

GUIDELINES FOR EMPLOYERS' **RETURN-TO-WORK PROGRAMS**



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The Guidelines as stated herein are subject to review and may be amended by WorkCover NSW.

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Disclaimer

This publication contains industry recommended action or information regarding occupational health, safety, injury management or workers compensation. It includes some of your obligations under the various Workers Compensation and Occupational Health and Safety legislation that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate Acts.

This publication may refer to WorkCover NSW administered legislation that has been amended or repealed. When reading this publication you should always refer to the latest laws. Information on the latest laws can be checked at www.nsw.gov.au or contact 13 10 50.

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1. INTRODUCTION

We all have a social and economic interest in ensuring that workers return to work safely and as soon as possible following a workplace injury or illness. The longer an injured worker has to wait for assistance the less likely it is to be effective. Hence, early return-to-work is a central feature of the workers compensation system in NSW.

Effective injury management relies on the cooperative efforts of all participants – employers, workers, insurers, doctors and other health practitioners. The key principles underlying the safe and early return-to-work of injured workers include:

- The need to have systems in place to ensure everyone at the workplace agrees, understands and knows what to do in the event of an injury
- Early reporting of injuries and early intervention
- The workplace being the most effective place for the majority of workers to recover from their injury
- Workers and employers working in consultation.

Employers must document policies and procedures outlining the system to manage workers who suffer a work-related injury or illness. This document, called the Return-to-Work Program, must be consistent with the Injury Management Program of the employer's insurer. The Injury Management Program is the blueprint statement that sets out how treatment, rehabilitation, claims management and employment practices are to be coordinated to achieve a safe and durable return-to-work for an injured worker.

The 'Guidelines for Employers' Return-to-Work Programs' will assist employers to comply with their legislative obligations under the *Workplace Injury Management and Workers Compensation Act 1998* and the *Workers Compensation Act 1987*.

The requirement that employers be involved in the return-to-work of injured workers was introduced in the *Workers Compensation Act 1987*. In 1998, the *Workplace Injury Management and Workers Compensation Act* was proclaimed and introduced the concept of injury management to include treatment, rehabilitation and retraining of injured workers, claims management and employment management practices. In addition, the new law changed the name of a rehabilitation program to a Return-to-Work Program. Further regulatory changes in 1999 changed the name of the rehabilitation coordinator to return-to-work coordinator and allowed for shared return-to-work coordinator arrangements between Category 1 employers.

The Guidelines for Employers' Return-to-Work Programs apply to Category 1 employers

A Category 1 employer is:

- an employer whose basic tariff premium exceeds \$50,000 per annum, or
- an employer who is self-insured, or
- an employer who is insured by a specialised insurer, and who employs more than 20 workers.

A Category 2 employer is:

- any employer who is not a Category 1 employer.

Guidelines for shared arrangements for return-to-work coordinators for Category 1 and Category 2 employers and Confidentiality Guidelines are also contained in this publication.

A checklist to assist employers to comply with the legislative requirements of injury management is located in section 4 of this publication, Return-to-Work Program Content. The requirements of the Premium Discount Scheme Benchmark 'Injury Management' is located in Appendix E.

2. OBLIGATIONS

(i) Employer

- To ensure the health, safety and welfare at work of all workers.
- To have a summary of the Workers Compensation legislation about the giving notice of an injury and the making of a claim, on display in the workplace.
- To have a workers compensation insurance policy covering all employees.
- To keep a record of wages paid for at least the previous seven years (failure to comply may result in a fine of \$500 or prosecution with a penalty of up to \$55,000 – current at time of printing).
- To repay the insurer the first \$500 of each weekly compensation claim, except claims for injuries received by workers while travelling to and from work. Employers with a premium of \$3,000 or less can pay an extra 3% on their premium, instead of the \$500.
- To not dismiss an injured worker because of the injury within six months of the worker becoming unfit.
- To have started developing a Return-to-Work Program with the commencement of business operations and to have the program in place within 12 months of becoming an employer.
- To develop, implement and review the Return-to-Work Program in consultation with workers and relevant unions.
- To select and nominate rehabilitation providers in consultation with workers and relevant unions.
- To produce the Program in printed form.
- To display a summary of the Program prominently in the worksite.
- To pay for the initial cost of developing the Return-to-Work Program.
- To provide workers with adequate information on return-to-work and compensation procedures.
- To appoint and train a return-to-work coordinator.
- To notify the insurer within 48 hours when a worker has a significant injury (one where the worker will be away from their normal duties continuously for more than seven calendar days), or within seven days for all other injuries.
- To have a Register of Injuries book in which workers should write work-related injury details.
- To provide a worker with a workers compensation claim form if requested.
- To send an injured worker's claim form to the insurer within seven days of receipt of the claim.
- To make suitable duties available to injured workers who are certified fit for suitable duties.

- To notify the insurer if unable to provide suitable employment when requested by a partially incapacitated worker.
- To participate and cooperate in the establishment of an injury management plan for an injured worker.
- To provide workers with adequate information about workers compensation and return-to-work procedures, including the selection of a rehabilitation provider and how to change providers, if required.
- To refer a worker to a rehabilitation provider if the worker faces barriers in returning to work.
- To cooperate with the insurer in providing retraining to an injured worker who is unable to return to their pre-injury job.
- To comply with obligations imposed on the employer in the injury management plan written by the insurer.
- For significant injuries an Accident Report Form must be completed and returned to the nearest WorkCover office. This applies whether the injured person is a worker, contractor or visitor to the workplace.

For detailed information on an employer's workers compensation, occupational health and safety, and injury management obligations refer to the checklist on page 19.

(ii) Worker

- To cooperate with the employer to prevent work-related injuries to self and others.
- To cooperate with the employer to enable the employer to meet their return-to-work obligations.
- To cooperate in worksite changes designed to assist the return-to-work of fellow workers.
- To notify the employer of a workplace injury as soon as possible after the injury happens.
- To specify one nominated doctor or medical practice who is prepared to participate in the development and implementation of an Injury Management Plan.
- To give consent for the nominated treating doctor to provide information for the purposes of an Injury Management Plan and Return-to-Work Plan.
- To participate and cooperate in the establishment of an Injury Management Plan.
- To comply with any Injury Management Plan written for them.
- To make all reasonable efforts to return to work with the pre-injury employer as soon as possible.

Workers should be made aware that if they unreasonably refuse to cooperate with their injury management plan, the insurance company can suspend weekly benefits. Before suspending benefits, the insurer must write to the worker stating the reasons for suspension and what the worker must do to prevent the suspension.

(iii) Insurer

- Must ensure that employers are made aware of their legislative obligations in relation to the insurer's Injury Management Program.
- Within seven days of being notified by the employer (or the worker, or another person) that a worker has sustained a significant injury, the insurer must begin provisional payments of weekly benefits and medical expenses, or advise the worker of why they will not make payments.
- Within three days of being notified that a worker has sustained a significant injury, the insurer must contact the employer, worker and doctor. Subsequently, an Injury Management Plan must be developed for that worker in line with timeframes in the insurer's Injury Management Program.
- Must consult with injured worker, employer and nominated treating doctor in the development of an Injury Management Plan.
- Must provide both the employer and the injured worker with information with respect to the Injury Management Plan.
- Must inform the worker that entitlements to weekly benefits can be suspended if the worker does not reasonably comply with the Injury Management Plan.
- Must have procedures in place for an injured worker to change their nominated treating doctor and must inform the injured worker of these requirements.
- Must consult with the injured worker, employer and nominated treating doctor when referring to a rehabilitation provider. They must advise the injured worker that they can select a rehabilitation provider and must inform the injured worker of the process to be followed when changing a rehabilitation provider.
- Must ensure vocational retraining is provided or arranged for an injured worker where appropriate, that is, when a return to pre-injury duties and provision of suitable duties is no longer possible.

(iv) Nominated Treating Doctor

The nominated treating doctor is responsible for:

- Completing WorkCover Medical Certificates.
- Arranging and monitoring appropriate treatment.
- Specifying work restrictions and advising on the suitability of duties offered by the employer.
- Providing information to the insurer and employer in relation to Injury Management and Return-to-Work Plans for injured workers.
- Reviewing the progress of recovery of the injured worker.
- Arranging referral to an accredited rehabilitation provider, if required, and if not initiated by the employer or insurer.

3. HOW TO DEVELOP A WORKPLACE RETURN-TO-WORK PROGRAM

This section outlines the essential elements of an employer's Return-to-Work Program, with guidelines for its establishment.

A Return-to-Work Program is a summary of an agreed system that an employer must have in place, in readiness for the management of workers who suffer a work-related injury or illness. The Return-to-Work Program is an agreed system between the employer and worker representatives that is developed before any injury or illness occurs. It is made up of a series of policies and procedures. The underlying principles of the system and examples of wording are outlined in the following pages. The final wording and format is a decision for each workplace.

The policies and procedures outlined in these Guidelines are a minimum requirement for a Return-to-Work Program. Employers, in consultation with workers, may add additional policies or procedures which are relevant to their work environment. The Return-to-Work Program for an individual employer must reflect the business practices, culture and environment of the workplace.

The employer's Return-to-Work Program forms a component of the overall injury management approach of the insurer and must be consistent with that insurer's Injury Management Program. Insurers' programs may require employers to include specific policies and procedures.

The effectiveness and continuing acceptability of the Program should be reviewed on a regular basis and agreed by the relevant parties. All Programs should set specific dates for review.

The emphasis on a systems approach to 'management following injury' complements the requirements of the WorkCover Premium Discount Scheme. The benchmark 'Injury Management' is attached in Appendix E. For an employer to be eligible for a discount on their workers compensation premium in the first year of participation in the Premium Discount Scheme, all elements of this benchmark must be achieved in their first PDS-related audit.

4. RETURN-TO-WORK PROGRAM CONTENT

A return-to-work program must cover the following key areas:

- Prevention of occupational injuries/illness
- Developing and implementing the Return-to-Work Program
- Consultation with workers and, where applicable, unions
- Early commencement of injury management and early return-to-work
- Provision of suitable duties
- Return-to-work not to disadvantage injured workers.

(i) Prevention of occupational injuries and illness

An emphasis on injury prevention in the workplace will reduce workplace injury and illness.

Principles

- Employers must comply with their obligations under the *Occupational Health & Safety Act 2000* to maintain a safe and healthy working environment.
- Employers should understand the requirements regarding identification, assessment and control of workplace risks to prevent injury and illness.
- The investigation of workplace incidents in a spirit of 'no blame' is an important factor in the development of prevention programs.
- Formal consultation procedures between employers and their workers play an important role in helping to provide a safe and healthy working environment. Employers must consult their workers on issues concerning their health, safety and welfare at work.

Example of a Policy about prevention of occupational injuries and illness:

'This employer is committed to preventing injury and illness through providing a safe and healthy working environment.'

Procedures for the prevention of occupational injuries and illness:

- The implementation of a systematic approach to the identification, assessment and control of hazards which may cause injuries and illness.

(ii) Developing and implementing the Return-to-Work Program

It is mandatory for Category 1 employers to develop a Return-to-Work Program, in consultation with their workforce. Category 2 employers can adopt the standard Return-to-Work Program available from WorkCover.

Employers can enlist assistance in developing their Return-to-Work Program from bodies such as a return-to-work sub-committee of the Occupational Health & Safety Committee, an employer association or an accredited rehabilitation provider.

Use the WorkCover guidance material that follows. Remember to modify the steps in the return-to-work process to suit your individual organisation.

Principles

- A workplace Return-to-Work Program is to be developed. The Return-to-Work Program outlines a plan of action common to all workers, from early notification by workers through to return to normal duties or redeployment into appropriate alternative employment if required.
- The employer's Return-to-Work Program must be consistent with the insurer's Injury Management Program and be reviewed at least every two years.
- A Return-to-Work Program is developed in consultation with workers and their representatives.
- The Return-to-Work Program will include the names of nominated rehabilitation providers, selected in consultation with employer representatives or their union.
- Injured workers can choose their own rehabilitation provider, following consultation with the employer and insurer.
- The Return-to-Work Program should include procedures that will apply to workers who are returning to work while receiving treatment.
- Treatment by medical practitioners and other health professionals is intended to facilitate return-to-work, not impede it. Workers need to nominate a medical practitioner to be involved in managing their treatment and providing advice on return-to-work activities.
- The Return-to-Work Program should reflect management commitment and should be signed or otherwise endorsed by senior management and by senior worker representatives involved in its development.

Example of a policy for developing and implementing the Return-to-Work Program

'This employer has, through consultation and agreement with worker representatives, developed a Return-to-Work Program for the management of workers who are injured at work. This Program forms part of the operating procedures of the organisation, is consistent with the insurance company's Injury Management Program and will be reviewed every two years.'

Procedures for developing and implementing the Return-to-Work Program

- Write the Return-to-Work Program in plain English and consider making it available in other languages where required.
- Divide the Return-to-Work Program into sub-headings:
 - Notification of injury
 - First aid, medical treatment
 - Early contact with worker and treating health services
 - Role of the return-to-work coordinator
 - Role of the accredited rehabilitation provider
 - Provision of suitable duties
 - Arrangements for dispute resolution
 - Administrative arrangements
- Appoint an appropriately trained return-to-work coordinator, and list the name and contact details on the Return-to-Work Program. The return-to-work coordinator has a central communication role as the link with all of the key players. More information about the role of the return-to-work coordinator can be found on pages 22-24. The initial role of the return-to-work coordinator is to develop a Return-to-Work Program in consultation with the workforce.
- Nominate preferred rehabilitation providers in the Return-to-Work Program. Consideration should be given to the fields of expertise that a particular worksite may require. For example, a financial institution may need a rehabilitation provider who is familiar with occupational overuse injuries and/or management of critical incidents. Following consultation, the selection of nominated providers will be agreed between the employer and workers or their representatives. Management will facilitate reasonable access to the worksite by any rehabilitation provider who may be involved in rehabilitation at that worksite. The program should address action to be taken if a worker wishes to change a rehabilitation provider.
- Arrange discussions/meetings with worker representatives to draft the Return-to-Work Program and to agree on steps to be taken to return injured workers to work as soon as possible.

(iii) Consultation with workers and, where applicable, unions

Under the *Workplace Injury Management and Workers Compensation Act 1998*, the employer is required to consult with the workers and any industrial union of employees representing those workers in developing a Return-to-Work Program.

Workers should be informed of their rights and obligations regarding return-to-work and workers compensation. It is in the employer's interest to provide them with clear information to avoid misunderstandings and uncertainty. An open communication policy encourages cooperation and participation in the return-to-work process.

The form of consultation should be noted on the Return-to-Work Program.

Principles

- Consultation with workers can be facilitated through workplace occupational health and safety committees, unions or other agreed consultative mechanisms.
- The particular needs of workers who speak a language other than English should be considered.

Example of a policy to consult with workers

'This Return-to-Work Program was developed by... (management representative) in consultation with... (worker representatives).'

'Workers will be regularly informed of their rights and responsibilities and of company policies on return-to-work. Workers will be consulted through the following mechanism...'

Procedures for consultation with workers

- The Return-to-Work Program must be displayed at all worksites.
- Mechanisms for consulting workers can include:
 - Unions
 - A formal consultation mechanism with workers and unions
 - Occupational health and safety committees
 - Worker induction programs, training courses, staff meetings, newsletters and notice-boards can be used to communicate the employer's requirements in relation to return-to-work processes.
- A system for use of interpreters for workers who speak languages other than English is to be established. See Interpreter Services in WorkCover contacts and information in Appendix B.

(iv) Early commencement of injury management and early return-to-work

The prospect for return-to-work is greatest when the process commences as soon as possible after an injury occurs. The longer an injured worker has to wait for appropriate assistance, the less likely it is to be effective.

Employers are required to report significant injuries to their insurer within 48 hours of being aware of the injury, and within seven days for all other injuries. The insurer has the responsibility to contact the worker and employer within three days of notification for all workers with significant injuries, and to contact the treating doctor as well if appropriate and reasonably practicable.

The employer must participate and cooperate in the development of an injury management plan by the insurer for every worker with a significant injury. This plan will outline all the

return-to-work activities and treatment services for a particular injured worker. The employer and the worker must comply with obligations imposed on them under the injury management plan – the insurer will advise on obligations and potential penalties.

The workplace can be the most effective place for the majority of workers to recover from their injury, with the provision of duties consistent with the worker's medical fitness for work.

Principles

- Employers need to foster a workplace culture which promotes early return-to-work.
- There should be an accurate medical diagnosis and immediate treatment of the injury or illness in order to facilitate early management of the injury.
- The recovery period away from the worksite should be as short as is safely possible.
- Priority should be given to an early, safe return to suitable duties following injury or illness, in a manner that takes account of all relevant factors including medical input.
- There should be a staged return to normal duties whenever necessary.
- The hierarchy of return-to-work goals should be followed:
 - same duties/same employer
 - different duties/same employer
 - same duties/different employer
 - different duties/different employer
- Training for another job with the current employer, or with a different employer, should be considered as soon as possible if the injury prevents a worker from permanently returning to pre-injury duties.

Example of a policy for the early commencement of injury management and early return-to-work

'This employer will ensure that the return-to-work process is commenced as soon as possible after an injury in a manner consistent with the workers medical fitness for work.'

'This employer is committed to ensuring that early return-to-work by an injured worker is a normal practice and expectation.'

Procedures for the early commencement of injury management and early return-to-work

- The employer will develop a system for early reporting by workers of injuries they sustain, and inform the workforce of their obligations to follow these procedures.
- The employer must have a system for notification of significant injuries to the insurer within 48 hours of becoming aware of the injury, and for notification of all other injuries

within seven days. Significant injuries are also to be notified to WorkCover using the Accident Notification Form.

- A system for early contact with the worker and the worker's treating doctor should be developed.
- The employer will assist the insurer to develop an Injury Management Plan, inclusive of suitable duties, as soon as possible after notification of the injury.
- The times at which the worker will attend for treatment will be included in return-to-work plans and will be negotiated between the worker and the employer. (Consideration needs to be given to the location of work/treatment, work routines/productivity, worker responsibilities while at work.)
- Treatment should be obtained by workers out of working hours whenever practicable.
- A confidential return-to-work file on each injured worker will be established and maintained. The individual files will be held by the return-to-work coordinator, and access to the worker's own file will be granted, if requested. (See Confidentiality Guidelines in Appendix C.) Coordinators will provide assistance to workers who speak languages other than English to understand the correspondence in the files. This may include arranging interpreter services. (Information about the provision of interpreter services and bilingual community resources is available in Appendix B.)

(v) Provision of suitable duties

The fact that a worker is injured does not always mean they cannot work at all. The most important aspect of an employer's commitment to helping an injured worker to return to work in a timely and safe manner, is to provide suitable duties.

At the workplace the employer, designated return-to-work coordinator or an accredited rehabilitation provider is likely to be the person helping to identify the availability of suitable duties. The successful identification of these will ultimately be determined by the quality of information collected with regard to:

- the worker's capacity for work
- the demands and nature of tasks within the workplace
- how readily these tasks can be matched to help upgrade and improve the worker's capacity for work to achieve a safe return to normal duties.

The first option to consider is the duties closest to the worker's normal duties.

Principles

- Employers must comply with Section 49 of the 1998 Act, which requires that:
 - An employer will provide suitable employment when an injured worker is able to return to work, either on a full-time or part-time basis.

- The suitable employment provided will be (as far as is reasonably practicable) the same as or equivalent to the work being performed at the time of the injury.
- Careful individual assessment of such duties is required. Such assessment should address the possible duties, the worksite and the worker's medical restrictions and physical capacity.
- Duties provided must be suitable as defined in Section 43A of the 1987 Act. (Copy of Section 43A is attached in Appendix G.)
- An individual Return-to-Work Plan should be developed for each injured worker on suitable duties. A Return-to-Work Plan can be developed by a trained return-to-work coordinator, or an accredited rehabilitation provider in consultation with all the relevant parties, including the nominated treating doctor. Copies of the agreed Return-to-Work Plan should be distributed to the injured worker, employer and treating doctor.
- A Return-to-Work Plan should be in writing and contain:
 - the job title and location
 - agreed purpose or goal of suitable duties (for example, to return to pre-injury job, or an interim measure to assess capacity to return to pre-injury, or to an alternative job)
 - the supervisor
 - hours/days to be worked
 - duties, including restrictions or specific duties to be avoided
 - arrangements to attend treatment or medical appointments
 - commencement date
 - length of program
 - review dates
 - documented agreement by all parties.
- In developing Return-to-Work Plans, consideration should be given to:
 - the special needs of individual workers, for example, the communication needs of workers who speak languages other than English
 - the personal circumstances of injured workers that may impact on suitable duties, for example, child care arrangements
 - industrial issues in the worksite
 - impact on the workload of other workers
 - the worker may require training in the suitable duties tasks prior to the Return-to-Work Plan being implemented.

Example of a policy to provide suitable duties

'...This employer offers suitable duties to partially incapacitated workers. The officer responsible for arranging suitable duties for this worksite is...'

Procedures to provide suitable duties

- No duties shall be offered without approval from the nominated treating doctor or, in exceptional cases, other medical advice. The employer will develop a system for communication with the worker's nominated treating doctor to confirm the suitability of duties.
- The following (as per Section 43A of the 1987 Act) will be considered when determining whether a job for a partially incapacitated worker is suitable:
 - the nature of the worker's incapacity and pre-injury employment
 - details of physical restrictions given in the medical certificate supplied by the treating doctor
 - the worker's age, education, skills and work experience
 - where the worker resides
 - the provisions of any Injury Management Plan for the worker
 - any suitable employment for which the worker has received rehabilitation training
 - the length of time the worker has been seeking suitable employment
 - suitable duties must be productive and meaningful (not token), and not demeaning to the worker
 - other relevant matters.
- Suitable duties may be provided in many different ways – at the same or different worksite, or the same job with different hours and/or modified duties, or a different job altogether.
- Suitable duties need to be time limited, monitored closely and regularly upgraded.
- All offers of suitable duties should be in writing, clearly listing the duties to be performed, working hours, physical/medical restrictions, dates and times of treatments and review.
- All appropriate parties should be consulted in the development of, or changes to, suitable duties. Consultation on suitable duties should include, where applicable:
 - the return-to-work coordinator
 - the worker
 - the worker's line supervisors, usual and proposed
 - the nominated treating doctor
 - the company's doctor
 - the rehabilitation provider
 - any industrial union of employees representing that worker (current and potential)
 - the insurer.
- Return-to-Work Plans will be negotiated between the employer and worker. The plan will follow arrangements described in the Return-to-Work Program and will be endorsed by the nominated treating doctor.
- Rehabilitation providers and return-to-work coordinators need to work cooperatively with the nominated treating doctor, that is, the doctor nominated by the injured worker to participate in the development of and arrangements under an Injury Management Plan.

- Referrals to accredited rehabilitation providers should be considered when the return-to-work plan is complex and beyond the ability of the coordinator to develop. These referrals should be made as early as possible.
- If there are disputes about the suitability of duties, advice can be sought from an Injury Management Consultant. Lists of Injury management consultants are available from the WorkCover website or the insurer. The Workers Compensation Commission has powers to resolve disputes about suitable duties.
- When suitable duties cannot be identified at the workplace, WorkCover's WorkTrial scheme can be used to provide suitable duties with another (host) employer. Details can be obtained from the rehabilitation provider involved in the case or WorkCover's Workplace Injury Management Branch (See Appendix B).

(vi) Return-to-work not to disadvantage injured workers

An injured worker should not be disadvantaged while participating in the process of return-to-work. The overall objective of the legislation is to ensure successful return-to-work. Employers and workers should act collaboratively to ensure the success of the system as it is to their mutual benefit.

The spirit of the legislation is one of worksite cooperation between all the parties on all aspects of injury management. The successful return to work of the injured worker should be the paramount concern of all parties at the worksite.

Principles

- Employers should advise injured workers of their entitlements and their rights and obligations under the *Workplace Injury Management and Workers Compensation Act 1998* and the *Workers Compensation Act 1987*.
- Employers need to include the requirements of the 2001 dispute resolution structure into their Return-to-Work Programs, particularly in relation to disputes about suitable duties.
- The *Industrial Relations Act 1996 (NSW)* provides that an employer shall not dismiss an injured worker for six months (and the duration of any accident pay specified in the award or agreement that can be accessed by the injured worker) after the worker becomes unfit for employment as a result of a work-related injury. If an injured worker is dismissed because they are not fit for employment as a result of the injury received, the worker can apply to the employer for reinstatement. Application for reinstatement may be made up to two years from dismissal. During this time, the employer must inform any worker who has been engaged to replace the injured worker that the injured worker may be reinstated to the position.
- The Industrial Relations Commission may, on application by the worker, order reinstatement to employment of any kind for which the worker is fit, provided that the employment is not more advantageous than the work in which the worker was engaged when they first became unfit because of the injury.

Example of policy 'Returning to work does not disadvantage injured workers'

'This employer is committed to ensuring that participation in a return-to-work plan will not, of itself, disadvantage an injured worker. All efforts will be made to resolve disagreements about the company's Return-to-Work Program, or its components, through discussions and in a spirit of cooperation.'

Procedures for 'Returning to work does not disadvantage injured workers'

- The employer may permit workers access to their sick leave as per award arrangements, if they provide a medical certificate. If the medical condition is subsequently accepted as a compensable injury, the sick leave will be reinstated to the worker.
- All monies that the worker is entitled to under the workers compensation legislation will be passed on to that worker as soon as practicable after the insurer notifies the employer of those monies. (Note: it is an offence to refuse or to delay passing on monies with a fine of up to \$5,500 – current at time of printing.)
- The employer may allow a worker who is injured and had been scheduled for higher duties or a training program, to continue to do so, provided that the tasks of the higher duties or training program are consistent with medical restrictions.
- The employer may allow that a worker who is injured and who had been scheduled for a performance appraisal, to continue with that appraisal, using the suitable duties provided in the Return-to-Work Plan, as evidence of that worker's performance.
- Every endeavour should be made to resolve any disagreement about the Return-to-Work Program through discussions amongst the key parties. These could include the return-to-work coordinator, the injured worker, the treating doctor, the insurer and the supervisor/manager. The discussion may require informal consultation, involvement of the workplace occupational health and safety committee, or it could require the creation of a new worksite consultative arrangement.
- An accredited rehabilitation provider, if not already involved, could also be a useful means of resolving disagreements.
- If there is disagreement about suitable duties or fitness for work then referral to an Injury Management Consultant can be organised through the insurer.
- Disputes regarding the treatment being provided, including the need for ongoing treatment, can be referred for a second opinion. Independent physiotherapist consultants assess physiotherapy treatment, and independent doctors can assess medical treatment.
- If the parties are unable to reach agreement, advice can be sought from the WorkCover Assistance Service on 13 10 50.
- If a worker's compensation claim is disputed, the worker may seek resolution through the Workers Compensation Commission. This includes disputes relating to an Injury Management Plan, a Return-to-Work Plan and suitable duties.

(vii) Checklist for an employer Return-to-Work Program

The following checklist will assist employers to ensure they are meeting their obligations under NSW *Workplace Injury Management and Workers Compensation Act 1998*.

Evidence that the systems or processes are actually used in the workplace may be in the form of:

- Documents
- Records
- Discussion with personnel.

Prevention of occupational injuries and illness

There are OHS policies and programs in place in the workplace

Consultation occurs on OHS issues eg. a Workplace OHS Committee is established

There is training provided in all OHS procedures and an OHS induction is provided to new employees

There are systems in place to identify, assess and control hazards and these systems are regularly reviewed

Accident/incident reports and injury management statistics are regularly monitored

Developing and implementing the Return-to-Work Program

Return-to-Work Program is written, displayed and reviewed every two years

Return-to-Work Program incorporates the policies and procedures outlined in the 'Guidelines for Employers' Return-to-Work Programs'

Return-to-Work Program is consistent with insurers' Injury Management Program

A trained return-to-work coordinator is appointed

Responsibilities of the return-to-work coordinator and the insurer are outlined in the Return-to-Work Program

The agreed rehabilitation providers are listed in the Return-to-Work Program

Consultation with workers and, where applicable, unions

The Return-to-Work Program is developed in consultation with workers and any union representing those workers

Workers are informed of their rights and obligations concerning workers compensation

- The employer has consulted workers and unions in agreeing to nominate one or more rehabilitation provider as part of their Return-to-Work Program
- The company's OHS and Return-to-Work Programs are presented in appropriate training programs (induction, supervision, OHS committee, management)
- Procedures are in place to use interpreters when necessary

Early commencement of injury management and return-to-work

- Workers are informed of company Return-to-Work Program
- Procedures for workers to notify employers of injuries as soon as possible
- Procedures for notifying insurer of significant injuries within 48 hours
- Procedures for notifying insurer of other injuries within seven days
- Procedure for return-to-work coordinator to gain written consent from injured worker to obtain, use and disclose injury management information
- Procedures for return-to-work coordinator to make contact with nominated treating doctor and injured worker to assist in the development of the Injury Management Plan and Return-to-Work Plan
- Procedures for identifying, offering, accepting and monitoring suitable duties
- Systems are in place for maintaining confidential return-to-work files

Suitable Duties (for more details, see pages 14-17)

- Suitable duties are offered in all cases
- Reasons for not providing suitable duties are documented
- Suitable duties are consistent with the injured worker's medical restrictions
- Suitable duties are meaningful and productive
- Suitable duties are negotiated with all relevant parties and written in an individual Return-to-Work Plan
- Suitable duties are time limited and include review dates, representing a graded return to normal hours/duties
- Changes to suitable duties are initiated in consultation with all parties
- Procedures are in place to assist a worker to find alternative employment if they cannot return to their pre-injury job.

Returning to work does not disadvantage injured workers

Workers are not to be dismissed within six months of becoming unfit for employment as a result of a work-related injury

Procedures for managing disputes regarding suitable duties are in place and include the use of rehabilitation providers, Injury Management Consultants, the WorkCover Assistance Service and referral to the Workers Compensation Commission.

For more information please contact the WorkCover Workplace Injury Management Branch on (02) 4321 5319.

5. RETURN-TO-WORK COORDINATORS

The return-to-work coordinator is a key person in the return-to-work process and acts as the link with all of the parties involved. Every Category 1 employer must designate a return-to-work coordinator, who must attend training.

The coordinator is to be someone employed by the employer, or someone engaged specifically for that purpose. Employers can enter into shared arrangements for employing a return-to-work coordinator.

The coordinator should be familiar with, and have regular access to, all areas of the workplace, and to staff and supervisors with whom it may be necessary to discuss suitable duties.

Employers with multiple worksites often designate staff at the sites to assist the return-to-work coordinator with the planning of return to work, including the provision and monitoring of suitable duties. These personnel should be assisted to carry out their functions through a formal system of advice and training.

The return-to-work coordinator must hold:

- a WorkCover certificate certifying attendance at the WorkCover accredited two-day course 'Introduction to Return-To-Work Coordination'
- or
- a WorkCover certificate certifying attendance at a two-day WorkCover accredited training course for rehabilitation coordinators that was conducted prior to February 1995
- or
- a letter from WorkCover's Workplace Injury Management Branch agreeing to exempt the return-to-work coordinator from the requirement to participate in WorkCover accredited training.

The role of the coordinator in return-to-work planning and management of injured workers is to be outlined in the employer's Return-to-Work Program. Duties should include:

- Developing and implementing the Return-to-Work Program, educating the workforce, keeping injury and return-to-work statistics and developing policies to improve systems.
- Providing information on the return-to-work process and associated workers compensation benefits to injured workers.
- Obtaining the injured worker's consent before obtaining or releasing information about the worker's return to work.
- Determining the injured worker's needs by discussion with the worker, the nominated treating doctor and other treatment practitioners.
- Working with the insurer as they develop an Injury Management Plan for the injured worker.

- Identifying appropriate suitable duties and assisting the injured worker to return to work as soon as possible.
- Preparing a Return-to-Work Plan (see template on page 39) to document suitable duties and work restrictions so that all parties are informed and managing the return-to-work process.
- Referring to an accredited rehabilitation provider as needed.
- Being the focal point for all contact relating to the injured worker. Most contact will be with the worker, their supervisor, the nominated treating doctor, the insurer, the rehabilitation provider and union.
- Coordinating and monitoring progress in treatment, rehabilitation provider services and return-to-work plans.
- Assisting in the redeployment of injured workers (either internally or externally) when an injured worker cannot return to pre-injury duties.
- Collecting information on locally-based resources in the community, including bilingual resources, and making this information available to injured workers where necessary.
- Maintaining confidential case records in line with WorkCover's Confidentiality Guidelines. See page 32.

Return-to-work coordinators require the following skills:

- Ability to develop a Return-to-Work Program consistent with workplace requirements.
- Ability to implement policy and procedures of the Return-to-Work Program and facilitate the training of staff.
- Excellent written and verbal communication skills, including negotiation and listening skills.
- Ability to implement and explain the *Workplace Injury Management and Workers Compensation Act 1998* and the *Workers Compensation Act 1987*.
- Ability to identify suitable duties, consistent with Section 43A of the *Workers Compensation Act 1987*.
- Ability to develop and implement a Return-to-Work Plan.
- Decision-making skills.
- Ability to disseminate information to all relevant parties.
- Case and caseload management skills.
- Organisational and time management skills.
- Ability to assess when rehabilitation provider services are required.

For employers who wish to employ a return-to-work coordinator with formal qualifications the following are recommended:

- Health professionals such as occupational therapists, physiotherapists, rehabilitation counsellors, nurses or psychologists with occupational rehabilitation experience.
- Individuals with human resources or occupational health and safety qualifications who have occupational rehabilitation experience and an understanding of the role and expertise of health professionals involved in occupational rehabilitation.

6. SHARED OR OUTSOURCED RETURN-TO-WORK ARRANGEMENTS

The following guidelines cover situations where the return-to-work coordinator is not an employee of the Category 1 employer but has been engaged for that purpose. Engaging a return-to-work coordinator can include:

- **A shared arrangement between two or more employers** to appoint a return-to-work coordinator.
- **Where the return-to-work coordinator is not an employee of the employer but has been engaged for that purpose under another type of work arrangement**, for example, engaging or outsourcing a return-to-work coordinator through a labour hire company or contract arrangement. For all intents and purposes the return-to-work coordinator will be like an employee, apart from the hiring arrangement.

Employers wishing to enter into a shared or outsourced arrangement need to provide WorkCover with a copy of their Return-to-Work Program, and be able to demonstrate:

- The employers have a common interest. An example of common interest could be employers in the same industry, or in the same geographical location such as an industrial park or office tower.
- The shared or outsourced arrangements will provide improvements in the provision of return-to-work services.
- Workers will not be disadvantaged.
- The return-to-work coordinator's qualifications and experience.
- The shared Return-to-Work Program must be formally reviewed every two years, with the amended program lodged with WorkCover. For more information, phone the WorkCover Workplace Injury Management Branch on (02) 4321 5319.

Qualifications, experience and role of the shared/engaged return-to-work coordinator

When Category 1 employers engage a return-to-work coordinator under shared arrangements, or through another type of work arrangement, it is essential that injured workers and employers receive a service that is equal or superior to the usual arrangements for employers. For this reason, any shared/engaged return-to-work coordinators must have significant experience in workplace-based occupational rehabilitation, preferably as a return-to-work coordinator. It is also preferable that a shared return-to-work coordinator has tertiary qualifications.

The shared/engaged return-to-work coordinator must have the skills and fulfil all the duties of a return-to-work coordinator as outlined in these guidelines, and have completed the WorkCover accredited two-day course.

The cost of a shared/engaged return-to-work coordinator is not a claims cost.

Employers will need to obtain WorkCover approval prior to entering into a shared arrangement or engaging a return-to-work coordinator who is not an employee. For more information, phone the WorkCover Workplace Injury Management Branch on (02) 4321 5319.

Shared return-to-work coordinators for Category 2 employers

There is no requirement for Category 2 employers to appoint a return-to-work coordinator, however, employer associations and unions may establish shared return-to-work coordinator positions to assist smaller employers (Category 2 employers) to fulfil their obligations.

Where a shared return-to-work coordinator is used by a Category 2 employer they must:

- Have training and experience as specified in these guidelines for shared return-to-work coordinators.
- Undertake the duties specified in these guidelines for return-to-work coordinators.
- Be registered with WorkCover to undertake these duties for a specific industry or geographical area. For more information, phone the WorkCover Workplace Injury Management Branch on (02) 4321 5319.

7. APPENDICES

APPENDIX A

GLOSSARY

What is an Injury Management Program?

An Injury Management Program is a coordinated and managed program that integrates all aspects of injury management including treatment, rehabilitation, retraining, claims management and employment management practices. The purpose of Injury Management is to achieve a timely, safe and durable return to work for the injured worker.

Section 43 of the 1998 Act states that each insurer must have an Injury Management Program. The insurer must ensure that each employer is aware of this Program and the employer's obligations under the Program.

The employer's Return-to-Work Program must be consistent with their insurer's Injury Management Program.

What is an Injury Management Plan?

Section 42 of the *Workplace Injury Management and Workers Compensation Act 1998* states that:

'An Injury Management Plan is a plan for coordinating and managing those aspects of injury management that concern the treatment, rehabilitation and retraining of an injured worker, for the purpose of achieving a timely, safe and durable return to work for a particular worker.'

Within three days of notification of a significant injury to a worker, the insurer will contact the worker, the employer and the treating doctor. In the time set out in the Insurer's Injury Management Program, the insurer will subsequently develop an Injury Management Plan (which should be completed no more than 20 working days after notification).

What is a Return-to-Work Program?

Section 52 of the *Workplace Injury Management and Workers Compensation Act 1998* states that:

'An employer must establish a Return-to-Work Program with respect to policies and procedures for the rehabilitation (and, if necessary, vocational re-education) of any injured workers of the employer. An employer's Return-to-Work Program must not be inconsistent with the Injury Management Program of the employer's insurer and is of no effect to the extent of any such inconsistency.'

Therefore a workplace Return-to-Work Program only satisfies the requirements of the 1998 Act where there is no inconsistency with the insurer's Injury Management Program.

Any Return-to-Work Program must be in accordance with these Guidelines.

The Act requires that employers develop their Return-to-Work Programs in consultation with their workers and any industrial union of employees representing the injured worker. Return-to-Work Programs must be in writing and be displayed in the workplace

Experience has shown that successful return to work requires all parties to follow the procedures agreed to by employers, their workers, and where applicable, any relevant unions.

What is a Return-to-Work Plan?

When a worker returns to work on suitable duties with restrictions, the employer/return-to-work coordinator or rehabilitation provider must write a Return-to-Work Plan. This plan must be regularly monitored and reviewed by the return-to-work coordinator or provider. Physical restrictions, suitable duties, hours worked, supervision arrangements, and treatment times and dates must be clearly outlined in the Return-to-Work Plan.

What is a significant injury?

A significant injury is when an injured worker is unlikely to be able to undertake their usual duties and/or normal hours for a continuous period of more than seven calendar days

What is an accredited rehabilitation provider?

An organisation accredited by WorkCover to provide injured workers with specific rehabilitation services to assist them in return-to-work. Rehabilitation providers are staffed with occupational health professionals such as occupational therapists, physiotherapists, rehabilitation counsellors, psychologists and nurses with occupational health experience.

What is an injury management consultant?

Injury Management Consultants (IMCs) are registered medical practitioners experienced in occupational injury and workplace-based rehabilitation. IMCs are facilitators who will assist insurers, employers, workers and treating doctors find solutions to the problems in complex return-to-work plans and injury management. IMCs are not involved in the treatment of an injured worker, nor do they provide any opinion on the current treatment regime.

Referral to an IMC should be considered when the following situations arise: confused goals, complexity of injury or workplace environment; poor communication between insurer/ employer and nominated treating doctor; perceived conflict between the nominated treating doctor's recommendations and the workplace requirements; disagreement about the suitability of duties offered to an injured worker.

What is the WorkCover Claims Assistance Service?

The Claims Assistance Service (CAS) is a new service, which started in January 2002 and is part of the wider WorkCover Assistance Service. CAS provides assistance to injured workers and employers with questions about workers compensation and injury management. The service provides information about injury and accident notifications, making a claim, entitlements and the dispute resolution process. The aim of the service is to prevent an issue from turning into a dispute that needs to be addressed by the Workers Compensation Commission.

The telephone number of the WorkCover Assistance Service is 13 10 50.

What is an approved medical specialist?

An Approved Medical Specialist (AMS) is a senior practising specialist with a sound knowledge of the NSW Workers Compensation system and workplace-based injury management.

From January 2002, doctors appointed as AMS's are attached to the Workers Compensation Commission to assess a worker when there is a medical dispute. Medical disputes may include the worker's condition, the worker's fitness for employment, and the level of permanent impairment.

Under the 2001 amendments to the *Workplace Injury Management and Workers Compensation Act 1998*, the findings of the assessments by an AMS for permanent impairment will be 'conclusively presumed to be correct' for workers with injuries after January 2002.

Lists of AMS's are on the WorkCover website.

What is vocational retraining?

The cost of retraining injured workers under Section 53 of the NSW *Workplace Injury Management and Workers Compensation Act 1998* is not included in the injured worker's claim cost.

Retraining under Section 53 is considered when the injured worker is unable to return to the same or similar job with either the same or a different employer. Retraining is considered when assessments conducted by the rehabilitation provider/return-to-work coordinator have determined that the worker has no marketable transferable skills to seek and secure suitable alternative employment.

What is the Workers Compensation Commission?

The Workers Compensation Commission was established on 1 January 2002. It provides a single place to help parties come to agreement about a dispute (conciliation) or, when needed, will make a decision about a dispute (arbitration). The Workers Compensation Commission is headed by the President who is also a judge of a court of record, as required under legislation.

What is a Work Trial?

The Work Trial Program is a voluntary agreement between a host employer, an injured worker, a rehabilitation provider and WorkCover NSW. It involves short-term placement of an injured worker with an employer other than the employer responsible for his/her injury. The purpose of this placement is to either provide a suitable work environment for increasing work capacity or to increase the worker's transferable skills with a view to gaining permanent employment.

The maximum period of time in a single Work Trial available to an injured worker is 12 weeks. Under exceptional circumstances WorkCover can approve an extension of time where there is a probability of placement in durable employment at the completion of the Work Trial.

APPENDIX B

WORKCOVER CONTACTS AND INFORMATION

A variety of publications, brochures and information is available from WorkCover NSW, either in hard copy via the Information Centre in Gosford or electronically via the website.

They include a current list of accredited rehabilitation providers, training and employment programs for injured workers, different doctors in the workers compensation system, brochures for injured workers and training videos.

- WorkCover Head Office address: 92-100 Donnison Street, Gosford NSW 2250
- WorkCover Assistance Service: 13 10 50
- Workplace Injury Management Branch (02) 4321 5319
- Publications Hotline: 1300 799 003
- Website: www.workcover.nsw.gov.au

Advice about injury management and workers compensation may also be obtained from any of WorkCover's Regional Offices:

Sydney City

400 Kent Street
SYDNEY 2000
Phone: (02) 9370 5877

Country North Region

959 Hunter Street
NEWCASTLE WEST 2302
Phone: (02) 4921 2900

Sydney Metro West Region

128 Marsden Street
PARRAMATTA 2150
Phone: (02) 9841 8550

Country South Region

106 Market Street
WOLLONGONG 2500
Phone: (02) 4222 7333

Interpreters/Language Services

Access to communication assistance for workers who speak languages other than English is through:

Community Relations Commission

Translating and Interpreting
Phone: 1300 651 500

Department of Immigration Multicultural and Indigenous Affairs

Telephone interpreting
Phone: 13 14 50

Onsite interpreting
Phone: 1300 655 082

APPENDIX C

GUIDELINES FOR CONFIDENTIALITY OF INJURY MANAGEMENT INFORMATION

Introduction

These Guidelines have been developed with a view to balancing the employer's and insurer's need for information with the injured worker's right to privacy. They establish policy and procedures for return-to-work coordinators and accredited rehabilitation providers in relation to the confidentiality of injury management information involving injured workers.

What is injury management information?

Injury management information is any information that involves the treatment, rehabilitation, retraining, claims management and employment management practices that are directed to assisting an injured worker to return to work.

It includes:

- File notes, letters, faxes and return-to-work plans completed by the return-to-work coordinator
- Treating doctor assessment and reports
- Specialist doctor assessment and reports if the injured worker was referred to the specialist by the treating doctor
- Accredited Rehabilitation Provider documents such as:
 - Referral/approval for Occupational Rehabilitation Service
 - Accredited rehabilitation provider plans
 - Accredited rehabilitation provider progress reports
 - Invoices for occupational rehabilitation services
 - Return-to-Work Plans
- Injury Management Consultant reports.

Injury management information does not include:

- Section 40 assessments
- Copies of independent medical examiner reports initiated by the insurer
- Insurance company print-outs of claims estimates and premium costs
- Common law and legal proceedings.

POLICY

Confidentiality of Information

All injury management information concerning an injured worker is **confidential**. Staff with access to such information are to be made aware that it is confidential and should not be discussed with or shown to or read by anyone who is not directly involved in the worker's return to work.

Procedures

1. Access to the return-to-work file

a) It is recommended that return-to-work coordinators maintain a case file on all workers who require assistance to return to work. The case file is a record of the case management of an individual injured worker. Employers should ensure that access to an injured worker's return-to-work file by people within their organisation is restricted to those with a legitimate need to know. Access should be confined to relevant documents on the case file and limited to:

- those who have a direct responsibility in coordinating, monitoring or providing return-to-work services to the injured worker, and
- those involved in providing clerical and administrative support in relation to these persons.

Examples of people with a legitimate need to know may therefore include the:

- return-to-work coordinator
- worker's immediate supervisor
- supervisor of the area in which suitable duties have been identified
- occupational physician/workplace medical officer
- occupational health nurse
- worker's compensation claims officer or personnel officer handling workers compensation claims.

b) Most private sector employers are subject to the *Privacy Amendment (Private Sector) Act 2000*. State and Commonwealth government organisations are also subject to Freedom of Information legislation. These Acts are to be read in conjunction with these guidelines.

c) Employers should ensure that access to selected documents on the case file by people who need to know is limited to information that is relevant to their area of responsibility for the worker. For example, the worker's immediate supervisor may need information relating to the worker's Return-to-Work Plan but would not need to view the whole file.

- d) The employer should give the worker access to the return-to-work file and a copy of any injury management information on request unless there is an exception as outlined in the *Privacy Act 1988*.

These exceptions include, for example, that the information relates to existing or anticipated legal proceedings between the organisation and the individual; that providing access would reveal the intentions of the organisation in relation to negotiations with the individual; and that it would prejudice an investigation of possible unlawful activity (fraud).

National Privacy Principle 6.5 in the *Privacy Act 1988* provides that if a person establishes that the personal information is not accurate then the organisation must take reasonable steps to correct the information.

- e) If an employer receives a request from the worker for a health report, the author of the report should be contacted before it is released (refer to the National Privacy Principle 6.1(b) in the *Privacy Act 1988*).

2. Obtaining or releasing injury management information

- a) The WorkCover medical certificate includes a section for the worker to sign, giving consent to the nominated treating doctor, the employer, the insurer, other treating practitioners, rehabilitation providers and WorkCover NSW to exchange information for the purpose of managing the workers injury and compensation claim.
- b) The employer is a party to this consent and can release information to the relevant parties as specified on the medical certificate.
- c) In the context of the workplace, however, it is appropriate for the employer to review and discuss the relevance and nature of information to be exchanged with the injured worker. This facilitates communication and ensures a clear understanding by all parties.
- d) To ensure the informed consent of the injured worker and that all parties involved in the return to work are included, consent should be obtained by having the worker sign an 'Information Consent Form' (see Appendix D). If necessary, interpreter services may be used to assist the injured worker.
- e) The worker's consent to the employer obtaining or releasing information may be withdrawn at any time. However, workers should be advised that, if consent is withdrawn, return-to-work may not proceed and it may affect the worker's entitlements to Workers Compensation Benefits.
- f) Employers and providers may only release information concerning individual injured workers for research purposes with the prior written permission of both the worker and WorkCover NSW. For more information, phone the WorkCover Workplace Injury Management Branch on (02) 4321 5319.

3. Management of records

- a) Employers should protect return-to-work files, including electronically stored information, from unauthorised access, interference, misuse, loss and theft. Consideration should be given to lockable filing cabinets, password secured computer systems, and secure arrangements for any transfer of files.
- b) An employer should keep workers' return-to-work files separate from other personnel records, as personnel records are often accessed by people other than those specified in point 1(a) above.

4. Storage of closed records

The confidentiality of information in files where return-to-work is completed and the case/claim is closed, should also be protected. It is recommended that these records be properly stored, secured and retained for a minimum period of seven years.

5. Transmission of Information

Where information is transmitted electronically (eg. by fax) care should be taken to protect the confidentiality of the information. For example, prior to faxing information, telephone the recipient to arrange for its collection immediately after transmission.

APPENDIX D

INFORMATION CONSENT FORM

Claim No _____

I _____ (name) authorise _____ (name)
_____ (title) of _____ (name of employer/provider) to:

OBTAIN information either verbal or written, in relation to my injury management from
(insert specific names):

- a) Doctor _____
- b) Hospital _____
- c) Rehabilitation Provider _____
- d) Employer _____
- e) Other _____

I _____ (name) authorise _____ (name)
_____ (title) of _____ (name of employer/provider) to:

RELEASE information concerning relevant aspects of my injury management to, and discuss
that information with, representatives of the agencies nominated below (insert specific names):

- a) Rehabilitation Provider _____
- b) Employer _____
- c) Doctor _____
- c) Union _____
- c) Worker's Solicitor _____
- d) Employment Service _____
- e) Other _____

The information provided will be of a factual nature concerning injury management.

I understand that I may change or cancel this authority at any time, however my injury
management and/or Workers Compensation benefits could be affected.

Signature _____ Date ____ / ____ / ____

Signature of Interpreter _____ Name _____

Some organisations are legally entitled to receive injury management information about an
injured worker who is claiming workers compensation – insurers and their legal advisers, the
WorkCover Authority, a NSW Court of Law and the NSW Workers Compensation Commission.

APPENDIX E

PREMIUM DISCOUNT SCHEME – BENCHMARK 6 INJURY MANAGEMENT

The following is an excerpt from the WorkCover publication 'Benchmarks for Employers to obtain a Premium Discount'.

Employers must have an established Return-to-Work Program that reflects the nature of the business. The focus of workplace injury management is the establishment and implementation of early reporting of injuries to ensure early and appropriate medical intervention and return-to-work practices. Employers are required to offer suitable duties to assist injured workers to recover and return to work.

6.1 Injury Notification

- Workers are made aware of the system for early notification to their employer's insurer of significant injuries within 48 hours and all other injuries within seven days.
- Formal processes are in place to ensure insurers are notified of significant injury/illness within 48 hours and seven days for all other injuries.

6.2 Communication

- Employer to ensure Return-to-Work Program is consistent with insurer's Injury Management Program and WorkCover's 'Guidelines for Employers' Return-to-Work Programs'.
- Processes are in place to ensure communication occurs between insurer/worker/treating doctor.
- Communication maintained between the employer and the injured worker during return-to-work process.
- Formal process in place to ensure insurer is notified on a timely basis of information that may affect individual claims.

6.3 Workplace Responsibility

- Formal process in place identifying those responsible and accountable for injury management implementation.
- Processes are in place to support return-to-work activities.

6.4 Suitable Employment

- Formal process in place for the identification of suitable duties for an injured worker.
- Suitable duties are negotiated with all relevant parties and form part of the return-to-work plan for the injured worker.
- Suitable duties are time limited, include regular reviews representing a graded return to normal hours/duties.
- Procedures are in place to assist workers to find alternative employment if they cannot return to their pre-injury jobs.

6.5 Dispute Resolution

- Procedures are in place to resolve disputes quickly with the direct involvement of the parties concerned including the worker, doctor, insurer and employer.
- The Return-to-Work Program identifies resources to be used when direct involvement fails.

6.6 Corrective Action

- Formal processes are in place to ensure all injuries/illnesses are investigated and appropriate action taken to prevent a recurrence.

For more information about the WorkCover Premium Discount Scheme contact WorkCover on 13 10 50 or access the website on www.workcover.nsw.gov.au

APPENDIX F

RETURN-TO-WORK PLAN

The following Return-to-Work (RTW) Plan has been developed for:

1. Name _____
2. Return-to-work goal _____
3. Job title _____
4. Work location _____
5. Supervisor _____
6. Duties _____ Considerations/restrictions _____
() ()
() ()
() ()
() ()
() ()

Specific duties to be avoided

7. Hours/days of work _____
8. Treatment arrangements (dates, times, treatment service) _____

9. Commencement date of return-to-work _____
10. Length of Return-to-Work Plan _____
11. Review dates of Return-to-Work Plan _____
12. General comments _____

13. The following parties have agreed to the above plan for suitable duties

Injured worker _____ Date _____
Supervisor _____ Date _____
Return-to-work coordinator _____ Date _____
Nominated treating doctor _____ Date _____
Union representative _____ Date _____

APPENDIX G

WORKERS COMPENSATION ACT 1987 – SECTION 43A

43A Suitable employment

- (1) For the purposes of sections 38, 38A and 40: suitable employment, in relation to a worker, means employment in work for which the worker is suited, having regard to the following:
 - (a) the nature of the worker's incapacity and pre-injury employment,
 - (b) the worker's age, education, skills and work experience,
 - (c) the worker's place of residence,
 - (d) the details given in the medical certificate supplied by the worker,
 - (e) the provisions of any injury management plan for the worker,
 - (f) any suitable employment for which the worker has received rehabilitation training,
 - (g) the length of time the worker has been seeking suitable employment,
 - (h) any other relevant circumstances.
- (2) In the case of employment provided by the worker's employer, suitable employment includes:
 - (a) employment in respect of which:
 - (i) the number of hours each day or week that the worker performs work, or
 - (ii) the range of duties the worker performs, is suitably increased in stages (in accordance with a rehabilitation plan or return-to-work plan or otherwise), and
 - (b) if the employer does not provide employment involving the performance of work duties suitable training of a vocationally useful kind provided:
 - (i) by the employer at the workplace or elsewhere, or
 - (ii) by any other person or body under arrangements made with the employer, but only if the employer pays an appropriate wage or salary to the worker in respect of the time the worker attends the training concerned.
- (3) However, in any such case, suitable employment does not include:
 - (a) employment that is merely of a token nature and does not involve useful work having regard to the employer's trade or business, or
 - (b) employment that is demeaning in nature, having regard to subsection (1) (a) and (b) and to the worker's other employment prospects.
- (4) A worker is to be regarded as suitably employed if:
 - (a) the worker's employer provides the worker with, or the worker obtains, suitable employment, or (b) the worker has been reinstated to the worker's former employment under Part 7 of Chapter 2 of the *Industrial Relations Act 1996*.



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