

**PERSONNEL POLICIES AND PROCEDURES
OREGON MILITARY DEPARTMENT
AGP Policy 99.100.06**

Subject: Early Return to Work

Applicability: State Employees

Effective Date: 1 December 2010

I. **PURPOSE:** To establish a policy to return Oregon Military Department (OMD) employees who are injured on the job to their regular position or to a modified/transitional position as soon as possible following a work related injury or illness.

II. **GENERAL POLICY:** OMD encourages and supports returning employees with work-related injuries or illnesses as quickly as possible. When injured workers cannot perform regular job duties but can perform other useful tasks, modified/transitional work or a modified work schedule will be offered.

III. **AGENCY GOALS:**

- Provide transitional assignments or temporarily modified work while the employee is recovering.
- Identify tasks for temporary light duty work assignments for injured employees.
- Minimize serious injury or illness and reduce costs.

IV. **DEFINITIONS:**

A. **Treating Physician:** The doctor, physician, or physician assistant primarily responsible for the injured workers care related to a compensable on-the-job injury.

B. **Available and Suitable:** A position meeting the employees medical restrictions, that is most similar to the former position in terms of; compensation, duties, responsibilities, skills, location, duration (full or part-time, temporary or permanent and shift).

C. **Compensable Injury or Illness:** An injury or illness which has been accepted by the State Accident Insurance Fund (SAIF) as an on-the-job injury/illness.

D. **Medically Stationary:** Treating physician's declaration of no further material improvement in condition resulting from an on-the-job injury/illness.

E. **Modified Position:** Work temporarily modified for the employee to meet the restrictions imposed by the treating physician.

F. **Permanent Restrictions:** Medical restrictions as determined by the treating physician.

G. **Reemployment:** The return of an employee who has sustained a compensable injury and is disabled from performing the duties of the employee's former position to an available and suitable position.

H. **Reinstatement:** Return of an employee who has sustained a compensable injury to the employees former position per ORS 659A.043.

I. **SAIF FORM 801:** Claim form initiated by the employee for a work related injury or illness that requires medical treatment.

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J. Injured Worker List: A list of employees injured while employed with a state agency, who are unable to return to their former positions due to compensable, work-related injuries or illnesses. The employee must not have waived re-employment rights in accordance with state workers' compensation laws.

V. RESPONSIBILITIES:

A. The Adjutant General: Has overall responsibility to ensure the Department is in compliance with this policy.

B. The Director of State Personnel: Manages the implementation of this policy.

C. The Safety Manager:

1. Acts as the liaison between the Agency, SAIF Corporation, DAS-Risk Management, Department of Justice, Treating Physician, the Supervisor/Manager and the injured worker.

2. Manages the injured workers return to their regular position or to a modified/transitional position following an on-the-job related injury/illness.

3. Reviews temporary modified/transitional work assignments every 30 days or sooner if needed with the goal of a return to full performance of essential job functions within 90 days.

4. Each modified/transition work assignment will be managed on a case-by case basis.

5. Utilize to the fullest extent possible, the Employer-at-Injury Program and Preferred Worker Programs administered by the Department of Consumer & Business Services, Workers Compensation Division for the purposes of wage subsidy, worksite modification and reimbursement for related purchases.

D. Directors, Managers and Supervisors:

1. Immediately notifies the Safety Manager of any work-related incidents/injuries/illnesses.

2. Completes Report of Incident/Accident/Illness form as quickly as possible.

3. Corrects any hazards.

4. Completes all needed paperwork.

5. Gives employee Injured Worker Packet which contains agency information relating to on-the-job injuries.

6. Maintains contact with injured worker and the Safety Manager.

7. Finds modified/transitional work for employees within three (3) days of being released to transitional work.

8. Monitors recovery and need for modified/transitional duty.

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E. Employees:

1. Notify their Supervisor/Manager immediately of any work related accident/injury/illness whether or not it results in the need for medical attention. Complete necessary forms obtained from supervisor.
2. Complete SAIF 801 immediately upon seeking medical attention for a work related injury/illness.
3. Review Injured Worker's Responsibility Form and complete Injured Worker's Checklist in Injured Worker Packet (Attachment to this Policy).
4. Comply with all instructions given by treating physician.
5. Return to work immediately after being released by treating physician to regular work.

VI. EARLY RETURN TO WORK:

- A. Injured employees are provided a temporary modified/transitional position that is available and based on the limitations imposed by the treating physician.
- B. Injured employee is provided a written offer of temporary modified position based on physician's restrictions.
- C. Injured employee's modified position and medical restrictions are reviewed no less than once every 30 days by the Safety Manager.

VII. TERMINATION OF TEMPORARY MODIFIED POSITION:

The employee's temporary modified position will end when any of the following occur:

- A. The employee's treating physician releases them to their regular duties.
- B. SAIF denies the claim.
- C. The transitional work assignment can no longer be provided by the agency.
- D. The treating physician determines the employee to be medically stationary with permanent restrictions or releases the employee to suitable employment.

VIII. REINSTATEMENT/REEMPLOYMENT RIGHTS:

- A. An injured worker shall:
 1. Have the right to reinstatement/reemployment under ORS 659A.043, 659A.046, 659A.052 and DAS Policy 50.020.03, Reinstatement and Reemployment of Injured Workers.
 2. Have the right to reinstatement to the injured worker's former position or reemployment to an available, suitable position and to placement on the injured worker list for positions in entry-level classifications.

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3. Has a compensable injury or illness that occurred in the course and scope of their duties as a state employee; and
 - a. Has a written release for work from the treating physician that clearly indicates the worker may return to the former position (reinstatement), or has medical restrictions preventing the worker from returning to the former position, but is medically released to other suitable positions (reemployment); and
 - b. Makes a timely written demand in accordance with Section (2) (a) (A) of DAS policy 50.020.03 to their supervisor, AGP or appointing authority for reinstatement or reemployment.
4. Notify AGP within 10 calendar days when the need arises to correct or change the employee's placement on the injured worker list, or to change the injured worker's name, address or phone number. The worker shall also notify the employer if they participate in vocational assistance under ORS 656.340, resigns or abandons employment with the State, or accepts a suitable position outside of the Executive Branch.

B. Loss of reinstatement/reemployment rights occurs when the employee:

1. Cannot return to the former position, (loss of reinstatement rights) or cannot return to or be placed in any position within the Executive Branch (loss of reemployment rights); or
2. Is eligible for and participates in vocational assistance under ORS 656.340; or
3. Accepts suitable employment with another employer (not an agency within the Executive Branch of the State of Oregon) after being released to suitable employment; or
4. Fails to request reinstatement/reemployment within seven (7) calendar days from the date the employee is notified by SAIF (by certified mail) that their treating physician has released them for employment.
5. In accordance with OAR 839-006-0131 clearly and unequivocally abandons employment with the state; or
6. In accordance with OAR 839-006-0131 has been discharged for bona fide reasons not connected with the injury and for which others are or would be discharged; or
7. Three year have elapsed since the date of injury or three years elapse since the date a worsened condition occurred according to ORS 656.273.

IX. STATEWIDE INJURED WORKER LIST:

- A. Employees who are unable to return to their job at injury are placed on statewide injured worker lists for which they are qualified, when the employing agency is unable to provide suitable work (DAS Policy 50.020.03 Section (2) (c) (b)).

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B. In the event OMD and the injured worker agree that an offered position is not suitable via the process described in DAS Policy 50.020.03 Section 2(d) (E-F), the injured worker remains on the injured worker list until such time as provisions of Section 1(e) (C) of DAS Policy 50.020.03 are met.

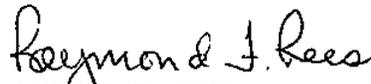
C. A managerial or supervisory position may be a suitable position for a returning injured worker whose former position was managerial or supervisory.

D. Preference shall be given to qualified injured state workers over all applicants for positions in any agency of the Executive Branch of the State of Oregon. Exceptions are other injured workers and employees entitled to appointment to the position pursuant to provisions or other employment restrictions of an applicable collective bargaining agreement.

E. A position is not available or vacant if another worker has a prior right to that job under a seniority or employment restriction provision of a valid collective bargaining agreement or if the agency previously identified the position for abolishment.

F. The State has no obligation to create a job for an injured worker.

G. Nothing in this policy prohibits OMD from offering an available, suitable position to an injured worker prior to the injured worker making a demand for reemployment when OMD reasonably anticipates that the injured worker will not be able to return to the injured worker's former position.



RAYMOND F. REES
Major General
The Adjutant General

Attachment: Injured Worker Packet