



Return-to-Work Policy

July 3, 2014

When employees are injured on the job, or when they suffer debilitating injuries or illnesses unrelated to their work, it is in both the employer's and the employee's best interests to see the employee return to work as quickly as possible. Generally, the longer injured employees are away, the less likely they are to return to the workplace. Ideally, return-to-work programs enable employees who have suffered illness or injury to resume work sooner, even while still recovering. These programs result in employers' lowering the length and duration of employee absences, thereby reducing employer costs as well as enabling employees to return sooner to both good health and productivity, and thus return sooner to full earning capacity.

Typically, back-to-work programs begin with HR personnel developing a formal written return-to-work policy, such as the one below.

Coordinating leaves of absence (LOAs) and employees' return to work from such leaves under the various federal and state statutes can be a challenging task. Employers must comply with three federal statutes—the **Family and Medical Leave Act (FMLA)**, the **Americans with Disabilities Act (ADA)**, and the **Uniformed Services Employment and Reemployment Rights Act (USERRA)**. Additionally, where the leave is necessitated by a workplace injury, state workers' compensation statutes must also be considered in return-to-work situations.

Purpose

[Company Name] strives to assist employees to return to work at the earliest possible date following an injury or illness. However, this policy is not intended to supersede or modify the procedures applicable to employees eligible for reasonable accommodation or covered Act (ADA) or leave benefits under the Family and Medical Leave Act (FMLA). Inquiries about the ADA or FMLA should be directed to the human resource department (HR).

Eligibility

The policy applies to all eligible workers and will be followed whenever appropriate.

Transitional Work

[Company Name] defines “transitional work” as temporary, modified work assignments within the worker's physical abilities, knowledge and skills.

When possible, transitional positions will be made available to injured workers to minimize or eliminate time lost from work. [Company Name] cannot guarantee a transitional position and is under no obligation to offer, create or encumber any specific position for purposes of offering placement to such a position.

The policy only applies to regular full- and part-time employees who are on leave as a result of injury or illness and who are receiving workers' compensation benefits.

In the event an employee refuses transitional work (outside the employee's FMLA benefits period) and the employee satisfies the restrictions and ability to perform the transitional position, [Company Name] is not obligated to provide an alternative position. In such cases, [Company Name] will notify the insurance carrier of the employee's refusal of the transitional work.

Procedures

To obtain a transitional assignment the employee must request a Return-to-Work Form and a Job Description Form from HR and provide them to the attending physician for completion.

If the attending physician releases the employee to return to work on modified duty and has completed the Return-to-Work Form and Job Description Form, the forms must be returned to HR within 24 hours following the medical treatment for assessment of transitional work. The employee cannot return to work without the release of the attending physician.

HR will review the Return-to-Work Form and determine a transitional position for the employee if appropriate and transitional work falls within business needs. A transitional position job description, including physical requirements, will be prepared for review and approval by the attending physician.

Transitional positions are developed based on the physical capability of the worker, the business needs of the company and the availability of transitional work. [Company Name] will determine appropriate work hours, shifts, duration and locations of all work assignments. [Company Name] reserves the right to determine the availability, appropriateness and continuation of all transitional work assignments.

It is the responsibility of the employee to provide HR with a current telephone number and address, so the employee may be contacted. The employee must notify HR within 24 hours of any and all changes in medical conditions.

It is the responsibility of the employee or the employee's supervisor to notify HR immediately of any work-related injuries, if the employee misses time from transitional work or of any changes to transitional work assignments. HR will communicate with the insurance carrier or attending physician as necessary.

Job Offer

Upon completion of the Return-to-Work Form and the attending physician's approval of the transitional position, a written job offer letter will be prepared by the employer and mailed to the employee's last known address. The letter will note the doctor's approval and the start date, hours, wage, duration and location of the transitional work assignment. The employee will be asked to sign the letter indicating his or her acceptance or refusal of the transitional work job offer and to return the letter to HR. Copies of the job description, work releases and job offer letter will be forwarded to the insurance carrier.

Any employee returning to a transitional position must not exceed the duties of the position or go beyond the doctor's restrictions. If any medical restrictions change, the employee must immediately notify his or her supervisor and provide the supervisor a copy of the new medical release.

Supervisors will monitor work performance to ensure the employee does not exceed the requirements set by the attending physician.

This material is for informational purposes only and not for the purpose of providing legal advice. You should always contact your attorney to determine if this information, and your interpretation of it, is appropriate to your particular situation.