

**DEVELOPING A RETURN TO WORK  
PROGRAM  
A RESOURCE FOR EMPLOYERS**

**LIMIT THE IMPACT OF ON THE JOB ILLNESS OR INJURY ON  
YOUR BUSINESS AND ON YOUR EMPLOYEES!**

**2003-2004**

Texas Workers Compensation Commission  
Medical Review Division

## **I. INTRODUCTION TO EARLY RETURN TO WORK**

Early return to work following an injury helps control costs directly related to the injury and reduces the potential impact of the injury on the employer's business as well as on the injured worker's life.

Studies show that injured workers who are allowed to return to productive work as early as possible following an injury heal faster and better than those injured workers who remain off work. Injured workers who return to work during their healing period tend to require fewer medical treatments and incur less medical expense related to the injury. Work becomes part of medical treatment and rehabilitation and allows the injured worker to take an active role in his or her recovery.

Having an established and proactive return to work program provides employers with effective tools for managing workers' compensation costs and the business costs related to lost time. Developing and integrating an early return to work program into routine business operations prepares everyone ahead of time in the event of an injury. A consistently applied early return to work program helps ensure success. Early return to work becomes an expectation for both employers and employees.

Texas employers are required, on written request of the injured worker, a doctor, the insurance carrier or the Commission, to notify the employee, the employee's treating doctor, if known to the employer, and the insurance carrier of the existence or absence of opportunities for modified duty or a modified duty return to work program available through the employer. If those opportunities or that program exists, the employer shall identify the employer's contact person and provide other information to assist the doctor, the employee and the insurance carrier to assess modified duty or return to work options.

The Texas Workers' Compensation Commission (TWCC) is providing this guide as a resource for employers who wish to develop a return to work program suitable for their own company or business. Along with general information about early return to work programs, this document includes a basic program outline and sample documents that can be adapted to meet the specific needs of any workplace regardless of the number of employees.

Samples included in this guide are intended for use as reference documents. Inclusion does not constitute any specific recommendation by the Texas Workers' Compensation Commission.

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## **II. BENEFITS OF EARLY RETURN TO WORK**

Having an established consistently applied early return to work program provides employers with the opportunity to significantly reduce workers' compensation costs. Lost time injuries are the most expensive injuries, with costs increasing every day that an injured worker is not able to work. An early return to work program can significantly reduce costs and improve productivity, safety, and improve employee moral.

Employers in Texas pay the highest medical costs associated with workers' compensation in the country. In addition to these costs, it is estimated that lost time due to on the job injuries costs employers 4% to 6% of total payroll. Successful return to work programs are reported to reduce workers' compensation costs by as much as 30% to 40%.

Studies show that injured workers who are out of work six months have only a 25% chance of returning to work at all. The longer injured workers are off work, the less likely it is that they will ever return to work. Workers' compensation costs grow as income replacement benefits continue to be paid during the injured worker's absence.

In addition to reducing the likelihood of malingering and of fraudulent claims, the benefits of an early return to work program are many for both employers and employees.

### **Benefits to the Employer - Direct Savings**

- Workers' compensation costs are reduced when Temporary Income Benefits (TIBs) cease or are adjusted when an injured worker returns to work;
- Medical and disability costs are reduced and recovery time shortened;
- Decreased loss ratios and experience modifiers help control premium costs;
- Productivity is maintained and human resources are used to the maximum extent; and
- Wage costs for substitute employees are saved.

### **Benefits to the Employer - Indirect Savings**

- Company retains the production of skilled and experienced workers;
- Injured workers continue to contribute to the company;
- No expenses are incurred for recruiting, hiring, training or salary of replacement workers;
- No overtime is required to make up for lost production;

- Work delays and business interruptions are eliminated when an experienced employee returns to work;
- Communication and relationships between employees and management are enhanced based on the commitment by all parties;
- Co-workers are not required to perform additional duties to compensate for an absent injured worker; and
- The company's interest and concern for employees are reinforced.

### **Benefits to Employees**

- Recovery time is shortened;
- Injured workers remain active and productive;
- Permanent disability associated with injury is reduced;
- Concerns about continued employment are resolved;
- Full or partial wages are earned bringing the injured worker's income closer to pre-injury wages;
- Stress, boredom and depression from the injury or illness and from being unproductive are reduced or eliminated;
- Injured workers and their families experience less disruption to lives;
- Loss of physical fitness and muscle tone due to inactivity is prevented;
- Injured workers maintain company benefits and seniority;
- Injured workers maintain contact with and support from co-workers and friends;
- Injured worker maintains job skills;
- Feelings of dependency and lack of control are alleviated;
- Pain and suffering are minimized and overall wellness is promoted;
- Family and social lifestyles are maintained; and
- Reduced accident and injury related costs may help preserve benefits and jobs as well as contribute to improved work environment.

### **III. NON-MEDICAL FACTORS AFFECTING RETURN TO WORK**

Successful return to work is time sensitive. There is a point in time for most injured or ill workers when an appropriate temporary assignment will expedite recovery both physically and emotionally.

Managing employees with work related injuries or illnesses requires an understanding of the behavioral forces that motivate an employee to be a productive participant in the workforce. Normally, an employee who is satisfied with his or her job and employment situation, and who suffers an injury or illness that results in absence from work, is self-motivated to return as quickly as possible. However, even the most dedicated employee's attitude and outlook may diminish if the person remains out of the workforce for an extended period of time. The longer an employee is unable to work, the more difficult it becomes to return to full duty employment. By providing appropriate productive return to work opportunities, employers can significantly reduce injury related lost time.

Non-medical factors often present barriers to return to work. Issues such as personal fears and anxieties, decline in self-esteem, depletion of personal financial resources, family problems, potential loss of position or status at work and fear of re-injury can lengthen lost time.

Unfortunately, lost time has become routine and expected even for relatively minor injuries. Injured workers who return as soon as possible following an injury are less likely to become treatment dependent. Unless lost time is medically indicated, it is always better for the employer to make every reasonable effort to keep an injured worker on the job. Monitoring an injured worker's progress following return to work to ensure appropriate work assignments and adherence to medical restrictions will help with a successful transition back to full employment.

The stage is often set for extended lost time long before any injury has occurred. Supervisors and managers who communicate sensitively, treat employees fairly and with respect, can greatly reduce the possibility of unnecessary lost time. Relationships that are adversarial between supervisors and employees tend to interfere with or delay return to work. Provide training for your supervisors to help them acquire or develop these skills.

If communication between supervisors and employees indicates mistrust or resentment toward an employee who files a workers' compensation claim, injured workers are less likely to want to return in a timely manner. For example, questions to an injured worker as to the cause of an injury should be asked without pressure or judgment. Employees pick up quickly on negativity, and that negativity will undermine the likelihood of a successful early return to work program.

Besides emotional responses to an injury, such things as negative relationships with co-workers, disciplinary or pay issues, workload concerns, or job dissatisfaction can delay or interfere with successful return to work. Training supervisors to address disciplinary issues and other difficult situations can significantly reduce the possibility of extended lost time. If an employee has a problem before an injury, the problem is likely to be greater and more costly to resolve after an injury.

#### **IV. ELEMENTS OF SUCCESSFUL RETURN TO WORK**

Incorporating these basic elements can maximize the opportunity for a successful early return to work program.

- Commitment to the program by all managers and supervisors;
- Consistent application of the program;
- Emphasis on safety and prevention;
- Prompt medical care following an injury;
- Continuous communication with injured worker while off work;
- Monitoring an injured worker's progress and work assignments following return to work throughout the transition back to regular work;
- Involvement of employees in the development and implementation of the program as well as in determining of their own return to work activities following an injury;
- Continuous education and dissemination of information about the return to work program beginning before injuries occur;
- Review of accident and injury history;
- Development of job descriptions for most jobs that clearly explain essential job functions and tasks required;
- Information to help doctors understand the employee's regular job, the return to work program, and available alternative assignments;
- Designated person to coordinate the early return to work program, monitor assignments, be responsible for workers' compensation reporting and required record keeping, and communications with the treating doctor and injured worker;
- Compliance with ADA and FMLA, the Texas Workers' Compensation Act, and any other state or federal law that might apply; and
- Periodic evaluation of the program.



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## **V. WRITTEN POLICY AND PROCEDURES**

An early return to work program should be simple, realistic, and suitable to the employer's business needs. Putting the policy and procedures in writing is the first important step.

A written policy statement reinforces the company's commitment to the program and helps make the expectation of early return to work an integrated part of the company culture. It helps to show that the company values its employees. Written documents provide readily available information helpful in communicating with employees, health care providers and insurance carriers. Having the information in writing ensures that everyone has the same information and helps ensure consistent application of the program.

### **Policy Statement**

Write, adopt, and post a policy statement that is brief and broadly written so that it does not require frequent revision. Post the policy statement in an easily accessible place as a constant reminder and encouragement of early return to work following a work related illness or injury. Include statements that do the following:

- Confirm the company's commitment to the early return to work program;
- Explain the company's return to work philosophy; and
- Stress the importance of safe operations and prevention of injury.

### **Procedures and Responsibilities**

Write procedures that explain step by step what will happen from the time of an injury until after the injured worker returns to work. Include clearly stated and detailed instructions that identify specific roles and responsibilities. Identify the primary contact person and provide contact information.

Roles, responsibilities, and procedures may vary depending on the program and on other company policies and specific expectations. Provide information such as:

- Who an injured worker should notify in the event of an injury;
- What are the procedures for the injured worker to follow;
- Who is responsible for completing the TWCC-1, Employers First Report;
- Who is responsible for maintaining contact with the injured worker;

- What an injured worker can expect from the insurance carrier, treating doctor, and others;
- How and who determines the availability of medically appropriate work assignments; and
- How the incident is investigated.

**Sample Documents and Supplemental Information for Section 5**

- Policy Statement
- Procedures
- Roles and Responsibilities

**SAMPLE: POLICY STATEMENT**

(Company name) is committed to providing a safe workplace for our employees. Preventing work related illness and injury is our primary goal.

Our early return to work program provides opportunities for an employee who is injured on the job to return to work at full duty. If the injured worker is not physically capable of returning to full duty, the program provides opportunities to perform his or her regular job with modifications or, when available, to perform alternate temporary work that meets the injured worker's physical capabilities.

(Signature of President/CEO/Manager)

(Date) \_\_\_\_\_

**SAMPLE: POLICY STATEMENT**

(Name of company) will make every reasonable effort to provide suitable return to work opportunities for every employee who is unable to perform his/her regular duties following a work related injury. This may include modifying the employee's regular job or, if available, providing temporary alternate work depending on the employee's physical abilities.

Only work that is considered productive and meaningful to the business shall be considered. Injured workers who are participating in the early return to work program are expected to provide feedback in order to improve the program's future development.

(Signature of President/CEO/Manager)

(Date) \_\_\_\_\_

## **SAMPLE: PROCEDURES**

1. An employee who is injured at work must immediately report the incident to their supervisor.
2. The supervisor is required to:
  - Obtain immediate medical attention for the injured worker;
  - Follow company requirement for reporting job related injuries and illnesses;
  - Complete an incident investigation report.
3. The supervisor and injured worker review information received from the doctor and jointly determine if appropriate work is available.
4. The injured worker is responsible for following medical instructions on and off the job.
5. Following an injured work's return to work, the supervisor or the return to work coordinator monitors the injured worker's progress to assure that restrictions are carefully followed and assist to resolve any difficulties.
6. The injured worker must immediately report any difficulties with performing assigned work. Supervisor and injured worker work to address the problem.

## **SAMPLE: ROLES AND RESPONSIBILITIES**

### **EMPLOYER RESPONSIBILITIES**

- Provide a safe work environment;
- Develop written return to work policies and procedures;
- Educate all employees about the program;
- Train employees on proper reporting of incidents and incident investigation;
- Promptly report job related injuries to the insurance carrier;
- 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 insurance carrier to encourage recovery and return to work;
- Develop functional job descriptions and identify physical requirements that clearly identify physical activities required to do the work.

### **EMPLOYEE RESPONSIBILITIES**

- Know and follow safety policies and procedures;
- Report any injury immediately;
- If medical attention is necessary, inform your treating doctor that return to work opportunities are available to accommodate your physical abilities;
- Provide your doctor with a Return to Work Information Packet as provided by your supervisor;
- Notify your supervisor immediately if your work status changes;
- When your doctor releases you to return to work, report on the next regular shift; and
- Follow your doctor's orders and restrictions at home and at work.

## **INSURANCE CARRIER 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 the successful return to work.
- **Carriers are required to furnish, at the employers' request, return to work services beginning on the 8<sup>th</sup> day of lost time.** (Requirement enacted as part of HB 2600, 2001 Legislature.)

## **HEALTH CARE PROVIDER RESPONSIBILITIES**

- Provide appropriate, effective medical treatment that facilitates recovery and expedites return to productive work; and
- Complete and file the TWCC-73, Work Status Report as required, clearly indicating the employee's work status and physical abilities.
- Set reasonable return to work and recovery goals from the beginning of treatment.
- Work with employer to encourage appropriate return to work opportunities.

## **VI. EDUCATION: BEING PREPARED**

Prior to the initiation of an early return to work program, provide information to all employees, including supervisors and managers, about the human and financial costs of workplace injuries, the benefits of an early return to work program, and their roles and responsibilities.

All employees, including supervisors and managers, must agree that every effort will be made to return any injured worker to work as soon as possible following an on the job injury and understand why that is important. Everyone needs to understand that the return of an injured worker might require what is perceived as “special treatment”. Understanding the program will provide reassurance that everyone will receive similar consideration and treatment if they are ever injured. Supervisors and managers should be held accountable for supporting the program and for assisting to provide return to work opportunities as often as possible.

Having an early return to work program does not obligate employers to create unnecessary work or to return an injured worker if there is no appropriate productive work available. Having a program does obligate the employer to try to provide meaningful productive work that accommodates the injured workers’ medical abilities as often as possible. Initiating a program may require new thinking and developing different perceptions of work assignments, such as dividing certain tasks between jobs to free up an uninjured employee to do other work, or temporary transfers to other departments. It is more economical to have a trained and experienced employee working at a reduced pace or schedule than not working at all.

Some employers present the early return to work program as part of their benefit packages. Including information about the program on a routine basis during safety meetings and new hire orientations, periodically reminding employees about the program in newsletters, and putting up posters or using payroll stuffers will help integrate the expectation of early return to work into the basic culture of the organization. Continuous reminders about the program reinforce the company’s commitment to employees and to successful return to work.

Providing information about the workers’ compensation system prior to an injury can be helpful in alleviating some of the concerns and misconceptions of employees. Reassure employees that, if they are injured on the job, returning to work does not impact their eligibility for benefits. Employees should know beforehand that Temporary Income Benefits may be reduced or suspended depending on the amount of earnings they receive for working. Temporary Income Benefits may be reinstated, depending on continued eligibility, if they are unable to continue working or if suitable work is no longer available through the early return to work program. Returning to work does not impact eligibility for medical benefits related to a compensable injury. The Texas Workers’ Compensation Commission has information available on the TWCC website at



[www.twcc.state.tx.us](http://www.twcc.state.tx.us) that will help educate employees about the workers' compensation system and in communicating accurate information to employees.

***Importance of Employee Involvement in Program Development***

Involving employees in the development and implementation of the early return to work program encourages a feeling of ownership of the program and maximizes the opportunities for success. Keeping the focus on safety and the emphasis on early return to work is a joint effort. The program will benefit from having the input of experienced and knowledgeable workers. The result should also be an improved safety record for the company or business.

Employees who are involved are more likely to encourage and accept return to work efforts on their own behalf and on behalf of their co-workers. Employees, supervisors, and managers who help with training and education efforts, reviewing accident history, developing job descriptions, recommending modifications to jobs, and identifying meaningful alternate assignments develop a sense of ownership and responsibility for the success of the program.

## **VII. COMMUNICATION: THE KEY TO SUCCESS**

Poor communication or lack of communication is the primary barrier to a successful return to work program. Maintaining regular communication with the injured worker and with the treating doctor is vital to the return to work process.

### **Maintaining the Employer-Employee Connection**

It is easy for an injured worker who cannot immediately return to work to become “disemployed” or disconnected from his or her employer. The longer an injured worker remains off work, the more probable it is that this detrimental separation will occur. Maintaining the employer-employee relationship with regular communication will help reduce the probability of lengthy lost time.

Coordinate between supervisors and/or the employer’s designated contact person to facilitate routine communication during lost time. Expressions of sincere regard for the injured worker’s quick recovery help the injured worker feel valued and missed.

Regular communication can include notices about company events such as picnics, awards, and birthdays, and mailing company newsletters and get well cards. Call the injured worker to determine if there are any questions or if assistance is needed. Telephone calls provide an opportunity to show concern for an injured worker, to encourage the injured worker to follow the doctor’s instructions while at home, provide information and encourage return to work.

Helping the injured worker to remain connected to fellow employees and to the workplace can encourage an employee to return faster, overcome obstacles to return to work, and maintain a positive frame of mind regarding returning to the work environment.

### **Communicating with the Treating Doctor**

Usually, doctors only know what they are told about the employee’s worksite and job requirements. Without a detailed job description of the injured worker’s regular job, the treating doctor must base return to work decisions only on the subjective assessment of the job, usually provided by the injured worker.

It is not the job of the treating doctor to make employment decisions. The doctor is responsible for providing information regarding the abilities of the injured worker so that his or her employer can make informed return to work determinations.

After the initial examination, the treating doctor is required to send the employer and the insurance carrier a completed TWCC-73, “Work Status Report”, stating the injured worker’s physical capabilities as they relate to the injury and to the

injured worker's ability to carry out job tasks. Changes in the condition of the injured worker are also reported on the "Work Status Report" periodically until the injured worker is fully released to return to work.

After reviewing the completed "Work Status Report", the employer can determine if there is suitable work available that accommodates the employee's restrictions. After this determination is made, an employer may make a bona fide job offer in accordance with TWCC Rule 129.5. If the injured worker does not believe that the available work is within restrictions, the injured worker can ask the treating doctor for clarification.

### **Information Packet**

Having an information packet to provide to an injured worker and the treating doctor at the time of the initial visit can make the difference between a medical only claim and a lost time claim. Providing the information as soon as possible helps ensure that correct information is communicated in a timely manner.

Although it is not required, some employers find it helpful to obtain a medical release at the time of a work related injury pertinent only to the injury. With a signed release, the doctor may be more inclined to discuss medical information with the employer.

The prepared packet could include information such as the following:

- Letter to the treating doctor explaining the return to work program, providing carrier information and identifying an employer contact;
- Description of the injured workers' regular job, including task analysis and information about alternate assignments;
- Signed release of medical information;
- Form TWCC-73, "Work Status Report" with Part I: General Information portion completed;
- Information about the workers' compensation system and benefits, such as a copy of the TWCC publication *Information for Injured Workers*.

### **Coordinating Communication Efforts**

The insurance carrier should be made fully aware of the return to work program and of the employer's desire to provide appropriate work for injured workers. The carrier can play an important part in bringing the employee back to work; therefore, it is important to clarify the employer's expectations of the carrier in this regard.

Coordinating communications and the exchange of information among the treating doctor, the employer, and carrier can prevent duplication of efforts, eliminate unnecessary calls, and prevent confusion.

Working with the carrier to prepare a bona fide job offer letter can help ensure compliance with the specific requirements of TWCC Rule 129.6, “Bona Fide Offers of Employment”. The carrier can then follow up with any future actions that may be appropriate regarding benefit payments.

***Samples and Supplemental Information for Section 7:***

- Letter to treating doctor;
- Release of medical information;
- TWCC-73, “Work Status Report”;
- TWCC Rule 129.6, “ Bona Fide Offers of Employment”; and
- Letter making bona fide offer of employment.

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**SAMPLE: LETTER TO TREATING DOCTOR**

(Company letterhead)

(Date of letter)

(Doctor's name and address)

Subject: (Employee's name and date of injury)

Dear Dr. \_\_\_\_\_:

Our Company has implemented a return to work program designed to return any injured employee to medically appropriate work as soon as possible.

Enclosed is a detailed job description for the regular job of the employee named above, which 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, we will attempt to find an appropriate alternate work assignment. We will ensure that any assignment meets all medical requirements as they appear on form TWCC-73, Work Status Report. We will consider re-arranging work schedules around medical appointments if necessary.

If you need additional information about a possible work assignment or about our return to work program, please call (company contact name and number). Our insurance carrier is (name and address of insurance carrier).

Thank you for your participation in our efforts to return our employees to a safe and productive workplace.

Sincerely,

(Signature of company representative or owner)

(Title), (Name of Company)\_\_\_\_\_

Encls: Signed authorization  
TWCC-73, Work Status Report  
Job descriptions and task analysis

**SAMPLE: RELEASE OF MEDICAL INFORMATION**

**AUTHORITY TO RELEASE MEDICAL INFORMATION**

(Employee Name)  
(Employee Address)  
(Date of Birth)

I authorize (name of treating doctor) to release medical information to my employer, (name and address of employer), regarding my on the job injury that occurred on (Date of injury).

This information may facilitate my return to medically appropriate productive work.

(Print employee name) \_\_\_\_\_

(Employee signature) \_\_\_\_\_ Date: \_\_\_\_\_

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**TWCC RULE 129.6,**  
**BONA FIDE OFFER OF EMPLOYMENT**

(a) An employer or insurance carrier (carrier) may request the treating doctor to provide a Work Status Report by providing the treating doctor a set of functional job descriptions which list modified duty positions which the employer has available for the injured employee (employee) to work. The functional job descriptions must include descriptions of the physical and time requirements of the positions.

(b) An employer may offer an employee a modified duty position that has restricted duties that are within the employee's work abilities as determined by the employee's treating doctor. In the absence of a Work Status Report by the treating doctor an offer of employment may be made based on another doctor's assessment of the employee's work status provided that the doctor made the assessment based on an actual physical examination of the employee performed by that doctor and provided that the treating doctor has not indicated disagreement with the restrictions identified by the other doctor.

(c) An employer's offer of modified duty shall be made to the employee in writing and in the form and manner prescribed by the Commission. A copy of the Work Status Report on which the offer is being based shall be included with the offer as well as the following information:

(1) the location at which the employee will be working;

(2) the schedule the employee will be working;

(3) the wages that the employee will be paid;

(4) a description of the physical and time requirements that the position will entail; and

(5) a statement that the employer will only assign tasks consistent with the employee's physical abilities, knowledge, and skills and will provide training if necessary.

(d) A carrier may deem an offer of modified duty to be a bona fide offer of employment if:

(1) it has written copies of the Work Status Report and the offer; and

(2) the offer:

(A) is for a job at a location that is geographically accessible as provided in subsection (e) of this section;

(B) is consistent with the doctor's certification of the employee's work abilities, as provided in subsection (f) of this section; and

(C) was communicated to the employee in writing, in the form and manner prescribed by the Commission and included all the information required by subsection (c) of this section.

(e) In evaluating whether a work location is geographically accessible the carrier shall at minimum consider:

(1) the affect that the employee's physical limitations have on the employee's ability to travel;

(2) the distance that the employee will have to travel;

(3) the availability of transportation; and

(4) whether the offered work schedule is similar to the employee's work schedule prior to the injury.

(f) The following is the order of preference that shall be used by carriers evaluating an offer of employment:

(1) the opinion of a doctor selected by the Commission to evaluate the employee's work status;

(2) the opinion of the treating doctor;

(3) opinion of a doctor who is providing regular treatment as a referral doctor based on the treating doctor's referral;

(4) opinion of a doctor who evaluated the employee as a consulting doctor based on the treating doctor's request; and

(5) the opinion of any other doctor based on an actual physical examination of the employee performed by that doctor.

(g) A carrier may deem the wages offered by an employer through a bona fide offer of employment to be Post-Injury Earnings (PIE), as outlined in §129.2 of this title (relating to Entitlement to Temporary Income Benefits), on the earlier of the date the employee rejects the offer or the seventh day after the employee receives the offer of modified duty unless

the employee's treating doctor notifies the carrier that the offer made by the employer is not consistent with the employee's work restrictions. For the purposes of this section, if the offer of modified duty was made by mail, an employee is deemed to have received the offer from the employer five days after it was mailed. The wages the carrier may deem to be PIE are those that would have been paid on or after the date the carrier is permitted to deem the offered wages as PIE.

(h) Nothing in this section should be interpreted as limiting the right of an employee or a carrier to request a benefit review conference relating to an offer of employment. The Commission will find an offer to be bona fide if it is reasonable, geographically accessible, and meets the requirements of subsections (b) and (c) of this section.

Effective Date: December 26, 1999

**SAMPLE: LETTER MAKING A BONA FIDE OFFER OF  
EMPLOYMENT**

All letters making a bona fide job offer should be coordinated with the insurance carrier to ensure that all current requirements are met prior to mailing.

(Company Letterhead)

**(CERTIFIED MAIL-RETURN RECEIPT)**

(Date)

(Employee name and mailing address)

Re: Bona Fide Offer of Employment

Dear (Employee name):

After reviewing information provided by your doctor, we are pleased to offer you the following temporary work assignment.

We believe this assignment is within your capabilities as described by your doctor on the attached TWCC-73, Work Status Report. You will only be assigned tasks consistent with your physical abilities, skills and knowledge. If any training is required to do this assignment, it will be provided.

Job title: \_\_\_\_\_

Description of physical requirements of this position \_\_\_\_\_  
\_\_\_\_\_

Location: \_\_\_\_\_

Duration of assignment: From: (\_\_\_\_\_) To: (\_\_\_\_\_) )

Work Hours: From: (\_\_\_\_\_) To: (\_\_\_\_\_)      Wages: \_\_\_\_\_ (Hour, Week, Month)

Department: \_\_\_\_\_ Supervisor \_\_\_\_\_

This job offer will remain open for five (5) work days from your receipt of this letter. If we do not hear from you within five (5) work days, we will assume that you have refused this offer that may impact your Temporary Income Benefit payments.

We look forward to your return. If you have any questions, please do not hesitate to contact me.

Sincerely,

(Signature and title)

## VIII. MAKING APPROPRIATE WORK ASSIGNMENTS

### *Modified Regular Duty*

The primary goal of early return to work is to return an injured worker to his or her original job as soon as possible. If an injured worker cannot return to regular work at full capacity, temporary modifications to his or her regular job such as schedule changes, reduced hours, reduced capacities, or sharing parts of the work with others are effective accommodations.

### *Alternate Assignments*

If an injured worker cannot perform regular duties, temporary alternate assignments can be the bridge back to regular employment. Injured workers who take an active role in the decision making process to determine their own return to work assignments are more likely to have a successful return to work.

Alternate assignments must be meaningful and productive. Demeaning or “make-work” assignments will defeat the purpose and could be seen as punishment. Assignments must be within the injured worker’s capabilities. When determining alternate assignments, consider jobs or tasks that need to be done but are rarely done due to lack of time. Consider the injured worker’s past work experience and skills. Alternate work assignments are generally short term in nature. Temporary transfer to another regular position that meets the injured worker’s medical restrictions is another choice.

Before actual assignments are needed, ask employees to identify everyday or new tasks that could be done by injured workers as temporary assignments. Develop and keep on hand a list of tasks that are not being performed now that would be helpful. Identify tasks that are only performed occasionally or that no one seems to have time to do. Tasks that could be performed by an injured worker that would help other employees to perform their jobs more efficiently are also a source of alternate assignments.

### *Job Task Analysis*

A job task analysis provides the basic framework on which appropriate assignments can be determined. Employees who perform the work are most familiar with how the work is done and are a valuable resource in completing the task analysis. By doing task analysis and job descriptions for their own jobs, employees can help identify possible modifications and changes leading to improved safety by identifying potential hazards and ways of eliminating them.

A job task analysis breaks down each job into separate physical tasks and describes details required to do the work, such as endurance required, postures, work environment, equipment used, and weights of objects to be moved. Having

this information prepared prior to injury will expedite the determination of appropriate assignments and facilitate return to work in a timely manner.

### **Job Descriptions**

Review accident and injury history to identify the jobs that are most likely to have an injury and identify the typical types of injuries that have occurred related to those jobs. Write detailed functional job descriptions for these and most other jobs using information from the task analysis. Keep job descriptions up to date and accurate. If an employee is injured, the information is readily available saving time and providing vital information to the treating doctor so that timely and appropriate return to work determinations can be made.

### **Duration of Assignments**

Alternate assignments are considered temporary. Some modifications to the injured worker's current job may result in permanent changes; however, most accommodations are for the duration of the healing period until the treating doctor releases the injured worker to return to full duty.

When the doctor gives the injured worker full release to work, the employee can go back to his or her original job. If the doctor continues medical restrictions, employers may want to reevaluate continuing alternate work assignments.

### **Samples and Supplemental Information for Section 8:**

- Principles of Task Redesign;
- How to Use the Task Inventory;
- Task Inventory Form;
- How to Use the Physical Demands Task Assessment;
- Physical Demands Task Assessment Form; and
- Job Description Guide.

## **PRINCIPLES OF TASK REDESIGN**

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.

### **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

## **HOW TO USE THE TASK INVENTORY**

The objective of a task inventory is to list the tasks necessary to perform a job. Most jobs have multiple tasks. This inventory asks you to list each task separately and show the specific actions or steps required to complete the task.

Follow these steps for completing a task inventory.

1. Use these definitions to fill out top of form.

*Job title:* Title of the job being observed.

*Analyst:* Name of the person completing the task inventory.

*Re:* Purpose of the task inventory. The purpose may be to identify alternative productive work or to identify areas where safety must be improved.

*Date:* Date the form is completed.

2. Next, observe the job and break it down into specific tasks. List each task separately; then write down the following information about the task.

*Percentage of time:* Determine the percentage of time spent on each task during the entire workday. List the percentage of time each task takes. Percentages for the tasks listed must add up to 100%.

*Task description and steps:* Write a short summary (one to two sentences) for each task. Then observe the task and write down the specific steps (actions or activities) as they occur from start to finish for each task.

### ***Example***

You are analyzing the job of a cashier at a fast food restaurant. This job breaks down into two tasks for the entire shift. The first task description is “takes customer orders for food and drink.” The second task description is “fixes drinks for customers.” The cashier spends 55% of the time taking orders and 45% of the time fixing drinks (almost every order has a drink).

Each task breaks down into steps. For instance, the steps for the first task (taking orders) are “greet the customer, answer questions, listen to the order, punch the cost for each item into the cash register, take money, give back change and a receipt, and give the order to the cook.” The steps for fixing drinks are “take a cup out of the cup holder, fill the cup with ice and a drink, put the lid on the cup, and hand the drink to the customer.”

**TASK INVENTORY**

Job  
Title: \_\_\_\_\_ Reason: \_\_\_\_\_

Analyst: \_\_\_\_\_ Date: \_\_\_\_\_

**JOB TASKS:**

Percentage Of Time	Task Description and Steps
_____	_____ _____ _____
_____	_____ _____ _____
_____	_____ _____ _____
_____	_____ _____ _____
_____	_____ _____ _____

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## **HOW TO USE THE PHYSICAL DEMANDS TASK ASSESSMENT**

Many types of assessment and analysis tools are available. This assessment asks you to describe a task and show information about physical demands and environmental conditions.

Follow these steps for completing the assessment.

1. Use these definitions to complete the top of the form:

*Task title:* Name of the task being assessed.

*Date:* Date the form is completed.

*Analyst:* Name of the person making the assessment.

*Task duration:* Number of hours the employee spends doing this task during one day.

*With breaks:* Whether the employee doing the task takes breaks.

*Overtime:* Average number of hours of overtime the employee typically works per day/week.

*Task description:* A brief description of the task. (Use the task inventory form to list the steps of each task.)

2. Fill in Sections 1 through 5 and make any additional comments.

### **Section 1: Postures**

Observe the employee's postures (standing, sitting, walking, or driving) during the task. First, circle the number of hours the employee stays in a posture without changing. Second, circle the total (or cumulative) number of hours that the employee is in a posture while doing this task throughout the day.

### **Section 2: Lifting and Carrying**

Observe any manual lifting and carrying during the task. For each category of weight, mark how frequently the weight must be lifted or carried. If the employee never lifts this amount of weight, mark "0 percent." If the employee lifts this weight less than one-third of the day, mark "occasionally"; between one-third and two-thirds of the day, mark "frequently"; and more than two-thirds, mark "constantly." For each weight, say how high the load must be lifted (example: a box is lifted from the floor to waist height, about three feet) and how far the weight is carried (example: from the dock to the processing table, about 20 feet).

### **Section 3: Actions and Motions**

Observe the different actions and motions during the task. Write a description that explains why the employee must take action or

motion (example: pushes mail cart across room). Show the total amount of time during the day the employee does each action or motion using these definitions.

Pushing	Moving an object away from you, including kicking, slapping, pressing, and striking an object. <i>Example:</i> Pushing a dolly.
Pulling	Moving an object toward you, including jerking or sliding an object. <i>Example:</i> Dragging a box across the floor toward you.
Climbing	Using your legs, arms, hands, or feet to move up or down a structure such as stairs, ladders, scaffolds, and ramps. <i>Example:</i> Climbing a telephone pole to repair wires.
Balancing	Moving in a manner that requires you to keep from falling because of unstable surfaces such as slippery, moving, or narrow spaces. <i>Example:</i> Replacing shingles on a steep roof.
Bending	Using your back and legs to bend forward and downward. <i>Example:</i> Leaning over a car engine to do repairs.
Twisting	Rotating your upper body in a different direction than your lower body. <i>Example:</i> Reaching behind you to pick up parts while you remain seated at a machine.
Squatting	Lowering your body by bending at the knees. <i>Example:</i> Checking the air pressure in a car's tires.
Crawling	Moving forward while on your hands and knees. <i>Example:</i> Crawling through a crawl space to get to plumbing.
Kneeling	Lowering your body onto one knee or both knees. <i>Example:</i> Kneeling on one knee to remove a flat tire from a car.
Reaching	Moving your hands and arms toward an object at arm's length in any direction from your body.

*Example:* Reaching upward to change an overhead light bulb.

Handling Using your hands to hold, grasp, grip, or turn an object.

*Example:* Holding a drill while drilling holes.

Fingering Using your fingers to pinch, pick, or manipulate objects, especially small ones.

*Example:* Picking up nuts and placing them on bolts.

Feeling Using your hands and fingers to perceive the shape, size, temperature, or other characteristic of an object.

*Example:* Laying your hand on the hood of a car to check for heat.

Repetitive Using your feet or hands continuously in the same motion or motions.

*Example:* Typing at a computer or using a foot pedal on a sewing machine.

#### **Section 4: Equipment**

Observe any equipment, tools, or machinery the employee uses during the task. Describe the name or type of each tool, piece of equipment, or machine. Mark how often it is used: never, occasionally, frequently, or constantly. Note any other information about the physical demands of operating the equipment.

#### **Section 5: Environmental conditions**

Observe the environmental conditions the employee is exposed to during the task, such as vibration, noise, and heat or cold. For each condition, describe the specific type of environmental condition, then list the frequency of exposure: never, occasionally, frequently, or constantly. Note any other information about the physical demands of working in this environmental condition.



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## **PHYSICAL DEMANDS TASK ASSESSMENT**

Task  
 Title \_\_\_\_\_ Date \_\_\_\_\_ Analyst \_\_\_\_\_

Duration  
 Of Task (hrs/day) \_\_\_\_\_ With breaks: Y/N Avg. Wkly. Overtime Hrs. \_\_

Task  
 description \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### 1. Postures:

<b>Stand:</b> Hours at one time:	0	½	1	2	3	4	5	6	7	8	8+
Total hours per day:	0	½	1	2	3	4	5	6	7	8	8+
<b>Sit:</b> Hours at one time:	0	½	1	2	3	4	5	6	7	8	8+
Total hours per day:	0	½	1	2	3	4	5	6	7	8	8+
<b>Walk:</b> Hours at one time:	0	½	1	2	3	4	5	6	7	8	8+
Total hours per day:	0	½	1	2	3	4	5	6	7	8	8+
<b>Drive:</b> Hours at one time	0	½	1	2	3	4	5	6	7	8	8+
Total hours per day:	0	½	1	2	3	4	5	6	7	8	8+

### 2. Lifting/carrying

	Not present 0%	Occasionally 0-33%	Frequently 34-66%	Constantly 67-100%	Height of Lift	Distance of Carry
1-10 lbs						
11-20 lbs						
21-50 lbs						
51-100 lbs						
>100 lbs						

3. Actions and motions:

	Not present 0%	Occasionally 0-33%	Frequently 34-66%	Constantly 67-100%	Description
Pushing					
Pulling					
Climbing					
Balancing					
Bending					
Twisting					
Squatting					
Crawling					
Kneeling					
Reaching					
Handling					
Fingering					
Feeling					
Repetitive					
Hand motion					
Foot motion					

4. Equipment:

	Not present 0%	Occasionally 0-33%	Frequently 34-66%	Constantly 67-100%	Description
Tools					
Machinery					
Equipment					

5. Environmental conditions:

	Not present 0%	Occasionally 0-33%	Frequently 34-66%	Constantly 67-100%	Description
Vibration					
Noise					
Extreme heat					
Extreme cold					
Wet/humid					
Moving parts					
Chemicals					
Electricity					
Radiation					
Other					

Comments:

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## **GUIDE FOR WRITING JOB DESCRIPTIONS**

To write a job description, list the information requested for each section using the guidelines provided.

<b>SECTION</b>	<b>GUIDELINES</b>
<b>Job Title</b>	Provide the title and the location of the job, if appropriate.
<b>Purpose of Job</b>	Focus on outcomes of the job rather than process. List required expectations and special requirements. List shift or hours worked, full or part-time.
<b>Education &amp; Work Experience</b>	Describe required or desired licenses, certifications, number of years' experience, training, and other qualifications.
<b>Skill Requirements</b>	Relate all pertinent skill requirements to job functions when possible.
<b>Job Functions</b>	Answer these questions when describing essential and marginal job functions: Does the job exist to perform this function? Would removing this task fundamentally change the job?
<b>Job Duties</b>	Be as specific as possible. State how frequently a task is performed and what equipment, tools, and materials are used.
<b>Physical Demands</b>	Be very specific. Use measurements, frequency, and duration. Describe body position, required exertion, and parts of the body used. Give hours per day spent performing each function.
<b>Environmental Conditions</b>	Describe temperature, hazards, and other conditions.

**IX. INTERRELATIONSHIPS OF THE AMERICANS WITH DISABILITIES ACT (ADA), FAMILY MEDICAL LEAVE ACT (FMLA) AND WORKERS' COMPENSATION IN RETURN TO WORK PROGRAMS**

The Texas Workers' Compensation Act (TWCA) was enacted, in part, to provide the mechanism for an injured worker who sustains a compensable injury in the course and scope of employment to receive medical and income replacement benefits. The TWCA prohibits discrimination against any employee for filing a claim under the workers' compensation system. The Americans with Disabilities Act (ADA) was enacted to protect people from discrimination on the basis of disability. The Family Medical Leave Act (FMLA) was enacted to provide job security to employees who have serious medical conditions or who must meet personal and family obligations to tend to vital needs at home.

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 the ADA or the FMLA.

Employers should seek expert advice when making decisions related to any particular situation and obtain legal advice regarding the coordination of return to work programs, the ADA, and/or the FMLA. Consistent application of the return to work program can alleviate concerns of disparate or discriminatory treatment of employees.

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## **X. SOURCES OF INFORMATION**

Some of the Return to Work information included in this resource document was gathered from or provided by the following sources:

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Bowling, Maddy; The Halo Effect: Measuring the Power of Intangibles; Workers' Compensation. The Journal of Workers' Compensation. 1997.

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Texas Workers' Compensation Act and Rules, Texas Labor Code Annotated, Title 5, Subtitle A, Sec. 451.001.

Research and Oversight Council on Workers' Compensation, HB 3697 (76<sup>th</sup> Legislature, 1966), study findings on medical cost and quality of care, workplace safety and return to work programs.

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**EMPLOYERS MAY WANT TO CONSULT LEGAL COUNSEL, THEIR WORKERS' COMPENSATION INSURANCE CARRIER OR OTHER EXPERTS WHEN ESTABLISHING POLICIES AND PROCEDURES OR WHEN MAKING DECISIONS RELATED TO ANY INDIVIDUAL SITUATION. IT IS IMPORTANT TO NOTE THAT THERE MAY BE OTHER STATE AND FEDERAL LAWS THAT ALSO APPLY.**

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