

## **RETURN-TO-WORK**

### **I. POLICY:**

The goal of The Commission on Legal Counsel for Indigents (CLCI) is to eliminate the need for an employee to miss work due to a work-related injury. Every reasonable effort will be made for all employees to keep working throughout their recovery. If a medical provider determines that an employee must not work in any capacity, CLCI will strive to return the employee to gainful employment as soon as medically possible. Transitional or modified work will be utilized as necessary.

The job descriptions in PeopleSoft will be reviewed with the injured employee in order to look first to keep the employee within their current position. If that is not possible, transitional job duties may be identified from another position within the same office or another office within the agency and offered in writing to the injured employee. CLCI wants employees to return to work and will ensure the employee is following medical instructions from the medical provider.

Once a medical work release is received CLCI will communicate in writing to the medical provider the job description and any transitional job duties. If the medical provider agrees with the transitional or modified work duties but the employee declines the translational job duties offered, the-offer will be terminated, and wage-loss benefits will be forfeited.

Under no circumstances will an injured employee be requested to perform any activity that exceeds their on or off the job capabilities or restrictions. Hours and working conditions will be modified by CLCI and office supervisors as necessary for the continued safety of the injured employee until they can successfully return to normal duties. It is the responsibility of the Injured employee to report to their supervisor any transitional work conditions that they feel are unsafe or that may hinder their recovery. If at any point an employee is medically determined to have sustained permanent restrictions, the creation or continuation of a temporary transitional duty assignment will not be considered. In that event, the State will review the employee's situation to determine the appropriate steps to be taken, if any, based on existing State and Federal laws, rules, and policies.

### **II. Responsibilities.**

The State of North Dakota has established a Transitional Duty Program that will enhance recovery, comply with the Americans with Disabilities Act (ADA), help minimize workers compensation costs, and provide a

service to employees who are injured or contract an occupational disease in the scope of employment with the State. Employees will be placed in transitional duty positions, when feasible, during recovery from an occupational injury or disease that precludes the employee from performing normal job tasks. In the event of a permanent disability that prevents an employee from performing the essential functions of his or her regular position and for which reasonable accommodations cannot be made, every effort will be made to place the employee in an alternative vacant position that he or she is qualified to perform and that matches his or her physical limitations.

#### Executive Director or designee

- Provide Transitional Duty Program that accommodates the physical limitations of employees who are recovering from an occupational injury or disease.
- Communicate the employee's and supervisor's responsibilities regarding their role in the return-to-work program and ensure that all parties perform those responsibilities.
- Communicate with the Risk Management Division, Workforce Safety & Insurance (WSI), and the health care provider regarding the availability of transitional duty, the status of the employee's claim and any extenuating facts or circumstances that could affect the employee's early return to work.

#### Supervisor

- Review the job descriptions in PeopleSoft with the injured employee and look first to keep the employee within their current position.
- If the above is not possible;
  - o Identify possible alternative work or special projects prior to the need to implement transitional duties.
  - o Offer a Temporary Transitional-Duty Assignment in writing between supervisor, employee and Executive Director when applicable.
  - o If unable to accommodate the employee's restrictions, contact Executive Director or designee and Risk Management to locate an appropriate transitional duty within another state entity.
- If a Temporary Transitional Duty Assignment is put in place, communicate with medical provider for their agreement with the transitional duty.

#### Employee

- If your medical provider indicates that you have temporary physical restrictions that do not allow

- you to perform your regular job, consideration will be given to modify your duties as necessary. If it is not possible or feasible to modify your duties, either a transitional duty assignment that meets your physical restrictions will be developed, or an appropriate position will be located. You will receive your normal wages and benefits that will be pro-rated if less than 8 hours a day are worked.
- You must respond to a transitional duty assignment offer within 24 hours, when possible, but not later than two days. Exceptional circumstances will allow up to seven days for a response. Disability benefits may discontinue if an employee does not accept a transitional duty position that is approved by the medical provider and is within 25 miles of the pre-injury position.