

Administrative Guide



On-the-Job-Injury Policy Shelby County Government

TABLE OF CONTENTS

I.	INTRODUCTION	2
II.	STATEMENT OF PURPOSE	2
III.	DEFINITIONS AND TERMS	3
IV.	ELIGIBILITY	4
V.	RESPONSIBILITIES	5
VI.	ON THE JOB INJURY CLAIMS	7
1.	General Rules	7
2.	Reporting Procedures	12
3.	Seeking and Receiving Medical Attention	14
4.	Medical Expenses Benefit	18
5.	Salary Continuation Benefit	18
6.	Time Calculation	22
7.	Supplementation of benefits with Sick Leave	25
8.	Long-term Disability	26
9.	Death Benefit	26
10.	Close out of OJI Claims	26
11.	Appeal Process	27

SHELBY COUNTY GOVERNMENT ON-THE-JOB-INJURY POLICY

ADMINISTRATIVE GUIDE

I. INTRODUCTION

This Administrative Guide to the Shelby County On-the-Job-Injury (“OJI”) Policy is intended to assist in the clarification, implementation, and interpretation of the Shelby County OJI policy.

Shelby County’s OJI policy came to be by resolution No. 27 “**RESOLUTION APPROVING POLICY FOR THE CARE OF SHELBY COUNTY EMPLOYEES WHO HAVE ON-THE-JOB INJURISES, TO SET FORTH ADMINISTRATIVE PROCEDURES FOR SUCH CARE AND TO PROVIDE A PANEL OF PHYSICIANS WHO WILL BE AVAILABLE TO RENDER SUCH CARE**”, adopted by the Board of county Commissioners on April 21, 2003 and signed by Mayor A.C. Wharton on April 28, 2003, to take effect May 1, 2003.

The OJI policy is meant to be Shelby County Government’s complete policy regarding OJIs and does not rely in any regard, either stated or implied on the Tennessee Workers Compensation Act. By default, the Tennessee Workers Compensation Act does not apply to Shelby County. Shelby County has **not** opted to be covered by the Tennessee Workers Compensation Act by filing written notice with the Tennessee Department of Labor pursuant to T.C.A. § 50-6-106(6).

II. STATEMENT OF PURPOSE

Shelby County Government takes seriously its responsibility to employees who may have been injured or become ill as a result of the performance of job duties. The County’s goals are to care for employees, to reduce such injuries/illnesses, and to return employees to their positions as wage-earners as soon as possible. The Shelby County Department of OJI administration is charged with carrying out its duties in a helpful, fair, and timely manner in accordance with this OJI policy.

This policy coordinates with other County policies including, but not limited to, the following:

1. The Shelby County Employee Handbook
2. Personnel Policy Manual Policy Number 103: Employee Responsibility
3. General Personnel Policy Number 314: Alcohol and/or Drugs in the Workplace
4. General Personnel Policy Number 315: AIDS and Other Communicable Diseases
5. General Personnel Policy Number 317: Alcohol & Drug Testing for Commercial Motor Vehicle Drivers
6. Rules and Regulations Policy Number 705: Dangerous Weapons
7. Leave Policy Number 805: Leave without Pay
8. Leave Policy Number 806: Injury Leave

9. Leave Policy Number 808: Temporary Disability Leave
10. Leave Policy Number 809: Family & Medical Leave
11. Safety Policy Number 901: Safety Policies
12. Safety Policy Number 902: Exposure Control Plan for Communicable Diseases
13. Vehicle Use Policy
14. Violence in the Workplace Policy
15. Death Benefits Policy
16. Department/Division specific policies, including attendance policies
17. Appropriate Memoranda of Understanding when applicable

III. DEFINITIONS AND TERMS

1. “OJI administration” means the Shelby County Risk Management Department, or any agency authorized by Shelby County to Administer the OJI policy.
2. “OJI” means on-the-job injury.
3. “Approved OJI” or “OJI claim” means an on-the-job injury that OJI administration has evaluated and determined has met the requirements to be compensable under this OJI policy.
4. “Case manager” means a person assigned as a liaison between OJI administration, the employee, medical provider and treating physician.
5. “Medical provider” means the facility, medical or otherwise, and/or personnel at the facility that is providing the injured employee with treatment.
6. “The panel”, “approved panel”, “list of medical providers” or an equivalent phrase or term, means the list of approved medical providers, physicians, or psychologists which should be reviewed yearly and kept by OJI administration.
7. “Physician” or “Psychologist” means the treating physician or treating psychologist which the employee selected from the approved panel of medical providers.
8. “Work hours” means regularly assigned work hours and excludes overtime or comp time.
9. “OJI time” or “OJI leave” means paid time off from work which is approved by OJI administration in the course of treating an employee for an OJI.
10. “Essential element of a job” means duties or tasks that are central to and which constitutes at least a part of the definition of a particular job such that to remove the task or duty would render the job partially or wholly not performable.

IV. ELIGIBILITY

All Shelby County employees are eligible for coverage under this policy.

A “Shelby County employee” is defined as:

1. Individuals on the Shelby County payroll system,
2. Holding a position or office in the Classified Service or Unclassified positions pursuant to the Civil Service Act, and
3. Who are legally authorized to perform the duties and responsibilities of an assigned position

NOTE:

1. *To qualify for OJI benefits a Shelby County Employee must have been performing duties, responsibilities, or tasks within the scope of their employment.*
2. *Department supervisors should be asked if an employee’s injuries arose out of an in the course of their assigned duties, responsibilities or tasks related to their job.*
3. *Individuals who qualify as Shelby County Employees under this definition who are injured while performing duties or tasks unrelated to their job or outside the scope of their employment or assigned duties will **NOT** be eligible for OJI benefits for that injury, even if the injury happened while on the job.*

Employees, whether full or part-time, who are eligible to receive OJI benefits include the following:

1. Permanent employees
2. Durational employees
3. Temporary employees

Volunteers and/or individuals who receive less than \$1,000 in annual earned income from Shelby County Government are **NOT** eligible to receive OJI benefits, **except** the following:

1. Shelby County Sheriff Reserve Officers
2. Shelby County Sheriff Emergency Services Officers

Injuries claimed by reserve and emergency services offices will be investigated by OJI administration in order to assist the treating physician in determining whether the injury is job related.

Reserve and emergency services officers must comply with all provisions of this policy and all procedures of OJI administration, including but not limited to:

1. The use of doctors approved on the approved list of medical providers
2. Second opinion procedures
3. Subrogation rights and procedures

V. RESPONSIBILITIES

Shelby County Administration, Shelby County Management and Supervisory Personnel, and Shelby County employees have responsibilities under this OJI policy.

1. Responsibilities of Shelby County Administration

- a. To provide leadership in safety and loss control, and develop policies and procedure to educate employees regarding the safe performance of their assigned tasks, loss control, and injury prevention
- b. To develop policies and procedures to handle claims of employees who may have been injured in the course and scope of their employment
- c. To investigate incidents as needed and manage claims as appropriate
- d. To provide the supplies, equipment, and tools necessary to promote a safe and healthy workplace
- e. To provide general training for all employees and secure from each employee a signed statement acknowledging receipt of this policy, as well as the employee's intention to practice safe work habits and to comply fully with safety rules, regulations, and procedures and loss control efforts

2. Responsibility of Shelby County Management and Supervisory Personnel

- a. To provide leadership in safety and loss control
- b. To ensure that employees perform job tasks and duties with safety, health, and loss control in mind as top priority
- c. To ensure that all employees are provided with the necessary training to allow them to perform their duties in a safe and healthy manner
- d. To encourage the formation of the risk management committees and utilize them as a resource to address safety and health hazards at each work site
- e. To develop improvements in work processes and/or practices in order to make them safer
- f. To immediately report to OJI administration any situation or incident in which an employee may have been injured at work, and to complete the proper documentation in order for OJI administration to investigate the incident and monitor the claim as appropriate
- g. To make employees aware of proper and safe escape routs from the workplace
- h. To properly apply this OJI policy together with applicable attendance and paid/unpaid leave department policies

3. Responsibilities of Shelby Count Employees

- a. To complete the appropriate training courses offered by the County

- b. To qualify to perform the job tasks or duties before and after an on the job injury
- c. To keep and maintain a satisfactory safety record
- d. To practice safe work habits and comply with applicable County safety policies, procedures, and regulations.
- e. To make every effort to perform assigned duties without injury to any person or damage to any equipment or property
- f. To immediately report to a supervisor any situation or incident in which the employee or any other person may have been injured or become ill because of an incident that occurs on the job or during work
- g. To immediately report any unsafe condition to a supervisor
- h. To cooperate fully with Administrators of the OJI policy in its efforts to reduce the chances of injury or loss
- i. To assist in any investigation of any incidents that occur and manage any resulting claims
- j. To fully comply with this OJI policy

NOTE:

- 1. Part of the responsibility in managing Employee OJI claims is to make sure the employee can return to work and perform the essential functions of their job in a manner that will ensure the employee's safety as well as the safety of others.***
- 2. Ultimately it is the responsibility of the individual employee to perform their assigned duties and tasks in a manner respecting their own safety and health as well as that of other employees, non-employees, and Shelby County citizens.***
- 3. Just as employees must be qualified to perform the essential functions of their jobs in order to be hired initially, they must continue to qualify to perform their jobs by maintaining a good safety record.***
- 4. OJI administration may determine that an employee is disqualified from performing their job if it is evident that an employee cannot perform their jobs in a safe manner.***
- 5. Evidence of an inability to perform a job safely includes, but is not limited to: employee safety records evidencing a habitual lack of safety resulting in abnormally high injury and re-injury rates, situations evidencing an employee's unwillingness or inability to perform their job tasks and duties in a safe manner, medical releases from treating physicians stating the employee is permanently restricted from performing an essential functions of a job, and/or situations evidencing an abuse of this OJI policy.***

VI. ON THE JOB INJURY CLAIMS

1. General Rules

- a. **Only OJI administration or any party duly authorized to administer this OJI policy can approve or deny a claim for OJI benefits.**
- b. Failure to follow the OJI procedures may result in the denial of an employee's OJI claim.
- c. Medical Records of employees are confidential and not available to the public. The employee's medical records are available to OJI administration personnel, the case manager (where applicable), the employee, the employee's department management (when necessary), and the Shelby County Attorney's office (when necessary).
- d. In order for an OJI claim to be accepted as compensable consider the following:
 - i. The injury, illness, or disease complained of must have resulted from the employee's job.
 - ii. The injury, illness, or disease complained of must arise out of and in the course of the employee performing their assigned duties, responsibilities, or tasks related to their job.
 - iii. The injury, illness, or disease complained of must have occurred at work.
 - iv. The employee must comply with the requirements of this OJI policy.
- e. Payments will not be allowed for injury, illness, disease, or death in certain cases including those cases arising out of, but not limited to, the following:
 - i. The use of illegal drugs and/or alcohol
 - ii. Misconduct, including horseplay
 - iii. Intentional self-inflicted injury

NOTE:

- 1. OJI administration will determine if an alleged injury, illness, or disease complained of is self inflicted based on its own investigation.***
 - 2. OJI administration's investigation may rely on investigations performed by the employee's department.***
- iv. Failure or refusal to use safety devices and/or personal protective equipment
 - v. Failure to perform a duty required by law
 - vi. Aggravation of an earlier OJI while off-duty or while performing tasks outside the scope of the employees employment

NOTE:

- 1. An employee, who aggravates an earlier OJI by actions taken outside the scope of their employment, or while off-duty, will not be eligible for any OJI benefits for the aggravated condition.**
- vii. Injuries suffered while en route to and from work, except when such travel is in the performance of the employee's assigned job duties
- viii. Voluntary participation in physical fitness or recreational activities, during work hours or during off-duty hours.

NOTE:

- 1. An employee may obtain OJI benefits for injury, illness, disease, or death resulting from participation in physical fitness or recreational activities ONLY when:**
 - a. such participation is REQUIRED and APPROVED by:**
 - i. the employee's supervisor,**
 - ii. Division/Department director, AND**
 - iii. OJI administration**
 - ix. Treatment by a medical provider who is not on the approved panel of treating physicians and has not been authorized by OJI administration.
 - x. Non-compliance with a treating physician's instructions or protocol
 - xi. Failing to attend prescribed treatment or therapy sessions
 - xii. Activities or actions taken not directly related to the performance of assigned job tasks or duties
- f. While administering an OJI claim, OJI administration will determine, from the treating physician, if the employee is cooperating fully with their treatment. Employees are also required to fully cooperate with Administrators of the OJI policy, any consulting professionals retained to assist in managing and investigating claims, and the County Attorney's Office.

NOTE:

- i. A single instance of failure to cooperate with their treatment protocol may or may not be cause for denying OJI benefits**
- ii. More than one failure to fully cooperate may result in denial of further OJI benefits.**
- iii. Habitual failures to cooperate will result in immediate denial of OJI benefits.**
- iv. Habitual is defined as more than two occurrences.**
- g. Second opinions may be required by OJI administration at its own discretion.

- i. OJI administration will select the physician for any second opinion except in the case where an employee's treating physician requests a second opinion, in which case the employee will select the physician to give the second opinion.
- ii. Failure to cooperate with the second opinion evaluation, in any way, will result in the termination of OJI benefits.
- iii. Second opinion evaluations will be paid for by Shelby County.
- h. Employees injured on the job may be subject to alcohol and/or drug testing at the request of OJI administration.

NOTE:

- i. In some cases results from blood work performed while treating an employee for an OJI will indicate that an employee was under the influence of alcohol and/or drugs when the incident occurred.*
- ii. Employees found to have been under the influence of alcohol and/or drugs will be denied OJI benefits pursuant to General Personnel Policy 314.*
- iii. In addition, such information will be shared with the employee's department supervisors and/or administrators.*
- i. Medical or any other expenses resulting from chiropractor visits are not covered under this OJI policy.

NOTE:

- i. A note from a chiropractor cannot be used to excuse an employee from missing work.*
- j. Expenses incurred as a result of treatment by a nurse practitioner incurred as a result of treatment for an OJI may, at the discretion of OJI administration, be covered under this OJI policy only if:
 - i. The nurse practitioner is working under the direct supervision of a physician
 - ii. The physician is on the approved panel of physicians maintained by OJI administration
- k. The policy of Shelby County Government is to subrogate any OJI claim in which a third party is responsible for the injury, illness, or disease.

NOTE:

- i. The County's subrogation rights are intended to allow Shelby County to recover for any expenses resulting from an injury to a County employ which was the fault of a third-party.*
- ii. This right in no way affects the employee's right to pursue a law suit against any third-party, other than Shelby County, who is responsible for the employee's injury, illness, or disease.*

- iii. *Fully cooperating and following this OJI policy requires the employee, who has filed an OJI claim, to sign a form allowing Shelby County to recover its medical and continuing salary benefit expenses, in full, from the third-party responsible for the injury, illness, or disease, in the case of a judgment or settlement against the responsible third-party.*
- iv. *Refusal to sign the form will result in a denial of the OJI claim, preventing the employee from receiving medical and continuing salary benefits under this policy.*
- v. *Also, any time absent from work will not be authorized as OJI leave.*

1. When OJI benefits terminate:

- i. When any treating physician or psychologist, from the approved panel, determines that the employee has reached Maximum Medical Improvement.

NOTE:

- 1. *A physician's return-to-work-note indicating an employee has been released from treatment to return to work WITHOUT any restrictions is considered the equivalent to a notice of Maximum Medical Improvement.*
 - 2. *A physician's return-to-work-note WITH any restrictions is not considered the equivalent of a notice of Maximum Medical Improvement.*
 - 3. *OJI administration should determine whether follow-up care is required after a return to work without restrictions notice from a treating physician.*
 - 4. *If OJI administration confirms no follow-up care is needed from the treating physician, no further medical payments should be approved for that OJI.*
 - 5. *OJI administration should ensure the physician is aware that no further medical expenses will be paid by Shelby County once this notice is received.*
- ii. OJI administration determines the employee has failed to follow medical advice from the treating physician
 - iii. OJI administration determines the employee refuses to cooperate with the treating medical provider/physician.
 - iv. The employee resigns
 - v. The employee retires, OR
 - vi. Employees employment with Shelby County Government ends or is otherwise terminated.

- vii. The employee has missed 2 consecutive or 3 total appointments during a single OJI claim without notifying the medical provider AND OJI administration in advance.

NOTE:

1. *Employees should notify the medical provider and OJI administration sufficiently in advance to avoid any medical charges (typically at least 24 hours prior to the appointment).*
 2. *If an employee could have notified the medical provider and OJI administration with enough time to avoid medical charges by the medical provider but fails to do so, the employee, and not Shelby County, will be liable for the charges.*
- viii. Benefits concerning law enforcement officers and firefighters, payable under Tenn. Code Ann. § 7-51-201, will be determined by the provisions of that statute.
 - m. Regarding issues where this OJI policy or other applicable Shelby County policy is silent, decisions as to appropriate action will be determined by the deputy administrator of Shelby County Human Resources or his/her designee, or the designated administrator of this policy. County employees or departments administering the OJI policy should consult with the Shelby County Attorney's Office in such cases.
 - n. OJI administration may review additional information before a decision to approve an employee's claim is made.
 - i. Additional information may include, but is not limited to, additional information from the employee, supervisors, co-workers, other witnesses, and/or the treating physician or psychologist who performed the initial evaluation.
 - ii. Previous medical history and/or records may also be reviewed and taken into consideration to determine if an OJI claim will be approved.
 - o. This policy **DOES NOT** provide for open medical payments, future medical payments beyond the time periods outlined in this policy, or any type of disability payment.

NOTE:

- a. *Administrative and OJI claims procedures and provisions may change from time to time as Shelby County, in conjunction with OJI administration deem necessary.*
- b. *It is the responsibility of the employee to make every effort to be aware of the proper claims procedures.*
- c. *OJI administration will make every effort to ensure that the employee is aware of his/her rights and responsibilities and the appropriate policies and procedures.*

- d. Should the employee have any questions about the appropriate OJI claims procedure, he/she should request additional information from his/her supervisor.*
- e. An employee may not directly contact OJI administration for any reason without prior approval from their supervisor.*

2. Reporting Procedures

- a. In order to have a claim accepted as a compensable OJI claim, injury reports must be filed with OJI administration for any injury, regardless of how minor it may seem at the time.
- b. For an occupational illness or disease arising out of employment with Shelby County
 - i. Injury reports must be filed with OJI administration immediately when an employee knows or reasonably should know the illness or disease arose within the scope of employment.
- c. Employee reporting procedures and contingencies
 - i. Injuries must be reported to an employee's immediate supervisor as soon as possible after the occurrence and no later than the end of the employees shift on the date of the injury.
 - ii. If the employee's immediate supervisor is not available, the injury should be reported to another supervisor/manager.
 - iii. If a supervisor/manager is not available either, the employee must write a report of the injury and have it signed by a fellow employee who witnessed the injury (if available).
 - iv. Injuries not reported before the end of the employees shift on the date of the injury will NOT be approved for OJI claims.
- d. Injury reports
 - i. may be filled out by the supervisor or the employee, but
 - ii. must be signed by the supervisor
 - iii. must be filled out completely, including
 - 1. the names of any witnesses who have any information about the incident, as well as
 - 2. identifying the specific location where the incident occurred
 - iv. Injury reports should be **faxed** or **emailed** to OJI administration as soon as possible after the injury occurs.
 - v. The original injury report should be forwarded to OJI administration as quickly as possible.
 - vi. It is the responsibility of each department to provide all relevant documentation during the course of an OJI case to OJI administration.

NOTE:

- i. The employee's supervisor is not the individual with the authority to determine if the injury, illness or disease is compensable as an OJI claim. This is solely the responsibility of OJI administration.*
- e. Before the Shelby County can accept responsibility for payment of any medical bills related to an OJI, OJI administration must first have received an injury report, and the claim must have been reviewed, validated, and approved as a compensable OJI claim.

NOTE:

- i. There may be extraordinary circumstances in which Shelby County can accept responsibility for payment of medical bills related to an OJI before OJI administration receives an OJI report, reviews and approves the claim as compensable.*
- ii. These cases will be reviewed in a timely manner by OJI administration's staff who is assigned to the case.*
- iii. Please note that some of these cases may be compensated at the beginning and then denied after a review is completed by OJI administration.*
- iv. It is important that all injury reports be filled out completely, accurately, and timely. Accurate, detailed, and timely reports will eliminate potential problems and reduce the time necessary to handle OJI cases.*
- f. Follow-up forms
 - i. If an employee misses a day or partial day of work, the employee must complete a follow-up form and list each missed day or partial day.
 - ii. Any days for which the employee's duties are temporarily modified must also be included.
 - iii. These reports must be signed by the employee and the supervisor, and submitted to OJI administration within 10 days.
 - iv. If medical attention is required for an OJI, the follow-up form must include
 - 1. the date of each medical visit,
 - 2. the name and address of the medical facility, and
 - 3. the name of the treating physician
 - v. A follow-up form is required for each and every medical visit and submitted to OJI administration.
- g. OJI administration **CANNOT** approve OJI benefits for any stress claim that does not arise out of a single, traumatic incident. Workplace stress problems should be referred to the Concerned Employee Assistance Program.

3. Seeking and Receiving Medical Attention

- a. Employees who require emergency medical attention should go to a Baptist East Hospital if possible. In the case of extreme emergency, or if an applicable Memorandum of Understanding states otherwise, the employee may go to the emergency room of his/her choice.

NOTE:

- i. Extreme Emergency is defined as: the potential loss of life, limb, or the function of any part of the body. Additionally, Extreme Emergencies include emergencies where the employee is unconscious or is otherwise unresponsive.*

- b. IN CASE OF BLOOD BORNE EXPOSURE INJURIES:

- i. During the hours of 8:00 a.m. to 4:30 p.m. employees should go to Employee Health at the Health Department, Room 214, at 814 Jefferson Avenue.
 - ii. Employees working before or after these hours who may have been exposed to blood borne pathogens must go to Baptist East.
 - iii. Detailed protocol concerning Blood Borne Exposure Injury procedures should be kept up to date and all departments within Shelby County should be made aware of those protocols

NOTE:

- i. Failure to follow these rules may put the employee's health at extreme risk.*
 - ii. In Blood Borne Exposure Injury cases involving victims of crimes, OJI administration should work with the appropriate division, department, or office to establish procedures and forms in order to seek and obtain the appropriate release from the victim for the purposes of testing.*
 - iii. Employees who come in contact with bodily fluids, in the course and scope of employment, should contact OJI administration and immediately begin prophylactic protocols.*
- c. OJIs are to be treated by a treating physician, chosen by the employee from the list of approved medical providers only. Second or subsequent visits to the emergency room must specifically be authorized, in advance, by OJI administration.

NOTE:

- i. Second or subsequent visits to the emergency room may also not be covered by the employee's group health plan.*
- d. If an employee requires medical attention for an OJI:

- i. The employee must select a physician from the County’s approved panel of “Medical Providers for On-the-job Injuries” as kept by OJI administration.
 - ii. The employee MUST be evaluated by the selected physician within seven (7) days of the incident that caused the injury.
 - iii. Within the discretion of OJI administration, the County may not accept responsibility for an injury claim or medical expenses if the initial medical treatment was performed more than seven (7) days after the incident which caused the injury.
- e. The County will pay approved costs for appropriate medial treatment as determined by OJI administration Department personnel.
 - i. ONLY personnel for OJI administration may authorize medical treatment, medical procedures, physician transfers, and proposed courses of medical attention during the treatment of an OJI.
 - ii. The County will not accept responsibility for any medical claim or claim for payment of any incurred medical expense from a physician that is not on the approved panel of “Medical Providers for On-the-job Injuries” as kept by OJI administration, except:
 - 1. In cases where a specialist for a particular injury or procedure is not available on the County’s approved panel of medical providers.
 - a. In such a case, a referral from the primary treating physician is required AND
 - b. OJI administration must approve treatment from the proposed specialist.
 - 2. In cases where a particular physician began treatment at the emergency room and is in the best position to know the details of the treatment previously administered.
 - iii. The approved panel of “Medical Providers for On-the-job Injuries” should be kept up to date by certifying it on an annual basis.
 - iv. Employees should take care not to select a treating physician from an approved panel that is more than twelve (12) months old.
 - v. The employee should contact OJI administration if they have any doubts as to whether a particular physician is a on the approved panel of “Medical Providers for On-the-job Injuries.”
- f. Employees are expected to attend all scheduled medical appointments and therapy sessions at the appointed times.
 - i. If unavoidable circumstances require the cancellation or rescheduling of any appointment, employees MUST notify OJI administration AND

employees MUST notify the medical provider's office as soon as possible before the scheduled appointment.

- ii. Rescheduled appointments must be scheduled without undue delay.
 - iii. Delays and missed appointments may result in denial of OJI benefits.
 - iv. The County will NOT pay for any medical expenses or charges incurred as a result of missed scheduled appointments.
 - v. If an employee misses 2 consecutive or 3 total medical appointments during a single OJI claim, OJI benefits will terminate and the OJI claim will be closed.
 - vi. If OJI benefits are denied for failure to attend medical appointments, the employee will be solely responsible to pay any charges from the health care provider.
- g. Employees may not switch or change physicians once an employee has selected a physician from the approved panel of "Medical Providers for On-the-job Injuries," except:
- i. If the primary care physician, selected by the employee, requests a second opinion or refers the employee to another physician. OR
 - ii. If the employee requests a change in physicians from OJI administration AND the change is approved by OJI administration in writing.

NOTE:

1. If a primary care physician refers an employee to another physician for treatment of an OJI, or the employee requests a change in physicians, the new physician MUST also be on the approved panel of "Medical Providers for On-the-job Injuries."

- iii. If the employee changes physicians without approval, Shelby County WILL NOT accept responsibility for any medical expenses incurred from the new physician and any absence from work will not be approved as authorized OJI leave.
- h. If an employee receives medical attention for an OJI, the employee MUST obtain a return to work release from the primary care physician and MUST be submitted to OJI administration for validation. This release must state:
- i. the employee is able to return to work,
 - ii. the reason for treatment, and
 - iii. it must list any physical limitations in the performance of job duties.

NOTE:

- 1. A treating physician's note stating the employee has reached Maximum Medical Improvement is not alone sufficient for the employee to return to their position of employment. The employee must ALSO provide a return to work statement from the physician indicating that they are able to return to work which does not impose any restrictions affecting essential elements of the employee's job.**
 - 2. Shelby County DOES NOT assign permanent modified-duty or light-duty positions. Any modified-duty or light-duty is temporary. Permanent modifications to job duties are permitted ONLY when required by law.**
 - 3. A note from an employee's treating physician, which releases the employee to return to work with permanent restrictions relating to an essential function of the employee's job, will prevent the employee from returning to work in that position until the employee is able to obtain a release without restrictions concerning any essential function of their job.**
 - 4. Employees who obtain return to work notices from their physician with restrictions should discuss their options with their administrators.**
- i. In certain cases, OJI administration may assign a case manager, from an outside service provider, to assist in facilitating communication between OJI administration and the treating physician/staff and the employee.
 - i. The case manager may also assist OJI administration in monitoring an OJI case to determine whether proper treatment is being received and to assure that the employee is progressing and complying with the plan of treatment.
 - ii. The case manager will be allowed to attend physician's appointments, therapy sessions, review all medical records, and to confer with medical service providers, equipment providers, management, co-workers, and OJI administration in reference to the injury/illness claimed as an OJI.
 - iii. The case manager will not be allowed to sit in a therapy session between a psychologist/psychiatrist and the employee.
 - iv. The case manager is NOT authorized to approve medical treatment and/or procedures, medications, transfers of physicians, or payment for any medical expenses. The case manager is only a liaison to ensure communication between treating physicians, OJI administration, and the employee.

- j. Once an employee has been designated as having reached Maximum Medical Improvement for an OJI, the employee MUST receive approval, in writing, from OJI administration for subsequent visit to the healthcare provider.
- k. If a deputy sheriff or firefighter makes application for benefits under the Tennessee Heart and Lung Act (Tenn. Code Ann. § 7-51-201), the employee will be examined by two (2) doctors, and their findings will be examined by a third doctor.
 - i. In order for Shelby County to accept responsibility for the deputy sheriff's or firefighter's medical condition, two (2) of the three (3) physicians, or a majority of physicians if more than 3, must find that the medical condition involving heart, hypertension, or lungs has been directly caused by the employees' job.

4. **Medical Expenses Benefit**

- a. Medical expenses arising in the course of treating an employee for an OJI will be paid by Shelby County provided that the OJI claim is compensable, and the treatment and expenses are approved by OJI administration.
- b. If an employee has to pay out of pocket for any treatment (e.g. medication, physician visit) concerning an approved OJI, the employee must
 - i. provide the original receipt to OJI administration in order to be reimbursed.
 - ii. Such reimbursement will be available only when an employee has been treated by an authorized physician on the approved panel.
- c. Rental or purchase of durable medical equipment, such as a TENS unit, wheelchair, hospital bed, special brace or splint, MUST be approved by OJI administration after consultation with the health care provider and case manager (if applicable) before the item is ordered.
 - i. OJI administration may arrange to rent or purchase the item from a supplier other than the supplier suggested by the physician.
 - ii. Shelby County will not be responsible to pay for medical expenses for durable medical equipment if the employee orders any durable medical equipment without the proper prior approval.
- d. Medical expense payments terminate for any of the conditions set forth previously in section (IV. On the Job Injury Claims) (1. General) (1. When all OJI benefits terminate).

5. **Salary Continuation Benefit**

- a. An employee, who is out from work on a verified, approved OJI, is entitled to a maximum of 11 months of any type of continuing salary benefit.

NOTE:

- i. Eleven (11) months is defined as the total number of regular work hours an employee is expected to work, based on the employees job classification, in an 11 month period. Please see the Time Calculation section for further guidance.*
- b. An employee who is absent from work because of an approved OJI claim, will be paid 100% of their salary for the first six (6) months (cumulative), provided they have complied with the OJI policy and procedures as contained in this OJI policy.
- c. After the initial six (6) months, pay will be reduced to 60%.
- d. At a point to be determined by OJI administration, but not to exceed 11 months, the employee's status will result in one of the following :
 - i. Return to their prior job without restrictions as to any essential performance element of the position,
 - ii. Obtain another job within Shelby County Government to which they qualify with the requisite skills and experience and can perform all essential elements of the position,
 - iii. Removal from payroll (separation from employment),
 - iv. Consideration for Long-term Disability insurance benefits upon application.
- e. After the first six (6) months of OJI leave the employee MUST submit an application for Long-term Disability. This application does not interfere with OJI benefits.

NOTE:

- i. Long-term Disability (LTD) insurance may be, and often is, denied to employees who are on intermittent OJI leave in accordance with the Long-term Disability insurance policy.*
- ii. It is the employee's responsibility to initiate application for the LTD insurance benefits as described in the employee handbook.*
- f. Eligibility to receive LTD benefits is subject to the provisions of the LTD insurance policy.
- g. Employees who need temporary job modifications should consult with their doctor, their manager, and Human Resources in their department/division about temporarily modifying job duties.

NOTE:

- i. The duration of a modified-duty or light-duty job can only be temporary.*

- ii. *There are **NO** permanent modified-duty jobs or light-duty jobs in Shelby County which modify an essential element of an employee's job.*
 - iii. *An employee should not expect to have a position created for them by their department/division.*
 - iv. *An employee should not expect that other employees be displaced so that they can take their place in any particular position.*
 - v. *Permanent modifications to jobs are permitted **ONLY** when the modification is reasonable and does not prevent the employee from performing any essential element of their job.*
 - vi. *Employees should be aware that permanent restrictions concerning or relating to essential functions of their job will prevent them from returning to that position, and may result in separation from employment with the County.*
- h. The County will require a treating physician's statement, if an employee must be absent from work because of an OJI.
- i. Each period of time or, partial or full day of work absence must be covered by the treating physician's statement.
 - ii. Backdated statements will not be accepted.
 - iii. If the employee fails to provide an acceptable statement, OJI leave for any absence from work will NOT be approved.
 - iv. The original doctor's statement must be provided to OJI administration.
- i. In cases where employees can return to work but need additional medical treatment or therapy, OJI leave may be used for up to (3) hours.
- i. If a treatment or therapy visit requires more than 3 hours, or in an extraordinary case a full day off work, it must be approved by OJI administration.
 - ii. If an employee can schedule a physician's visit or therapy visit on their off day, or when their regular shift is over, the employee **MUST** schedule the physician or therapy visit on their off day or after their regular shift is over.

NOTE:

1. *Physician or therapy visits scheduled on off days or after the employee's regular shift are not eligible for OJI leave pay and do not qualify as overtime.*
2. *If an employee chooses not to schedule a physician or therapy visit during their off days or after their regular shift, OJI administration may deny OJI leave pay for that visit.*

approved and the employee continues in secondary employment while receiving OJI benefits from Shelby County.

NOTE:

- 1. Working a second job without permission when an employee is claiming OJI benefits is an abuse of this OJI policy and will result in immediate termination of OJI benefits.**
- 2. Such abuse may also be grounds for immediate termination of employment.**

6. Time Calculation

- a. Calculation of OJI leave is based on the number of expected regular work hours in a year based on the employee's job classification.

NOTE:

- i. This section of the Administrative Guide to the Shelby County OJI policy establishes how OJI leave time is to be calculated.**
- b. The maximum OJI leave an employee is entitled to is the equivalent of 11 months of regular work hours.
- c. The calculation of the number of hour is based on the classification of the job, such as 40 hour-per-week job, 37.5 hour-per-week job, or jobs that have unique working hours such as firefighters who work 24 hour shifts.

NOTE:

i. Examples

- 1. County jobs that are classified as 40-hour-per-week jobs:**
 - a. Are based on 8 hours worked per day.**
 - b. Employees employed under this classification are expected to work 2080 regular work hours in a year.**
 - c. These Employees are eligible for 100% salary benefit for a maximum of 1040 regular work hours on a single (continuous or cumulative) OJI claim.**
 - d. After being off for 1040 hours on a single OJI claim, these employees' continuing salary benefit is reduced to 60% salary for up to an additional 866.6 hours.**
 - e. The maximum continuing salary benefit for these employees are entitled to on a single OJI claim is 1906.6 hours, which is roughly equivalent to 11 months of benefit.**
- 2. County jobs that are classified as 37.5-hour-per-week jobs:**
 - a. Are based on 7.5 hours worked per day.**

- b. *Employees employed under this classification are expected to work 1950 regular hours per year.*
 - c. *These employees are eligible for 100% continuing salary benefit for 975 regular work hours on a single (continuous or cumulative) OJI claim.*
 - d. *After being off for 975 hours on a single OJI claim, these employees' continuing salary benefit is reduced to 60% salary for up to an additional 812.5 hours.*
 - e. *The maximum continuing salary benefit these employees are entitled to on a single OJI claim is 1787.5 hours, which is roughly equivalent to 11 months of benefit.*
3. *Firefighter jobs with the Shelby County Fire Department:*
- a. *Are based on 2912 regular work hours per year.*
 - b. *Firefighter positions are based on 121.33 hour pay-periods, twice monthly.*
 - c. *Firefighters are eligible for 100% salary benefit for 1456 regular work hours on a single (continuous or cumulative) OJI claim.*
 - d. *After being off work for 1456 hours on a single OJI claim, these employees' continuing salary benefit will be reduced to 60% salary for up to an additional 1213.33 hours.*
 - e. *The maximum continuing salary benefit these employees are entitle to on a single OJI claim is 2669.33 hours, which is roughly equivalent of 11 months of benefit.*
4. *County jobs classified as part time jobs:*
- a. *The calculation for OJI leave for part time positions is calculated similarly to 40 hour and 37.5 hour per week jobs.*
 - b. *The number of hours per week multiplied by 52 is the total number of hours these employees are expected to work.*
 - c. *These employees are eligible 100% salary for ½ of the total number of hours expected in a year.*
 - d. *To calculate how much time these employees are eligible for at 60% salary, multiply 4.33 (average weeks in a month) by 5 (remainder of 11 month benefit) then multiply that number by the number of*

regular work hours expected in a week for these employees.

i. Example 20 hour-per-week part time job:

- 1. Are eligible for 100% salary for 520 regular hours.*
- 2. After being off on a single OJI claim for 520 hours they are eligible for up to an additional 433 hours at 60% salary. (4.33x5x20).*
- 3. The maximum continuing salary benefit 20 hour-per-week employees are entitled to on a single OJI claim is 953 hours, which is roughly equivalent to 11 months of benefit.*

- d. Employees who are off work on an OJI claim are not eligible for overtime pay.
- e. Time off work taken for an OJI is cumulative. Every day or partial day taken off work that relates to a particular OJI claim is counted towards the 11 month maximum OJI leave time.

NOTE:

i. Example:

- 1. A 40 hour-per-week employee who is injured on the job and is off work for 520 hours who then returns to work has used up about 3 months of OJI leave time.*
- 2. Assuming the employee experiences a relapse, has to be out periodically due to recovery, or has to attend medical follow-up visits, any time taken off work will tack-on to the 520 hours already used and accumulate until the maximum 1940 hours of OJI time is exhausted.*
- 3. After that point, the employee will NOT have any more OJI time off and must do one of the things outlined in section (IV. On the Job Injury Claims)(5. Salary continuation benefit)(d) above.*

- f. ALL time off work related to an OJI claim is counted towards this time calculation until the treating medical provider supplies OJI administration with a statement that the employee has reached Maximum Medical Improvement.

NOTE:

- i. Please remember that a letter from the employee's treating physician that the employee has reached Maximum Medical Improvement is*

not alone sufficient to clear the employee to return to his previous job. See note above at (IV. On the Job Injury Claims)(3. Seeking and receiving medical attention)(h.)(iii.)(NOTE: 1.).

7. Supplementation of benefits with Sick Leave

- a. An employee who remains off work on an OJI more than six (6) months will continue to be entitled to the continuing salary benefit at a reduced-rate of 60% of their full salary.
 - i. Employees who have available, accrued sick leave may use sick leave to supplement their reduced-rate continuing salary benefit up to 100% of pay.
 - ii. Employees who use sick leave to supplement their reduced-rate continuing salary benefit CANNOT use sick leave to exceed 100% of their salary rate.
 - iii. Employees CANNOT use sick leave to obtain overtime pay.
 - iv. Sick leave used to supplement reduced-rate continuing salary benefit up to 100% of pay will be expensed on an hour for hour basis.

NOTE:

1. Example

- a. *A 40 hour-per-week employee who has been out on an OJI for six (6) months, will be paid for 24 hours (60% salary) in the next week instead of 40 hours (100% salary).*
 - b. *This equates to 4.8 hours per day instead of the expected 8 hours per day.*
 - c. *The employee may expense 16 hours per week, or 3.2 hours per day, of sick leave to supplement their pay back up to 40 hour for that week, until the employee exhausts their sick time.*
 - d. *Once the employees' sick time is exhausted, they will once again only be paid for 24 hours per week until their OJI leave is exhausted.*
 - e. *The employee would have to expense sick time on a daily basis to supplement the reduced-rate continuing salary benefit back up to 100% of full salary.*
2. *The amount of sick leave an employee needs to expense to supplement the reduced-rate continuing salary benefit back up to 100% of pay depends on the job classification of that particular employee's position and may be different from other types of employment in Shelby County. For example, 40 hour-per-week employees vs. 37.5 hour-per-week*

employees will have to expense different amounts of sick leave to supplement the reduced-rate continuing salary benefit back up to 100% of pay.

- b. Once an employee has exhausted their sick leave, they will no longer be entitled to supplement their reduced-rate pay and their pay will again be reduced to 60% of their salary.

8. Long-term Disability

- a. Employees may apply for Long-term Disability insurance through Shelby County's provider in addition to receiving OJI benefits. However the terms and conditions of the Long-term Disability policy shall take precedence over any provision of this OJI policy.
- b. The county cannot obtain a Long-term Disability policy for Shelby County Sheriff Reserve Officers and Shelby County Sheriff Emergency Service Officers who are covered by this OJI policy. Therefore, in the event that either of these class of officers sustains an OJI with long-term disability, Shelby County OJI administration shall submit to the Board of County Commissioners a proposal for long-term disability benefits to be paid from the general fund for as long as the individual remains disabled as defined in the long-term disability policy then in force and in effect. In no event shall the benefits paid to such officers exceed benefits payable under the long-term disability policy to a full-time or part-time county employee who is similarly situated.

9. Death Benefit

- a. The principal survivor of an employee who dies in the line-of-duty, or the estate of an employee if there is no principal survivor, will receive funeral expenses of \$8,000.00. The principal survivor will receive a death benefit equal to five (5) times the employee's salary rounded up to the next thousand dollars, not to exceed \$350,000.00. If the decedent leaves a minor child or children, 18 years or younger, one third (1/3) of the death benefit will be designated toward support of the child or children.
- b. If a surviving spouse and/or other dependent(s) receives from the county an amount of money for damages as set by a court of legal settlement because of the death of an employee, the corresponding amount shall be deducted from the county death benefit, or should said judgment or settlement exceed the county death benefit, the county will receive full credit for all monies paid under this policy.

10. Close out of OJI Claims

- a. If an OJI claim has no activity for 3 months, OJI administration will close the file and no further benefit will be available for that OJI claim.
- b. Once the employee has exhausted their 11 months of OJI leave time, OJI administration will close out the claim. Under no circumstances will an

employee be entitled to more than 11 months of OJI benefits for a single OJI claim

- c. OJI claims will be closed out immediately upon receipt of notification from a treating physician that an employee has reached Maximum Medical Improvement, or an equivalent statement (e.g. return to work notice from the treating physician without any restrictions).

11. Appeal Process

- a. If an OJI claim for benefits has been denied in whole or in part by OJI administration, the employee may appeal the denial, in writing, to the Administrator for the Shelby County Human Resources department or his/her designee within 10 regular County business days from the date of the denial.
- b. If the Administrator for Shelby County Human Resources department or his/her designee denies the employees appeal, the employee may appeal the decision, in writing, to the Deputy Chief Administrative Officer (CAO) of the County or his/her designee within 10 regular County business days from the date of the denial. The Deputy CAO or his/her designee is the final administrative step in the appeals process.