Return To Work (Modified Duty) Program



1. POLICY STATEMENT

It is the policy of XXX, when possible, to modify work assignments for a limited period to assist employees who are temporarily restricted from performing their regularly assigned duties due to an on-the-job injury.

(Note: This policy should not be construed as recognition that an employee has a disability or serious health condition as defined by or as applicable pursuant to the Americans with Disabilities Act (ADA) of 1990, as amended, or the Family and Medical Leave Act. The employer will follow the requirements of the ADA and/or the FMLA, if applicable, in circumstances that implicate those Acts).

2. SCOPE

This policy applies to all XXX employees.

3. DEFINITIONS

A **Return to Work** (or **Modified Duty**) position is a temporary position to which an employee is assigned when he/she is unable to return to his/her regular position following an on-the-job injury or illness. The Return to Work position temporarily addresses the restrictions placed on an individual by the employee's treating doctor.

Employment related injury is an injury or occupational disease, which arises out of the course of employment

Physician in this policy means a (e.g. doctor of medicine, osteopathic medicine, optometry, dentistry, podiatry, or chiropractic who is licensed and authorized to practice as defined in the [name state] Workers' Compensation Regulations [state] Labor Code, Title XXX,)

4. ELIGIBILITY

To be eligible for participation in the Program, an employee must provide a written statement (Form XXX) from his/her treating physician that he/she is:

- Temporarily unable to perform his/her essential duties, following an employment related injury or illness and
- Capable of carrying out work of a modified nature from his/her regular duties and is expected to return to his/her regular duties within XXX <usually 90> calendar days.

5. PROCESS

1. Once notified of an on-the-job injury or illness, the department must complete a First Report of Injury (Form XXX) for Workers' Compensation and inform the employee in writing of the Return to Work Program (Modified Duty).
2. The employee must be seen and evaluated by the treating physician to determine if the employee is able to return to work, and if so, with or without restrictions. At the time of the evaluation, the employee must inform the physician of the Return to Work Program, and provide him/her with a copy of the employee's regular job description that identifies the essential functions of the job and its requirements.
3. When the employee is able to return to work with restrictions, the treating physician must complete the (Form XXX –), indicating the specific restrictions, and the duration of those restrictions. Clarification regarding temporary restrictions may be requested of the treating physician.
4. Taking into consideration the information provided by the physician, the employee's department, in consultation with (name of HR Department), will determine if a temporary Modified Duty assignment can be offered. It should be understood that there may be instances in which XXX will not be able to offer a Modified Duty assignment.

If the employee's regular department is unable to meet the employees need for Modified Duty, the employee's department is responsible for payment of the employee's salary and benefits while performing a Modified Duty position in a different department which has been able to meet the employees' need for Modified Duty.

6. COMPENSATION

In most cases, there will not be an adjustment in the compensation of the employee that is placed in a Modified Duty position. However, the employee placed in a Modified Duty position will be paid a salary that is equivalent to the salary of other employees holding the same position.

The salary and benefits of the employee will remain the responsibility of the original employing department, including during any period of temporary placement external to the department.

7. OFFER OF MODIFIED DUTIES POSITION

Once the employee has been approved to participate in the Return to Work Program, the department must provide a Return to Work (Modified Duty) job offer letter. This letter shall include:

1. The position offered.
2. The location and duties of the position offered.
3. The wages and schedule of the position offered.
4. The duration of the temporary work assignment.
5. A statement that the department will only assign a position/duties consistent with the employee's knowledge and skills, and will provide training if necessary.
6. A statement acknowledging that the employer is knowledgeable about and will

abide by the limitations under which the treating physician has authorized the return to work.

8. REFUSAL OF MODIFIED DUTIES OFFER

An employee may choose to accept or refuse the Return to Work (Modified Duty) job offer. However, an employee who refuses a Modified Duty job offer may be subject to termination. Rejection of the job offer might also result in cancellation of income benefits under Workers' Compensation Insurance.

9. DURATION OF MODIFIED DUTY

A Return to Work with Modified Duty offer will be extended for an initial period not to exceed XXX (usually 90) calendar days. The duration of approved time will be based upon the information provided by the employee's physician. If the employee is unable to return to work at full duty after the initial approved time, he/she may request a continuation of Modified Duty not to exceed a total of XXX (usually 90 calendar days) in a Modified Duty capacity.

An employee requesting an extension of Modified Duty, beyond the originally approved amount of time in the Return to Work with Modified Duty offer letter, must submit documentation to the department from his/her treating physician. This document should include what limitations continue to exist and the probable duration of those limitations.

If an employee is unable to return to work at full duty after XXX (usually 90 calendar days), he/she may request a continuation of Modified Duty not to exceed a total of XXX (usually180 calendar days) in a modified capacity. Approval beyond XXX (usually 90 calendar days) will be based upon the assessment of the employee's ability to return to full duty within the immediate future. An employee requesting an extension beyond XXX (usually 90 calendar days) must submit updated information from his/her treating physician.

10. END OF MODIFIED DUTY

An employee who is unable to return to his/her regularly assigned duties at the end of the Modified Duty agreement may request a leave of absence through his/her department or may elect to terminate his/her employment with XXX.

Provided the employee has exhausted any entitlement under the Family and Medical Leave Act (FMLA), the department has the option to approve or deny the leave of absence request. If Leave Without Pay is denied, employment with XXX will be terminated.

If the employee believes that the condition is permanent, progressive, or chronic, the employee may pursue XXX's Americans with Disabilities Act Accommodation Policy to determine if they are a qualified individual with a disability.

FOR ASSISTANCE:

XXX is responsible for administering the Return to Work Program in consultation with the employee's department. Questions regarding the Return to Work Program should be directed to XXX.