



Best Practices in Returning an Injured Employee to Work

An effective return-to-work program can benefit employers in numerous ways. Such a program can help avoid millions of dollars in fines and penalties, reduce workers' compensation costs, retain experienced employees, improve employee morale and productivity, increase competitiveness of a business, and help ensure equal opportunity of employment for persons with disabilities. Employees participating in return to work can protect their jobs and income, avoid long-term unemployment, stay physically conditioned and mentally active, maintain daily structure and social connections provided by work, and participate in injury and illness prevention programs in the workplace.

This factsheet describes six basic steps that constitute best practices to help an employee with a work-related injury or illness return to work.

STEP 1. **Contact the injured employee and start the interactive process**

When an employee has been hurt on the job, personally contact the employee and provide a Workers' Compensation Claim Form (DWC 1). Before providing the form, if possible fill in the employer's name and address, employee's name, date employer first knew of injury, and date the claim form is being provided to the employee. Encourage the employee to read the information attached to the form, and show the employee where to fill in his or her portion. After the employee completes his or her portion, finish filling in the employer's portion and provide copies of the form to the employee and to your insurance company.

Tell the employee that medical care will be provided while the claim is pending and that other benefits may also be provided after the claim is accepted. Discuss the return-to-work process.

*This factsheet is excerpted from **Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California, February 2010**, a handbook prepared for the California Commission on Health and Safety and Workers' Compensation (CHSWC), by Juliann Sum, J.D., Sc.M., Institute for Research on Labor and Employment (IRLE), UC Berkeley. In addition to describing best practices, the handbook discusses what employers can do to establish an effective return-to-work program and where to obtain further guidance. The entire handbook is available online at www.dir.ca.gov/chswc.*

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Stay in contact with the employee and be available to answer questions. Also be mindful of the employee's situation and needs, and show respect for the employee as a person. This will help allay the employee's concerns, avoid possible misunderstandings, and encourage the employee to have a positive view of the return-to-work process.

If the injury makes it difficult for the employee to do his or her job temporarily or on a long-term basis, discuss possible ways to address the problem. If it becomes clear that a reasonable accommodation is needed, explain that you will work with the employee to find one.

STEP 2. **Describe essential functions and usual duties of jobs**

Discuss with the employee the "essential functions" of his or her job. Essential functions are the fundamental purposes of a job. They focus on *why* a job exists. You will not be required to remove essential functions of a job to accommodate the employee. You may, however, be required to remove a non-essential function or otherwise provide a reasonable accommodation to enable the employee to perform a job's essential functions.

Also discuss with the employee the actual activities, demands, and environmental conditions usually required in his or her job, including frequencies and hours per day. These may include, for example, details about required postures, motions, lifting, carrying, pushing, and pulling. In contrast to essential functions, usual duties focus on *how* a job is performed.

After you reach agreement with the employee about the essential functions and usual duties of the employee's job, put this information in writing. Repeat this process for other jobs that the employee may be able to perform with or without a reasonable accommodation.

STEP 3. **Obtain work capacities and restrictions**

If it is not obvious what kind of accommodation would be appropriate, you will need to obtain the employee's work capacities, which describe the tasks the employee can do safely. You also will need to obtain the employee's work restrictions, which describe the tasks the employee is limited in doing or cannot do because of the injury.

Ask the employee to give the information you prepared in Step 2, above, to his or her primary treating physician or other health care professional, such as the employee's regular physician (if different from the primary treating physician), physician assistant, nurse practitioner, or physical therapist. This will help the professional determine work capacities and restrictions



that are relevant to the employee's situation. If possible, provide the employee with a letter or form requesting the information you need. Ask the employee to share with you any information he or she obtains from the primary treating physician or other health care professional pertaining to his or her work capacities and restrictions.

If the information you receive is incomplete or unclear, ask the employee to obtain clarification, or ask the employee for permission for you to contact the primary treating physician or other health care professional directly. If you choose to ask your workers' compensation insurer to obtain the information from the primary treating physician, keep the employee fully informed to maintain openness in the process.

If you ask the employee to sign a medical release, limit its scope to the employee's work capacities and restrictions. Do not ask about the employee's medical condition, treatment plan, prognosis, or other matters unrelated to work.

If you use information from a health care professional other than the employee's primary treating physician, coordinate with your insurer so that the employee's workers' compensation benefits can be made consistent with the job accommodations you provide.

STEP 4. **Research and evaluate possible accommodations**

With the employee, explore ways to accommodate the employee's injury. The employee may already have useful ideas based on firsthand knowledge of the employee's job and a personal understanding of his or her injury and disability. Keeping the needs of both employee and employer in mind, consider the employee's work capacities and restrictions and all possible jobs available to the employee. Evaluate whether the employee can perform the essential functions of those jobs with or without a reasonable accommodation. Use outside resources if necessary. Share all important information, communicate openly, and encourage a genuine, meaningful dialogue.

Examples of reasonable accommodations:

- Limiting tasks to those that are safe for the employee ("job restructuring")
- Making changes in the way duties are performed
- Physically adjusting the work station based on an ergonomic evaluation
- Providing new equipment and training on how to use it
- Establishing a part-time work schedule
- Allowing time off for medical appointments or medically necessary time off for a longer period while recovering

With the employee, assess how effective each accommodation would be in allowing the employee to perform the job. You may find it helpful to request feedback from the employee's primary treating physician or other health care professional.

STEP 5. **Select a reasonable accommodation and make an offer of work**

You must consider accommodating the employee in the following order, unless you and the employee agree otherwise:

- Provide accommodations that would enable the employee to stay in his or her original job.
- Reassign the employee to an equivalent vacant position in a job the employee is qualified to perform, and provide reasonable accommodations as needed.
- Reassign the employee to a lower-graded vacant position in a job the employee is qualified to perform, and provide reasonable accommodations as needed.
- Temporarily assign tasks that the employee is able to perform while recovering.

If there is more than one option in a particular category above, consider both the employee's preferences as well as how the accommodation could impact the operation of your business. It may be preferable, for example, to offer the employee a job that best utilizes his or her skills, training, and experience. It may also make the most sense for the employee to continue working in the same area, unit, or program as his or her original job. If an accommodation clearly would be too costly relative to the overall resources of your company or organization, or would significantly disrupt your business, consider other accommodations.

Make an offer based on the accommodation you select. This could be, but is not necessarily, an offer of regular, modified, or alternative work to reduce workers' compensation costs.

STEP 6. **Implement and monitor the accommodation**

After the employee accepts your offer, encourage and support his or her return to work. If the employee is still recovering from the injury, the primary treating physician or other health care professional should reduce or remove restrictions as the employee's condition improves. This will allow you to adjust accommodations accordingly to aid the recovery process. Continue to communicate as part of the ongoing, interactive process to ensure that the accommodation is working as anticipated.

