



Montana Operations Manual *Policy*

Category

**Human Resources/
Employee Benefits**

Effective Date

08/18/2010

Last Revised

09/07/2012

Issuing Authority

**Department of Administration
Health Care and Benefits Division**

Workers' Compensation Early Return to Work Policy

I. Purpose

This policy establishes a return to work program for the benefit of state employees who suffer work-related injuries or occupational diseases in the course and scope of their employment.

A return to work program establishes communication among and between the injured worker, the health care provider, and the state agency in order to facilitate the injured worker's return to the workplace and productivity as quickly as medically possible following a work-related injury or occupational disease. The intent is to preserve the physical and financial capacity of the employee and provide a greater opportunity for full recovery.

A return to work program provides temporary transitional duty assignments when an injured worker is unable to perform all essential functions of the position they are working at their time of injury. Transitional duty assignments are designed to reflect the injured worker's capabilities as determined by the health care provider. These assignments may be modified throughout the recovery period to address changes in capabilities.

II. Scope

This policy covers all employees in Montana's executive branch, but not those employed by the university system and the legislative and judicial branches. However, the legislative and judicial branches may elect to participate in the workers' compensation program. Should that election be made, their employees are subject to this policy.

Any collective bargaining agreement providing greater return to work benefits supersedes this policy.

III. Procedures

Participation in the return to work program must be available to every eligible injured worker who chooses to participate; however, an injured worker's participation in the program is discretionary and subject to operational constraints.

An injured worker may elect to participate in the return to work program by signing an authorization for release of limited medical information pertaining to the work-related injury or occupational disease.

An injured worker may revoke consent to participate in the return to work program and authorization for release of limited medical information at any time by providing written notice of revocation to the human resources office or the transitional duty team for the agency employing the injured worker. Revocation of a prior consent and authorization will not affect information previously requested and obtained consistent with the consent and authorization.

Under Montana law, an injured worker's election not to participate or revocation of an election to participate in the return to work program may or may not affect the injured worker's wage loss benefit. However, the election not to participate or revocation of an election to participate will not be used to the injured worker's detriment regarding their other rights and benefits.

IV. Confidentiality

Except as stated below, all information, including medical information that a transitional duty team obtains concerning an injured worker participating in the return to work program, is confidential. This means that the transitional duty team and its members, the agency employing the injured worker, or any other state agency will not use or disclose the information for any purpose other than: (1) providing return to work program services to the injured worker, and (2) managing and administering the return to work program by the agency.

Such information, however, may be disclosed:

1. to the agency's workers' compensation insurance carrier for purposes of administering workers' compensation benefits for the injured worker;
2. to respond to requests for information for legislative audit purposes;

3. as necessary to defend a lawsuit or an administrative contested case arising from the injured worker's participation in the return to work program;
4. to validate return to work program outcomes for purposes of obtaining or determining the cost of insurance coverage;
5. to provide aggregate data (that is, information that cannot identify an individual) to state agencies, the governor's office, the legislature, or others regarding, for example, return to work program outcomes, return on investment, and evaluations of program benefits to employees; or
6. as otherwise required by law, rule, or policy.

Agency management shall investigate all allegations regarding inappropriate disclosure of injured worker information and take appropriate disciplinary action, up to and including termination.

V. Authority

Section 39-71-403(1)(b)(i), MCA authorizes the Department of Administration to manage workers' compensation coverage for all state agencies, except those agencies exempted under this policy.

VI. Definitions (Optional)

All definitions under 2-18-101, MCA apply to this policy.