## HUMAN RESOURCES POLICIES

### SECTION 5

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### CLAIMS MANAGEMENT

5.13.21 The Company Name reserves the right to manage the financing of claims, on an individual and distinct ‘case by case’ basis, in accordance with the obligations as set out by the Workplace Safety & Insurance Act and WSIB policy, without prejudice or precedent.

### CONDUCT AND COMPLIANCE

5.13.22 The Company Name recognizes and values the dedication and duties performed by all employees. A worker who has suffered a workplace injury and is participating in a Modified Work Plan **must not be subject to verbal harassment** by either staff or management. Such actions should be reported to the employee’s supervisor and the Human Resources Department immediately.

(a) It is everyone’s responsibility to prevent and report harassment in the workplace. If you should experience or witness an act of harassment please refer to the procedure outlined in Human Resource Policy 4.2, Section 4.2.4.

(b) Harassment in the workplace may result in disciplinary action as outlined in Human Resource Policy 4.2, Section 4.2.6.

5.13.23 Conduct that is deemed to be dangerous to one’s self, other Company Name employees, or those for whom County employees have a responsibility, may result in disciplinary action by the Company Name, and/or loss of entitlement with the WSIB/Company Name. Moreover, those actions which directly contravene the *Workplace Safety & Insurance Act*, the *Occupational Health & Safety Act* or a Company Name policy in relation to Health & Safety, ‘early and safe Return to Work’ (esRTW), or Accident/WSIB reporting procedures, may also result in disciplinary action for the employee and/or loss of entitlement with the WSIB/Company Name.
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(a) Review the RTW Plan, where an error has been made, reasonable steps will be taken by the employer to correct the error.

(b) If the dispute is regarding functional abilities/suitability of work match, then both parties will review the plan and try to come to agreement on the suitability and availability of work.

(c) Where the dispute cannot be resolved, the employer will notify the WSIB immediately concerning any difficulty or dispute concerning the cooperation of the employee or the employer in their esRTW, as required under Section 40 (6) of the Workplace Safety & Insurance Act.

(d) The dedicated WSIB claims adjudicator will review the FAF and modified duties offered to the employee and determine if they are indeed suitable. If they are deemed suitable, the employee must comply with the esRTW immediately, or risk losing entitlement with the WSIB and the Company Name.

Note: Should an employee dispute an esRTW plan and the plan is found to be suitable by the claims adjudicator, neither the WSIB nor the Company Name is obligated to pay lost wages during that period.

(e) The WSIB adjudicator may refer the issue to mediation and, if mediation is not successful, shall decide the matter within sixty (60) days after receiving the notice or within such longer period as the Board may determine, as per Section 40 (7) of the Workplace Safety & Insurance Act.

5.13.20 EMPLOYER DISPUTE
As required by Section 40 (1) of the Workplace Safety & Insurance Act, the employer shall cooperate in the early and safe return to work of the worker. Should a dispute arise from the employer the following steps will be taken:

(a) If the dispute is regarding functional abilities/suitability of work match, refer to 5.12.19 (a). If necessary, the employer may refer the employee to a Health Care Practitioner paid for by the employer to conduct a more comprehensive Functional Abilities evaluation.

(b) Where the dispute cannot be resolved, the employer will refer the case to the dedicated WSIB adjudicator for consideration; the process as noted in 5.12.19 (c) through (e).
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“We must insist on your co-operation on the following:

- The duties listed above have been formulated in recognition of your present medical restrictions, as documented on your ‘Physician’s Assessment’ (Attached).
- We agree to provide you with suitable duties based on these restrictions, and not to exceed these restrictions, as they are written.
- If you are asked by a fellow employee to assist in a task which you are medically incapable of doing, you are asked to explain your restrictions and ask that they request assistance from a supervisor.
- If you are asked by your supervisor to perform any of the tasks listed above (as suitable) you must comply, as they have been deemed suitable in light of your injury. Failure to comply may be viewed as a work refusal.
- If you are experiencing any problems with the assigned tasks, please discuss them with your supervisor immediately.
- Every effort must be made by you to attend work. If you are unable to do so, you must notify your supervisor immediately and the Human Resource Department.”

(a) As much as this paragraph must be included in every Modified Work Plan developed for the Corporation of the Company Name, the contents are policy and must be adhered to.

5.13.18 If an injured worker is receiving medical treatment and is not considered fit for modified duties he or she is required to phone in after each Physician’s appointment and at least on a weekly basis to discuss their condition with their supervisor and/or the Workplace Health & Safety Coordinator (as prescribed). A Functional Abilities Form is required to be completed and dropped off after each doctor’s visit.

DISPUTE RESOLUTION MECHANISM

5.13.19 EMPLOYEE DISPUTE
As required by Section 40 (2) of the Workplace Safety & Insurance Act, a worker shall cooperate in his or her early and safe return to work. Whenever there is a dispute between the employer and the employee the following steps will be taken:
(b)  Both (and only) the Human Resources Director and the Workplace Health & Safety Coordinator reserve the right to speak with the treating physician throughout the progress of the plan, keeping with the goal of returning the employee to their pre-injury job in an early and safe manner.

5.13.14  If all parties agree at the end of the eight (8) weeks that no progress has been made, the employer can require the employee to visit a Health Care Practitioner of their determination.

5.13.15  If the worker has progressed, but not recovered to pre-injury status, the normal eight (8) week program may be extended to a maximum of twelve (12) weeks in total.

(a)  The decision to extend a program must be approved by the Workplace Health & Safety Coordinator, and is subject to appropriate medical documentation.

(b)  If after 12 weeks the employee has still not returned to pre-injury status, the esRTW plan is no longer in effect. The Human Resources Department reserves the right to offer the employee a permanent modified position, an alternative position (which meets the employees medical restrictions and is agreed upon by their union, if applicable), or refer the employee to the WSIB for consideration to a Labour Market Re-entry plan (LMR).

Note:  LMR is a WSIB program which re-trains an injured worker for alternative employment, with an alternative employer, keeping with their medical restrictions. LMR will be considered by the WSIB in cases where the employer has met their esRTW obligations but can no longer provide modified duties or a permanent suitable job.

5.13.16  If at the conclusion of the eight (8) or twelve (12) week period, the physician recommends additional modified work [maximum of two (2) weeks] the employer will take such recommendations under advisement.

5.13.17  Every Modified Work Plan developed for the Corporation of the Company Name, must include the following list of instructions after the suitable duties are identified:
5.13.8 Any modified work plan written for the Corporation of the Company Name must be forwarded to the Human Resources (HR) Department, c/o the Workplace Health & Safety Coordinator, within 24 hours. If a decision is made to send an injured worker home due to lack of modified duties, the HR department must be informed immediately.

MODIFIED WORK PLAN

5.13.9 An individual return to work plan outlines the steps that need be taken to return a worker to their pre-accident or suitable job. It is meant to be a ‘partnership’ between the employer, the injured worker and the health care professional treating the employee.

Note: While the employer does not manage the health care professional, they do manage the employee. It is the employee’s responsibility to get the required information from the health care provider. Functional abilities information, as required and directed by the employer, should flow to the employer through the worker.

5.13.10 If modified work is approved by the physician, the employer and the employee then develop a work schedule of productive and suitable duties. These duties must take into account the medical restrictions and limitations indicated by the employees’ physician.

5.13.11 The hours of work, duties, etc., will be clearly defined to the employee, in writing, who will be required to sign the ‘agreement’, along with the employer, agreeing to participate in the program. A copy of the agreement will be forwarded to the WSIB claims adjudicator.

5.13.12 The individual program may run for up to a maximum of eight (8) weeks.

5.12.13 If participating in a Modified Work Program, progress medical (FAF) can be required every two (2) weeks. Progress interviews between the employer and the employee will occur every two (2) weeks.

(a) The outcome of the progress interviews/medicals may lead to the employee performing additional duties, revised duties, or to the program being shortened, hence amending the original esRTW plan. The goal is to return the employee to the pre-injury job both as early and safe as possible.
(a) Failure to submit the required medical documentation to justify an absence from your scheduled shift(s) may result in denial of entitlement from the WSIB and/or the Company Name.

(b) Retroactive assessments will not be accepted. If an injured worker is to miss their scheduled shift, they must have visited a ‘Health Care professional’ before their scheduled shift. In certain cases, it is expected that the injured worker may not be aware of the extent of the injury or simply unable to seek health care before their next scheduled shift. In such circumstances, the injured worker must notify their employer immediately, who will report to the HR department (Workplace Health & Safety Coordinator) ASAP for coordination of pickup of documents. The injured worker must make every reasonable effort to visit a health care facility that day, and have a FAF completed by the health care facility.

Note: A walk-in clinic or the Emergency Department of a local hospital is considered a health care facility, and is expected to be utilized as such, if necessary.

5.13.6 Upon return to work, the injured worker will present their employer with a completed FAF, signed copy of the Form 6 as well as a completed Accident/Incident Report (if not already submitted).

5.13.7 The supervisor will review the FAF and the list of ‘modified duties’, specific to the facility or department, to determine if modified duties are available and suitable.

(a) If modified duties are available, and meet the limitations of the injured worker as set out in the FAF, the supervisor and injured worker will prepare a written esRTW program/plan for the worker. If duties are either not available or deemed unsuitable the injured worker will be sent home without prejudice.

Note: Both the Department Manager and/or the Workplace Health & Safety Coordinator may participate in lieu or along with the supervisor throughout this process.
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(b) **SUITABLE WORK** is work that is within the worker’s functional abilities; The worker has, or is able to acquire, the necessary skills to perform; The work does not pose a health or safety risk to the worker or co-workers; if possible, restores the worker’s earnings, and; the work must be ‘meaningful’ - must be productive and the result must have value.

(c) **AVAILABLE WORK** is work that exists with the accident employer at the pre-injury worksite, or at a comparable worksite arranged by the employer.

5.13.2 In accordance with Human Resource Policy 5.4, Accident/Incident Reporting Procedure, when an injured worker leaves work to seek Health Care (or is uncertain as to whether they may seek Health Care), the worker must be provided with the following:

- The appropriate ‘Modified Work Program’ information/documentation (must include a letter to both the injured worker and doctor),
- A Functional Abilities Form (FAF),
- A ‘pink’ Treatment Memorandum Form,
- A Worker’s Claim Consent Form (Form 6)

5.13.3 It is the responsibility of the ‘supervisor’ to provide these forms to the injured worker, as well as filling out the Company Name’s standard Accident/Incident Report Form.

*Note:* For the purpose of this policy a ‘supervisor’ is defined as is under the *Ontario Health & Safety Act*; A person who has charge of a workplace or authority over a worker.

(a) It is ultimately the responsibility of the Department Manager to assure that a supervisor has been made aware of their responsibilities, as it pertains to this policy.

5.13.4 **An injured worker is expected to be in attendance for their next scheduled shift to either resume regular or modified duties.**

5.13.5 If the injured worker is unable to attend their next scheduled shift, they must notify the necessary contact immediately, and be prepared to submit to their employer the **required** medical documentation (Functional Abilities Form).
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Early and Safe Return To Work (esRTW) Program

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**Purpose:**
The Company Name is committed to developing and maintaining a safe and healthy work environment. In keeping with this goal, it is the policy of the Company Name to make every reasonable effort to provide suitable employment to any employee unable to perform his/her regular duties as a result of a workplace injury. The purpose of this early and safe Return To Work (esRTW) policy is:

- To provide for early rehabilitation and return to work for injured employees.
- To provide gainful employment for employees who are permanently disabled due to an injury in the workplace.

The main goal of the early and safe Return To Work program is to return the employee to his/her pre-injured status within 8 weeks. An effective esRTW program has been proven to help maintain employee morale and ensures productivity; Provides a fair and consistent approach to the management of individuals returning to work after an injury; Increases awareness of disability issues and prevention for all employees; As well as significantly reducing workers’ compensation costs.

Early and safe return to work contributes to the physical and emotional health of an employee, increasing the likelihood of a return to full duties. The Company Name feels strongly that our esRTW policy and program serve the best interest of our staff and the Corporation.

**Accessibility:**
The Company Name will take into account accessibility needs of employees with disabilities when developing individual accommodations plans.

**Policy:**
5.13.1 The *Workplace Safety & Insurance Act*, 1997, imposes an obligation on both the employer and the worker to co-operate in early and safe Return to Work (esRTW). The desired outcome of the esRTW obligation is the worker’s early return to work that is safe, available, within the worker’s functional abilities (suitable) and that, where possible, restores the worker’s earnings.

**DEFINITIONS**

(a) *MODIFIED WORK* is any job that has been modified which an employee with a disability (illness or injury) may perform on a temporary basis without risk to him/herself or risk to others. Modified work may involve a progressive increase in hours and/or duties to full duties. Modified work is always a temporary, transitional step to full duties. It is not a permanent accommodation.