



## Workers Compensation Return-To-Work Program Guidelines

Official Title	Workers Compensation Return-To-Work Guidelines
Responsible Party	Office of Human Resources
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### PROGRAM STATEMENT

When an injury, accident, exposure or illness is sustained as a result of, out of, or in the course and scope of employment, all employees of Fayetteville State University (“The University”) shall be covered under the provisions of The Workers Compensation Act of North Carolina. As such, The University will provide medical, monetary, and/or job accommodation benefits for employees in the event of a compensable injury, illness, exposure, or accident as the means to promptly return employees to meaningful and productive employment following the compensable incident. The Return to Work Program (“The Program”) is designed to promote rehabilitation and enhance the recovery process of employees experiencing work-related injuries or illnesses, while maximizing productivity and controlling related expenditures. The Program will also foster compliance with the American’s With Disabilities Act and associated guidelines. This will be accomplished through a partnership including the disabled employees, medical providers, and a multi-disciplined team of key agency personnel working together toward the common goal of expediting the employee’s return to physical and psychological well-being.

### PURPOSE AND GOALS

To provide transitional work for employees who, due to a work related injury or illness, are restricted from performing some or all of their regular duties for a temporary period of time. The RTW Program shall also address placement efforts to return employees to work who, after recovery, are permanently restricted from performing their regular duties.

The Program strives to promote positive workplace morale through communication and support for the injured worker; minimize the potential for re-injury or permanent disability; reduce medical and disability costs to the State; and increase productivity by decreasing lost work time.

## SCOPE

These guidelines apply to all University employees.

## JUSTIFICATION

- Employees with work related disability are 15% less likely to return to the workforce than employees with non-work related disabilities
- 75% of employees will return to the workforce if out of work less than 30 days
- 50% of employees will return to the workforce if out of work 6 months
- 25% of employees will return to the workforce if out of work 1 year
- Aging work place population will increase the need for return to work efforts

## CONTACTS

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## DEFINITIONS

These definitions apply to these terms as they are used in this guideline:

- **Disability:** An illness, injury or other medical condition, that prevents an employee from performing the duties of his/her job. A disability can be total or partial.
- **Authorized Provider/Facility:** A provider or facility that is part of The University's worker's compensation third party administrator ("TPA") authorized network.
- **Emergency:** An event that requires immediate medical attention.
- **Modified/Transitional Assignment:** A temporary job modification that is provided when an employee returns from a work-related injury or illness to medically-restricted or modified duties. Duties assigned can

be those identified in the employee's current job description, with modifications, or another assignment at the discretion of management.

- **Workers Compensation:** Program of compensation insurance that pays benefits to an employee who experiences a job-related injury, or illness.
- **TPA:** Workers' compensation third party administrator
- **Claims Adjuster:** TPA employee who oversees the handling of a workers compensation claim
- **WCA:** workers compensation administrator.
- **Work-Related Injury/Illness:** An injury or illness that occurs while in the course and scope of employment.
- **MMI:** Maximum medical improvement.
- **EHS:** environmental health and safety
- **Transitional Duty Team:** The University's WCA, The University's EHS Officer, and the employee's supervisor

## OVERVIEW

The Program is a system designed to promote rehabilitation and enhance the recovery process of employees who have experienced work related injuries or illnesses. It involves a partnership between the injured employee and key personnel of The University to place the injured employee in transitional duty work on a temporary basis, or for re-employment assistance in permanent disability cases, in order to advance the employee's return to physical and psychological well-being.

The University encourages injured employees to return to work as soon as it is reasonably possible in accordance with the established guidelines. The Office of Human Resources will work with each employee and their department to identify opportunities to return to work in transitional capacities, if necessary. The Program includes an assessment/identification of duties that can be performed during a period of transition to allow an injured employee to work even though he/she may not be able to resume his/her full duties.

If the employee is not physically capable of returning to full duty, The Program provides opportunities for offering the employee a temporary assignment in which the employee's regular position is modified: 1) to accommodate the employee's physical restrictions, or 2) to perform a transitional assignment with alternate duties. Assignment of any employee to a transitional position or modified regular position in accordance with The Program requires review and approval from The Office of Human Resources.

Participation in The Program shall not be construed as acceptance, acknowledgment, or recognition by The University, its management, or its employees that an employee has a disability as defined by the Americans with Disabilities Act of 1990. If an employee sustains an injury or illness resulting in a disability under the Americans with Disabilities Act, it is the employee's responsibility to inform his or her supervisor or a person in a responsible management position when a disability under the Americans with Disabilities Act exists and that a reasonable accommodation is necessary to perform the essential functions of his or her job.

## PROCEDURES

### Transitional Duty for Occupational Injuries and Illnesses

When an employee, who has experienced a work-related injury or illness and has been released to return to work by the treating physician, there are three possible return to work situations.

- **Has Reached Maximum Medical Improvement and Is Released to Return to Work** - When an employee has reached maximum medical improvement and has been released to return to work by the treating physician, the agency shall return the employee to the same position or one of like classification, status and pay held prior to workers' compensation leave.
- **Has Not Reached Maximum Medical Improvement but Is Ready to Return to Limited Duty** - When an employee has not reached maximum medical improvement and is ready to return to limited work duty with approval of the treating physician, but retains some disability which prevents successful performance in the original position, the agency shall provide work reassignment suitable to the employee's capacity which is both meaningful and productive, and advantageous to the employee and The University.
  - a. Be a temporary assignment and
  - b. Not exceed 90 days without approval from The University's WCA
- **Has Reached Maximum Medical Improvement But Has a Disability** – When an employee has reached maximum medical improvement and has been released to return to work by the treating physician, but has received a disability which prohibits employment in the previous position, The University should:
  - a. Attempt to place the employee in another position (with an appointment similar to that held prior to the injury) that is suitable to the employee's capacity and is meaningful, productive, and advantageous to the employee and the agency. The University should treat reemployment of the employee with priority as described in the Selection Policy, Special Employment and Reemployment Considerations, Recruitment and Selection Section.
  - b. During the work placement efforts, the employee should be appointed to the first suitable vacancy that occurs.

If the employee accepts a position in a lower pay grade than the pre-injury position, the employee's pay must be adjusted, as appropriate, within the range of the lower pay grade.

If a position is not available that is suitable to the employee's capacity, the employee should continue on WC leave until work placement or separation.

### Identifying Transitional Duties

The Office of Human Resources' WCA and Employment Unit, The University's EHS Professional, and the employee's supervisor ("the transitional duty team") will work in cooperation to perform the duties below:

- List all restrictions indicated by the medical provider
- Investigate all possibilities of modifying the original job to meet restrictions
- List all transitional duty work identified within The University that may be appropriate for the employee, based on the employee's skills
- Match the medical restrictions to the best possible work
- Provide the transitional duties or job modification to the Adjuster

- Present best transitional duty work or modified duty tasks to the Transitional Duty Team for discussion and approval
- Prepare a written work recovery plan which precisely describes the work, including the amount of time to be spent on each task. The University's EHS Officer will conduct a safety analysis on the employee's first day at work which will become part of the work recovery plan. This plan will be discussed between the employee, his/her supervisor, and The University's EHS Officer on the employee's first day back at work.
- The University's WCA will evaluate recovery progress periodically and modify recovery plan as needed

### **Duration of Transitional Duty Assignments**

The duration of the transitional duty assignment will be determined on a case-by-case basis by the employee's department in consultation with the University's Return-to-Work (RTW) Coordinator or designee, but will not normally exceed ninety (90) days. If it is determined that the employee has long-term restrictions that result in the inability to perform the essential functions of the regular position, the provisions of the Americans with Disabilities Act (ADA) and other applicable laws will be evaluated to determine suitability for employment.

### **Bona Fide Offer of Transitional Employment**

Assignment to any of the type of positions described in this policy will be documented in a 'bona fide offer of modified or transitional employment' letter to the employee. The 'bona fide offer of modified or transitional employment' letter shall include the following information:

- The type of position offered and the specific duties;
- A statement that The University is aware of and will abide by the physical limitations under which the treating physician has authorized the employee to return to work;
- The maximum physical job requirements;
- The wage of the job;
- The expected assignment duration;
- A statement that the university cannot guarantee that a position will be available should the employee fail to accept the assignment; and
- The name of the person whom the employee can contact for answers to questions about the assignment, job modifications, or other relevant provisions

If an employee who has been released to return to work by the treating physician refuses suitable employment in keeping with the employee's capacity, The University shall request stop payment of compensation and implement dismissal procedures.

If the employee is unable to return to full duty by the end of the transitional employment period and/or by the end of the employee's approved leave period, the employee's continued employment shall be considered based upon the business necessity of The University. Nothing in these guidelines shall be construed as requiring The University to retain an employee who is not able to return to work following a workplace injury, and such decisions regarding continued

employment will be the sole discretion of management with appropriate consideration and attention given to relevant laws, policies, and procedures.

### **WORKERS COMPENSATION ADMINISTRATOR RESPONSIBILITIES**

- Coordinate The University's Return To Work efforts under the Workers' Compensation Program
- Communicate with the third party administrator regarding The University's Program
- Keep management informed as to the progress of The Program
- Coordinate ongoing communication regarding The Program
- Conduct training as needed to ensure an effective Program
- Communicate with The University's EHS Officer to ensure transitional duty work includes safety measures to avoid re-injury

### **SUPERVISOR RESPONSIBILITIES**

- Identify and inform the WC Administrator of transitional duty work available
- Identify and inform the WC Administrator of potential job modifications
- Inform the WC Administrator **immediately** upon notification of employee's ability to return to work with (or without) restrictions
- Cooperate with The University's return to work efforts
- Participate in The University's communication and training efforts with regard to the RTW Program
- Maintain contact with the injured worker during the recovery period
- Participate on Transitional Duty Team for injured employee under supervision

### **EMPLOYEE RESPONSIBILITIES**

- Promptly report a work related injury or illness to supervisor and/or WC Administrator
- Maintain contact with supervisor and WC Administrator regarding health condition, treatment and medical status
- Provide The University's WCA documentation from the medical provider regarding work restrictions or release. A statement from the treating physician must also be provided to The University's WCA anytime there is an absence from work due to the injury.
- Return to transitional duty or modified job that is within medical restriction as set by doctor, as part of rehabilitation efforts

### **ADA COMPLIANCE**

The University complies with the Americans with Disabilities Act of 1990 which prohibits discrimination against qualified individuals with disabilities. Nothing in this policy shall be used as the basis for illegal discrimination against any individual or group.

### **WORKPLACE SAFETY**

The University will make every reasonable effort to investigate the cause of the occupational injury or illness to determine what actions can be taken to prevent a reoccurrence of the injury or illness. An employee will not be placed into a transitional or regular position if such an assignment would place the employee or others in danger.

## FREQUENTLY ASKED QUESTIONS

### Supervisor

#### **1. What is the Return to Work Program (RTWP)?**

The Return to Work Program is a proactive, comprehensive program for individuals with work related injuries/illnesses. RTWP provides meaningful, productive, temporary transitional duty as a bridge back to full normal employment. Meaningful work allows the employee to progressively assume more demanding tasks until able to return to full normal duty while providing the employer with productivity in ways that are useful to the employer's operations. The employer and employee are both active participants in the RTWP.

#### **2. What benefits do employees get from a Return to Work program?**

Providing employees with suitable transitional work facilitates recovery of the employee, assists in maintaining job skills, and reduces the impact of the injury/illness on the employee's family. While performing a transitional duty assignment, the employee receives his/her full normal salary. Transitional duty also allows the employee to progressively assume more demanding tasks until he/she is able to return to full normal duty.

#### **3. Who is eligible for participation in the RTW program?**

Employees with work related injuries and illnesses who are medically able to perform some type of work may participate in the Program. To participate, the employee's prognosis must indicate that the employee will be able to assume full, normal duties when fully recovered. Employees who have reached maximum medical improvement and cannot resume full normal duties are **not** eligible to either assume or continue a transitional duty assignment.

#### **4. What types of work activities can be included in transitional duty assignments?**

Transitional assignments may include normal work activities that have been modified to accommodate medical restrictions, job functions that are periodically performed, and duties of equivalent or lower job classifications. When identifying whether suitable transitional duty is available, the employer will consider the medical restrictions of the employee, staffing needs, fiscal constraints, and geographic accessibility of available work.

#### **5. How long can an employee be on transitional duty?**

Transitional duty assignments are **temporary**. Typically the initial assignment may be for up to 45 consecutive calendar days. If supported by medical documentation, the transitional assignment may be extended for up to an additional 30 - 45 consecutive calendar days. Employees may not be on a transitional assignment longer than a total of 90 consecutive calendar days without authorization from The University's WCA.

#### **6. Does the time period allowed for transitional duty start over for each absence?**

Yes. If the employee performs transitional duty and must stop that assignment due to medical reasons prior to assuming full normal duty, the employee may subsequently be given another transitional assignment when medically able as certified by their authorized treating physician. The subsequent assignment may be for up to 90 consecutive calendar days.

#### **7. What happens if the employee sustains further injury while on a transitional duty assignment or is medically unable to continue on a transitional duty assignment?**

If an employee who returned to full normal duty after completing a transitional duty assignment subsequently becomes injured/ill, a new transitional assignment period begins when suitable transitional work becomes available. With supporting medical documentation, the employee may be placed back on Salary Continuation injury leave or Temporary Total Disability (TTD) payments, whichever applies.

#### **9. Can the employer assign the injured/ill employee to transitional duty at a geographic location other than the location of the employee's normal job?**

Yes, but the transitional duty assignment must be geographically accessible. In other words, the employer must consider the employee's limitations on ability to travel, the travel distance to the assignment, transportation hardships, internal University policies, etc.

#### **10. If an employee who normally takes public transportation to work is temporarily unable to drive and is not medically able to take public transportation, can the employer make an offer of transitional duty?**

The employer must consider the employee's medical restrictions when determining whether suitable transitional work is available. The employer must be creative and flexible to accommodate the employee's medical restrictions. In many cases providing temporary transportation for the injured employee is feasible and cost efficient; however if the restrictions cannot be accommodated, suitable transitional work is not available.

**11. Will the employee's pay be affected by transitional duty?**

The employee's base salary will not be changed during transitional duty assignments. If the employee is medically able to only work part-time hours while on transitional duty, the employee will be paid the full normal pay rate for hours worked and paid Temporary Total Disability (TTD) benefits for hours not worked. Depending on the hours worked, shift differential may be affected.

**13. Will the employee's medical benefits be affected by transitional duty?**

The employee's medical benefits will not be affected during transitional duty assignments.

**14. Can an employee be required to perform duties of a higher job classification?**

No. The employee may be assigned duties of equivalent or lower job classifications.

**15. If an employee is assigned duties of a lower classification, will the employee's pay be reduced?**

No. The employee will be paid at the normal pay rate for hours worked.

**16. What happens if an employee declines an offer of suitable transitional work?**

The employer will terminate leave and disallow all other paid leave that requires supervisory approval for the period that the employee is able to work. Temporary Total Disability benefits may also be suspended. If the employee is medically able to work part time hours only, the employee may qualify for accident leave or TTD benefits for the hours he/she is unable to work as certified by the treating physician. The employee will be on leave without pay for the remaining hours.

**17. Can the employee work part-time on transitional duty?**

Yes, the employee may work part-time or full-time based upon the employee's restrictions assigned by the authorized treating provider.

**18. If an employee works part-time on transitional duty, how will his/her pay be affected?**

The employee is paid the normal pay rate for hours worked and accident leave wages or TTD, whichever is applicable, for hours not worked.

**19. Can the employer require the injured/ill employee to be medically assessed before returning to work?**

Unless the employee is on FMLA leave, the employer may require a medical assessment. The Third Party Administrator (TPA) may refer the employee for assessment.

**20. What should the injured/ill employee do if he/she has medical problems while performing assigned transitional tasks? What should the employer do?**

The employee should notify the supervisor and WCA of the medical problems. The employer should contact the Adjuster to refer the employee for further medical assessment to determine if the employee's medical condition can be accommodated. If the employee is unable to continue the transitional duty assignment, the employee may be placed on salary continuation or WC Leave as applicable (with appropriate medical documentation).

**Employee**

**1. What are the benefits of returning to work?**

A quick return to an active life may help you get better faster. Returning to work also may increase your income and benefits over time. Workers compensation payments will never reach the amount of your full pay. You may not get pay raises or promotions while you are out of work.

**2. What will happen to my workers' compensation payments if I return to work?**

Workers' Compensation benefits cease when you return to work. You will begin receiving your regular pay.



**3. Can I still get medical treatment for my work-related injury after I return to work?**

Yes. You may contact your claims adjuster to set up an appointment for you.

**4. Should I let anyone know when I return to work?**

Yes. You or your attorney or representative should contact the TPA, your WCA, and your supervisor when you return to work. You should also make everyone aware anytime your work status changes.

**5. May I return to work if my treating physician says I can do a temporary “light duty” assignment or an “altered duty assignment” in transition to my regular assignment?**

Yes. This type of return to work, “altered duty assignment” must be approved in writing by The University, your supervisor and the Workers’ Compensation Administrator. This type of return to work status can only be ordered by your treating physician. An outline of the specific duty assignments should be identified and discussed with you by your supervisor. All altered duty assignments must be in compliance with the restrictions ordered by your treating physician.

**How long may I work an “altered duty assignment” or “transitional assignment”?**

An altered/transitional duty assignment is a temporary assignment only. The University will make this determination based on your disability and/or restrictions imposed by your treating physician.

**6. I have gone back to work, but sometimes lose time due to my work-related injury. Can I get paid for the days I miss?**

Yes, you can receive workers' compensation temporary partial disability benefits for time lost that is covered by a statement from the treating physician. You must provide a statement from your treating physician anytime you are absent from work due to your injury. You should also contact the TPA, and The University’s WCA. Please keep careful records of your lost time.

**7. When I go back to work, can I still claim workers' compensation for the time when I was hurt and could not work?**

Yes. You have up to two years after your workplace injury or your last treatment by the physician to file a workers' compensation claim. This is true even if you have already returned to work.

**8. Now that I am able to work, can I collect Unemployment Benefits?**

Please contact the Division of Employment Security in the Department of Commerce. You must be separated from NC State Government in order to be eligible for this benefit.

**9. Can my employer terminate me for filing a workers' compensation claim?**

No.

**10. Can a new employer refuse to give me a job because I have a compensation case?**

Employers are not allowed to ask you if you have had a workers' compensation claim. They cannot deny you a job for filing a past claim, either. Your former employer cannot share your workers' compensation case with another employer.

**11. Can an employer deny me a job because I have a disability?**

No. The Americans with Disabilities Act (ADA) bans discrimination against qualified job seekers with disabilities.

**12. What happens if I return to work and find I cannot do the work?**

If you go back to work but are unable to continue working due to your prior workplace injury, you must contact your claims adjuster, or legal representative immediately.

**13. I was told that I have a partial disability. What does that mean?** There are two main levels of disability in workers' compensation. One is total disability, when a worker cannot earn any wages and his or her daily activities are limited. The other is a partial disability. A worker with a partial disability has lost some ability to earn wages and do normal, daily activities. He or she may still be able to do some work, such as part-time work or lighter work than his or her former job.

**14. What should I do if I have a partial disability?**

If you have a partial disability, you must still look for and accept work you can do if available. Contact your WCA, your claims adjuster, and your supervisor to see if you can return to your job. Ask if you can be offered some other work to ease your return to work.

**15. If I am unable to do my regular duties because of my injury, will I receive help in finding work or training for persons with disabilities?**

Yes. Your claims adjuster and the WCA will assist you with this process.

**16. Will my weekly benefits be reduced or end if I participate in a vocational rehabilitation program?**

No. Participating in a rehabilitation program will not interrupt your weekly benefits.

**17. Are vocational services available to me outside of the workers' compensation program?**

Vocational Rehabilitation (VR) is arranged by the third party administrator of the workers' compensation program. A VR Case Manager will be assigned to make an evaluation and recommendation concerning appropriate VR options.

**18. What is workers' compensation fraud?**

An injured worker commits fraud when he or she lies or does not tell the whole truth about the facts in his or her case in order to receive workers' compensation benefits. This includes exaggerating the impact of your disability, or failing to report working while you receive benefits. Fraud is a crime; it might be punishable by law, and result in cancellation of workers compensation benefits.

## **RESOURCES**

[Fayetteville State University Workers Compensation Program](#)