

A recap of your WSIB work reintegration and re-employment obligations

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Work reintegration obligations

Work reintegration

What you need to know about work reintegration

- Work reintegration is the process of returning a worker to work following a period of disability.
- Employer and workers must cooperate in the early and safe return to work and are required to:
 - Maintain communication throughout the period of the worker's recovery and impairment;
 - Attempt to identify and provide suitable employment; and
 - Provide the WSIB any information it may request concerning the worker's return to work.

Work reintegration

Identifying and providing suitable employment

- “Suitable” work includes post-injury work that is:
 - Safe;
 - Productive;
 - Work that the injured worker is medically able to perform; and
 - Restores the worker’s pre-injury earnings, if possible.
- “Available” work includes post-injury work that exists at the pre-injury worksite or at a comparable worksite.

Work reintegration

How to return an injured worker to work

- The employer and injured worker are primarily responsible for:
 - Planning a return to work;
 - Identifying return to work opportunities; and
 - Identifying return to work issues in the workplace.
- Any return to work offer should be made in writing to the worker and a copy of the offer should be sent to the WSIB.

Work reintegration

The injured worker says the post-injury job you offered is not suitable. Now what?

- If there is a disagreement between the employer and injured worker about the post-injury job offered, the worker must:
 - Advise the employer that the offered job is not suitable; and
 - Provide reasons for his or her position.
- If an agreement cannot be reached between the employer and worker, the WSIB must be notified of the disagreement and the WSIB will provide dispute resolution services.

Work reintegration

Return to work non-cooperation penalties

- Non-cooperation penalties for workers:
 - The WSIB may initially apply a reduction of LOE benefits by 50% from the date that the WSIB's written notice comes into effect.
 - If non-cooperation continues beyond the 14th day after the date of the WSIB's written notice comes into effect, the WSIB may apply a full penalty and stop the worker's LOE benefits.
- Non-cooperation penalties for employers:
 - The WSIB may apply an initial penalty of 50% of the cost of the worker's LOE benefits from the date that the WSIB's written notice comes into effect.
 - If non-cooperation continues beyond the 14th calendar day after the WSIB's written notice comes into effect, the WSIB may apply a full penalty which is equal to 100% of the cost of the worker's LOE benefits, plus 100% of any cost associated with providing work transition services to the worker.

The re-employment obligation for non-construction employers

The re-employment obligation

- In addition to cooperation obligations in the work reintegration process, employers also have an obligation to re-employ an injured worker when all of the following conditions are met:
 - The employer regularly employs 20 or more workers;
 - The worker has worked for you continuously for at least one year; and
 - The worker is unable to work as a result of the work-related injury/disease.

The re-employment obligation

When the re-employment obligation begins

- The re-employment obligation starts when the employer receives notice that the worker is medically able to perform either:
 - The essential duties of his/her pre-injury job; or
 - Alternate suitable work.

The re-employment obligation

How to comply with the re-employment obligation

- When the injured worker is medically able to perform the essential duties of his/her pre-injury job, the employer is required to:
 - Offer to re-employ the worker in the position that the worker held on the date of his/her injury; or
 - Offer to provide the worker with work of a nature and at earnings comparable to the worker's pre-injury work.
- When the injured worker is medically able to perform suitable work, the employer is required to offer the worker the first opportunity to accept suitable employment that may become available with the employer.

The re-employment obligation

Duration of an employer's re-employment obligation

- An employer's re-employment obligation lasts until the earliest of:
 - Two years after the date of injury;
 - One year after you receive notice from the WSIB that the worker is medically able to return to the essential duties of the pre-injury job; or
 - The worker turns 65.

The re-employment obligation

Consequences of terminating an injured worker during the re-employment obligation period

- If the injury employer terminates the worker within six months of re-employing the worker:
 - The WSIB will presume the employer breached its re-employment obligations and impose a re-employment penalty
- If the injury employer terminates the worker after six months, but within the obligation period:
 - The WSIB will not presume the employer breached its re-employment obligations

The re-employment penalty

- If the employer is found in breach of the re-employment obligation, the WSIB will:
 - Levy a penalty against the employer that is equal to up to one year of the worker's net average earnings for the year before the injury; and
 - Provide the worker with re-employment payments, which are equal to loss of earner benefits, for up to one year or until the end of the re-employment obligation, whichever comes first.

Thank you



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