



Department of Administrative Services

POLICY MANUAL

Issuing Division: Risk Management Division

Subject: Volunteer Injury Coverages

Number
125-7-204

Effective Date
November 1, 1995

Approval

24

I. INTRODUCTION

Under ORS Chapter 278, the state can self-insure its volunteers against work-caused injuries. State self-insurance and insurance services are provided to state agencies by the Oregon Department of Administrative Services, Risk Management Division and by SAIF Corporation.

This policy describes agencies' options to deal with the risks of injuries to their volunteers. It defines the state's Volunteer Injury Coverage. Changes and exceptions to the terms of this policy are issued by us through written Amendments and Interpretations. If any provision in this policy is contrary to law, the law always prevails.

SEE ALSO Policy 125-7-201 – Liability for State Agencies
Policy 125-7-202 – Liability for Officers, Employees, and Agents
Policy 125-7-203 – Employee Dishonesty
Policy 125-7-101 – State Property
Policy 125-7-301 – Pilots and Aircraft
Policy 125-7-401 – Alcohol
Rules OAR 125-155 – State Vehicles Use and Access

These policies and rules describe various coverages and risk control requirements for state agencies, officers, employees, agents, and volunteers.

TERMINATION OF EXISTING COVERAGES. This policy replaces all existing state coverages for volunteers' injuries. To start or continue any kind of volunteer coverage, you must comply with the appropriate Special Conditions in this policy.

A. Commercial insurance ends: A \$10,000 commercial insurance policy covers several large agencies. It ends permanently on March 31, 1996. Each agency that now covers volunteers with the commercial policy must notify us of one of the following:

- 1) It elects to switch to VIC. VIC would then take effect as soon as the agency meets the special conditions. If it takes effect before March 31, 1996 it does so as excess coverage over the AD&D insurance;
- 2) It elects to switch to workers' compensation coverage. This would commence on the date we give in our response, on or after April 1, 1996; or
- 3) It elects no coverage after March 31, 1996.

B. Workers' Compensation must be renewed. An agency that now covers volunteers with workers' compensation must notify us of one of the following:

- 1) It elects to continue workers' compensation. Coverage would then continue after June 30, 1996 under this policy's special conditions;
- 2) It elects to switch to VIC. VIC would then take effect on or after July 1, 1996 when the agency meets its special conditions; or
- 3) It elects no coverage after June 30, 1996.

C. No coverage is the default. You may make no election. The result of no notice of election, for all agencies, is that they will have no coverage for their volunteers. *In short, if you do not meet the special conditions in this policy, your volunteer will have no coverage.*

II. DEFINITIONS

Throughout this policy, **you** and **your** refer to state agencies. **We**, **us**, and **our** refer to the Department of Administrative Services, Risk Management Division. Other terms, as used in this policy manual, have these meanings:

- A. Agency:** A board, commission, department, division, institution, or branch of the State of Oregon.
- B. Employees:** The people you hire to perform state business duties under your direction and control. Includes appointed, elected, classified, unclassified, represented, unrepresented, full time, part time, temporary, contract, hourly, and salaried employees. Does not include agents or volunteers. See the definition of volunteer. Any kind of remuneration other than reimbursement of travel and work expenses, may turn a volunteer into an employee for workers' compensation purposes.
- C. Official Duty Station:** The location designated in writing by the employer from which an employee or volunteer normally carries out his or her duties.
- D. Official State Business or state business:** Any activity conducted or directed and controlled by a state agency to advance the lawful policies of the agency. Those policies must be official, in writing, and within the statutory authority of the agency. The policies may be found in statutes, orders, rules, policy manuals, procedural guides, and position descriptions. They may be found in official statements of agency missions, goals, objectives, and performance measurements. They may be found in Oregon Benchmarks and OSSHE rules defining its officially sanctioned programs.
- E. Policy:** A policy applies only to state agencies, their officers, employees, volunteer workers, and agents. Policies do not apply to the public at large. Our policies are not insurance policies. We are not a licensed or regulated insurer. Our policies describe the methods, standards, and purposes for which payments will be made from the state Insurance Fund, an internal fund of the state.
- F. SAIF:** SAIF Corporation, a public corporation and agency for the state. *SAIF*, as used in this policy, also generally refers to any insurer which whom we may contract to cover people employed by you in states or countries not covered by SAIF Corporation.

G. Tort: The breach of a legal duty that is imposed by statutory law or case law, other than a duty arising from contract or quasi-contract, the breach of which results in injury to a specific person or persons for which the law provides a civil right of action for damages or for a protective remedy. Torts can be wrongful acts or omissions.

H. Volunteer worker or volunteer: A person you appoint to perform official state business duties for you without remuneration. Volunteers are appointed in writing by you to do work at your request or consent under your direction and control. A volunteer is much like an at-will employee. He or she has no right or expectation of continued employment and no right to grieve working conditions or treatment. He or she does not receive remuneration or valuable personal benefits of any kind. Almost all rights held by employees do not apply to volunteers.

III. AGENCY DUTIES AND CHOICES FOR INJURIES TO VOLUNTEERS

You have three choices for coverage of volunteers' injuries:

A. No Coverage. If you do nothing, no volunteer injury coverage is provided. The basic reasoning is that volunteering is a volunteer helping out at his or her own risk. If a volunteer wants insurance and you do not provide it, he or she does not have to volunteer for you.

Of course, we cover you for injuries caused by negligence or wrong-doing of your people. If you choose no volunteer coverage, we can pay for a volunteer's injury only if you are legally to blame for it. If you wrongfully cause an injury, we will handle it just like any other tort liability claim against you. *If you are not legally to blame for a volunteer's injury and you did not choose and meet the conditions of one of the following two coverage, neither you, nor we can use public funds to pay for the volunteer's injury.*

B. Workers' compensation. You can choose to have us contract with SAIF for the same workers' compensation for your volunteer workers that SAIF provides your paid workers. Through SAIF, we would pay all your workers' compensation costs and losses. Volunteer coverage is paid for in your workers' compensation risk assessments. State workers' compensation is essentially self-insured.

Choosing workers' compensation coverage exposes you to almost unlimited financial risk per claim. Although it can be your right choice, we recommend against it unless

- 1) You can afford it,
- 2) The work your volunteers do is essential to your mission, and
- 3) Volunteers work under the same controls, conditions, and risks as your paid employees.

Take note! Do not unwittingly turn your volunteers into employees. If you give anything of value to a volunteer because of the duties he or she does for you, he or she may become your employee under various laws. He or she may be automatically covered by your workers' compensation at your expense. Talk to your Assistant Attorney General.

You could also become liable for minimum wage, federal withholding, and other costs. Reimbursing actual expenses incurred in your service is not remuneration.

- C. Volunteer Injury Coverage.** You can choose our state self-insurance coverage called Volunteer Injury Coverage (VIC). It is our self-insurance, similar to many *accidental death or disability* and *personal injury protection* coverages. VIC is paid for in your worker's compensation risk assessments.

This choice of coverage exposes you to a limited financial risk. You absorb some of the injury risk that would fall on your volunteer and the volunteer releases you from some liability risk that would fall on you. The purpose for this coverage is to facilitate your use of volunteers for the efficient operation of state government.

IV. OPTIONAL VOLUNTEER WORKERS' COMPENSATION COVERAGE

You may elect Part IV. *Optional Volunteer Workers' Compensation Coverage* or Part V. *Optional Volunteer Injury Coverage*. You may not elect to have any volunteer covered by both. If it is necessary, you may elect workers' compensation for one clearly defined class of volunteers, VIC for another class, and no coverage for another class. Varied coverage by classes is complicated for you to administer. It is not recommended. You do not have to provide injury coverage to volunteers. If you do nothing, no volunteer injury coverage will be provided.

- A. Optional Volunteer Workers' Compensation Coverage.** If you meet the following Special Conditions, we will provide your volunteer workers with the same workers' compensation coverage that we not provide to all your regular employees. We do not describe the features of this coverage because it is already defined extensively in state law and rule. Talk to your Safety Coordinator, SAIF, or us if you questions about workers' compensation.
- B. Special Conditions.** Optional workers' compensation for volunteers is subject to the following conditions:
1. Coverage does not take effect until you notify us in writing of you election to obtain this coverage *and* we notify you in writing that the coverage has been issued by SAIF Corporation.
 2. This coverage is not remuneration for the work volunteers do for you. It is an exchange of value for value. In exchange for coverage, your volunteers must agree to limit you potential liability to them by signing the waiver included in the **Form for Liability and Workers' Compensation Coverages**. It is among three forms attached to this policy. ***Use care to select and complete the correct form. It is a condition of coverage.*** You must hold the original signed waiver in your files. You or the volunteer must provide a clear copy to us as prerequisite to any payment of benefits from SAIF.
 3. Only volunteer workers you appoint in writing to duties specified in writing may be covered.

4. You must maintain records of the hours your volunteers work and pay any tax or assessment on the coverage.

V. OPTIONAL VOLUNTEER INJURY COVERAGE (VIC)

You may elect Part IV. *Optional Volunteer Workers' Compensation Coverage* or Part V. *Optional Volunteer Injury Coverage*. You may not elect to have any volunteer covered by both. If it is necessary, you may elect workers' compensation for one clearly defined class of volunteers, VIC for another class, and no coverage for another class. Varied coverage by classes is complicated for you to administer. It is not recommended. You do not have to provide injury coverage to volunteers. If you do nothing, no volunteer injury coverage will be provided.

- A. **Optional Volunteer Injury Coverage.** If you meet the following Special Conditions, we will provide you with *Volunteer Injury Coverage (VIC)* coverage for your volunteer workers. Your volunteers are then covered according to the terms of this *Part V. Optional Volunteer Injury Coverage*.
- B. **Special Conditions.** Optional Volunteer Injury Coverage is subject to the following conditions and prerequisites:
 1. Coverage does not take effect until you notify us in writing of your election to obtain this coverage for your volunteers *and* we notify you in writing that the coverage has been issued.
 2. VIC coverage is given only to volunteers you name. This coverage is not remuneration for the work volunteers do for you. It is an exchange of value for value. In exchange for VIC coverage, your volunteers must agree to limit your potential liability to them by signing the waiver included in the **Form for Liability and Volunteer Injury Coverages**. It is among three forms attached to this policy. **Use care to select and complete the correct form. It is a condition of coverage.** You must hold the signed waiver in your files. Should an injury occur, you or the volunteer must provide it or a copy to us at our request. The approved release and waiver is a prerequisite of coverage. It must be signed prior to injury.
 3. Only volunteer workers that you appoint in writing to duties specified in writing may be covered.
 4. You must keep a roster of volunteers, noting which coverage, if any, covers their injury risk. At our request, you must report the number of your volunteers by coverage or non-coverage.
 5. All coverage is as described in the following portions of this **Part V. Optional Volunteer Injury Coverage**.
 6. Covered volunteers must notify their appointing agency of any injury as soon as possible. As a prerequisite to coverage, this notice must reach the agency head no later than five working days following the accident.
- C. **Volunteer Injury Coverage.** Under VIC a covered injury is an injury to a covered volunteer that is caused directly and solely by an accident occurring during, and

arising out of, the performance of official state business duties assigned by you. The Maximum Amount that may be paid to or for any person for all injuries from any covered accident is \$25,000. Further terms, conditions, and sub-limits are as follows.

1. **Medical Expense:** We will pay up to \$10,000 for actual, reasonable, and necessary medical expenses that are the direct result of a covered injury, and from no other cause. The expenses must be incurred in the 12 months following the covered accident. Unless the injury qualifies for short-term disability, the volunteer must pay the first \$100 of covered medical expenses.
2. **Short-term Disability:** *Short-term Disability* must be the direct result of a covered injury and no other cause. The disability must begin within 30 days of the accident. The person must be medically unable to do at all the substantial and material duties of his or her customary household duties or type of work.

The portion of the Maximum remaining after payments or anticipated payments under **1. Medical Expense**, shall pay for short-term disability. We will pay the following for short-term disability as a direct result of a covered injury, and from no other cause:

- a) We will pay 70 percent of actual and reasonable short-term loss of income up to \$1,250 per month for up to 52 weeks. The loss of income must be due to medical disability caused by the covered injury. The disability must have continued to cause the loss of regular wages for at least 14 days after the covered injury.
 - b) We will reimburse actual and reasonable living expenses that are caused by the covered injury and are excess of normal expenses up to \$30 per day for an unemployed person for up to 52 weeks. The covered person must be one who is not usually engaged in a remunerative occupation. The disability must have continued to cause the need for services for at least 14 days after the covered injury.
 - c) We will reimburse up to \$25 per day child care benefit to a maximum of \$600 no matter the number of children. The injured person must meet all of the following tests. The expenses must be necessary and caused by medical disability caused by the covered injury. He or she must be:
 - 1) The custodial parent or custodial legal guardian of a child under the age of 15 years.
 - 2) Medically unable to do at all the substantial and material duties of his or her customary household duties or essential services.
 - 3) Unable to do those duties due to medial disability caused by the covered injury
 - 4) Have been hospitalized for a minimum of 24 hours due to the covered injury.
3. **Accidental Death, Dismemberment, and disability:** *Permanent Total Disability* must be the direct result of a covered injury and no other cause. The

disability must commence within 30 days of the accident. The person must have been totally disabled for 12 straight months and then found to be permanently and totally disabled. A disability will be deemed *total* if the person cannot do at all the substantial and material duties of his or her customary type of work. A disability is permanent and total if the person is not expected to be able to do any work for which he or she is qualified at time of injury by reason of education, experience, or training.

The portion of the Maximum Amount remaining after payments under **1. Medical Expense** and **2. Short-term Disability** shall pay for accidental death, dismemberment, and disability. We will pay for loss of life or loss of member as a direct result of a covered injury, and from no other cause, within a year of the accident.

Loss	Payment
Life	The remainder of the Maximum Payment
Permanent Total Disability	The remainder of the Maximum Payment
Two or more members	The remainder of the Maximum Payment
One member	The remainder, up to one-half of the Maximum Payment
Thumb & index finger of the same hand	The remainder, up to one-fourth of the Maximum Payment

Member means hand, foot or eye. Loss of a hand or foot means complete severance through or above the wrist or ankle joint or total loss of function. Loss of an eye means the total, irrecoverable loss of sight in the eye. Loss of a thumb and index finger means complete severance through or above the metacarpophalangeal joints (the joints between the fingers and the hand). If a covered person suffers more than one loss from an accident, we will only pay for the loss with the larger benefit.

- D. Order of Coverage.** If any of the following coverages apply to a covered injury, they apply in the order shown here.
1. The volunteer’s own group medical or group disability coverages.
 2. Any automobile coverage provided by us on state vehicles or provided by the owner’s or driver’s insurer or self-insured employee of any private vehicles.
 3. Any other applicable and collectible insurance that purports to be a primary coverage.
 4. This VIC coverage.

None of these will pay a cost for which one of the prior coverages is responsible. Additionally, no one may “double dip” and no one may choose among his or her coverages. VIC does not apply at all to any injury covered by workers’ compensation.

- E. Exclusions.** We will not pay for loss or cost caused by or resulting from:
1. Anything not arising out of the volunteer’s prescribed duties, or done at the direction and control of the agency.
 2. Anything a volunteer does that is in direct violation of specific agency work rules, directions, policies, or procedures.

3. Suicide, attempted suicide, or whenever a volunteer injures himself or herself on purpose, while sane or insane.
4. War or acts of war, whether or not declared.
5. Taking part in a felony.
6. Any disease or infection except infection directly caused by an accidental cut or wound or by the handling of agency clients, victims, or their clothing, belongings, or bodily fluids.
7. Accident occurring while a volunteer is learning to operate any motorized device or vehicle.
8. Accident occurring in an aircraft owned, leased, or provided by the volunteer.
9. Dental treatment, except as a result of direct injury to sound natural teeth.
10. Accident occurring on a two or three wheel motorized vehicle or unlicensed vehicle being operated on a public street, road, or highway.
11. Replacement of eye glasses; or eye examinations for the correction of vision or fitting of glasses unless the covered injury causes impairment of sight.
12. An injury for which the volunteer is entitled to benefits under any Workers' Compensation Act of Law or any similar legislation.
13. Hernia.
14. Alcoholism or any drug or narcotic habit.
15. Injuries to students performing unpaid service related to their academic programs.
16. VIC is for accidents only. Except as provided in number 6 of this section **F. Exclusions**, we will not pay benefits for loss caused by or resulting from illness, disease, cumulative micro-trauma, mental stress, mental illness, or bodily infirmity.

F. Right of Recovery and Contribution; Method of Payment. VIC is not insurance. Insurers may not claim contribution from VIC. VIC is an agreement between a volunteer and the state that the state will make the described payments to or for the volunteer. No other party may make any claim for VIC payments except the covered volunteer or his or her estate.

We may pay a claim in any reasonable form or manner. We may pay service providers directly. We may pay the claimant directly. We may pay the custodial parent of a minor.

G. Fees and Charges. There is no fee charged to volunteers. The costs of VIC are included in what we charge you for workers' compensation.

H. Hardship Exceptions. We may, in our sole discretion, in cases of extreme hardship, make exceptions to VIC provisions if we find it in the interest of the state to do so. However, the stated maximum amount shall not be exceeded.

I. How to Submit a Claim. To file VIC coverage claims, volunteers must notify you, the agency, within no more than five working days after the injury. You immediately report the injury to us for VIC coverage. You supply us with:

1. A clear copy of the release and waiver bearing your volunteer's signature. You must hold the original copy in your files until we ask for it.
2. A copy of his or her written appointment and duties.
3. A description of the accident, its time, place, and resulting injury.

File VIC claims with us. Do not file workers' compensation claims with us. Workers' compensation claims are filed with SAIF under workers' compensation laws and rules.

Important Note: *Never let formalities delay your prompt reporting of a severe claim.* Start by just giving us a call. You can call **(503) 373-RISK**. Leave voice mail if we are closed. FAX to us at **(503) 373-7337**. We are on state E-mail as **EGS Risk Management * DAS**. Our email address is risk.management@oregon.gov. If you report a claim to us by any computer mail, we will reply on the first workday following. If you do not receive our reply, you should assume that we did not receive your report.

VI. DISTRIBUTION

This policy and any revisions to it are sent to your risk coordinator, personnel office, safety coordinator, and, if known to us, your volunteer coordinator. Make these available to all your employees who supervise volunteers. Feel free to make copies and distribute them to volunteers and others. However, be sure to also distribute any revisions or amendments to the people to whom you give copies.

VII. WAIVER AND RELEASE FORMS (REQUIRED PREREQUISITES OF COVERAGE)

Attached are three forms. *Use great care to select and complete the correct one.* The form must be executed and filed with you before the covered accident. If you retain our wording, you may use your own format and add any material specific to your program needs. The forms are:

1. [Form for Liability and VOLUNTEER INJURY Coverages](#): Use if you elect to provide VIC, our Volunteer Injury Coverage, for your volunteer.
2. [Form for Liability and WORKERS' COMPENSATION Coverages](#): Use if you elect to provide workers' compensation for your volunteer.
3. [Form for LIABILITY ONLY Coverage](#): Recommended for your use if you elect to provide no injury coverage for your volunteer.