



Australian Government

Comcare

Rehabilitation Guidelines for Employers

Issued under
section 41 of the
Safety, Rehabilitation
and Compensation
Act 1988



Publication details

These guidelines are issued under section 41 of the *Safety, Rehabilitation and Compensation Act 1988*. They are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*, registered on 3 August 2005 with registration number F2005L02179.

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Comcare
GPO Box 9905
Canberra ACT 2601

Phone 1300 366 979

www.comcare.gov.au

Introduction

1. These guidelines have been prepared by Comcare and are issued to rehabilitation authorities (employers) in relation to the performance and exercise of their functions and powers under *Part III – Rehabilitation of the Safety, Rehabilitation and Compensation Act 1988* (SRC Act). Pursuant to subsection 41(2) of the SRC Act, a rehabilitation authority shall comply with these guidelines. They are effective from 1 September 2005.

Object

2. The object of the guidelines is to assist employers to develop an effective approach to the rehabilitation of their injured employees consistent with their obligations under the SRC Act.

Definitions

3. In these guidelines –

“Approved Rehabilitation Provider” means a rehabilitation program provider approved by Comcare under section 34F, 34L or 34H of the SRC Act to provide rehabilitation services

“Case Manager” means the employee delegated under section 41A of the SRC Act to coordinate the rehabilitation program and return to work process on behalf of the employer

“Employer” means the Rehabilitation Authority

“Employee” means a person within the meaning of section 5 of the SRC Act who has suffered an injury resulting in an incapacity for work or impairment

“Rehabilitation Authority” has the meaning defined in section 4 of the SRC Act generally taken to be an employer under the SRC Act

“Injury” means an injury or disease within the meaning of section 4 of the SRC Act

“Return to Work Plan” means the injured employee’s plan for return to, or maintenance at, work setting out goals, services to be provided, responsibilities and timeframes and issued under section 37 of the SRC Act as a determination for a rehabilitation program

“SRC Act” means the *Safety, Rehabilitation and Compensation Act 1988*

“Suitable duties” means duties which are appropriate to the employee’s capacities, skills and experience and in consideration of medical limitations - this may involve modification to duties, alternative duties or modified hours while on a return to work plan

“Suitable employment” means suitable employment for the purposes of section 40 of the SRC Act.

Rehabilitation Policy

Explanatory Note

Employers should have in place a rehabilitation policy to assist them to perform and exercise their functions and powers and so achieve appropriate return to work outcomes for their injured employees. The rehabilitation policy should outline the commitment of the employer and describe how injuries will be managed by the organisation.

As the rehabilitation authority, the employer has specific statutory powers and functions under Part III of the SRC Act. These include arranging for a rehabilitation assessment, determining that a rehabilitation program should be undertaken, arranging with an approved rehabilitation program provider for the provision of a suitable program and ensuring suitable employment is provided.

4. Employers should have in place a rehabilitation policy which should be:
 - a. developed in consultation with employees
 - b. endorsed by senior management, communicated throughout the organisation and accessible to all employees
 - c. tailored to the specific requirements of the organisation.
5. The rehabilitation policy should:
 - a. aim to achieve the safe maintenance at work or timely return to work of injured employees through early and appropriate intervention
 - b. clearly commit the organisation to providing suitable duties wherever possible in order to maintain the employee at work or enable an early return to work
 - c. state the responsibilities of managers in relation to rehabilitation programs and the provision of suitable duties
 - d. state the rights and responsibilities of employees in respect of rehabilitation programs
 - e. outline the assistance available to help an injured employee to remain at or return to work
 - f. provide for ongoing communication with the employee while absent from work so that the connection with the workplace can be maintained
 - g. provide for the cost of workplace injury to be monitored and rehabilitation program effectiveness to be evaluated
 - h. describe the service delivery requirements of approved rehabilitation program providers
 - i. provide for the evaluation of the policy's implementation and its update as necessary so it remains effective and achieves its aims.

Rehabilitation Case Management

Explanatory Note

Effective coordination of rehabilitation is essential to achieve successful outcomes. Case managers are required to negotiate with senior managers, line managers, employees, rehabilitation providers, medical practitioners and claims managers in relation to assisting injured employees return to work.

6. Employers should ensure that people with case management responsibilities:
 - a. have the skills, experience and influence to achieve effective return to work outcomes
 - b. are provided with adequate training to undertake their role
 - c. have senior management support to enable the provision of suitable duties
 - d. have the relevant delegations under section 41A of the SRC Act if they are making determinations for a rehabilitation assessment examination or rehabilitation program
 - e. can refer to a delegated senior manager if a recommendation for suspension of compensation is required.

Rehabilitation Assessment

Explanatory Note

An assessment for rehabilitation is performed by a suitably qualified person (such as an approved rehabilitation provider in consultation with the treating practitioner) or a medical practitioner (such as an occupational physician) or a panel, in accordance with section 36. Its purpose is to provide information on the employee's capability of undertaking a rehabilitation program and if so, the appropriate services to be provided. An assessment should include an interview/examination with the injured employee and take into account the medical diagnosis and prognosis, the pre-injury duties, current capacities, the availability of suitable duties, consideration of workplace issues and any identified or potential barriers to the return to work process. Recommended services aim to facilitate maintenance at, or return to work of an injured employee.

7. To enable effective rehabilitation, the employer should ensure there is a system in place for the early identification and notification of injury, and therefore decision, on whether a rehabilitation assessment is required. This system should be well documented and communicated within the organisation and monitored for its effectiveness.
8. In accordance with the provisions of section 36 of the SRC Act the employer can arrange for an assessment of an injured employee's capability of undertaking a rehabilitation program at any time. While the reasons for initiating an assessment will vary depending on the individual case, the triggers for such an assessment could include:
 - a. any absence from work indicating a severe injury, especially an expected absence from work for 10 days or more

- b. the nature or circumstance of the injury being such that it alerts to a potentially complex case, such as a psychological, occupational overuse or soft tissue injury
- c. the medical evidence or prognosis suggests that there is a possibility of re-injury at work
- d. the employee has had a previous injury
- e. the work environment, including relationships with supervisors and co-workers, has contributed to the injury
- f. the employee has made a written request for an assessment.

Rehabilitation Program

Explanatory Note

An occupational rehabilitation program is based on the principle that the employer, utilising established policies and procedures, can enable a coordinated return to work. The program is delivered consistent with medical advice and where necessary the use of a rehabilitation provider. Rehabilitation is focused on being workplace based and aimed at maintaining the injured employee within the workplace or returning them to appropriate employment in a timely, safe and cost efficient manner. Close communication and cooperation between the case manager, the injured employee, the supervisor and the treatment and rehabilitation providers enables the development of a coordinated return to work plan as part of the rehabilitation program.

9. In selecting an approved rehabilitation provider for a rehabilitation program the employer should:
 - a. ensure the provider has the required skills or specialist expertise to manage the particular case
 - b. consider whether it would be beneficial to put in place arrangements for preferred providers
 - c. ensure services are acquired based on the organisation's procurement guidelines and procedures
 - d. allow for the monitoring of the provider's performance in terms of quality of service delivery, costs and progress reports and outcomes.

10. A return to work plan as part of a rehabilitation program should:
 - a. be developed in consultation with the injured employee and the treating medical practitioner
 - b. be individualised, outcome-based and set out the steps to be followed in achieving the return to work
 - c. be available to an employee with a work capacity (unless contraindicated, for example where the employee has retired)
 - d. be developed using appropriate expertise, such as approved rehabilitation providers, where required
 - e. recognise the existing skills, experience and capabilities of the injured employee to enable suitable duties to be found
 - f. if necessary, utilise retraining and redeployment when it is not possible for the employee to return to pre-injury duties.

11. Where an employer has a system for provision of in-house rehabilitation provider services, the employer must gain approval from Comcare.

Suitable Employment

Explanatory Note

The key to achieving the early and successful return to work (or maintenance at work) of an injured employee lies in the employer's willingness, ability and commitment to provide duties within the capacities of the injured employee. This is a significant responsibility and critical to maximising the potential for a successful return to work. Perceptions of organisational support have a significant influence on return to work outcomes. Finding suitable duties or ultimately suitable employment requires a constructive and creative approach with cooperation from line managers and commitment from senior managers. It increases the opportunity for an injured employee to remain at work or safely return to work sooner than would otherwise be possible. This helps to maintain the connection with work and the workplace and results in better return to work outcomes. While the case manager may have the role of coordinating the return to work this cannot be achieved without the active support and assistance of senior managers and line managers in ensuring work options are made available.

12. The employer has a duty to take all reasonable steps to provide suitable employment for an injured employee or to assist them to find such employment. The employer should:
 - a. state in their rehabilitation policy their commitment to providing suitable duties wherever practicable
 - b. develop a system that enables the early and safe return to work of their injured employees.
13. Where the employer, other than a licensed self-insurer or the Australian Defence Force, considers it is not practicable to provide the employee with suitable employment, the employer should outline to Comcare that it has undertaken a proper process for evaluating options and that a decision has been made by a relevant senior manager that providing suitable employment is not practicable.

For further information contact

Comcare
GPO Box 9905
Canberra ACT 2601
Telephone — 1300 366 979

Internet — www.comcare.gov.au

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