

REHABILITATION IN THE WORKPLACE



► DANIEL DE PAOLI

PROACTIVE MANAGEMENT OF AN INJURED WORKER IS NECESSARY TO ACHIEVE THE BEST AND FAIREST RESULT FOR EMPLOYER AND EMPLOYEE ALIKE.

In a previous article, I listed a number of strategies that you should use to monitor and ultimately reduce your workers compensation premium.¹ Two of the several general strategies offered were:

1. Implement an effective injury management policy. Have preferred occupational rehabilitation provider arrangements if appropriate.
2. If an injury occurs do everything you can to assist that worker back to work in some capacity:
 - use a company doctor
 - provide suitable duties
 - foster a culture of return to work in the workplace. If workers know that return to work is the only goal, they will not fall into the system.

The management of the injured worker is the most crucial aspect of any rehabilitation policy. Poor management of injured workers leads to multiple injured workers – a culture that can be detrimental to even the largest business.

THE LEGISLATION

The regulation of workers compensation differs in every state. Each has its unique legislation on worker benefits, common law entitlements, return to work timeframes and individual management of the worker. Queensland differs greatly from New South Wales, Melbourne and Perth in that its WorkCover Authority manages all claims in house, whereas New South Wales, Melbourne and Western Australia use independent providers extensively.

The NSW legislation provides for long drawn out entitlements for workers, allowing claims to be active for three to five years, whereas workers in Queensland have limited benefits and a worker is given the option to return to work in a specified timeframe or choose to go common law – an exercise that is not always the cheapest or safest option for the worker.

Regardless of the legislation, a few things apply in common across the nation:

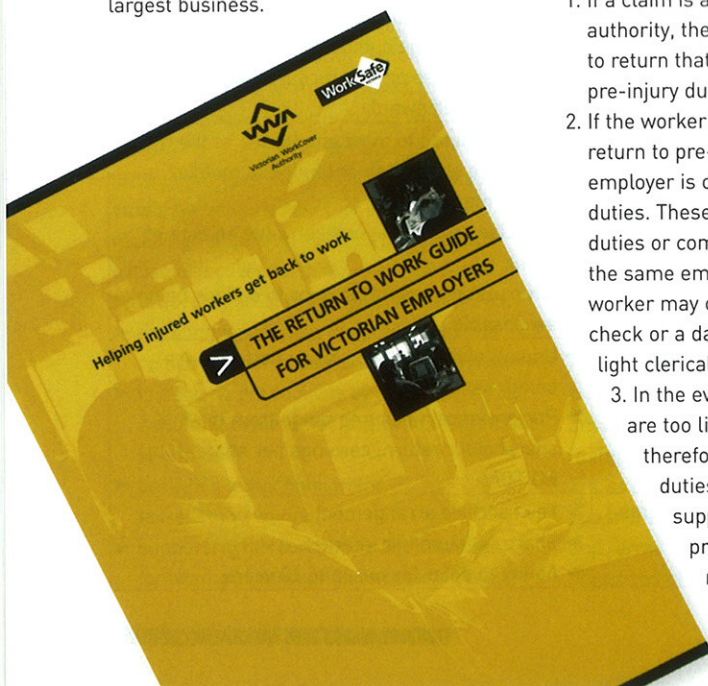
1. If a claim is accepted by the insurer/ authority, the employer has an obligation to return that worker back to their pre-injury duties.
2. If the worker is not medically cleared to return to pre-injury duties then the employer is obligated to provide suitable duties. These can be modified pre-injury duties or completely different duties with the same employer. For example, a process worker may change to performing stock check or a data entry clerk to performing light clerical duties.
3. In the event the medical restrictions are too limiting, and the employer is therefore unable to provide suitable duties, the employer is obligated to support that worker through the process of sourcing a similar or new job with a different

employer until either that person secures new work or is fit to return to the same employer.

REHABILITATION PROCESS

The key to effective management of workers compensation is early and active intervention. Regardless of the severity of the injury, whether it be a cut finger or back strain, immediately following an injury the workplace should:

- provide necessary medical attention – where possible use your own company doctor. If the worker insists on their own doctor, send them to your own doctor for a second opinion anyway.
 - have an employer representative/ rehabilitation coordinator take the person to the doctor or if not possible follow them up immediately after their visit
 - notify the worker that suitable duties are available – and make sure they are
 - notify the insurer – and where possible the rehabilitation provider – within 24 hours of the injury
 - support the employee back to work as soon as possible after the injury
 - constantly monitor and upgrade the employee's duties and work towards a return to pre-injury duties.
- If a worker is supported and facilitated back to work effectively, compassionately and quickly, they will respond positively and actually appreciate the effort. More importantly, from a business point of view, not only are costs maintained, but co-workers determine very quickly that as an employer, you have a very strong policy on return to work following injury. Those who are injured will make every effort to return. On the other hand, if you have a lax policy workers will



soon realise that they can take advantage of a system that is easily manipulated and before long one injury can lead to two, three or four in the space of as many months. I am sure that if you have a large number of active claims and you analyse those you can observe patterns of where or when most injuries occur.

To further create and maintain the right 'culture', have your rehabilitation policy well documented, available for all to see – usually on an OH&S noticeboard – and update employees regularly on changes.

COMPLEX RETURN TO WORK CASES

If not managed effectively, a significant or 'time lost' injury is likely to become a complex and costly issue for an employer and either HR or industrial relations issues can hinder the return to work.

Where possible, the management of the worker should not be different from the process outlined above. However, theory and practice do not always align. In such situations, unless the employer has had a similar experience in the past more complex cases can easily get away from them. Usually, an employer's solution for these workers can be one of three reactions:

- terminate the worker
- leave them on suitable duties for months on end
- forget about them and refuse to allow them to return to work.

Each of these approaches has its disadvantages. Termination is always the last resort. Though it provides a strong and easy solution for the employer, it is also the most costly. This is especially true if the claim is still in its early days (within the first two years). Even where an employer is not focused on the cost of the claim if a worker is terminated, quite often the worker has a claim for unfair dismissal on the grounds of discrimination due to disability/injury. It is therefore vital that you discuss this situation with your provider, insurer or authority first. Quite often, there are ways to support a worker into other employment.

I am aware of many cases where workers are placed on suitable duties and left in that role for months or even years. Again, each state differs on its regulations but generally, suitable duties should be a temporary option only. If you keep a worker on suitable duties for a prolonged period of time, say more than six months, then that position can be deemed the permanent position of that worker. As you can imagine, this creates a whole new set of issues surrounding pay for less work, workloads and culture – not to mention the effect it can have on awards and EBAs.

On the other hand, many workers are very poorly managed and are left to stay at home with ongoing benefits because the employer either does not keep contact with the worker, has never contacted the worker since the injury or has simply let the person go without

knowing the financial impact of that decision. Just recently, we commenced management of a worker. His doctor advised him at the time to rest, and so he did...for 10 months. In that time he did not contact the employer, the employer simply let his job go and the insurer did not follow up the case appropriately. Now that he feels well rested, he wants to go back to work!

All these situations require different strategies to manage them effectively. However, each situation would certainly be less complex had it been managed proactively from the time the injury had occurred. **NA**

1. Workers compensation and you, *National Accountant* FEBRUARY/MARCH 2006, p. 76.

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