

TRANSITIONAL DUTY POLICY

INTRODUCTION:

It is critical to develop a method to manage workers' compensation cases quickly, effectively and fairly with consideration to both employer and employee needs. It has become important to promote an active process of minimizing the impact of a physical impairment resulting from injury or illness on the individual's capacity to participate productively in the workplace. The most important goal in establishing an effective transitional duty program is to return the injured or ill employee back to full duty as soon as possible. This philosophy should apply to all employees regardless of their department, duties or responsibilities and as long as the safety of the employee, co-workers and the general public are not affected.

BENEFITS:

There are many benefits to adopting a transitional duty program. Among the most common are:

- Gain control and increase chances for positive resolution of claims.
- Retain the services of valuable trained employees.
- Maintain a productive employee for wages paid.
- Avoid replacement and training costs of hiring a new employee.
- Experience faster recoveries, both psychologically and physically.
- Reduce the chance for permanent disability.
- Discourage fraudulent claims.
- Increase morale among employees.
- Increase awareness of safe work practices and injury prevention.
- Comply with the Americans with Disabilities Act (ADA) by accommodating disabilities and avoid costly lawsuits.
- Identify cross-training opportunities that enhance employees' abilities in their regular jobs.
- Overall reduction of costs associated with workers' compensation claims.

DISCLAIMER

This document does not and is not intended to address every circumstance related to transitional duty program development. This document should be modified in accordance with applicable ordinances and bargaining agreements. There may be other legal matters not contemplated that may require review by your legal staff. Where appropriate, this policy should be modified to accommodate all disabled employees.

PURPOSE:

To establish guidelines and procedures for giving transitional duty assignments to an employee who is recovering from a work-related injury or illness and has been given temporary physical work restrictions by an authorized medical provider. **Transitional duty is temporary in nature.**

DELEGATION OF RESPONSIBILITY:

Throughout this procedure, the designation “*Transitional Duty Coordinator*” has been used to signify the individual with the ultimate decision making authority in this process. As with many other personnel processes, the Transitional Duty Coordinator may delegate this responsibility to a “*Designee*” as deemed appropriate.

GENERAL INFORMATION REGARDING TRANSITIONAL DUTY ASSIGNMENTS:

1. Transitional duty is an opportunity, provided at the sole discretion of the Transitional Duty Coordinator, for an employee to remain in the workforce while recuperating from a work-related injury or illness. The program benefits both the employee and employer by saving employee leave, accelerating recovery and reducing claim costs. If an employee with work-related restrictions refuses transitional duty without a verifiable medical cause, the employee’s benefits under workers’ compensation may be adversely affected.
2. The Transitional Duty Coordinator should evaluate the work restrictions of employees injured on-the-job to determine if the employee can be assigned transitional duty. The work restrictions must be in written form from the authorized medical provider and must clearly describe the physical restrictions and limitations related to performing transitional job duties. If the Transitional Duty Coordinator has questions or needs clarification, he or she should discuss the restrictions with the authorized medical provider and the Claims Administrator before making the transitional duty assignment.
3. The Transitional Duty Coordinator’s decision to make and/or continue a transitional duty assignment should take into consideration the employee’s work restrictions including employee’s knowledge, skills, abilities, safety of the motoring public, other employees and the general public and the availability of work benefiting the department. **Monitor these elements periodically throughout the duration of the assignment, but at least after every visit with an authorized medical provider.**
4. A transitional duty assignment is temporary in nature. It may be a combination of various unrelated job tasks. The assignment also does not need to be for a full 40-hour workweek. Depending upon the nature of the injury or illness, transitional duty may last from one week to two months.

5. The Transitional Duty Coordinator should make transitional duty assignments with the goal of returning the employee to full duty as soon as possible. This may require the addition of or adjustments to duties included in the assignment as the employee's medical condition progresses. When a department is unable to assign suitable work, other departments may be contacted to determine if a suitable work assignment can be identified.
6. The authorized medical provider must submit a status report to the Transitional Duty Coordinator and Claims Administrator after each employee visit (See attached sample). Non-compliance with this process should be reported to the Claims Administrator immediately. The Transitional Duty Coordinator should review the transitional duty assignment after each visit with an authorized medical provider and, if advantageous for the employee and the department, allow the assignment to continue until Maximum Medical Improvement (MMI) is reached or until the employee is released to full duty.
7. The Transitional Duty Coordinator will implement Family Medical Leave Act (FMLA) procedures in accordance with local policies if they become aware that an employee injured on-the-job meets the stated criteria for designation.
8. Employees will be paid in accordance with applicable policies, salary ordinances and bargaining agreements while on Transitional Duty. No overtime will be authorized unless the employee is expressly given permission by the department head. All overtime assignments must be approved in advance by the department head and must be in accordance with the transitional duty assignment set forth by the authorized medical provider.
9. Where appropriate, the employee's time card should be maintained by the department to which the employee is regularly assigned.
10. The Transitional Duty Coordinator should notify upper management and the Claims Administrator if he or she becomes aware that an injured employee may have permanent medical restrictions. Permanent restrictions should be handled differently from temporary restrictions. Permanent restrictions may also be considered as a qualified disability under the ADA.

MAKING TRANSITIONAL DUTY ASSIGNMENTS:

Making transitional duty assignments is the joint responsibility of the employer, Claims Administrator and Managed Care Provider. The Claims Administrator and authorized medical provider should continually evaluate the availability of transitional duty for all temporarily disabled employees.

1. The Transitional Duty Coordinator reviews the authorized medical provider's work restrictions and selects transitional duty assignments that are of benefit to the department and appear to be within those restrictions (see attached Sample Transitional Duty Job Bank). This may include assignments requiring travel to alternate work locations. A transitional duty assignment does not have to be a full 40-hour workweek. The following skills may be necessary to participate in a transitional duty assignment:
 - Sit or stand for some tasks.
 - Understand and follow directions and procedures.
 - Accept direction and function cooperatively.
 - Communicate effectively and coherently using telephone, or when initiating or responding to verbal communications.
 - Read and comprehend documents.
 - Exercise independent judgment.
2. When the Transitional Duty Coordinator and the supervisor determine that transitional duty is within the employee's work restrictions, the Transitional Duty Coordinator provides a letter (See Attached Sample) to the employee offering the transitional duty assignment. The letter must describe the work to be performed, state the transitional duty assignment will be reviewed periodically and state that the assignment is temporary. This letter should be handed to the employee upon arrival to work the following day. If the employee does not return to work the next day, the employee should sign and date the letter noting receipt. If it is necessary to mail the letter to the employee, it should be mailed Certified/Return Receipt with a copy placed in the personnel file.
3. If the employee agrees to the transitional duty assignment, he or she should sign the transitional duty offer and return it to the Transitional Duty Coordinator. If the employee declines the transitional duty assignment, the employee should code his or her time in accordance with applicable policies, salary ordinances and bargaining agreements. If an employee with work-related restrictions declines a transitional duty assignment without a verified medical cause, the Transitional Duty Coordinator should immediately notify the Claims Administrator. Refusal of a transitional duty assignment may adversely affect the employee's workers' compensation benefits.
4. If the employee's objection to a transitional duty assignment is based on a disagreement with the authorized medical provider regarding work-related restrictions, the Transitional Duty Coordinator should discuss the case with the authorized medical provider and the Claims Administrator.

COMMUNICATIONS:

1. The Transitional Duty Coordinator shall maintain the confidentiality of all medical information related to the transitional duty assignment. Only individuals with an administrative "Need to Know" shall be included in discussions on transitional duty.

This includes department heads and Human Resources Representatives. Where applicable, the Transitional Duty Coordinator shall limit discussions with the authorized medical provider and other authorized individuals to the medical restrictions and transitional duty issues in question.

2. If the need for transitional duty arises from a work-related injury or illness, the Transitional Duty Coordinator should contact the Claims Administrator. Copies of all related correspondence shall be sent to the Claims Administrator.
3. Questions related to transitional duty accommodations under the Americans with Disabilities Act and Family Medical Leave Act should be forwarded to the Personnel Department and/or municipal solicitor.
4. Provide initial and continuous communication with employees regarding the transitional duty program (See Sample Statement)

IMPLEMENTATION:

This procedure should be adopted by resolution and enacted via policy. The procedure should be communicated to authorized medical providers, department heads and employees before being implemented.

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DEFINITIONS:

Americans with Disabilities Act (ADA) - Federal protection from employment discrimination for individuals with qualified disabilities.

Authorized Medical Provider - A medical provider who has been designated to provide medical care and/or medical opinions for employees with work-related injuries or illnesses as authorized by the New Jersey State Workers' Compensation Statute.

Employee - Any person who renders service for pay, including persons working under a professional service contract. Employees include persons in probationary, regular, casual or temporary status.

Family Medical Leave Act (FMLA) - Federal job protection during use of leave for a "serious health condition" or other qualifying event as defined under the Act.

Maximum Medical Improvement (MMI) - The point at which the authorized medical provider determines that (1) the condition resulting from the injury or illness is stable, (2) additional medical treatment or physical therapy will not improve patient's condition or (3) that the patient has reached the medical plateau of recovery.

Physical Work Restrictions - Work restrictions placed on an employee by the authorized medical provider.

Transitional Duty - A temporary work assignment that does not exceed an employee's medical work restrictions during a period of recovery from a work-related injury or illness. A temporary work assignment that does not develop into a permanent position and returns the employee to regular full-duty as soon as possible.

SAMPLE LETTERS AND DOCUMENTS

The following sample letters and documents are suggestions based on previously used materials. If the Transitional Duty Coordinator has specific questions regarding the use or application of the sample letter and/or document to a particular circumstance, he or she should call the Claims Administrator.

**SAMPLE LETTER TO EMPLOYEE
OFFERING TRANSITIONAL DUTY ASSIGNMENT**
(Does not have to be mailed if hand given to the employee)

CERTIFIED MAIL NO. _____

[Date]

[Employee Name]

[Employee Address]

RE: Claim # _____ Date of Loss: _____

Dear [Employee Name]:

According to the restrictions on the attached report, you cannot be accommodated in your current position. We are offering you a transitional duty assignment effective [date]. This assignment is temporary, will be reviewed periodically. Please report to [supervisor] at [location] for further instructions.

The duties you are being assigned are based on restrictions set by the authorized medical provider. Please see the attached form dated _____, from Dr. _____. This transitional duty assignment will be re-evaluated whenever (1) your work restrictions change, (2) you have reached Maximum Medical Improvement, (3) the work assignments are completed or (4) the departments' ability to provide transitional duty assignments change. If you feel any of the transitional duty tasks are aggravating or worsening your condition, please notify your supervisor immediately.

Your work hours will be from _____ to _____, _____ days per week. Requests to leave work early or come in late must be submitted and approved. Please keep your supervisor informed of your schedule regarding doctor appointments, physical therapy, etc. If you will not be coming into work for the day, you must call _____.

_____ will handle the paperwork involved with your temporary assignment, such as time sheets, leave slips, and the authorized medical provider's return to work reports. Please ensure all paperwork is submitted timely and accurately.

If you refuse this transitional duty assignment without verifiable medical cause, your benefits under workers' compensation may be adversely affected. If you believe that the transitional duty assignment is in excess of the authorized medical provider's suggestion or if you believe that the transitional duty may aggravate your condition, please let us know. Please indicate your willingness to accept this assignment by signing this letter, checking the appropriate box below and returning it to the Transitional Duty Coordinator.

I accept this temporary assignment

I decline this temporary assignment

Employee Signature

Date

Sincerely,

Transitional Duty Coordinator

Attachments:

Work Restrictions from Doctor

cc: Adjuster (if applicable)
Attorney (if applicable)
Personnel Department

SAMPLE TRANSITIONAL DUTY STATEMENT

To All Employees:

It is the policy of [Municipal Name] to maintain a transitional duty program. Our primary goal is to maintain a safe workplace for our employees. However, when an injury or illness does occur, our program helps make the process of returning to full work capacity as smooth and efficient as possible. This program is designed to minimize the disruption and uncertainty that can accompany a work-related injury for both the [Municipal Name] and each of our employees.

The success of the transitional duty program is the responsibility of every employee. Only by working together can we provide a safe workplace. We ask all our employees to be alert to potential accidents and strive to eliminate them. If we work together to minimize the effects of work related accidents; we will all benefit.

Thank you for your cooperation and assistance.

Signature: _____

Title: _____

Date: _____

Sample Transitional Duty Checklist

It is important to review the following (some or all may apply):	
<input type="checkbox"/>	Know state law about returning an employee to work
<input type="checkbox"/>	Explain to employees their rights, roles, and responsibilities
<input type="checkbox"/>	Inform treating physicians about the transitional duty policy and assignments available to injured employees
<input type="checkbox"/>	Have treating physicians approve transitional duty jobs or adaptations to fit job restrictions
<input type="checkbox"/>	Meet with the employee weekly to document progress and determine problems
<input type="checkbox"/>	Continue therapy and treatment during transitional duty assignments
<input type="checkbox"/>	Remind supervisors of employee's physical limitations so they do not push the employee to exceed them
<input type="checkbox"/>	Identify transitional duty assignments creatively; visit worksites to find tasks similar to the employee's existing job but adaptable to the employee's physical exertion level
<input type="checkbox"/>	Use meaningful jobs; never use jobs that demean or demoralize the employee
<input type="checkbox"/>	Provide training for the employee's new position if needed
<input type="checkbox"/>	Send transitional duty assignment offer letters by first class, certified mail or USPS priority mail with confirmation of receipt and include return, stamped envelope
<input type="checkbox"/>	Customize jobs so they can be restructured frequently to accommodate the employee's increased capacity and reduced limitations (utilize the job bank)
<input type="checkbox"/>	Make sure transitional duty assignments are productive – not punitive
<input type="checkbox"/>	Do not violate union contracts
<input type="checkbox"/>	Pay transitional duty at the same rate as the employee received in his/her regular position
<input type="checkbox"/>	Consider paying full earnings even if employee works partial hours temporarily to avoid paying lost wage benefits; advise TPA so they do not pay lost wages also
<input type="checkbox"/>	Obtain employee's feedback about the transitional duty position; make sure he/she can safely perform the job
<input type="checkbox"/>	Have the transitional duty job begin 3-5 days after you send the Job Offer Letter

Sample Transitional Duty Job Bank

Although you could customize transitional duty job assignments to fit each injured employee's restrictions, you should have a bank of transitional duty positions available to offer injured employees.

Office Clerical – assist with inside office clerical tasks such as:

- Operate computer, copy, fax, and printer
- Notify pertinent staff of schedule changes, meetings, etc.
- Assist with meeting plans and setting up for meetings
- Filing and answering phones
- Updating policy and procedure manuals

Shop Clerical – assist in the maintenance, housekeeping, repair, or other department tasks such as:

- Process paperwork
- Take and deliver schedules and messages
- Coordinate repair and maintenance schedules
- Seasonal Display maintenance

Inventory Assistant – assists with control of inventory completing tasks such as:

- Track inventory and orders supplies
- Document and shelf incoming inventory
- Document replacement items
- Complete re-ordering process under supervision

Miscellaneous:

- Dog license census
- Gather registrants' contact information
- Accreditation programs
- Training new employees

Grounds Service and Light Custodial or Maintenance– includes tasks such as:

- Empty and clean trash cans, wash surfaces, sweeping, mopping, etc.
- Light painting
- Light deliveries

Food Services Operator – includes tasks such as:

- Prepare items for orders or serve beverages and concessions
- Collect lunch trays in employee cafeteria

File Maintenance – includes tasks such as:

- Work with operations groups to file, archive, and shred documents as needed

Sample Transitional Duty Job Bank – Continued

Service Window Cleaner – includes tasks such as:

- Clean façade ground level windows

Safety Inspector – includes tasks such as:

- Assist safety department on routine inspections as needed for fire extinguisher, eyewash, and/or hoists
- Completing Incident Investigation Reports

Inspector (Other) – includes tasks such as:

- Sidewalk and roadway inspections
- Pumping Station flip-on/equipment maintenance
- Recycling/Trash Ordinance violations
- Street Light inspections

Phone Operator – includes tasks such as:

- Answer telephones, direct calls, and take messages

Security Bag Check – includes tasks such as:

- Assist security with bag checks at front gate and entrances
- Monitor back exits

Inventory Control – includes tasks such as:

- Compile list of inventory items (products, paper goods, uniforms, etc.) by stock number or control codes
- Write or dictate information into a tape recorder to be compiled into a report or database for use in reordering, restocking or reorganizing

Customer Service/Office Clerical – includes tasks such as:

- Take orders, answer telephone inquiries, track shipments, etc.

Hospitality Greeter – includes tasks such as:

- Welcome customers and assist those who may need help

Volunteer – includes tasks such as:

- Supervise Volunteer/Community Groups
- Supervisor Cleanups or Community Service

Safety Meeting Posters – employee prepares visual aids for safety meeting topics:

- Color and cut out visual aids
- Assemble items for meetings

Sample Transitional Duty Job Bank – Continued

Job Fair Assistant – assists in scheduling and follow-up for job fairs:

- Photocopy and collate handouts, itemize and stock job fair stationary
- Work job fair booths with recruiters, restock handout supplies, run errands, etc.
- Process employment forms, perform follow-ups, compile respondent data for recruiters

Evacuation Demonstration Helper – assist in evacuation training exercises at work:

- Follow up with scheduling
- Copy and distribute handouts
- Gather registrants' contact information