

## Client Services Policy Manual

Policy Number: **RE-18**  
Subject: **Hierarchy of Return to Work and Accommodation**  
Chapter: **Return to Work and Rehabilitation**

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### Policy Statement

The purpose of this policy is to clarify the hierarchy of return to work priorities, the types of programs and the accommodation requirements for the various stages of return to work. For clarity, the policy is structured into separate parts according to whether or not there is a re-employment obligation, as this impacts the employer's accommodation requirements under the Act.

To facilitate return to work services and programs WorkplaceNL uses a hierarchical sequence, the goal of which is to safely return the worker to pre-injury employment through early and safe return to work and/or re-employment obligation, or to offer labour market re-entry services to ensure workers have the skills, knowledge and abilities to re-enter the labour market and reduce or eliminate their loss of earnings.

Workplace parties, and where appropriate, health care providers, should keep this hierarchy in mind when making decisions regarding early and safe return to work so that the injured worker's functional rehabilitation is enhanced and facilitated by the return to work program. While the hierarchy is intended as a guideline for most cases, there may be situations where the priorities of a specific case may differ as the most effective method of returning the worker to the pre-injury, comparable, or suitable employment.

### Definitions

A series of definitions is provided to assist workplace parties during the return to work planning and to promote a consistent understanding of the program types to be utilized in the hierarchy of return to work. The hierarchy of return to work priorities is illustrated in the table included in each appropriate section of the policy (i.e. Parts I and II). The definitions should be read in the context of the hierarchy of return to work priorities. Other relevant policies should be consulted and considered when decisions are being made on return to work programs.

**Accommodation:** Accommodation is any change or adaptation to the work, hours of work, work duties or workplace, and includes the provision of equipment or assistive devices. In any specific case, accommodation can include, but is not limited to, any of the options outlined in this policy or an appropriate combination thereof.

**Alternate Duties:** Alternate duties are non-pre-injury duties within the worker's functional abilities.

**Alternative Work:** A different job or bundle of duties (not the pre-injury job or duties) that are suitable and are provided to accommodate a

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worker who has temporary or permanent functional restrictions as a result of the injury.

**Assistive Devices:** Assistive devices include aids/attachments specifically designed for the worker and/or required by the worker to perform job-related activities.

**Ease Back:** A gradual return to pre-injury hours of work achieved by increasing the number of hours worked over a defined time frame agreed upon by the workplace parties utilizing the functional abilities information relating to the worker. While the pre-injury hours of work vary, the pre-injury duties are the same.

**Modifications:** Changes to job schedule, equipment, organization of work, and/or facilities.

**Modified Work:** Changing the job duties of the pre-injury position required to accommodate the worker's functional restrictions as a result of the injury. Modified work includes altering or removing some duties; however, the worker is still working primarily in his or her pre-injury position.

### General

#### **PART I Employers with a Re-employment Obligation**

Employers who have a re-employment obligation under section 89.1 of the Act must accommodate the work or the workplace for the worker to the extent that the accommodation does not cause the employer undue hardship (refer to Policy RE-05 Re-employment Obligation and RE-07 Undue Hardship). Where undue hardship is demonstrated, WorkplaceNL will cover the cost of the accommodation over and above the point of undue hardship. Employers with a re-employment obligation are also required under section 89 to co-operate in early and safe return to work (refer to Policy RE-02). This includes accommodation of the work or workplace for early and safe return to work purposes.

To achieve the maximum benefit from the return to work program, the workplace parties should consider each of the priorities listed in the hierarchy table in this section in the order that they appear and taking into consideration the functional abilities of the worker. The primary objective, where possible, is to maintain the worker's connection to the pre-injury job during the return to work program. The first priority is to return the worker to the pre-injury job (with accommodation, as required) or to modify the pre-injury job. An alternate comparable job

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may also be offered (refer to Policy RE-06 Alternative Work Comparable to the Pre-Injury Job). Where the specific functional abilities prevent a return to the pre-injury or a comparable job, then the most suitable work that is available must be offered to the worker. All the factors of the case must be considered when making decisions on return to work.

<b>Hierarchy of Return to Work Priorities for Employers with a Re-employment Obligation</b>			
<b>Return to Work Program</b>	<b>Description</b>	<b>Goal</b>	<b>Obligation</b>
<b>Priority 1</b> Pre-injury Job with modifications	Full Hours; Full pre-injury Duties	Full Return to Work	Worker can perform pre-injury job, employer is obligated to provide pre-injury job or comparable job (refer to RE-06).
<b>Priority 2</b> Essential Duties of Pre-injury Job	Full hours; Essential duties of pre-injury job (modified work)	Move to Priority 1	Worker can perform pre-injury job, employer is obligated to provide pre-injury job or comparable job (refer to RE-06).
<b>Priority 3</b> Pre-injury job Modified Work	Full hours; Essential pre-injury duties modified or removed.	Move to Priority 2 or 1.	Worker can perform suitable work, employer obligation is to provide the most suitable work that becomes available.
<b>Priority 4</b> Pre-injury Job Modified Work	Full hours; Some pre-injury duties; Some non-pre-injury duties.	Move to Priority 3, 2 or 1.	Worker can perform suitable work, employer obligation is to provide the most suitable work that becomes available.
<b>Priority 5</b> Ease Back to Pre-injury Job	Full pre-injury duties; Gradual return to pre-injury hours.	Move to Priority 2 or 1.	Worker can perform suitable work, employer obligation is to provide the most suitable work that becomes available.
<b>Priority 6</b> Alternate Work	Full hours; Non pre-injury duties. This should only be utilized in cases where none of the other accommodation options involving the pre-injury job can be provided.	Move to Priority 4, 3, 2 or 1.	Worker can perform suitable work, employer obligation is to provide the most suitable work that becomes available.

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### Notes:

1. Modifications can be made or purchased at any of the phases within the hierarchy.
2. All phases should be reviewed regularly.
3. Where appropriate, the return to work plan should have a rehabilitative component which uses work as part of the worker's physical recovery from the injury.
4. There may be combinations of the return to work strategies that are appropriate for a particular worker's return to work program.

## PART II

### Employers without a Re-employment Obligation

Employers who do not have a re-employment obligation are required to co-operate in early and safe return to work under section 89 of the Act (refer to Policy RE-02). WorkplaceNL will cover the costs of necessary accommodations to the work or the workplace where the employer does not have a re-employment obligation.

To achieve the maximum benefit from the early and safe return to work program, the workplace parties should consider each of the priorities listed in the hierarchy table in this section of the policy in the order that they appear and taking into consideration the functional abilities of the worker. The primary objective, where possible, is to maintain the worker's connection to the pre-injury job during the early and safe return to work program. The first priority is to return the worker to the pre-injury job or to modify the pre-injury job. Where the specific functional abilities prevent a return to the pre-injury job, then suitable work that is available consistent with the worker's functional abilities that restores the pre-injury earnings, where possible, must be offered to the worker. All the factors of the case must be considered when making decisions on return to work.

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<b>Hierarchy of Return to Work Priorities for Employers without a Re-employment Obligation</b>		
<b>Return to Work Program</b>	<b>Description</b>	<b>Goal</b>
<b>Priority 1</b> Pre-injury Job with modifications	Full Hours; Full pre-injury Duties	Full Return to Work
<b>Priority 2</b> Pre-injury job Modified Work	Full hours; Pre-injury duties modified or removed.	Move to Priority 1.
<b>Priority 3</b> Pre-injury Job Modified Work	Full hours; Some pre-injury duties; Some non-pre-injury duties.	Move to Priority 2 or 1.
<b>Priority 4</b> Ease Back to Pre-injury Job	Full pre-injury duties; Gradual return to pre-injury hours.	Move to Priority 1.
<b>Priority 5</b> Alternate Work	Full hours; Non pre-injury duties.	Move to Priority 4, 3, 2 or 1.

Notes:

1. Modifications can be made or purchased at any of the phases within the hierarchy.
2. All phases should be reviewed regularly.
3. Where appropriate, the return to work plan should have a rehabilitative component which uses work as part of the worker's physical recovery from the injury.
4. There may be combinations of the return to work strategies that are appropriate for a particular worker's return to work program.

### PART III

#### Accommodation Covered by WorkplaceNL during Labour Market Re-entry Programming

When the hierarchy of return to work priorities discussed in this policy under Parts I and II do not achieve return to work, WorkplaceNL may consider labour market re-entry to allow the worker to obtain the necessary skills to re-enter the workforce.

WorkplaceNL will cover the cost of an accommodation that is required

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during a labour market re-entry plan. Where WorkplaceNL has covered modifications or assistive devices for a worker engaged in a labour market re-entry program, the items will remain the property of WorkplaceNL until such time as the worker successfully completes the program. Such items will be returned by the worker in cases where the worker discontinues a program. If these items are required as a condition of employment following the labour market re-entry plan, WorkplaceNL may transfer ownership to the worker. WorkplaceNL retains the discretion to recover the modifications or assistive devices where the specific circumstances of the case warrant recovery.

### **PART IV**

#### **Accommodation Covered by WorkplaceNL for the Purpose of Suitable Employment and Earnings**

Following labour market re-entry services (refer to Part III), WorkplaceNL may cover accommodation that is necessary for the worker to return to suitable employment and earnings. If modifications or assistive devices (which may include, but are not limited to, modified tools and protective equipment) are required as a condition of employment, WorkplaceNL may transfer ownership to the worker. WorkplaceNL retains the discretion to recover the modifications or assistive devices where the specific circumstances of the case warrant recovery.

Standard tools or equipment required to perform the normal duties of the suitable employment and earnings are not considered modifications or assistive devices.

### **PART V**

#### **Other Considerations**

##### **Determining need for modifications and assistive devices**

In determining the need for modifications or assistive devices, WorkplaceNL will consider:

- i. the tasks or activities to be performed;
- ii. the worker's functional abilities;
- iii. any non-work-related disability, handicap, or condition a worker may have;

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- iv. any modification or device necessary for the performance of job tasks or activities; and
- v. other factors in the work environment that may affect the worker's ability to perform the job duties.

### Costs

In cases where it is determined that WorkplaceNL will cover accommodations, this will include the purchase, installation and maintenance costs, and may also include the costs for repair or replacement of appropriate modifications and assistive devices, if necessary.

The modifications or assistive devices remain the property of WorkplaceNL and may be recovered from the premises of the employer if the worker leaves the employment.

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.

**Reference:** *Workplace Health, Safety and Compensation Act (the Act), Sections 88, 89, 89.1 and 89.2.*

*Policies: RE-02 The Goal of Early and Safe Return to Work and the Role of the Parties*

*RE-05 Re-employment Obligation*

*RE-07 Undue Hardship*

*RE-15 Suitable Employment and Earnings*

*RE-16 Labour Market Re-entry Plans*

*HC-12 Occupational Rehabilitation Services Private Clinics.*

### Amendment History

*Original Effective Date* 2002 01 01

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