginning on the first day of the disability and continuing until the State Personnel Office receives approval of accident leave from Chesapeake Employers' Insurance Company, unless the State Personnel Office has reason to believe the injury to be noncompensable.

8.2 After Chesapeake Employers' Insurance Company approves accident leave, it will continue until a qualified medical provider determines the employee is able to return to work or six months from the day of the disability, whichever is earlier.

8.3 When the physician selected by the State Personnel Office certifies an earlier return to work date than the employee's personal provider, the State Personnel Office may terminate accident leave based on the prognosis of its provider. Employees cannot be pressured to return to work against the prognosis of their personal medical provider, but employees must use leave without pay for any additional leave taken. Managers and supervisors shall discuss the case with the State Personnel Office before placing an employee in leave without pay status.

8.4 If a worker is returned to work by any provider but the worker indicates an inability to return to work because of unresolved medical issues resulting from the injury, the supervisor must contact the State Personnel Office and refer the worker to the Maryland Military Department's designated occupational medical provider for further medical evaluation.

8.5 When a qualified medical provider indicates an employee may return to work with restrictions, the supervisor will determine if the unit can accommodate the restrictions without adversely affecting operations and contact the State Personnel Office to discuss the proposed assignment. The supervisor should prepare a job analysis (Attachment 8) and ask the employee to have his or her medical provider complete the form. If necessary, the State Personnel Office may provide the job analysis to its medical provider for consideration of a temporary modified duty assignment.

8.6 After an employee returns to work, accident leave may be granted for continuing treatment by a physician selected or approved by the State Personnel Office up to six months from the day of the disability. An employee must submit an Accident Leave Request form (Attachment 9) to the employee's supervisor and the State Personnel Office for the purpose of requesting additional accident leave after having the form verified by a qualified medical provider. An employee may request reimbursement for travel expenses related to medical care by submitting a Medical Travel Expense Form (Attachment 10).

8.7 Accident leave may be granted for up to an additional six months if the employee is certified by a physician selected or accepted by the State Personnel Office and no decision has been reached by the

Workers' Compensation Commission on the employee's claim. If the Workers' Compensation Commission has reached its decision, the employee may be entitled to temporary total disability payments for the extended absence. If so, the employee will not lose any seniority credit and will continue to accrue leave during this period.

## **9. PERIODIC EXAMINATIONS**

9.1 The State Personnel Office may require an employee on accident leave to undergo periodic examination by a physician of its choosing to determine the employee's progress and the length of time necessary for the employee's recovery.

## **10. USE OF LEAVE OTHER THAN ACCIDENT LEAVE**

10.1 Prior to receipt of a determination of compensability from Chesapeake Employers' Insurance Company, an employee must be placed on accident leave unless the State Personnel Office believes there is a reasonable basis the injury is noncompensable. An employee does not have the option of using accrued leave when placed on accident leave.

10.2 The employee may be placed on sick, annual, or other available leave prior to receipt of a determination by Chesapeake Employers' Insurance Company if the injury is believed to be noncompensable.

10.3 If an employee exhausts all available accident leave and provides medical certification that the employee is unable to return to work because of the work-related injury, the State Personnel Office may permit an employee to use accrued sick leave or to receive temporary total disability payments.

## **11. DETERMINATION OF NONCOMPENSABILITY**

11.1 If a Workers' Compensation Commission order, or in the absence of an order, Chesapeake Employers' Insurance Company, determines that the injury is not compensable, the timekeeper shall correct the employee's leave record to reflect a conversion of accident leave, which was granted prior to notification of noncompensability, to leave with pay or leave without pay, as appropriate.

11.2 If the employee does not have sufficient leave to cover the absence, the employee shall reimburse the State for any leave advanced for an injury which is subsequently determined to be noncompensable by a biweekly deduction of one-half of sick leave earned. The employee may also apply one-half of annual leave earned or pay the balance in full. Should the employee leave State service before the debt is paid, any balance owed will be considered a debt to the State.

## **12. SUBROGATION**

12.1 If a third party causes a compensable injury, the State, after written notice to the injured worker, shall be subrogated to the rights of the employee to the extent of any compensation paid or owned.

12.2 Should an employee fail to enforce a claim against the third party, the State may bring an action in its own name, in accordance with State Personnel and Pensions Article, § 9-705, Annotated Code of Maryland.

## **14. TEMPORARY TOTAL BENEFITS**

14.1 An injured employee may be entitled to temporary total benefits for lost wages according to the Maryland Workers' Compensation Act only after all available accident leave has been used. Members of

the organized militia may be entitled to temporary total benefits for lost wages from the date of the injury until the member is certified to return to work by a physician selected by the State Personnel Office. In the absence of a decision from the Workers' Compensation Commission, Chesapeake Employers' Insurance Company will determine if temporary total benefits are warranted.

14.2 Medical and hospital expenses may be paid on behalf of an injured employee, volunteer, or member of the organized militia in accordance with the Maryland Workers' Compensation Act.

### **15. USE OF ACCIDENT LEAVE BEYOND SIX MONTHS - TIMEKEEPING**

15.1 When an employee continues to use accident leave beyond a six-month period, the timekeeper shall record the accident leave as accident leave with sick pay on the first day immediately following the end of the six-month period. Accident leave with sick pay is exempt by federal law from social security taxes.

### **16. DOCUMENTATION**

16.1 In addition to all forms listed elsewhere in this document, the injured worker must provide the supervisor and the State Personnel Office with all medical documentation received during the course of treatment.

16.2 When referring a worker for medical care, the supervisor should instruct the medical provider to bill the medical care as a work-related injury and send the Health Care Insurance Form directly to the State Personnel Office. If the program receives medical bills and insurance forms in error, they should be forwarded to the State Personnel Office immediately.

16.3 For members of the organized militia, a copy of the orders placing them in State active duty will also be required before any claim is fully processed.

For additional information, please refer to Article II, § 8 of the Maryland Constitution; Md. Code Ann. Labor and Employ. §§ 9-215, 9-231.1, and 9-602(f); Pub. Safety §§ 13-101, 13-210, 13-406, 13-501 and 13-702; State Personnel and Pensions §§ 9-504 and 9-701 through 705; and Code of Maryland Regulations 17.04.11.07.



LINDA L. SINGH  
Major General (MD), MDARNG  
The Adjutant General

- Attachments:
- 1 – Injury Reporting Worksheet
  - 2 – “When an Injury Occurs” Flyer
  - 3 – Employee’s Report of Injury
  - 4 – Supervisor’s Report of Injury
  - 5 – Accident Witness Statement
  - 6 – ACORD 2, Automobile Loss Notice
  - 7 – SF 91, Motor Vehicle Accident Report
  - 8 – Job Analysis
  - 9 – Accident Leave Request for Medical Treatment
  - 10 – Medical Travel Expense Form
  - 11 – Acknowledgement Form

**ACKNOWLEDGEMENT**

This acknowledges my receipt of MD Military Department Policy #5-17, Accident Reporting and Claims Management for Military Department Personnel dated 5 May 2015. I have read and have had an opportunity to ask questions about this policy.

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date