

## Client Services Procedure Manual

**Procedure: 45.00**

**Subject: Labour Market Re-entry (LMR) Assessments**

### 45.00 Introduction

The labour market re-entry (LMR) assessment is an objective, independent evaluation used to determine whether a worker has transferable skills, requires assistance or requires an LMR plan to re-enter the labour market in suitable employment.

The worker's active involvement during the entire LMR assessment process is critical for a successful outcome.

Workers are generally entitled to one LMR assessment and plan. Where possible, a minimum of three labour market re-entry options will be identified in conjunction with the worker during the assessment process. WorkplaceNL will consult with the worker to implement the option that enables the worker to re-enter the labour market at an earnings level as near as possible to that of their pre-injury earnings.

### 45.01 Labour Market Re-entry Process

#### Communication

The Case Manager will meet where possible, or remain in contact with the worker before, during (where necessary) and after the LMR assessment process to facilitate the worker's understanding of the LMR process.

The following information is discussed with the worker prior to the LMR referral:

- Reasons and rationale for the LMR assessment;
- Roles and responsibilities of the worker, employer, LMR Planner (Planner) and WorkplaceNL;
- Process for the LMR assessment; and
- Information gathered during the LMR assessment.

Prior to the LMR referral, the Case Manager will contact the pre-injury employer verbally and in writing to outline the reasons for the LMR referral and assessment. The employer will be given an opportunity to consider suitable employment for the worker that may be available with LMR programming. The employer must confirm, in writing, to the Case Manager within two weeks from the date of the Case Manager's contact whether suitable employment opportunities exist.

## Referral and Assessment

A referral is made to the Planner for an LMR assessment using the digital referral form. The Planner will meet with the worker as often as required to:

- Obtain the necessary information;
- Inform the worker of the results of the various assessments; and
- Include the worker in developing the most appropriate options for successful re-entry into the labour market.

The Planner will provide a completed report to the Case Manager within a maximum of 75 days from the date of referral depending on the complexity of the intervention required (see table below). The report will include the Planner's analysis and, where possible, three (3) suitable employment options. Prior to finalizing the LMR Assessment, the Planner must arrange an exit interview with the worker and the Case Manager to ensure effective communication regarding the contents of the assessment.

A transferable skills analysis determines whether the worker has the skills and abilities to immediately return to the workforce in comparable, suitable employment. There may be an additional evaluation of skills required through work samples or psychoeducational testing to determine what other programs are necessary to assess the worker's ability to participate in further training or employment. These programs may include:

- A period of skill development to build on existing transferable skills (e.g., a worker whose work history includes employment as a receptionist may require a refresher course to bring those skills up to date for the current labour market);
- On-the-job training;
- Academic upgrading;
- Formal retraining; or
- Self-employment.

The following table provides the details and turnaround times for a transferable skills analysis, work samples, and psychoeducational testing:

Assessment	Details	Turnaround time (from referral date in calendar days)
Transferable Skills Analysis	<ul style="list-style-type: none"> <li>• Interview(s) with worker</li> <li>• File review</li> <li>• Work history review</li> <li>• Labour market research</li> <li>• Final report</li> </ul>	45 days
Transferable Skills Analysis and Work Samples	<ul style="list-style-type: none"> <li>• Transferable skills analysis</li> <li>• At least two (2) work samples</li> </ul>	50 days

Transferable Skills Analysis and Psychoeducational Testing	<ul style="list-style-type: none"> <li>• Transferable skills analysis</li> <li>• Wechsler Adult Intelligence Scale 4<sup>th</sup> edition (WAIS-IV)</li> <li>• Canadian Adult Achievement Test (CAAT), Wide Range Achievement Test (WRAT-5), or equivalencies</li> <li>• Other psychoeducational tests required to complete the assessment as determined by the psychologist</li> </ul>	60 days
Transferable Skills and Work Samples and Psychoeducational Testing	<ul style="list-style-type: none"> <li>• Transferable skills analysis</li> <li>• At least two (2) work samples</li> <li>• Psychoeducational tests as indicated above</li> </ul>	75 days

## 45.02 Labour Market Re-entry Assessment Outcome

### No Options Identified

Where no options have been identified due to a non-compensable factor or factors, the Planner will outline an appropriate method to acquire the necessary skill or skills (e.g., money handling abilities) to facilitate the identification of a suitable option(s). Where the worker is successful in acquiring the skills for the identified option, the minimum wage will be applied using the guidelines of Policy RE-15 Determining Suitable Employment. Full extended earnings loss will be payable where it has been determined that a worker is not capable of acquiring the basic skills necessary for other service support occupations. This is subject to legislative and policy provisions regarding benefit calculation and deductions for employment-related income.

### Worker is Market Ready

A worker is considered market-ready where the LMR assessment confirms the worker has transferable skills (i.e., has the skills, knowledge, and abilities to perform suitable employment at the pre-injury earnings). Employment readiness services and benefits, in the form of wage-loss benefits for a period of up to 12 weeks, will be provided when the worker is market-ready. Entitlement to wage-loss benefits will end sooner if the worker secures employment before the 12-week period.

## **Worker is Not Market Ready**

Where an LMR assessment determines that the worker does not have the skills and abilities to immediately return to the workforce in comparable, suitable employment, the Planner will identify all methods available to achieve the skills required for the identified suitable option(s). This information will contain the recommended time frame, the place of training, the name of the program, and the costs, etc., for formal training, academic upgrading, self-employment or on-the-job training options. Refer to Policy RE-16, Labour Market Re-entry (LMR) Plans and Procedure 47.00, Labour Market Re-entry (LMR) Plans for more information.

### **45.03 Selecting the Labour Market Re-entry Option**

When the LMR assessment is completed, the Case Manager and the worker will jointly review the identified suitable employment options. Within five weeks of receiving the LMR report, the Case Manager will determine the option that most effectively provides the worker with the skills necessary to re-enter the labour market at an earnings level as near as possible to that of their pre-injury occupation.

WorkplaceNL determines whether an LMR plan is required as the most appropriate means of supporting a worker in returning to the labour market or restoring the pre-injury earnings.

WorkplaceNL acknowledges that the most cost-effective option may not always be the most appropriate.

### **45.04 Determining Entitlement**

#### **Post LMR Entitlement**

The Case Manager will discuss with the worker and document what their considered earning capacity will be after the LMR assessment or plan is completed (see Policy RE-15 Determining Suitable Employment and Earnings). This decision will be communicated verbally and in writing.

All workers are entitled to employment readiness services following completion of an LMR assessment. For additional information, please refer to Policy RE-16 Labour Market Re-Entry (LMR) Plans and Procedure 47.00 Labour Market Re-Entry (LMR) Plans.

#### **Non-Work Factors**

The impact of factors not related to the work injury will be considered when determining a suitable LMR assessment or plan (e.g., a worker with a hearing loss condition that is not related to the work injury will not be considered for positions where the bona fide occupational qualification for hearing exceeds the worker's hearing level).

Proportionment (see Policy EN-02 Proportionment) will not be considered when determining entitlement to an LMR plan. The implications of proportionment on the worker's post LMR entitlement to benefits should be identified and discussed with the worker at this stage.

#### **45.05 LMR Re-assessment**

Workers are generally entitled to one LMR assessment and plan, if appropriate. The Case Manager may provide a worker with an LMR re-assessment if their attempt to return to suitable employment that has been extensively accommodated is unsuccessful. Extensively accommodated refers to the work or workplace accommodations being so significant that a comparable job is unlikely to exist in the labour market.

LMR re-assessments may also be considered where a worker has a new compensable injury and the physical restrictions resulting from that injury are greater than those resulting from a previous injury or injuries.

#### **Work-related Injury has Deteriorated**

WorkplaceNL may provide an LMR re-assessment if the worker is unable to continue working in the suitable employment because the work-related injury has deteriorated.

Policy EN-03 Recurrences provides guidance for determining whether a work-related injury has deteriorated. The Case Manager will consider if the current symptoms are resulting from and are medically compatible with the original work injury to determine if the work-related injury has deteriorated.

Medical compatibility is decided by comparing a worker's complete medical history since their original work injury to their current condition. A medical opinion from WorkplaceNL's medical consultant will be necessary to assist in determining medical compatibility.

The Case Manager must first determine if the work-related injury has deteriorated, and secondly, how it is impacting the worker's ability to perform the essential job duties of their present employment or training. If the worker is unable to participate in an LMR plan because the work injury has deteriorated, the Case Manager will make every reasonable attempt to revise the plan through accommodation, so that the worker can continue. The Case Manager, through a medical review and functional assessment, will determine if the worker can perform the essential job or training duties. If so, they will not require an LMR re-assessment.

#### **45.06 Merits and Justice**

Where the individual circumstances of a case are such that the provisions of this procedure cannot be applied or to do so would result in an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice as outlined by Policy EN-22 Merits and Justice. Such a decision will be considered for that specific case only and will not be precedent setting.

**Reference:**

Workplace Health, Safety and Compensation Act, 2022, Section 102

Policies:

EN-02 Proportionment

EN-03 Recurrences

EN-22 Merits and Justice

RE-14 Labour Market Re-entry Assessments

RE-15 Determining Suitable Employment and Earnings

RE-16 Labour Market Re-entry (LMR) Plans

Procedures:

47.00 Labour Market Re-entry (LMR) Plans

**Amendment History**

Original Effective Date	2001 11 01
Revision #1	2004 03 23
Revision #2	2008 12 10
Revision #3	2023 12 05