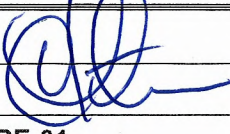

 Yukon Workers' Compensation Health and Safety Board	Part:		Return to Work & Rehabilitation		
	Board Approval:		Effective Date:	July 1, 2008	
	Number:	RE-01	Last Revised:		
	Board Order:		Review Date:		

**RETURN TO WORK - OVERVIEW**

**REVOKED**  
  
**JAN 01 2010**  
 Replaced with RE-01 Jan 1/10

***When referencing any of the return to work policies (RE-01 to RE-13), it is important to recognize the responsibilities of the employer and worker within the context of the complete return to work process. Therefore, the whole return to work model must be considered in its entirety and not only the specific guidelines under an individual policy.***

**GENERAL INFORMATION**

Return to work is a proactive approach to helping injured workers return to safe and productive work activities as soon as it is physically possible. It is a partnership involving employers, workers, health care providers, unions, and the Yukon Workers' Compensation Health and Safety Board (YWCHSB). The YWCHSB provides return to work services and programs to injured workers; the primary goal of which is to safely return each worker to employment or employability that is comparable to the pre-injury level as soon as possible. With effective return to work planning, the human and financial costs associated with workplace injury are significantly reduced.

It is critical for employers to understand that, under the *Human Rights Act*, every employer has a duty – to the point of undue hardship -- to accommodate injured workers, regardless of disability type.

As of its effective date, this policy applies to all workers and employers covered by the *Workers' Compensation Act* S.Y. 2008 (the "Act"), regardless of the date of injury.

**PURPOSE**

This policy gives an overview of the return to work process and related provisions of the *Act* and outlines the roles of workers, employers and the YWCHSB in supporting the early and safe return to work of injured workers.

## PREVENTION

Preventing workplace injuries is the responsibility of everyone in the workplace. When injuries do occur, however, it is important for workers and employers to try to minimize the impacts by focusing on returning the injured worker to safe and productive work as soon as it is medically possible for the worker to do so. Prevention of recurrences and further injuries once injured workers have returned to work is of utmost importance.

## POLICY STATEMENT

The YWCHSB recognizes that early and safe return to work is an important part of the rehabilitation plan for most injured workers. The YWCHSB encourages health care providers, injured workers, employers and other parties to work co-operatively as a Case Management Team and to explore all reasonable, creative and flexible solutions to design plans that will facilitate the worker staying at work, when possible, and facilitate the worker's early and safe return to work.

The Case Management Team can, depending on the circumstances, include:

- Injured worker
- Co-workers
- Employer
- Disability manager(s) (of the employer)
- Employer Community
- Family
- Union
- Health Care Community
- Community, including self-help groups
- YWCHSB

### 1. Early and Safe Return to Work

Return to work following a work-related injury starts during the recovery phase of the early and safe return to work. In this phase of return to work, injured workers and their employers work together with the YWCHSB and other parties, where appropriate, to form the case management team to accommodate an injured worker's functional abilities while recovery from the injury is occurring. Early and safe return to work therefore becomes a rehabilitative part of recovery in conjunction with appropriate health care treatment services.



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Section 40 of the *Act* includes a duty to co-operate in early and safe return to work for all injured workers and their employers. The focus in this phase is on accommodating the injured worker in his or her pre-injury job with the pre-injury employer in accordance with the following hierarchy of return to work (see below).

## 2. Return to Work Hierarchy of Objectives

Return to work services are provided according to the following sequential hierarchy of objectives to return the worker to:

- a) his/her pre- injury job;
- b) his/her pre-injury job with modifications/assistive devices (modifications do not include changing job duties);
- c) his/her pre-injury job with modified pre-injury duties (e.g. altering or removing pre-injury duties);
- d) his/her pre-injury job with modified duties (e.g. include non pre-injury duties while maintaining at least 50% of pre-injury duties);
- e) Graduated Early and Safe Return to work, (return to pre-injury job where the main restriction is reduced time at work);
- f) a different job with the same employer;
- g) a similar or different job with a different employer (there are no obligations under the *Act* on this employer with respect to return to work);
- h) a combination of any of the above, dependent upon circumstances.

Return to work statistics show that the majority of injured workers recover and are able to return to their pre-injury job. Where an early and safe return to work plan is not possible because of a work-related injury, upgrading of existing skill sets may be considered as part of a vocational rehabilitation plan.

Early and safe return to work is explained further in YWCHSB policies:

- “Duty to Co-operate Part 1 of 4: Early and Safe Return to Work Plans”,
- “Duty to Co-operate Part 2 of 4: Roles and Responsibilities”,
- “Duty to Co-operate Part 3 of 4: Functional Abilities”, and
- “Duty to Co-operate Part 4 of 4: Penalties for Non co-operation”.



### **Re-employment Obligation (currently not in effect)**

Section 41 of the *Act* contains two duties for employers of 20 or more workers:

- 1) the re-employment obligation; and
- 2) the duty to accommodate.

When section 41 of the *Act* comes into effect, YWCHSB policies will be developed to provide specific direction on the application of this section.

### **3. Vocational Rehabilitation**

In cases where an injured worker has (or is expected to) reached maximum medical improvement, but is unable to work and earn at his/her pre-injury level, the worker may be offered a vocational assessment to identify current skills and abilities and to determine options to assist the worker to work and earn, preferably at the pre-injury level, given the residual level of function, post-injury.

Some injured workers will require vocational rehabilitation (academic upgrading, re-training, on the job training, employment readiness) in order to enable them, to the greatest extent possible, to work and earn at their pre-injury level, preferably with the pre-injury employer.

YWCHSB return to work policies, "Vocational Rehabilitation" and "Vocational and Academic Assistance for Surviving Spouse" provide further information on vocational rehabilitation.

### **4. Estimating Earnings Capacity**

The YWCHSB's obligation to injured workers is to return them to their pre-injury employability status to the greatest extent possible. This is achieved through return to work (early and safe return to work, re-employment obligation, employment readiness, vocational rehabilitation assessment, vocational rehabilitation plans) in conjunction with the provision of appropriate health care treatment, products and services as determined by the YWCHSB.

In some cases the YWCHSB must estimate a worker's earning capacity where the worker has reached maximum medical improvement and is not working and earning at the pre-injury level, but is employable.

This process is explained in YWCHSB policy, "Determining Suitable Employment and Earnings Capacity Loss".





## 5. Employment Readiness

When an injured worker is considered employable by the YWCHSB, but is not job-attached to his/her pre-injury employer, that worker may be eligible for an employment readiness program of benefits and services designed to improve the worker's ability to successfully re-enter the labour market.

YWCHSB policy, "Employment Readiness" provides more information on this program.

### APPLICATION

This policy applies to the Board of Directors, President/CEO and staff of the YWCHSB and to the Workers' Compensation Appeal Tribunal. It applies to all employers and workers covered by the *Act*, regardless of date of injury.

### EXCEPTIONAL CIRCUMSTANCES

In situations where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or an unintended result, the YWCHSB will decide the case based on its individual merits and justice in accordance with YWCHSB policy, "Merits and Justice of the Case". Such a decision will be considered for that specific case only and will not be precedent setting.

### APPEALS

Decisions made by the YWCHSB under this policy, can be appealed directly in writing to the Hearing Officer of the YWCHSB in accordance with subsection 53(1) of the *Act*. Notice of the appeal must be filed within 24 months of the date of the decision by the YWCHSB, in accordance with section 52 of the *Act*.


### ACT REFERENCES

Sections 14, 40, 41, 52 and 53

### POLICY REFERENCES

EN-02, "Merits and Justice of the Case"

RE-02-1, "Duty to Co-operate Part 1 of 4 - Early and Safe Return to Work Plans"

  
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- RE-02-2, "Duty to Co-operate Part 2 of 4 - Roles and Responsibilities"
- RE-02-3, "Duty to Co-operate Part 3 of 4 - Functional Abilities"
- RE-02-4, "Duty to Co-operate Part 4 of 4 - Penalties for Non-co-operation"
- RE-10, "Vocational Rehabilitation"
- RE-11, "Vocational and Academic Assistance for Surviving Spouse"
- RE-12, "Employment Readiness"
- RE-13, "Determining Suitable Employment and Earnings Capacity Loss"

**HISTORY**

New

  
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