

**The California Commission  
on Health and Safety  
and Workers' Compensation**



**Recommendations for the Return-to-Work  
Program Established in Labor Code Section  
139.48**

**CHSWC Members**

**Sean McNally (2009 Chair)**

**Catherine Aguilar**

**Kristen Schwenkmeyer**

**Robert B. Steinberg**

**Darrel "Shorty" Thacker'**

**Angie Wei**

**Executive Officer**

**Christine Baker**

**State of California**

**Labor and Workforce Development Agency  
Department of Industrial Relations**

**April 2009**

***Recommendations for the Return-to-Work Program Established in Labor Code Section 139.48***

California could increase utilization and cost-effectiveness of the Return-to-Work Program by conducting extensive outreach to inform small employers about the program and by streamlining the process to apply for reimbursement. Alternatively, California may wish to consider eliminating the program and replacing it with another program that more directly assists injured workers who are unable to return to their previous jobs.

**Increasing Utilization and Cost-Effectiveness**

The program has been underutilized, probably because most small employers who qualify for the program were unaware of it. Most of the fifty (50) respondents to the questionnaire distributed by Small Business California made recommendations on how small employers could be made aware of the program. Sources of information they identified included employer organizations, trade groups, workers’ compensation insurers and brokers, state agencies, city business licensing offices, and news media. Methods of communication included email messages with links to further information online, bulletins, newsletters, written notices, regular mail, meetings, seminars, and training classes. Their recommendations were as follows:

<b>Sources of Information</b>	<b>Methods of Communication</b>
Employer organizations (e.g., Small Business California, California Small Business Association, California Chamber of Commerce) and trade groups	Email messages with links to more information online, bulletins, newsletters, seminars, training classes
Workers’ compensation insurers and brokers	Written information with insurance policy quotes, with premium invoices, and whenever there is a new claim
Division of Workers’ Compensation	Official mail, information with audits, references to more information online
Employment Development Department	With instructions for quarterly wage reports, email messages, meetings
City business licensing agencies	With business license applications
Business and financial newspapers and magazines	Articles, notices

Based on these recommendations, the RRTW Unit could prepare articles and notices about the program and coordinate with the sources listed above to disseminate the information widely among small employers. They could also offer to prepare additional materials as needed and make presentations in employer- and trade-affiliated seminars and training classes that small employers attend.

In addition, California could standardize the information provided to small employers about this

program by including information about the program on the employer portion of the Workers' Compensation Claim Form (DWC 1) or by requiring workers' compensation insurers to notify their employers about the program when sending premium invoices.

Utilization may also increase if the application process is streamlined. More than two-thirds (25) of the employers that applied for reimbursement from the RRTW Unit were denied for a variety of reasons, most due to incomplete understanding about the application process or about the program itself, and several because of an unnecessary requirement to submit a Notice of Offer of Modified or Alternative Work, which was used to deny applications.

The form to request reimbursement (found in the California Code of Regulations, title 8, section 10005) does not state clearly that only workplace modification expenses will be reimbursed. It is simply entitled, "Request for Reimbursement of Accommodation Expenses" (instead of "Request for Reimbursement of Workplace Modification Expenses"). Furthermore, after listing costs of modifications, equipment, furniture, and/or tools, the applicant is asked to list "any other accommodation expenses," which can easily be interpreted as allowing reimbursement of non-modification expenses such as lost wages. The form also does not state that reimbursement is for work-related injuries and illnesses only or that large employers with more than 50 employees are ineligible. Finally, supporting medical reports and receipts for payment of modifications are simply mentioned as partial sentences inside parentheses, instead of highlighted in separate instructions telling the applicant to submit those documents with the application. The title of the form and the entire form itself could thus be improved through rewriting, formatting, design, and addition of clear, complete instructions.

The RRTW Unit reported that five (5) employers were denied reimbursement because the employer did not submit a copy of a Notice of Offer of Modified or Alternative Work given to the employee. However, this form is not required as a condition of receiving reimbursement. This criterion should therefore be eliminated in considering applications from employers.

### **Replacing the Program**

Alternatively, the Return-to-Work Program could be eliminated due to high administrative costs relative to the amounts reimbursable to employers. User funding could then be reduced by the amounts that fund the Workers' Compensation Return-to-Work Fund.

###