RETURN TO WORK—INFORMATION FOR EMPLOYERS

The purpose of this fact sheet is to explain rehabilitation in the Comcare scheme to employers.

Not being able to work as a result of injury results in significant costs to injured workers, their employers and the community. Prolonged absence from the workforce is more than a simple, economic cost for businesses. It has an adverse effect on physical and mental health, educational opportunities and the long-term employment opportunities of those affected and their families\(^1\).

Research shows that for most individuals, working improves general health and wellbeing and reduces psychological distress. Even health problems that are frequently attributed to work such as musculoskeletal and mental health conditions, have been shown to benefit from activity-based rehabilitation and an early return to suitable work\(^1\).

Assisting injured workers to return to work after an injury sounds simple but can be hard to do well. Timely, smart and effective occupational rehabilitation programs are a start. Important factors for success are the way that workplaces are designed, the employment policies, systems and culture affecting workplace safety, and the line manager’s response to supporting the injured worker.

OCCUPATIONAL REHABILITATION

The Comcare scheme has a strong focus on returning injured workers to the workplace quickly and safely. The key elements of occupational rehabilitation in the Comcare scheme are:

> return to work activity should commence as soon as possible after injury, regardless of whether compensation is payable
> the injured worker’s workplace and specific duties should be the focus of return to work activities
> where a return to work program is necessary, each injured worker should have an individual program tailored to their needs
> employers as rehabilitation authorities are responsible for managing and monitoring each return to work program in consultation with the injured worker, treating health professional and, where necessary, approved rehabilitation provider
> injured workers are required to actively participate in developing and implementing their return to work programs
> the rehabilitation authority should take action to prevent further workplace injuries.

THE RESPONSIBILITIES OF THE REHABILITATION AUTHORITY

For those workers injured while employed in a Commonwealth or ACT government agency, the rehabilitation authority is, in all cases, their current Commonwealth or ACT government employer.

For those workers injured whilst working for a licensee, the rehabilitation authority remains the current licensed corporation.

If you are a rehabilitation authority, under the Safety, Rehabilitation and Compensation Act 1988 (SRC Act) you have responsibility for:

- arranging assessment of an injured worker’s capability to undertake a rehabilitation program (section 36)
- ensuring the injured worker undergoes an examination for assessment purposes (section 36)
- determining if the injured worker should undertake a rehabilitation program (section 37)
- arranging an approved rehabilitation program provider to provide a rehabilitation program (section 37)
- taking all reasonable steps to provide the injured worker who is undertaking—or has completed—the rehabilitation program with suitable employment, or help them find suitable employment (section 40).

The liable employer is the employer at the time the worker sustains an injury. The liable employer incurs incapacity, treatment and rehabilitation costs for the life of the claim. These costs are incurred through premiums.

When an injured employee takes up employment with another Commonwealth or ACT government employer, the liable employer is no longer the rehabilitation authority. The new employer becomes the rehabilitation authority and is able to exercise powers under section 36 and section 37 of the SRC Act for that employee. Consequently the liable employer no longer has responsibility for managing the injured worker’s rehabilitation.

If an injured or ill employee with an accepted claim under the SRC Act leaves Commonwealth or ACT government employment by any means (i.e. redundancy, resignation or involuntary separation), and takes up employment with another Commonwealth or ACT government employer, the new employer becomes that employee’s rehabilitation authority.

If the injured ex-employee takes up employment with a private sector company, the last Commonwealth employer remains that employee’s rehabilitation authority.

BIOPSYCHOSOCIAL APPROACH

Biopsychosocial injury management is an individual-centred model you can use that considers the person, their health problem and their social context. A biopsychosocial model that addresses all the physical, psychological and social factors involved in human illness and disability can help prevent incapacity. It is therefore the best method of maximising recovery and return to work.

Biological—refers to the individual’s physical or mental health condition.

Psychological—recognises that personal/psychological factors also influence an individual’s functioning.

Social—recognises the importance of the social context, pressures and constraints on an individual’s functioning.

The biopsychosocial model forms the basis of the World Health Organisation’s International classification of functioning, disability and health, which is now widely accepted as the framework for disability and rehabilitation.

Recognising that an injured worker’s fears and beliefs about their injury and the impact of their return to work on their health, are critical considerations in injury management. Likewise, the injured worker’s level of motivation to return to work is influenced by workplace variables such as the presence or absence of support from managers and colleagues, flexible accommodation and the availability of suitable duties, and the employer’s willingness to invest in health and safety.
EARLY INTERVENTION

Early intervention involves assisting an employee before a symptom develops into an injury, or as soon as possible after an injury. Responding early can often prevent the individual from becoming ill, taking long-term sick leave or from needing to submit a workers’ compensation claim. It also sets your expectation of an early return to work which reduces the human and financial costs associated with workplace injury, workers’ compensation claims or other forms of leave.

Early intervention has the following benefits:

> providing a productive and supportive workplace
> demonstrating management commitment
> preventing long-term absence from the workplace and the development of chronic illness
> reducing the adverse effects on co-workers of the injured worker
> improving staff confidence and morale
> increasing management involvement in the injury management process
> increasing the probability of return to work
> containing the cost of incapacity and in the long term, the premium
> reducing the indirect costs to your organisation such as lost productivity, recruitment and training costs for replacement staff.

REHABILITATION ASSESSMENT

The key to assisting an employee to achieve an early and successful return to work (or maintenance at work) is your willingness, ability and commitment to providing suitable duties within the injured worker’s capacity.

This means that you need to know the medical diagnosis and prognosis and any impact this diagnosis will have on the injured worker’s ability to perform their duties. You also need to identify workplace issues including any potential barriers to the injured worker’s return to work. Understanding these issues allows you to arrange suitable duties that enable the injured worker to return to work safely.

To assist the injured worker to return to work following an illness or injury, you may want to arrange an assessment of their capability to undertake a rehabilitation program under section 36 (3) of the SRC Act.

A rehabilitation assessment can only be made by:

> a legally qualified medical practitioner
> a suitably qualified person other than a medical provider (best practice is to engage a Comcare approved rehabilitation provider)
> a panel comprised of legally qualified medical practitioners or other suitably qualified persons (or both).

The rehabilitation assessment should focus on the injured worker’s ability. All stakeholders should understand that better health and return to work outcomes are achieved by identifying what will help the injured worker resume their former lifestyle—an important part of this being work activities.
RETURN TO WORK PLAN
A workplace rehabilitation program should be based on the principle that the employer is best placed to facilitate the injured worker’s return to work as part of their recovery from injury or illness.

You need to ensure that the return to work plan is consistent with medical advice, coordinated with key parties and involves an approved rehabilitation provider where necessary.

A return to work plan—as part of a rehabilitation program—should:
> commence as soon as possible after the worker’s injury occurs
> be developed in consultation with the injured worker and the treating medical practitioner/s
> be individualised, outcome-based and set out the steps for achieving the return to work
> be available to the injured worker where there is evidence of work capacity (unless contraindicated—for example, where the employee has retired)
> be developed using appropriate expertise where required, such as an approved rehabilitation provider
> focus on abilities not disabilities
> recognise the injured worker’s existing skills, experience and capabilities
> use retraining and redeployment as options where the injured worker can not return to pre-injury duties.

SUITABLE EMPLOYMENT
Where an injury occurs, the SRC Act empowers you as the rehabilitation authority to work with the injured worker to support them to remain at work or help them achieve an early, safe and durable return to work through a rehabilitation program.

You also have a legal responsibility to provide suitable employment for injured workers who are incapacitated, even if they are no longer employed. This is one of the key strategies you should use to support a safe and timely return to work.

Suitable employment is defined in part I, section 4 of the SRC Act. Applying the definition means that if the employee who suffered an injury is an ongoing employee of:
> the Commonwealth government, then suitable employment is any employment within the Commonwealth government
> the ACT government, then suitable employment is any employment within the ACT government
> a licensee, then suitable employment is any employment within the licenced corporation.

If the employee:
> wishes to pursue employment other than in the above examples they will need to elect to separate from the organisation—for employees who continue to be employed, an offer of employment in the private sector or outside the Commonwealth government, ACT government or licensed corporation is not suitable employment
> was on a fixed-term contract with the Commonwealth government, ACT government or licensee at the time of the injury, and the contract expires before they are back at work, then suitable employment is any employment
> is separated from ongoing employment (i.e. resigns, is terminated, or accepts a redundancy) then suitable employment becomes any employment for the purposes of rehabilitation.
SUITABLE DUTIES

The key to assisting an employee to achieve an early and successful return to work (or maintenance at work) is your willingness, ability and commitment to providing suitable duties within the injured worker’s capacity.

Injured workers who are provided with suitable duties when they return to work are more likely to report a durable return to work.

Suitable duties should be appropriate considering the injured worker’s capacity, skills and experience and medical limitations. To provide an injured worker with suitable duties you may need to modify their pre-injury duties, locate alternative duties or enable them to work modified hours while on a return to work plan.

When considering suitable duties you should follow this sequence of return to work possibilities also known as the ‘return to work hierarchy’:

- same job/same employer
- similar job/ same employer
- new job/same employer
- same job/new employer
- similar job/new employer
- new job/new employer.