

RESOLUTION NO. 2023-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG updating the Personnel Policies Manual for the City of Ellensburg.

WHEREAS, the City of Ellensburg's Personnel Policies Manual currently contains policy 7.2 Disability Benefits and Workers Compensation, and 7.5 Continuation of Insurance Coverage; and

WHEREAS, the City's policy on Workers' Compensation has historically required that an employee use their paid leave to cover any absence that is due to a workplace injury or illness, then required that the employee buy back a prorated amount of the paid leave used once they received their Workers' Compensation time loss check; and

WHEREAS, Washington State regulations prohibit an employer from requiring an employee to use Washington Paid Sick Leave, which includes Paid Time Off (PTO) leave if a separate sick leave bank is not provided; and

WHEREAS, the Washington Department of Labor and Industries does not include an employee's utilized paid leave as wages when calculating time loss payments, and their guidance states that workers may use their earned paid leave and collect time loss benefits concurrently; and

WHEREAS, the City's third-party administrator for workers' compensation has advised that the City amend its policy to a voluntary buy-back program; and

WHEREAS, City Human Resources and Payroll staff believe continuing a voluntary buy-back policy would be beneficial for employees who want to save some of their paid leave for future use; and

WHEREAS, the federal Family Medical Leave Act (FMLA) allows an employer to designate all qualifying leave as protected under the FMLA, which was further supported by a Department of Labor opinion stating that employers are obligated to designate qualified leave as protected under FMLA, which provides for continuation of an employee's health care coverage for the duration of the protected leave; and

WHEREAS, Personnel Policy 8.4 Leave of Absence Without Pay, states that an employee shall not accrue PTO while on unpaid leave; and the proposed amendments to policy 7.5 align with policy 8.4 and the FMLA;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ellensburg, Washington, as follows:

Section 1. Policies 7.2 and 7.5 of the City's Personnel Policies Manual will be updated as shown in "Attachment A".

Section 2. This policy is effective for non-represented employees upon approval of this Resolution.

Section 3. This policy will be effective for represented employees after notification and an opportunity to bargain is provided to the Unions.

All remaining terms and conditions of the City's Personnel Policies Manual remain in full force and effect.

ADOPTED by the City Council of the City of Ellensburg at a regular meeting on the 18th day of September, 2023.



Nancy R. Ellingsen
Mayor
Attest: 

Bettye Laddes
City Clerk

7.2. WORKERS' COMPENSATION

All employees are covered by the Washington State Workers' Compensation Program (*employees with prior approval to work remotely from another state will be covered by other state or private plans*). This insurance covers employees in case of on-the-job injuries or job-related illnesses. For qualifying cases, Washington State Workers' Compensation Insurance will pay the employee for workdays lost and related injury or illness medical costs. All job-related accidents and injuries must be reported immediately to the employee's supervisor. The supervisor shall direct the injured employee to seek immediate medical treatment if necessary, and shall be responsible for ensuring, as soon as physically possible, that the injured employee completes the Washington State Labor and Industries claim form and the City's Personal Injury Accident Report form. The supervisor is required to complete the supervisor portion of the City accident report form.

Unless otherwise required by State law, the procedure for workers' compensation time loss payment/reimbursement will be as follows:

If the job-related injury or illness requires the employee to be absent from work for more than three (3) consecutive days, the leave may be protected under the federal Family Medical Leave Act (FMLA), which is further discussed in Section 8.8 of these policies.

If the job-related injury or illness requires the employee to be absent from work for more than three (3) consecutive days, State Industrial Insurance (Workers' Compensation) will begin to pay time loss compensation. This compensation varies according to a set formula based on marital status and number of dependents.

Employees may elect to use paid leave and receive workers' compensation at the same time. Employees may use the time loss money from workers' compensation to "buy back" the paid leave previously deducted from their accruals. Since workers' compensation only pays a percentage of full wages, an employee can only "buy back" the percentage of the leave their time loss sum represents. Generally, the employee will not suffer an income loss while receiving workers' compensation benefits so long as the employee has a paid leave balance available to supplement the difference between state benefits and compensation for normal working hours.

If the employee wishes to participate in voluntary paid leave buy-back, they must submit their workers' compensation time loss check to payroll within two (2) weeks of the check date. Requests to buy-back leave that was used more than two (2)

months prior to the check date will not be accepted. Payroll will notify an employee when all available paid leave has been used. Once notified, an employee who remains on workers' compensation will keep additional workers' compensation time loss payments until they are able to return to work or the employee's condition can no longer be accommodated through medical leave or light duty options. If an employee's condition appears to have lasting or potentially permanent impacts on the employee's ability to perform essential functions of their job, they may request information on job openings within the City they are otherwise qualified and able to perform. Job retraining programs are also available through the Department of L&I. When it appears the employee will be medically unable to return to work, and no options for reasonable accommodation or other job opportunities have been found, an employee who can no longer perform the essential functions of their position will be subject to medical separation.

In special circumstances, where the City is able to fill the employee's position temporarily, the employee may apply for an unpaid leave of absence under the provisions of this Manual. Granting such a request will be the decision of the City Manager and will take into account the best interests of the City, the length of the leave, the City services that will be impacted, and other appropriate considerations. Such extended leave periods are within the discretion of the City Manager and will be evaluated based on the specific facts presented and full consideration of the City's needs.

7.5. CONTINUATION OF INSURANCE COVERAGE and LEAVE ACCRUAL

While on workers' compensation, the City continues to pay the employer's portion of health insurance premiums, provided the employee continues to pay their share of premiums under the following circumstances:

- 1) FMLA is designated for up to twelve (12) weeks while the employee is on Workers' Compensation leave.
- 2) FMLA is exhausted but the employee remains in paid status by using their paid leave, until such time there is inadequate paid leave to qualify for benefits.

After FMLA is exhausted and the employee's paid leave is depleted, the employee may continue health care benefits by self-paying insurance premiums for the

remainder of the time they receive Workers' Compensation benefits, up to the maximum time frame provided under COBRA.

Employees who are on leave without pay do not continue to accrue PTO, and other forms of leave may also be impacted depending on the length of unpaid absence.

COBRA Rights: Upon an employee's termination from City employment or upon commencement of an unpaid leave of absence, at the employee's option and expense, the employee may be eligible to continue City health insurance benefits to the extent provided under the federal COBRA regulations. An administrative handling fee may be charged to the employee or their dependents who elect to exercise their COBRA continuation rights.