



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
DEPARTMENT WIDE

REVISION DATE
5/7/18

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POLICY

TITLE
ASSAULT BENEFITS FOR EMPLOYEES

REVIEW/REVISION HISTORY:

Effective: 7/27/01
Revised: 5/11/07
Revised: 8/23/09
Revised: 1/24/11
Revised: 7/1/15
Revised: 5/7/18

SUMMARY OF REVISION/REVIEW:

Adjusted process for application/review and approval authorities throughout.
V.B. - Added language for clarification


APPROVED:

Signature on file

STEPHEN SINCLAIR, Secretary
Department of Corrections

4/26/18

Date Signed

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REFERENCES:


DOC 100.100 is hereby incorporated in this policy; [RCW 34.05](#); [RCW 51](#); [RCW 72.09](#); [WAC 137-78](#); [WAC 357-31-245](#); DOC 400.100 Incident and Significant Event Reporting

POLICY:

- I. The Department has a process to supplement current income and benefits, in coordination with an approved Department of Labor and Industries (L&I) Workers' Compensation claim, for employees recovering from an injury sustained in an assault by an offender(s) while performing their official duties, including assaults during use of force.
- II. Any employee (i.e., not an offender, visitor, volunteer, or contract staff) who is assaulted by an offender may petition for employee assault benefits per WAC 137-78.

DIRECTIVE:

- I. General Requirements
 - A. Employee applications for Department assault benefits will be filed with the local/designated Human Resources Office. To be eligible for benefits, the Appointing Authority and Assistant Secretary/designee must find each of the following occurred:
 1. An offender assaulted the employee and, as a result, the employee sustained injuries that have required him/her to miss one or more days of work.
 2. The assault is not attributed, to any extent, to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment.
 3. The assault occurred while the employee was performing his/her official duties.
 4. The employee has applied for L&I Workers' Compensation Benefits under RCW 51.32, and the claim has been approved for an injury related to the assault.
 5. An incident report has been submitted per DOC 400.100 Incident and Significant Event Reporting.


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II. Application Process


- A. Employees who meet the requirements of WAC 137-78-020 and elect to apply for assault benefits will submit an application packet to their local/designated Human Resources Office within 60 working days of the assault. An additional 60 working days may be allowed if the application cannot be reasonably submitted within that period.
 1. The packet will include:
 - a. DOC 03-133 Accident/Injury Report,
 - b. DOC 03-188 Application for Assault Benefits,
 - c. L&I's F242-130-000 Report of Accident (ROA) Workplace Injury, Accident or Occupational Disease,
 - d. Copy of the Incident Management Reporting System (IMRS) report,
 - e. DOC 21-424 Use of Force Report or DOC 21-984 Community Corrections Use of Force Report, as appropriate, and
 - f. Other supportive information to be considered (e.g., videotapes, etc.).
 2. If the employee is unable to complete the application, the employee's supervisor may initiate the process.
- B. The local/designated Human Resources Office will forward the application through the employee's chain of command.
- C. The Appointing Authority and Assistant Secretary/designee will approve or deny the request within 30 working days after receipt of the completed application packet, but may extend that timeframe to gather additional information.
- D. The employee will be notified in writing of the approval or denial and his/her right to appeal.

III. Conditions of Reimbursement

- A. Assault benefits authorized by the Department under RCW 72.09 will not continue longer than the date of termination of time loss benefits by L&I or 365 consecutive days from the date of injury, whichever is later, and will be limited to the following:
 1. For each workday missed due to an assault for which the employee is not eligible to receive Workers' Compensation benefits with approved time loss payments per RCW 51.32, the employee will receive full pay per RCW 72.09.240 and WAC 137-78-040.

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2. For workdays missed due to an assault for which the employee will be reimbursed compensation under RCW 51.32, the employee will receive full pay, less any industrial insurance payments for time loss during the period in which assault benefits are received. The employee will contact his/her local Business Office and choose one of the following options:
 - a. Retain industrial insurance payments and receive a supplemental paycheck from the Department equal to full pay, or
 - b. Remit the industrial insurance payment to the Department's Business Office and receive a full paycheck from the Department.
3. All reimbursement payments required under RCW 72.09.240 will be made by the Department. Payments will be considered a salary/wage expense and be paid in the same manner and from the same funds as other salary/wage expenses.
4. The employee is not entitled to receive greater than 100 percent of his/her base salary as a result of payments from L&I and the Department, unless such overpayment is the result of the employee's election to use accumulated annual leave, holiday leave, compensatory time, or exchange time.
5. The employee will accrue full annual leave, full sick leave, and insurance benefits during the time period s/he is approved to receive assault benefits.
6. The employee may elect to use accrued sick leave until his/her application has been approved or denied, provided the employee will return any subsequent overpayments to the Department.
7. When the employee's application for assault benefits has been approved, his/her accumulated sick leave hours will not be reduced for any workdays missed due to the assault, provided the employee has returned any overpayments to the Department.
8. If the employee fails to return any overpayments to the Department, sick leave hours charged to an employee who receives Workers' Compensation due to the time loss and assault benefits will be proportionate to the overpayment by the Department during the claim period.

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9. The employee will not be entitled to assault benefits for any workday for which the Department finds the employee did not diligently pursue his/her compensation remedies with L&I under RCW 51.32.
10. While the employee is receiving assault benefits authorized by this policy, s/he will continue to be classified as a state employee and receive full service credit.
11. The employee will be entitled to assault benefits only for absences that the Appointing Authority believes are justified.
12. If medical questions arise, the employee will, at the request and expense of the Department, submit to an independent medical examination by a licensed physician or other licensed health care provider designated by the Department to determine whether the employee may continue to receive assault benefits.

IV. Denial of Assault Benefits

- A. If the Department denies the request, the employee may file a written petition with the Secretary for reconsideration. The petition must be filed with the local/designated Human Resources Office within 10 working days from the date of denial and must state the specific grounds upon which the application should be granted.
- B. The Secretary will respond within 20 working days from the date the petition was received, but may extend the timeframe to gather additional information.


V. Appeals Regarding Collection of Overpayments

- A. If a dispute arises between the employee and the Department concerning any amount of overpayment to be repaid to the Department, the employee may request a hearing per RCW 34.05 and WAC 137-78.
- B. The employee will petition the Secretary in writing. The written petition must be filed with the local/designated Human Resources Office within 30 days after the dispute arises.

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Assault, Injury. Other words/terms appearing in this policy may also be defined in the glossary.

ATTACHMENTS:

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None

DOC FORMS:

[DOC 03-133 Accident/Injury Report](#)

[DOC 03-188 Application for Assault Benefits](#)

[DOC 21-424 Use of Force Report](#)

[DOC 21-984 Community Corrections Use of Force Report](#)