

Client Services Policy Manual

Policy Number: **RE-06**
Subject: **Alternative Work Comparable to the Pre-injury Job**
Chapter: **Return to Work and Rehabilitation**

Policy Statement

If the pre-injury job is not available, the workplace parties (employer and worker) are responsible for determining whether the alternative employment offered is comparable in nature to the pre-injury job. If the workplace parties cannot agree, WorkplaceNL will make the final determination.

When referencing any of the return to work policies (RE-01 to RE-11 and RE-18), it is important to recognize the responsibilities of the workplace parties within the context of the complete return to work process. Therefore, the whole return to work model must be considered in its entirety and not only the specific guidelines under an individual policy.

General

Determining comparable nature

When comparing pre-injury employment to comparable alternative employment, the workplace parties and/or WorkplaceNL shall consider all of the following factors:

Alternative Work Comparable to Pre-injury Job

- i. duties to be performed;
- ii. skills, qualifications, and experience required;
- iii. degree of physical and cognitive effort;
- iv. level of responsibility and supervision of other employees;
- v. rights and privileges associated with the position;
- vi. wages and employee benefits;
- vii. working conditions, hours of work, and right to work overtime;
- viii. geographic location of the worksite;
- ix. opportunities for advancement and promotion;
- x. whether the jobs are covered by a collective agreement, and
- xi. other relevant factors.

Determining comparable earnings

Net earnings in the alternative job must be at least 90% of the pre-injury net earnings to be considered comparable.

Earnings are both the wages and benefits to which a dollar value can be attached. Benefits include vacation time, dental and medical plans, and pension plan contributions.

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Geographic Location

The following factors will be considered in determining whether the geographic location of the alternative work is comparable:

- i. travel or assignment to different job sites is the normal practice of the industry;
- ii. travel or assignment to a job site other than the injury site forms part of the employment contract;
- iii. the worker normally accepts employment assignments in various geographic areas;
- iv. travelling to the alternative employment falls within the normal parameters of travel expected of the worker; and
- v. the reasonableness of the offer.

Government funded projects

Employers who participate in government funded projects where government pays the assessment directly to WorkplaceNL will be considered to have fulfilled the re-employment obligation if they offer the worker a job under the project that is otherwise comparable to the pre-injury employment. The re-employment obligation for workers hired on a project basis is for the duration of the project.

Exceptional Circumstances

In cases where the individual circumstances of a case are such that the provisions of this policy 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.

Effective Date

This policy applies to injuries occurring on or after January 1, 2002 other than injuries to construction workers defined by Policy RE-19 "Construction Industry". For a worker who performs construction work and an employer who is engaged primarily in construction work as defined by Policy RE-19 "Construction Industry", the re-employment obligation under this policy applies to injuries occurring on or after January 1, 2003.

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Reference: *Workplace Health Safety and Compensation Act (the Act), Section 89.1*
Policies: RE-01 through RE-11 and
RE-18 Hierarchy of Return to Work and Accommodation

Amendment History

<i>Original Effective Date</i>	2002 01 01
<i>Revision #1</i>	2002 10 11
<i>Revision #2</i>	2004 07 22