



# RETURN-TO-WORK REFERENCE GUIDE

As part of our dedication to providing our policyholders with the best resources possible, we assembled the tools you need to consider and establish a Return-to-Work (RTW) program. This program allows employees to be productive within their abilities during the injury recovery process and is a key component for containing and minimizing the cost of Workers' Compensation claims.

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# INTRODUCTION THE MISSION

An effective Return-to-Work (RTW) program focuses on bringing injured employees back to work as soon as they are medically able. Implementing a RTW program allows employees to be productive within their abilities during their recovery process until they are able to return to their jobs full-time. The program is also a key component for containing and minimizing the cost of Workers' Compensation claims and the potential increase to future term Workers' Compensation coverage premiums. Please keep in mind, this program can be used for occupational and non-occupational injuries. To accomplish this, an employee's job duties may need to be re-evaluated considering the following alternatives:

## Modified Work

The employee returns to his/her original job, but with duties modified, or other accommodations provided, to conform to restrictions placed on the job by the medical care provider. Restrictions may include reducing the amount of work time and/or restricting certain activities, such as bending and lifting.

## Transitional Work

The employee returns to work, but because the original job cannot be modified to conform to the physician's restrictions, he or she performs another job that accommodates the injured employee's physical limitations.

## Alternate Work

The employee is reassigned to another position or different type of work that accommodates their current abilities.

The following information will provide the benefits of a RTW program, key points to consider and case studies as well as the steps you can follow to create a RTW program for your company.

Please reach out to your risk management consultant or claims adjuster with any questions.

**»» Click here to find your Risk Management Consultant**

# BENEFITS OF AN EFFECTIVE RETURN-TO-WORK PROGRAM

## Employers

### Reduces Workers' Compensation Loss Experience

- Reduces medical costs
- Saves indemnity expense in temporary disability claims
- Reduces possibility of fraud
- Reduces the potential of attorney involvement
- May have a positive impact on your Experience Modification Rating (EMR)

### Increase Productivity

- Reduces the cost of retraining as the injured employee is often familiar with the transitional work duties
- Retains experienced employee with an understanding of the operation's productivity goals and company culture
- Eliminates or reduces the costs to hire and train a new employee or pay overtime payroll of existing employees to replace the injured worker

### Improves Employee Relations

- Shows employer concern for employee well-being
- Management and employees are team-focused
- Allows employer more control and direction impacting a positive resolution of the claim

## Employees

- Increases self esteem
- Gives a sense of job security
- Contributes to faster recovery keeping the injured workers mentally and physically conditioned to their work schedule
- Earns wages closer to their pre-injury income
- Remains active and productive
- Maintains contact with co-workers

## A win-win solution for everyone.

The employer minimizes Workers' Compensation costs while retaining a valuable, trained employee.

The employee returns to work and avoids the negative effects of a long-term absence.

# KEY POINTS AND CASE STUDIES

## OF AN EFFECTIVE RETURN-TO-WORK PROGRAM

Here are some key points to consider as you think about developing a Return-to-Work (RTW) program.

- RTW is intended to get an injured employee back to meaningful work so they remain part of the company. This can help prevent litigation action from being taken by the injured employee.
- When employees notify you of an injury that occurred at work, it is best to have them examined by a primary care physician so you don't miss an opportunity to properly care for injured worker (soft tissue injuries). Keep small claims small.
- There is a potential to exacerbate underlying conditions, such as soft tissue injuries to the back, knees, shoulders and hips, if they are not properly addressed.
- If you are in doubt about an injury, you should notify your insurance carrier by using 'report only' or 'notice only' process. The carrier will document all the details and, in some cases, conduct an interview with the injured worker to obtain further details. This can help to protect your company in the future. Report only claims are not submitted to NCCI at the end of the policy period and do not affect your Experience Modifier (E-Mod). Reporting a claim this way will prevent you from potentially incurring penalties from the state for late reporting of an injury.
- Remember that Workers' Compensation insurance is a legal benefit provided to all workers. It is the responsibility of the employer to report claims, no matter how small.
- When an injured employee returns to some type of Modified or Transitional Duty within the waiting period for your state, a claim may be counted as a medical only claim and qualify for the Experience Rating Adjustment (ERA). This adjustment is a 70% reduction in the claim value before the claim value is used in your E-Mod calculation. For example, if an employee sustains a strain injury and the initial claim value is \$10,000 and the employer can provide modified duty within the waiting period, the claim value is \$3,000 when it is used in the E-Mod calculation. Check with your risk management consultant, claims adjuster or agent to find out what the waiting period is in your state.
- By implementing a RTW program early in the claim, you are controlling your Workers' Compensation insurance costs within the grace period before E-Mod calculation. The E-Mod is calculated based on a three year aggregate. The years used are not the current policy period or the previous years' policy period, but the three years prior. For example, your policy is 1/1/2021-22, and you have a claim that occurs 2/1/2021. The claim will not go into the E-Mod calculation until 2023-2024 policy period and will stay in the calculation aggregate until 2026-2027. If the claim is large enough to increase the companies E-Mod, you will be paying higher insurance premiums for three years. This gives the employer approximately 12 to 15 months to get the claim under control.

Policy Year Claim Occurred In	Grace Period*	Calculated in the E-Mod			Dropped Off
2021/2022	2022/2023	2023/2024	2024/2025	2025/2026	2026/2027

\*Not counted due to claim maturing.

- If a 1099 worker is injured while working for your company, their claim will fall under your Workers' Compensation insurance. These workers can be treated as any other employee and fall under your RTW program, as well as other programs such as Post-Accident Drug Testing.

By working proactively with medical providers, RTW specialists can transition an injured worker back into a modified or transitional duty assignment before their waiting period ends. This keeps a claim medical-only and, by eliminating indemnity payments, can significantly reduce the cost of the claim. A study published in the Journal of Occupational & Environmental Medicine tracked a RTW program over a 10-year period. In that time, lost-time claims decreased 73% and total Workers' Compensation costs fell 54%.

# Case Studies

## Example 1

A mid-size Virginia masonry company with about 40 employees is currently paying \$77,000 in Workers' Compensation premium. The 2020-21 E-Mod for the company is 0.98. They have a strong safety program and have experienced minor claims since 2015. In 2020, they had two large claims; one for \$93,000 due to a scaffold board striking a worker on the shoulder and another for \$102,500 for a worker who twisted their knee.

The company owner does not provide any modified duty and lets the injured workers stay at home until released by the doctor to return to full duty.

The company owner may believe all is well and that the Workers' Compensation insurance will take care of everything, however, what he fails to realize is the future cost of the claims will be costly for his company.

Starting with the 2022-2023 policy period, the E-Mod will increase from .98 to 2.12. When this is applied to the company's premium, the adjusted cost of Workers' Compensation insurance is expected to go from \$77,000 to \$163,240. The claims will stay in the aggregate calculation for the next three policy periods so the company will pay this elevated cost for their insurance coverage, which equals an additional \$86,240 per year.

### By Using RTW

If the company were aggressive in their claims management and offered a RTW program, the benefits could have controlled the Workers' Compensation claims cost during the grace period. If the workers could be returned to a modified duty position, the cost of the claims would have been controlled to \$24,200 and the E-Mod would only increase to 1.06. The cost of insurance would have been \$81,620. This would have been a 50% saving (\$163,240 to \$81,620) in the insurance costs for the next three years.

### Points to Consider

Under a RTW program with an Alternate Work Plan, the injured worker is no longer a mason, they are placed in a new position determined by the doctors' restrictions. They can perform any work tasks that meet the doctors' restrictions while the recovering from the injury. Think outside the box; think of tasks the injured employees can do rather than what they cannot do. Work with your risk management consultant, care provider and claims adjuster to develop a modified duty position that meets the physicians' restrictions.

## Example 2

A small drywall company with two employees, the owner and spouse, use 1099 workers on an as-needed basis to complete their work. The 2021-2022 Workers' Compensation premium is \$5,056. The company has experienced some claims in the past, however, the owner has not offered a RTW program because he believes his company is too small. In 2019, a 1099 worker sustained a sprained ankle, with the owner sending the worker home to recover. The injured worker recovered and returned to work after a brief period. The claim total was \$10,100. Due to this one claim, the current E-Mod is 1.14.

In 2021, a 1099 worker trips and falls, resulting in a sprained ankle, while offloading drywall into a house. The owner sends the 1099 worker home to recover and does not provide any modified duty. A claims reserve is set at \$47,500 with a current payout of \$2,400. If the owner does not offer modified duty to the injured worker and the reserved payment is paid out, the E-Mod is expected to increase to 1.23 at the 2023/2024 term. This will result in a premium increase to \$6,218, or an additional \$1,162 annually, for three-year total of \$3,486.

### By Using RTW

If the company offered RTW and the worker could be provided a modified duty position while they recover, the E-Mod would remain the same. This is due to the previous 2019 claims where RTW was not offered.

## Case Studies *Continued*

### Example 2 *Continued*

#### Points to Consider

Managing insurance costs using a RTW program is an effective way to keep your company competitive and can be implemented by any size company. Think of what a worker can do while recovering from an injury, not what they cannot do. Treat 1099 workers as regular (W-2) employees while under a Workers' Compensation claim. Better yet, require all 1099 workers to have their own Workers' Compensation insurance. Obtain a Certificate of Insurance (COI) and verify the policy is in-force while the worker is on your project.

### Example 3

A newly established Virginia concrete form company has an E-Mod of 1.0 with a Workers' Compensation premium of \$83,000. In 2021, a delivery driver sustained a struck-by injury when a bolt broke on a flatbed trailer, causing a cargo strap to release, striking the driver in the right shoulder, and knocking him to the ground. The claim amount was set at \$80,000.

The company has an aggressive RTW program and works with their risk management consultant and claims adjuster to develop modified duty positions whenever an accident occurs. The injured worker was held out of work for 10 days by the physician, so the waiting period was exceeded (Virginia's waiting period is 7 days) and the ERA credit could not be applied. The worker was released to modified duty by the physician with a 10-pound lifting restriction, no driving and limited walking. The company contacted their risk management consultant and claims adjuster to help set-up a modified duty Position for the employee.

The modified duty assignment was designed to set up a small booth with seating near the exit to the yard to allow the injured worker to:

- Inspect outgoing vehicle loads leaving the yard
- Work with and coach new drivers on proper tie-down procedures
- Check paperwork such as load tickets, bills of lading, etc.

Since the injured worker could not drive, the company arranged an Uber driver take the employee to work, follow-up appointments and home each day for four weeks. The Uber driver was paid outside of Workers' Compensation, so no additional charges went toward the claim.

#### By Using RTW

As a result, the total costs of the claim were controlled to \$5,300. This prevented the E-Mod from increasing to an estimated 1.17 in the 2022 policy period. Since the company used their RTW program, their E-Mod was 0.83 in 2022, a savings of \$13,600 for the next three years. If the company had not used RTW, their premium would have potentially increased to \$93,600. The difference in premium from an 0.83 E-Mod to 1.17 is \$27,200 per year. By using RTW and developing a modified duty position, the company saved significant cost during the grace period for the claim.

# STEPS TO ESTABLISH AN EFFECTIVE RETURN-TO-WORK PROGRAM

## Pre-Injury

Implementing a strong safety program is key to reducing the number and severity of injuries. However, should an injury occur, it is important to have your Return-to-Work (RTW) policies and procedures established.

### >>> [Sample Return-to-Work Policy](#)

#### **Create written job descriptions:**

Evaluate current jobs and create written job descriptions. The job descriptions should contain the job functions, the physical requirements, and the location and length of shift. These will be helpful in determining whether an injured employee will be able to return to the same job or needs to be placed in other positions.

#### **Identify and develop modified duty jobs:**

If current job descriptions do not meet the requirements from the physician, the employee may be able to perform modified duty jobs. Modified work adjusts the way a job is usually performed or the time required at the job in order to accommodate the restrictions from the doctor. For example, the employee may not be allowed to lift more than 20 pounds. By reviewing job descriptions, you can determine if the employee's restrictions are within the job description or if the job can be altered to meet the restrictions. If modified duty jobs already exist, the employee can return to work faster.

### >>> [Sample Modified Duty Jobs](#)

#### **Work with the physician:**

It is important that you work closely with the physician from day one. Make them aware of your company's RTW program. Work with the treating physician to outline expectations and make certain your company's specific needs are met. One of the most important tasks in the RTW process is exchanging information with the treating physician.\*

*\* Due to HIPAA and privacy laws, make sure you only discuss, with the treating physician, what is related to or about the specific work related injury and the job duties physical requirements. Do not discuss any non-work related condition even if you feel it is contributing to the work injury.*

### >>> [Sample Letter to Attending Physician](#)

### >>> [Sample Physical Requirements of Full Duty Job](#)

### >>> [Sample Modified Duty Letter](#)

#### **Inform employees and supervisors about the program and communicate the benefits:**

Employees will be more willing to participate in your RTW program if they understand how it works and benefits them. The RTW program should be part of the on-boarding process for new employees. Make sure your new hires understand your policy of reporting injuries and the process that follows. We have included a sample mandatory RTW acknowledgment form for your new employees to sign.

Consult with your adjuster on state specific restrictions pertaining to direct communication with physicians prior to implementation.

# DID YOU KNOW?

Creating and implementing a Return-to-Work (RTW) program might seem daunting, particularly if your company is smaller and you have limited options for sedentary or alternative work. Below are some common concerns that include “did you know?” suggestions to help ensure creating a RTW program will work for your business.

## Concerns:

- My company doesn't have sedentary work available. Employees have to be able to climb ladders, work on uneven surfaces, lift 50 lbs. etc.
- I don't know what to do with the employee if they can't do what they were hired to do.
- They could work in the office, but my spouse does that job.
- Other job options are already being done by another employee.
- The employee is a laborer and we don't have modified duty work for that role.
- The employee doesn't speak English, and can't help out in the office.
- We are a small company and don't have many employees, I can't create a modified duty job.

## Did you know?

- Typical modified duty involves work opportunities without lifting or exceeding restrictions and can include warehouse or parts organization, housekeeping, light office work, and regular duties other than what is restricted. An extensive list of potential modified duty jobs is provided on page 10 of this guide including a wide variety of tasks you could assign an employee who is returning to work.
- You can ask your leadership team to create a “Wish List” of all the things they want or would like to get done but don't have the time. Look at the list and use it to determine what employees can do as part of your RTW program. This starts a great conversation and provides creative ideas for modified duty.
- Another option is to offer limited hours a day and/or pay them only for the work that they perform.
- Modified duty jobs are needed for a limited amount of time, as prescribed by the doctor, and are a good option to help get your employee back to work. Modified duty jobs are a way to reduce the lost time exposure, keep your employee in a routine and help them continue to feel connected to your company. They will also know you care.
- The longer an employee is out of work and not brought back on modified duty, the longer it takes for them to return to full time work. This will also increase the size of the claim.

## Concern:

- I am concerned to work an employee on modified duty because I am afraid they will re-injure themselves.

## Did you know?

- The tasks an employee does while on modified duty are approved by the physician prior to start of work. The employee is also monitored, so they only work within their restrictions.

## Concern:

- Business is slow and I have no work or am no longer in business.

## Did you know?

- There are non-profit modified duty options available. Talk to your claims adjuster for guidance.



# FORMS

**Sample Modified Duty Jobs**

**Off-site- Transitional Return-to-Work Program**

**Physical Requirements of Full Duty Job**

**Sample Return-to-Work Policy**

**Sample Letter to Attending Physician**

**Sample Modified Duty Letter**

# SAMPLE MODIFIED DUTY JOBS

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Once a physician has approved the light-duty assignment, workers must formally acknowledge receipt of the job request and communicate any questions or concerns about the assignment to their employer.

No modified or alternative duty assignment should feel like a chore—it's about accommodating temporary physical limitations and showing a commitment to getting an employee back to full strength. Open communication is essential to finding the right type of reasonable temporary work, being flexible to changes/adjustments as each employee will have different needs.

## Modified Duty Assignments

Typical modified duty involves maintenance without lifting or exceeding restrictions, warehouse/parts organization, housekeeping, light office work, and regular duties other than what is restricted.

1. Administrative work (filing, answering phones, copying)
2. Be a paper runner, office courier, deliver contracts, permits etc.
3. Be a safety inspector on the job and in the warehouse
4. Be a troubleshooter or "go-between" for the construction side and/or the homeowner/property manager
5. Clean service trucks
6. Clean up (Housekeeping)
7. Clean up equipment, ladders, scaffolding, trailers and tools
8. Create marketing campaigns
9. Inspect all company ladders (labels, condition, markings)
10. Inspect fire extinguishers (inspection tag, condition and gauge)
11. Light inventory parts separation
12. Make deliveries
13. Provide training on safety and equipment
14. Reviewing safety manual and offering ideas for improvement
15. Safety program research/attending safety classes
16. Schedule jobs
17. Safety Data Sheets Inventory
18. Take or manage inventory
19. Perform visual inspections of company vehicles and complete/submit maintenance requests based on findings
20. Assist in the parts department
21. Be a service advisor
22. Do simple lighting repairs, painting, and other light maintenance/repair work
23. Sitting in on or conducting safety committee meetings
24. Learn estimating
25. Fill out paperwork on job-sites
26. Grounds clean-up
27. Flagman
28. Night watch
29. Inventory warehouse
30. Pull necessary permits with city/county

# OFF-SITE TRANSITIONAL RETURN-TO-WORK PROGRAM

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A Return-to-Work (RTW) program allows workers who are unable to perform their usual job duties to work in a limited or temporary light-duty capacity. In some cases, employees volunteer with a non-profit organization rather than work for their employer. There are many benefits to RTW programs from the employer's perspective, including:

- Maintain productivity
- Improve employee morale
- Decrease in performance issues
- Resolve claims faster
- Reduce claim costs

Transitional Duty Program provides short-term work assignments for employees who have temporary medical restrictions that cannot be accommodated by their employer. It is a structured RTW program that provides meaningful and productive work at local non-profit organizations.

With the Off-Site Transitional Duty Program, employers are not responsible for creating transitional work or supervising the employee.

The program coordinator will notify the employee of the transitional job offer by phone with follow up email or certified mail. The job tasks are within the physical restrictions outlined by the treating physician and assists the employee with being active during medical recovery.

## Program Benefits to Employer

- Retains a valuable employee who is experienced and trained for the work
- Provide modified duty when unable to accommodate the workers' physical restrictions on-site
- Accommodate modified duty nationwide
- Provides consistency in RTW programs for occupational and non-occupational disabilities
- Complies with state and federal employment regulations
- Improves workplace morale and helps employees avoid disability syndrome
- Reduces potential for Workers' Compensation and employment litigation
- Reduces Workers' Compensation and non-occupational disability claims cost, which could impact future premium rates
- Potentially reduces medical costs, encourages faster recuperation, and faster return to work for the employee

## Program Benefits to Employee

- Engage in meaningful and productive work activity as soon as they are released to modified or light duty
- Keep a flexible work schedule to accommodate physician or physical therapy appointments
- Focus on abilities as opposed to limitations
- Develop a physical tolerance for work, including strength and endurance
- Learn new, transferable skills
- Retain their employee status with the company and continue earning a paycheck and benefits
- Stay productive and avoid disability syndrome
- Help others

## Program Benefits to the Community

- American Red Cross
- Habitat for Humanity
- YMCA
- Local Food Banks
- Thrift Stores
- Good Will

## Frequently Asked Questions

### What can an employer do if the physician will not release an employee to modified duty work?

- Physicians are more likely to release an employee to modified duty when they have a job description to review. The job description can be the employees' actual duties or the modified duty functions.

### How do we handle attendance or performance issues?

- Attendance: The employee should request time off or report time away from the charity work just as they would if working at the employer's location. If the employee calls off of work, whether for an unrelated illness, medical appointment or otherwise, the employer is notified that the employee did not show up for their shift by the non-profit coordinator.
- Performance: Any performance issues or concerns are communicated by the charity to the non-profit coordinator who updates the employer/carrier immediately upon notification of same.

### What if the employee is injured while working at the charity?

- If an employee is injured while working for a charity, the injury is handled as if the injury occurred while working at the employer's worksite, a claim is filed with your carrier and fully investigated for handling.

### Is payroll for the charity work a tax write off?

- This should be discussed with your company accountant, corporate tax department or tax attorney.

### Who will have oversight of the management of the employee during the charity work?

- The charity has the primary management of the employee while working at their location. Any attendance or performance are communicated to the non-profit coordinator and shared with the employer during the regular status updates.

# PHYSICAL REQUIREMENTS OF FULL DUTY JOB

<b>Employer Name:</b>			
<b>Employee Name:</b>		<b>Claim #:</b>	
<b>Job Position:</b>			

Assume a normal work day. Occasionally equals 1% to 33%. Frequently equals 34% to 66%. Continuously equals 67% to 100%.

**Description:**

**Worker must be able to:**

<b>Sit</b>	1	2	3	4	5	6	7	8 hrs/day
<b>Stand</b>	1	2	3	4	5	6	7	8 hrs/day
<b>Walk</b>	1	2	3	4	5	6	7	8 hrs/day
<b>Drive</b>	1	2	3	4	5	6	7	8 hrs/day

<b>LIFT/CARRY:</b>	<b>Occasionally</b>	<b>Frequently</b>	<b>Continuously</b>	<b>Never</b>
1-10 lbs. (Sedentary)				
10-20 lbs. (Light)				
21-50 lbs. (Medium)				
51-100 lbs. (Heavy)				
>100 lbs. (Very Heavy)				

<b>MUST BE ABLE TO:</b>	<b>Occasionally</b>	<b>Frequently</b>	<b>Continuously</b>	<b>Never</b>
Push/Pull				
Climb/Balance				
Stoop/Squat/Kneel/Crawl				
Bend				
Reach above shoulders				
Grasp objects				
Manipulate objects				

<b>ENVIRONMENTAL REQUIREMENTS</b>	<b>Yes</b>	<b>No</b>	<b>Description</b>
Operate machinery			
Work in changing temperatures/outdoor elements			
Work with fumes/chemicals			

**Additional Comments:**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_