

**RETURN TO WORK, INTERACTIVE PROCESS,
AND DISABILITY MANAGEMENT PROGRAM**

Statement of Policy

It is the policy of the County of Kern to provide employees who have suffered illnesses or injuries that temporarily limit their ability to perform normal job duties with temporary limited duty assignments, regardless of whether the injury or illness is industrially related.

It is also the policy of the County of Kern to provide reasonable accommodation to employees who are permanently incapacitated for the performance of their job duties with modified or available alternate work that is within their medical restrictions and for which they are qualified. If an employee is unable to return to work, it is the policy of the County to separate the employee from employment without unreasonable delay while minimizing, if possible, hardship to an employee permanently incapacitated for the performance of job duties.

This policy shall be implemented with the leadership and support of a Disability Management Team (as defined herein) and in cooperation and collaboration with affected County departments through an interactive process with disabled employees.

1. Objectives of the Return to Work Program.
 - 1.1. Safely return injured or disabled employees to work as soon as possible.
 - 1.2. Minimize financial hardship and promote positive reinforcement and emotional support for disabled employees by providing an opportunity for continued productive employment.
 - 1.3. Assist permanently disabled employees to return to work in a position providing similar status and salary if available within their medical restrictions and for which they are qualified.
 - 1.4. Retain qualified and experienced County employees, while respecting the staffing needs and constraints of the County departments that are the appointing authorities.
 - 1.5. Comply with the County's legal obligations under the Americans with Disabilities Act and the California Fair Employment and Housing Act.
 - 1.6. When appropriate, reduce the cost of disability retirement benefits borne by the County and the Kern County Employees' Retirement Association.
 - 1.7. Encourage proper use of the Workers' Compensation system.
 - 1.8. Separate from employment those employees whose injuries or illnesses preclude performance of the usual and customary job duties, and there is no reasonable and available accommodation that permits either permanent modification to the employee's position to accommodate medical restrictions or alternate employment within the County.

2. Definitions.

2.1 *Adjuster*. An employee or independent contractor of the County Counsel/Risk Management Division that handles Workers' Compensation claims.

2.2 *Accepted Medical Provider*. Any person, other than a relative of the injured/ill employee, who is properly licensed and recognized by the law of the state in which treatment is received, is qualified to treat the disabling illness or injury, and is providing treatment and care that is necessary to resolve the disability. Accepted Medical Provider may also include physicians selected by County Counsel/Risk Management (Workers' Compensation) or the Personnel Department when conducting a Fitness for Duty exam; provided, however, an employee referred for a Fitness for Duty exam shall in no case be referred to a physician currently treating the employee for a Worker's Compensation injury.

2.3 *Alternate Work*. A permanent change in classification of an employee who is medically precluded from doing his or her regular job duties and whose position cannot be permanently modified to accommodate medical restrictions

2.4 *Disability Management Team*. A committee consisting of the County Counsel/Risk Management, County Administrative Officer and Director of Personnel, or their designees, with the responsibility of overseeing the County's Return to Work and Disability Management Program. The County's Disability Coordinator shall facilitate the activities of the Team.

2.5 *Disability Coordinator*. An employee or independent contractor of the County who is trained and experienced in providing disability case management services, including evaluation, training and placement.

2.6 *Employee*. Any employee of the County of Kern temporarily or permanently disabled from the full performance of job duties by reason of injury or illness; provided that only an employee with permanent status (as defined in Civil Service Rule 100) will be placed in an alternate work position within the classified service.

2.7 *Medical restrictions*. Any restrictions placed on the activities of the employee imposed by an accepted medical provider due to the employee's illness or injury.

2.8 *Modified Work*. A permanent change in job duties and/or environment as a reasonable accommodation to a county employee. Modified work may also include transferring the employee to another department when there is a vacancy within the same classification and the job duties in the receiving department may be performed within the employee's medical restrictions.

2.9 *Reasonable Accommodation*. The accommodation necessary to permit a disabled employee to perform the essential functions of his or her job. As a last resort, reasonable accommodation includes appointment to a vacant position (i.e., alternate work) if the employee is otherwise qualified to perform the job duties of the vacant position.

2.10 *Limited Duty*. Modified and/or part-time duties assigned when an employee has temporary medical restrictions precluding full performance of job duties, and such restrictions extend beyond a

ten (10) day period, but whose accepted medical provider indicates the employee is expected to return to full or permanently modified duty and is released to limited work for a minimum of four (4) hours per day.

3. Responsibilities of County Departments.

Each department head or his or her designee shall be responsible for implementing the programs encompassed in the Return to Work Policy, including the Limited Duty program, the Modified Work program, and the Alternate Work program, as follows:

3.1 Report of Disability. Provide a quarterly report to the Disability Coordinator, listing employees in the department who either have been off work due to injury or illness or have been on limited duty for a consecutive thirty (30) calendar day period.

3.2 Collaborate with the Disability Management Team to provide limited duty assignments as set forth in section 6 to temporarily injured employees and to those employees who are eligible for placement in alternate work positions.

3.3 Cooperate in good faith with the Disability Management Team to meet the County's obligations to its injured employees.

3.4 With the assistance of the Disability Management Team, consider permanent job modifications to accommodate employees permanently disabled for the full performance of their job duties.

3.5 With the assistance of the Disability Management Team, consider permanently placing an employee who is permanently incapacitated for the duties of the position for which he/she was hired, when there is available a suitable vacancy within the department.

3.6 When it has been determined that permanent modified work is unavailable, file an application for disability retirement on behalf of the employee.

4. Functions of County Disability Management Team.

State and federal law imposes obligations on an employer to provide reasonable accommodation to disabled employees. The Labor Code additionally provides incentives for making timely offers of permanent modified or alternate work. In order to ensure prompt compliance with law and to meet the objectives of this program, the Disability Management Team is comprised of representatives of departments with specialized knowledge and expertise and is charged with the responsibility to:

4.1 Develop administrative procedures to aid in the administration of this program for recommendation to the Board of Supervisors. Such administrative procedures shall incorporate necessary processes to comply with applicable federal, state, and local laws, regulations, and policies regarding confidentiality of medical information and privacy rights of employees.

4.2 Educate, communicate and consult with employees, affected departments, adjusters, Accepted Medical Providers, and others as deemed appropriate and necessary for program implementation.

4.3 After soliciting and considering the preferences and constraints of affected departments and employees, identify appropriate modified or alternate work for permanently disabled employees and prepare placement plans that meet the needs of the affected department and employee. Such placement plans shall be based on the ability of the employee to perform the essential functions of the assignment within his/her medical restrictions.

4.4 Collect, maintain, and organize data to demonstrate the program's effectiveness in meeting its stated goals.

4.5 Recommend distribution of funds from the Workers' Compensation Budget Unit 8990 as necessary and appropriate to reimburse departments for disability costs.

4.6 Annually, or more often as appropriate or requested, report program results to the Board of Supervisors.

5. Responsibilities of the Employee.

An employee shall:

5.1 Promptly and timely report to his or her supervisor any reduced ability or inability to perform his or her full job duties due to an injury or illness, whether or not medical care is anticipated. An employee is expected to make such a report in order to facilitate provision of reasonable accommodation and to ensure that the supervisor can arrange for coverage in the event of the employee's absence.

5.2 Provide the supervisor or the designated department contact person with specific and job-related information from an Agreed Medical Provider such as the employee's functional abilities, limitations, and prognosis for full return to duty. Such information shall be provided within one (1) business day of the employee's receipt of such reports or, if a report is requested by the employer, the employee shall make reasonable and diligent efforts to provide such a report within five (5) business days of the request. If released to return to work with temporary medical restrictions, employee shall agree that a limited duty assignment typically will not exceed six (6) months' duration.

5.3 Contact the supervisor or the designated department contact person no less than monthly if the injury requires absence from work to provide the department with an update on the employee's prognosis for returning to limited or full duty.

5.4 Comply with personnel rules and policies as directed by the supervisor or designated department contact person and ensure that leaves of absence forms are submitted on a timely basis.

5.5 Report any changes in address or phone number immediately to his or her supervisor or designated department contact.

5.6 Comply with all safety regulations imposed by the department.

5.7 Comply with all medical restrictions imposed by medical treatment providers.

5.8 Cooperate fully with the County's Disability Coordinator, Personnel Department, the

appointing department, and the Disability Management Team, including reporting at times and places specified for vocational assessments, medical evaluations, and limited duty assignments.

Failure by an employee to comply with the employee requirements of this Policy may be grounds for disciplinary action, up to and including dismissal.

6. Limited Duty.

Limited Duty assignments shall be provided by the appointing department when medical prognosis indicates that the employee is expected to return to full or permanent modified duty but has temporary medical restrictions that preclude full performance of regular job duties, unless the appointing department cannot timely identify a Limited Duty assignment. Accordingly, Limited Duty assignments typically will not exceed six (6) months' duration unless an extension is approved by the Disability Coordinator. Employees in a Limited Duty capacity working full-time will continue to receive the salary and benefits of their regular job classification. Except as otherwise required for exempt employees and employees entitled to wage loss replacement pursuant to the Labor Code, employees in a Limited Duty capacity working part-time who are otherwise employed on a full-time basis shall be paid only for hours worked and shall be considered as being on work furlough as specified in Kern County Administrative Procedures Manual section 138.2 for purposes of determining the effect of the temporary part-time work schedule on the employee's other employment benefits and/or status. Employees eligible for benefits pursuant to Labor Code section 4850 shall be entitled to full pay and benefits while working a temporary part-time schedule.

The Disability Management Team will review information provided by an Accepted Medical Provider regarding when the employee can return to work and the medical restrictions applicable. The Disability Coordinator shall assist the department when necessary to develop an appropriate Limited Duty assignment. It shall be the responsibility of the employee and the supervisor(s) to ensure compliance with the medical restrictions.

If the appointing department is unable to timely identify a Limited Duty position for the temporarily injured employee, the Disability Coordinator shall determine whether there are other departments which have Limited Duty positions available within the employee's medical restrictions. If the employee is assigned to another department, the appointing department shall remain the employer and be responsible for payment of salary and benefits while the employee is on Limited Duty with the receiving department. The receiving department shall provide supervision and complete Employee Performance Evaluation Reports and other forms as may be required under the County's Civil Service Rules and personnel policies.

Appointing departments may also provide Limited Duty assignments to employees pending disability retirement or permanent placement through the Modified or Alternate Work Program.

7. Interactive Process Meeting.

The employee and appointing department shall meet with the Disability Coordinator to discuss permanent modified and alternate work assignments. The Disability Coordinator shall prepare a written report documenting the County's efforts to provide reasonable accommodation through modification of job duties or environment and, if modification of the position is not possible, through offer of alternate work. The report shall be submitted to the Personnel Department for placement in the employee's permanent record.

8. Modified and Alternate Work Program.

A County department or adjuster receiving permanent medical restrictions on any employee shall provide that information immediately to the employee's appointing authority and the Disability Coordinator. The Disability Coordinator will consult with the department and the employee and (when necessary) obtain additional clarification or information regarding an employee's medical restrictions in order to determine whether a permanently modified duty assignment is appropriate. An employee shall not be eligible for a permanent modified duty assignment if the employee is medically precluded from performing the essential functions of the position with reasonable accommodations.

Outside specialists in determining appropriate job modifications or alternate job placements may be retained by the Disability Coordinator and the costs shall be paid by the appointing department. In the event the appointing department offers a permanent modified job, it may be reimbursed for such costs pursuant to section 10 herein.

When possible, permanent modifications of an employee's regular position shall be a preferred result to placement in an alternate position. However, if it is determined that the employee's job cannot be modified, the Personnel Department shall seek suitable alternate work positions within the County by reviewing and identifying funded positions for which the employee is qualified and medically able to perform that are or become vacant within the County during the thirty (30) day period following a determination that permanent modified work is not available. Alternate work positions which result in an increase in salary shall not be offered through the Return to Work and Disability Management Policy although any employee is entitled to pursue a promotion through the established competitive process.

Written offers of alternate work may be made contingent on receipt of medical approval by the employee's treating physician or other accepted medical provider.

If the appointing department determines that permanent modifications can be made to the employee's job and/or job environment or, if modification is not possible, that a vacant position within the department is available for which the employee is qualified, the Disability Coordinator shall assist the appointing department in preparing an offer and description of the modified or alternate work assignment for signature by the employee.

9. Alternate Work Placement.

The Disability Management Team, based upon the level of transferable skills, knowledge and abilities of the employee, shall determine an appropriate training period in the alternate work placement, which shall not be less than one month. The Disability Management Team shall consult with the original appointing department and the receiving department in establishing the length of the training period. The receiving department shall establish reasonable criteria for the employee's successful completion of the training period. Pending completion of the training period, the employee shall remain on the payroll of the original appointing department in the position for which the employee is incapacitated. If the training period is successfully completed, the appropriate personnel transaction, as designated in the offer of alternate work, shall be completed. In the event the employee fails to successfully complete the training period in the alternate work placement, the employee shall return to his or her original position.

The original appointing department shall remain responsible for Workers' Compensation costs associated with any aggravation of the injury incurred while employed in that department, as determined by the Disability Management Team.

It is the desire of the County of Kern that employees eligible for alternate work placement pursuant to this policy be placed in a position as near as possible to the salary and status as that from which the employee is incapacitated.

10. Department Costs for Disability Management.

Certain costs incurred in providing limited, modified, or alternate work pursuant to this Policy for industrially injured or ill workers shall be reimbursed to departments from the Workers' Compensation Budget Unit 8990. The Disability Management Team may make recommendations to the County Administrative Office to establishing criteria for reimbursement of funds. Costs which may be reimbursed include, but are not limited to, acquisition of equipment for use by a disabled employee, making modifications to a work environment, and ergonomic assessments. Costs incurred in providing limited, modified, or alternate work pursuant to this Policy for non-industrially injured or ill workers shall be borne by the appointing department.

11. Separation from Service Due to Disability.

With the advice and assistance of County Counsel, the appointing department shall file an application for disability retirement on behalf of an employee who is eligible for such a benefit if, after thoroughly examining whether permanent modified work can be provided to an injured employee, it is determined that the employee's medical restrictions cannot be accommodated. Prior to filing an application, the appointing department shall document efforts at accommodation and why those efforts were deemed unsuccessful and shall provide that information to the Board of Retirement of the Kern County Employees' Retirement Association.

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