

Client Services Procedure Manual

Procedure: 48.00

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

48.00 Introduction

Expenses may be provided to support an injured worker involved in:

- Early and safe return to work programming;
- Returning to work as part of an accommodation;
- A Labour Market Re-entry (LMR) Assessment; or
- an established LMR Plan.

Determining who pays for select expenses (i.e., WorkplaceNL or the employer) depends upon whether or not the employer has a re-employment obligation. As outlined in section 89.1 of the Act, a re-employment obligation exists where:

- An employer has 20 or more employees; and
- The employment relationship with an injured worker was continuous for at least one year.

PART 1 – Expenses paid for by Employers with a Re-employment Obligation

All employers have obligations to accommodate persons with disabilities under human rights legislation.

If an employer has a re-employment obligation, they are required to pay for workplace modifications or the purchasing of assistive devices to support re-employment.

48.01 Employer Refuses to Purchase Assistive Devices or Modify the Workplace

If an employer with a re-employment obligation refuses, without cause, to modify the workplace or purchase assistive devices to accommodate an injured worker's return to work, the Case Manager will determine appropriate penalties to levy. This is guided by Policy RE-02 The Goal of Early and Safe Return to Work and the Roles of the Parties and Policy RE-09 Re-employment Penalties and Payments. These policies outline the re-employment provisions of the Act and the appropriate penalties to levy. In this case, the worker will be referred for an LMR assessment provided by Policy RE-14 Labour Market Re-entry Assessments.

48.02 Employer Claims Undue Hardship

Employers are expected to take the lead role and consult with the worker for the purchase of the required modifications or assistive devices.

When an employer makes a written claim that the cost of a modification or assistive device would cause undue hardship, the Case Manager conducts an undue hardship review. A decision will be based on the information gathered during the review.

For an example of undue hardship: In order to accommodate an injured worker, a \$50,000 hydraulic lift must be installed in the workplace. The employer, with a re-employment obligation, claims that this cost is too high and would cause serious financial difficulty. The Case Manager determines that \$50,000 would cause 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.

PART 2 – Expenses paid for by WorkplaceNL if there is no Re-employment Obligation

48.03 Employer without a Re-employment Obligation

If a re-employment obligation did not exist or has expired, WorkplaceNL will pay for the required workplace modifications or assistive devices that support re-employment. The Case Manager will seek input from an appropriate expert such as an Occupational Therapy Consultant, as required. Examples where input may be required are:

- The modification or device is something outside the standard items considered (i.e., ergonomic chairs, incline boards, copy holders, etc.); or
- The price of the modification or device is higher than \$1,000.

PART 3 – LMR Expenses paid for by WorkplaceNL

48.04 Workplace Modifications and Assistive Devices paid during the LMR Process

This section outlines the types of expenses that WorkplaceNL will consider related to LMR assessments and plans.

All modifications and assistive devices should be referenced in the LMR assessment report. If not included in the assessment report, the Case Manager must decide if it is appropriate to pay the cost for a device or modification. The cost and benefit of the expense and the individual merits of the situation should be considered when making the decision. Consultation with a WorkplaceNL Health Care Consultant may also be required.

48.05 Parking Expenses

Parking expenses must be directly related to the LMR assessment or plan, and associated with parking at the organization where the assessment, training, or work term takes place.

a. Parking Permits

WorkplaceNL may reimburse a parking permit expense where:

- A receipt is provided; and

- The permit is effective only for the dates associated with the program of study or work term (i.e., 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 costs less than the permit for the longer duration).

b. Parking Meters

The cost of parking meters may be reimbursed only when it is more economical to do so (i.e., the course of study is short enough to warrant parking at meters versus purchasing a parking permit). Parking meter costs are reimbursed using the parking meter rate defined in the attached Labour Market Re-entry Expense Schedule. Receipts are not required for parking meter costs. Parking meter expenses may be reimbursed when an LMR assessment is completed and at the end of each month for an LMR plan.

48.06 Travel Expenses

WorkplaceNL may reimburse reasonable travel costs related to the LMR Plan. This includes one trip home per semester during out-of-town training programs.

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 LMR assessment or program. Each case is decided based on its individual circumstances.

WorkplaceNL pays the most cost effective and practical means of travel. 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.

a. Taxis for LMR Assessments

WorkplaceNL may pay taxi costs when a worker is required to stay overnight without a private vehicle to complete an LMR assessment. This includes taxi costs to and from the worker's temporary residence to the location of the assessment.

b. Car Pooling

Only one injured worker in a car pool will be reimbursed for kilometers driven for travel related to LMR assessment or plans.

c. Transportation Options Limited by Physical Restrictions

The Case Manager may approve the worker to use private, instead of public transportation, if the primary health care provider identifies that the worker's medical condition prevents the worker from using public transportation options.

d. Meals

The cost of meals will be reimbursed as per Procedure 60.00 Health Care Fees and Expenses for workers who have to travel for an LMR assessment.

Meals are not provided while an injured worker is participating in an LMR plan.

Overnight Accommodation

i) Accommodation Expenses during LMR Assessment

A receipt for accommodation expenses during the LMR assessment may be required for reimbursement. The type, standard and cost of accommodation will not be in excess of the minimum rate in a commercial establishment for a single room with attached bathroom. Accommodations must not be upgraded to suites or executive floors. Special Government rates, available at many hotels and motels, must be requested when making reservations and wherever possible, establishments that offer discounts should be given preference by the person making the travel arrangements. The Client Service Assistant may pay a higher nightly amount when it can be demonstrated that a room was not available for the minimum rate. In addition, the private accommodations rate defined in the Labour Market Re-entry Expense Schedule may be paid without receipts when the worker chooses private accommodations during the LMR assessment.

ii) Accommodation Expenses during LMR Plan

WorkplaceNL may pay accommodation expenses (i.e., room and board), during the LMR plan. Accommodation expenses are paid to a maximum rate defined in the Labour Market Re-entry Expense Schedule. There is entitlement when the worker must relocate in order to participate in the plan. A Client Services Manager may approve claims for accommodation expenses that are more than the weekly maximum.

Where a worker chooses to travel during the LMR plan rather than avail of accommodations that would reduce or eliminate daily travel, and if 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.

48.07 Other LMR Expenses

- A. Health and Dental Insurance
- B. Tutor Assistance
- C. Tuition Late Fees
- D. Miscellaneous Supplies
- E. Locker Rental Fees
- F. Child Care

A. Health and Dental Insurance

WorkplaceNL will only cover the costs of medical and dental insurance for a worker who is in a training program when they do not have comparable coverage with their pre-injury employer. If

the worker is covered under their pre-injury employer, they must opt out the medical and dental benefits with the educational institution within the established deadlines.

WorkplaceNL will only cover the cost of health and dental insurance for the injured worker. WorkplaceNL will not cover the cost for family members.

B. Tutor Assistance

Tutoring costs require approval from WorkplaceNL. These costs will only be reimbursed if WorkplaceNL is satisfied that complimentary tutoring services are not available at the institution attended by the worker, or at another institution in the community.

WorkplaceNL may approve private tutoring services for the worker subject to a review of the tutor's qualifications where appropriate tutoring is not provided by the training institution or by another community institution. Tutoring services shall not exceed four hours per week.

C. Tuition Late Fees

Late tuition fees may be paid if the late fee is due to delays at WorkplaceNL. Late fees will not be covered if the late fee is due to the actions of the worker.

D. Miscellaneous Supplies

WorkplaceNL will pay a \$150 allowance per academic school year for miscellaneous school-related or personal supplies (i.e., pencils, writing paper, printer paper, and ink cartridges or toner) for a worker participating in an LMR plan.

E. Locker Rental Fees

WorkplaceNL may cover locker rental fees where the educational institution requires the worker to use a locker at the institution. Supporting documentation is required.

F. Child Care

Eligible child care expenses are outlined in Policy HC-09 Additional Child Care Costs.

48.08 Tools, Equipment and Protective Clothing

WorkplaceNL may purchase specialized tools, equipment and protective clothing to meet the physical restrictions of a worker to support re-employment or early and safe return to work. The health care provider must confirm in writing that these items are required.

WorkplaceNL may pay for tools, equipment and protective clothing when these items are a requirement of an LMR Plan. Written proof is required from the educational institution to

confirm the need for these items. The Client Service Assistant will consult with the academic institution to determine the reasonableness of these costs.

48.09 Purchase of Computers or Laptops

WorkplaceNL will supply or purchase a computer or laptop for a worker when:

- The worker is enrolled in a formal training program; or
- WorkplaceNL determines that the computer will be beneficial to the LMR Plan.

WorkplaceNL will determine an appropriate computer or laptop for the worker based on:

- The program in which the worker is enrolled; and
- The computer requirements.

The Case Manager will consult with the Information Technology Services (ITS) department to determine the most suitable device if the worker's LMR Plan requires a specialized computer or software. WorkplaceNL's ITS department will recommend specific models.

WorkplaceNL will also pay for additional software required for the training program (e.g., Sage Accounting for accounting and clerical programs).

The most suitable device for the worker will depend on the worker's program of study and the nature of their functional restrictions. For example, if a worker has a neck and shoulder injury, a computer that is ergonomically setup will be the preferred option over a laptop.

Workers completing Adult Basic Education (ABE) or Grade Equivalency Diploma (GED) are not eligible for a computer or laptop.

48.10 Internet Coverage

WorkplaceNL will only pay for internet services where:

- The worker does not currently have internet, or if the service they have is not suitable, and
- Internet services are necessary to support the completion of an LMR plan.

In the circumstance where the worker's current internet is not suitable, WorkplaceNL pays the difference in cost to upgrade the service.

48.11 Repair, Maintenance, Upgrading and Replacement of Equipment

- A. Repair, Maintenance and Upgrading
- B. Replacement

A. Repair, Maintenance and Upgrading

WorkplaceNL will purchase comprehensive warranties for the computers or laptops that it has purchased for the duration of the program.

WorkplaceNL will also cover the cost of any system upgrades not covered by the warranty when WorkplaceNL determines that it is necessary for the worker to successfully complete their LMR Plan.

WorkplaceNL will not cover the costs for computer or laptop damage due to misuse.

B. Replacement

Computers or laptops will normally not be replaced during a LMR Plan. Approval from a Client Services Manager is required if exceptional circumstances arise to support a replacement.

48.12 Transfer of Ownership

A worker can retain ownership for workplace modifications or assistive devices purchased by WorkplaceNL. The worker is expected to use the device in future employment situations. In addition, ownership may be transferred to the worker for all equipment paid for by WorkplaceNL, including computers, after the worker successfully completes a LMR Plan.

48.13 Return of Equipment Purchased for Workers

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

a. Unsuccessful Completion of LMR Plan

Any books, tools, equipment and assistive devices purchased by WorkplaceNL must be returned when an injured worker does not successfully complete the LMR Plan. Immediate action will be taken to recover the assets.

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

Any equipment, tools or assistive devices purchased for the injured worker in the excess of \$5,000 (pre-HST) as part of the LMR Plan must be returned.

WorkplaceNL's Finance Department will record these purchases and arrange for the return of these items to WorkplaceNL when the worker no longer uses the items for the LMR Plan or employment.

c. Modifications or Equipment Provided During On-the-Job Training Program

The worker has the option to purchase any equipment from WorkplaceNL for an on-the-job training program if they are not returning to that program. This will only be allowed where the worker has successfully completed the LMR Plan. The employer will be given the option to

purchase the equipment if the worker chooses not to purchase it. WorkplaceNL's Finance Department will determine a reasonable price and coordinate the sale.

d. Equipment Recovery Process

Workplace only recovers assets that are purchased by WorkplaceNL. WorkplaceNL will not attempt to recover any assets paid for in whole or in part by the employer.

The Client Service Assistant should record all efforts directed at recovering appropriate assets on the claim file. WorkplaceNL will arrange for the actual pickup of the asset. The Finance Department will be notified when assets have been recovered. The case will be referred to the Legal Department for appropriate action where recovery efforts are unsuccessful.

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

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

48.14 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 cause 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.

**Workplace Health, Safety and Compensation Commission
Labour Market Re-entry (LMR) Expenses Schedule**

| Expense | Amount (pre-HST) |
|---|--|
| Mileage | Reimbursed in accordance with the Government of Newfoundland and Labrador automobile reimbursement rate applicable on the date of travel |
| Room and Board | \$190 per week maximum (with receipt) |
| Private Accommodations | \$25 per night (no receipt required) |
| Parking Permit | As incurred (with receipt) |
| Parking Meter Costs | \$12/day per day - flat rate (no receipt required) |
| Miscellaneous Allowance during LMR Plan | \$150 per year |

Reference:

Workplace Health, Safety and Compensation Act, Sections 88, 89, 89.1 and 89.2

Policies:

EN-22 Merits and Justice

HC-09 Additional Child Care Expenses

RE-14 Labour Market Re-entry Assessments

RE-17 Labour Market Re-entry Expenses

RE-18 Hierarchy of Return to Work and Accommodation

Procedures:

45.00 Labour Market Re-entry Assessment

60.00 Health Care Fees and Expenses

Amendment History

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