

## Client Services Procedure Manual

**Procedure: 47.00**

**Subject: Labour Market Re-entry Plans**

### 47.01 Introduction

This procedure provides direction for determining an appropriate labour market re-entry plan for a worker whose labour market re-entry assessment indicates that the worker needs additional training and/or education to provide him/her with the skills necessary to re-enter the labour market at an earnings level as near as possible to that of the pre-injury occupation.

The procedure follows the principles established in Policy RE-16, Labour Market Re-entry Plans, and clearly outlines the steps necessary to achieve successful labour market re-entry which could include various labour market options.

The labour market re-entry assessment documents the range of labour market re-entry options. The options available to an injured worker will depend on his or her transferable skills, functional abilities, aptitude and potential earnings loss.

### 47.02 Preparing the Plan

The labour market re-entry assessment report identifies if a worker requires a labour market re-entry plan to enable the worker to re-enter the labour market at an earnings level as near as possible to that of the pre-injury earnings. The plan must contain the steps necessary to allow the worker to obtain the necessary skills to return to the suitable employment and earnings identified through the assessment (see Policy RE-15, Determining Suitable Employment and Earnings).

#### General Eligibility Criteria

WorkplaceNL may provide labour market re-entry services and programs to an injured worker to overcome labour market obstacles imposed by the work injury. Labour market re-entry plans are provided in a manner that presents the worker with the best opportunity to successfully re-enter the labour market at an earnings level as near as possible to that of the pre-injury earnings that was identified through the labour market re-entry assessment.

### 47.03 Labour Re-entry Plan

#### Labour Market Re-entry Plan Monitoring

The Case Manager is responsible to monitor the LMR plan. Examples of monitoring may include:

- meeting with the worker and/or instructor at three month intervals to ensure the worker is progressing in accordance with the academic program requirements;
- requiring monthly progress reports from the institution which outline the worker's progress and attendance;

- offering tutoring services where the instructor indicates that the worker requires such services in order to successfully complete the program (See Procedure 48.00, Labour Market Re-entry Expenses);
- advising the worker of the need to secure a job placement during the summer semester break, if applicable; and
- advising the worker to begin looking for work at least three months before the program ends.

Labour market re-entry plans may include one or more of the program types described in the following sections.

### **On The Job Training**

WorkplaceNL may sponsor on-the-job training programs to allow workers to obtain new skills directly in a workplace in order to re-enter the labour market. The on-the-job training employer must provide a written outline of the skills the worker will obtain, as well as the costs, conditions and time frame for the training program. The duration of on-the-job training programs can vary but will usually not exceed 26 weeks. Programs with a duration of greater than 26 weeks may be approved by the Manager, Claims Services.

The on-the-job training employer must provide written monthly reports to the Case Manager which outlines the worker's progress and attendance during the program.

Wage loss benefits continue for the worker during the on-the-job training program. A short term job specific orientation period provided by the injury employer or another employer is not considered to be an on-the-job training program.

### **Academic Upgrading**

WorkplaceNL may sponsor an upgrading program when it is a prerequisite of a formal training program or when it is necessary to improve a worker's academic skills to directly re-enter the workforce as part of the labour market re-entry plan. Where academic upgrading is the final component of the labour market re-entry plan, it may be followed by a period of Employment Readiness benefits and services.

When, in the judgement of WorkplaceNL, the worker is not making adequate progress during the upgrading program, despite the worker's best efforts and the provision of tutoring services, the program may be discontinued and the Case Manager, in conjunction with the worker, may re-evaluate the plan.

### **Formal Training**

A formal training program is a vocational program offered by a provincially approved institution that will enhance the worker's existing skills or qualifications or provide a worker with new occupational skills where the worker is assessed as having the potential, aptitude and physical abilities to acquire vocational skills in another vocation.

### **Self-Employment**

WorkplaceNL may provide financial assistance for self-employment as a preferred cost-effective means to restore earnings at or near pre-injury earnings as identified through the labour market re-

entry assessment. A one-time financial grant up to, but not exceeding, \$30,000 may be awarded. Wage loss benefits may be approved up to a maximum of six months following approval of the business plan and transfer of the financial grant to the worker.

A worker may be entitled to a self-employment venture when:

- it cost effectively restores earnings at or near pre-injury earnings;
- the feasibility study indicates that the business is viable (i.e. the business plan demonstrates that the venture will provide the worker with an opportunity to earn an annual income comparable to his/her pre-injury earnings), and unsatisfied demand for the products and/or services proposed exists in the market place;
- the worker acknowledges that acceptance of the lump sum self-employment grant and interim wage loss earnings is in lieu of entitlement of any other labour market re-entry plan; and
- the worker confirms, in writing, that he/she has been advised and is fully aware of all other consequences and implications of accepting the self-employment grant.

The Case Manager is responsible for monitoring the implementation of the self-employment venture by:

1. Requiring an independent feasibility study to assess the practicality of the proposed employment venture. The terms and conditions of the study will be approved in advance by WorkplaceNL's Finance Department.
2. Ensuring a market impact analysis is conducted as part of the review.
3. Requiring a formal contract be drawn up between the worker and WorkplaceNL outlining the main points of the self-employment venture.
4. Reviewing the plan with the Manager, Claims Services prior to approval.
5. Ensuring an audit of the venture is conducted at three months and six months post start-up. These audits will be conducted by the Assessment Services Department of WorkplaceNL to compare the financial status and spending of the business to that projected in the business plan.

#### **47.04 Employment Readiness**

WorkplaceNL may sponsor Employment Readiness services up to a maximum of six weeks in order to prepare the worker for re-entry to the workforce. Employment Readiness services can include resume preparation, job search techniques, access to available labour market information, and interview skills.

Except following formal training, earnings loss benefits continue during the Employment Readiness Program for up to six weeks or until a worker finds employment, whichever comes first.

Earnings loss benefits will not be extended following formal training for Employment Readiness Services because workers are expected to prepare and pursue employment during their program.

A worker may be entitled to Employment Readiness services when:

- the labour market re-entry assessment has identified that the worker has the transferable skills necessary to re-enter the labour market;
- these services follow an On-the-job Training Program unless the on-the-job training results from the Employment Readiness program;

- these services follow academic upgrading if upgrading is the final component of the labour market re-entry plan; or
- the worker is participating in or has completed a formal retraining program. However, earnings loss benefits are not continued for Employment Readiness services following formal training.

#### **47.05 Wage Loss Benefits**

Workers are eligible to receive wage loss benefits at 85 per cent of pre-injury net earnings to the maximum compensable earnings, while co-operating in all aspects of the labour market re-entry plan except when involved in an Employment Readiness program following a period of formal training.

#### **Absenteeism**

Absenteeism will be monitored by the Case Manager throughout the labour market re-entry plan by reviewing the monthly progress reports submitted by the employer/instructor/training institution. Absenteeism beyond two days per month generally impacts performance during a program. Where the worker's absenteeism is impacting positive performance in a labour market re-entry plan, Procedure 44.00, Labour Market Re-entry Co-operation, or Policy EN-17, Interruptions and Delays in Work Injury Recovery, will be applied where appropriate.

#### **Deterioration in Worker's Condition**

If a worker's ability to participate in a labour market re-entry plan is affected by a deterioration in the work related condition, the Case Manager may provide services to the extent possible that the worker can continue with the program and/or re-evaluate the appropriateness of the plan.

#### **Improvement in Worker's Condition**

If a worker's condition improves significantly, the Case Manager may reconsider the initial determination of suitable employment and earnings.

In cases where the Case Manager obtains medical information indicating the worker is fit for suitable employment, and the employer has a re-employment obligation, the Case Manager will contact the employer. The employer is required to offer the worker the first opportunity to accept suitable work that becomes available. The Case Manager may have to reconsider the labour market re-entry plan, considering the worker's improved condition.

#### **47.06 Plan Extensions/Revisions**

If a worker is unable to participate or is not making progress through the labour market re-entry plan, the Case Manager will make every reasonable attempt to revise the labour market re-entry plan through accommodation so that the worker can continue.

Any significant extensions or changes to the labour market re-entry plan must be discussed with the worker and approved by the Client Service Manager.

## Offer of the Pre-injury Position, Comparable Position or Suitable Employment

If, during a labour market re-entry plan, an employer offers the pre-injury position, a comparable position or suitable employment to the worker the Case Manager must consider the employment offer and the labour market re-entry plan in conjunction with the worker. In determining if the employer's offer is reasonable, the Case Manager must review the:

- duration and job status of the employment offer;
- duties to be performed;
- skills, qualifications, and experience required;
- degree of physical and cognitive effort;
- wages and employee benefits;
- geographic location of the work site; and
- other relevant factors.

These results must then be compared with the worker's labour market re-entry plan status (for example, the percentage of the program completed, the worker's progress, etc.).

The Case Manager will review the offer with the worker and will determine whether to continue with the labour market re-entry plan. The worker will not be eligible for further labour market re-entry services if the offer of employment is accepted. Policy RE-15, Determining Suitable Employment and Earnings will then be used to determine further entitlement.

Where the worker continues with the labour market re-entry plan after an offer of the pre-injury position, a comparable position or suitable employment has been made by the employer, the employer's re-employment penalty must be adjusted in accordance with Policy RE-09, Re-employment Penalties and Payments.

For employers with a re-employment obligation (see Policy RE-05, Re-employment Obligation), the applicable obligation period may be ongoing during a labour market re-entry plan.

### 47.07 Exceptional Circumstances

In cases 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. Such a decision will be considered for that specific case only and will not be precedent setting.

**Reference:** The Workplace Health, Safety and Compensation Act, Sections 54.1, 74(4) 88 & 89.2  
Policy EN-17 Interruptions and Delays in Work Injury Recovery  
Policy RE-05 Re-employment Obligation  
Policy RE-09 Re-employment Penalties and Payments  
Policy RE-15 Determining Suitable Employment and Earnings  
Policy RE-16 Labour Market Re-entry Plans  
Procedure 44.00 Labour Market Re-entry Co-operation

**Amendment History**

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