

Return to Work Program Guide

Why Do I Need a Return-to-Work Program?

Once and for all, let's eliminate the following myths:

- There is no way for employers to control workers compensation and safety costs
- Money spent in these areas is just a necessity of doing business
- Injured employees should only return to work when they are 100% recovered
- Returning an employee sooner will cause fellow employees to resent the special treatment necessary to accommodate the injured employee's transition

Workers compensation claims cost employers in the United States billions of dollars each year. This price tag does *not* reflect the total (direct and indirect) costs involved in work-related injuries or illnesses. The example below identifies the potential cost factors common to most incidents an organization may experience.

Direct Incident Costs (Medical and Indemnity — Insured)			
First aid costs:	(no. of hours first aid is rendered)	× (hourly rate)	= _____
Outside medical costs:			
Clinic visits:	(hours lost)	× (hourly rate)	= _____
Follow-up treatment:	(hours lost)	× (hourly rate)	= _____
Clinic or treatment fees + supplies:			= _____
Total Direct Costs (add all costs together)			= _____
Indirect Incident Costs (Non-productive — Uninsured)			
Wages			
Wages lost by injured worker:	(hours lost)	× (hourly rate)	= _____
Wages lost from production by supervisor of injured worker:	(hours lost)	× (hourly rate)	= _____
Wages lost from production by workers near incident:	(hours lost)	× (hourly rate)	= _____
Incident investigation cost:(no. of investigation hours)	× (hourly rate)		= _____
Overtime wages to make up for lost production:	(overtime rate – regular rate)	× (overtime hrs.)	= _____
New worker training/orientation:	(cost of trainer + production time lost by new worker)		= _____
Operational			
Clean-up costs:			= _____
Damaged equipment:	(value of equipment prior to damage) – (salvage or repair cost)		= _____
Damaged tools:	(value of tool prior to damage) – (salvage or repair cost)		= _____
Failure to meet production deadlines			= _____
Total Indirect Costs (add all costs together)			= _____
Total Loss (add Total Direct Costs and Total Indirect Costs)			= _____

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Experience Rating Prospective

An employer's accident experience record will influence future workers compensation insurance costs (premium).

- The experience period will not be more than three years, beginning four years before, and ending one year prior to, the start date of the experience modification
- Immediate past-year results will impact insurance premiums for three policy years — beginning one policy year *after* the year in which the loss was incurred
- Each state sets average losses by employment classification
- The following formula is used to determine the expected losses:
 - Average Losses (set by state) × Payroll for Category = Expected Losses
- When the employer's real time losses *exceed* the expected state average loss rates, a surcharge will be added to the policyholder's cost
- When the employer's real time losses are *less* than the expected state average loss rates, a credit will be applied to the policyholder's cost
- A surcharge or credit is called an experience multiplier, experience modification, or experience rating modifier (MOD rate)
- A satisfactory MOD rate for any company is equal to 1.0 or less
- Example of MOD rate equations:

If the three-year history of experience rating for an operation was 1.10, 1.00, 0.88, the payment history would be:

$$\begin{array}{rcl}
 1.10 \times \$38,233 & = & \$42,056 \\
 1.00 \times \$38,233 & = & \$38,233 \\
 0.88 \times \$38,233 & = & \$33,645
 \end{array}$$

What About My Profits?

The *direct* and *indirect* costs related to an accident or incident can have a dramatic effect on your profitability. The following example identifies what these costs can mean to you. (In this example we'll arbitrarily use \$8,500 as the average direct cost of a single cumulative trauma disorder.)

Direct Cost	=	\$8,500
Indirect Cost	=	<u>\$34,000</u>
Total Loss		\$42,500

Assuming various levels of profit on product sales, the following figures are required sales levels to cover this one accident:

Percent Profit	×	Required Sales	=	Accident Cost
2%	×	\$2,125,000	=	\$42,500
6%	×	\$708,333	=	\$42,500
8%	×	\$531,250	=	\$42,500
10%	×	\$425,000	=	\$42,500

Information from the Bureau of Labor Statistics states that:

- Only 50% of employees who are off work for *six months* with a work-related injury will return to work
- Only 25% of employees who are off work for *one year* with a work-related injury will return to work
- Employees who are off work for *two years* with a work-related injury have virtually no chance of returning to work

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This does not have to be the case — a strong, proactive safety program and a well-implemented return-to-work program will reduce these numbers, and therefore increase your profits. ***With results like these, how can any organization be without a Return-to-Work Program?***

An Effective Return-to-Work Program Is Tough Without a Good Safety Program!

What Is the Basis for a Good Safety Program?

- A program tailored to the organization
- Proactive

Business cultures, mission statements, or corporate values all have one thing in common — they provide direction for the organization to perform *quality operations* or provide *quality services*. An effective safety and health program supports the primary objective of the organization. The following checklist provides the basis for a proactive safety and health program and can help you evaluate your *current* program.

Status of Safety and Health Program				
Location/Department:	Date of Review:			
Reviewed by:				
Topic Description	Yes	No	N/A	Comments
Safety and Health Program				
Is there visible top management leadership for the safety program?				
Is there a current written safety and health policy reflecting the organization's commitment?				
Has a person been identified to address safety and health issues?				
Does everyone in the workplace have some responsibility for the safety and health program?				
Are managers, supervisors, and employees held accountable for meeting their safety and health responsibilities?				
At the very minimum, are the regulatory written safety and health programs in place?				
Has a comprehensive hazard identification survey been conducted of the workplace?				
Are measurable, realistic, attainable objectives established each year for the safety and health program?				
Do employees know the emergency procedures that apply to their job and workplace?				
Is there a new employee orientation?				
Is an orientation offered to employees who transfer to another department within the organization?				
Do employees understand the consequences of failing to follow the organization's safety and health program?				
Is there a system to identify, track, and correct identified hazards?				
Is there a system to identify, track, and correct near misses?				
Does the facility and equipment receive routine preventive maintenance?				
Is funding available for employee safety and health training?				

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Status of Safety and Health Program <i>(continued)</i>				
Topic Description	Yes	No	N/A	Comments
Work-Related Injury and Illness Program				
Is there a current written return-to-work program?				
Does this procedure handle an injury or illness from when it is first reported until the individual returns to work?				
Is the return-to-work program in compliance with the Americans with Disabilities Act?				
Is the return-to-work program in compliance with the Family Medical Leave Act?				
Is the return-to-work program in compliance with the state workers compensation law?				
Do employees know how to report incidents?				
Are systems in place to investigate incidents (both accidents and near misses)?				
Has a <i>current</i> job safety analysis been conducted for each of the job classifications within your organization?				
Does someone from your organization remain in contact with employees who are off work as the result of any injury or illness?				
Is the safety program at your organization integrated into the medical management of your workers compensation?				
Have any job duties been identified for individuals on restricted/modified work duty?				
Have all employees received training on the return-to-work program?				
Has the medical care provider toured the facility?				
Is there a trend in your organization's loss experience?				

Four Major Elements of a Proactive Safety Management Program

- 1) *Visual* management support, commitment, and involvement
 - Establish an organization-wide safety and health policy (see page 7).
 - Each job classification should identify the positions responsible and accountable for your organization's safety program
- 2) *Annual planning* to establish written goals, objectives, action plans, internal controls, and evaluation of results
 - This process should include strategic planning (long-term goals), tactical planning (mid-term goals), and task-specific (short-term) goals
- 3) Develop *written policies and procedures*. Establish an effective means of communicating safety and health issues throughout your organization
- 4) *Continual* education and training

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Only *top management* can provide the culture that is necessary to integrate the total safety philosophy into the entire business culture of any organization. Without this commitment, mediocre-to-poor safety performance is inevitable — any progress that is made will be short-lived. Establishing and maintaining safety and health regulatory compliance in an organization is a *small* part of a total safety program — unfortunately most people only remember the walk-around inspections, citations, and fines. A common management pitfall is making employees responsible for safety by edict. The employees do not control the majority of items or processes necessary for safe operations within the organization (e.g., plant layout, equipment purchases, quality of raw materials, or product design).

The checklist on the following pages (*Developing a Safety Program*) can help you establish a proactive safety and health program for your organization.

Sample Safety and Health Policy

Our company believes that employees are our most important asset. Therefore, we will strive to provide a safe and healthy work environment.

Our goals include minimizing and eliminating the incidents that cause injury or illness to our employees and visitors, and/or property loss. Our management and employees will work together to plan, develop, and implement safety, health, and return-to-work methods, practices, and programs.

All managers and supervisors of this company have the responsibility to ensure that each employee receives the training and instruction necessary to perform his or her work safely. Management of this company is accountable for providing a workplace free of recognizable hazards that might cause injuries and/or illnesses. All management will set a good example by complying with company rules for safety and health.

All employees play a part in the prevention of injuries and illnesses. We expect all employees to follow company policy and give their full support to safety and health programs.

Even with the total commitment of management and employees, work-related injuries and illnesses may occur. When they do, management will work with the treating medical care provider to help our employees return to work.

I am (We are) personally committed to the continual improvement of our safety and health performance and will authorize the actions necessary to achieve these objectives. I will (We will) expect your participation in our safety and health efforts.

Signatures of the President/Owner,

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Developing a Safety Program Checklist				
Location/Department:		Date of Review:		
Reviewed by:				
The following safety and health checklist is based on OSHA standards. It may not include <i>all</i> conditions, as it is intended to be used only as a guide.				
Topic Description	Yes	No	N/A	Comments
Organization/Company Safety Policy and Mission Statement				
Current for conditions and people involved?				
Displayed in the workplace? Location _____				
Safety Goals and Objectives				
Have goals and objectives been set for the current year?				
Are these goals and objectives measurable, realistic, and attainable for the operation?				
Are the goals reviewed yearly to ensure completion and accountability?				
Are the current goals and objectives used to plan next year's goals?				
If not, what criteria are used for setting goals?				
Annual Program Review				
Are all safety programs reviewed annually?				
Are all goals reviewed annually?				
Are new goals established that are measurable, realistic, and attainable for the new year?				
General Safety				
Is there a current safety or employee handbook in existence?				
Are disciplinary actions outlined in the employee handbook for unsafe work practices?				
Are these actions applied consistently throughout the organization?				
Are these actions in writing and do they address unsafe work practices?				
Have these actions been communicated to employees during their job orientation and whenever additions or deletions are made?				
Safety and Health Suggestion Program				
Are there means for employees and supervisors/managers to make safety suggestions?				
Are employees notified and thanked for their suggestions?				
Are employees informed as to whether or not their suggestions will be implemented?				
And why or why not?				
Safety Accountability				
Has upper management assigned and communicated responsibility for all aspects of the organization's safety and health program?				
Do managers, supervisors, and employees in all parts of the organization know what type of safety performance is expected of them?				
Have adequate authority and resources (such as training) been provided to managers and front-line supervisors so that assigned responsibilities can be met?				

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Are managers, supervisors, and employees held accountable for meeting their safety and health responsibilities as part of their job evaluations?				
Are employees trained that they are accountable for their own safety?				
Safety Meetings and Training Activities				
Are these meetings and training activities held on a regular basis?				
Are the topics they address determined based on the safety policy and/or mission statement?				
Are meetings documented?				
Has a record retention policy been established for safety meetings and/or training activities?				
Is upper management in attendance during the meetings and/or training activities?				
Are there representatives from all sections of the organization at the meetings and/or training activities?				
Does documentation include:				
Who attended?				
Leader?				
Job Safety Analysis (JSA)				
Have JSAs been completed for all jobs?				
At a minimum, has a JSA been completed for each of the job categories with the highest injury frequency problems?				
Are JSAs completed before the implementation of any new job or category of jobs?				
Are checklists used when completing JSAs?				
Do checklists include:				
Housekeeping?				
Physical layout?				
Material handling?				
Temperature and/or chemical conditions?				
Dust and/or respiratory considerations?				
Light and/or radiation considerations?				
Laceration, penetration, impact, and/or compression?				
Loud noises and hearing?				
Ergonomics?				
Are JSAs repeated when work requirements change?				
Are JSAs completed on all processes, procedures, or equipment that are new or where changes have been made?				
Written Job Descriptions				
Are written job descriptions in place for all positions or categories?				
Are job descriptions reviewed with all job applicants?				
Do they list all physical requirements of the job?				

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Developing a Safety Program Checklist <i>(continued)</i>				
Topic Description	Yes	No	N/A	Comments
Ergonomic Program: Assessment/Training				
Have ergonomic assessments been performed for all positions?				
Have employees been trained in basic ergonomics?				
Have supervisors/managers been trained in basic ergonomics?				
Do the assessments include a review of:				
Required tasks?				
Workstations?				
Controls?				
Displays?				
Safety devices?				
Tools?				
Lighting?				
After the analyses, are procedures established to correct or control the hazards using:				
Engineering controls?				
Work practice controls?				
Administrative controls?				
Personal protective equipment (PPE)?				
Medical management?				
Back Safety Program				
Are employees trained to:				
Size up the load before attempting to lift?				
Test the load before lifting?				
Use mechanical lifting devices whenever possible?				
Get help from other employees if loads are heavy or clumsy?				
Are employees trained in proper lifting techniques, including:				
Placing feet close to the load?				
Centering themselves over the load?				
Bending the knees and getting a good hand-hold on the load?				
Lifting straight up and smoothly?				
Using the legs to do work, not the back?				
No twisting of the body while carrying the load?				
Making sure the path is clear?				
Setting the load down properly?				
Push, do not pull, loads?				
Return-to-Work Programs (RTW)				
Is a written RTW program in place?				
Does the program cover:				
Scope of program?				

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Developing a Safety Program Checklist <i>(continued)</i>				
Topic Description	Yes	No	N/A	Comments
Rates of pay?				
Medical treatment?				
Medical release and restrictions?				
Types of work available?				
Communications with physician?				
Have the types of transitional-duty work been established in all work areas?				
Are injured employees only allowed to do work within their doctors' restrictions?				
Has company physician(s) toured facility to become familiar with:				
Work that is done?				
Transitional-duty work that is available?				
Hiring Practices				
Are all potential employees required to complete a job application?				
Are all potential employees required to do a personal interview?				
Are applicants' prior work references checked?				
Are post-offer physical examinations required for all applicants?				
Has management selected a doctor who knows the requirements of each job and is familiar with the specific duties the employee will be required to perform?				
Are applicants' driver licenses checked if their job responsibilities require them to operate a company vehicle?				
Are road tests required of employees who will be performing driving operations?				
Are yard tests also required?				
Safety Orientation and New Employee Training				
Are checklists established to ensure all items associated with the job are reviewed with the new or transferred employee?				
Is a record retention policy developed for maintaining the checklists?				
Are new employees given training on:				
Emergency procedures?				
Safe work practices?				
PPE?				
Incident (Accident and/or Near Miss) Investigation and Documentation				
Are all accidents and incidents (accidents and/or near misses) thoroughly investigated?				
Have managers/supervisors been trained to do incident investigation?				
Are incident investigation forms used?				
Do these forms include:				
Name of injured employee or visitor?				
Incident date and time?				
Nature and extent of injury/illness?				
Incident (Accident and/or Near Miss) Investigation and Documentation / Do these form include: <i>(continued)</i>				

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Name and address of doctor or hospital?				
Location of incident?				
Witnesses and their activities at the time?				
Others with relevant knowledge?				
Description of the incident?				
Description of events preceding the incident?				
Task/activity engaged in at time of the incident?				
Employee's normally assigned task?				
Injured employee's length of employment and assignment to current job?				
Relevant training received by injured employee and training dates?				
Equipment/materials involved in the incident?				
Physical surroundings of the incident?				
Unsafe acts that could have led to the incident?				
Unsafe conditions that could have led to the incident?				
Description and dates of similar or related incidents?				
Cause(s) of incident?				
Actions taken to prevent similar incidents?				
Additional recommendations?				
Are corrective actions implemented following the incident?				
Are causes of the incident, not just the injury, determined?				
Are drug screens conducted on new hires and following an incident?				
Posters				
Are all required federal, state, and local postings displayed?				
Are all posters posted in a conspicuous place or where other notices to employees are normally posted?				
OSHA Job Safety and Health Notice?				
OSHA 300A summary form posted February 1 through April 30 of each year?				
Emergency phone numbers?				
Right-to-Know poster?				
Family and Medical Leave Act poster?				
Americans with Disabilities Act (ADA) poster?				
Recordkeeping Program				
Maintain OSHA 300 log?				
Are all recordable injuries or illnesses recorded on the log no later than seven calendar days after receiving information that a recordable injury has been sustained?				

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Developing a Safety Program Checklist <i>(continued)</i>				
Topic Description	Yes	No	N/A	Comments
Are OSHA 300 logs kept on file for at least five years?				
If there is more than one work location, and records are kept at a central location, do all other work locations have:				
The address and phone number of the central location?				
People available at the central location, during normal business hours, to provide the requested information?				
Are all work-related fatalities and multiple hospitalizations reported to OSHA within eight hours after the incident?				
Have supervisors been trained as to their duties for recording and reporting incidents?				
Do supervisors/managers know where to direct employees to view the OSHA 300 log posting?				
Preventive Maintenance Program (PMP)				
Is a PMP in place for regularly checking equipment and machinery?				
Are checklists used?				
Are employees trained as to what items need to be checked?				
And are they trained as to when parts and equipment should be repaired or replaced?				
Safety Signs and Tags Used				
Appropriate warning signs and tags posted as needed, such as:				
Exits?				
High voltage areas or machines?				
Eye protection?				
Hearing protection?				
Slow moving vehicles?				
Confined space?				
Are employees trained:				
That danger signs indicate immediate danger and that precaution needs to be taken?				
That caution signs indicate a possible hazard?				
As to the meaning of tags and signs and the precautions that are to be taken when in the areas of these tags and signs?				
Are signs and tags removed when the hazards have been eliminated?				
Are signs and tags appropriately placed to warn of hazards in work areas?				
Are the appropriate types of signs (danger, caution, warning, biohazard) used where needed?				

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What Laws Impact My Return-to-Work Program?

Both the *Americans with Disabilities Act (ADA)* and the *Family and Medical Leave Act (FMLA)* may impact your workers compensation benefits and return-to-work program.

Workers Compensation

The American Society of Safety Engineers defines *workers compensation* as follows:

“A system of insurance required by state law and financed by employers which provides payments to employees and their families for occupational illnesses, injuries, or fatalities incurred while at work and resulting in loss of wage income, usually regardless of the employer’s or employee’s negligence.”

Source: The Dictionary of Terms Used in the Safety Profession, Third Edition.

- Approximately 90 percent of all hourly and salaried employees are covered by workers compensation
- Some employment categories are excluded, this will vary from state to state (check with your state’s office of Worker’s Disability Compensation); the most common exclusions are:
 - Self-employed (owner)
 - Professional athletes
 - Short-term temporary laborers
 - Seasonal or agricultural farm laborers
 - Volunteer workers
 - Workers covered by other labor laws (such as railroad and maritime workers who are specifically listed under the acts)
- An employee with a pre-existing condition that is aggravated or accelerated by the workplace is also covered
- Employers are liable to pay compensation to employees who are injured or become ill as the direct result of their course of employment
- Employees must prove their employment was the contributing factor to their injury or illness
- If workers compensation leave constitutes a serious health condition, it may be counted against the employee’s FMLA leave if so designated by the employer
- Transitional duty may be required
- If employees who are on FMLA leave and receiving workers compensation benefits refuse transitional duty, their workers compensation benefits will be lost

The Americans with Disabilities Act of 1990 (ADA)

The Americans with Disabilities Act of 1990 (ADA) is a civil rights legislation designed to prevent discrimination against individuals with disabilities. Title I of the ADA prohibits employers from discriminating against qualified individuals because of a disability in all aspects of employment. The act protects individuals with actual disability, apparent disability, or a history of disability; it applies to employers with 15 or more full- or part-time employees who have worked for the employer 20 or more calendar weeks in the current or preceding calendar year.

- When an employee suffers a compensable injury or illness at work he or she is eligible for workers compensation benefits; however, the injured employee is *not* automatically covered under the ADA. An injured employee is protected by ADA *only* when the individual meets the definition of “... an individual with a disability” and “qualified individual with a disability.”
- ADA defines a person as having a disability if he or she fits within any one of the following categories:
 - Has a physical or mental impairment that substantially limits one or more of his or her major life activities
 - Has a record of such impairment
 - Is regarded as having such an impairment
- Under ADA, physical and mental impairments include:
 - Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss
 - Any mental or psychological disorder
 - Orthopedic, visual, speech and hearing impairment
 - Epilepsy

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- Muscular dystrophy
- AIDS or HIV infections
- Cancer
- Diabetes
- Specific learning disabilities
- Heart disease
- Multiple sclerosis
- Mental retardation
- Cerebral palsy
 - Not all physical or mental impairments are considered a disability under ADA. A temporary injury such as a cut finger that becomes infected would *not* be considered a disability, as it does not “substantially limit” the individual’s major life activities.
 - The ADA requires reasonable accommodations be made for a qualified individual with a disability who can perform the essential job functions. Reasonable accommodations are changes or adjustments to the work environment, including:
- Job restructuring
- Part-time or modified work schedule
- Providing readers or interpreters
- Providing or modifying equipment or devices
- Reassignment to a vacant position
- Adjusting or modifying examinations, training materials, or policies
- Providing a readily accessible workplace
 - If the cost of accommodation would impose *undue hardship* on the part of the employer, the individual with the disability should be given the option of paying that part of the cost which constitutes an undue hardship for the employer.
 - The employer must reinstate a disabled employee under the same leave conditions as non-disabled employees.
 - The employer is *not* required to create a transitional duty position, or make the transitional duty position a permanent position.

The Family and Medical Leave Act of 1993 (FMLA)

The Family and Medical Leave Act of 1993 (FMLA) is designed to provide employee job protection for up to 12 weeks of unpaid medical leave. It does not supersede any state or local law that provides more rights under family or medical leave provisions.

- The FMLA applies to employers with 50 or more employees who work within a 75-mile radius of that worksite.
- Employees are eligible to use the Family and Medical Leave Act provided they have worked for the employer for at least 12 months (which does *not* have to be consecutive) at a worksite subject to the Act.
- The employee has to be employed for at least 1,250 service hours during the 12-month period immediately prior to leave commencement.
- The employer must give notice *in writing* to the employee if medical certification is required as a condition for granting leave or fitness for duty when the employee returns.
- The employee must supply the employer with a 30-day written notice of leave if it is foreseeable, or as soon as practical if it is an emergency or unplanned situation. This notice must include the reason for, and approximate length of, the leave.
- The FMLA overlaps with workers compensation leave which results from a work-related injury or illness.
- Employers do not have to give employees permission to use employer-provided paid leave if the individual is concurrently taking paid workers compensation leave and FMLA. The work-related injury or illness would have to qualify as a “serious health condition” under FMLA for a concurrent leave to occur.
- According to the FMLA, the employee is “entitled to return to the same position the employee held when leave commenced or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee

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has been replaced or his or her position has been restructured to accommodate the employee's absence.”

- The employer can assign the employee to transitional duty if the individual is unable to perform the essential job functions; however, the employee on leave cannot be *required* to take the transitional duty in place of the FMLA leave.

Summary

Transitional duties ... workers compensation ... ADA ... FMLA — what do they all mean?

- The employer *cannot* require an employee to take a transitional duty position instead of FMLA if the employee is qualified to take the leave.
- FMLA does *not* prevent the suspension of workers compensation benefits when an employee refuses to accept transitional duty.
- If an employee accepts the transitional duty and returns to work before the FMLA's 12 weeks are used up, the employee may still return to the original or an equivalent position until the 12 weeks have passed.
- The employer or its agent has the right to ask disability-related questions or require a medical examination of an employee with a work-related injury or illness for the purpose of ascertaining the extent of the workers compensation liability (ADA).
- The employer may *not* require that an employee with a disability-related work injury be able to return to *full* duty before returning to work (ADA).
- Even if the employer believes the employee who has a disability-related work injury is at increased risk of re-injury (which could result in increased workers compensation costs), under ADA the employer *cannot* refuse to return the individual to work.
- The exception occurs when the employer can show that returning this employee to work, even if he or she can perform the essential job tasks with or without reasonable accommodation, poses a “direct threat to the health or safety of that individual or others in the workplace.”
- Under ADA an employer may *not* refuse to return an employee to work with a disability-related work injury because of a workers compensation determination of “permanent disability or total disability.”
- The employer is ultimately responsible for deciding if an employee with a disability-related work injury or illness is ready to return to work. The medical care provider may be consulted to determine the employee's specific functional limitations, abilities, and possible reasonable accommodations.
- Additional information on the Americans with Disabilities Act and the Family and Medical Leave Act may be obtained from the Federal U.S. Department of Labor and Federal Equal Employment Opportunity Commission, or your state agency.

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How to Implement a Return-to-Work Program

The best time to create a return-to-work program is *before* one is needed. Keep in mind that transitional duties must consist of *meaningful* work — the employer cannot use these jobs just to reduce their workers compensation indemnity. In order for a return-to-work program to be successful, both the *employee* and *employer* must receive productivity benefit from the transitional work; and all employees should receive assistance, regardless if the injury is work related or not. Just as with any other corporate program, senior and middle managers, supervisors, and foremen must buy into the return-to-work program and give it their full support — failure to do so will undermine the success of the program.

Step 1

Establish a Written Return-to-Work Policy Statement

The Return-to-Work policy statement may be incorporated into your organization's safety and health policy (see page 7), or it may stand alone. This document forms the basis for the return-to-work program and must be signed and dated by the organization's senior management (and union president, if applicable). It must be communicated to the workforce on a continual basis (with each new-hire and annually for the general workforce). Revise the document whenever there is a change in the organization's focus or responsibilities of the individuals who have signed the statement. Maintaining a *current* written return-to-work policy is an important step in keeping the program alive!

Step 2

Assign Responsibility and Authority

1. Senior and Upper Management

This is the driving force for the organization's values, mission, products, and services. Senior and upper management have the authority and responsibility to *continually* demonstrate support, commitment, and visible involvement to the workforce by providing a workplace free of recognized hazards.

2. Safety and Health Professional

The safety and health professional in your organization should have the proper education, knowledge, and skills to perform the job. This position has the responsibility and authority to:

- Work with the organization's senior management to establish and maintain a comprehensive organization-wide safety and health program.
- Coordinate the return-to-work program with the organization's workers compensation coordinator.
- Review and analyze all departments, area processes, equipment, and materials (both raw and finished) for potential hazards.
- Develop hazard control procedures, methods, programs, and designs.

3. Workers Compensation Coordinator

This position will act as the organization's liaison for all work-related and non-work-related injuries and illnesses. This individual will have the authority and responsibility to oversee the workers compensation program, including return-to-work, ADA, and FMLA. This position will coordinate the organization-wide implementation of the return-to-work program with the safety and health professional.

The workers compensation coordinator will fill out the First Report of Injury Form and report the work-related injury or illness immediately to Accident Fund Insurance Company of America. This can be done one of four ways: by completing and submitting the online form at www.accidentfund.com, by emailing it to claimsexpress@accidentfund.com, by faxing it to 866-814-5595, or by calling the express line at 866-206-5851.

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Within the first 10 days of the injury, the workers compensation coordinator will direct the care of the work-related injured or ill employee to a provider in Accident Fund Insurance Company of America's PPOM WorkSafe Care Network, whenever possible.

- The workers compensation coordinator will remain in contact with the employee, Accident Fund, the medical care provider, the organization's safety and health professional, and the employee's supervisor.
- This position has the authority and responsibility to communicate directly with the injured employee until that individual retains an attorney.
- The workers compensation coordinator is responsible for obtaining and coordinating all paperwork associated with the injured employee including, but not limited to, documentation of medical care provider visits, OSHA injury and illness log, return-to-work restrictions, telephone calls to the employee, and written offers of transitional tasks for return-to-work duty.
- The medical care provider will fill out the Accident Fund Company's *Disability/Return-to-Work Assessment* form to begin the return-to-work program. The workers compensation coordinator will work with the injured employee's supervisor to identify a transitional job. An offer will be made *in writing* by the workers compensation coordinator to the injured employee (see sample letters on pages 62–64).
 - If the offer is accepted, the workers compensation coordinator will notify Accident Fund Insurance Company of America (by fax), using the *Return-to-Work Notice*.
- Essential tools for this position:
 - Accident Fund Insurance Company of America Employer's Claims Handbook
 - A set of the state's Workers Compensation Statutes
 - The organization's collective bargaining contract, if applicable
 - The organization's employee handbook
 - The organization's written policies and procedures
 - A good medical dictionary
 - Job descriptions for all employees
 - The employee's personnel files
 - The employee's medical records

Accident Fund
INSURANCE COMPANY OF AMERICA
202 E. Capital Avenue
P.O. Box 437160
Louisville, KY 40217-1160

Disability/Return-to-Work Assessment

To the Physician: _____ and Accident Fund Insurance Company of America are committed to returning employees to work in a safe and timely manner and will attempt to locate meaningful employment within the employee's capabilities. Please complete this Disability/Return-to-Work Assessment form and fax it as soon as possible to Accident Fund at (517) 342-4321.

Employer Contact: _____ Phone Number: _____
Address: _____
Employee Name: _____ Social Security Number: _____
Diagnosis: _____

Job Overview
Type of Business: _____ Job Title: _____
Brief Description of Job: _____

Medical Recommendations
Work Status (please check all appropriate boxes):
 Patient now ready to return to work.
 Patient able to return to work in a transitional duty assignment starting on _____ until _____ with the following restrictions:
 Lifting _____ lb for _____ hrs/shift Sitting _____ hrs/shift
 Pushing/pulling _____ lb for _____ hrs/shift **Additional Restrictions**
 Carrying _____ lb for _____ hrs/shift No reaching above shoulder height
Repetitive Movement
 Bending upper body _____ hrs/shift No reaching below waist
 Bending upper extremities _____ hrs/shift No exposure to dust/fumes
 Bending knees _____ hrs/shift No operating machinery/vehicles
 Bending/waistgrasping _____ hrs/shift Other: _____
 Standing/squatting _____ hrs/shift
 Patient expected to return to full duty on: _____
 Patient has follow-up appointment on: _____

Physician's Signature: _____ Date: _____
Address: _____ Phone Number: _____

Please fax this form as soon as possible to the Accident Fund Insurance Company of America Claims Department at (517) 342-4321

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Accident Fund
INSURANCE COMPANY OF AMERICA
202 E. Capital Avenue
P.O. Box 437160
Louisville, KY 40217-1160

Fax Cover Information
Please fax or call in return-to-work information

To: _____ Date: _____
From: _____
Claims Department: _____ Company: _____

Comments or other information: _____
If you have problems receiving this fax, please contact the person named above.

Return-to-Work Notice - Michigan Employees

Employee Name: _____ Date: _____
Claim #: _____

Date of injury: _____
Last day worked: _____
Released to Return-to-Work date: _____

• Date employee returned to work: _____
• Doctor discharged employee with: no restrictions restrictions (please list) _____

Signature: _____ Date: _____

Policy/Account Number: _____ Company Name: _____
Company Address: _____
Company Phone #: _____

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Safety Tips from the WorkSafe People

In smaller organizations the *safety and health professional* and the *workers compensation coordinator* positions are often combined. How well this works depends on two essential points: 1) upper management support, and 2) the knowledge and skills of the individual in the position. Issues involving safety and health and workers compensation are very time consuming; they are constantly changing and require continual supplemental in-service training.

4. Manager/Supervisor/Foreman

The manager, supervisor, or foreman is responsible and accountable for the safety management practices implemented in his or her area of responsibility. This position:

- Has the authority and responsibility to directly manage the workplace.
 - Should demonstrate through daily positive actions support and compliance with the organization's safety and health policy
- Should be knowledgeable of the organization's policies and procedures.
 - Understand the *purpose* of the policies and procedures
 - Communicate the policies and procedures on a regular basis to the staff
- Should provide training for staff.

Manager/Supervisor/Foreman of the Work-Related Injured or Ill Employee

- The supervisor of the work-related injured or ill employee will contact the workers compensation coordinator as soon as he or she is notified of an incident.
- If the employee is off work, the supervisor should remain in weekly contact with the individual.
- When the employee returns to work, provide transitional duties that comply with the medical provider's restrictions wherever possible.
- Communicate *only* the restrictions of the transitional work to the entire staff impacted by this position. Do not divulge any confidential medical information about the injured or ill employee.
- Be aware of the signs of fraud and report them immediately to the workers compensation coordinator.

5. Employees

The injured or ill employee will receive timely medical attention from the organization's medical care provider. Employees are responsible for complying with the organization's policies.

- In the event of an incident (regardless of how minor), immediately notify the supervisor of the area where it occurred.
- Assist the supervisor in filling out the Incident Report form.
- Complete all necessary workers compensation forms if the incident resulted in a work-related injury or illness.
- Provide the workers compensation coordinator with all of the medical care provider information (e.g., diagnosis, treatment, and physical capabilities for returning to work).
- Provide documentation to the workers compensation coordinator following any additional physician's visit or therapy.

6. Union

If a bargaining unit is part of your organization, management should incorporate the union in the development and implementation of the return-to-work program.

- The union should have knowledge of the organization's workers compensation benefits, insurance carrier, and return-to-work policies.
- The union should assist in developing an agreement for returning injured employees back to work in the form of transitional duty, or obtaining positions wherever possible for employees who are permanently physically disabled.

Step 3

Job Safety Analysis Establish Written Job Descriptions

Establish a written job description for each job category within your organization.

Define the major tasks performed and list all related knowledge and skills required. Each specific job task should be identified as either *essential* or *non-essential* to the job. The physical demands associated with all the tasks identified should be documented using the Job Safety Analysis Procedure (see pages 27–29). The essential job function information may be used to determine whether or not an individual with a disability is qualified to perform the job. The *Americans with Disabilities Act* is designed to protect individuals with disabilities who can perform the *essential* job functions with or without *reasonable accommodations* from discrimination.

There is a wide variety of job description outlines on the commercial market. These job descriptions provide very basic information and need to be tailored to your organization's specific jobs. More information about this service may be obtained from the Society of Human Resource Management (SHRM) or human resource product catalogs.

Additional Job Description Information

Review each job description to ensure it includes the following information:

- Job title
- Name of the department/area where the job is located
- Identify any changes in requirements for different shifts
- Specify the training and education requirements
- Indicate the amount of time required for an individual to acquire the skills and knowledge to perform the job
- Degree or certification requirements

Review Current Written Job Descriptions

Review the written job descriptions for each category in your organization on a yearly basis. Determine if the *essential* or *non-essential* tasks have changed. The Equal Employment Opportunity Commission (EEOC), which administers the Americans with Disabilities Act, encourages the employer to obtain input from the individuals already performing the job concerning essential and non-essential tasks. Select an individual from each job classification to review the written description and document any changes.

Job Safety Analysis Procedure

There are two types of systems to use when conducting a job safety analysis. The first type is direct observation, which involves watching a competent person perform a job, identifying job steps, and analyzing each step for possible problems. The second type centers on group discussion of a job. This approach uses the knowledge of the group to identify necessary steps. This method is primarily used for new jobs and when observation would be dangerous or impractical.

1. Prioritize jobs for analyzing using the following criteria: possibility of serious injury, probability of injury is high, property could be damaged severely, incidents could incur significant liability or public reaction, production or quality could be affected significantly.
2. Focus on a particular job. Decide whether to analyze it by observation of the worker or by discussion among several competent workers. Consider videotaping the job if the work does not involve routine traveling to other workstations.
3. Determine the purpose of the job, who is responsible for performing the job, what activities are involved, when and where is the job done.
4. Use the following Job Safety Analysis Worksheet to record observations. An interview of the worker should be conducted if the observer is not familiar with the job or task being analyzed.
5. Break the job into steps or a series of steps or tasks. To determine where a step begins, look for changes in activity, direction or position. Watch for potential hazards.
6. Devise methods to control or reduce each inherent hazard.
7. Write a standard job procedure or a job instruction, or devise a safe work practice as appropriate.

Safety Tips from the WorkSafe People

8. Use the procedure, instruction, or practice in employee training, retraining, safety meetings, evaluations of worker performance and incident investigations.
9. Review and revise the analysis periodically when conditions change such as when new machinery is acquired or production process is revised.
10. Reinforce employee compliance with procedures, instructions and practices.

Job Safety Analysis Worksheet

Job description: _____ Location: _____

Work hours: _____ Days/week: _____

Meal break(s): _____ Overtime: _____

The job can _____ cannot _____ be modified to accommodate an injured or disabled worker.

General description of job: _____

Types of equipment, machinery, tools, etc., used on the job: _____

Vehicles or moving equipment driven as part of the job: _____

Percentage of time spent each day: Indoors _____ Outdoors _____

Physical activity required:

Lifting (up to 10 lbs.)				
Lifting (11–24 lbs.)				
Lifting (25–50 lbs.)				
Carrying (up to 10 lbs.)				
Carrying (11–24 lbs.)				
Carrying (25–50 lbs.)				

Never
Occasionally
(0–2 hrs/day)
Frequently
(2–6 hrs/day)
Constantly
(6–8 hrs/day)

Safety Tips from the WorkSafe People

The heaviest item lifted on the job is _____. It weighs _____ and is lifted _____ times per day.

The heaviest object carried while the worker walks from place to place is _____. It weighs _____ and is carried _____ times per day. The heaviest weight pushed or pulled is _____. It weighs _____ and is pushed or pulled _____ times per day.

Physical movements required on the job:

Sitting				
Standing	Never	Occasionally (0–2 hrs/day)	Frequently (2–6 hrs/day)	Constantly (6–8 hrs/day)
Twisting at neck				
Twisting at waist				
Bending at knees				
Bending at waist				
Bending at neck				
Squatting				
Kneeling				
Fine manipulation				
Repetitive hand use				
Simple grasping				
Power grasping				
Climbing stairs				
Climbing ladders				
Walking indoors				
Walking outdoors				
Working at heights				
Reaching above shoulder				
Reaching at shoulder				
Reaching below shoulder				

Safety Tips from the WorkSafe People

Step 4

Good Hiring Practices

- Reduce the risk of a workers compensation claim by placing the right person in the job.
- Take the time to identify all the skills, knowledge, physical and mental requirements necessary to successfully perform the job.
- Review these job requirements at least yearly.
- Applicants who cannot perform the essential job tasks for a specific job can be eliminated.
- During the interview, discuss in detail the job requirements (e.g., lifting requirements, tight turnarounds, deadlines).
- Conduct thorough reference checks.

Step 5

Medical Care Provider

- Whenever possible, use an Accident Fund PPOM WorkSafe Care Network medical care provider.
- Select a medical care provider near your location.
- The following checklist can help you select a qualified medical care provider.

Key Elements for Selecting a Medical Care Provider		
Types of Services Available from the Medical Care Provider	Yes	No
Pre-placement exams?		
Drug screening?		
Spirometry?		
Hearing conservation?		
Ergonomic program?		
Industrial hygiene?		
Respiratory exams?		
Work conditioning/hardening?		
Functional capacity exams?		
Physical capacity exams?		
Employee assistance programs for drug and alcohol abuse?		
Does the medical care provider have a proven track record in the area of Occupational Health? Request and check references.		
Is the medical staff knowledgeable in federal and state regulatory compliance (e.g., OSHA, EPA, DOT)?		
Is the medical care provider available the hours your organization operates?		
Does the type of management style used by the medical care provider complement your organization's style?		

Safety Tips from the WorkSafe People

Key Elements for Selecting a Medical Care Provider <i>(continued)</i>		
	Yes	No
Is the medical care provider willing to come out to your location to observe your employees at work?		
Does the medical care provider understand the importance of your return-to-work program?		
Does the medical care provider have a copy of it?		

- Designate a contact person from your organization (e.g., the workers compensation coordinator) to serve as a liaison between the medical care provider, the employer, the employee, and Accident Fund Insurance Company of America.
- The employer will provide the medical care provider with the job description of the work-related injured or ill employee; the job description should identify the essential job functions and physical and mental requirements.
- A pre-injury job cannot be modified to meet physical limitations; the medical care provider should assist the employer in determining transitional tasks.
- In accordance with the ADA, the employer is ultimately responsible for determining whether an employee with a disability-related injury is ready to return to work.

Step 6

Pre-placement Physical Examination Program

Establishing a pre-placement physical examination program provides the employer with an excellent opportunity to contain workers compensation costs.

- Benefits of a pre-placement physical examination program are:
 - It establishes a baseline against future toxic or physical measurements (e.g., lead or hearing).
 - It provides a basis for reasonable accommodation (e.g., modifying the workplace so the individual may perform the job duties with less chance for injury).
 - It helps with appropriate job placement.
 - It aids in compliance with federal and state laws.
- The Americans with Disabilities Act places the following restrictions on the pre-placement physical process:
- The employer *may not ask or require* the job applicant to have a medical examination *before* the job is offered. No pre-employment inquiries can be made concerning a disability. The employer *may* ask questions about the individual's ability to perform *specific* job tasks.
- The employer may condition a job offer on the satisfactory result of a post-offer medical examination or medical inquiry *as long as all entering employees in the same job category are required to do so*.
- A post-offer physical examination may include the following:
 - Medical history
 - Physical examination
 - Lab tests and x-rays
 - Drug screening
 - Job position-dependent audiogram/spirometry baseline
 - Any suggested accommodations/restrictions
- If an individual is not hired because a post-offer medical examination or inquiry indicates a disability, the reason for *not* hiring must be job-related. The employer will have to show that no reasonable accommodations were available.
- A post-offer medical examination *may* disqualify an individual if the employer can show that the essential job functions would be a "direct threat to the safety and health of the individual or other employees." This direct threat must be of the type that cannot be eliminated or the severity reduced with reasonable accommodations.
- A post-medical examination cannot disqualify an individual with a disability who is able to perform the essential job functions *because of speculation that the disability may cause a risk of future injury*.
- Once the individual is working, a medical examination or inquiry must be job-related and consistent with business necessity.
 - Evidence of a job performance or safety problem

Safety Tips from the WorkSafe People

- Required by other federal or state laws
- Examination to determine current fitness to perform a specific job
- Employee health plans
- All information relating to medical examinations and inquiries must be kept confidential and separate from the general personnel files.

Tests for illegal use of drugs are not subject to the ADA medical examination restrictions.

Orientation and Training Programs for New and Transferred Employees

Step 7

- An effective safety and health program must supply all employees (new, transferred and part-time) with the knowledge necessary to identify and correct potential hazards.
- Explain the purpose of the organization's return-to-work program; specifically address the responsibilities and benefits for the employee and the employer.
 - Provide the employee with a copy of the return-to-work procedure if it is not available in the employee handbook.
 - Provide the contact name or position title for the organization's workers compensation coordinator.
- New and transferred employees must receive training about exposure to potential hazards *prior to being assigned work*.
- The checklist below provides an example of a safety orientation and may be included with the new employee orientation. The original checklist should be kept in the employee's personnel file. A copy should be given to the employee.

Safety Orientation	
Name of Employee:	Department:
Items Reviewed	Reviewer's Initials
Mission Statement	
Organization's Policies and Procedures	
Safety and Health Policy	
Emergency Action Plans	
Incident Reporting (this includes accidents and near misses)	
First aid available	
Medical treatment	
Follow-up Incident Investigation	
Return-to-Work Policy	
Employer's responsibility	
Injured employee's responsibility	
Purpose of transitional work assignments	
Co-workers' responsibilities	
Hazard Communication	
Hazardous Material (if applicable)	
Hazardous Waste Disposal (if applicable)	
Hearing Conservation (if applicable)	
Personal Protective Equipment (if applicable)	
Eye Protection	
Footwear	
Gloves	
Respiratory Protection	

Safety Tips from the WorkSafe People

Conduct tour of the building identifying emergency exits		
Conduct tour of the immediate work area		
Review operation of equipment pertaining to the assigned job		
Discuss After-Hour Access		
Security Available		
Employee Signature:	Employer Signature:	Date:

- Explain the job tasks and the safety and health precautions associated with each task. Verify that the employee understands the tasks.
- Explain the emergency plans associated with your organization. Practice emergency shutdown and evacuation.
- Establish regular meetings for training updates; include such things as:
 - Safety and health information for both on and off the job
 - Review of existing programs
 - Updates on new and pending regulatory standards
 - Regulatory-required annual training
 - Check and validate an employee's knowledge of specific procedures, such as lockout/tagout
- Issue employees training certificates with a description of the items covered in the formal training program. Keep a copy of the training certificate in each employee's personnel file.

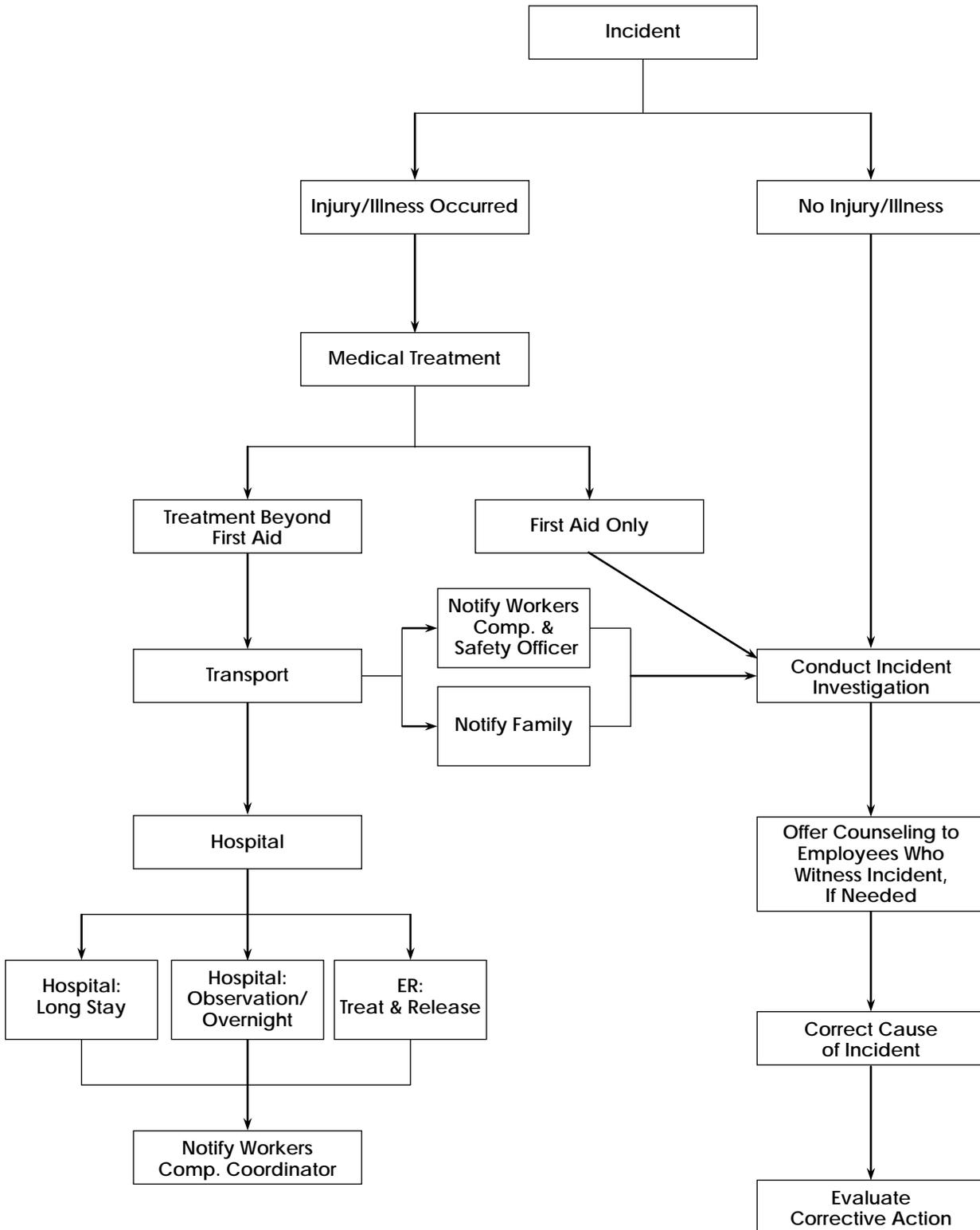
Step 8

Incident Investigation

Follow your organization's written incident (accident) investigation procedure. Record *all* pertinent information. The flowchart on the following page (*An Incident Has Occurred ...*) provides an overview of a generic incident investigation (a sample of the Accident Fund Insurance Company of America's *Employee Accident Investigation Report* follows the flowchart).

Safety Tips from the WorkSafe People

An Incident Has Occurred ...



Safety Tips from the WorkSafe People

Sample Employee Accident Investigation Report

		Facility					
		NAME		CITY	STATE	LOCATION #	
Employee							
NAME		SEX	D.O.B.	HEIGHT	WEIGHT		
SOCIAL SECURITY #	HIRE DATE	FULL TIME <input type="checkbox"/>	PART TIME <input type="checkbox"/>	SHIFT: DAY <input type="checkbox"/>	EVENING <input type="checkbox"/> NIGHT <input type="checkbox"/>		
DEPARTMENT		ADDRESS					
JOB CLASSIFICATION		CITY, STATE		HOME PHONE # ()			
Description of Accident							
ACCIDENT DATE		ACCIDENT TIME		ACCIDENT LOCATION			
Please describe the accident, including what employee was doing when it occurred.							
Name object or substance that directly attributed to the accident.							
What caused the accident? How could it have been prevented?							
Describe the injury.							
B O D Y P A R T	<input type="checkbox"/> 1. Abdomen	<input type="checkbox"/> 13. Forearm(s)	<input type="checkbox"/> 25. Ribs	C O N T A I N E R O F	<input type="checkbox"/> 1. Abrasion	<input type="checkbox"/> 13. Grinding Wound	<input type="checkbox"/> 25. Repetitive Motion Disorder
	<input type="checkbox"/> 2. Ankle(s)	<input type="checkbox"/> 14. Groin	<input type="checkbox"/> 26. Shoulder(s)		<input type="checkbox"/> 2. Amputation	<input type="checkbox"/> 14. Hearing Loss	<input type="checkbox"/> 26. Scratch
	<input type="checkbox"/> 3. Back	<input type="checkbox"/> 15. Hand(s)	<input type="checkbox"/> 27. Spine		<input type="checkbox"/> 3. Avulsion	<input type="checkbox"/> 15. Heart Attach	<input type="checkbox"/> 27. Silver
	<input type="checkbox"/> 4. Buttock(s)	<input type="checkbox"/> 16. Head	<input type="checkbox"/> 28. Stomach		<input type="checkbox"/> 4. Blister	<input type="checkbox"/> 16. Heat (cramps, stroke)	<input type="checkbox"/> 28. Splinter
	<input type="checkbox"/> 5. Calf(s)	<input type="checkbox"/> 17. Hip(s)	<input type="checkbox"/> 29. Teeth		<input type="checkbox"/> 5. Burn	<input type="checkbox"/> 17. Hernia	<input type="checkbox"/> 29. Sprain/Strain
	<input type="checkbox"/> 6. Chest	<input type="checkbox"/> 18. Jaw	<input type="checkbox"/> 30. Thigh(s)		<input type="checkbox"/> 6. Contusion	<input type="checkbox"/> 18. Infection	<input type="checkbox"/> 30. Slip/Fall
	<input type="checkbox"/> 7. Ear(s)	<input type="checkbox"/> 19. Knee(s)	<input type="checkbox"/> 31. Throat		<input type="checkbox"/> 7. Death	<input type="checkbox"/> 19. Insect Bite	<input type="checkbox"/> 31. Other _____
	<input type="checkbox"/> 8. Elbow(s)	<input type="checkbox"/> 20. Leg(s)	<input type="checkbox"/> 32. Thumb(s)		<input type="checkbox"/> 8. Dermatitis	<input type="checkbox"/> 20. Irritation (dust)	_____
	<input type="checkbox"/> 9. Eye(s)	<input type="checkbox"/> 21. Lungs	<input type="checkbox"/> 33. Toe		<input type="checkbox"/> 9. Foreign Object	<input type="checkbox"/> 21. Irritation (vapor)	_____
	<input type="checkbox"/> 10. Face	<input type="checkbox"/> 22. Mouth	<input type="checkbox"/> 34. Upper Arm(s)		<input type="checkbox"/> 10. Fracture	<input type="checkbox"/> 22. Laceration	_____
	<input type="checkbox"/> 11. Finger(s)	<input type="checkbox"/> 23. Neck	<input type="checkbox"/> 35. Whole Body		<input type="checkbox"/> 11. Frostbite	<input type="checkbox"/> 23. Pulmonary Condition	_____
	<input type="checkbox"/> 12. Foot	<input type="checkbox"/> 24. Nose	<input type="checkbox"/> 36. Wrist(s)		<input type="checkbox"/> 12. Ganglion	<input type="checkbox"/> 24. Puncture Wound	_____
Corrective actions taken to prevent recurrence.				Treatment			
Lost Time? <input type="checkbox"/> Yes <input type="checkbox"/> No	Number of Days:	Modified/Restricted Duty <input type="checkbox"/> Yes <input type="checkbox"/> No	NUMBER OF DAYS				
Did employee accept medical treatment? <input type="checkbox"/> Yes <input type="checkbox"/> No	Was employee hospitalized? <input type="checkbox"/> Yes <input type="checkbox"/> No	Did employee return to work the same day? <input type="checkbox"/> Yes <input type="checkbox"/> No					
Report Date	Employee Signature	Supervisor Signature					

LC-8 Rev. 11-02 (THIS IS NOT A CLAIM FORM - TO BE USED ONLY FOR INTERNAL ACCIDENT PREVENTION PURPOSES)

Step 9

Fraud

Workers compensation was developed to aid the injured employee by providing a means for the individual and his or her family to be compensated without having to take the employer to court. This no-fault approach was designed to be used by employees and employers to resolve workplace incidents resulting in injury or illness. There are, however, some serious problems with the workers compensation system:

- Work-related injured or ill employees who are legitimately receiving benefits suffer a large loss in income.
- Caseloads have been steadily increasing.
- There is nationwide evidence of waste, fraud, and abuse of the workers compensation system.

Every organization must take a stand against insurance fraud — it is illegal. Put a stop to a fraudulent claim before it begins!

Be Alert for Signs of Fraud

Each time a claim is filed, scrutinize it very carefully. Fraud may occur at any one — or all — of the stages associated with the claim.

When was the claim filed?

- Was the injured employee about to be terminated, laid off, transferred to another department?
- Was the operation he or she performed about to be phased out, or the plant closed?
- Was the claim filed on a Monday or after returning from a vacation?

Employee

- A history of filing claims?
- Changes jobs frequently?
- Active in sports?
- Has a second job?
- In line for early retirement?
- Has skills in carpentry, plumbing, electrical, secretarial (able to work on a *cash* basis)
- Work performance problems with the organization?
- Unable to reach the employee at home during working hours?
- Mailing address is a post office box; home addresses change frequently?
- Social security number is not his or her own?

Incident

- No one witnessed the accident; it occurred in an area where work is not normally performed
- The incident happened before a layoff, strike, plant closure, merger, or bankruptcy
- Other employees report the employee's alleged injury is not legitimate
- Accident is described differently than what the medical exam reveals
- Work-related injured employee changes account of accident when confronted — conflicting evidence
- The original report was not filed according to the organization's procedure; it was not filed in a timely manner following the event

Medical Treatment/Medical Care Provider

- Many work-related injuries and illness are very hard to dispute (e.g., work-related stress, headaches, emotional distress, and soft tissue injuries)
- Reports from the medical care provider about the organization's workers compensation claims are identically worded
- The medical care provider submits bills for treatment on weekends or when the physician has the day off
- The injured employee makes frequent visits to the medical care provider for the same treatment without improvement
- The employee's physician has a history of filing questionable claims
- An independent medical examination is refused by the employee

Safety Tips from the WorkSafe People

- The medical care provider has released the employee to return to work, so the employee changes physicians
- Rehabilitation reports indicate that the employee is maintaining an active lifestyle
- The medical care provider changes location and name frequently

Encourage all employees to report any suspicion of misuse of workers compensation (this could be done through anonymous tips).

Step 10

Claims Management

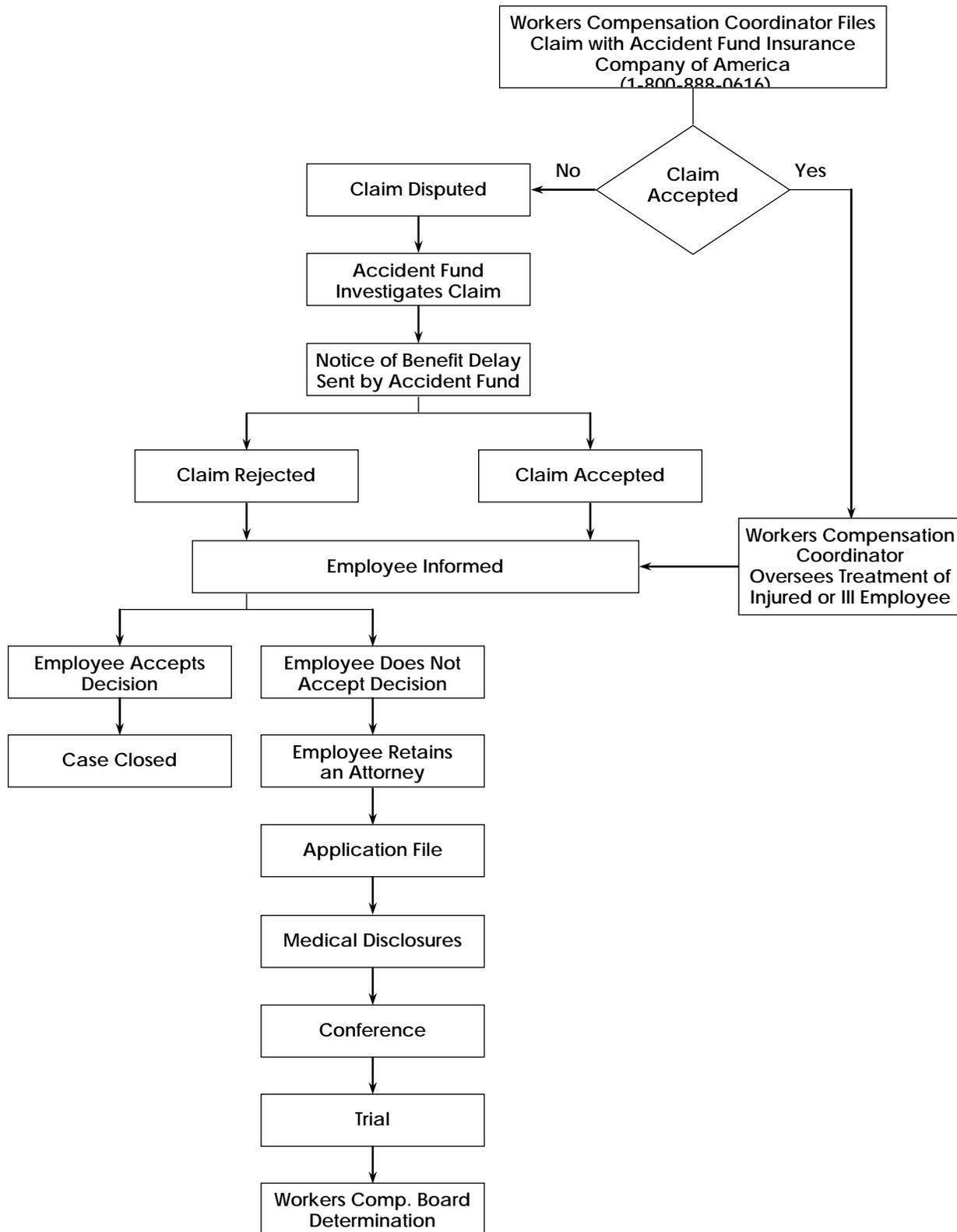
Notification has been given that an incident has occurred and an employee has received a work-related injury. Medical management, based on the initial diagnosis, should be established during this time period.

If a claim appears to be suspicious or if it appears that it did not happen as the result of employment, advise Accident Fund Insurance Company of America at once. Begin gathering all the facts associated with the claim.

The flowchart on the following page (*Claims Management Following an Injury or Illness*) provides an overview of claims management.

Safety Tips from the WorkSafe People

Claims Management Following an Injury or Illness



Safety Tips from the WorkSafe People

Step 11

Review of Employee and Management Responsibilities

Employee's Responsibilities

- Follow all policies of employment.
- Immediately report all incidents (regardless of how minor) to the supervisor of the area where it occurred.
- Provide factual information concerning the incident.
- Complete all necessary workers compensation forms if the incident resulted in a work-related injury or illness.
- Obtain medical treatment.
- Furnish written medical information to your organization's workers compensation coordinator.
- Remain in contact with your workers compensation coordinator and area supervisor — keep them informed of all medical care provider appointments.
- Follow the medical care provider's instructions.

Management's Responsibilities

- Set a good example for the staff — follow and support all of your organization's policies and procedures.
- Respond promptly to all incidents and obtain medical assistance if needed.
- Conduct a follow-up incident investigation.
- Identify potential transitional duties for the work-related injured or ill employee.
- Remain in contact with the work-related injured or ill employee on a weekly basis.
- Work with the medical care provider to ensure a safe transition back to work for the injured or ill employee.
- Provide a *written* offer for return to work when conditions warrant it.
- Document all correspondence with the work-related injured or ill employee.
- Work in conjunction with Accident Fund Insurance Company of America on all claims.
- Report all possible fraudulent activity immediately to Accident Fund Insurance Company of America.

Step 12

Returning an Employee to Work Establish Transitional Tasks

There are numerous tasks that can be used as part of a transitional job. There are two keys to remember when developing any transitional job:

- The tasks must be within the injured employee's restrictions.
- The tasks must have meaning and be purposeful for both the employee and the employer.
- If neither of these occur, the employee will not understand the purpose of the transitional work and will avoid it.

Examples of Transitional Tasks

♦ Conduct an inventory of:	♦ Write or review the evacuation maps of the building
□ Tools	
□ Equipment/company assets	♦ Fold laundry
□ Chemicals (and compare to the MSDSs on file)	♦ Fold napkins
	♦ Polishing
♦ Label shelves with contents	□ Silver
♦ Label file cabinets	□ Lighting fixtures
♦ Bar code items	□ Furniture
♦ File	♦ Wash windows
♦ Conduct inspection of the building/grounds	♦ Door greeter

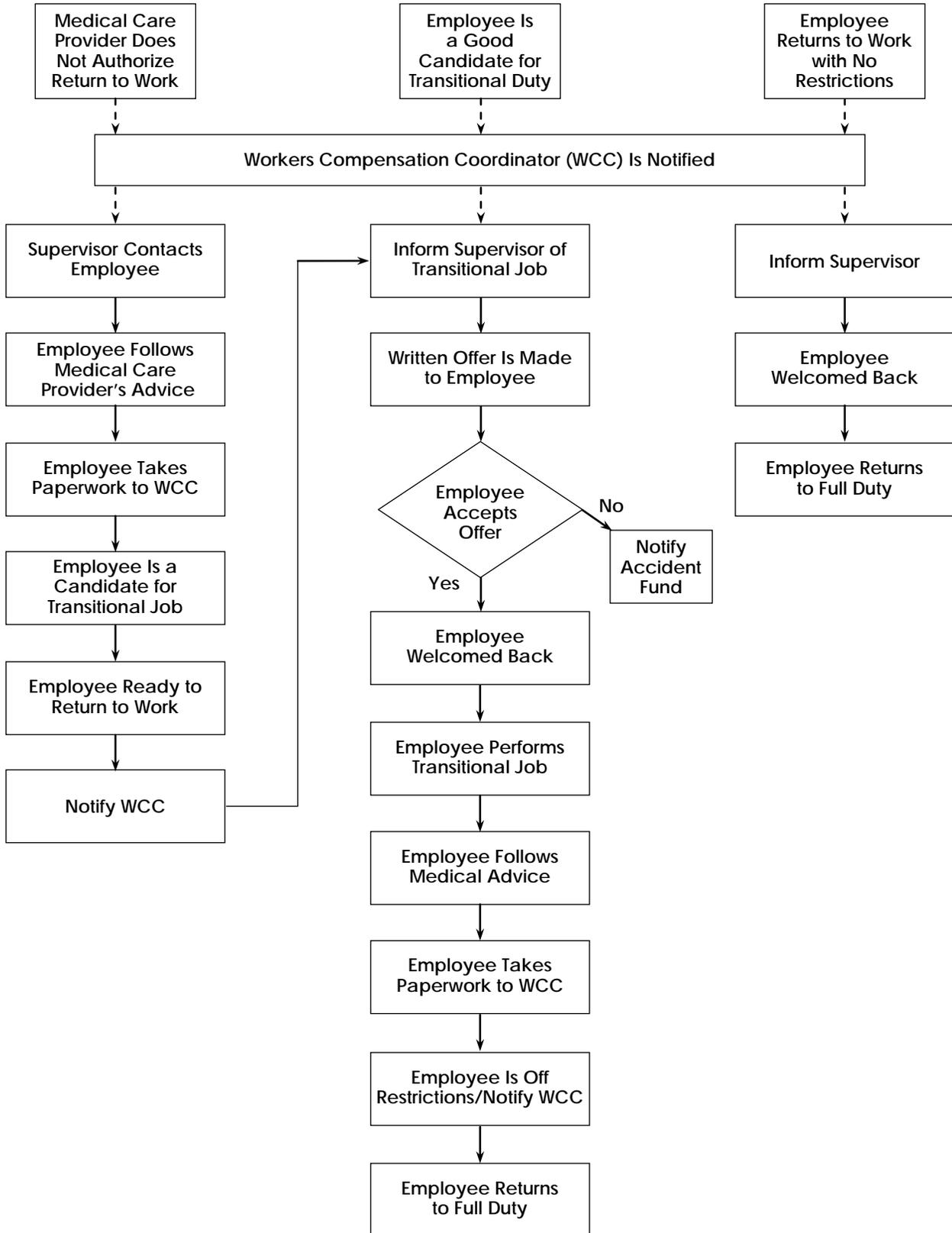
Safety Tips from the WorkSafe People

♦ Clean tools	♦ Plan company picnic
♦ Train new employees	♦ Plan company holiday party
♦ Telephone	♦ Help volunteer agencies
<input type="checkbox"/> Place calls to potential customers	♦ Perform pre-injury job with accommodations
<input type="checkbox"/> Answer phone	

The checklist on the following page (*Return-to-Work Duty/Restrictions and Transitional Tasks*) can be used to assist you in determining specific transitional tasks. The flowchart on Page 44 provides an overview of the steps involved with transitional duty.

Safety Tips from the WorkSafe People

Transitional Duty



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Sample Framework for a Written Return-to-Work Program*

(Name of Company)

(Date)

Purpose

The *(insert company name here)* has developed and implemented a written Return-to-Work Program to establish the minimum requirements in the event one of our employees is injured off the job or suffers a work-related injury or illness. This company is committed to making every reasonable effort to return the employee to work at the earliest possible time, based on medical approval. The Return-to-Work Program is designed to provide temporary assignments while the employee continues medical treatment or therapy.

Scope

This program applies to all of our employees who have a work-related injury or illness. *Employees who have had a non-work-related injury or illness may also be required to comply with this program.* The work offered to the employee will be within the restrictions set forth by the medical care provider.

Responsibility and Authority

1. Senior and Upper Management

It is the responsibility of *(insert specific name of upper management position, e.g., president)* to continually demonstrate support, commitment, and visible involvement to ensure that this program and the associated procedures are followed.

2. Safety and Health Professional

The organization's *Safety and Health Professional*, by virtue of his or her education, knowledge, and skills has the responsibility and authority to:

- Work with senior management to establish and maintain a comprehensive organization-wide safety and health program
- Coordinate the organization's Return-to-Work program with the Workers Compensation Coordinator

*This is intended to be used as a sample program only. It is designed to serve as a reference tool to be used as you develop your own company-specific program.

- Assist the supervision/management level in carrying out the organization's safety and health program
- Review and analyze all departments, area processes, equipment, and materials (both raw and finished) for potential hazards
- Develop hazard control procedures, methods, programs, and designs
- Implement, administer, and educate others on hazard identification and control
- Evaluate the effectiveness of the hazard control programs
- Maintain all required federal, state, and local safety and health-related records and reports

3. Workers Compensation Coordinator

The *Workers Compensation Coordinator* will act as the organization's liaison for *all* work-related and non-work-related injuries and illnesses. This individual will have the authority and responsibility to oversee the *(insert company name)* workers compensation program, including return-to-work, ADA, and FMLA. This position will coordinate the organization-wide implementation of the return-to-work program with the Safety and Health Professional.

Authority and responsibilities of the Workers Compensation Coordinator:

- Remains in contact with the employee, the medical care provider, Accident Fund Insurance Company of America, the organization's Safety and Health Professional, and the employee's supervisor.
- Communicates directly with the injured employee until that individual retains an attorney.

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- Obtains and coordinates all paperwork associated with the injured employee including, but not limited to, documentation of medical care provider visits, OSHA injury and illness log, return-to-work restrictions, telephone calls to the employee, written offers of transitional tasks for return-to-work duty.
- The workers compensation coordinator will fill out the First Report of Injury Form and report the work-related injury or illness immediately to Accident Fund Insurance Company of America. This can be done one of four ways: by completing and submitting the online form at www.accidentfund.com, by emailing it to claimsexpress@accidentfund.com, by faxing it to 866-814-5595, or by calling the express line at 866-206-5851.
- Within the first 10 days of the injury, directs the care of the work-related injured or ill employee to a provider Accident Fund's PPOM WorkSafe Care Network.
- May challenge medical treatment, as well provide input on the option of vocational rehabilitation for the work-related injured employee.
 - A challenge may be made to the work-related injured employee's position on any issue, as long as the Workers Compensation Coordinator has a reasonable basis for doing so.
- Supplies the medical care provider with all referral information, such as the job description of the injured employee and potential transitional job positions.
- Can request the medical status of the claimant or a medical re-evaluation, as well as an independent medical examination (IME).
- Works with the injured employee's supervisor to identify a transitional job when the employee has received approval from the medical care provider to begin the return-to-work program. An offer will be made *in writing* by the Workers Compensation Coordinator to the injured employee.
 - If the injured employee *refuses* to accept a return to-work offer, notify Accident Fund Insurance Company of America immediately.
 - If the injured employee *accepts* a return-to-work offer, notify Accident Fund Insurance Company of America (by fax), using the *Return-to-Work Notice*.
- Contacts Accident Fund Insurance Company of America immediately if fraud is suspected on the part of the employee or medical care provider.
- Assists Accident Fund Insurance Company of America in the defense of the claim.
- Performs periodic inspections (at least annually) to ensure compliance with the return-to-work program.

4. Manager/Supervisor/Foreman

Each supervisor shall effectively enforce compliance of this Return-to-Work procedure. If fraud is suspected, report this immediately to the Workers Compensation Coordinator.

This position also:

- Has the authority and responsibility to directly manage the workplace.
 - Should demonstrate through daily positive actions and knowledge, his or her support and compliance with the organization's safety and health policy.
- Is held responsible and accountable for the safety management practices implemented in his or her area of responsibility.
- Provides training on the organization's Return-to-Work Program.
 - Initial employment
 - When transitional work impacts the employee (the employee is required to assist an injured employee who is returning to work, performing part of the transitional tasks)
 - When an employee is assigned transitional work because of a workplace-related injury or illness
- Acts as the communication link between upper management and the workforce.
- Ensures that the workforce has the proper tools and resources to perform their jobs safely and productively.

The *immediate* manager/supervisor/foreman of the transitional-work employee is responsible for:

- Communicating regularly with the Workers Compensation Coordinator and the Safety and Health Professional to develop an understanding of:
 - The nature of the injury or illness
 - What type of special accommodations necessary for transitional work can be offered

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- Establishing and remaining in weekly contact with the work-related injured employee while on medical leave.
- Communicating the restrictions of the transitional work to the *entire staff* impacted by this position.
- Remaining informed of the employee's medical and rehabilitation progress.
- Understanding how the incident led to the employee's work-related injury or illness.
- Maintaining an attitude that creates a workplace that the injured employee wants to return to.
- Knowing the signs of fraud and reporting them immediately to the Workers Compensation Coordinator.

5. Employees

Employees are responsible for complying with the organization's policies.

- In the event of an incident (regardless of how minor), notify your *immediate supervisor* and the organization's *Workers Compensation Coordinator* immediately.
- Assist the *supervisor* in filling out the Incident Report form.
- Complete all necessary workers compensation forms if the incident resulted in a work-related injury or illness.
- Report the following information to the Workers Compensation Coordinator on a timely basis (*indicate time frame here*):
 - All medical appointments (doctor, therapy appointments)
 - Supply copies of the diagnosis, treatment, and physical capabilities for consideration for transitional work
- Follow the medical care provider's recommendations.
- Provide information about the incident when requested by the Workers Compensation Coordinator, the Safety and Health Professional, or the supervisor.

6. Union

If a bargaining unit is part of your organization, include this section. Management will incorporate the Union in the development and implementation of the Return-to-Work Program.

- The union should have knowledge of the organization's worker compensation benefits, insurance carrier, and return-to-work policies.
- The union should assist in developing an agreement for returning injured employees back to work in the form of transitional duty, or obtaining positions wherever possible for employees who are permanently physically disabled.

Medical Care Provider

1. Select a medical care provider based on the quality and type of occupational health services provided. Whenever possible, choose a provider from Accident Fund's PPOM WorkSafe Care Network. A key selection factor will be the willingness of this facility to cooperate with our organization's (*insert company name*) pro-active Return-to-Work Program.
 - The medical care provider will supply our organization's Workers Compensation Coordinator with documentation following each employee's visit or physical assessment.
 - The medical care provider will give specific dates and times when a work-related injured or ill employee is able to begin a 30-, 60-, or 90-day return-to-work program at our organization.

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2. (*Insert name of medical care provider*) will be provided initially with at least the following information:
 - Opportunity to conduct a site visit
 - (*Insert name of company*) written programs for:
 - —Return-to-Work
 - —Incident Investigation
 - —Hazard Communication
 - A copy of the current job description for the work-related injured employee identifying the essential job tasks and physical and mental requirements
 - —A copy of the current job analysis will also be provided
 - A copy of the union agreement with (*insert company name*), if applicable.
3. The Workers Compensation Coordinator (*insert name*) will serve as the liaison between our organization and the medical care provider.
 - The medical care provider will keep the Workers Compensation Coordinator informed on all open cases.
4. The medical care provider is responsible for completing the *Physician's First Report of Injury* form and returning it to the injured employee.

Work-Related Incident (Accident/Illness) Procedure

1. All employees will follow the organization's written incident reporting procedure and notify their immediate supervisor of all incidents involving accidents or near misses.
2. An investigation will be conducted following all incidents or near misses, regardless if an injury or illness resulted. This information will be documented and maintained in accordance with our organization's recordkeeping policy.
3. If an injury requires more than first aid, arrangements will be made for medical transport. The organization's Workers Compensation Coordinator will provide medical referral information.
4. The spokesperson for our organization, (*insert position title*), will notify the employee's family and handle any necessary press releases, if applicable.
5. An *Incident (Accident) Report* form will be completed for all accidents, including when the injured employee receives only first aid treatment. This report will be filled out even if the employee can return to work immediately. All reports will be completed during the shift the incident occurred and submitted to the organization's safety and health professional.
6. Counseling may be offered to witnesses of a traumatic incident.
7. The workers compensation coordinator will fill out the First Report of Injury Form and report the work-related injury or illness immediately to Accident Fund Insurance Company of America. This can be done one of four ways: by completing and submitting the online form at www.accidentfund.com, by emailing it to claimsexpress@accidentfund.com, by faxing it to 866-814-5595, or by calling the express line at 866-206-5851.
8. Within the first 10 days of injury, *the organization* will direct the care of the injured employee to the PPOM WorkSafe Care Network provided by Accident Fund Insurance Company of America.
9. The Workers Compensation Coordinator will be responsible for the following:
 - Provide the medical care provider with the *Order for Medical Examination and First Aid* and *Physician's First Report of Injury* forms
 - Keep the OSHA Injury and Illness log current and complete
 - Establish a medical file that is separate and confidential from the personnel file
 - Remain in contact with Accident Fund and oversee the case

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Transitional Duty Procedure

1. The medical care provider and Workers Compensation Coordinator will remain in contact concerning the injured or ill employee's return-to-work status.
2. If a leave of absence or time off work is required by the injured or ill employee for recovery, the Workers Compensation Coordinator will determine if it is compatible with the Family Medical Leave Act's "serious health condition."
3. The Workers Compensation Coordinator will maintain the injured or ill employee's contact log, which will be updated after each contact (either by phone or in person).
4. The Workers Compensation Coordinator will keep the injured or ill employee's supervisor informed.
5. The supervisor of the injured or ill employee will call the employee throughout his or her medical leave. The purpose of these calls is to express concern for our employees.
6. The injured or ill employee is responsible for following the medical care provider's advice and supplying copies of the diagnosis, treatment, and return-to-work restrictions to the organization's Workers Compensation Coordinator.
7. When the medical care provider indicates the injured or ill employee is a candidate for transitional work, the Workers Compensation Coordinator will notify the injured or ill employee's supervisor, the organization's Safety and Health Professional, and the Accident Fund Company.
8. The Workers Compensation Coordinator will provide a *written* offer of transitional duty to the work-related injured or ill employee.
9. If the injured or ill employee accepts a return-to-work offer, the Workers Compensation Coordinator will notify Accident Fund (by fax) with the *Return-to-Work Notice*.
10. If the injured or ill employee refuses to accept a return-to-work offer, the Workers Compensation Coordinator will notify Accident Fund immediately.
11. The supervisor who is overseeing the injured or ill employee's transitional work will:
 - ◆ Welcome back the employee and explain to the *transitional-work employee* the duties associated with the job.
 - ◆ Conduct a safety orientation if the transitional-work employee is assigned to a new area, or if the work process and procedures have been modified in his or her absence.
 - ◆ Oversee the individual's work.
 - ◆ Provide the Workers Compensation Coordinator with weekly reports on the transitional employee's progress.
 - ◆ Ensure restrictions are being followed and accommodations, if necessary, are made in a timely fashion.
 - ◆ Notifying the Workers Compensation Coordinator of any potential workers compensation fraud.
12. The Workers Compensation Coordinator will request a medical re-evaluation after *30, 60, or 90 days* of transitional work to determine an end date for the transitional work. This will continue until the injured employee reaches 100% or maximum health.
13. If fraud is suspected on the part of the employee or the medical care provider, the Workers Compensation Coordinator will notify Accident Fund immediately.
14. If necessary, the Workers Compensation Coordinator will assist Accident Fund Insurance Company of America in defense of the claim.

Permanent Work Restrictions

If the medical care provider has determined the employee who received a work-related injury or illness is unable to achieve pre-injury status (and this has been confirmed by an independent medical examination [IME]), permanent work restrictions may be required.

The (*insert company name*) values our employees and will work to assist the employee with the medical care provider, Accident Fund Insurance Company of America, legal council, the Safety and Health Professional, and the Workers Compensation Coordinator, within the guidelines of ADA and similar acts, regulations, and standards.

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Discipline for Noncompliance

Progressive disciplinary actions may be taken against any employee who fails to observe the Return-to-Work Program in accordance with (*insert company name*) Human Resources policies (and Union contract, if applicable).

(Signature of the President of the Company)

(Signature of the Union President, if applicable)

(Date)

Glossary of Common Return-to-Work Terms

- **Claimant:** A current or former employee making a claim.
- **Claims or Loss History:** Numerical summary of claims based on the type of occupational injuries and illnesses experienced by the employees.
- **Cumulative Trauma Disorder (CTD):** Injury resulting from continual repetitive motion over a period of time.
- **Employee Assistance Program (EPA):** A program sponsored by the employer designed to help employees deal with life's problems and issues. It is a confidential program.
- **Experience Modification Factor (EMF):** Rate based on the organization's actual injuries/illnesses as compared to employees in similar companies; a rate of 1.0 is considered normal.
- **Functional Capacity Evaluation (FCE):** A tool typically used by an occupational therapist to assess the injured employee's physical ability to perform tasks related to his or her job.
- **Independent Medical Examination (IME):** An employee who has filed a workers compensation claim may be required to be examined by a medical provider chosen by the employer.
- **Job Analysis:** Obtain information concerning job demands on the employee's body, either through observation and/or a questionnaire; the purpose of a job analysis is to determine the physical characteristics of the job. The employer is responsible for providing the employee with information on the recognized hazards associated with the work and working environment. Regulatory agencies such as OSHA and have established training criteria, documentation, frequency, and duration.
- **Job Description:** Written description identifying the major tasks and responsibilities associated with the job.
- **Job Modification:** Changes made to the job to permit the injured employee to return to work.
- **Occupational Disease:** Illnesses experienced by the employee that are the result of exposure to agents in the workplace. Agents in the work environment may include exposure to materials, processes, and equipment. Exposure frequently occurs through absorption, inhalation, or ingestion of agents.
- ***Permanent Partial Disability:** A work-related injury or illness other than death or permanent total disability which results in the loss, or complete loss of use, of any member or part of a member of the body, or any permanent impairment of function of the body or part thereof, regardless of any pre-existing disability of the injured member or impaired body function.
 - ***Permanent Total Disability:** Any nonfatal injury that permanently and totally incapacitates and prevents an employee from following any gainful occupation, or which results in the loss, or the complete loss of use, of any of the following in a single accident: (a) both eyes; (b) one eye and one hand, arm, leg, or foot; or (c) any two of the following not on the same limb: hand, arm, foot, or leg.
- **Pre-placement Medical Exam:** After the offer of employment has been made, a job-related medical exam conducted by a qualified medical provider to determine if the employee can perform the required essential job-related functions.
- **Reasonable Accommodation:** Any change or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. This includes adjustments to ensure that a qualified individual with a disability has the rights and privileges in employment equal to those of employees without disabilities.
- **Risk Pool:** Last resort to obtain workers compensation insurance; designated by the state's agency.
- **Serious Health Condition:** U.S DOL means an illness, injury, impairment, or physical or mental condition that involves either:
 - any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or
 - residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or
 - Continuing treatment by a health care provider, which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:

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- (1) A health condition (including treatment therefor, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes: treatment two or more times by or under the supervision of a health care provider; or one treatment by a health care provider with a continuing regimen of treatment; or
- (2) Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or
- (3) A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
- (4) A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or
- (5) Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

- **Severity Rate:** A means to rate the seriousness of an injury or illness.
- **Subrogation:** A legal means for the employer or insurance carrier to recover, from a third party, workers compensation benefits paid to an employee as a result of a negligent act of the third party.
- **Temporary Total Disability:** An injury that does not result in death or permanent total or permanent partial disability, but which renders the injured person unable to perform a full day's work. This means that the injured employee cannot perform all the duties of a regularly established job which is open and available; or is unable to perform such duties during the entire time interval corresponding to the hours of the regular shift on any one or more days (including weekends, holidays, and other days off, or plant shutdown) subsequent to the date of the injury.
- **Traumatic Injury:** The injury results from a definite accident in the course of the employment.

Sources:

- *The Dictionary of Terms Used in the Safety Profession*, 1988, Third Edition, Stanley A. Abercrombie, Des Plaines, Illinois, American Society of Safety Engineers
- The Americans with Disabilities Act of 1990, Equal Employment Opportunity Commission and U.S. Department of Justice Civil Rights Division.
- The Family and Medical Leave Act of 1993.