

## **Rule # 4-40**

### **Workers' Compensation**

**§§:**

[§ 4-40-010 Scope](#)

[§ 4-40-020 Employee Status](#)

[§ 4-40-030 Return to Work](#)

[§ 4-40-040 Wage and Leave Benefits](#)

[§ 4-40-050 Disputed Claims](#)

[§ 4-40-060 Medical and Dental Benefits](#)

[§ 4-40-070 PERS Continuation Program](#)

#### **§ 4-40-010 Scope**

All officials and employees are provided workers' compensation coverage as required by state law.

#### **§ 4-40-020 Employee Status**

- A. The period of time that an employee is off the job, and unable to work by reason of a disability compensable under state law, will not interrupt continued employment for seniority or service credit for retirement vesting unless the employee's doctor, the Oregon Workers' Compensation Department or Board, or the employee's attending physician certifies to the county in writing that the employee will be permanently disabled and unable to return to county service and fully perform the duties of the position last occupied.
- B. If the employee is transferred because of a disability to another classification, seniority will be governed by these rules.
- C. If the injured worker is serving a probationary period and the absence from work exceeds thirty days, the length of the absence will extend the probationary period from work.

#### **§ 4-40-030 Return to Work**

- A. If the attending physician releases an injured employee to return to the job, the employee will be reinstated to the same position if eligible under state law.
- B. If the attending physician releases an injured employee to modified duty (a partial or limited release), suitable work will be made available whenever possible, for a period up to 90 days.

#### **§ 4-40-040 Wage and Leave Benefits**

- A. To the extent not compensated by workers' compensation benefits, the first day of occupational disability shall be compensated as time worked. To the extent not

compensated by workers' compensation benefits, the day following the first day of occupational disability and the next succeeding day shall be compensated as time worked if such days would have been work days.

- B. The county will supplement workers' compensation time loss benefits received by employees for temporary total disability due to occupational injury, illness, or disease by an amount which, coupled with workers' compensation payments, will provide disabled employees with the equivalent of 100% of their net take-home pay (as calculated under workers' compensation regulations).
- C. The county will make retirement contributions, based upon the gross dollar amount of supplemental benefits paid, throughout the period that the employee receives time loss benefits.
- D. Employees will continue to accrue sick and vacation leave at regular rates during the period employees receive supplemental time loss benefits.
- E. Supplemental pay is payable while the injured worker is receiving temporary total disability time loss payments and will end when the worker has a light duty or limited duty release to return to work, and such duty work is available to the injured worker. Such supplemental benefits will continue for 640 hours or for the number of hours of sick leave the employee has accrued, whichever is higher. An employee's sick leave accrual is not, however, used to pay for supplemental benefits provided by the county.
- F. Supplemental benefits will be paid on the injured worker's regular payday.

#### **§ 4-40-050 Disputed Claims**

- A. If a workers' compensation claim is denied or if the employee accepts a compromise settlement of a disputed claim, the employee's absence from work will, to the extent not compensated by workers' compensation time loss payments, be paid from and charged against sick leave accrual.
- B. If a workers' compensation claim is denied and later found to be compensable or held compensable upon appeal and the employee has been utilizing sick, vacation, or holiday leave, the employee will reimburse the county for any time loss payments and the employee's sick, vacation, or holiday leave account will be credited with an equivalent number of days.

#### **§ 4-40-060 Medical and Dental Benefits**

- A. The county will continue contributions toward medical and dental benefits for the employee and dependents from the first day of occupational disability throughout the period the employee receives supplemental benefits.

B.If an employee's workers' compensation claim is denied before the employee returns to work, the employee is entitled to request continued medical and dental coverage at the employee's expense, under COBRA regulations. If the denied claim is later held compensable upon appeal, the employee is entitled to reimbursement of any premiums paid to the county for medical and dental benefits and any other supplemental benefits.

#### **§ 4-40-070 PERS Continuation Program**

A.In lieu of retirement contributions and other supplemental benefits provided above, an employee with ten or more years of county service may elect to participate in the PERS continuation program. To participate the employee must sign an election form and provide it to the county's central payroll unit.

#### **B.Benefits**

1. Employees will receive 100% of their regular salary retroactive to, and including the first day of the pay periods in which the election is made. To receive such benefits, the employees must reimburse the county for the workers' compensation time loss payments.
2. The county will make full PERS contributions, including the 6% "pick-up" of the employee share, for the same time period.
3. Employees are subject to all payroll taxes and entitled to all other county benefits provided to regular status employees.

C.Benefits are payable only for days compensated by workers' compensation time loss on an approved claim. If an award of retroactive benefits is made on an approved claim, the employee may elect to participate in the PERS continuation program at the time the decision to award benefits is made. The effective date of the election will be retroactive to the earliest date for which the employee receives retroactive workers' compensation benefits.

#### **D.Duration of the PERS Continuation Program**

1. An employee may choose to be covered under the PERS continuation program only once during the employee's entire career with the county. Once selected, the election will continue for three continuous years from the effective date of the election. The eligible employee is entitled to receive benefits under the program for the entirety or for any portion of the election period for any compensable claims.
2. If an employee elects to participate in the program but the claim is not approved, the election will be void and the employee is entitled to exercise the election on another occasion. However, because the election stays in effect for three years from the first date the employee receives benefits under this program, a claim

denial after the employee has received benefits under this program does not void the election or create a new election opportunity.

- E. Employee Responsibility:** Employees participating in the PERS continuation Program will provide monthly reimbursement to the county's central payroll unit for an amount equal to the workers' compensation time loss benefit. The county must receive the payment within seven days of receipt of the time loss benefit by the employee.
- F. An employee who fails to pay the county will be considered delinquent and may be required to pay penalties and fees that may accumulate up to twice the amount of the delinquent workers' compensation equivalent payment. When an employee is delinquent, the county will notify the employee of the delinquency in writing, by certified mail, and stop or place a hold on county benefits under the PERS continuation program or may terminate the employee's participation in the PERS continuation program.

G. Penalties and Fees

1. In addition to the missed payment, the delinquent employee is required to pay the county a \$50 collection fee. The county may also collect a delinquency penalty for each day of late payment. This daily penalty shall equal 1% of the Workers' Compensation benefit received by the employee for that pay period.
2. The daily penalty will be waived if the employee repays the delinquency prior to receipt of the notice of delinquency; the employee is physically or mentally disabled to the extent that they are unable to perform repayment obligations; or the uncashed time loss benefit check is returned to the county.