

Client Services Procedure Manual

Procedure: 48.00

Subject: Return to Work and Labour Market Re-entry Expenses

48.00 Introduction

While not all employers have a re-employment obligation and an obligation to pay for modifications and assistive devices under the *Workplace Health, Safety and Compensation Act*, all employers have obligations to accommodate persons with disabilities under Human Rights legislation.

Depending upon whether the employer has a re-employment obligation, WorkplaceNL may pay expenses for workplace modifications or assistive devices when the worker is returning to work either with the pre-injury employer during the early and safe return to work process or with the pre-injury or another employer following the completion of a labour market re-entry assessment and/or plan as outlined in this procedure.

WorkplaceNL may also pay expenses during the course of the labour market re-entry program within the guidelines outlined in this procedure. Reasonable expenses covered range from tuition and books to travel and accommodations.

This procedure is broken down into three parts; return to work expenses, labour market re-entry expenses and equipment expenses. Return to work expenses outline situations where the employer pays or where WorkplaceNL may pay for workplace modifications. The section on labour market re-entry expenses provides an outline of all types of expenses relating to labour market re-entry assessments and plans. Lastly, equipment expenses refer to items required for early and safe return to work, permanent accommodation or labour market re-entry.

PART 1 – Return to Work Expenses

48.01 Workplace Modifications for Re-employment

Employer with a Re-employment Obligation

(i) Refuses to Purchase/Modify

When an employer, with an obligation to modify the workplace and/or purchase assistive devices in order to accommodate an injured worker's return to work under the re-employment provisions of *the Workplace Health, Safety and Compensation Act* refuses, without cause, to pay for the required modifications, the Case Manager will review the situation in accordance with Policies RE-02 (The Goal of Early and Safe Return to Work and the Roles of the Parties) and RE-09 (Re-employment Penalties and Payments) to determine the appropriate penalties to levy. In such cases, the worker will be referred to a Labour Market Re-entry Planner for a labour market re-entry assessment in accordance with Procedure 44.00 (Labour Market Re-entry Assessments).

(ii) Claims Undue Hardship

When an employer claims, in writing, that the cost of a modification and/or assistive device would cause undue hardship, the Case Manager will refer the case to the Legal/Investigations Department for

an investigation and opinion. The Case Manager is responsible for making the decision on undue hardship, but in no case will do so without an opinion from the Legal/Investigations Department.

In all cases employers will be expected to take the lead role in the purchase of the required modifications or assistive devices in consultation with the worker.

Example of undue hardship;

In order to accommodate an injured worker a \$50,000 hydraulic lift must be installed in the workplace. The employer, who has a re-employment obligation, claims that this cost is too high and would cause serious financial difficulty. A determination is made that \$50,000 would be undue hardship for this particular employer; however, the investigation revealed that the employer could afford to pay \$30,000 without suffering undue hardship. WorkplaceNL would pay \$20,000 and the employer would pay \$30,000.

Employer without a Re-employment Obligation

When making a determination whether or not WorkplaceNL should pay for a workplace modification or assistive device for an employer who does not regularly employ 20 or more workers, input should be sought from an appropriate expert such as an Occupational Therapy Consultant.

Examples where input may be required are:

1. the modification or device is something outside the normal items considered (Normal items are ergonomic chairs, incline boards, copy holders, etc.);
2. the price of the modification or device is higher than \$1,000.

PART 2 – Labour Market Re-entry Expenses

48.02 Workplace Modifications and Assistive Devices Provided during the Labour Market Re-entry Process

All modifications and assistive devices should be included in the labour market re-entry assessment and be considered in the cost benefit analysis process. If the cost relates to a device that was not included in the assessment, the Case Manager must be consulted to make a decision whether or not it is appropriate to pay for it. The Case Manager should consider all the merits of the individual case including the cost benefit of purchasing such equipment when making the decision. Consultation with the Health Care Consultant may be required.

48.03 Parking Expenses

In order to be reimbursed, the parking expense of the worker must be a direct result of the labour market re-entry assessment and/or plan and must be associated with parking at the organization where the assessment and/or training is taking place.

Parking Permits

A receipt for a parking permit may be submitted to WorkplaceNL for reimbursement. WorkplaceNL must ensure that the permit is effective only for the dates associated with the program of study (for example, if the program of study is for three (3) months, a permit for six (6) months is not acceptable if one is available for a shorter duration and it costs less than the permit for the longer duration).

Parking Meters

The cost of parking meters may be reimbursed only when it is more economical to do so (for example, the course of study is short enough to warrant parking at meters versus purchasing a parking permit). If deemed appropriate to reimburse parking meter costs, the parking meter rate defined in the attached "Labour Market Re-entry Expense Schedule" may be automatically paid to the individual. There is no need to provide receipts to WorkplaceNL for parking meter costs. Parking meter expenses may be reimbursed to the worker upon completion of the labour market re-entry assessment and at the end of each month in the labour market re-entry plan.

48.04 Travel Expenses

Reasonable travel costs related to the labour market re-entry program (including one trip home per semester during out-of-town training programs) may be reimbursed by WorkplaceNL to the injured worker.

In no instance will travel expenses be paid to a worker who travels less than 50 kilometers (round trip) to attend the labour market re-entry program. Where the worker chooses to move following a work injury, WorkplaceNL may only consider the lesser of the travel distance between either the pre-injury primary residence or the current residence and the location of the labour market re-entry assessment or program. Each case is decided based on its individual circumstances.

WorkplaceNL will always pay the worker for travel that is most cost effective and practical. If a worker has a choice between two practical means of travel and elects to use the one with the higher cost, WorkplaceNL will reimburse the worker based on the lower cost travel alternative (for example, if a bus is available and acceptable, but the worker chooses to use his own vehicle which is more expensive, WorkplaceNL will reimburse the worker based on the bus fare for that trip).

Labour Market Re-entry Assessment

When a worker must "overnight" for a period of up to two weeks in order to avail of labour market re-entry assessment services, and did not use his/her personal vehicle to travel to the place of service, WorkplaceNL may pay the cost of taxis to and from the worker's temporary residence to the location of the assessment.

Personal Use of Vehicle

Personal use of a vehicle for purposes related to labour market re-entry will be reimbursed at the rate defined in the attached "Labour Market Re-entry Expense Schedule" for kilometers driven in excess of 50 kilometers (round trip). The exempt 50 kilometer base will apply to each new round trip for example, if a worker drives from a hotel in St. John's to the Miller Center and back on one day then this

would be less than 50 kilometers traveled, and therefore, no reimbursement would be available. When the worker makes the same round trip again on the following day, the 50 km limit will still apply and as a result, there will be no reimbursement.

Car Pooling

Where a worker is carpooling with other injured workers for travel related to labour market re-entry, only one person in the car pool will be reimbursed for kilometers driven.

Transportation Options Limited by Physical Restrictions

The Case Manager may approve the worker's request to use other than public means of transportation if it is identified by the primary health care provider that the worker's medical condition precludes him/her from availing of public transportation options.

48.05 Other Labour Market Re-entry Expenses

Tutor Assistance

WorkplaceNL will pay the rate defined in the attached "Labour Market Re-entry Expense Schedule" for personal tutoring services related to the labour market re-entry plan upon the written recommendation of the instructor.

Prior approval is required by WorkplaceNL for tutoring costs and costs will only be reimbursed after WorkplaceNL is satisfied that complimentary tutoring services are not being offered by the institution being attended by the worker, or another institution in the community. Where tutoring is not provided by the training institution or another community institution, WorkplaceNL may approve private tutoring services for the worker subject to a review of the tutor's qualifications, and in consultation with the education institution, relative to the specific component of the labour market re-entry program

Tuition late fees

Late tuition fees may be paid by WorkplaceNL in accordance with amounts charged by the academic organization, where the worker is not responsible for the late tuition fee.

Miscellaneous Supplies

WorkplaceNL will pay a \$25 allowance per academic school year for miscellaneous school-related or personal supplies (for example, pencils and writing paper) for a worker participating in a labour market re-entry plan.

Locker Rental Fees

Locker rental fees may be covered by WorkplaceNL where the worker is required to use a locker provided by the education facility and a fee is required. Supporting documentation is required.

Accommodation during Labour Market Re-entry Assessment

A receipt for accommodation expenses incurred during the labour market re-entry assessment may be required for reimbursement. The maximum per day hotel charge rate defined in the “Labour Market Re-entry Expense Schedule” may be paid or, when it can be demonstrated to the satisfaction of the Client Service Assistant that a room was not available for the rate defined in the “Labour Market Re-entry Expense Schedule”, the Client Service Assistant may pay a higher nightly amount. When the worker chooses private accommodations during the labour market re-entry assessment, compensation at the rate defined in the “Labour Market Re-entry Expense Schedule”, may be paid without receipts.

Accommodation during Labour Market Re-entry Plan

WorkplaceNL may pay accommodation expenses, for example, room and board, during the labour market re-entry plan to a maximum rate defined in the “Labour Market Re-entry Expense Schedule” when the worker must relocate in order to participate in the plan. Accommodation expenses of more than the weekly maximum must be approved by a Client Services Manager.

Where a worker chooses to travel during the labour market plan rather than avail of accommodations that would reduce or eliminate daily travel, and the weekly travel expenses exceed the maximum accommodation rate defined in the “Labour Market Re-entry Expense Schedule”, the maximum accommodation rate may be paid.

Meal Allowances

Meal allowances will be provided at the rate defined in the “Labour Market Re-entry Expense Schedule” during the labour market re-entry assessment to injured workers who travel 50 kilometers or more (round trip) from their residence to participate in the labour market re-entry assessment. Meal allowances will not be paid where private accommodation has been claimed. Meals will not be provided while an injured working is participating in a labour market re-entry plan.

PART 3 – Equipment Expenses**48.06 Tools, Equipment and Protective Clothing**

To facilitate re-employment, tools, equipment and/or protective clothing will be paid when the worker’s impairment necessitates specialized items to meet the individual, physical restrictions of the worker in the employment under consideration. Confirmation of the requirement must be provided in writing by the health care provider. Standard tools that every worker requires for a job will not be purchased.

When tools, equipment and protective clothing are required to participate in a labour market re-entry plan, costs may be paid by WorkplaceNL when written proof has been provided which states the need for such items from the educational institution. The Client Service Assistant will make a determination of the reasonableness of these costs through consultation with the academic institution.

48.07 Purchase of Computers

A computer may be purchased for an injured worker when:

1. it is required to overcome the disability to participate in a particular employment opportunity; or
2. it is necessary for the labour market re-entry plan. For example,
 - a. The requirement is outlined in the course description and the school requires the student to purchase their own; or
 - b. the health care provider documents that the physical injury requires the use of a computer in order to participate in a labour market re-entry plan (consultation with WorkplaceNL's Health Care Consultant may be required).

In cases where the school does not directly provide the computer to the student, the student must provide WorkplaceNL with detailed specifications from the educational institution of what computer is satisfactory for the program. The Client Service Assistant will review the specifications with WorkplaceNL's Information Systems Department. The Client Service Assistant is required to contact WorkplaceNL's Finance Department to purchase the computer in accordance with WorkplaceNL's purchasing procedures.

48.08 Repair, Maintenance, Upgrading and Replacement of Equipment

Repair, Maintenance and Upgrading

Repair, maintenance or upgrading of computers/equipment/assistive devices may be paid by WorkplaceNL when:

1. the warranty accompanying the computer has expired;
2. the damage is not attributable to misuse of the computer;
3. the upgrades for the computer are considered necessary in order to successfully complete the program of study or to participate in the employment opportunity. Evidence of this necessity should be obtained from the training institution or the employer.

Replacement

Computers will not normally be replaced during a labour market re-entry plan. Where exceptional circumstances arise and a replacement is necessary, approval by a Client Services Manager is required before repurchasing.

48.09 Transfer of Ownership

A worker, for whom workplace modifications and/or assistive devices have been purchased by WorkplaceNL under this procedure, retains ownership of the device. The worker is expected to use the device in future employment situations. Additionally, ownership of all equipment paid for by WorkplaceNL, including computers, may be transferred to the worker after successful completion of a labour market re-entry program.

48.10 Return of Equipment Purchased for Workers

Equipment purchased for workers is required to be returned to WorkplaceNL in the following situations.

Unsuccessful Completion of Labour Market Re-entry Plan

When an injured worker does not successfully complete the labour market re-entry plan, then any books, tools, equipment and/or assistive devices purchased by WorkplaceNL must be returned. Immediate action will be taken to recover the assets.

Equipment, Tools or Assistive Devices in Excess of \$5,000

When equipment, tools or assistive devices are purchased for the injured worker as part of the labour market re-entry plan (that cost in excess of \$5,000 (pre-HST),) the Finance Department of WorkplaceNL will record these purchases and make arrangements to have these items returned to WorkplaceNL when they are no longer being used by the worker for the purposes of labour market re-entry and employment.

Modifications/Equipment Provided During On-the-Job Training

In the case of modifications/equipment provided during an on-the-job training program where a worker will not be returning, an option will be given to the injured worker to purchase the equipment from WorkplaceNL. This will only be allowed where the worker has successfully completed the labour market re-entry plan. If the worker chooses not to purchase the equipment, the employer will be given the option to purchase the equipment. The Finance Department will make the determination of a reasonable price and coordinate the sale.

Equipment Recovery Process

Assets are only to be recovered if they have been purchased by WorkplaceNL. If they were paid for in whole or in part by the employer, WorkplaceNL will not attempt to recover such assets.

The Client Service Assistant should record all efforts directed at recovering appropriate assets on the case worksheet. Actual pickup of the asset will be arranged by WorkplaceNL. The Finance Department will be notified whenever assets have been recovered. Where recovery efforts are unsuccessful, the case will be referred to the Legal Division for appropriate action.

Where the worker continues to receive wage loss benefits, the Client Service Assistant will make three (3) attempts to recover the assets. The worker should be notified during each attempt that a benefits reduction will result if the asset is not returned. Failure to return the items after these efforts will result in a benefit reduction to recover the cost of the items.

If the worker is no longer receiving wage loss benefits, the Finance Department will make three attempts to recover the assets. The worker should be notified on the third attempt that a collection agency will be used if the asset is not returned. When the assets are not returned the Finance Department will obtain the services of a collection agency to recover the asset or its monetary equivalent.

48.11 Exceptional Circumstances

In cases where the individual circumstances 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: *Workplace Health, Safety and Compensation Act*, Sections 88, 89, 89.1 and 89.2
Policies: RE-17, *Labour Market Re-entry Expenses*
RE-18, *Hierarchy of Return to Work and Accommodation*

Amendment History

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