

## RTW - Negotiating Modified Work Placement with Employers

### 1. When an Employer Says, "No..."

#### If the employer says NO to modified work:

- Ask the employer to tell you what modified work means to them and be willing to educate
- Step up yours and your supervisor's efforts. The case manager could consider visiting the employer. If that isn't effective, the supervisor could call and/or visit the employer.
- Drill down to the nuts and bolts of **why the employer does not want the worker back**. Is it due to performance issues? If it is, remind the employer they are still responsible for the claim if they let the worker go. (see the next bullet pt)
- Let the employer know; "This worker will have \_\_\_\_\_restrictions, he/she is entitled to (list potential VR services), this adds up to (provide cost of the VR services). Wouldn't you prefer to have **this money spent on keeping the worker** with your company?" Or would you **prefer this money be spent with another employer**, possibly a competitor, to hire and retrain the worker?"
- Remind the employer with a **time lost** claim, they will **reduce future time lost claims** if they establish a modified work program starting with the current claim.
- Consider the type of negotiation tools available. Account managers have success negotiating modified work with the employer by:
  - Asking whether the injured worker can perform modified work at a decreased wage.
  - Educating the date of accident employer about the RTW solution of paying the worker a lower wage and WCB paying a 'top-up'.

#### You can also respond to the employer's objections by:

- **Drawing out all the negatives that an employer may have about modified work.**  
Employer: "Your modified work programs never pan out."  
CM/ADJ: "Can you relate some specific problems so we can avoid repeating them?"  
Or  
Employer: "I don't see modified work working for \_\_\_\_\_(worker)."  
CM/ADJ:"What concerns you the most about \_\_\_\_\_ being on modified duties?"
- **Encouraging the employer to think critically about his or her position.**  
Employer: "We have a policy of not re-hiring injured workers."  
CM/ADJ: "That policy could be impacting your claims costs. Claims usually resolve faster, the earlier an injured worker returns to work."
- **Drawing out full resistance by restating the objection more directly than the employer.**  
Employer: "We don't have any light duties."

CM/ADJ: "Do all of your jobs require staff to do heavy lifting full time?", or, "When other employees advance in their trade or move on, what types of jobs do they move into?", or, "Do you know anyone else who is hiring in this position right now?"

- **Encouraging employers to use creative solutions.**

Employer: "There is no work that he could handle."

CM/ADJ: "If you could have a free employee for a month, what job could he/she do?"

- **Using the objection as an opportunity to sell a particular benefit that counters the objection.**

Employer: "If I take this person back, it will increase my claims costs."

CM/ADJ: "A way to ensure that your costs stay as low as possible is to have this employee return to modified employment with your company. That way there are fewer disability benefits being paid and charged to you."

- **Accepting the employer's rejection and move on.**

Employer: "I have already replaced that employee."

CM/ADJ: "Do you have any suggestions for finding other employment for this worker?"

## **2. Small Employer or Self-Employed Workers**

- Ask, "What do you need to keep your business running?"
- Discuss the possibility of 1 or 2 hours of modified per week as a starting point during their recovery.
- For seasonal businesses, ask what other parts of the company are busy during the off season.
- Explore other types of self-employment work with self-employed injury worker.
- Suggest they perform work within their restrictions (e.g. paper work) while someone else does heavier parts of the job (extra help - Proc. 1.1A).
- Recommend they contact other companies to see if work is available within their restriction(s).
- For small businesses, be aware that it may not be about the money (claim costs). May have to motivate them through other means.
- Look at the economy – realities/costs of hiring and training someone else to replace the injured worker.
- If the employer is concerned about the injured worker recovering at home, suggest modified work may be a good alternative. It would allow the injured worker to be at the worksite, where the employer and worker could interact face-to-face, the employer could receive updates on the injured worker's rehabilitation progress, and the injured worker could continue to be a productive employee.
- Clarify up front what was the nature of the injured worker's DOA job? (Did they work as part of a crew? Were they a supervisor/manager with paperwork duties? Or, was he/she the only employee?) By fully understanding the DOA duties and the employer's business requirements, you may be able to come up with modified work options to fill the injured worker and the company's needs.