

WV DOT RETURN TO WORK

Safe & Productive Restricted Duty

The good news is
more injured workers are
coming back to work sooner
under restricted/modified duty

Updated DOT Policies

Workers' Compensation

Return to Work/Accommodation

**MY FAVORITE
AND LEAST
FAVORITE**

Employee very recently hurt and lost time is minimized by accommodation for a short time prior to full duty return to work.

Employee has been off for an extended period of time and workers' compensation benefits have now expired.

HR OR EEO?

Shane Hudnall - Safety

Workers' comp injuries only

Temporary restrictions only

Rebecca McDonald - Legal

Injuries or diseases not covered by workers' compensation with temporary work restrictions

Any occupational or non-occupational injury or disease with permanent work restrictions

SAFE WORK

Job duties which are medically appropriate; consistent with the specific restrictions reported by the treating practitioner

**PRODUCTIVE
WORK**

Meaningful job duties
meeting DOT production
needs; work we need to
get done

OBJECTION

It is contrary to DOT policy. I have been here 22 years and we have never brought a worker back to light duty and will not in the foreseeable future.

RESPONSE

Since 2003, it has been the policy of the WV DOT to make reasonable workplace accommodations for a worker who is disabled from performing regular duty. More about that Policy later.

OBJECTION

I just don't believe in it. In my opinion, it is in the best interest of the injured worker to allow time to rest and heal completely.

RESPONSE

This assertion is not without merit in some cases, but the medical practitioner decides when the patient is ready to transition back to work. Each case must be carefully considered on an individual basis.

OBJECTION

If I do it for one employee, I will have to do it for the next one too. Soon everyone will be on light duty.

RESPONSE

Returning a second injured worker with medical restrictions should only be done when there is enough safe and productive work available.

OBJECTION

I don't like having workers doing someone else's job. How do I explain to the employee's co-workers why that employee is not doing his or her fair share?

RESPONSE

The supervisor needs to keep in mind that 100% of something is better than 100% of nothing.

Those co-workers need to understand this is temporary they may need the benefit of restricted duty at some point.

OBJECTION

We can't have an employee
sitting around doing nothing.

RESPONSE

The assigned restricted duties must be productive.

Productive – Meaningful job duties meeting DOT production needs (work we need to get done).

There can be a mix of duties to keep the employee productive.

OBJECTION

The injured worker might have to do more than the restrictions allow.

RESPONSE

This simply cannot happen.

A Return to Work Plan, signed by the employee and supervisor, will state the restrictions under which the employee is expected to work.

OBJECTION

I am not paying tier 3
wages to do tier 1 work

RESPONSE

We are paying them their wages to sit at home. It's economically responsible to bring them back to work when they are safe and productive.

WHEN THE SUPERVISOR TELLS AN EMPLOYEE ONLY A FULL DUTY RELEASE CAN BE ACCEPTED

That assures a longer than necessary disability period.

Contrary to DOT and DOP policy, so it is a basis for a grievance.

Contrary to Federal law; refusing to even discuss accommodation is a basis for a lawsuit under ADA.

The physician treating that employee may assume that is the case for all DOH employees and may not bother to provide restricted duty releases for employees in other ORGs where reasonable accommodation is practiced.

WHEN WE BRING AN EMPLOYEE BACK VIA RESTRICTED DUTY

Less indemnity benefits affecting our premium rate.

The employee resumes a healthier active routine.

Reduced costs for physical rehabilitation accomplished through participation in restricted duty.

Lower impact on production goals when the employee is completely absent.

VAGUE WORK RELEASES

We should not act on a work release that says, “light duty”, “no heavy lifting,” etc.

Given a work release with non-specific terms, we are unsure what the physician means. A misinterpretation makes medically appropriate (safe) assignments problematic and places the employee at increased risk of further injury.

RESTRICTED DUTY TIME FRAME

Preferably, the physician will give a time frame for the restrictions. If no time frame or next appointment date is given, a Plan end date will be assigned by DOT.

WHEN WE CAN ACCOMMODATE

A Return to work (RTW) Plan is written

The Plan is reviewed by the Supervisor

It is shared with the injured worker

The Plan is signed by the Supervisor and Employee

The signed Plan is sent to HR (or EEO).

In workers' comp cases, the Plan is shared with the insurance carrier

THE EMPLOYEE'S PLAN RESPONSIBILITIES

Perform assigned job duties as scheduled

Avoid exceeding the prescribed work restrictions

Report if he or she feels assigned tasks are beyond prescribed physical capabilities OR feels unable to perform tasks assigned that are within the physician's restrictions

EARLY PLAN TERMINATION BY EMPLOYER

WV DOT will reassess the availability of safe and productive work assignments on an ongoing basis.

The temporary transitional work assignment will continue only if the injured worker remains safe and productive.

AFTER FULL DUTY RTW

A congratulatory email is sent to the supervisor

The District Engineer, District ADSVMG, District PERSPEC and ORG Office Assistant are copied

Claim cost savings are stated

QUESTIONS?

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