

OCCUPATIONAL AND ENVIRONMENTAL SAFETY & HEALTH OPERATIONAL PROCEDURE

Subject: Reasonable Accommodation and Return to Work

Effective Date: January 31, 2012

Supercedes: December 8, 2011

Review Date: 3 years or legislation or job changes

Original Signed by: Shaun Haas, Director, WRHA Occupational and Environmental Safety & Health

1.0 GUIDING PRINCIPLES

1.1 The Winnipeg Regional Health Authority (WRHA) shall make every reasonable effort to:

- 1.1.1 Assist employees experiencing injury or illness that temporarily or permanently affects their ability to perform the full scope of their job duties to return to or maintain employment.
- 1.1.2 Develop, implement and monitor effective, timely and safe Return to Work plans that consider the abilities and limitations of the employee with a physical or mental disability, balanced with the WRHA's right to manage and to meet its daily operational requirements.
- 1.1.3 To design appropriate, timely, meaningful work duties based on the employee's functional capabilities and restrictions, with consideration of the employee's education and experience.
- 1.1.4 Partner with our employees and our unions to minimize the human and financial impact of injury and illness to the employee and the organization, and to maximize the contributions to the workforce of employees with a physical or mental disability.
- 1.1.5 Act in accordance with the principles of reasonable accommodation as outlined in the Manitoba Human Rights Code, the Workers Compensation Amendment Act, the Workplace Safety and Health Act, and in consideration of applicable collective agreements.
- 1.1.6 Act in accordance with the approved WRHA Safety Strategy, with appropriate delegation of responsibility and accountability.

- 1.1.7 Provide a proactive approach in assisting with employee medical concerns, consistent with best practices in Disability Management.
 - 1.1.8 Ensure that medical information reasonably required by employers is collected, stored, and communicated to appropriate parties in compliance with the Personal Health Information Act.
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2.0 DEFINITIONS

- 2.1 **Ability Management:** A process of proactively managing workplace resources, taking into consideration the abilities and limitations of an employee, to carry out daily operations of the organization, to avoid discrimination against employees with a physical or mental disability, and to demonstrate due diligence in business practices in order to meet legal obligations. Includes an individualized case management strategy to assist the employee in returning to or maintaining employment.
- 2.2 **Alternate Work Duties:** Work that is different than the employee's pre-injury or illness job duties, and is offered when the employee is unable to perform their regular job duties because of injury or illness (temporarily or permanently), and those duties cannot be suitably modified to allow the employee to perform them.
- 2.3 **Disability:** A condition or state, whether it be physical, sensory, intellectual, or mental that can limit the securing of, maintenance of, and forward advancement of employment. Involves non-medical, societal, or legal determinations of job tasks, work limitations and performance.
- 2.4 **Discrimination:** Differential treatment on the basis of actual or presumed membership or association with some class or group of persons, not on the basis of individual merit. Includes the failure to make reasonable accommodation for the special needs of any individual or group, if those needs are based on characteristics in Section 9 (2) of the Manitoba Human Rights Code.
- 2.5 **Duty to Accommodate:** The legal obligation of all employers to make every reasonable effort to adapt or modify the work tasks, work environment, or work schedule, to accommodate employees with a physical or mental disability to the point of undue hardship to the employer.
- 2.6 **Graduated Return to Work:** A time limited work schedule with progressive increases in hours, duties, or a combination of both to assist employees to safely return to the full scope of their regular job duties.
- 2.7 **Healthcare Provider:** A licensed, professionally trained practitioner, familiar with the employee's health history, who has sufficient training to assess, diagnose, and treat the specific impairment for which the employee seeks medical care.
- 2.8 **Home Site** The Site/Department/Unit where the injured/ill employee was hired to work prior to the onset of medical restrictions as a result of injury or illness.
- 2.9 **Host Site:** The Site/Department/Unit where and or for whom an Outsourced employee performs Transitional Work Projects.
- 2.10 **Impairment:** The medical documentation and quantification of a reduction in bodily or organ function, based on a loss or abnormality of psychological, physiological, or anatomical structure or function.
- 2.11 **Medical Information Reasonably Sufficient to the Employer:** Correspondence from the worker's Healthcare Provider that contains the following information:

- 2.11.1 That a functional impairment arising from a medical condition exists, and how this prevents the employee from attending work, or performing their job duties (Diagnosis not required).
- 2.11.2 A detailed description of the restrictions required as a result of the functional impairment.
- 2.11.3 The specific duration for which the restrictions are in effect.
- 2.11.4 The date when the employee will be medically re-evaluated.
- 2.12 **Modified Work:** Work that is offered when an employee is able to return to employment, but is unable to perform all of their regular job tasks as a result of a medical condition without some form of assistance or adaptation of tasks, or hours of work (temporarily or permanently).
- 2.13 **Transitional Employee:** An injured/ill employee who performs Transitional Work Projects at and/or for a Site/Unit/Department, other than their Home Site. Outsourced employees remain an employee of their Home Site, and a member of their pre-injury/illness bargaining unit while outsourced.
- 2.14 **Physical Demands Analysis:** A formal assessment and written analysis of the functional tasks required of a specific job.
- 2.15 **Project Sponsor:** The individual knowledgeable of the Transitional Work Project who guides and oversees the project, and assigned employee(s), including providing direction, instruction, technical knowledge, management and direct supervision.
- 2.16 **Supernumerary:** An employee retained as an extra person on shift performing restricted work tasks as a result of physical or mental disability, while that employee's position is back-filled. Payment for supernumerary employees may be done by the employer or a third party where applicable.
- 2.17 **Transitional Work Projects:** Alternate work duties or tasks identified and managed by the Sites that could be made available to any employee requiring alternate work duties, and:
 - 2.17.1 Are productive, meaningful, and contribute to the operations of the WRHA and Sites.
 - 2.17.2 Do not involve work belonging to a sole bargaining unit.
 - 2.17.3 Could be performed on a temporary or intermittent nature
- 2.18 **Undue Hardship:** A concept considered by the Manitoba Human Rights Commission in determining if an employer has made every reasonable effort to accommodate an employee with a physical or mental disability. Factors considered include, but are not limited to:
 - 2.18.1 Safety
 - 2.18.2 Financial Cost
 - 2.18.3 Disruption of a collective agreement
 - 2.18.4 Morale of the workforce
 - 2.18.5 Interchangeability of the workforce and facilities
 - 2.18.6 Magnitude of the risk, and those who bear it
 - 2.18.7 Effects on the rights of other employees

3.0 OPERATIONAL PROCEDURE

3.1 Disability Management Steering Committee

- 3.1.1 All sites shall create a disability management steering committee comprised of representation from Human Resources, the site Occupational Health Nurse, and site Disability Management Coordinator, site union representatives, and the WRHA Manager of Disability Management Programs.
- 3.1.2 The steering committee shall be co-chaired by labour and management representatives.
- 3.1.3 The steering committee shall develop terms of reference for developing improving, and monitoring disability management practices of the site.

3.2 The Duty to Accommodate

- 3.2.1 Where an employee has a disability that affects their ability to perform the full scope of their job duties, or attend work regularly and consistently, this operational procedure will apply.
- 3.2.2 Where a Site's duty to accommodate cannot be reasonably met per this operational procedure, Cross Employer Transitional Work Protocols and Procedures will apply.

3.3 Reporting of Work Related Injuries/ Illnesses and Near Misses (WCB or Work Related Motor Vehicle Injuries)

- 3.3.1 The employee shall notify their Supervisor / Manager or designate if they miss time from work or require medical attention as a result of a work related injury or illness occurring in the course of work duties.
- 3.3.2 The Supervisor / Manager and the employee together shall follow the site specific procedure for reporting work related injuries/illnesses or near misses.
- 3.3.3 The Supervisor / Manager will follow their site - specific procedures for reporting work related injuries/illnesses to WCB. Where a worker is covered by a secondary insurer (i.e. HEB or Great West Life), the Supervisor/Manager shall follow site specific reporting procedures for the secondary insurer.
- 3.3.4 Where an employee is missing time from work, or indicating an inability to perform their job duties as a result of a medical condition, the Supervisor / Manager is to:
 - 3.3.4.1 Facilitate the appropriate medical assessment by providing the employee with the Return to Work Package.
 - 3.3.4.2 Follow site specific procedures for completion of all documentation required to report the absence to payroll, OESH, and facilitate the application for disability benefits.
 - 3.3.4.3 Ensure that any medical certificates and modified duty forms received are forwarded to OESH.
 - 3.3.4.4 Inform OESH and payroll of the dates an employee returns to work duties (modified work, and full work duties).

3.4 Reporting of Non-Occupational Health Conditions Affecting Employment (Sick Leave, MPI, Great West Life, HEB, or other)

- 3.4.1 The Supervisor / Manager shall complete and submit an OESH Referral form to the Occupational Health Nurse if:

- 3.4.1.1 The employee is absent from work longer than 10 working days, or
 - 3.4.1.2 The employee reports that a health condition affects their ability to perform their regular job duties, or attend work regularly and consistently.
- 3.4.2 The OESH Occupational Health Nurse shall determine the need for a referral to the site Disability Management Coordinator.
- 3.5 The Supervisor / Manager is to:
 - 3.5.1.1 Provide the employee with a Return to Work Package which includes the Modified Duty Form to be taken to a healthcare provider for completion if reasonably required.
 - 3.5.1.2 Complete all documentation required to report the absence to payroll, ensure the correct coding of absences, and applications for benefits.
 - 3.5.1.3 Forward all medical certificates and modified duty forms to OESH.
 - 3.5.1.4 Inform OESH and payroll of the dates an employee returns to work duties (modified work and full work duties).
- 3.6 **Medical Assessment / Fitness for Duty**
 - 3.6.1 Where restrictions are required as a result of a medical condition that are temporary, or of unknown/unspecified duration, the employee may be required to schedule a follow up appointment with their Healthcare Provider at the first and subsequent visits until cleared to return to regular work duties, or their restrictions are deemed permanent.
 - 3.6.2 The employee may be required to provide to OESH updated medical certificates or Modified Duty Forms if there is a change in their medical condition (improvement or worsening) that affects their ability to perform their job duties, or attend work regularly, or where reasonably required by OESH.
 - 3.6.3 The employee may be required to provide medical documentation reasonably sufficient to the employer prior to returning to full duties and hours of work.
- 3.7 **Medical Documentation**
 - 3.7.1 Medical certificates or the WRHA Modified Duty Forms must contain the information reasonably sufficient to the employer for the purpose of determining:
 - 3.7.1.1 A suitable Return to Work Plan
 - 3.7.1.2 A reasonable accommodation required as a result of a disability
 - 3.7.1.3 Fitness for work
 - 3.7.2 Where a Modified Duty Form or medical certificate does not contain reasonably sufficient information, the Occupational Health Nurse or Disability Management Coordinator may provide the employee with correspondence to have completed by their healthcare provider, or in some circumstances, obtain the written permission of the employee to communicate with their health care provider to obtain the additional medical documentation.
 - 3.7.3 The Occupational Health Nurse or Disability Management Coordinator shall ensure that the employee is provided with a copy of all correspondence sent to their healthcare provider(s).

- 3.7.4 Failure to provide, or facilitate the provision of medical documentation reasonably sufficient to the employer to determine the nature of accommodation required may delay or preclude the employee from being allowed to return to employment.
- 3.7.5 Failure to provide, or facilitate the provision of medical documentation reasonably sufficient to the employer within a reasonable time frame may conclude the employer's duty to accommodate the employee.
- 3.7.6 Failure to provide, or facilitate the provision of medical documentation reasonably sufficient to the employer may impact the employee's right to access available benefits and could lead to employment consequences.

3.8 **Medical Information Requests and Disbursements**

- 3.8.1 **Employees** are responsible to provide or authorize the provision of medical documentation reasonably sufficient to the employer, and subject to the appropriate collective agreement provisions in the following circumstances:
 - 3.8.1.1 Absent from work for personal medical reasons
 - 3.8.1.2 Unable to perform their regular hours or duties of work due to personal medical reasons
 - 3.8.1.3 To provide medical clearance indicating that they are fit to return to work..
- 3.8.2 **Employers** will pay (if required by the Healthcare Provider) for medical documentation reasonably sufficient to the employer in the following circumstances:
 - 3.8.2.1 When clarification of medical fitness to work is required (Modified Duty Form, or narrative reports where requested by OESH).
 - 3.8.2.2 When clarification of restrictions for accommodation purposes is required.
 - 3.8.2.3 When discrepancies exist between information provided by Healthcare Providers and/or insurers, and clarification is requested.
 - 3.8.2.4 When the employer is requesting a specific medical evaluation or further testing of an employee.
- 3.8.3 Healthcare Providers will be notified by cover letter of a fixed rate for reimbursement of expenses, and are asked to bill the employer directly.
- 3.8.4 All invoices will be sent to OESH for authorization of payment by the requesting Occupational Health Nurse, or Disability Management Coordinator.
- 3.8.5 Costs will be charged to the individual program/site/department where the employee was working at the time of disability.
- 3.8.6 Where the employee is no longer employed by a program/site/department, and is awaiting accommodation into an alternate position, all costs will be charged to the program/site/department originally employing the worker.
- 3.8.7 Costs for completion of medical documentation in excess of the stated fixed rate will not be reimbursed unless pre-approved by OESH.

3.9 **Confidentiality of Personal Health Information, and Informed Consent**

- 3.9.1 All employee personal health information shall be maintained by OESH.

- 3.9.2 Where an employee is referred to a Disability Management Coordinator, all personal health information relevant to providing disability case management and reasonable accommodation shall be maintained by the OESH Disability Management Coordinator.
 - 3.9.3 Employee personal health information will be collected, stored, and disclosed in accordance with the Personal Health Information Act (the "Act").
 - 3.9.4 Where the Occupational Health Nurse or Disability Management Coordinator determines that personal health information in addition to that contained in the Modified Duty Form is reasonably required, the employee shall be informed of the reason for the request, what information is required, and the reason or purpose for requesting additional information.
 - 3.9.5 The employee, if required, may be provided with correspondence to have completed by their healthcare provider, or may sign a consent form allowing the Occupational Health Nurse or Disability Management Coordinator to communicate with the healthcare provider(s).
 - 3.9.6 The employee may limit or revoke their consent at any time, by indicating their intent in writing to the Occupational Health Nurse or Disability Management Coordinator. However, the employee must be aware that such an action could impact their rights under this process.
 - 3.9.7 The Occupational Health Nurse or Disability Management Coordinator shall not disclose personal health information to third parties without the expressed written consent of the employee or as otherwise permitted under the Act.
- 3.10 **Return to Work Planning**
- 3.10.1 All sites are to develop Transitional Work projects as part of their duty to accommodate injured/ill workers, and shall make these known to OESH. by completing a Transitional Work Project Referral Form.
 - 3.10.2 All sites are to review and update their Transitional Work Projects twice a year, and notify OESH of any additions or deletions.
 - 3.10.3 Where Sites are unable to accommodate a worker in their own job, in whole or modified form, the worker is to be assigned suitable and available Transitional Work Projects.
 - 3.10.4 The Home Site retains responsibility for all accommodation and return to work measures, regardless of the stage of the accommodation, and inclusive of Transitional Work Projects and Cross Employer accommodation measures.
- 3.11 **Individualized Case Management and Return to Work**
- 3.11.1 **Assessment:** The Occupational Health Nurse or Disability Management Coordinator will determine the need for a formal multi-disciplinary return to work meeting, based on the following factors:
 - 3.11.1.1 Nature of injury or illness and duration of restrictions
 - 3.11.1.2 Nature of the job duties
 - 3.11.1.3 Ease of implementing modifications
 - 3.11.1.4 Provisions of the relevant collective agreement
 - 3.11.2 The worker requiring accommodation is to be accommodated in their existing position wherever possible. Where job duties fall outside the capabilities of the worker's restrictions, these duties may be redistributed to other staff.

- 3.11.3 Where accommodating an employee's restrictions within their existing position results in real and substantial risk to the employee, patient/client, or others, the Occupational Health Nurse or Disability Management Coordinator, in consultation with the third party insurer, where applicable, shall determine if a supernumerary plan is appropriate, based on the following criteria:
 - 3.11.3.1 Nature of the injury / illness.
 - 3.11.3.2 Nature of the restrictions.
 - 3.11.3.3 The duration for which the restrictions are required.
 - 3.11.3.4 The nature of the job duties to be performed.
 - 3.11.3.5 The existing staffing ratio, and the ability to redistribute job tasks amongst other staff.
 - 3.11.3.6 The availability of alternate positions (term or permanent) in which the employee could be placed.
 - 3.11.3.7 The requirements of third party insurers
 - 3.11.3.8 The ability of the employer to pay where no third party insurer exists.
- 3.11.4 Wherever possible, the employee shall complete their Return to Work program in their own department/program/facility.
- 3.11.5 Where the employee is unable to be placed in their own department / program / facility, the Human Resources Department shall determine the appropriate location for the Return to Work plan, in consultation with the Disability Management Coordinator or Occupational Health Nurse, Unions (where applicable) and other stakeholders.
- 3.11.6 The Occupational Health Nurse, or Disability Management Coordinator shall facilitate the development, implementation, and monitoring of the return to work plan for the employee.
- 3.11.7 The employee is to take an active role in developing the Return to Work plan by attending all scheduled meetings, and in communicating this plan to their healthcare provider(s).
- 3.11.8 The employee shall help to describe their job duties to their healthcare provider(s) to facilitate assessment of their work capabilities and limitations.
- 3.11.9 **Individualized Case Management:** The Occupational Health Nurse, or Disability Management Coordinator is to develop a written Return to Work plan for the employee, where one is determined to be required. Copies of the plan shall be provided to:
 - 3.11.9.1.1 The employee
 - 3.11.9.1.2 The Supervisor / Manager
 - 3.11.9.1.3 The Union Representative (if applicable and / or requested)
 - 3.11.9.1.4 The Healthcare Provider(s)
 - 3.11.9.1.5 Third Party Insurer(s) (if applicable)
- 3.11.9.2 The employee or OESH shall provide the healthcare provider(s) with a job description, or physical demands analysis, and/or copy of the written Return to Work plan, where reasonably requested by OESH.

- 3.11.9.3 The Occupational Health Nurse or Disability Management Coordinator shall review the Return to Work Plan when new medical information is submitted.
- 3.11.9.4 The Occupational Health Nurse or Disability Management Coordinator shall communicate any changes to the Return to Work Plan to the stakeholders, and revise the written plan where required.
- 3.11.9.5 The Occupational Health Nurse or Disability Management Coordinator shall provide notification to the Supervisor / Manager when the employee has been cleared to resume full work duties and hours of work.
- 3.11.9.6 Where the WRHA can reasonably accommodate a worker's restrictions by providing a suitable work assignment, the worker should accept the offer and return to work.
- 3.11.9.7 The employee shall attend all work shifts scheduled as part of their Return to Work plan and perform the duties prescribed in their Return to Work plan.
- 3.11.9.8 The employee and Supervisor / Manager shall ensure they are aware of and understand the workplace restrictions.
- 3.11.9.9 The Supervisor / Manager shall communicate to the work team that the employee is on restricted duties, and the nature of the restrictions.
- 3.11.9.10 The employee shall directly notify their Supervisor / Manager, the Occupational Health Nurse, or Disability Management Coordinator, if unable to attend any scheduled work shift, or complete the assigned work tasks. The employee may be asked to provide a new medical certificate or Modified Duty Form.
- 3.11.9.11 The employee is to maintain regular communication with their Supervisor / Manager, and Occupational Health Nurse, or Disability Management Coordinator regarding their progress in the Return to Work plan, and any concerns about the plan, the assigned work duties, or their ability to participate fully.
- 3.11.9.12 The employee should make reasonable efforts to schedule medical appointments outside of regular working hours or outside of the shifts scheduled as part of their Return to Work plan, so as to minimize the impact on the Plan and the amount of time away from the workplace.
- 3.11.9.13 The employee and Supervisor / Manager shall ensure that duties assigned and performed as part of a Return to Work plan are consistent with the employee's known restrictions. The Occupational Health Nurse or Disability Management Coordinator shall provide assistance or clarification as required.
- 3.11.9.14 The employee is responsible for informing their Supervisor / Manager if they are requested to perform duties outside of their restricted activities.
- 3.11.9.15 The Supervisor / Manager is to follow site specific payroll recording procedures to report hours worked on the Return to Work Plan.

3.11.9.16 The Supervisor / Manager or designate shall complete and provide the employee with any other documentation required to determine eligibility for disability benefits (i.e. Record of employment, disability benefits application forms, Notice of Absence).

3.12 Cross Employer Transitional Work Protocols (See Appendix A):

3.12.1 The Site requesting Cross Employer Transitional Work must demonstrate and document that:

3.12.1.1 Modification of the employee's pre-disability job will result in undue hardship.

3.12.1.2 No other alternate job in its whole or modified form exists within the workers restrictions, education, and experience.

All positions / classifications have been considered, providing written reasons for not pursuing the accommodation.

3.12.1.3 Where the above criteria are satisfied, the Site requesting Cross Employer Transitional Work will complete a Transitional Work Referral Form and submit it to:

3.12.1.3.1 OESH

3.12.1.3.2 OESH will coordinate with the Director of Human Resources at the Site(s) where accommodation measures are being sought.

3.12.2 Where the request is for permanent / long term accommodation, the Director of Human Resources or designate receiving the referral will respond to the referring Site within 30 days from receipt of the referral with all possible and/or available job classifications.

3.12.3 Where these protocols do not reasonably meet the referring Site's duty to accommodate the employee, Subsection 3.13.5.3, and Section 3.14 will apply.

3.13 Permanent / Long Term Medical Accommodation

3.13.1 The Occupational Health Nurse or Disability Management Coordinator shall notify the Human Resources Department when an employee is deemed permanently unable to:

3.13.1.1 Return to their pre-disability job (with or without modification), or

3.13.1.2 Perform the full scope of their job duties, or

3.13.1.3 Attend work regularly due to a medical condition

3.13.2 The worker requesting permanent / long term accommodation shall complete the Employee Accommodation Request Form.

3.13.3 The Human Resources Department, in consultation with the Occupational Health Nurse or Disability Management Coordinator, and other stakeholders shall determine the availability of an appropriate accommodation, based on the following criteria:

3.13.3.1 Functional limitations as a result of the health condition

3.13.3.2 Employee's skills, knowledge, and education

3.13.3.3 Availability of suitable alternate positions

3.13.3.4 Approximate pay grade

3.13.4 The Human Resources Department shall determine the appropriate placement for the employee, and facilitate the employee's placement into the new position, using the following hierarchy:

3.13.4.1 Pre-disability job

3.13.4.2 Pre-disability job, with modifications

3.13.4.3 Alternate job, same classification

3.13.4.4 Alternate job, same classification, with modifications

3.13.4.5 Alternate job, different classification, same bargaining unit/employer

3.13.4.6 Alternate job, different bargaining unit

3.13.4.7 Alternate job, different bargaining unit/ WRHA employer

3.13.4.8 Alternate job, different bargaining unit/WRHA employer with modifications

3.13.5 The Occupational Health Nurse or Disability Management Coordinator shall:

3.13.5.1 Develop and implement a Return to Work plan to the accommodated position, if one is required and medically supported.

3.13.5.2 Review all permanent accommodations on a bi-annual basis, or as warranted by changes in medical status or employment factors.

3.13.5.3 Where no suitable accommodated position can be identified, the Human Resources Department shall make a determination regarding employment status. A Reasonable Accommodation Status form is to be completed by Human Resources, and a written decision provided to the employee.

3.14 Absence for Medical Reasons in Excess of 12 months and 24 months

3.14.1 The OESH Occupational Health Nurses or Disability Management Coordinator is responsible for obtaining any and all medical updates on employees away from work due to medical reasons as may reasonably be required. While each case must be assessed on its own merits, timely requests for medical updates ought to be made. In addition, wherever reasonable, requests for medical updates should be made at 12 months of absence, and again at 24 months if still required. Human Resources will be kept up to date on the relevant medical status of the absent employee as reasonably required to ensure the operational needs of the Employer are met.

3.14.2 If there is no imminent return to work date, the employee's pre-injury or pre-illness position may be filled on a permanent basis, but only with approval of Human Resources, and in a manner consistent with the applicable collective agreement, if any.

3.15 Dispute Resolution

3.15.1 Where dispute arises regarding any aspect of a return to work plan, or accommodation, the employee is to inform their direct supervisor, and undertake to resolve the concern.

3.15.2 If the concern is not resolved, the employee may consult the Occupational Health Nurse or Disability Management Coordinator.

3.15.3 If the concern is not resolved, the employee may involve their Human Resource Consultant, or Director of Human Resources.

- 3.15.4 Final decision making authority rests with the Director of Human Resources.
 - 3.15.5 The employee may involve their union representative at any point in the dispute resolution process up to and including grievance and arbitration.
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4.0 RESPONSIBILITIES

4.1 Disability Management Steering Committee

- 4.1.1 To develop terms of reference for disability management program development and improvement.
- 4.1.2 To conduct an evaluation of site disability management program needs.
- 4.1.3 To provide a forum for resolving labour management disputes regarding disability management programs.
- 4.1.4 To act as an advisory committee, where appropriate, for review of complex accommodations, in keeping with obligations of privacy, and in a manner consistent with the applicable collective agreements .

4.2 Human Resources

- 4.2.1 To promote and educate WRHA management / supervisory personnel about disability management practices, and the duty to accommodate.
- 4.2.2 To work with managers / supervisors and employees to ensure the correct application of policies and procedures, and interpretation of collective agreements.
- 4.2.3 To facilitate conflict resolution where workplace barriers exist to accommodation and return to work.
- 4.2.4 To identify job placements or duties consistent with the employee's skills and physical abilities, and facilitate job placement for workers with disabilities.
- 4.2.5 To ensure managers / supervisors and employees are aware of the available benefit plans in the event of injury or illness, and ensure the application of these benefit plans.
- 4.2.6 To ensure that existing practices are consistent with applicable legislation and existing collective agreements.
- 4.2.7 To incorporate principles of reasonable accommodation and disability management into policies, procedures, and collective agreements to prevent discrimination against workers with disabilities.

4.3 Manager / Supervisor

- 4.3.1 To maintain regular and consistent contact with the injured or ill employee if the employee is absent, in accordance with attendance management principles.
 - 4.3.2 To facilitate the appropriate medical assessment for employee's experiencing health concerns by providing the Return to Work Package.
 - 4.3.3 To facilitate the return to work process through active participation in planning, supervising, and monitoring an employee in a Return to Work plan.
 - 4.3.4 To maintain confidentiality regarding the employee's health status.
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- 4.3.5 To foster a work environment that supports the accommodation of employees with physical or mental disabilities.
- 4.3.6 To follow site specific reporting procedures to ensure that all absences due to medical reasons, and/or hours worked are reported correctly to payroll/benefits, and OESH.
- 4.4 **Employee**
 - 4.4.1 To immediately report if a health condition may impact their ability to safely perform their job duties, or prevent regular attendance at work.
 - 4.4.2 To complete benefit application forms to facilitate prepayment of benefits and a claim for disability benefits within the benefit plan timelines.
 - 4.4.3 To attend all medical appointments and participate in the recommended treatment plan to facilitate recovery and return to work.
 - 4.4.4 To inform their healthcare providers that a Return to Work Program is available, and includes modified work duties, or hours of work.
 - 4.4.5 To provide or authorize the provision of medical information reasonably sufficient to the employer to facilitate their return to work, or accommodation where requested.
 - 4.4.6 To actively participate in the creation and implementation of a return to work plan that meets the medical restrictions balanced with the employer's operational requirements, and does not cause either party undue hardship.
 - 4.4.7 To actively cooperate with the employer and the union (where applicable) in investigating and implementing accommodation options.
 - 4.4.8 To maintain regular and consistent contact with their employer if unable to attend work due to injury or illness.
 - 4.4.9 To accept a reasonable offer of accommodation from the employer.
 - 4.4.10 To offer reasonable explanation for refusal to accept an offer of accommodation from the employer.
 - 4.4.11 To provide medical clearance prior to a full return to work where reasonably required and requested by the employer..
- 4.5 **Occupational Health Nurses or Disability Management Coordinators**
 - 4.5.1 To facilitate the return to work process for employees experiencing injury or illness.
 - 4.5.2 To assist in the assessment of fitness for duty where injury or illness exists.
 - 4.5.3 To maintain the confidentiality of employee personal health information, and release information only on a need to know basis to facilitate the return to work process, or reasonable accommodation.
 - 4.5.4 To assist supervisors and Human Resources in their responsibility to identify suitable job duties where accommodation or modification is required.
- 4.6 **Project Sponsor:**
 - 4.6.1 To orient employees to the assigned duties/projects, and ensure the provision of materials and resources necessary to complete the duties/project
 - 4.6.2 To orient, guide, monitor, manage and supervise the assigned employee(s).

- 4.6.3 To maintain and submit a record of hours worked to the employee's primary supervisor to ensure the employee is paid in a timely manner by the Home Site/Unit/Department.
- 4.6.4 To maintain communication with the Occupational Health Nurse or Disability Management Coordinator and other stakeholders as required.
- 4.7 **Unions**
 - 4.7.1 To educate and support their members about Reasonable Accommodation and Return to Work.
 - 4.7.2 To encourage their members to identify and communicate the need for workplace accommodations and return to work programs.
 - 4.7.3 To take an active role as partners in the Return to Work and accommodation process.
 - 4.7.4 To represent and support members who placed in Cross Employer Transitional Work Projects.
- 4.8 **Payroll and Benefits Departments**
 - 4.8.1 To facilitate payment of wages and disability benefits through timely completion of all required documentation.
 - 4.8.2 To assist supervisory personnel in proper coding of absences due to medical benefits, and provide notification of absence to third party insurers.

5.0 Training Requirements for WRHA Supervisory Staff

- 5.1 Duty to Accommodate / Ability Management Workshop – WRHA Management and Leadership Development Program.

REFERENCES:

WRHA Corporate Safety and Health Statement of Principle
WRHA Policy Workplace Safety and Health # 20.20.080
The Manitoba Human Rights Code
The Workers Compensation Act (Manitoba)
The Workplace Safety and Health Act (Manitoba)
The Personal Health Information Act (Manitoba)
The Freedom of Information and Protection of Privacy Act (Manitoba)

6.0 Appendix A - Cross Employer Transitional Work Procedures

6.1 Identifying Transitional Work Projects

- 6.1.1 Where a participating regional site/department/unit identifies a Transitional Work Project:
 - 6.1.1.1 A Transitional Work Project Referral Form shall be completed by the Site, approved by the Director of Human Resources or designate, and submitted to OESH..
 - 6.1.1.2 A Project Sponsor is to be identified by the referring site for each referred project.
 - 6.1.1.3 The Project Sponsor will notify OESH if withdrawing and/or completing a project.

6.2 Injured/Ill Worker Referral Process

- 6.2.1 Employees will be referred by OESH if unable to be placed in a Home Site Transitional Work Project. Referrals will be co-signed by the Director of Human Resources for the site where the employee resides.
- 6.2.2 Where the referral is declined due to lack of suitable, available and accepted Transitional Work Projects, or due to an employee being medically unfit to participate in the Program, the employee may remain on their current compensation plan as assessed and deemed eligible by the plan provider.
- 6.2.3 The Home Site shall notify OESH of any changes to the employee's restrictions, and/or when withdrawing the employee from the Program.
- 6.2.4 The referring site is responsible for developing a sustainable reintegration and accommodation plan while the worker is participating in Transitional Work Projects.

6.3 Transitional Work Program

- 6.3.1 Upon acceptance of the Employee Referral, the following guiding principles will apply:
 - 6.3.1.1 The employee is expected to give due consideration to the offer, or provide reasonable explanation for declining the offer.
 - 6.3.1.2 Where reasonably possible, the injured/ill employee will be assigned projects that most closely approximate their pre-injury/illness work duties, and/or skills and education.
 - 6.3.1.3 Where the injured/ill employee will be assigned more than one Transitional Work Project, reasonable effort will be made to minimize their travel between sites.
 - 6.3.1.4 The Home Site is responsible for paying for all hours worked when the employee is placed in a Transitional Work Project.
 - 6.3.1.5 The Home Site is responsible for any reasonable travel and/or parking expenses incurred to an Transitional Employee as per the provisions of the applicable collective agreement and WRHA or participating regional site travel policies.

- 6.3.1.6 A Transitional Employee may be displaced from a Host Site Transitional Work Project, if the Host Site identifies their own employee in need of an accommodation. Every reasonable effort will be undertaken to identify another suitable project for the displaced employee.
- 6.3.1.7 The Transitional Employee shall adhere to all Host Site rules and regulations while performing Transitional Work Projects.
- 6.3.1.8 The Transitional Employee shall notify their Project Sponsor, Home Site and WRHA Disability Management Coordinator or Occupational Health Nurse if unable to report for work at the earliest opportunity in a manner prescribed by the WRHA Disability Management Coordinator, or Occupational Health Nurse.
- 6.3.1.9 Reporting of work related injuries/near misses occurring in the course of Transitional Work Projects shall occur through the established process of the Home Site, including injuries/near misses occurring when a worker has been outsourced to a Host Site.
- 6.3.1.10 Injured/Ill employees are expected to provide updated medical certificates or Modified Duty Forms to their WRHA Disability Management Coordinator or Occupational Health Nurse if there is a change in their medical condition (improvement or worsening) that affects their ability to perform the assigned job duties, or where reasonably required by OESH.
- 6.3.1.11 The Home Site is responsible for addressing and resolving any employment, personnel, and collective agreement matters that may arise while the injured/ill employee is participating in the Transitional Work Projects, including where the employee has been placed at a Host Site. The Project Sponsor will assist in this resolution as required by the Home Site.

6.4 Discharge from Cross Employer Transitional Work Projects

- 6.4.1 Discharge from performing Transitional Work Projects will occur 8 weeks from date of project commencement, or earlier, in the following circumstances
 - 6.4.1.1 Employee is medically capable of returning to pre-injury/illness position, with or without modifications.
 - 6.4.1.2 Home Site alternate work duties have been identified.
 - 6.4.1.3 Transitional Work Project is completed.
 - 6.4.1.4 No available Transitional Work Projects within the employee's restrictions are available.
 - 6.4.1.5 Change in employment status (ie. resignation, retirement, termination).
 - 6.4.1.6 Employee is permanently accommodated (own or alternate employment).
 - 6.4.1.7 Employee is not medically fit to participate in the program.

6.5 Extended Participation in Cross Employer Transitional Work Projects

- 6.5.1 Employees may participate in the program beyond 8 weeks, as approved by the WRHA Disability Management Coordinator or Occupational Health Nurse in consultation with the Home Site Human Resources Department when:
- 6.5.1.1 Operational requirements of the employer require completion of a work project within a defined period of time, and continued participation does not delay or preclude the employee from returning to their regular paid employment, or;
 - 6.5.1.2 The employee is awaiting permanent placement into alternate employment, and suitable transitional work projects are available, or;
 - 6.5.1.3 Multiple accommodations co-occurring in the employee's department/unit would preclude the worker from safely completing their return to work plan, or;
 - 6.5.1.4 Multiple accommodations co-occurring in the employee's department/unit are impacting operational requirements and service delivery, or;
 - 6.5.1.5 The Home Site requires additional time to implement site based accommodation measures before the employee can be accommodated (ie. equipment, training, etc), or;
 - 6.5.1.6 Exceptional circumstances, as approved by the WRHA Disability Management Coordinator or Occupational Health Nurse and Home Site Human Resources Director or designate.