



Return to Work Policy for Work-Related Injury or Illness CO-CS-PR14

Responsible Officer: Vice President for Administration and Campus Operations

Sponsoring Department: Environmental Health & Safety

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Errors or changes to: aim@uta.edu

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PROCEDURE OBJECTIVE

This procedure is designed to delineate the process through which continued meaningful work can be made available for an employee who experiences a work-related injury or illness that results in work restrictions that interfere with the performance of his/her regular job. This process is managed by the Workers' Compensation (WC) Program in the Environmental Health & Safety Office (EH&S).

SCOPE

This procedure applies to every University of Texas at Arlington (UT Arlington) employee from the first day of employment.

RESPONSIBILITIES

UT Arlington WC Claims Analyst:

- Initiates WC claims process through the UT System third party administrator (TPA).
- Monitors the status of each claim while interfacing with UT System TPA Claims Adjusters and treating doctors until final resolution of the claim has been achieved.
- Negotiates and coordinates temporary job assignments at UT Arlington for an employee who has been injured during the course and scope of his/her employment.
- Designs Modified Duty Work Agreements that reflect the specific duties and responsibilities of the injured employee and supervisor.

Injured Employee:

- Complies with all work restrictions ordered by his/her treating physician until ordered to return to work, without restrictions.
- Presents all Work Status Reports from the treating physician to his/her immediate supervisor.
- Complies with the duties written in his/her Modified Duty Work Agreement.

Supervisor:

- Makes every effort to accommodate work restrictions ordered by a physician for his/her injured employee.
- Complies with all responsibilities delineated in the Supervisor WC Guidelines.

PROCEDURES

Section I. Introduction

Employers who establish WC return to work programs pay lower insurance premiums and reduce employee lost time.

Studies show that an injured employee requires less medical care and experiences fewer long-term disabilities when he/she is able to return to productive work as soon as possible following a work-related injury. The recovery process is accelerated when he/she is able to work in a temporary modified duty position that allows him/her to follow his/her work restrictions.

The term "injury" referred to in this policy also encompasses the category of "occupational disease". The category of occupational disease includes disorders resulting from repetitive trauma, skin disorders, toxic effect of chemicals, and respiratory disorders.

Section II. General Statement

This policy applies to every employee working for UT Arlington. UT Arlington provides assistance to each employee who sustains a compensable work-related injury and is temporarily restricted from performing his/her regularly assigned job duties by the treating physician. UT Arlington offers this assistance through the WC Program in the EH&S Office.

Note: This policy should not be construed as acknowledgment that an employee who sustains a work-related injury is automatically considered to have a disability as defined by the Americans with Disabilities Act (ADA) of 1990. Information concerning this policy may be found at *Employment of Persons with Disabilities* ([Procedure 3-49](#))

Section III. Eligibility

In order to be eligible to participate in the UT Arlington Return to Work (RTW) Program, an injured employee must provide to the UT Arlington WC Claims Analyst a [Texas Workers' Compensation Work Status Report \(DWC-73\)](#) that has been completed by his/her treating physician. This report must indicate that the employee is temporarily unable to perform his/her regularly assigned job duties following his/her work-related injury, but he/she would be able to work in some capacity if his/her specific work restrictions are followed.

Section IV. Evaluating Injured Employees

The WC Claims Analyst examines every DWC-73 to see if work restrictions have been ordered by an employee's treating physician. If work restrictions have been ordered, the WC Claims Analyst evaluates them to determine whether UT Arlington might be able to offer the employee a temporary modified duty position. If so, the WC Claim Analyst will attempt to negotiate a temporary modified duty position within the employee's home department.

- A. A home department supervisor is expected to make every effort to make reasonable accommodations for an eligible employee so he/she can work in a temporary modified duty position while he/she recovers from his/her injuries.
A supervisor can do this by adjusting work schedules and/or job duties, or suspending the use of certain equipment to enable the employee to continue productive employment for a limited amount of time.
- B. If a home department supervisor determines that he/she is unable to accommodate certain work restrictions, the WC Claims Analyst will contact other UT Arlington departments that have volunteered to serve as host departments to see if a modified duty position can be offered by one of them.
It should be understood that UT Arlington may not always be able to offer a temporary modified duty work assignment within a home or host department.

- C. When a temporary modified duty work assignment cannot be offered to an injured employee, he/she will be required to stay home until his/her work restrictions are lightened or until he/she is released to full duty without restrictions by the treating physician.
- D. There may be occasions when an employee is given work restrictions that do not interfere with his/her essential job duties. Under these circumstances, a temporary modified duty work assignment will not be necessary. In this case, the injured employee and his/her supervisor will be required to sign a Work Agreement Waiver. The employee can continue working in his/her regular job, but he/she will still be expected to go to all follow-up appointments until he/she is released to work without restrictions.

Section V. Compensation

An employee placed in a temporary modified duty work assignment will continue to receive the same salary and benefits he/she was receiving at the time of his/her work-related injury.

The home department is responsible for maintaining the salary and benefits of an injured employee, including any period of temporary placement in host departments.

However, if an employee is not able to work a forty (40) hour work week, his/her salary will be adjusted to reflect the number of hours he/she works each week.

Section VI. UT Arlington Sponsored Benefits

- A. As required by UT Arlington policy, the *Family and Medical Leave Act*(FMLA) ([Procedure 3-16](#)), an annual 12-week leave entitlement, will run concurrently with a WC leave of absence if an employee is eligible for leave under the FMLA. If an employee returns to work in a temporary modified duty work assignment that is less than forty (40) hours per week, the only time that will be deducted from his/her FMLA entitlement will be the amount of time he/she did not work each day; noting that an eight (8) hour day is considered to be a normal workday. For example, if an employee works only four (4) hours per day, the remaining four (4) hours would be counted as family medical leave. Any WC income benefits to which the employee may be entitled may also be awarded to him/her to cover the remaining four (4) hours he/she did not work.
- B. The FMLA requires that UT Arlington continue to provide premium sharing for medical/dental insurance as if an employee had continued full-time employment during his/her leave of absence. An injured employee is required to continue to pay his/her share of premiums in the same manner he/she is required to do when he/she is working a full-time schedule. An employee may pay his/her share of premiums for the health plan in any manner customarily used by UT Arlington.
- C. If an employee is working in a temporary modified duty work assignment that is less than forty (40) hours a week after his/her family medical leave has expired, UT

Arlington will only contribute 50% of the premium sharing amount. Under these circumstances, the employee will be required to pay the additional amount in order to maintain his/her insurance coverage. If, or when, an employee returns to full time employment, UT Arlington will begin to contribute the 100% premium sharing amount, as required.

Any questions regarding University employee benefits or FMLA should be directed to the [Office of Human Resources - Employee Benefits](#).

Section VII. Offer of Temporary Modified Duty Positions

- A. All temporary modified duty work assignments are offered and calculated on a per injury basis. Work assignments are offered after collaboration between the injured employee's home department supervisor and/or host department supervisor and the WC Claims Analyst to determine whether a temporary assignment is feasible. A temporary modified duty work assignment may be offered to an employee for a period not to exceed ninety (90) calendar days. Under special circumstances, a ninety (90) calendar day work assignment may be extended to no more than one hundred eighty (180) calendar days.
When a home or host department can accommodate an employee's work restrictions, the duration and specific duties of each work assignment offer is based on information provided on the DWC-73 form completed by the treating physician.
- B. If an employee is not released to return to his/her regular job duties without restrictions by his/her treating physician within two (2) weeks before a ninety (90) calendar day work agreement is scheduled to expire, he/she may contact the WC Claims Analyst to discuss the possibility of extending his/her work assignment. Extensions beyond the initial ninety (90) calendar days will only be considered if a treating physician documents that they anticipate the employee will be able to return to full duty without restrictions within an additional ninety (90) calendar day period. Under these special circumstances, an extension to a ninety (90) calendar day assignment may be granted if the home or host department supervisors can accommodate the employee's work restrictions for the additional amount of time requested.
If a full ninety (90) calendar day extension to an existing ninety (90) calendar day agreement is awarded, it would result in a maximum one hundred eighty (180) calendar day work assignment. Work assignments beyond one hundred eighty (180) calendar days are not allowed under any circumstances.
- C. There is no guarantee that UT Arlington will be able to offer a temporary modified duty work assignment extension to an employee beyond the initial ninety (90) calendar days.
- D. When temporary modified duty work assignments are offered by home or host departments, formal work agreements are prepared by the WC Claims Analyst. This agreement delineates the specific physician-ordered work restrictions an employee will be expected to follow during his/her assignment as well as the amount of time his/her assignment will remain in effect.

- E. An employee working in a temporary modified duty work assignment is expected to exhibit appropriate conduct in accordance with UT Arlington and departmental policies regarding employment.
An employee may be removed from his/her work assignment by his/her home or host department supervisor if he/she displays unacceptable levels of performance or conduct.
Under these circumstances, home department supervisors have the authority to proceed with appropriate disciplinary actions, in concert with the host department supervisor, after consulting with Employee Services.
The WC Claims Analyst will be informed by the home or host department supervisor if any unresolved problems arise regarding an employee's conduct or performance during a temporary modified duty work assignment.
- F. An employee who is removed from his/her temporary modified duty work assignment because of unresolved problems related to his/her conduct or performance may be subject to further disciplinary action, including termination once his/her FMLA has been exhausted, if he/she is eligible to receive this benefit.
If an employee is receiving, or if he/she is eligible to receive, WC income benefits at the time he/she is removed from the temporary modified duty work assignment, he/she may also be required to forfeit those income benefits.
- G. There may be occasions when an employee needs to return to a temporary modified duty work assignment after his/her treating physician has released him/her to full duty. In these cases, new restrictions will have been ordered by his/her treating physician because of complications which have emerged that are related to his/her initial injury. The new work restrictions would be considered a continuation of the initial injury.
1. Under these circumstances, an employee may be able to return to work in an additional temporary modified duty work assignment if his/her home department or a host department can accommodate his/her new restrictions. The amount of time awarded for the additional work assignment will not exceed a cumulative maximum of ninety (90) calendar days allowed for his/her initial injury.
 2. As indicated previously, under special circumstances it may be possible for a work agreement to be extended to a cumulative one hundred eighty (180) calendar days after a ninety (90) calendar day work agreement has expired if a treating physician documents that the injured employee will be able to return to full duty without restrictions within that amount of time and if his/her home or a host department can accommodate his/her work restrictions.
- H. If an employee receives a DWC-73 which indicates his/her treating physician has given him/her a release to return to work without restrictions before his/her temporary modified duty work assignment has expired, his/her work assignment will automatically be terminated. This employee will then be able to resume his/her regular job duties after presenting a copy of the DWC-73 that releases him/her to return to work without restrictions to his/her home department supervisor.
- I. Temporary modified duty work assignments will not be offered to an employee who has received notification from the insurance carrier that his/her injuries are not compensable and his/her claim has been denied.

- J. An employee will be removed from working in a temporary modified duty work assignment if he/she has received notification from the insurance carrier that his/her claim has been denied.
- K. When a WC claim has been denied by the insurance carrier, any accommodations made to the employee regarding work restrictions or time off will be handled at the department level and will not involve the UT Arlington WC program.

Section VIII. Refusal To Accept Temporary Modified Duty Work Assignments

An employee has the option of refusing to accept temporary modified duty work assignment offers. However, an employee who declines a temporary work assignment may be subject to termination after his/her FMLA has been exhausted, if he/she is eligible to receive this benefit.

An employee may also be required to forfeit any WC income benefits he/she is receiving, or may be eligible to receive in the future, if he/she refuses a temporary work assignment.

Section IX. Final Options For Employees

- A. If an employee has not been released to full duty without restrictions by his/her treating physician before his/her ninety (90) calendar day temporary work assignment has expired, or before the expiration of his/her work assignment that has been fully extended to one hundred eighty (180) calendar days, he/she may be terminated from employment at UT Arlington after his/her FMLA has been exhausted (if he/she is eligible to receive this benefit).
- B. If a treating physician informs an employee that he/she has not progressed to the point where he/she will likely be released to return to work without restrictions within two (2) weeks before the end of his/her ninety (90) calendar day work assignment, or before the end of his/her fully extended one hundred eighty (180) calendar day work assignment, it would be in the best interest of this employee to consider and pursue one of the following options as soon as possible:
 - 1. Seek a transfer within UT Arlington through routine procedures to a vacant position in another department that is consistent with his/her physical and mental capabilities and skills. *Employment Procedures* ([Procedure 3-3](#)).
 - 2. Apply for disability leave in accordance with *Employee Leave of Absence Without Pay* ([Procedure 3-61](#)). Each application will be evaluated on a case-by-case basis.
 - 3. Voluntarily leave employment with the University and seek employment elsewhere.
- C. In cases where a supervisor determines that in order to maintain the stability and ongoing business of the department, they want to allow their employee to continue to work in a modified duty capacity after a 90 or 180 calendar day work agreement has expired, they may do so. Under these circumstances, the work arrangement will be

between the employee and their department. The UT Arlington WC Claims Analyst will no longer track the employee's work arrangement unless they miss time from work because of their work-related injury or they are terminated.

Note: An employee who is terminated because he/she was not released to return to work without restrictions by his/her treating physician before his/her temporary modified duty work assignment expired may also qualify for income benefits under WC. The UT System TPA Claims Adjuster would determine whether this employee would qualify for these benefits.

Section X. Frequently Asked Questions

- A. **What is a compensable injury?** A compensable injury is an injury that the UT System TPA Claims Adjuster determines has arisen out of and in the course and scope of employment for which compensation is payable, as defined by the Workers' Compensation Act.
- B. **What is disability, as defined by the Division of Workers' Compensation?** Disability means the inability, because of a compensable injury, to obtain and retain employment at wages equivalent to the pre-injury wage.
- C. **What are Temporary Income Benefits (TIBs)?** TIBs are intended to replace income lost because a compensable work-related injury has kept an employee off work for more than seven (7) days while he/she is on leave without pay. The first seven (7) days of lost time will be paid to the employee if or when he/she loses more than fourteen (14) days from work because of a compensable work-related injury and if he/she was on leave without pay during the first seven (7) days.
- D. **How is eligibility for TIBs determined?** An injured employee is entitled to receive WC TIBs if he/she has a compensable disability and he/she has not attained Maximum Medical Improvement. (See Question J)
However, an employee cannot receive TIBs at the same time he/she is receiving an income from UT Arlington. If an employee elects to take sick leave, vacation or other leave while he/she is off work, he/she will not be able to receive TIBs.
- E. **How are TIBs calculated?** If an injured employee was employed on a full-time, forty (40) hour per week basis, his/her TIBs will be calculated at seventy percent (70%) of the average weekly wage he/she earned during the thirteen (13) weeks immediately preceding the date of his/her work-related injury
If he/she earned less than \$8.50 per hour during the thirteen (13) weeks immediately preceding the date of his/her work-related injury, his/her TIBs will be calculated at seventy-five percent (75%) during the first twenty-six (26) weeks he/she receives TIBs.
If he/she was employed on a less than full-time basis during the thirteen (13) weeks immediately preceding the date of his/her injury, his/her TIBs will be calculated at sixty percent (60%), regardless of his/her average hourly wage.
- F. **What happens to the TIBs of an employee if his/her treating physician releases him/her to work with restrictions, but his/her employer does not have any**

modified or alternate work for him/her?If an employee is receiving TIBs and his/her treating physician releases him/her to return to work with restrictions, but UT Arlington does not have any temporary modified duty positions available that can accommodate his/her work restrictions, he/she will have to stay home from work and he/she may continue receiving the TIBs.

- G. **Why would employers want an employee back at work before he/she is released to full duty?In most cases, some work is better than no work. UT Arlington can benefit from an employee's skills, even if he/she is not working in his/her regular job. And studies have shown that the healing process is accelerated when an injured employee is involved in meaningful work-related activities.**
- H. **What if treating physicians tell an employee that he/she can go back to work but the employee doesn't think he/she can?If a treating physician releases an employee to go back to work and his/her employer is willing to accept him/her back to work in his/her regular position, but the employee chooses not to return to his/her regular position, that employee could be terminated from his/her job. In addition, if an employee chooses not to return to his/her regular position after the treating physician has released him/her to full duty, he/she may lose WC TIBs.**
- I. **What happens to the income and medical benefits of an employee when he/she goes back to work?If an employee is receiving TIBs, his/her weekly benefit check may be suspended while he/she is working, or the amount of his/her check may be reduced, depending on the amount of actual wages he/she earns. If an employee returns to work and his/her treating physician takes him/her back off work later, his/her income benefits may be restored, if he/she is still eligible. Medical benefits for an injured employee will continue for reasonable and necessary treatment that is related to his/her injury.**
- J. **What does Maximum Medical Improvement (MMI) mean?MMI means the earliest of the following:**
- The date the treating doctor says the employee has reached the maximum recovery possible from his/her injury;
 - The date the employee has received 104 weeks of Workers' Compensation income benefits; or,
 - The date of an approved extension beyond 104 weeks that was requested by the employee or the insurance carrier.
- K. **What if a treating physician tells an employee that he/she will never be able to do his/her regular job again, and the employee doesn't know how to do anything else, is there somewhere this employee can go to learn new job skills?Yes, the Texas Department of Assistive and Rehabilitative Services (DARS) is a state agency that can help in certain situations.**

N/A

DEFINITIONS

Compensable Injury: is an injury that arises out of and in the course and scope of employment for which compensation is payable.

Occupational Disease: includes disorders resulting from repetitive trauma, skin disorders, toxic effect of chemicals, and respiratory disorders.

RATIONALE

The timely return of an injured employee to productive work is one of the key components of the mission of the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC). Return to work is a responsibility that is shared by employers, employees, health care providers, insurance carriers and TDI-DWC.

The longer an employee is away from work after an injury, the harder it is for him/her to get back to work at all.

UT Arlington is self-insured and the longer an employee is away from work, the higher the costs of WC Insurance premiums and related business expenses.

RELATED STATUTES, POLICIES, REQUIREMENTS OR STANDARDS

UT System Administration Policies and Standards	Other Policies and Standards
N/A	TX Dept. of Insurance/Division of Workers' Compensation EH&S Workers' Compensation

APPENDICES

N/A

CONTACTS

If you have any questions about this procedure, contact the following departments:

Subject	Office Name	Telephone Number	Email/URL
All topics in procedure	Environmental Health & Safety	817-272-2185	ehsafety@uta.edu
Website access	Administrative Information Management	817-272-0222	aim@uta.edu http://www.uta.edu/aim

WEBSITE ADDRESS FOR THIS PROCEDURE

N/A