

INFORMATION FOR TRAVEL RISK MANAGEMENT

Worker Compensation Coverage

Worker compensation insurance is extended to employees of the university and provides coverage for individuals that are injured during the performance of job-related duties. These duties may include travel for meetings, events, seminars and other activities that further the mission of the institution. Typically, coverage includes medical treatment and may include lost wages. However, some limitations apply with respect to lost wages. Our worker compensation is managed by the Injured Worker Insurance Fund (IWIF).

Generally, the term “employee”, as it relates to the applicability of the Worker Compensation Act, may be interpreted to include an individual that is compensated to perform certain duties in furtherance of the mission of the university and working under some form of Salisbury University employment contract. According to a recent opinion letter from the general counsel to IWIF, this compensation may also take the form of remuneration of employee expenses for travel, room and board. Coverage may also be afforded to employees if their primary contract is not in force at the time of the trip. For example, a faculty member would be covered as an employee when participating outside their primary contract period, such as the summer months.

Basics for covered employees:

- Multi-day trips that involve an overnight stay away from the campus are covered 24 hours, 7 days a week with some limitations.
- All claims must be filed in Maryland; this is typically done through Human Resources. Forms for injury reporting are available on the web (<http://www.salisbury.edu/healthsafety/accident>).
- Serious injuries requiring immediate assistance after regular business hours may be called directly to the service provider (IWIF) 24 hours a day, 7 days a week, 365 days a year (**888-410-1400**).
- When called, IWIF will provide a claim number and an Express Script number to obtain prescriptions without out-of-pocket payment. In addition, they may provide some information regarding patient care.

A recent opinion letter from IWIF general counsel indicated that IWIF should cover work-related international travel injuries. However, this is reviewed on a case-by-case basis and procedures for international travel injury care have not been established. Therefore, international travel medical emergency care insurance should be purchased where needed. International travelers need to contact a provider agency for coverage for emergency medical, evacuation and repatriation to bridge any coverage problems in advance of any trip. A list of providers is included at the end of this document as a resource. These companies typically provide 24 hour customer support and should be contacted directly in the event claims assistance is required.

Some scenarios are described below to provide examples of activities that are covered for worker compensation and others that are not.

Scenario 1 - Employees assisting with an event as a part of their regular contractual duties:

- Employees that provide assistance with trips that are considered a part of their contractual duties are covered for worker compensation in-state and out-of-state with some limitations of coverage.
- All worker compensation claims must be filed in Maryland (see “basics for covered employees” – above).
- Certain activities will not be covered by worker compensation. For example, an injury that occurs at a nightclub or an activity that is unrelated to the event and is not an expectation for the employee to attend or participate. These activities might be covered under a medical insurance policy purchased by the individual - or may not, depending on the coverage provided.
- International travel coverage limitations may vary by provider and should be understood before the trip.

Scenario 2 - Employees assisting with an event where the assistance is not their regular duty, possibly under a special services contract and being compensated by either a cash payment or by coverage for expenses during the trip:

- Employees that participate in events with compensation, including international trips that are not considered a part of their contractual duties are covered for worker compensation - with some limitations of coverage; the information from Scenario 1 also applies.

Scenario 3 – Non-employees assisting with an event, even if being reimbursed for lodging, travel and meals, are considered volunteers:

- Worker Compensation coverage is not provided for volunteers serving the State of Maryland Programs including universities. In the event that a volunteer is injured in the course of service due to the negligence of the University, they may submit a claim for their injuries under the Maryland Tort Claims Act. See below, Liability Coverage, Maryland Claims section, for details on which volunteers are covered. An electronic copy of the volunteer form may be found on the HR website (www.salisbury.edu/hr/PolProc/VolunteerAgreement).

Scenario 4 – Employees and non-employees participating as volunteers without reimbursement of expenses:

- Worker Compensation coverage is not provided for volunteers serving the State of Maryland Programs including universities. The coverage described in Scenario 3, above, applies in this case. See below, Liability Coverage, Maryland Claims section, for details on which volunteers are covered. An

electronic copy of the volunteer form may be found on the HR website (www.salisbury.edu/hr/PolProc/VolunteerAgreement).

Scenario 5 – Injuries sustained by employees during airline travel while “traveling on the business of the State”:

- Employees are automatically covered for injuries received while getting on, riding in, getting off of or being struck by an aircraft.
- Beneficiaries are designated by the employee under the State’s retirement plan unless declared otherwise on the air travel beneficiary form.
- Maximum coverage is \$300,000 per person and \$1,500,000 per accident with no deductible.

Liability Coverage

State personnel, including employees and those volunteers who meet specified technical requirements (see below), are provided with liability insurance coverage as described here:

Maryland Claims

- The liability of the State may not exceed \$200,000 for a single claimant and may not include punitive damages.
- State personnel, including employees and volunteers, likely will be provided a legal defense for incidents arising from their participation in the University’s program. Volunteers, including student volunteers, will be covered as long they were:
 - (1) performing a service to or for the University when the incident occurred
AND
 - (2) participating in a formal volunteer program or were recognized formally, before the service began, as a volunteer.
- State personnel cannot be held liable under Maryland law for simple negligence but may be responsible beyond the \$200,000 cap if their conduct was malicious or grossly negligent.

United States Claims

- State personnel who participate in University events likely will be defended for tort claims out-of-state with some limitations.
- Some states and international destinations do not recognize the \$200,000 cap. Therefore, the coverage may not be sufficient in those cases and excess damages might be covered by the institution.
- State personnel acting for and on behalf of the institution may be sued and held personally liable for negligent acts under tort law, depending on the State where the claim is brought.

Foreign Claims:

- State personnel may be subject to the jurisdiction of foreign courts under foreign law for claims brought outside of the U.S.
- In addition to compensatory damages, punitive damages may also be awarded depending on the applicable foreign law.
- The University and any named individuals will need to hire outside foreign counsel to defend claims brought outside of the U.S. This can be expensive with unpredictable outcomes. In many circumstances, the University's counsel can represent the named individuals as well, reducing the personal costs to the individual.
- If possible, international travel liability coverage should be purchased from outside insurance carriers.

Example Tort Claim Allegations:

- Failure to perform due diligence in determining the political stability of the host country
- Failure to perform due diligence in determining the safety of the host educational institution or facility
- Failure to perform due diligence in determining the safety of the student housing accommodations
- Failure to inform students of proper personal safety procedures
- Negligent driving
- Negligent student supervision
- Negligent emergency evacuation planning
- Negligent response to a medical emergency
- Negligent response to a dangerous situation

Submitting Liability Claims

As detailed in Annotated Code of Maryland, State Government Title 12, Section 12-106(b) (1) and 12-107 (a) (1)-(5), all claims against the State of Maryland or any of its agencies must be submitted, in writing, by the claimant to the Claims Unit-Insurance Division of the State Treasurer of Maryland within one year after the injury to person or property. This requirement is limited to claims brought in Maryland.

The letter should be addressed to State of Maryland Treasurer's Office 80 Calvert Street, Goldstein Treasury Building, Annapolis, Maryland 21401. The letter should concisely describe the detail of the alleged incident including date, time, exact location and a description of damage or injury.

The department should make every effort to have the University Police (410-543-6222) respond and fill out a report and to notify Environmental Health & Safety either by phone (410-546-6485) or email (wxshelton@salisbury.edu). It is essential that the incident be investigated and the facts documented.

List of Travel Insurance Providers (Liability, Auto, Property & Emergency Medical)

All products: Educators Elite Worldrisk Insurance from AIG (www.aigworldsource.com)

Medical only: International SOS (www.internationalsos.com) ...used by CP and UMB

Medical only: Medexassist (www.medexassist.com)

Other providers:

Ace insurance

Alliance

XL

Chubb

CNA

Zurich

St. Paul

Lloyds of London