

## Client Services Procedure Manual

**Procedure: 47.00**

**Subject: Labour Market Re-entry (LMR) Plans**

### 47.01 Introduction

This procedure provides direction for determining an appropriate LMR plan for a worker when their LMR assessment indicates that they need additional training or education to provide them 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 (LMR) Plans. It clearly outlines the steps necessary to achieve a successful LMR outcome which could include various labour market options.

The LMR assessment documents the range of LMR options. The options available to an injured worker will depend on their transferable skills, functional abilities, aptitude and potential earnings loss.

### 47.02 Preparing the Plan

The LMR assessment report identifies if a worker requires an LMR 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).

### 47.03 LMR Plan

#### LMR Plan Monitoring

The case manager is responsible for monitoring the LMR plan. Examples of monitoring may include:

- Meeting with the worker and 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 these services in order to successfully complete the program (See Procedure 48.00 Labour Market Re-entry (LMR) 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.

LMR 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, 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.

The on-the-job training employer must provide written monthly reports to the case manager outlining 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 an LMR plan indicates that the worker was assessed as having the potential to upgrade. The LMR plan must indicate that the upgrading is required to improve a worker's academic skills to directly re-enter the labour market, or it is a prerequisite of a formal training program. There may be period of employment readiness services and benefits provided where academic upgrading is the final component of the LMR plan.

WorkplaceNL may decide to discontinue the upgrading program when the worker is not making adequate progress during program, even when the worker is making their best effort and tutoring services are provided. The case manager may re-evaluate the LMR plan with the worker.

### **Formal Re-training**

A formal re-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.

WorkplaceNL will provide employment readiness services during or immediately following formal re-training should the worker decide to avail of them. Employment readiness benefits (i.e., wage loss benefits) are not paid after the worker has finished the formal re-training program.

### **Self-Employment**

WorkplaceNL may provide financial assistance for self-employment as a preferred cost-effective means to restore an earnings level at or near pre-injury earnings as identified through the LMR 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 an earnings level at or near pre-injury earnings;
- The pre-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 their pre-injury earnings); and
  - There is an unsatisfied demand for the products or services proposed existing 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 LMR plan; and
- The worker confirms, in writing, that they have been advised and are 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 pre-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 business plan 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 post start-up. These audits will be conducted in consultation with the Finance Department of WorkplaceNL to compare the financial status and spending of the business to what was projected in the business plan.

### **47.04 Employment Readiness Services and Benefits**

WorkplaceNL may provide employment readiness services and benefits up to a maximum of 12 weeks in order to prepare the worker for re-entry to the workforce.

#### **Employment Readiness Services**

WorkplaceNL will provide employment readiness services to workers who have been displaced from their job because of their injury but are capable of re-entering the workforce in a different capacity. Employment readiness services prepare and assist injured workers in securing sustainable employment for the future. These services are available to all workers who have participated in a labour market re-entry (LMR) assessment. The types of services

include resume and cover letter development, job search techniques such as accessing the hidden market, locating suitable employers, finding available labour market information, and interview skills. The services provided depend upon the individual needs of each worker and they can be accessed at any point following an LMR assessment.

### **Employment Readiness Benefits**

WorkplaceNL will provide employment readiness benefits in the form of wage loss benefits to an injured worker following an LMR assessment for a period of 12 weeks or a shorter period if the worker becomes employed. An injured worker is entitled to these benefits where:

- A direct-entry option is identified;
- On-the-job training is identified;
- The worker locates an employer willing to provide an employment opportunity that would reduce or eliminate the loss of earnings (i.e., a period of on-the-job training is required); or
- Academic upgrading is the final component of the LMR plan.

Employment readiness benefits are not provided after a formal retraining program has ended.

Workers who travel outside of their home community while participating in employment readiness services may be eligible for cost reimbursement as outlined in Policy RE-17 Labour Market Re-entry (LMR) Expenses.

### **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 LMR plan.

#### **Absenteeism**

The case manager will monitor absenteeism throughout the LMR plan by reviewing the monthly progress reports submitted by the employer, instructor, or training institution. Absenteeism beyond two days per month generally impacts performance during a program. Where the worker's absenteeism is impacting positive performance in an LMR 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**

The case manager may provide services to accommodate the worker to continue with the LMR plan when a worker's ability to participate is affected because the work-related impairment has deteriorated. Every reasonable attempt will be made to revise the LMR plan before reconsidering suitable employment.

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

The case manager may reconsider the suitable employment and earnings that was initially determined if a worker's work-related impairment improves significantly.

If the medical information indicates that the worker is fit for suitable work, the case manager will contact the employer if the employer has a re-employment obligation. 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 LMR plan taking into account the worker's improved condition.

#### **47.06 Plan Extensions or Revisions**

If a worker is unable to participate or is not making progress in the LMR plan, the case manager will make every reasonable attempt to revise the LMR plan through accommodation so that the worker can continue.

Any significant extensions or changes to the LMR plan must be discussed with the worker and approved by the case manager in consultation with the client services manager.

#### **Offer of Suitable and Available Employment**

The case manager and the worker must consider any suitable and available employment offers (i.e., injury position or comparable position) from the pre-injury employer during an LMR plan.

The case manager must review the following information to determine if the employer's offer is reasonable:

- 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 LMR plan status (i.e., the percentage of the program completed or the worker's progress).

The case manager will review the employment offer with the worker to determine if the LMR plan will be continued. The worker will not be eligible for further LMR services if the employment offer is accepted. Policy RE-15 Determining Suitable Employment and Earnings will then be used to determine further entitlement.

Policy RE-08 Compliance with the Re-employment Obligation will apply to adjust an employer's re-employment penalty where the worker continues with the LMR plan after the suitable and available employment offer has been made.

The applicable obligation period may be ongoing during an LMR plan for employers with a re-employment obligation (see Policy RE-05 Re-employment Obligation).

## **47.07 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 result in 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.

### **Reference:**

Workplace Health, Safety and Compensation Act, 2022, Sections 63, 83(4), 99 and 102

Policies:

EN-17 Interruptions and Delays in Work Injury

EN-22 Merits and Justice

RE-05 Re-employment Obligation

RE-08 Compliance with the Re-employment Obligation

RE-15 Determining Suitable Employment and Earnings

RE-16 Labour Market Re-entry (LMR) Plans

RE-17 Labour Market Re-entry (LMR) Expenses.

Procedures:

44.00 Labour Market Re-entry Co-operation

48.00 Labour Market Re-entry (LMR) Expenses

### **Amendment History**

Original Effective Date	2001 11 01
Revision #3	2008 05 23
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