



**WORKPLACE DISABILITY MANAGEMENT:
A Guide to Establishing a Program
in Your Workplace**

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Preface

PREFACE

Information provided in this booklet will summarize:

- the benefits of Workplace Disability Management Programs; and
- how to design and implement an effective Disability Management Program in your workplace.

It has been demonstrated that joint labour / management, workplace-based Disability Management Programs show positive results. Some examples include:

- increasing the number of employees who successfully return to work following an injury or illness, reducing the cost of disability to the employer and employees;
- fostering an early and safe return to employment, allowing employees to maintain their benefits and income level, as well as their contact with co-workers;
- encouraging the active participation of unions, helping them to fulfill their role of protecting jobs and benefits for their members;
- minimizing the negative impact of disability on the employee's family, co-workers, supervisors and the community; and
- building mutual trust between all stakeholders through improved cooperation.

Important Note

In order to be successful, a Disability Management Program requires the full involvement and cooperation of all parties, including the following:

- injured or ill employees
- managers / supervisors
- employee representatives / union officials
- health care providers*
- the WHSCC
- private insurance carriers

* **Note:** *The physician's role is outlined in the CMA POLICY "The physician's role in helping patients return to work after an illness or injury (update 2000)".*

DISCLAIMER:

The information provided is intended for general use and may not apply to every circumstance. It is not intended as a guide to government regulations and does not release the readers or Disability Management Program participants from their responsibilities under applicable legislation. In this guide, the WHSCC has tried to provide suggestions for the development of Workplace Disability Management Programs based on current literature. We cannot, however, guarantee the accuracy of, nor assume liability for, the information presented herein or its application.

Note: *This guide is written using the masculine gender in order to simplify reading. However, it is intended for both men and women.*

Introduction

INTRODUCTION

The vision of the WHSCC is that New Brunswick workers have access to a safe and healthy work environment. When serving New Brunswick workers and employers, the WHSCC strives to promote this vision and to provide education on safe workplace practices.

Unfortunately, in spite of everyone's best efforts, workplace accidents still occur.

What is a Disability Management Program?

Disability Management is a proactive approach to helping injured or ill employees return to safe and productive work activities as soon as medically possible with a primary focus of minimizing the impact of injuries or illnesses. It is a partnership involving employers, employees, health care providers, unions and employee representatives, and the WHSCC.

Individual return-to-work plans (within the Disability Management Program) are established for each injured or ill employee requiring assistance, and usually provide short-term accommodation based on his abilities and limitations. Return-to-work plans have time frames and schedules that are transitional and reflective of the employee's needs and abilities.

Why Introduce a Disability Management Program?

WHY INTRODUCE A DISABILITY MANAGEMENT PROGRAM?

Workplace injuries, illnesses, and accidents are costly to both employers and employees. Although accidents and illnesses are often preventable, and prevention is the best way to protect employees and control costs, workplaces need a way to manage resources and assist employees when injuries and illnesses occur.

A Disability Management Program facilitates early intervention, helping to maintain a positive connection to the workplace and alleviate many of the concerns experienced by injured or ill employees. Most employees want to maintain employment security by returning to work, and respond well when employers offer them an opportunity to resume appropriate job activities.

A Disability Management Program improves communication and clarifies roles and responsibilities of the participants involved. It gives partners access to a structured process that assists in resolving many of the issues encountered during the return-to-work process.

An effective Disability Management Program is genuinely a “win-win” situation for all parties involved.

In summary, the Disability Management Program helps return employees to the workplace as part of their recovery. This maximizes treatment while minimizing lost time and the associated human and financial costs to the employee, their family, the employer and society. Experience has shown that where Disability Management Programs exist, costs associated with injury or illness – both human and financial – are significantly reduced.

Benefits of a Disability Management Program

An effective Disability Management Program is genuinely a “win-win” situation for all parties involved. The following list outlines some of the advantages for each partner:

Benefits to employees

Most injured or ill employees recover and return to work promptly. For a small number, however, the impact of a serious accident or illness can be devastating. Research and practical experience have shown that the longer an employee is absent from the workplace, the more difficult it is for him to return to work (NIDMAR, 1995). A Disability Management Program helps to avoid long-term absence from the workplace, and allows the employee to:

- maintain income;
- retain productive employment and job security;
- maintain self-esteem, family stability and social ties;
- maintain job skills;
- retain CPP benefits and employment insurance eligibility;
- retain pension and benefit packages; and
- resume “routine” life activities sooner, with less uncertainty about the future.

[why introduce a disability management program?]

Benefits to employers

A Disability Management Program gives employers a way to manage workplace costs and improve employee benefits by creating a safer, more cooperative and productive workplace. These programs also enable employers to:

- reduce employee turnover and lost time;
- increase employee awareness of all costs (human and financial) of injuries and illnesses;
- reduce accident and workers' compensation costs (*see Accident Cost Iceberg in appendix*);
- reduce hiring or training costs;
- retain experienced employees;
- improve employee relations and morale;
- boost overall productivity and company image;
- participate in the rehabilitation and return-to-work process; and
- develop a return-to-work process that may be used for work-related and non-work-related injury or illness.

Benefits to unions / employee representatives:

- preserves jobs, seniority, benefits, etc. for employees / union members;
- promotes cooperative labour / management relations; and
- facilitates their participation in the return-to-work process.

Benefits to health care providers:

- assists them in promoting the benefits of returning to all possible functional activities as soon as possible after an injury or illness;
- increases awareness and understanding of their patient's work activities;
- allows increased opportunity for employment related activities to form part of their patient's rehabilitation;
- increases their influence on the activities their patient undertakes at work; and
- improves opportunity for their patient's recovery.

Benefits to the WHSCC:

- better communication with employees and employers leading to improved client satisfaction and reduced claim costs; and
- increased opportunity for safe and timely return-to-work of injured or ill employees.

How to Develop a Disability Management Program

HOW TO DEVELOP A DISABILITY MANAGEMENT PROGRAM

With commitment and joint participation of both the employer and the employees, a Disability Management Program can be established in an organization of any size.

Step 1 – Establish management commitment and support

It is important to confirm management commitment to program development. This should also include senior union representatives where appropriate. Management commitment may be demonstrated by:

- emphasizing early intervention and assistance;
- supporting joint labour / management involvement in program development;
- centralizing responsibility through a return-to-work coordinator;
- modifying workplace accommodations to remove employment barriers;
- identifying transitional return-to-work options;
- adopting benefit plans that promote early and safe return-to-work;
- educating stakeholders on the topic of Disability Management; and
- providing assistance to the program development team as needed.



Step 2 – Select a program development team

A program development team of two or more members, preferably jointly representative of labour and management, should be selected. This group will:

- provide input into the selection of the return-to-work coordinator;
- review the workplace accident / illness history (profile);
- develop a policy and procedure manual, (see Step 5 for details);
- arrange for job analysis to be completed;
- create an information package to educate employees on the program; and
- identify criteria to be used for program evaluation.

[how to develop a disability management program]

Step 3 – Select a workplace coordinator

This step is critical for the success of any Disability Management Program. A cooperative approach, using input from the team to help select the individual for this position, is often helpful and is encouraged. The coordinator should be someone who is:

- objective and who has the respect of both union (where applicable) and management;
- familiar with the different jobs within the workplace;
- qualified through education and training to carry out the duties of the position; and
- able to coordinate return-to-work activities and work in a collaborative manner with all stakeholders.

It is important to remember that the coordinator's responsibilities can be assigned to an existing employee, or to a newly created position.

A Disability Management Program can be established in an organization of any size.

Step 4 – Complete a workplace profile

It is important to complete an analysis of the workplace to gain an understanding of the accident / illness history and return-to-work practices. This is useful both in terms of identifying the workplace strengths and weaknesses, as well as for evaluation purposes.

When developing a workplace profile, it is important to consider:

- the workplace approach to re-integration of employees following injury or illness;
- the types of assistance presently available to employees returning to work;

- accident, injury or illness statistics, including the following:
 - annual number of accidents (consider 3-5 year history);
 - types of injuries and illnesses;
 - days lost due to injury or illness;
 - numbers of employees involved;
 - lost-time and no lost-time claims filed;
 - accident cost experience;
 - high-risk occupations;
- details on injuries and occupational diseases, such as the following:
 - nature of injury or disease;
 - part of body;
 - source of injury or disease; and
 - event or exposure.

Finally, based on the findings, determine the level of support required for program implementation.

The return-to-work coordinator will use this information to determine the number and type of physical restrictions that will most likely need to be accommodated. In addition, the information gained may be used to help identify accident prevention measures, and to establish a baseline for tracking program success.

[how to develop a disability management program]

Step 5 – Develop a policy and procedure manual

Documented policies and procedures provide guidance and facilitate the fair and consistent treatment of employees returning to work after an injury or illness. They also help promote the program, and reflect the workplace approach to an early and safe return-to-work. A comprehensive manual will include sections addressing the following topics:

- policy statement (also called a mission statement);
- goals and objectives;
- eligibility criteria;
- roles and responsibilities;
- program administration details/procedures;
- dispute resolution process; and
- program evaluation methods.

Step 6 – Analyze job tasks

For the purposes of developing a Disability Management Program, job task analysis is defined as the collection of information concerning work tasks to enable a step-by-step comparison of the demands of the job tasks with the capabilities of the employee. Job task analyses form an integral part of any workplace Disability Management Program, and the information gained is critical when developing appropriate return-to-work options for injured or ill employees.

When completing job task analysis for use in a Disability Management Program, it is often helpful to use forms designed for this purpose. One such form is included at the back of this booklet. These forms allow the systematic and organized collection of relevant data on individual jobs, including:

- work schedule;
- essential job functions;
- equipment, tools and materials handled;
- environmental conditions and hazards to which the worker may be exposed;

SAMPLE POLICY/MISSION STATEMENT*:

(company name) and (union name) recognize the responsibilities of both the company and the union towards disabled employees. The Disability Management Program is committed to providing an early return to productive employment for employees disabled through occupational or non-occupational injury or illness. The Disability Management Program will assist employees in achieving a timely and effective rehabilitation, while maintaining their personal dignity and financial stability. Additionally, this program will provide an effective means of managing health and disability related costs. This policy is intended to achieve effective disability management by ensuring: prevention, early intervention, ongoing case management and meaningful work consistent with the employee's physical capabilities without risk of re-injury or risk to others. Participation will not prejudice receiving the rights negotiated under the collective agreement.

* Source: *Policy Statement for disability management, The Fort St. John Division of Canfor, 1997*

For additional information and examples, please refer to the REHADAT Database available through NIDMAR's Web site: www.nidmar.ca.

[how to develop a disability management program]

[step 6 cont'd.]

- personal protective equipment required;
- duration and frequency of tasks performed;
- physical functions and activities required, such as the following:
 - lifting
 - bending
 - twisting
 - sitting
 - standing
 - walking
- critical worksite measurements; and
- modification and accommodation options available.

Within a Disability Management Program, job task analyses are used to:

- examine an employee's current job to ensure he can carry out the various tasks safely and effectively;
- determine whether a new job – to which an injured employee might be transferred for accommodation – is appropriate;
- provide information about physical job requirements for the employee's treatment providers;
- provide relevant information when modifying jobs, thereby ensuring an appropriate match with the abilities of the employee; and
- develop an inventory of job tasks for use when implementing individual return-to-work plans.

A simple job task analysis such as the one referred to here – for use in a Disability Management Program – can be conducted by any individual with basic training in this area. However, when more comprehensive and objective information is required, a formal job task analysis may need to be carried out by a qualified professional such as an Occupational Therapist, Physiotherapist, Kinesiologist or Occupational Health Nurse. This process will provide detailed and formally analyzed data on the physiological, psychological and environmental demands of the job and its tasks.

It is important to note that in addition to allowing a comparison of the physical demands of the job to the capabilities of the employee, job analysis also provides an opportunity to review workstations and work techniques. This assists with the identification of ergonomic risks or other hazards that need to be addressed to reduce the chance of injury in the future.

Remember – It is important that workers participate in their own job task analysis.

[how to develop a disability management program]

Step 7 – Identify return-to-work options

The following are some points to consider.

- Job duties assigned must be productive and meaningful.
- The placement should be transitional and time limited, directed towards a full return to the pre-accident job whenever possible.
- Completed task analyses should be used to identify suitable job modifications or accommodation options.
- The placement should emphasize the employee's capabilities rather than his limitations.

When identifying return-to-work options the primary goal is to return the employee to his pre-accident position. The following options are often considered when establishing individual return-to-work plans:

Gradual hours – The process of gradual reintegration to the workplace through a structured increase in hours of work to improve workday tolerance.

Assistive devices – Any materials, devices or equipment used to eliminate or reduce the restrictions and limitations caused by an injury or illness.

Job modification – Any change in the structure of duties that make up a job; may involve reorganization or elimination of tasks, physical changes to the work area and/or changes in the equipment used.

Transitional work program – A temporary accommodation to facilitate an injured or ill employee's safe transition to full employment hours and duties. The transitional work program may complement external treatment programs (physiotherapy, chiropractor) as appropriate.

Summary of return-to-work options:

1. Same employer, same job – full duties, full hours.
 2. Same employer, same job – transitional return-to-work program that includes the following:
 - a. gradual hours
 - b. temporary job modifications
 - c. temporary assistive devices
 3. Same employer, temporary different job – full duties, full hours.
 4. Same employer, different job – transitional return-to-work program that includes the following:
 - a. gradual hours
 - b. temporary job modifications
 - c. temporary assistive devices
- In the event that the injured or ill employee has a permanent work restriction, the following options should be considered:
5. Same employer, same job – permanent accommodations including the following:
 - a. job modifications
 - b. assistive devices
 6. Same employer, different job – permanent accommodations including the following:
 - a. job modifications
 - b. assistive devices
 - c. retraining

[how to develop a disability management program]

Step 8 – Create an information package and provide education sessions

This helps to ensure all employees are aware of the program and how it may assist them should they become injured or ill. In addition, these sessions help to inform co-workers and supervisors about the needs of injured or ill employees returning to work.

Topics covered should include the following information:

- the impact of accidents;
- benefits of Disability Management Programs;
- roles and responsibilities of team members;
- employee responsibilities;
- assistance the employee may expect with his return-to-work;
- name of contact person; and
- the return-to-work process;

Use all opportunities for promotion, such as the following options:

- employee orientation sessions;
- posters and promotional materials;
- employee newsletters;
- in-service educational sessions;
- department meetings; and
- union meetings.

Remember – After implementing the Disability Management Program, ensure it is being monitored and evaluated on an ongoing basis. Adjustments and revisions should be made as appropriate.

Individual Return-to-Work Plans

INDIVIDUAL RETURN-TO-WORK PLANS

In the case of workplace accidents the **employer** must ensure immediate first aid and/or medical assistance to the injured worker. In addition, both the employee and the employer must report the accident to the WHSCC. The accident should be investigated and recommendations to prevent further occurrences should be identified and acted upon.

The **return-to-work coordinator** is the workplace representative who will direct the return-to-work activities. The coordinator should be familiar with the employees, their work environment and the tasks that they are performing. In cases where it is not possible for the employee to communicate with the coordinator prior to leaving the workplace, contact is arranged as soon as possible, usually within 24 hours. Support is offered on behalf of the employer and information is provided on benefits and return-to-work services. An expected return-to-work date is discussed, if appropriate, as well as completion of the Return-to-Work form (*see sample form at back of booklet*).

The **employee** has a responsibility to fully participate in his treatment and the return-to-work plan by:

- attending medical appointments and following prescribed treatment;
- assisting with the development of his return-to-work plan; and
- participating in the plan and maintaining regular contact with the coordinator.

Health care providers play a crucial role in return-to-work programs. Their input is important with respect to identifying the employee's functional abilities and limitations, as well as providing a prognosis for recovery and recommendations for return-to-work planning.



Unions and employee representatives contribute by participating in the development of the return-to-work plan as well as representing the employee in matters of job security and re-employment options. They also serve an important role in providing education and promoting the benefits of Workplace Disability Management Programs.

In the case of an occupational injury or illness, the **WHSCC** may provide timely and effective case management services for the employee, ensuring that any return-to-work concerns are addressed. The WHSCC case manager plays a coordination role between the employee, the workplace coordinator, union representatives and health care providers. The case manager also advises the employee of his duties and responsibilities with respect to the claim, provides financial support as appropriate, arranges health and functional assessments as required, and provides vocational rehabilitation services when needed.

Return-to-Work Process

STEPS IN THE RETURN-TO-WORK PROCESS

Whenever possible, following an injury or illness, the employee should be provided with a return-to-work form to bring to his health care provider. The coordinator should also send a job task analysis which has been completed on the employee's job.

Upon receipt of the completed return-to-work form, the employee and the return-to-work coordinator will review the information and determine the most appropriate plan of action, based on the information and recommendations provided. Steps followed will include a review of the employee's functional information, along with the health care provider's recommendations, to determine whether a full return to work is appropriate. If yes, the employee resumes his duties. If the employee does not meet his job demands, the summary of return-to-work options outlined under Step 7 of "How to Develop a Disability Management Program" is reviewed to develop an appropriate return-to-work plan.

Here are some points to consider:

- Is the employee medically cleared to perform all job tasks but unable to tolerate a full shift?
- Is the employee cleared to perform some of his job tasks but not all tasks?
- Is the employee cleared to perform tasks that do not match the pre-accident or pre-illness position but match other temporary job postings in the workplace?
- Is the employee permanently restricted from his pre-accident duties?

The return-to-work coordinator is responsible to communicate the details of the plan, as appropriate, to all parties involved. Dependent upon who the information is to be shared with, a consent form may be required from the employee.

Individuals who should be informed about details of the return-to-work plan include the employee's supervisor, the WHSCC case manager, and the treatment provider (usually the employee's physician). In cases involving private long term disability or sick leave benefit carriers, their case management personnel may also need to be advised.

Once the employee has resumed working, ongoing monitoring of his progress is essential. As a general guideline, an average return-to-work program continues for a period of six to eight weeks, but this may vary depending on the entry level to the program (the worker's functional level upon commencement).

Ongoing communication with the employee, supervisor and treating physician (or other health care provider) is essential to monitor progress, and to immediately address any difficulties or concerns that arise.

In the event that the employee is not progressing, the return-to-work coordinator may need to obtain input from the health care provider to assist with establishing an alternate plan. In some cases, additional medical investigation may be required, or a functional evaluation may be indicated, to objectively determine the worker's abilities.

Dispute Resolution

DISPUTE RESOLUTION

Inevitably, disagreements may arise between the stakeholders involved in any Disability Management Program. Establishing an approach for dispute resolution *before it occurs* is important and allows the parties to deal effectively with problems as they emerge. To facilitate effective conflict resolution, it is advisable to have a formal dispute resolution policy in place.

Listed below is an example of a dispute resolution policy available from REHADAT Canada. For additional information and examples, please refer to the REHADAT Database available through NIDMAR's Web site: www.nidmar.ca.

Dispute Resolution Policy*

It is the responsibility of the joint committee to address disputes using the procedure outlined below.

1. Review policy and procedures. Make corrections where errors have occurred.
2. If a dispute arises within the committee, review goals and program objectives. All issues will be resolved through consensus. If necessary, outside assistance may be sought from a mutually agreed-upon source.



3. In the case of a dispute in medical assessments or reports, the committee will seek the opinion of an independent health care professional. Based upon this medical and physical assessment, the Disability Management Committee will make the final decision.
4. Seniority and contractual disputes will be referred to the local union plant committee and management personnel.

**Paraphrased from a policy statement for disability management, The Fort St. John Division of Canfor, 1997*

Using Job Task Analysis and Return-to-Work Forms

USING JOB TASK ANALYSIS AND RETURN-TO-WORK FORMS

Completion of job task analyses is important in the development of a Workplace Disability Management Program. Once a number of analyses are completed, the information collected becomes a “job bank” which contains important information on: the schedule, job functions, equipment and materials handled, environmental conditions and hazards, and physical demands of the various jobs within the company or organization. Having an inventory of completed job task analysis forms – covering all critical jobs – is an important first step to begin the process of identifying a safe return-to-work plan for injured or ill employees.

Having an inventory of completed job task analysis forms – covering all critical jobs – is an important first step to begin the process of identifying a safe return-to-work plan for injured or ill employees.

Before proceeding with the development of a return-to-work plan, information is required on the employee’s current functional abilities. An effective way of obtaining this information is through the use of a return-to-work form. Once completed by the health care provider, the return-to-work form will provide the coordinator with information needed to compare the employee’s



functional abilities – post injury or illness – to his pre-accident job duties. The return-to-work form specifically requests from the treatment provider information about the worker’s functional abilities and limitations, thereby helping to determine the most appropriate return-to-work plan.

Ideally, a job task analysis form (of the affected employee’s position) will accompany the return-to-work form sent to the health care provider. This enables the treatment provider to better understand the employee’s job demands.

Key Points for Success

KEY POINTS FOR SUCCESS

- Develop a list of clear steps to follow.
 - Encourage communication among all partners in the process.
 - Set up a contact schedule to monitor the progress and needs of the injured or ill employee.
 - Evaluate the Disability Management Program on a regular basis.
- The key to the success of any Disability Management Program is creating a partnership among all stakeholders, and having a shared commitment to the goal of returning injured or ill employees to suitable employment in a safe and timely manner.*
- Present the Disability Management Program as part of a benefit package.
 - Identify return-to-work opportunities early in the process.
 - Be positive and flexible: focus on capabilities rather than disabilities.
 - Promote a cooperative workplace environment.
 - Maintain contact with all partners and encourage participation.
 - Make sure the return-to-work tasks are appropriate for the employee's capabilities.
 - Have the employee assist in identifying suitable work.
 - Use the joint health and safety committee as a resource.
 - Ask the WHSCC for assistance.

For more information and assistance on setting up a Workplace Disability Management Program, call 1 800 222-9775 or your local WHSCC office and ask to speak with the Regional Director.

FAQ's

FREQUENTLY ASKED QUESTIONS

Who will pay the injured worker during the return-to-work plan?

Employers are encouraged to maintain the injured worker on regular salary and benefits during the implementation of the return-to-work plan. Remember that each individual return-to-work plan will have a schedule of specific time frames, with appropriate tasks assigned to those times. Past experience has shown that when injured workers are treated like their non-injured co-workers in all ways, including pay level, they are motivated to resume regular employment tasks earlier.

If the employer is unable or unwilling to maintain the injured worker's salary level during the return-to-work plan, the WHSCC may continue paying the worker. Generally, this is arranged between the coordinator and the WHSCC case manager on a case-by-case basis prior to the commencement of the program.

Past experience has shown that when injured workers are treated like their non-injured co-workers in all ways, including pay level, they are motivated to resume regular employment tasks earlier.

How can I afford to implement a Disability Management Program?

Workplaces which have successfully implemented Disability Management Programs report significant reductions in both short-term and long-term disability claims. The savings in both human and financial terms are substantial. While the financial benefits may not be obvious during the first year of the program's implementation, overall cost savings can be clearly identified through yearly claim cost comparisons.

Can the WHSCC or the employer force an injured worker back to work?

No, neither the WHSCC nor the employer can force an injured worker back to work. A suitable return-to-work plan must be developed for, and with the cooperation of, the injured worker. Workers are expected to participate fully in their rehabilitation programs and failure to do so may result in the suspension or reduction of loss of earnings benefits. Therefore, once it has been determined that the return-to-work plan is appropriate, the injured worker has a responsibility to carry out the plan.

Can a return-to-work plan be altered once it begins?

Yes, when changes are required, all members of the return-to-work team must maintain open lines of communication. Everyone must be fully aware of the intended modifications and these must be clearly outlined, including time frames for completion.

What happens if the return-to-work team is unable to identify alternate, suitable work for the worker?

Case management team members at the WHSCC are skilled in assisting workplaces to identify transitional and alternate employment options for injured workers. In particular, occupational therapists can provide expertise on job and workplace modification as well as gradual re-employment programs.

In the event that suitable employment opportunities are not available with the pre-accident employer, the rehabilitation specialist may assist injured workers to identify employment with a different employer. In addition, skill development and/or formal training may be necessary to prepare the worker for suitable alternate employment.

Does a Disability Management Program replace WHSCC case management services?

No, workplace-based Disability Management Programs do not replace the WHSCC's case management services. However, in conjunction with the WHSCC case management process, a Disability Management Program will facilitate the prompt and safe return-to-work of employees in your workplace should an injury occur. WHSCC staff will continue to act as a resource to your workplace and will provide assistance as needed throughout the return-to-work process.

How can the employer assist the worker in obtaining early access to physiotherapy and chiropractic treatment?

The WHSCC cannot authorize physiotherapy and chiropractic treatments unless the claim has been accepted as a work-related injury. This may pose a problem for some workers who need treatment but are unable to pay for it themselves. Employers can help by agreeing to pay the cost of physiotherapy and chiropractic treatments directly to the clinic until the WHSCC has made its adjudication decision.

Human Rights legislation requires the employee with the disability, as well as his union (if applicable), to co-operate and participate in the accommodation process.

What are the employer's legal requirements to re-employ a disabled employee?

The duty to accommodate injured and disabled workers is a legal obligation that stems from provincial and federal human rights legislation, as well as Supreme Court of Canada rulings. Employers and unions in New Brunswick are required to make every reasonable effort, short of undue hardship, to accommodate an employee covered by a protected ground of discrimination within human rights legislation, which includes physical or mental disability. This duty applies to employers of all sizes and is not time limited.

Human Rights legislation requires the employee with the disability, as well as his union (if applicable), to co-operate and participate in the accommodation process. However, the primary responsibility rests with the employer because it has the ultimate control over the workplace. The duty to accommodate requires an employer to determine whether existing positions can be adjusted, adapted or modified for the employee, or whether there are other positions in the workplace that may be suitable. To help prove an employer's accommodation efforts were genuine, a four-step process is used:

1. determine if the employee can perform his existing job "as is";
2. if not, determine if he can perform his existing job in a modified or "re-bundled" form;
3. if not, determine if he can perform another job in its existing form; and
4. if not, determine if he can perform another job in a modified or "re-bundled" form.

[faq's]

In New Brunswick, when the disability is caused by an accident or illness covered under the provincial *Workers' Compensation Act*, there are additional legislative requirements to accommodate the worker. Re-employment provisions, outlined below, can be found in section 42.1 of the *Workers' Compensation Act*.

- Employers with at least 10, but fewer than 20 employees, where a worker, other than one doing construction work in the construction industry, has been employed by the employer for at least one year, shall permit the worker to resume employment in his pre-accident, or equivalent, position – with no decrease in pay and no loss of seniority or benefits – for a period of one year from the date the worker became entitled to compensation payments.
- Employers with 20 or more employees, where a worker, other than one doing construction work in the construction industry, has been employed by the employer for at least one year, shall permit the worker to resume employment in his pre-accident, or equivalent, position – with no decrease in pay and no loss of seniority or benefits – for a period of two years from the date the worker became entitled to compensation payments.

- If, in the opinion of the Commission, the worker is unfit for the pre-accident position, the employer shall permit the worker to resume work in suitable employment that may become available, with no loss of seniority or benefits. The employer is bound by this requirement for a period of either one or two years, depending on the size of the workforce (10-20 employees = 1 year / 20 or more employees = 2 years). Workers doing construction work in the construction industry are covered under a separate section.
- Within the time frames specified above no employer shall dismiss, suspend, lay off, penalize, discipline or discriminate against a worker because the worker suffered a personal injury by accident which is covered by the *Workers' Compensation Act*.
- Where there is a conflict between section 42.1 and a provision of a collective agreement that is binding on an employer, or the policies and practices of an employer that apply to the worker, and the legislation contained in section 42.1 provides the worker greater rights, that legislation shall prevail.

Note: The provisions of section 42.1 are considered to be included within the *Employment Standards Act* and are enforced in accordance with that *Act*.

- * This information is provided as an overview of the referenced section of the *Workers' Compensation Act* only; please see applicable sections of the legislation for details.

Works Consulted

WORKS CONSULTED

Dyck, Dianne E. G., *Disability Management: Theory, Strategy and Industry Practice*. Markham, Ontario: Butterworths Canada Ltd., 2000

National Institute of Disability Management and Research (NIDMAR), *Disability Management in the Workplace, A Guide to Establishing a Joint Workplace Program*, Port Alberni: NIDMAR, 1995

National Institute of Disability Management and Research (NIDMAR), *BEST PRACTICES CASE STUDY: Implementing a Disability Management Program in Industry*, NIDMAR, 1996

Workers' Compensation Board of Nova Scotia, *Return-to-Work Programs – A Workplace Development Manual*, Halifax, NS: Workers' Compensation Board of Nova Scotia, 1999

Sleeth, Jane E., *RETURN TO WORK COMPLIANCE TOOLKIT*, Toronto, Ontario: Thompson Canada Limited, 2001

NIDMAR Web site: <http://www.nidmar.ca>

NIDMAR Web site: <http://www.dm-edge.com/db/policies.asp>

APPENDIX
Accident Cost Iceberg



Job Task Analysis Form

Date:	Employer:
Position Title:	Supervisor:

Work Schedule						
Sunday <input type="checkbox"/>	Monday <input type="checkbox"/>	Tuesday <input type="checkbox"/>	Wednesday <input type="checkbox"/>	Thursday <input type="checkbox"/>	Friday <input type="checkbox"/>	Saturday <input type="checkbox"/>
Full Time <input type="checkbox"/> Part Time <input type="checkbox"/> Seasonal <input type="checkbox"/> Details:						
Shift details (start time + duration):						
Rest / lunch breaks (when + duration):						
Schedule information (include consecutive days worked / days off / plus shift rotation details):						

Essential Job Functions

Equipment, Tools and Materials Handled

Environmental Conditions Checklist					
Indicate by checkmark (√) the percentage of workday exposure to each of the conditions / hazards listed					
Category of Hazard	Environmental Conditions / Hazards	No Exposure	0 to 33% Occasional	34 to 66% Frequent	67 to 100% Constant
Chemical Hazards	Gases / Vapors				
	Dusts / Fumes				
	Liquids / Solids				
Biological Hazards	Mould				
	Bacteria				
	Body fluids				
Physical Hazards	Outdoor weather conditions				
	Wet, humid conditions (Indoor industrial environment)				
	Extreme cold (Indoor industrial environment)				
	Extreme heat (Indoor industrial environment)				
	Work near moving mechanical parts				
	Risk of electric shock				
	Risk of radiation				
	Work at heights				
Vibration					
Physical Hazards	Noise levels	Below 85dB(A) <input type="checkbox"/>	Above 85dB(A) <input type="checkbox"/>	Unknown <input type="checkbox"/>	

Note: In New Brunswick hearing protection is required for noise exposures greater than 85dB(A) dB(A) = decibels on the A scale.
(As an example, a noise level of 85dB(A) would require raising one's voice to be heard at a distance of 3 feet.)

Personal Protective Equipment Required

Motor Vehicle Operation Requirements
Ability to operate a motor vehicle required? Yes <input type="checkbox"/> No <input type="checkbox"/> Type of Vehicle(s):

Critical Worksite Measurements

Physical Demands Checklist

Indicate by checkmark (✓) the percentage of workday duration of the activity being analyzed

Physical activity (work positions)	Not required	Occasional 0 to 33%	Frequent 34 to 66%	Constant 67 to 100%
Sitting				
Standing				
Walking (even ground)				
Walking (uneven ground)				
On feet				
Twist				
Bend / Stoop				
Squat				
Kneel				
Crawl				
Reach (forward)				
Reach (overhead)				
Reach (to side)				
Reach (across body)				
Balance				
Handling (simple grasp)				
Handling (firm grasp)				
Fine finger manipulation				
Operates foot controls				
Climb (stairs)				
Climb (ladders)				

Physical activity (strength level requirements)	Push	Pull	Lift (floor to waist)	Lift (floor to above shoulder)	Lift (waist to waist)	Lift (waist to above shoulder)	Carry
Sedentary (occasional: 1 - 10 lbs)							
Sedentary (frequent: less than 1 lb)							
Sedentary (constant: less than 1 lb)							
Light (occasional: 11 - 20 lbs)							
Light (frequent: 1 - 10 lb)							
Light (constant: less than 1 lb)							
Medium (occasional: 21 - 50 lbs)							
Medium (frequent: 11 - 25 lb)							
Medium (constant: 1 - 10 lb)							
Heavy (occasional: 51 - 100 lbs)							
Heavy (frequent: 26 - 50 lbs)							
Heavy (constant: 11 - 20 lbs)							
Very Heavy (occasional: over 100 lbs)							
Very Heavy (frequent: over 50 lbs)							
Very Heavy (constant: over 20 lbs)							

Additional Comments

Job Modification / Accommodation Options

Completed by

Date:	Name:
Position:	Signature:

Return-to-Work Form

Employee's name:	Employer:
Occupation:	Date of current injury / illness:
Return-to-Work Coordinator:	Fax #:

Employee Consent	
I hereby authorize and request my treating physician (named below) to complete this form and release information concerning my physical abilities and limitations to my employer (named above) for the purpose of assisting with my return-to-work program and the identification of safe return to work options.	
Employee's name:	Signature:
	Date:

The following sections are to be completed by treating physician	
Please enter your billing information below — including your fee for completion of this form as recommended in the <i>NBMS Physician's Guide to Direct Billing</i> fee schedule for completion of disability forms.	
Once completed, please:	
1. Return this document to your patient, <u>OR</u>	
2. Fax it to the attention of the Return-to-Work Coordinator at the fax number indicated above	
Physician's name:	Fee:
Physician's signature:	Date:
Address:	
Telephone:	Fax:

Findings and Recommendations	
Diagnosis:	
<input type="checkbox"/> Return to full regular work duties	
<input type="checkbox"/> Time limited gradual return to regular work: _____ hours per day X _____ days per week, for _____ weeks	
<input type="checkbox"/> Return to modified / alternate work for _____ week(s) (Please complete checklists below, identifying abilities and limitations)	
Follow-up: <input type="checkbox"/> None <input type="checkbox"/> Myself (appointment date: _____)	
<input type="checkbox"/> Dr. _____ in _____ days _____ weeks	
<input type="checkbox"/> Unable to return to work at this time	
Follow-up: <input type="checkbox"/> None <input type="checkbox"/> Myself (appointment date: _____)	
<input type="checkbox"/> Dr. _____ in _____ days _____ weeks	

<i>Please indicate by checkmark (✓) any limitations in the activities listed below</i>			<i>Please indicate by checkmark (✓) employee's current physical abilities level in areas listed below (See definitions on reverse)</i>					
Physical activity	No Limitations	Limitations	Physical activity	Sedentary	Light	Medium	Heavy	Very Heavy
Prolonged sitting			Push					
Prolonged standing			Pull					
Prolonged walking			Lift					
Twisting			Carry					
Squatting			Medications / conditions impacting safe job performance:					
Kneeling								
Bending								
Overhead reaching								
Climbing / work at heights								
Fine finger manipulation								
Repetitive use of upper extremities								
Repetitive use of lower extremities								
Other (specify)			Additional comments:					

PHYSICAL DEMANDS - STRENGTH RATING

Sedentary Work* - Exerting up to 10 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time) and/or a negligible amount of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) to lift, carry, push, pull, or otherwise move objects, including the human body. Sedentary work involves sitting most of the time, but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

Light Work* - Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to a significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or (3) when the job requires working at a production rate pace entailing the constant pushing and/or pulling of materials even though the weight of those materials is negligible. NOTE: The constant stress and strain of maintaining a production rate pace, especially in an industrial setting, can be and is physically demanding of a worker even though the amount of force exerted is negligible.

Medium Work* - Exerting 20 to 50 pounds of force occasionally, and/or 10 to 25 pounds of force frequently, and/or greater than negligible up to 10 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Light Work.

Heavy Work* - Exerting 50 to 100 pounds of force occasionally, and/or 25 to 50 pounds of force frequently, and/or 10 to 20 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Medium Work.

Very Heavy Work* - Exerting in excess of 100 pounds of force occasionally, and/or in excess of 50 pounds of force frequently, and/or in excess of 20 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Heavy Work.

*Source: U.S. Department of Labor's Dictionary of Occupational Titles (4th Ed., Rev. 1991) -- APPENDIX C