

Section Title: Benefits Administration - Vocational Rehabilitation
Subject: Modified and Alternate Return to Work with the Accident Employer
Effective Date: June 1, 2000, to December 31, 2006

POLICY PURPOSE

One of the WCB's goals is to reduce the impact of injuries by helping the worker to return to work. This is best achieved by returning the worker to the same job with the same employer. Most of the time, the worker and the employer will make their own arrangements. The WCB encourages these permanent and transitional arrangements and does not intend that the principles described in this policy will replace these arrangements.

The WCB will only become involved in two situations. The first is when either the worker or the employer requires financial or technical support to help the worker return to work. The second is when the worker and the employer disagree about whether the modified work placement is appropriate. This policy represents a component of return to work, and is consistent with the principles defined in policy 43.00, *Vocational Rehabilitation*.

A. POLICY

A.1 Definitions

For the purpose of this policy, the following definitions apply:

Modified Work is work that is offered when an injured worker is able to return to work but is unable to do all of the duties of the pre-accident job without help. It includes any modification of the previous job that helps a worker safely return to work. It may involve a modification to the job, task, function, hours of work, work site, or any combination of the above. Graduated return to work (the worker temporarily working for limited hours or limited duties as part of a plan leading to full employment) is included in modified work.

Alternate Work is work that is offered when the worker is temporarily or permanently unable to perform the pre-injury work. It is a job or position that is different than the one performed by the worker prior to the injury. Transitional work (temporary work different from the pre-injury work that is offered as part of a plan leading to full employment) is part of alternate work.

A.2 Goals and Objectives

Modified or alternate work facilitates a safe return to work with the accident employer and helps workers regain their earning capacity. The primary goal after the injury is to safely return the worker to work. The best approach is a co-operative arrangement between the accident employer and the disabled worker. Returning to work with the same employer (if either temporarily or permanently returning to the same work is not possible) includes modified or alternate work.

The worker and employer should establish most placements jointly to ensure the return to work is safe and timely. The WCB will become involved when there is a need for special services or assistance.

A.3 Criteria – When additional assistance will be developed

The WCB may authorize any reasonable and necessary expenditure that will help the worker to return to work. The WCB will help a worker return to the same employer when:

- a) The worker cannot return to the same pre-injury work with the employer.
- b) The worker has either a temporary or permanent disability (prior to 1/1/92) or a loss-of-earnings capacity (after 1/1/92).
- c) The employer will need assistance to accommodate the worker in a modified or alternate situation.

A.4 Criteria – Acceptable Modified or Alternate Work

When the need for WCB involvement in a modified work situation has been established, the WCB will work with the worker, the employer, and the collective bargaining agent to help the worker safely return to work. Prior to approving the expenditure, the WCB will ensure that all of the following concerns are met:

- a) Permanent or transitional employment will exist for a reasonable length of time.
- b) The WCB believes that the worker can do the job without aggravating or enhancing the injury.
- c) Any expenditure will provide benefits to both the worker and the employer.
- d) The placement considers the worker's pre-injury job, along with the worker's post-injury physical capabilities, aptitudes, and skills. It also considers the availability of alternatives.
- e) A procedure exists to ensure periodic evaluation of the worker's progress.

A.5 Criteria – Benefit eligibility if employment conditions change

If a worker doing modified or alternate work experiences a change in job requirements, lay-off, shutdown, lockout or strike, the worker may be eligible for additional benefits. When the WCB determines whether the worker is eligible for additional benefits, it will consider whether there is a loss of earning capacity and, if so, whether or not it is due to the injury.

The WCB recognizes that when the work is interrupted due to economic conditions (labour issues or other factors that affect all workers), the initial loss of earning capacity is not due to the injury. If the worker is expected to return to the previous employment in a reasonable time period, the worker is not at a disadvantage compared to other workers at that workplace who are also experiencing a loss of earnings.

If the work interruption becomes prolonged to the point that similarly employed workers are pursuing other employment opportunities, and the injury places the injured worker at a competitive disadvantage in the general labour market, then the WCB will determine whether there is further entitlement to wage-loss benefits and rehabilitation services.

When the WCB determines whether the loss of earnings was due to the injury, it will consider the following questions:

- a) Is the work interruption temporary or long term?
- b) Is the work interruption a normal cyclical event?

- c) What is the worker's actual earning capacity in the general labour market? Is the worker's current wage representative of actual earning capacity, or is it partially subsidised as part of a rehabilitation initiative?
- d) Is the worker at a competitive disadvantage compared to uninjured workers so that, as a result of the worker's injury, the worker cannot effectively compete with other workers in the job market?

If the WCB determines that the loss of earnings has occurred for reasons unrelated to the injury, there will be no change in benefits. If, however, there is a loss of earning capacity because the injury has affected the worker's ability to adapt to the changed workplace conditions, the WCB will provide benefits subject to policy 44.80.30.20, *Post-Accident Earnings - Deemed Earning Capacity*. The worker may also be eligible for other vocational rehabilitation services.

A.6 WCB response to non-cooperation

- a) If the employer initiates modified or alternate work that does not meet the standards for an acceptable placement as described in this policy, the WCB may offer additional rehabilitation services to the worker.
- b) If the worker refuses to participate in modified or alternate work that is initiated by the WCB and consistent with the worker's rehabilitation plan, compensation benefits will be reduced or eliminated by an amount consistent with the amount the worker would have earned in the modified or alternate work situation.
- c) When the employer initiates the modified or alternate work, and there is a disagreement about whether it is suitable for the worker, then the WCB will determine if the work placement is appropriate under this policy. If it is, and the worker refuses to participate after being informed by the WCB, compensation benefits will be reduced or eliminated by an amount consistent with the amount the worker would have earned in the modified or alternate work situation.

B. REFERENCES

The Workers Compensation Act, sections 27(15), 27(20) and 81(1) [**prior to anuary 1, 1992**]

The Workers Compensation Act, sections 22, 27(20) and 81(1) [**on or after January 1, 1992**]

WCB Policy 43.00, *Vocational Rehabilitation*

WCB Policy 44.10.20.50, *Recurring Effects of Injuries*

WCB Policy 44.80.30.20, *Post-Accident Earnings – Deemed Earning Capacity*

WCB Policy 44.10.30.60, *Practices Delaying a Worker's Recovery*

History

1. Policy 43.20.20 established by Board Order 21/92 effective April 30, 1992, as of April 30, 1992.
2. Policy 43.20.20 amended by Board Order 31/93 effective September 13, 1993.
3. Policy 43.20.20 amended by Board Order 13/00 effective June 1, 2000.
4. Policy 43.20.20 amended by Board Order 26/06 on August 31, 2006. This policy will apply to accidents from June 1, 2000, to December 31, 2006. For accidents occurring on or after January 1, 2007, please refer to Policy 43.20.25 – Return to Work with the Accident Employer.
5. Minor formatting, grammar, and wording changes were made to the policy, June 27, 2012.

C. ADMINISTRATIVE GUIDELINES

1. Modified/alternate return to work arrangements may be pursued through a workplace-based disability management program or on an individual case-by-case basis. When initiating a modified/ alternate return to work with the accident employer, the WCB will:
 - a) Pursue placement in a modified/alternate work situation concurrent with medical management and physical rehabilitation.
 - b) Work with the employer and bargaining agent (where applicable) to identify and establish modified/alternate work.
 - c) Whenever practical, assess the demands of the work through on-site analysis.
 - d) Compare the demands of the work with available information regarding the injured worker's physical capabilities.
 - e) Establish acceptable modified/alternate work consistent with the criteria in Section B.4 in this policy.
 - f) Document the modified/alternate work program in a written plan of action and communicate the plan to all involved parties.
 - g) Monitor the return to work plan to ensure it is implemented in accordance with the established goals. The return to work plan should be amended as required and any amendments communicated to all involved parties.
2. To ensure the success of a modified/alternate work plan with the accident employer, the WCB may provide any combination of the following benefits or services (after considering their cost effectiveness):
 - a) Wage loss benefits to the injured worker.
 - b) A wage or training subsidy to the employer.
 - c) The cost of job site modification or work modification.
 - d) Continuation of wage loss benefits to the injured worker when on a trial return to work, a work experience, a work assessment, or when in a supernumerary position.
 - e) The acquisition of tools, equipment, materials, etc.
 - f) Other reasonable and necessary costs to support the modified/ alternate work.
3. Under B.4 a) "a reasonable length of time" will be determined by the WCB on a case-by-case basis and will consider whether the worker is receiving concurrent medical treatment and/or the expected duration and nature of the compensable limitations. Any modified/alternate work placement should be carried out within a defined goal and purpose that eliminates or reduces the worker's loss of earning capacity.