
S.O.P. #: PERSONNEL SERIES #27

SUBJECT: LIGHT/MODIFIED DUTY POLICY

DIVISION: CAREER PERSONNEL

Objective: To comply with Baltimore County Office of Human Resources Personnel Policies and Procedures (Sections 9.13.1 and 9.13.2) and outline the light duty positions that may be available to uniformed personnel when they are unable to perform the duties of their respective job classification.

Section 1: Definitions

- A. **Light/Modified Duty** – means a temporary, limited-term assignment not requiring performance of the full range of the full range of essential job functions and duties of the employee’s regular job classification held at the time of the injury or illness for which Light/Modified Duty is sought by the employee. The single term “Light Duty” will be used hereinafter in lieu of and/or interchangeably with “Light/Modified Duty” to also mean “Light/Modified Duty” throughout its use in this policy. For the purposes of this policy, Light Duty is also considered a reasonable accommodation under the Workers Compensation Act, the Americans with Disabilities Act (ADA) and as an accommodation under the Family and Medical Leave Act (FMLA) for employees who otherwise meet those requirements and are eligible for consideration under Workers Compensation, the ADA, and/or FMLA.
- B. **Maximum Medical Improvement (MMI)** – means there are no other medical options, such as surgery, physical therapy, etc. available to an employee on Light Duty that would improve the employee’s diagnosed injury or illness prognosis. It does not necessarily mean an employee has permanent work restriction(s) based on reaching MMI. An employee can be at MMI with no permanent restriction(s) or limitation(s) and be able to return to full-duty, with or without a reasonable accommodation, so long as that accommodation is not an extension of Light Duty.
- C. **Maximum Medical Improvement with Permanent Work Restriction (MMI/PWR)** – means an employee on Light Duty has been medically determined to have a permanent work restriction(s) or limitation(s) and there are no other medical options available to the employee that would improve the employee’s diagnosed injury or illness prognosis to the degree of overcoming the identified permanent work restriction(s) or limitation(s), thus preventing an employee from ever being able to be returned to full-duty work status in the position the employee occupied at the time the employee sought Light Duty due to their injury or illness.
- D. **Options Letter** – an Options Letter is a written document issued by the County that will inform an employee to pursue other options that are appropriate under federal, state, and Baltimore County law or be recommended for termination from County employment when an employee has either:
1. Exhausted available Light Duty time, or
 2. Reached MMI/PWR as determined by the County’s Medical Provider (or the employee’s medical Provider, at the discretion of the County) and unable to perform the essential job functions and duties of the classification or position held at the time Light Duty was sought.

Section 2: General Provisions

- A. The provisions of this section apply to injuries or illnesses which occur as on the job workplace injuries and those injuries or illnesses which are non-work related.
- B. Nothing within this policy is intended to interfere with or abridge the rights or obligations of an employee otherwise eligible for consideration under either the ADA or the FMLA, whether or not also covered by the

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County Workers Compensation provisions.

- C. All Light Duty assignments are temporary and available for a limited time period to allow an employee to recover from their injury or illness and return to full duty. The County does not offer permanent light duty assignments under any circumstances.
- D. Light Duty assignments are a management prerogative and not an employee right. The availability of Light Duty assignments will be determined on a case-by-case basis, consistent with departmental and operational needs of the County. Light Duty assignments are limited in number and variety. Assignments may be changed at any time by the County.
- E. Light Duty Assignments are limited to up to 251 Work Days (the equivalent of up to and not to exceed twelve (12) calendar months for a work related or non-work related injury or illness).
- F. The County may assign an employee to another position, another classification, or another agency as a Light Duty assignment in accordance with County Code Section 4-8-101, Rule 24.03 and Special Rule 12.03E. Under County law, unwillingness to accept such assignments as directed by the employee's department head or the County Administrative Officer will make the employee ineligible for Light Duty under Workers Compensation and may, therefore, also make the employee ineligible for a Light Duty assignment under the ADA or FMLA or any other law.
- G. At the conclusion of a Light-Duty assignment, an employee must be seen by the County's Medical Provider for a Fitness-for-Duty examination in order to receive a Fitness for Duty Certification, prior to the employee being returned to full-duty status. An employee cannot be returned to work without a Fitness-for-Duty Certification.

Section 3: On-The-Job Injury or Illness Work Related Injury or Illness

- A. An employee who claims to have a work related injury or illness, or an employee who Baltimore County determines to have a work related injury or illness, must be seen by Baltimore County's medical provider. When the County's medical provider determines that the employee has a condition that precludes the employee from functioning in their job classification the following will apply:
 - 1. When the County's medical provider determines that an employee cannot work light duty and the county has accepted the claim, the employee will be granted accident leave. In cases where a determination has not yet been made, or the claim has been denied, the employee will be required to use sick or other paid leave. If the claim is accepted at a later date the leave used will be converted to accident leave provided the employee has complied with required visits to the County's health care provider.
 - a. The Fire Department does not authorize accident leave. Accident leave will be applied when the Department has received approval from the Worker's Compensation Division.
 - 2. When the County's medical provider determines that an employee can work in a light duty position, the employee may be assigned to one of the positions listed in Exhibit 1, if a position is available.
 - 3. The employee retains the right to file for a disability retirement.

Section 4: Non-Work Related Illness or Injury

- A. Employees with a non-work related injury or illness, who have complied with Personnel 02 and FMLA requirements for at least six (6) full tours of duty, may request assignment to an available light duty position by providing documentation from their medical provider indicating that the employee is unable to function in their current classification, but able to function in a light duty position. They shall submit a Request for Light Duty Assignment Form (Form 27) to request such a position. Employees who have exhausted all paid leave, or who are pregnant, may request immediate assignment to an available position after providing the required documentation.

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1. The employee's medical provider must qualify the employee for a Light Duty Assignment by completing the appropriate section of the Form 27. Once received by the Department, the employee may be assigned to one of the positions listed in Exhibit 1, if a position is available.
2. An updated medical status report or doctor's note must be submitted to the Department every two (2) months during which the employee remains in a Light Duty assignment. If the employee does not submit any of the required updated Medical Status Reports or Doctor's Notes, the Light Duty assignment may be discontinued and the employee will be placed on appropriate leave status, including leave without pay, if the employee is not eligible for, or has no available, paid leave.
3. In addition to the regular submission of Medical Status Reports or Doctor's Notes every two months, if an employee has continuously been on Light Duty for 180 days (six (6) months), at the seventh and ninth month interval(s), the employee will confer with their medical doctor about whether the employee's injury or illness has reached maximum medical improvement (MMI) and if MMI is reached, is it accompanied by permanent work restriction(s) or limitation(s) (MMI/PWR) or without any permanent restriction(s) or limitation(s). At each of these intervals, the employee is required to report the findings to the County within thirty (30) days for the County to assess the appropriateness of continued Light Duty up to the 251 Work Days (full 12 months), where the medical report confirms MMI/PWR. If the County does not receive the required interval medical update(s) in a reasonable timeframe (whether or not MMI/PWR), the Light Duty assignment may be discontinued and the employee will be placed on appropriate leave status, including leave without pay, if the employee is not eligible for, or has no available, paid leave. The employee may also be recommended for termination for non-compliance with the requirements for providing medical information.

Section 5: Priority Order for Filling Light Duty Assignments

1. Maternity.
2. Work related that has exhausted all paid leave.
3. Work related that has not exhausted all paid leave.
4. Non-Work related that has exhausted all paid leave.
5. Non-Work related that has not exhausted all paid leave.

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Exhibit 1

Light Duty Assignments
Numbers dependent on vacancies and the work load

The availability of Light Duty assignments will be determined on a case-by-case basis, consistent with departmental and operational needs of the County. Light Duty assignments are limited in number and variety. Assignments may be changed at any time by the County. If a sufficient workload is not available, light duty employees may be assigned to roles in another agency, with the approval of the Director of the Office of Human Resources.

The County may assign an employee to another position, another classification, or another agency as a Light Duty assignment in accordance with County Code Section 4-8-101, Rule 24.03 and Special Rule 12.03E. Under County law, unwillingness to accept such assignments as directed by the employee's department head or the County Administrative Officer will make the employee ineligible for Light Duty under Workers Compensation and may, therefore, also make the employee ineligible for a Light Duty assignment under the ADA or FMLA or any other law.