

***ESTABLISHING AN EFFECTIVE
RETURN TO WORK
PROGRAM***

Provided by the
**Texas Municipal League
Intergovernmental Risk Pool**

Establishing an Effective Return to Work Program

As leaders and managers in your entities, you can do much to help prevent employee injuries, help injured employees return to work as quickly as is appropriate, control costs, and improve productivity and services. The goal of any return to work process is to help an injured employee return to productive work as soon as medically possible.

The longer an injured employee stays off work, the less likely he or she will ever return to productive employment. Both employees and employers benefit from an effective return to work program. Employees who return to work more quickly usually recover faster. Employers benefit from the reduced lost time and associated costs.

Developing a return to work program can be challenging. The Texas Municipal League Intergovernmental Risk Pool (TMLIRP) has developed this guide to help your entity with formulating a return to work program.

If you have questions, please contact your TMLIRP Workers' Compensation Claims Specialist or Loss Prevention Representative. Consult with your entity's human resources professional and/or legal counsel regarding any employment related or legal matters and documents that have legal and/or employment implications.

Updated March 2017

Table of Contents

<u>Issues to Consider</u>	Page 1
There are important issues that will help ensure success.	
<u>What is Return to Work</u>	Page 3
Explains and summarizes the concepts of a program	
<u>Why Institute a Return to Work Program</u>	Page 4
There are many incentives for establishing a return to work program	
<u>Addressing Potential Problems</u>	Page 5
Meeting the roadblocks to instituting a return to work program and clearing up the misconceptions.	
<u>Steps of a Return to Work Program</u>	Page 6
The basics of any program.	
<u>Organizing and Writing the Program</u>	Page 7
A straightforward approach.	
<u>Communication</u>	Page 8
Communication is crucial. Important tips for carrying it out.	
<u>Monitor Progress and Assess Your Program</u>	Page 10
Keep informed about what works and what needs updating.	
<u>Sample Documents</u>	Page 11
Specific examples for implementing a program.	
<u>Contacting TMLIRP</u>	Page 28
The Risk Pool is committed to helping your entity in its return to work efforts.	

Issues to Consider

Before implementing a return to work program, there are some issues to consider. Many entities have already instituted these steps, but a review may be necessary to ensure success.

Hiring and job descriptions

The process starts with hiring and job descriptions. Hiring the right person for the job is essential. Employees have a profound impact on workers' compensation issues. Using a proper selection process and a formal new employee orientation program are steps towards developing a safe and dependable work environment. Job descriptions are an essential tool in the employee selection and placement process. Not only will a good job description help to prevent injuries by ensuring that an applicant is qualified for that job, it also helps to prevent misunderstandings about job expectations. Physical requirements identify the expectations for physical capabilities of employees. While preparing a job description, a study of physical requirements and working conditions should be analyzed. Ensure that the expectations are an accurate measure of the realistic aspects of the position. Post-offer physicals also help with evaluating the employee. Carefully planned job-related medical examinations can be made after making a conditional offer of employment.

Implement an accident prevention plan

Management should implement a practical accident prevention plan to help prevent and reduce injuries, accidents, and near misses. All departments, with the support of management, should implement a program that assigns responsibility and informs managers, supervisors, and employees of procedures and responsibilities. An *Accident Prevention Plan Development Guide* is available through TMLIRP. It is a program that will prove to be valuable to any local government employer, regardless of loss experience. This program includes seven basic components:

1. Management Support
2. Accident Reporting, Evaluation, and Investigation
3. Hazard Identification, Elimination, and Control
4. Employee Awareness, Education, and Training
5. Accident and Trend Analysis
6. Document and Recordkeeping
7. Program Evaluation, Review, and Revision

Identify alternate assignments before an injury

Identify alternative work. Survey your departments for tasks that need to be completed on a regular basis but lag behind, such as filing, light cleanup, patrol of street signs, safety meeting preparation, etc.

Develop a "wish list" of non-physical (physically restricted) tasks or projects. These tasks can be grouped into jobs that injured employees can do on return to work duty if they are unable to do their regular job.

Some examples of typical modified duty assignments include: filing, sorting and purging records, copying, collating, scanning, assembling, providing citizen information by phone or in person, dispatching, report writing, grant writing, supervising community service workers, special project administration, inventorying parts, inventorying street signs, flagging for work zones, taking vehicles for repairs/estimates, or other administrative tasks. A more comprehensive list of potential tasks, sorted by general department/operation is found later in this document.

A key to a successful program is identifying alternative productive work in advance of the need. This does not mean creating jobs; rather, it's a matter of identifying jobs or parts of jobs that already exist. The emphasis should be on matching the job to what the employee can do, and not focusing on what they cannot do. It is important to remember that these assignments/duties may occur in departments and/or operations outside of the employee's normally assigned work area or department. Also, consider these tasks as modified or restricted work assignments as opposed to "light duty" or "alternative assignments" as the duties involve modifications or changes to existing duties to meet restrictions of the treating physician.

The intent of a return to work program is to help your employees return to work as quickly as possible without risk to their health or creating an unsafe condition for other employees.

If an employee is physically able to perform at least some portion of former duties while recovering from an injury, one common solution is to return the employee to alternative work within his/her original profession that is within the employee's capabilities, yet essential to the operation. This allows employees to feel productive, and to avoid the frustration and depression that comes from being out of work too long.

An accident occurred

Make sure supervisors and employees fully understand the importance of the first report of injury. Have a system in place where the first report of injury is transmitted immediately to your workers' compensation provider.

- Conduct a thorough accident/incident investigation (see TMLIRP accident prevention plan sample)
- Workers' compensation treating physicians should be familiar with the disability management of an injury; however a provider that understands your entity's commitment to returning employees back to work as soon as they are able is preferred. By informing doctors about your entity's commitment to returning employees to work if they are able, the doctors can assist the process and save time in the long run in explaining procedures. Talk with general practitioners or family doctors along with area specialists.
- Offer guidance, explain benefits, and answer questions.
- Work with the claims specialist to coordinate the employee's needs along with the health care provider to achieve maximum medical improvement.
- Work with a vocational rehabilitation counselor, if necessary, to assess skills in preparation for the employee's return to work.

What is 'Return to Work'?

'Return to work', also known as light, modified, or restricted duty, is a loss control program that many organizations, both private and public, have developed to help control escalating workers' compensation costs and to improve employee morale.

Serious injuries that cause employees to lose days from work are disproportionately expensive for the employer. Missing work more than a few days can lead to demoralized employees who often measure their self-worth in terms of their job.

This process facilitates the entity, the Risk Pool claims representative, the injured employee, and the treating physician to work as a team to bring the employee back to work as soon as possible. Ideally, the employee will return to work almost immediately to his or her regular position with some minor modifications or restrictions, or be temporarily assigned to another position elsewhere in the organization. The ultimate goal of the program is to return employees to their regular positions as soon as possible.

Management's philosophy dictates whether such a progressive approach is taken by an entity. Many public organizations are having success with return to work programs. **The Texas Department of Insurance, Division of Workers' Compensation, strongly recommends the use of a return to work program, as does the TMLIRP.**

Workers' compensation laws and regulations encourage modified duty (return to work) by requiring employers to notify the employee, doctor, and insurance carrier of availability or absence of modified duty if a written request is made, and mandate that insurers are obligated to coordinate return to work for injured workers.

This information has been prepared to assist TMLIRP members start an effective return to work program.

Why Institute a Return to Work program?

There are numerous reasons to implement a return to work program as it is an effective management tool.

Accidents will happen and employees will be injured on the job. It is possible to reduce lost-time accident costs and help injured employees become productive sooner by establishing a return to work program in advance. The program anticipates rather than reacts to loss. The best return to work programs have two characteristics: an emphasis on the importance of communications and the early identification of alternate productive work.

There are several advantages of introducing a return to work program, among them are the monetary and motivational issues addressed below.

Saves money

An effective return to work program can reduce or eliminate indemnity (lost time) payments because the injured worker is back at work sooner. The cost of workers' compensation coverage can increase when dollars are paid out for indemnity losses. On claims of a serious nature, indemnity payments and medical bills are the two main components of cost. With ever increasing medical costs, controlling lost time cases becomes increasingly important. Short and long term disability policy premiums may stay level because potentially disabled employees do not receive benefits under those programs since they remain at work. Other costs include the cost of overtime paid to other employees when an employee is out, and added training time and expenses.

Lower turnover

Employees are encouraged to return to work and not stay out indefinitely. A program can save on costs of hiring and training a replacement worker, especially if that job function is essential. The program can also provide an opportunity for cross-training workers as injured workers may learn tasks associated with a different position.

Increased productivity and morale

Production rises when workers are on the job. Workers realize they can no longer stay home (not working) and receive workers' compensation indemnity benefits, and injured employees' fears concerning job security can be reduced. Returning to work also helps increase morale, not only for the injured worker, but others in the department, division, and organization who may be affected. It also allows employees to maintain a normal lifestyle, which is conducive to healing, and returning to work without restrictions.

Compliance with Americans with Disabilities Act

A program may be designed to also include those who have become unable to work due to an injury/illness unrelated to work. The Americans with Disabilities Act (ADA) requires the employer to offer restricted or light duty if it is a reasonable accommodation that does not create an undue hardship on the employer. It is imperative that human resources and/or legal counsel versed in these subjects are involved in all facets of this process.

According to entities that have established return to work programs, returning injured employees back to work can greatly reduce the likelihood that the employee will not be able to return to their job and greatly decrease the costs and time associated with getting the employee back to work.

Addressing Potential Problems

Although an effective return to work program is highly recommended, issues may develop during its establishment. Many of these issues may be alleviated or eliminated through proactive planning while the program is being established.

Working with Physicians

Treating physicians should be educated on the entity's policy of returning employees to work and be given specific job descriptions/physical requirements so that they release employees to return to work as soon as possible. Doctors might be unfamiliar with both the entity's policies and job descriptions and are sometimes unwilling to release employees for modified duty. Also, video recording of an employee's job tasks can also be helpful in making the physician aware of the physical requirements of the employee's job.

Working with Staff

Employees, department heads or managers, and supervisors should be introduced to the requirements and benefits of the return to work program to eliminate misconceptions of the program. Supervision of an employee brought back to work must be clearly defined.

Some department heads, supervisors or even management may not support the return to work concept. Some people may believe that return to work or modified duty will be regarded as special treatment by other employees and that will affect morale. Also, it might be thought that employees may injure themselves further while performing duties associated with a return to work assignment.

These perceptions should be met with education. Information should be provided on cost estimates associated with lost time injuries. Non-budgeted items such as overtime, substitute or temporary employees should also be considered. Management's realization of lost-time injuries, including indemnity benefits paid, can change thoughts regarding the use of a return to work program. In addition, personnel in key positions should be trained on practices that will protect against negative perceptions involving prolonging of injury, "free-loading", inconsistency, etc.

Civil Service

Fire and police civil service statutes have been cited as a reason not to implement return to work by those entities that have implemented *Chapter 143: Municipal Civil Service* under the Texas Local Government Code. Chapter 143 does not prevent an entity from implementing a return to work program. There are some important requirements and employee rights to keep in mind with Civil Service, such as leave of absence and protection of benefits. For interpretations or legal advice, the entity's legal advisor should be involved with the implementation of a return to work policy in a city that has adopted Civil Service. Return to work programs can be done in coordination with collective bargaining.

Steps of a Return to Work Program

A return to work program includes three essential elements: assessing job tasks, identifying modified duties, and making a bona fide offer of employment.

Assessing job tasks

Write down the separate activities or tasks involved in each job at your entity. Include the physical demands (such as lifting, typing, standing, etc.) and the environmental conditions (such as vibration, noise, heat, etc.) in your descriptions. Refer to job descriptions.

Identifying modified duties

Use your task list to match the available work to the injured employee's work restrictions, as permitted by his or her treating doctor. Inform the employee's doctor about the modified duties to ascertain if he or she meets the doctor's restrictions.

Making a bona fide offer of employment

If you offer an injured employee modified duties that meet the doctor's restrictions, put the offer in writing. Tell your TMLIRP workers' compensation claims specialist whether the employee accepts the offer. Should an injured employee refuse a bona fide offer of employment, the employee may lose his or her temporary income benefits.

Organizing and Writing the Program

When addressed correctly, establishing an effective return to work program can be a straightforward task. Planning and organizing of essential elements can alleviate the problems often encountered when starting new programs.

The Return to Work Coordinator

Designate someone as the Return to Work Coordinator. Ideally, this person should have a general knowledge of the Texas workers' compensation system or even a medical background. A basic understanding of the entity's operations and job descriptions may also be beneficial when discussing positions with physicians. The coordinator should have knowledge and understanding of the entity's personnel policies.

The Return to Work Coordinator and senior management should meet with an attorney specializing in employment law, to review what, if any, pay practices may have to be revised. Some discussion of these legal issues follows.

Wage/Salary Continuation

Some entities support the use of salary continuation as a means of maintaining an injured employee's compensation at a pre-injury level. Entities that have a wage continuation program, where 100% of employee's regular salary is paid to those on workers' compensation leave, and those with active civil service public safety departments may have additional considerations. While there are many positive factors associated with this practice, the employer must also remain cognizant of the potential loss of incentive for the injured employee to return to work. Wage or salary continuation considerations should be addressed before implementing a return to work program. If the entity chooses to implement a salary continuation program, time limits should be considered to ensure the injured worker has some incentive to return to work.

Workers' Compensation, ADA and FMLA

The Texas Workers' Compensation Act (Act) was enacted to provide the mechanism for an injured employee who sustains a compensable injury in the course and scope of employment to receive medical and income replacement benefits. The Act (Chapter 451) prohibits discrimination against any employee for filing a claim under the workers' compensation system.

The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in employment and requires that covered employers (employers with 15 or more employees) provide reasonable accommodations due to their disabilities. Disability as defined under the Act and ADA are not the same. The Texas Labor Code prohibits discrimination on the basis of disability in employment and applies to all local governmental entities no matter how many employees they have.

The Family and Medical Leave Act (FMLA) applies to an employer who employs 50 or more employees within a 75-mile radius of the worksite. The FMLA sets minimum leave standards for eligible employees for the birth and newborn care of a child, placement of a child for adoption or foster care, to care for an

immediate family member with a serious health condition, and for the employee's serious health. Light or restricted duty cannot be required if FMLA leave is still available.

These laws serve different purposes; however, they interrelate in a return to work context when an employee with a compensable injury also meets the criteria for protections under ADA and FMLA.

Employers should seek expert advice and/or legal advice regarding the coordination of return to work efforts, the ADA and/or the FMLA. Consistent application of your return to work policies can alleviate concerns of disparate or discriminatory treatment of employees.

Length of Time Considerations

It may be necessary to establish a maximum time in which employees may be assigned to return to work position. This maximum time should not restrict the entity from periodically (weekly, semi-monthly, monthly) reviewing the viability of the temporary position. It is not desirable to have employees working in an alternative or modified position indefinitely. (The ADA may require that employers make exceptions to their leave policies that establish the maximum amount of leave an employer will provide or permit. The employer may have to grant leave beyond the maximum amount as a reasonable accommodation to employees who require it because of a disability, unless the employer can show that doing so will cause an undue hardship.)

In some cases, employees may be too disabled to return to their regular position after the entity's determined time frame. For possible long-term situations, some entities have implemented a neutral absence control policy. This policy allows the entity to systematically and neutrally terminate employment of any employee, who after a predetermined period of time cannot perform the functions of his or her regular position. This period of time must exceed the 12-week time allowed under the Family and Medical Leave Act for family or medical leave at a minimum.

These policies must be written and applied neutrally to all employees regardless of the reason that the employee is unable to return to work. It is best to consult with experts in employment law before implementing such a policy.

Policies and Procedures

Develop return to work policies and procedures to address the objectives of the process and the administrative details.

Define each person's responsibilities as return to work participants. Include at least the injured employee, return to work coordinator and the supervisor of the original position, if the employee works in another area for the duration of the return to work assignment. Spell out the conditions that will terminate return to work for the employee. The employee should report weekly to the return to work coordinator. At least monthly, the supervisor, return to work coordinator, and department manager should review the employee's return to work situation. A maximum length of time for return to work assignments should be established. For example, the maximum length may be three months with an extension of up to six months if approved by the city manager, executive director, or general manager.

Redesign tasks according to ergonomic principles. For example, minimize bending motions by using lift tables, providing materials at work level, etc. Jobs and tasks can be restructured in order to avoid injuries.

Communicate to employees, supervisors, and physicians in the area that the return to work program exists. Detailed definitions of responsibilities of all parties should be included as well.

Information on making a bona fide offer of employment is found later in this resource.

Communication

Communication is essential in an effective return to work program. Injured employees, supervisors, treating physicians, return to work coordinators, and TMLIRP must be in constant communication to have the program succeed. A sample employee responsibility sheet is included on [page 15](#).

In order to achieve this communication, management must commit to:

- Effective communication with employees informing them of your return to work program and their part in it.
- Early notification of an employee's injury to the TMLIRP claims specialist followed by ongoing communication thereafter.
- Ongoing communication with healthcare providers between the claims specialist, the employer, and the employee.

Communication between the supervisor and the injured employee should occur as soon as possible following an injury. Details of filing a workers' compensation claim and applicable documents and workers' compensation benefits should be reviewed with the injured employee. Injuries can often be emotional and supervisors should reinforce to employees that they should concentrate on getting well. Be sure to remind both supervisors and employees that the entity does have a return to work program and that the employee will be considered for the program.

It is the physician's role to inform the employer of the injured worker's medical restrictions. It is the role of the employer to determine if those restrictions can be met with a modified duty assignment. Therefore, it is the **employer** that determines if the employee can return to work. This may be a philosophical change for physicians who, in the past, deemed employees unable to work. Physicians more readily assist with the return to work process once they are comfortable with the employer's program.

Refer to your developed list of alternative assignments so that a return to work solution can efficiently be implemented for the employee.

The supervisor, employee and return to work coordinator should work together through this process. Continue to communicate with the physician frequently regarding the employee's progress toward returning to their original job position.

The ultimate goal is to expedite the employee's return to their original position. If the employee is not able to return to that position, within the specified time period, even with some accommodations, consider that employee for positions that are open/available elsewhere in the entity.

Monitor Progress and Assess Your Program

As with any program or policy, reevaluate, fine-tune and report the results. Monitor changes and challenges to return to work in order to update your program. In today's rapidly changing, high tech world, everyone needs the most up-to-date information and assistance to reduce occurrences such as lower back injuries and repetitive motion trauma. For example, TMLIRP provides assistance in ergonomic evaluations and recommends improved methods of operation for jobs performed. Surveys are conducted to detect, eliminate, and control physical and environmental hazards that contribute to accidents or damages resulting in losses. The Risk Pool also provides awareness training and education for your employees, supervisors, safety directors, risk managers, and department managers.

The Risk Pool is available to provide assistance to governmental agencies' unique problems. The Pool's staff understands the operations of local governments and provides consultative services to evaluate the safety of your physical property by taking steps to enhance safety as well as productivity and efficiency. With years of experience working with members, the Risk Pool has developed a philosophy of providing the most up-to-date services available. It is believed the cost of risk is inseparable from the overall cost of operation. In other words, the same conditions that cause low productivity and inefficiency also cause accidents – this is true at every level, from the Public Works shop, to the high-tech office, to Fire and Police Departments. So, by reducing the cost of risk and the cost of accidents, you will increase the volume of work completed.

List of Sample Documents

On the following pages, sample documents are provided to help you with your entity's return to work process. If you have questions, please contact your TMLIRP workers' compensation claims specialist or Loss Prevention Representative.

Policy statement

Write a policy statement that confirms your entity's commitment to the return to work process and explains the return to work philosophy. The statement should stress the importance of safe operations, immediate medical care after an injury, and returning an employee back to work as soon as medically reasonable.

Sample procedures

Refer to previous information on important policy considerations and the importance to consult with an attorney experienced in employment law as necessary.

Employee responsibilities

Procedures should explain the steps an employee will take from the time of injury until after the employee returns to work. Employees will understand the process better and support it more fully. To achieve an effective return to work process, workers must understand the procedures and be willing to follow them. A standard procedure should notify injured employees on their rights under workers' compensation laws, in addition to providing information on your entity's policy regarding return to work, the communication process with the employee, how sick and vacation leave are affected, and other benefits issues.

Sample Statement of Responsibilities

This statement may help your entity's educational efforts about its return to work program.

Sample return to work assignments

This document identifies some modified duty assignments that are typically found in public entities. Develop a "wish list" of non-physical (physically restricted) tasks or projects. These should be gathered from all supervisors in all departments for tasks or jobs that they would like to have done, but do not have staff or time to perform. These tasks can be grouped into jobs that injured employees can do on return to work duty if they are unable to do their regular job.

Letter to the doctor

Communication with the treating physician is vital to the return to work process. The doctor is responsible for providing information regarding the injured worker's abilities so that the employer can make informed return to work decisions. Maintain regular contact with the treating doctor and the injured employee. Send a letter to the doctor explaining your entity's return to work process. If possible, the supervisor should go to the doctor with the employee, especially to explain the injured employee's job tasks.

DWC-73 Work Status Report

Provide the doctor with the DWC-73 form with the "General Information" completed. The Division of Workers' Compensation requires doctors to provide this form to employers. Also give the doctor the employee's detailed job description. Ask the doctor for recommendations about the employee's physical capabilities as they relate to the injury and the employee's ability to carry out job tasks. These

recommendations are needed for assigning modified or alternative work. Make sure the doctor agrees with any return to work assignments.

Bona fide offer of employment letter

When one of your injured employees is released by the treating doctor to return to work in any capacity, you should send a bona fide offer of employment in writing via certified mail to the employee. To be bona fide, or valid, the offer must meet the requirements of DWC Rule 129.6. Requirements were established by the state because making a bona fide offer of employment can affect a worker's temporary income benefits. Injured employees may refuse an offer of alternative productive work, but if the offer of employment was bona fide according to state rules, their temporary income benefits may be stopped. This does not mean the employee is terminated. Follow your entity's absence and leave policies, and discuss the situation with appropriate managers and legal counsel before terminating the employee.

Checklist for making a bona fide offer of employment

Use this checklist to make sure the offer complies with state rules.

Preventing Injuries and Providing Accommodations

This document is a reference for ergonomic solutions to modify job tasks in order to prevent injuries or provide accommodations.

Contacting TMLIRP

For members with Public Officials' Errors and Omissions coverage with TMLIRP, call our Employment Law hotline at 800-537-6655. Your TMLIRP claims specialist should be made fully aware of your entity's return to work program. The claims specialist can assist in bringing the employee back to work. Before sending a bona fide job offer letter, call the claims specialist to help ensure you are meeting requirements of the Division of Workers' Compensation Rule 129.6, "Bona Fide Offers of Employment". The claims specialist can then follow up with any future actions regarding benefit payments.

Sample Policy Statement for the Return to Work Process

When an employee is injured on the job, **ENTITY NAME** has implemented a Return to work Program. This program will assure the injured employee is provided with immediate and appropriate medical attention and will attempt to provide opportunities to return the employee to safe, productive work as soon as medically reasonable.

The ultimate goal is to return qualified employees to their original jobs. The Return to work Program will attempt to provide modified, productive work that meets the injured employee's capabilities and medical restrictions provided by the treating physician.

The Return to work procedures are developed to meet Texas workers' compensation laws and rules, Americans with Disabilities Act, and Family Medical Leave Act that support and encourage return to work programs.

The support and participation of management and all employees are essential for the success of the **ENTITY NAME** Return to work program.

(Signature of Chief Executive)

DATE

Note: Highlighted areas indicate customization needs and some decisions that need to be made by entity.

Sample Return to Work Procedures

The **ENTITY NAME** has a Return to Work program applicable to all full-time employees. The Return to Work coordinator is **COORDINATOR NAME/TITLE**.

An employee who is injured must immediately report the injury or incident to a supervisor or an appropriate person in management.

If medical attention is required, the injured employee will be accompanied by his/her supervisor or designee to receive medical services, if necessary.

The **(supervisor or return to work coordinator)** will complete an incident report for every reported incident whether or not medical attention is needed.

After medical treatment, if the employee is unable to return to work the next day, the employee should request a written statement of any restrictions he/she may have in performing their tasks and an expected return to work date from the physician. The employee is required to provide this information to his or her supervisor as soon as possible, preferably on the day of the injury and at least once a week until the employee returns to work. The supervisor should deliver the physician's information to the return to work coordinator as soon as possible, at least within the workday it is received from the employee.

For injuries requiring time away from work, the return to work coordinator will send a return to work package to the physician. This package contains a description of the entity's policies on return to work, the employee's current job description, a list of alternative duty assignments and an employee physical evaluation form (DWC-73). The physician will be asked to complete the employee physical evaluation form and return it to the return to work coordinator and workers' compensation carrier by the end of the second working day following the date of the examination.

If the physician indicates that the employee is not able to return to their regular duties, even with minor modifications, but is physically able to perform alternative assignments in their own or another department, the employee will be required to report to that position. The priority will be to return employees to their own departments unless duties there are not available.

Employees participating in return to work through either a modified, regular position or an alternative position may not work overtime hours or at any employment outside of the entity without approval from the **(Return to Work Coordinator, Supervisor and Department Manager)** or until returned to their regular position without modifications.

Upon receipt of notification from the treating physician that the employee can return to work to either their job with modifications or another assignment, the return to work coordinator will notify the employee in writing with a bona fide offer of employment stating the components listed in an attachment. The offer should stipulate the pay to be received by the employee, shift/schedule of the position and any other pertinent information. If the offer is made at a lower pay rate, the workers' compensation carrier will make up 70% of the difference of the employee's former pay. This document will be sent certified mail with return receipt requested.

The return to work coordinator will also contact the employee with the information that they have been approved for return to work by their treating physician and that a position exists effective on a specific date with details to follow by mail.

The employee, the employee's supervisor, and the return to work coordinator will meet at the prescribed work site to discuss details of the alternative position. These may include: any physical limitations of the employee, the maximum length of and periodic review of the alternative assignment and any other issues any of the parties present may have. Participation by management in this part of the process will help assure a positive result.

The injured employee will be in communication with the treating physician and return to work coordinator until:

- the alternative assignment ends;
- the physician temporarily prohibits the employee from performing the alternative or modified duty assignment;
- there is no longer any useful task available within the entity that the employee can perform;
- the injured employee fails to meet performance standards of the assignment;
- the employee fails to comply with all rules, regulations or stipulations of the return to work program and/or the policies of the **ENTITY NAME**;
- the employee is able to return to his/her regular, pre-injury duties;
- the employee terminates employment.

The return to work coordinator will continually review the return to work program and make such changes that enhance its effectiveness.

Sample Statement of Employee Responsibilities Regarding Work-Related Injuries

You are responsible for working safely and following all safety rules.

If you are hurt on the job, you must report the injury to your supervisor that business day, or **within ___ hours if before 8 AM or after 5 PM Monday-Friday**. Immediately seek medical attention, if needed.

Management will attempt to provide a smooth transition back to work for an employee who has experienced a work-related injury or illness.

We will encourage anyone who is off work due to a work-related injury or illness to return to work as soon as medically reasonable. We will provide modified work tasks as necessary and available.

We will work together to set guidelines for modified duty according to the doctor's restrictions.

It is essential that contact be maintained in order to promote your return to work. We care about your health, well-being and future with **ENTITY NAME**.

Procedures to follow after an incident:

- Report all incidents immediately, no matter how minor
- Complete an accident report
- Provide correct information immediately so that the DWC-I form may be completed and filed within 24 hours
- Verify that we have your current phone number and address
- Inform the physician that alternative, productive work is available from your employer
- Report to work on the next scheduled shift after you have been released by the doctor (either regular duties, modified duties, or reduced time)
- Perform only the jobs described by the doctor and manager, according to the doctor's restrictions
- Contact your manager weekly to discuss your restrictions and other return to work opportunities

Failure to follow these procedures will result in disciplinary action according to the policies and procedures in the organizations personnel policies.

I have read and I understand all of the above policies, and I acknowledge my responsibilities.

Employee Signature: _____

Date: _____

Sample Roles and Responsibilities

Employer Responsibilities

- Develop functional job descriptions and identify physical requirements that clearly identify physical activities required to do the work
- Develop written return to work policies and procedures
- Educate all employees about the program
- Train employees on incident reporting and investigation
- Develop and maintain record keeping and reporting systems for incidents and injuries
- Promptly report job-related injuries to TMLIRP
- Accompany the injured employee to the medical facility
- Provide information to employees about the workers' compensation system and benefits
- Regularly communicate with the injured worker during the time away from work and monitor progress upon the injured worker's return
- Make every effort to develop and provide meaningful return to work opportunities
- Communicate with the treating doctor and TMLIRP to encourage recovery and return to work
- Supervise the injured employee so that the assigned tasks are met and the employee adheres to physical restrictions
- Check the employee's condition regularly to help get the employee back to his or her original job
- Report any difficulties with attendance or time off resulting from the injury

Employee Responsibilities

- Know and follow safety rules and procedures
- Report any injury according to procedures
- If medical attention is necessary, inform your treating doctor that return to work opportunities may be available to accommodate your physical abilities
- Provide your doctor with a Return to work Information Packet as provided by your supervisor
- If your doctor restricts you from working, call your employer once a week to let them know how you are doing
- Notify your supervisor immediately if your work status changes
- When your doctor releases you to return to work, report on the next regular shift
- Attend all medical and treatment appointments
- Follow your doctor's orders and restrictions at home and at work
- Provide updates to **(ENTITY DESIGNEE – supervisor, Return to Work Coordinator, etc.)** after all appointments

Return to Work Coordinator/Fund Contact

- Be the employer's representative
- Arrange alternative work assignments
- Maintain contact with the employee, the employee's supervisor, TMLIRP, and the health care provider
- Develop and maintain record keeping and reporting systems for incidents and injuries

Health Care Provider Responsibilities

- Provide appropriate, effective medical treatment that facilitates recovery and expedites return to productive work

- Complete and file the DWC-73, Work Status Report as required, clearly indicating the employee's work status and physical status and physical abilities

TMLIRP Responsibilities

- Ensure proper administration of all workers' compensation claims
- Maintain communication with the injured employee, health care providers, and the employer
- Encourage and actively assist injured workers in a successful return to work
- Provide information about the return to work process
- Assist the entity in managing the cost incurred by workers' compensation claims
- Assist entities in identifying, preventing, and correcting possible hazards and conditions that may cause injury

Sample Return to Work Assignments (Not All Inclusive)

Public Works/Utilities and General Maintenance

- Clean and polish vehicles
- Perform minor routine maintenance on vehicles
- Perform minor housekeeping tasks
- Drive streets noting potholes and street signs that are in need of repair
- Inventory signs
- Dispatch vehicles
- Check out/in equipment and tools
- Review and update utility maps
- Perform miscellaneous painting and/or light carpentry work
- Perform litter pickup on streets, parks, and playgrounds
- Identify and trim problem tree limbs/bushes at intersections and sidewalks
- Perform sidewalk inspections
- Inspect catch basins
- Process work orders, complaints, filing, customer service
- Make signs and barricades
- Attend/conduct safety training meetings
- Substitute for school crossing guards
- Flagging for work zones
- Perform light janitorial duties
- Perform minor plumbing or electrical repairs
- Change light bulbs
- Conduct vehicle, equipment and property inventory

Police Department

- Perform fingerprinting
- Write reports
- Monitor videos of detainees.
- Dispatch, review dispatch tapes
- Perform policy research
- Conduct citizen surveys
- Attend/Conduct safety training
- Present public safety lectures (DARE, bicycle safety, traffic safety, home and business security)
- Conduct traffic survey (speed)
- Conduct road inspections to make sure intersections and traffic control devices are free of obstructions
- Take minor complaints
- Perform telephone follow-up interviews
- Conduct bad check or theft investigations that require telephone and inside investigation only
- Substitute for school crossing guard
- Cross train with another division (CID, dispatch)
- Perform research for projects/grants
- Conduct vehicle, equipment and property inventory

Fire Department

- Test hoses
- Write incident reports

- Maintain, clean and repair equipment and/or parts
- Present public safety talks to school children and public groups
- Present safety meetings for other department staff
- Identify, mark, paint fire hydrants
- Review and update of maps
- Assist city engineering department with maps
- Assist fire marshal or building official on inspections
- Attend/Conduct safety training
- Cross train with other divisions (fire marshal, dispatch, EMS)
- Perform station housekeeping/maintenance
- Perform research for projects/grants
- Conduct vehicle, equipment, and property inventory

General Field Duty

- Landfill, Recycling Center, Transfer Station attendant
- Conduct vehicle, equipment and property inventory

General Office Duty

- Provide general assistance in animal control department
- Provide general assistance in health department office
- Provide general assistance in human resources department
- Answer phones, file and sort papers/reports
- Provide special projects research assistance
- Conduct vehicle, equipment and property inventory
- Greet and answer questions for citizens at city hall, library, parks and recreation facility, animal shelter or other public building.
- Verify all city buildings, vehicle, and equipment are listed correctly on appropriate schedules
- Present safety presentations to own/other departments

Sample Letter to Doctor

DATE

DOCTOR NAME

DOCTOR ADDRESS

Subject: **(EMPLOYEE'S NAME AND DATE OF INJURY)**

Dear Dr. **DOCTOR NAME:**

(ENTITY NAME) has implemented a return to work program designed to return an injured employee to the workplace as soon as medically appropriate. **(ENTITY NAME)**'s employees are aware of this program.

Enclosed is a job description for the regular job of the employee named above. The job may be modified, if possible, to meet medical restrictions that may be assigned. If our employee is unable to return to his or her regular job immediately, we will attempt to find an appropriate temporary alternate work assignment. We will ensure that any assignment meets all medical restrictions as you prescribe. If necessary, we are willing to consider rearranging work schedules around diagnostic or treatment appointments.

(ENTITY NAME) has identified job duties that may be suitable for a "return to work" situation. Please call me at **(PHONE)** if you have any questions about our return to work process or the alternative productive work available. Our workers' compensation carrier is the Texas Municipal League Intergovernmental Risk Pool.

We would also appreciate updated information regarding the employee's status after each appointment. Thank you for your participation in our efforts to return our employees to a safe and productive workplace.

Sincerely,

NAME
TITLE

Enclosures: Signed authorization
DWC-73, Work Status Report
Job description

DWC-73 Work Status Report

Employee - You are required to report your injury to your employer within 30 days if your employer has workers' compensation insurance. You have the right to free assistance from the Texas Department of Insurance, Division of Workers' Compensation and may be entitled to certain medical and income benefits. For further information call your local Division field office or 1-800-252-7031.



Empleado - Es necesario que reporte su lesión a su empleador dentro de 30 días a partir de la fecha en que se lesionó si es que su empleador cuenta con un seguro de compensación para trabajadores. Usted tiene derecho a recibir asistencia gratuita por parte de la División de Compensación para Trabajadores, y también puede tener derecho a ciertos beneficios médicos y monetarios. Para mayor información comuníquese con la oficina local de la División al teléfono 1-800-252-7031.

TEXAS WORKERS' COMPENSATION WORK STATUS REPORT

PART I: GENERAL INFORMATION		5. Doctor's Name and Degree		(for transmission purposes only)	Date Being Sent	
1. Injured Employee's Name		6. Clinic/Facility Name		9. Employer's Name		
2. Date of Injury	3. Social Security Number (last 4) <small>XXXXXX</small>	7. Clinic/Facility/Doctor Phone & Fax		10. Employer's Fax # or Email Address (if known)		
4. Employee's Description of Injury/Accident		8. Clinic/Facility/Doctor Address (street address)		11. Insurance Carrier		
		City	State	Zip	12. Carrier's Fax # or Email Address (if known)	
PART II: WORK STATUS INFORMATION (FULLY COMPLETE ONE INCLUDING ESTIMATED DATES AND DESCRIPTION IN 13(c) AS APPLICABLE)						
13. The injured employee's medical condition resulting from the workers' compensation injury:						
<input type="checkbox"/> (a) will allow the employee to return to work as of _____ (date) <u>without restrictions</u> . <input type="checkbox"/> (b) will allow the employee to return to work as of _____ (date) <u>with the restrictions</u> identified in PART III, which are expected to last through _____ (date). <input type="checkbox"/> (c) has prevented and still prevents the employee from returning to work as of _____ (date) and is expected to continue through _____ (date). The following describes how this injury prevents the employee from returning to work:						
PART III: ACTIVITY RESTRICTIONS* (ONLY COMPLETE IF BOX 13(b) IS CHECKED)						
14. POSTURE RESTRICTIONS (if any):		17. MOTION RESTRICTIONS (if any):		19. MISC. RESTRICTIONS (if any):		
Max Hours per day: 0 2 4 6 8 Other		Max Hours per day: 0 2 4 6 8 Other		Max hours per day of work: _____		
Standing <input type="checkbox"/>	<input type="checkbox"/>	Walking <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Sit/Stretch breaks of _____ per _____		
Sitting <input type="checkbox"/>	<input type="checkbox"/>	Climbing stairs/ladders <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Must wear splint/cast at work		
Kneeling/Squatting <input type="checkbox"/>	<input type="checkbox"/>	Grasping/Squeezing <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Must use crutches at all times		
Bending/Stooping <input type="checkbox"/>	<input type="checkbox"/>	Wrist flexion/extension <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> No driving/operating heavy equipment		
Pushing/Pulling <input type="checkbox"/>	<input type="checkbox"/>	Reaching <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Can only drive automatic transmission		
Twisting <input type="checkbox"/>	<input type="checkbox"/>	Overhead Reaching <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> No work / _____ hours/day work: <input type="checkbox"/> in extreme hot/cold environments <input type="checkbox"/> at heights or on scaffolding		
Other: <input type="checkbox"/>	<input type="checkbox"/>	Keyboarding <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Must keep _____ <input type="checkbox"/> elevated <input type="checkbox"/> clean & dry <input type="checkbox"/> No skin contact with: _____		
15. RESTRICTIONS SPECIFIC TO (if applicable):		18. LIFT/CARRY RESTRICTIONS (if any):		20. MEDICATION RESTRICTIONS (if any):		
<input type="checkbox"/> Left Hand/Wrist <input type="checkbox"/> Right Hand/Wrist <input type="checkbox"/> Left Arm <input type="checkbox"/> Right Arm <input type="checkbox"/> Neck	<input type="checkbox"/> Left Leg <input type="checkbox"/> Right Leg <input type="checkbox"/> Back <input type="checkbox"/> Left Foot/Ankle <input type="checkbox"/> Right Foot/Ankle	<input type="checkbox"/> May not lift/carry objects more than _____ lbs. for more than _____ hours per day <input type="checkbox"/> May not perform any lifting/carrying		<input type="checkbox"/> Dressing changes necessary at work <input type="checkbox"/> No running <input type="checkbox"/> Must take prescription medication(s) <input type="checkbox"/> Advised to take over-the-counter meds <input type="checkbox"/> Medication may make drowsy (possible safety/driving issues)		
16. OTHER RESTRICTIONS (if any):		Other:				
* These restrictions are based on the doctor's best understanding of the employee's essential job functions. If a particular restriction does not apply, it should be disregarded. If modified duty that meets these restrictions is not available, the patient should be considered to be off work. Note - these restrictions should be followed outside of work as well as at work.						
PART IV: TREATMENT/FOLLOW-UP APPOINTMENT INFORMATION						
21. Work Injury Diagnosis Information:		22. Expected Follow-up Services Include:				
		<input type="checkbox"/> Evaluation by the treating doctor on _____ (date) at _____ : _____ am/pm <input type="checkbox"/> Referral to/Consult with _____ on _____ (date) at _____ : _____ am/pm <input type="checkbox"/> Physical medicine _____ X per week for _____ weeks starting on _____ (date) at _____ : _____ am/pm <input type="checkbox"/> Special studies (list): _____ on _____ (date) at _____ : _____ am/pm <input type="checkbox"/> None. This is the last scheduled visit for this problem. At this time, no further medical care is anticipated.				
		Date / Time of Visit	EMPLOYEE'S SIGNATURE	DOCTOR'S SIGNATURE	Visit Type: <input type="checkbox"/> Initial <input type="checkbox"/> Follow-up	Role of Doctor: <input type="checkbox"/> Designated doctor <input type="checkbox"/> Treating doctor <input type="checkbox"/> Referral doctor <input type="checkbox"/> Consulting doctor
		Discharge Time				<input type="checkbox"/> Carrier-selected RME <input type="checkbox"/> DWC-selected RME <input type="checkbox"/> Other doctor



For a link to the fillable PDF form, visit <http://www.tdi.texas.gov/forms/dwc/dwc073wkstat.pdf>

Sample Bona Fide Offer of Employment

[DATE]

[CLAIMANT ADDRESS]

Dear **[CLAIMANT]:**

[EMPLOYER] is in receipt of a report dated _____ from Dr. _____ relating to your current medical condition and your ability to work. A copy of that report is enclosed with this letter. **[EMPLOYER]** has used guidelines provided by the physician to identify an appropriate modified duty position for you. **[EMPLOYER]** hereby extends to you a bona fide offer of employment pursuant to Rule 129.6.

You will be expected to return to work on **[DATE EMPLOYMENT IS TO BEGIN]** at **[ADDRESS AND LOCATION OF EMPLOYMENT, WHICH SHOULD BE GEOGRAPHICALLY ACCESSIBLE TO EMPLOYEE]**. Your work schedule will be as follows: **[DETAIL DAILY/WEEKLY HOURS OF WORK]**. Your wages will be as follows: **[DETAIL HOURLY/WEEKLY WAGES OR SALARY]**.

This position will entail these specific physical and time requirements: **[SPECIFY IN DETAIL THE PHYSICAL REQUIREMENTS OF THE JOB, THE AMOUNT OF TIME TO BE SPENT DOING EACH, SCHEDULED BREAKS, ETC.]**

Please be assured that **[EMPLOYER]** will only assign you tasks consistent with your physical abilities, knowledge, and skills and will provide you training if necessary.

If you accept this offer, please indicate by signing and dating your name below and returning this to the undersigned. If **[EMPLOYER]** does not receive this back from you within seven (7) days of receipt, **[EMPLOYER]** will assume you have rejected this offer.

NAME

DATE

Please contact the undersigned with any questions you might have.

Sincerely,

[EMPLOYER]

Enclosure: Medical Report of Dr. _____ dated _____

Checklist for Making a Bona Fide Offer of Employment

When the treating doctor releases an injured employee to return to work in any capacity, you should make a bona fide (valid) offer of employment to the employee. Making a bona fide offer of employment may affect the employee's income benefits, so the following information must be considered before it can be determined whether an offer is bona fide.

- Did you include a written copy of the Work Status Report (DWC-73) with the offer?
- Is the offer for a job at a geographically accessible location for the employee?
- Is the job consistent with the doctor's certification of the employee's physical abilities?
- Did you communicate the offer to the employee in writing?

When writing the offer:

- Include a copy of the Work Status Report (DWC-73) with the offer.
- State the location at which the employee will be working
- Indicate the schedule the employee will be working
- State the wages that the employee will be paid
- Give a description of the physical and time requirements that the position will entail
- Include a statement indicating that the employer will only assign tasks consistent with the employee's physical abilities, knowledge, and skills, and that you will provide training, if necessary.

By making the offer in writing and keeping a copy for your records, you will be able to prove that a bona fide offer of employment was made in accordance with the Division of Workers' Compensation's requirements, should the need arise.

See the last page of this document on how to contact your TMLIRP workers' compensation claims specialist.

NOTE: Refer to DWC Rule 129.6 as needed.

Preventing Injuries and Providing Accommodations

When unsafe aspects of a task are identified, the task should be redesigned to prevent injury. Solutions are often simple and inexpensive. The following are examples of options for employers to explore in considering redesigning tasks. While not all-inclusive, this list provides some practical solutions. For more ideas, guidance, and assistance, please contact your TMLIRP Loss Prevention Representative.

Minimize Significant Body Motions

Minimize bending motions

- Use lift tables, work dispensers, or similar mechanical aids
- Raise work level to an appropriate height
- Lower the employee
- Provide all materials at work level
- Keep materials that must be lifted later at work level

Reduce twisting motion

- Place all materials and tools in front of the employee
- Use conveyors, chutes, slides, and turntables to change the direction of material flow
- Provide adjustable swivel chair for seated employee
- Provide sufficient workspace for the whole body to turn
- Improve the layout of the work area

Reduce reaching out motions

- Provide tools and machine controls close to the employee to eliminate horizontal reaches over 16 inches
- Place materials, work pieces, and heavy objects as near to the employee as possible
- Reduce the size of cartons or pallets being loaded, or allow the employee to walk around them and rotate them
- Reduce the size of the object being handled
- Allow the object to be kept close to the body

Reduce Object Lifting and Forces

Reduce the need to lift or lower

- Use lift tables, lift trucks, cranes, hoists, balancers, drum and barrel dumpers, work dispensers, elevating conveyors, and similar mechanical aids
- Raise work level
- Lower work level
- Use gravity dumps and chute

Reduce the weight of the object

- Reduce size of the object (specify size to suppliers)
- Reduce capacity of containers
- Reduce weight of the container
- Reduce the load in the container
- Reduce the number of objects to be lifted or lowered at one time

Reduce the hand distance

- Change shape of object

- Provide handles or grips
- Provide better access to object
- Improve layout of the work area

Reduce Object Pushing and Pulling

Eliminate the need to push and pull

- Use powered conveyors
- Use powered trucks
- Use slides and chutes

Reduce required force

- Reduce weight of load
- Use non-powered conveyors, air bearings, ball caster tables, monorails, and similar aids
- Use four wheel hand trucks and dollies with large diameter casters and good bearings
- Treat surfaces to reduce friction
- Provide good maintenance of hand trucks, floor surfaces, and other work surfaces
- Use air cylinder pushers and pullers

Reduce distance of the push or pull

- Move workstations closer or further away, depending on the need

Contacting TMLIRP

Workers' Compensation Claims

Austin:	(800) 537-6655	FAX (512) 491-2481 or (512) 491-2494
Mesquite:	(877) 478-5031	FAX (512) 491-3317
Houston:	(800) 762-1818	FAX (512) 491-3315
San Antonio:	(800) 327-2660	FAX (512) 491-3318
Harlingen:	(800) 327-2857	FAX (512) 491-3314
Lubbock:	(800) 709-2667	FAX (512) 491-3316
Corpus Christi:	(800) 327-2780	FAX (512) 491-3313

workerscompensation@tmlirp.org

Loss Prevention

Austin:	(800) 537-6655
Corpus Christi:	(800) 327-2780
Mesquite:	(877) 478-5031
San Antonio:	(800) 327-2660

Loss Prevention FAX: (512) 491-2388

lossprevention@tmlirp.org

Member Services

Austin:	(800) 537-6655
Corpus Christi:	(800) 327-2780
Mesquite:	(877) 478-5031
San Antonio:	(800) 327-2660

Member Services FAX: (512) 491-2311

memberservices@tmlirp.org



Texas Municipal League Intergovernmental Risk Pool
P.O. Box 149194
Austin, Texas 78714-9194
www.tmlirp.org