



# PROGRAMS CONSULTATION

ESRTW

PRIME

LMR

**WorkplaceNL**

Health | Safety | Compensation



## PRIME

PRIME is WorkplaceNL's employer incentive program. Through PRIME, employers can lower their assessment rates by meeting the PRIME practice requirements and managing claim costs through early and safe return-to-work programs. Under PRIME, employers can receive two types of financial incentives.

## ESRTW

The early and safe return-to-work (ESRTW) process helps you to continue working after an injury or to return to work in a safe and timely manner if you take time off. During this time, every effort should be made to help you recover at work while you are undergoing medical treatment for your work-related injury. Going back to work after an injury sometimes involves making changes to your duties or hours of work. You may also need equipment or devices to help you with your return to work.

## LMR

If early and safe return-to-work activities do not result in work that is suitable, available and restores the workers' pre-injury earnings, WorkplaceNL will provide an injured worker with a labour market re-entry (LMR) assessment and, if necessary, an LMR plan. Employability as demonstrated by transferable skills and functional abilities, rather than the availability of an employment opportunity, will be the relevant factor.

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## Overview

WorkplaceNL is consulting with key stakeholders to explore continuous improvement options to our early and safe return to work programs (including Labour Market Re-entry) as well as changes to our Prevention, Return-to-Work, Insurance Management for Employers and Employees (PRIME) program

The consultation guide provides more information on each of these topics, along with questions for consideration.

Please enter your contact information below if submitting your questions or feedback on pages 3-7.

name: \_\_\_\_\_ and phone#: \_\_\_\_\_

Thank you in advance for your participation, we appreciate your feedback.

### Consultation Session

November 25, 2021, 9:30 a.m. - 12:00 p.m.

### Written Submissions

If you prefer to submit a written response, please fill out this guide or prepare a letter or submission responding to the questions outlined below.

Please submit your written submission by December 2, 2021 to:

Mail: WorkplaceNL  
Attention: Policy, Planning and Internal Review  
146-148 Forest Road  
PO Box 9000  
St. John's, NL A1A 3B8

Email: [feedback@workplacenl.ca](mailto:feedback@workplacenl.ca)

### How will your input be used?

WorkplaceNL will review all information received, which will be considered as we continue to improve our early and safe return to work programs and make changes to our PRIME program.

### Privacy statement

The collection of information is done under the authority of section 61(c) of the Access to Information and Protection of Privacy Act, 2015 for the purpose of collecting public feedback on our early and safe return to work and PRIME programs.

Any personal information that may be received will be governed in accordance with the Access to Information and Protection of Privacy Act, 2015 and will only be used for the purpose of providing a response to submissions received and informing participants of results at the end of the process. If you have questions about how this information will be collected, used and disclosed, please contact [feedback@workplacenl.ca](mailto:feedback@workplacenl.ca).

# Early and Safe Return to Work Program and Labour Market Re-entry Program

## Background

WorkplaceNL introduced Early and Safe Return to Work (ESRTW) and the Labour Market Re-entry (LMR) program in the early 2000's, following the Task Force Report on Workers' Compensation. All Canadian workers' compensation boards now have a return-to-work model to help minimize the impacts of a work-related injury on injured workers and employers.

We continue to review our approach to how we help injured workers stay at work or return to work after they have lost time, and how we support employers during the process.

We must continue to work together to support return-to-work and rehabilitation requirements, which include:

- Assistance to return to work
- Duty to accommodate
- Participating, cooperating and communicating
- Considering and accepting suitable employment

## Why is return to work important for workers and employers?

Proactively helping workers stay at work or perform duties that are as close as possible to their pre-injury job, while they recover and receive medical treatment, lessens the impacts on all parties.

Workers are able to maintain their emotional well-being, return to full pay, maintain skills, recover faster, and stay in contact with their co-workers.

Employers support their employees during a healthy recovery, maintain productivity, keep qualified workers, reduce hiring and training costs, manage claims costs, and fulfill legal requirements.

Over the past four years, approximately 43-46 per cent of an average of 5,000 new claims per year required ESRTW activities. The remainder either did not lose time from work and did not require changes to work their functions; returned to an accommodated position; returned to work, post-recovery; or, had no workday tolerance and received full extended earnings loss benefits.

## The ESRTW process

Our return-to-work (RTW) process involves all parties working together to find solutions for the worker and employer. Our RTW facilitators may help review the functional abilities information provided by the health care provider, together with the worker and employer. We help workers and employers find suitable options or accommodations in the workplace, such as changes to duties or hours of work, to suit the worker's functional abilities while recovering.

As well, we coordinate services and supports for the injured worker to modify the workplace or provide assistive devices.

A successful return-to-work process includes:

- Communication between all parties
- Timely advice, support and information
- A return-to-work approach that is developed collaboratively and monitored
- Follow up after the worker has returned to work

All employers and workers are required to cooperate in the return-to-work process. If possible, employers are expected to offer suitable and available employment that is consistent with what the worker can do, and the worker is obligated to accept.

Furthermore, employers who regularly employ 20 or more workers and have employed a worker for at least one year, may have a legal re-employment obligation.

## **Recent changes to ESRTW**

During the 2018 PRIME review, we heard feedback that we can strengthen the early and safe return-to-work process. Based on this feedback, and WorkplaceNL's internal review of the program, the following changes were made to help employers and workers support successful return to work:

- Created fact sheets with ESRTW specifics for industries – [Facilitating Recovery at Work – Construction](#), [Facilitating Recovery at Work - Manufacturing](#), and [Facilitating Recovery at Work - Health Care](#)
- Expanded our RTW facilitator role to help employers with PRIME and permanent accommodation
- Offered quarterly webinars on topics such as: ESRTW Basics, including an overview of PRIME; ESRTW Plan submissions and connect; ESRTW Strategies and Solutions for Success; and, Co-operation and Accommodation

**ESRTW Question 1:** What has been your experience with the type and quality of ESRTW programs we provide?

**ESRTW Question 2:** What can we do to improve or further enhance ESRTW?

## **Labour market re-entry**

Some workers may need help to re-enter the workforce or reduce their loss of earnings after an injury. To address these needs, our labour market re-entry services (i.e., LMR assessments and plans) assess workers' skills, knowledge and abilities. These services assist with re-training or re-employment that helps workers recover loss of earnings where possible.

Our LMR assessments may include: vocational assessments, psychoeducational testing, and transferable skills analysis. With an average of about 5,000 new claims in the last four years, about two to four per cent were identified as having had an LMR assessment.

LMR plans may include: employment readiness (in-person or via the online secure website); computer training; upgrading; formal post-secondary training; self-employment; and on-the-job training. With an average of 180 LMR assessments completed a year in the last four years, 22-40 per cent moved on to have an LMR Plan.

## **Assessing labour market re-entry options**

We help workers identify career choices by:

- Assessing their transferrable skills
- Understanding if they need help to re-enter the labour market
- Identifying at least three safe and suitable occupational groups (based on Canada's National Occupational Classification (NOC) system)
- Ensuring options are reasonable based on skills, knowledge and abilities

We consider many factors when determining the appropriate re-entry path for workers, including: the degree of workers' transferrable skills; workers' choice; employers' cost; sustainability; and, severity or type of injury.

After the LMR assessment, we reassess workers' wage-loss benefits, considering the worker's pre-injury earnings and the wage of the selected group of occupations within the NOC system. Depending on the option selected, workers' benefits may be continued (if training is the appropriate option); reduced and supplemented with partial EEL; or discontinued (if the identified option matches their pre-injury earnings).

Workers that have the skills and abilities to re-enter the workforce in other jobs, or choose to not avail of training, may not require an LMR plan. In these cases, we provide six additional weeks of temporary earnings loss (TEL) benefits, based on the wage of the pre-injury job, while workers search for employment. After six weeks, we recalculate workers' benefits depending on the occupation selected – which may result partial extended earnings loss (EEL) benefits. We do not provide six additional weeks of benefits for workers after they complete an LMR Plan that involves formal training.

## Changes to LMR

In the past, our rehabilitation program matched workers with one job. This no longer occurs. Successive statutory reviews and stakeholder feedback has led to improvements to LMR services.

Prior to 2019, LMR services were offered towards the end of injured workers' recovery if ESRTW efforts did not result in suitable and available work, to restore their pre-injury earnings.

However, some workers' chances to find and keep longer-term employment may be lost if LMR services are left to the end of their claim. Our assessment process may help employers provide specific training for an accommodated position, or help injured workers prepare for other positions with their original employer.

A review of best practices in other Canadian workers' compensation boards has revealed that LMR programming is more effective in helping workers and employers if:

- Offered earlier in a claim
- Return-to-work and recovery are more integrated
- The pre-injury employer and injured worker remain in contact with each other and connected to the return-to-work process
- Employment readiness services are available to injured workers earlier in their recovery

We have made recent changes to our LMR services to better serve injured workers and employers by:

- Providing employment readiness supports to workers earlier in their claim, through a newly created secure website
- Tailoring LMR services to workers' needs (i.e., explore re-training once physically able)
- Changing contracts with LMR providers so workers are more involved in the process
- Providing up to \$10,000 should an injured worker wish to relocate for employment in other parts of the province

To create opportunities for workers to get back to pre-injury earnings and meaningful work, there will be some circumstances where LMR assessments and plans help if offered earlier. This is to help injured workers focus on their futures. Examples include:

- The employment relationship has ended
- Their injury is such that return to work is only possible with re-training
- Additional supports, such as employment readiness, would help the worker secure alternate employment with the pre-injury employer



Thus far, the shift to offering LMR services earlier are process changes or changes in screening practices here at WorkplaceNL. Other policy and procedure changes are underway to support injured workers, including:

- Increasing room and board amounts to reflect increased housing costs
- Increasing travel, allowances and expenses covered during LMR plans
- Increasing expense levels, such as meal allowance, to align with health care fees and expense coverage
- Clarifying an employer's duty to accommodate, as a result of a Supreme Court of Canada decision (i.e., Caron decision). This will include enforcing and ensuring employers accommodate to the point of demonstrated undue hardship.

**LMR Question 1:** What has been your experience with the type and quality of LMR assessments or plans, provided by us or our contracted external providers?

**LMR Question 2:** What can we do further improve the LMR program?

# PRIME Program

## Overview

The PRIME program is a financial incentive program meant to improve occupational health and safety (OHS) and ESRTW practices in workplaces.

In 2018, a broad range of stakeholders participated in our review of the PRIME program and recommended several program changes. In July 2020, we published the results, entitled *Creating Opportunities for Safer Workplaces: A Review of WorkplaceNL's PRIME Program*.

This is the last phase of consultation, to seek feedback on the new model that was developed based on stakeholder input.

## Why is the PRIME Program important?

In general, employers that qualify for PRIME refunds have lower injury rates – that means fewer workers injured and lower costs for employers.

Most employers who provided feedback thus far have indicated that the program has helped them create and maintain OHS and ESRTW programs.

More large employers (64 per cent) receive refunds, compared to 40 per cent of small employers. In 2020, employers received \$10.8M in PRIME refunds out of \$16.3M available. As well, some employers paid \$7.8M for higher claim experience.

- The experience component
- All levels of financial incentives and experience charges
- Retrospective audits for medium-sized employers

## Proposed changes

Changes are proposed in two areas in order to help more employers participate in the program and improve OHS and ESRTW outcomes in their workplaces:

1. Reduce the threshold to determine employer size to \$10,000 in average base assessments, from \$48,000 in the current program.
2. Introduce different requirements for small, medium and large employers to qualify for the practice component.

These changes are detailed in the table on the next page.

**PRIME Question 1:** What are your reactions to the proposed PRIME model and changes?

**PRIME Question 2:** Do you recommend other OHS or ESRTW requirements in the revised program?

New Stream:	OHS Education	OHS Program	OHS Certification
<b>New Thresholds</b>			
	<b>Small employer</b> (avg. refund: \$240)	<b>Medium employer</b> (avg. refund: \$2,000)	<b>Large employer</b> (avg. refund \$20,800)
<b>Average base assessment</b>	Less than \$10,000	Less than \$10,000	More than \$10,000
<b>Employees at each site</b>	Less than 10	10 or more	10 or more
<b>New Practice Criteria</b>			
<b>Focus</b>	Raise awareness of OHS and ESRTW requirements	Document and communicate your OHS Program	New Practice Criteria Continuous improvement
<b>Required</b>	<p>Six courses (two per year):</p> <ol style="list-style-type: none"> <li>1. Health and Safety Law</li> <li>2. Introduction to OHS Programs</li> <li>3. Hazard Recognition, Evaluation and Control</li> <li>4. Incident Reporting and Investigation</li> <li>5. Health and Safety Management</li> <li>6. Return-to-Work Programs</li> </ol> <p>Plus, OHS Committees, Worker Health and Safety Representative or Designates Certification Course for required worksites. Reciprocity for individuals completing the six required courses</p> <p>Courses will be offered online, at no charge, via the CTR</p>	<p>10-element OHS Program:</p> <ol style="list-style-type: none"> <li>1. Leadership Commitment</li> <li>2. Hazard Recognition, Evaluation and Control</li> <li>3. Incident Investigation and Reporting</li> <li>4. Personal Protective Equipment</li> <li>5. Workplace Inspections</li> <li>6. Safe Work Practices and Procedures</li> <li>7. Training and Communication</li> <li>8. Emergency Preparedness</li> <li>9. OHS Committees, Worker Health and Safety Representatives or Designates</li> <li>10. Return-to-Work</li> </ol> <p>Most similar to existing PRIME program</p>	<p>15-element OHS Program, 10 elements of OHS Program stream plus:</p> <ol style="list-style-type: none"> <li>1. Management Review, Records and Statistics</li> <li>2. MSI Prevention</li> <li>3. Fall Protection</li> <li>4. Violence, Harassment and Psychological Safety</li> <li>5. Occupational Health</li> </ol> <p>Prospective audits, know in advance if you qualify for financial audit next year</p> <p>Year 1: WorkplaceNL audits Year 2 and 3: employer audits, WorkplaceNL verifies</p> <p>Audits include interviews, records, and observation tours – score 80 per cent to pass</p> <p style="text-align: center;">OR</p> <p>Valid COR™, ISO 45001, OHSAS 18001, CSA Z1000 certification or equivalent</p>
<b>WorkplaceNL will verify that the employer has</b>	<ul style="list-style-type: none"> <li>- Completed two courses per year, via the CTR</li> <li>- Valid Worker Health and Safety Representative or Designate certificate assigned to employer's CTR account</li> </ul>	<ul style="list-style-type: none"> <li>- Filed OHS committee minutes</li> <li>- At least two valid OHS Committee training certificates assigned to employer's CTR account</li> <li>- Met OHS Program requirements, upon audit</li> </ul>	<ul style="list-style-type: none"> <li>- PRIME certification through WorkplaceNL or reciprocal certifications</li> </ul>

# WorkplaceNL

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