Kings Community Action Organization
Administrative Policy

AP 3150
Human Resources: Workers’ Compensation Policy

WORKERS’ COMPENSATION

Kings Community Action Organization (KCAO) maintains Workers’ Compensation insurance for its employees. The policy is a no-fault insurance system which provides coverage for employees who sustain work-related injuries and illness. In exchange for this coverage, Workers’ Compensation is in most cases the “exclusive remedy” for work-related injuries or illness.

Workers’ Compensation provides:

1) No-cost medical care to “cure” or “relieve” the worker from the effects of the injury;
2) Varying levels of tax-free replacement income during periods of temporary inability to earn income and, in certain circumstances, for some period after the worker returns to the labor market with a diminished capacity as a result of the injury;
3) Benefits for those who suffer varying degrees of permanent disabilities; and
4) Tax-free benefits for an employee’s surviving dependants if the work related injury is fatal.

Covered Injuries:
Workers’ Compensation covers the following types of injuries, regardless of the type of medical treatment needed:

1) Specific physical injury;
2) Cumulative physical injury;
3) Specific mental injury; or
4) Cumulative mental injury.

The injury must be “job-related” to be covered by KCAO’s Workers’ Compensation policy. This means that the injury must arise from and in the course of employment.

Employee Coverage:
Employee coverage begins the instant the employee is on the job, unless otherwise excluded by the Labor Code. Coverage extends to every “natural person” in the employ of KCAO, including illegal immigrants and minors. Independent contractors and volunteers, however, are not covered by KCAO’s Workers’ Compensation policy.
Injury/Illness Coverage:
An injury or death arising from and in the course of employment is provided compensation when:

1) An employment relationship exists;
2) The employee is acting within the course of employment, performing services arising out of and incidental to employment at the time of injury; and
3) The injury is proximately caused by the employment, either with or without negligence.

An injury or illness is not covered by Workers’ Compensation if the employee:

1) Was intoxicated by drugs or alcohol at the time of the injury;
2) Intentionally inflicted the injury or committed suicide;
3) Engaged in an altercation in which the employee was the initial physical aggressor;
4) Engaged in the commission of a felonious act for which the employee has been convicted;
5) Engaged in horseplay on KCAO’s premises during a time when the employee was being compensated;
6) Engaged in voluntary off-duty participation in recreational, social or athletic activity not constituting the employee’s work-related activities, unless those activities are a reasonable expectancy of employment; or
7) Was going to or coming from work (unless KCAO exercises control over the employee’s route, the employee’s activities during the commute or the employee’s mode of transportation).

When an Injury Occurs:
1) When an injury occurs, KCAO will provide immediate medical care. If necessary, emergency medical care will be provided.
   a. An employee may choose to be treated by a doctor of his/her own choice, but only if the doctor or clinic is within a reasonable geographic area, and only after 30 days of KCAO-controlled medical care.

2) Within one working day of receiving notice or knowledge of injury, KCAO will provide the employee with an "Employee Claim for Workers' Compensation Benefits" (DWC 1) form and a notice of potential eligibility for benefits if the illness or injury will result in lost time beyond the date of the illness or injury, or results in medical treatment beyond first aid." (Labor Code section 5401.)

3) KCAO will prepare an employer report. The "Employer's Report of Occupational Injury or Illness" (Form 5020) must be filed with KCAO's insurance carrier within five working days after learning or being notified of the injury or illness which results in lost time beyond the date of the illness or injury, or results in medical treatment beyond first aid. (Labor Code section 5401.)
4) In addition to the foregoing reporting requirements, KCAO shall immediately report by telephone or e-mail to the nearest District Office of the Division of Occupational Safety and Health, any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment.

'Immediately' means as soon as practically possible but no longer than 8 hours after the employer knows or, with diligent inquiry, should have known of the death or serious injury or illness.

'Serious injury or illness' means any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation, or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by the commission of a Penal Code violation, except the violation of Section 385 of the Penal Code, or an accident on a public street or highway.

a. Time and date of accident;
b. Employer’s name, address and telephone number;
c. Name and job title or badge number of the person reporting the accident;
d. Address of the site of the accident or event;
e. Name of the person to contact at the site of the accident;
f. For each injured employee:
   i. Name and address;
   ii. Nature of the injury; and
   iii. Location to which the injured employee was moved.
g. Identity of other law enforcement agencies and personnel present at the site of the accident;
h. A description of the accident; and
i. Whether the accident scene or equipment that caused the accident was altered.

KCAO will notify the employee’s emergency contacts if the employee cannot do so himself/herself.

5) If applicable, KCAO will designate the time off as FMLA/CFRA. This will give the employee up to 12 weeks of continued health benefits.

6) KCAO will communicate with the employee on a regular basis to make sure they receive medical treatment and the required benefit payments in a timely manner.

7) KCAO will review the “Doctor’s First Report of Occupational Injury or Illness.” This report should be provided to KCAO within 5 days of the physician’s initial treatment of the employee.
8) KCAO will investigate the accident, identify the cause, and identify preventative actions that will avoid reoccurrence. KCAO will document this investigation.

9) KCAO will prepare any Cal/OSHA required records, if necessary.

Returning to Work:
If an employee is declared permanent and stationary after a work-related injury or illness, he/she may still be able to return to his or her pre-injury job without limitation. One of the following outcomes will occur if the employee cannot return to his or her pre-injury job without limitation:

1) **Modified Position**: A modified position is the employee’s former position, modified to permit the employee to work within his/her work restrictions. The modified position must last at least 12 months and pay the same wages and benefits as the employee’s former position.

2) **Alternative Position**: An alternative position may be offered for which the employee is qualified to perform within his/her work restrictions. The alternative position must last at least 12 months, pay at least 85 percent of the wages and benefits of the employer’s former position, and be at the same location or within a reasonable commuting distance as the employee’s former position.

3) **Unable to Return**: If the employee is declared unable to return to a position within KCAO, he/she may be eligible for vocational rehabilitation benefits.

Discrimination:
KCAO will not discharge, threaten to discharge, or discriminate in any way against an employee because he or she has received an award from, filed, or intends to file a workers’ compensation claim.

Citations: Title 8, California Code of Regulations, Section 330
Title 8, California Code of Regulations, Section 342
Labor Code Sections 6409, 6409.1, and 6913

 Adopted by Board of Directors: March 21, 2012