

# MENDOCINO COUNTY

## RETURN TO WORK PROGRAM

It is the policy of Mendocino County to provide a return-to-work program as the means to return employees to meaningful, productive employment following injury or illness. In order to provide the highest level of quality service to the citizens of Mendocino County, it is necessary for every employee of Mendocino County to be available for work, ready, and capable of performing the duties and responsibilities for which the employee was hired.

The return-to-work program provides opportunities for any employee of Mendocino County who sustains a compensable injury during the course and scope of employment to return to work at full duty. If the employee is not physically capable of returning to full duty, the return-to-work program provides opportunities when available for the employee to perform a temporary modified or alternate duty assignment in which the employee's regular position is modified to accommodate the employee's physical capacities, or to perform an alternate duty position.

Specific procedures shall be provided to guide all employees regarding the return-to-work program. All employees, departments, divisions, and facilities of Mendocino County are expected to support and fully comply with this program and the procedures provided to implement this program.

**Definitions** - The following definitions apply to this procedure:

- *Full Duty* - Performance of all duties and tasks of the position for which the employee is employed. Full duty entails performing all essential and nonessential functions of the employee's regular job.
- *Temporary Assignment* - Performance of a temporary job assignment that is intended to return an injured employee to work at less than his or her full duties when a compensable injury prevents the employee from working full duty. Two types of temporary assignments are modified duty and alternate duty.
- *Temporary Modified Duty* - Performance of all of the essential functions, but only a portion of the non-essential functions and tasks of the regular job duties for which the employee is employed. Modified duty allows the employee to return to current employment in his or her regular job, and perform those duties and tasks that are within the capabilities of the employee, given the restrictions to duty imposed by the treating physician. Modified duty is a temporary arrangement to last a maximum of ninety (90) calendar days or until the injured employee can resume full duty, whichever comes first.

- **Temporary Alternate Duty** - Performance of the essential functions of a job or position other than the position for which the employee is employed. Alternateduty allows the employee to temporarily perform other duties and tasks that are within the restrictions to duty imposed by the treating physician. Such alternate duty may be physically located in the same facility or in some other facility. Alternate duty is a temporary arrangement to last a maximum of ninety (90) calendar days or until the injured employee can resume full activities of his/her regular job, which ever comes first.

**Permanent Accommodation** – A permanent change to an employee’s essential job functions related to an on the job illness or injury and based on medical restrictions as provided by the Qualified Medical Examiner.

- **Classification Descriptions of All Positions** - All department heads and/or designee(s) are responsible for identifying, documenting and maintaining the essential and non-essential functions in a classification description for all positions for which they are responsible. The physical requirements of the position should be included in all classification descriptions as either an essential or non-essential function.
- **Designated Return-to-Work Coordinator** - A return-to-work coordinator shall be appointed in the Human Resources Department, Benefits Division. The return-to-work coordinator shall be responsible for coordinating all activities associated with the return-to-work program, unless specific duties are otherwise assigned to another person or position.
- **Substitution of Paid Leave for Unpaid Leave** - If a compensable work-related injury or illness is involved, the employee is not required to use all accrued annual or sick leave. The employee may elect to use, but may not be required to use, accrued sick leave before receiving workers' compensation temporary income benefits.
- **Periodic Status Reports** - If an employee is certified by a health care provider to be off work, the employee is required to submit periodic status reports to his/her supervisor to report the employee's status and intention to return to work. Such status reports are required at the time of each scheduled visit with the treating physician and are due immediately following the visit. The status report should be provided to the supervisor within 24 hours of the scheduled visit, or if a weekend or holiday is involved, before close of business on the next scheduled workday. The supervisor then sends copies to the Return to Work Coordinator.

## TRAINING

Training will be implemented in the following manner:

***Department Heads - Managers - Supervisors - Payroll Clerks:***

This group will receive training on why the program was developed and how the program will be implemented

***Employees:***

The primary focus will be on the benefits to the injured or ill employees being able to return to work in a temporary modified or alternate duty capacity. Emphasis will also be given that if the condition becomes permanent there is the possibility of being able to accommodate the employee in a permanent modified or alternate position, as long as the employee is able to perform the essential functions of the job with reasonable accommodations.

Training for employees will be conducted on multiple levels, beginning with payroll staffers announcing the program and training schedules followed up with quarterly newsletters, etc. A binder will be prepared for each department, said binder will include an overview of the workers' compensation system, the Return to Work Program, all necessary claim forms, and frequently asked questions. New Employee Orientation will include an overview of the Return to Work Program.

***Medical Community:***

Training for the medical community will include a written protocol of the County's return to work philosophy along with sample medical reports outlining the type of reports required by the County. These reports will list treatment plans, anticipated permanent and stationary dates, specific modified return to work abilities, e.g.: can type for 30 minutes at a time and then take a 10 minute task break and then continue, etc. The medical community will be offered an opportunity to meet with the return to work coordinator to discuss the program at any time.

**Employee Participation in the Return to Work Program** – In order for an employee of Mendocino County to be eligible to participate in this return-to-work program, the employee must have sustained a compensable injury as defined in the California Workers' Compensation Act that results in lost time away from work. **An employee who meets the above criteria is mandated to participate in the program.**

**Non-Industrial Related Injuries:**

Employees who suffer from a temporary non-industrial related injury or illness are covered by and must participate in the Non-Industrial Return to Work Procedure. This procedure is administered by the individual departments and overseen by the Human Resources Department, Benefits Division, Return to Work Coordinator.

**PROGRAM CRITERIA**

A temporary modified or alternate duty assignment shall be offered when the following conditions are met:

1. There is work, part time or full time, to be performed, as determined by the injured employee's department head or designee or another department can provide a suitable alternate duty assignment.
2. The work can be performed within the medical limitations and restrictions identified by the employee's MPN or other authorized treating physician.

**Notification of Injury or Illness –**

An employee who sustains an injury or illness on the job is required to notify his/or her supervisor, or a person in a management position, that an injury exists. Such notification should occur within 24 hours of when the injury first manifests itself. Upon notification, the supervisor shall complete an "Incident Report" form and give the employee, within 24 hours, an "Employee Claim for Workers' Compensation Benefits" (DWC1) form. The supervisor is responsible for sending copies of any documentation pertaining to the injury to the Return to Work Coordinator immediately. For further information regarding Injury and Illness Notification, please refer to the County's Injury and Illness Prevention Policy.

**Communications with the Employee –**

At the time of first communication with the employee, the return-to-work coordinator shall provide information to the employee that contains the following, as appropriate:

- Mendocino County's return to work program and appropriate forms.
- Notification that the State of California provides workers' compensation benefits to employees who sustain compensable job-related injuries and/or occupational diseases.
- The name, location and telephone number of the California Workers' Compensation Appeal's Board; and
- The rights available to the employee under the California Workers' Compensation Act.

The above information is contained in the cover sheet attached to the DWC1 and must be given to the employee along with their copy of the Workers' Compensation Claim form.

The return-to-work coordinator is responsible for maintaining regular, weekly communications with the employee. The purposes of these communications are to:

- encourage the employee during recuperation from the injury;
- communicate the value of the employee to the Mendocino County;
- encourage return to work at the earliest possible date; and if the employee is on lost time for a workers' compensation claim, offer assistance to the employee if needed to attend health care provider visits.

### **Communications with the Return to Work Program –**

The employee's supervisor is responsible for timely submission to the Return to Work Program of all required reports and other important documents in the department's possession regarding a workers' compensation claim, including the "Physicians Report of Work Capacity" form, a completed "Claim for Workers' Compensation" form, and the County's "Incident Report form.

Timely submission of reports and forms are necessary in order to promptly initiate workers' compensation benefits, or cease payment of benefits when the employee returns to work. All reports and forms shall be submitted in a timely manner in accordance with the requirements of the California Workers' Compensation Act. The return to work coordinator will forward all information received from the employee and employer to Mendocino County's Third Party Administrator.

### **PROGRAM DURATION**

Temporary Modified or Alternate Duty, limited or restricted work is intended to be a **temporary** job placement during recovery from a **temporary** disability due to an injury or illness. The Return to Work Program involves **temporary** work assignments that will be identified and arranged by the department head(s) or designee(s). Modified or Alternate duty will be discontinued upon the employee being released by their treating physician to return to regular full duty, or upon completion of a maximum 90-calendar days from the time the employee returns to work in the modified or alternate duty assignment, whichever occurs first. The department head or designee shall review all cases where the employee has not been released to full duty within the 90-calendar day period and determine if an extension of the modified or alternate duty assignment is possible. If it is determined that the employee is unable to be released to full duty within the subsequent 90-calendar days, the department head or designee reserves the right to extend modified or alternate duty as appropriate.

## **PROGRAM INCENTIVES**

1. An employee will be returned to full-unrestricted duty to his or her regular position upon receipt of a written release from the treating physician.
2. An employee will be paid the same hourly rate of pay during a modified or alternate duty assignment as paid in his or her regular classification at that time of the injury or illness. It is not the County's intent to assign an employee the full range of duties of a higher classification.
3. Sick leave, vacation leave and other benefits will continue to accrue while on modified or alternate duty assignment, and consistent with existing policy or MOU provisions.
4. The employee's home department will be responsible for the employee's payroll during any **Temporary** modified or alternate assignment. The department to which the employee is assigned will be responsible for providing supervision and maintaining time sheets during the modified or alternate duty assignment. Time sheets will be submitted to the employee's home department for verification and payroll processing.

## **PROGRAM COORDINATION**

1. An employee must provide the department head or designee with written work restrictions including prognosis from their treating physician.
2. The Return to Work Coordinator will provide the treating physician with a Physician Work Capacity Report form and written job description. The treating physician will complete and return the Physician Work Capacity Report form listing any work preclusion's the employee is to follow during the employee's convalescence or rehabilitation. The Return to Work Coordinator will submit the Physician Work Capacity Report form to the department head or designee along with a Medical Work Restriction Agreement. In the event the Modified or Alternate Duty Evaluation and Medical Work Restriction Agreement are not received, no modified or alternate work is to be authorized. The Return to Work Coordinator will continuously evaluate all modified and alternate duty assignments.
3. Approval for an employee to return to work in any modified or alternate duty assignment must be granted by the department head or designee in consultation with the Return to Work Coordinator.
4. Such approvals shall be based on the ability of the employee to perform the essential function of the assignment within the restrictions imposed by the treating physician and without aggravating the existing injury or illness or cause an exacerbation of the injury or illness based on the treating physician's evaluation.
5. A modified or alternate duty assignment should fulfill, to the extent possible, the tasks and duties of the employee's regular duty assignment and/ or enable other employees to perform other duties.
6. Based on the treating physician's written opinion, employees may be offered modified or alternate return to work positions, as identified through

this program, to any work, which accommodates their restrictions. **Failure to accept modified or alternate duty assignments may result in the loss of temporary workers' compensation benefits.** As an alternative in such circumstances, the employee may request the use of sick leave, vacation or an unpaid leave of absence, and Family Medical Leave subject to the department head's approval.

### **PROGRAM MONITORING**

The Return to Work Coordinator will be responsible for monitoring both the individual case and the overall program result. Program results will be brought to the Safety Council on a quarterly basis and annually to the Board of Supervisors.

### **CONFIDENTIALITY**

Confidentiality shall be assured for all files handled. Medical release forms will be maintained in each file for all non-industrial injuries. Workers' Compensation claims are considered public record but the sharing of information is on a need to know basis. The following will be considered before disclosure of information:

- The type of information to be shared, with whom, and for what purpose;
- Potential risks and benefits of sharing the information;
- Whether the worker is able and willing to give consent to the release of the information;
- Assurance that the information shared will be done in a responsible manner;
- Whether disclosure of the information would violate any laws, established policies or ethical standards; and
- Whether disclosure would set any undesirable precedents regarding confidentiality.

## **MENDOCINO COUNTY INDUSTRIALLY INJURED WORKER PERMANENT PLACEMENT PROCEDURE**

The Board of Supervisors has confirmed that the employees of Mendocino County are its most valuable assets. The Board's goal is to return employees, who are off of work because of injury or illness, to productive and rewarding jobs at the earliest appropriate time. The Board also realizes that access to proper medical care is an essential component to this process. Medical care is provided to all employees injured on the job through the Workers' Compensation system. All efforts will be made to accommodate an employee with permanent work preclusions in their current job assignment. If permanent accommodation is not possible in the current assignment, Mendocino County will make every effort to assist the employee in transferring to a permanent alternate position. In order for a permanent accommodation to be made the following criteria must be met:

1. The employee must meet the minimum qualifications of the position.
2. The employee must be able to meet the physical and psychological demands of the job with reasonable accommodation.
3. There must be a vacant position available for the employee to fill.

The County of Mendocino will not create a position, or bump another employee from a position in order to accommodate the injured or ill employee. The Return to Work policy applies to all employees with appropriate documentation of injury or illness from their treating physician. If necessary, the Return to Work Program will determine the most appropriate form of permanent alternate work. The County has established a review committee to insure all injured employees receive fair and equitable treatment.

**The Return to Work Review Committee** may include the Risk Manager, Return to Work Coordinator, a representative from Human Resources, the medical provider, a supervisor, a representative from County Counsel, the Union representative and any other appropriate personnel with input from the employee, whenever possible and appropriate. This regulation applies to all employees in all departments. The home department will accommodate whenever possible. If the home department is not able to accommodate the injured or ill employee, the Return to Work Coordinator with the assistance of the Human Resources Department will ascertain if a permanent accommodation is available in another department.

The **Return to Work Review Committee** will review all cases in which permanent modified duty cannot be found or the Return to Work Coordinator needs assistance in determining permanent modified duty. The County's obligation under the American with Disabilities Act and the Fair Employment and Housing Act is to return qualified individuals with disabilities to employment whenever they are qualified and able to perform the essential functions of their current position or a vacant alternate position within the County.

When an injured employee has reached maximal medical improvement and is determined to be unable to perform the essential functions of his or her job, the supervisor must first determine if a modification of the injured employee's duties, or the way their duties are performed, would enable the employee to perform the essential functions. This can sometimes be accomplished by sharing tasks with a co-worker. If the job cannot be modified, the supervisor together with other department personnel must look within their department.

The following are criteria, which must be established:

1. Determine if there is an alternate position for which the injured employee is qualified;
2. Determine the availability of an alternate position;
3. Determine if the job is physically appropriate; and
4. Determine if the employee is qualified for the position.

The employee will be given the opportunity to transfer into the vacant alternate position. If the department does not have an alternate position available the Return to Work Coordinator will work with Human Resources to determine if other departments have an open position for which the injured worker is qualified. In some instances the injured employee may be eligible for on-the-job training. Each affected employee must be evaluated on a case by case basis.

When an injured employee is qualified for an alternate position the following procedure will be followed:

1. Human Resources will administer testing when applicable and/or the receiving department will interview the affected employee to determine if he/she possesses all skills required for the vacant position.
2. Once the determination has been made that the injured employee is qualified, the receiving department will provide the Return to Work Coordinator with a written description of the essential functions of the job.
3. The Return to Work Coordinator will request that the injured worker's treating physician review the essential functions and if the treating physician believes the employee can safely perform the functions of the job, the job offer will be extended to the affected employee.

If two or more job possibilities are available, the injured worker will be asked to interview for each position. The Return to Work Coordinator will consider the employee's preference and will then make the final determination of which job offer will be extended to the injured worker, based on the above criteria. The injured employee has the option to have this decision referred to the **Return to Work Review Committee** for final consideration and decision.

## **Frequently Asked Questions: MENDOCINO COUNTY INDUSTRIALLY INJURED WORKER PLACEMENT PROCEDURE**

### **What type of information will be provided to the receiving department?**

*The department will be informed that the injured employee is a worker qualified under Workers' Compensation Act and the home department is unable to make a permanent job accommodation.*

### **What can the receiving department ask the injured worker?**

*The same questions allowed during a typical employment interview.*

### **Will a new application be required?**

*No. The injured worker will complete a transfer request form and either bring an updated resume or have the option of completing an application. This will assist all parties in determining if there is an appropriate fit for the position.*

### **What type of seniority will the injured worker have?**

*Pursuant to County policy, employee's seniority will be based on the amount of total continuous service with the County. See Mendocino County Human Resources Policy.*

### **What if the new position is a lower level?**

*If the employee is eligible for retirement benefits and he/she files for retirement, but accepts an alternate position, retirement may supplement. Employees must be determined to be disabled before this will be available to them. Certain restrictions apply.*

### **What if the injured worker refuses to accept the alternate position?**

*Refusal could jeopardize Supplemental Job Benefits Voucher through the Workers' Compensation system. Retirement benefits could also be jeopardized. The injured employee should consult with the Return to Work Program or Retirement to determine if any benefits will be jeopardized.*

### **Will there be a new probationary period?**

*Yes. There will be a departmental probationary period identical to the probationary period any transferred employee would be required to complete.*

### **What if the injured worker has a disciplinary problem while on probation?**

*The injured employee shall be treated the same as any other employee pursuant to county policy.*

**How long will the County continue to look for permanent alternate or modified work for the injured worker?**

*As long as the injured worker remains an employee e.g. in paid status or is on an approved leave of absence. It is suggested that employees aid in the search by completing applications for any and all positions for which they are qualified.*

**What if an injured worker accepts a Supplemental Job Benefits Voucher and secures a position with another employer and then a County position becomes available for which the injured worker is qualified and is physically capable of performing the essential functions of the job with or without reasonable accommodation?**

*The employee would have the option of applying for the position and would be given the same consideration as any new hire to the County.*

**How long does the employee's department have to make a decision on an accommodation issue?**

*Departments will have 20 calendar days from the date when they are made aware of a need for a permanent accommodation to determine if they will be able to accommodate on a permanent basis. If they cannot make the determination within 20 calendar days, departments must communicate their concerns to the Return to Work Program and to the employee. If additional information is needed from the employee's treating physician, the department must request this in writing within the 20-calendar day determination period either to the employee or to the Return to Work Program. In order to avoid time delay, the department must be considering permanent accommodations while the employee is working in the Temporary Modified or Alternate Duty assignment (refer to Mendocino County Return to Work Program). Departments shall give the employee advance notice if they will not be able to permanently accommodate an injured or ill employee. A department representative shall discuss the ability to accommodate any work restrictions on a permanent basis while working with the employee on a temporary accommodation. This will help prepare the employee in the event the department is not able to make a permanent accommodation.*