Return to Work Guidelines

For Managers, Supervisors and HR Practitioners

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Alberta Public Service (APS)
Return to Work Guidelines

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Introduction

Transitioning back to work after a prolonged absence is often a very difficult task. As managers and supervisors our commitment is to help employees successfully return to a healthy and safe work environment. Our objective is to make the transition as smooth as possible so staff can quickly return and continue to positively contribute to the APS.

The APS Return to Work Guidelines are a valuable resource to use while taking the necessary steps to ensure that returning employees come back to an environment that welcomes and respects their experiences and capabilities. The easy-to-follow guidelines include checklists and sample templates featuring ideas to build a successful return to work plan.

While these guidelines have been developed to provide consistency across the APS for employees returning to work, we understand that each situation is unique and offers different challenges. We all want to help our colleagues come back to work when they are ready. Managers and supervisors are encouraged to think of innovative ways to support employees returning to the worksite. If you have any questions don’t hesitate to ask your human resources (HR) branch for guidance.
Purpose

These guidelines will:

• help managers and supervisors assist injured and ill employees return to work in a safe and timely manner after a medical absence;

• provide consistent return to work processes for both occupational and non-occupational injuries and illnesses;

• help individuals feel connected to and involved with their jobs, and enhance the employment potential of employees requiring accommodation; and

• meet employer obligations under the section of the Alberta Human Rights Act (the Act) pertaining to ‘Discrimination, re: Employment Practices’ [see Section 7, Subsection 1 (a) and (b) – website address is on page 5-2].

Use these guidelines to:

• provide a set of general instructions to assist in returning employees to work;

• identify when a duty to accommodate exists;

• learn the steps to be taken to assist the accommodation;

• understand the roles of the employer, employee, union, and others stakeholders; and

• identify responsibilities under the Act.

Rationale

The APS strives to provide a positive, healthy, and safe work environment for its employees. Through working together, managers, supervisors and employees jointly create healthy workplaces.

For employees, return to work after a medical leave can mean:

• recognized and valued individual expertise;

• increased sense of being valued by the organization;

• improved recovery rate;

• decreased emotional impact of extended absence from work; and

• protected employability.

Safe and timely returns to work contribute to healthy workplaces. Some employer benefits can include reduced:

• casual illness, general illness and LTD costs;

• replacement employee costs;

• work flow disruptions; and

• employee turnover.
ROLES AND RESPONSIBILITIES

Return to work involves the employer (i.e., employees’ home ministries), employees, the union, and other stakeholders. Major responsibilities are described here to help explain the functions of each role and how they work together through the return to work process.

As the Employer, we have the following commitments to our employees:

• to find available opportunities to return employees to the workplace; and
• to assess the workplace’s operational requirements, and how those requirements can be met when returning employees to work.

In the return to work process the employer is represented by managers, supervisors and/or HR.

Managers and Supervisors

Once an employee has made a return to work request (which may or may not require an accommodation), managers and supervisors should consult their HR contacts, i.e., human resource consultants (HRCs).

As managers and supervisors are central to the return to work process (through coordinating their employee’s return to work), managers/supervisors should:

• review the request and where appropriate assess, identify, and implement potential return to work measures;
• request information about abilities and restrictions from the employee first;
• determine if there is enough information about an employee’s limitations to begin helping them return to work. If not, managers and supervisors should consult with their HR Consultant or LTDI liaison officer about requesting further information from the employee’s doctor (see HRCs section) or from the LTDI service provider. Note that managers and supervisors should not be sending or receiving letters to employees’ physicians - this is a role and responsibility for HRCs;
• prepare a job description or summary of job duties outlining any physical and cognitive demands of the position to attach to the letter to the employee’s doctor, to be sent by the HR Consultant;

An example of one possible option –
A Human Service Worker suffers from a chronic condition, which limits her ability to write, take notes and complete forms. Resolution option: Purchase a voice recognition software system and laptop computer for the employee to use in the office and in the field. Ensure appropriate training in the use of the equipment.

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• prepare a job description or summary of job duties outlining any physical and cognitive demands of the position to attach to the letter to the employee’s doctor, to be sent by the HR Consultant;
safeguard the confidentiality of all health information provided by the employee, document all meetings, and involve ministry HR as required;

communicate with and involve the union (if applicable) at the earliest possible time during the return to work process;

discuss return to work options with the employee;

Possible return to work options - gradual return to work, alternate work or modified work.

Gradual return to work: example –
An employee has been off work for three months and is slowly returning to a full-time work schedule. Her gradual return to work might be: two weeks of half days only, increasing to full days over the next two weeks. Or, three full days for a few weeks, gradually increasing to full-time.

Alternate work: example –
A counter service clerk who stands all day may return to desk duties for a few weeks following knee surgery as he transitions to his former work.

Modified work: example –
An employee’s duties are changed for six weeks, following her surgery, so she does not have to lift heavy boxes.

work with the employee to implement, monitor and review return to work measures;

keep the employee’s privacy in mind, by supporting a smooth transition in the return to work process, educate co-workers about the returning employee’s limitations and how to show support for the returning employee;

identify workplace issues that may affect the employee’s safe and timely return to work;

stay in regular contact with the employee during their medical leave to support a safe and timely return to work. Managers and supervisors should stay in touch with their employees while on illness leave, but will want to ensure they balance keeping in touch with respecting an employee’s circumstances and medical conditions;

ensure employees have contact information for the Government of Alberta Employee and Family Assistance Program (EFAP), and that they are aware of Health Coaching services through EFAP;

promote an open and cooperative process, so all stakeholders participate in the return to work plan;

continue to communicate with employees, ministry HR, and when necessary, the assigned external consultant, to support continued return to work efforts; and

advise the employee that they can contact the union (if applicable) for assistance.

Employees

Employees provide the manager/supervisor with relevant medical information supporting the need for accommodation in returning to work and also detailing personal abilities, limitations, and restrictions. Employees are encouraged to:

identify how this need conflicts with employment duties and responsibilities and, wherever possible, provide suggestions for reasonable return to work measures;

cooperate fully with supervisors in the review of return to work measures and their implementation;

participate in the return to work process and accept a reasonable offer of accommodation;
A definition of “reasonable offer of accommodation” –

An opportunity for meaningful work that respects the employee’s abilities and limitations, and contributes to the ministry’s business plan and the worksite operational plan.

- consider the best possible solution for all stakeholders, which may be different than their preference;
- promptly provide a copy of a current resume, if requested, should the limitations indicate a move to an alternate position, to allow the supervisor/manager to accommodate their request;
- contact their EFAP to seek appropriate support and assistance when needed;
- provide medical documentation that has been completed by treating physicians, specialists, or other qualified medical health practitioners, as requested by their employer. This obligation is a continuing one for the duration of the return to work; and
- recognize their preferred option may be met and implemented, or, acknowledge when it may not be achievable.

HRCs/Ministry HR

HRCs provide advice, support, and other appropriate resources to managers and supervisors. HRCs:

- advise and provide guidance to managers and supervisors about workplace insurance and benefit entitlements, collective agreements, and policies;
- review position descriptions to identify appropriate qualifications and competencies;
- work with managers, supervisors, and their employees to ensure competencies and positions are compatible with the limitations outlined;
- when additional information is required about an employee’s limitations, write a letter that the employee can take to his/her physician that includes questions that will:
  - verify a medical condition or disability,
  - request the prognosis (not diagnosis),
  - provide the expected return to work date,
  - identify limitations or need for accommodation upon return to work, and
  - advise the length of time restrictions are required.

(Note that supervisors or managers should not send or receive medical fitness for work letters to treating physicians. HRC’s should author the letters and receive them in the HR office. Any written response back from a physician should be housed in the ministry HR office, and only information required to implement the employee’s return to work plan should be summarized and shared with the supervisor or manager);

- provide return to work alternatives starting with employees’ own positions with modifications, and, if necessary, reviewing available positions within employees’ own worksites, within their ministries and then across the Government of Alberta; and
- arrange interviews within employees’ own ministries and other ministries when there are appropriate, available positions. This is done once return to work options have been exhausted for employees at their existing worksites.
LTDI Liaison Officers

The ministry’s LTDI liaison officer (responsible for providing advice and support for the LTDI program) is an excellent resource to assist with seeking alternatives for return to work, if required. LTDI liaison officers:

- work directly with employees, managers/supervisors, HR contacts, and the service provider(s) to coordinate disability programs, processes and information; and

- provide assistance and guidance in obtaining information. If additional information is required, managers and supervisors may contact the ministry’s LTDI liaison officer, Workers’ Compensation Board (WCB) contacts (if employees are returning from WCB), or the Great-West Life case manager or rehabilitation consultant (if returning from long term disability (LTD) leave).

Service Providers

Service providers from Great-West Life, Lifemark Health (service provider for the Government of Alberta’s Medical Consultant and Case Management Services), Workers’ Compensation Board or other disability case management providers may be asked to assist managers and supervisors in the return to work process. Service providers should:

- offer expert services, which could include arranging for independent assessments;

- keep medical and other health information confidential;

- share information regarding employees’ capabilities and return to work plans, with the managers or supervisors, the LTDI liaison officers, HRCs, and other involved stakeholders; and

- suggest options that have been successful in other return to work situations.

Alberta Union of Provincial Employees (AUPE)

As the role of the union is to protect the interests of its members, the union and the employer share a responsibility to provide employees with options while ensuring confidentiality. Unions are required to participate in the accommodation process, if requested by employees or employers. The union is fundamental to the success of efforts in identifying and implementing reasonable accommodation options. The union should, if requested:

- be involved in the return to work process as early as possible;

- obtain current information about the members’ preferred return to work options, abilities, and restrictions that can affect return to work plans; and

- in conjunction with the employee and the employer, seek out reasonable solutions.
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RETURN TO WORK PROCESS
Not sure how to start the return to work process? The following information outlines key considerations to ensure employees have the best chance possible of fitting back into their pre-disability employment and worksite.

This section is divided into recovery duration periods within 80 days and exceeding 80 days. Depending on the length of the absence duration, an employee could be returning to work with the guidance of a service provider (i.e., Lifemark Health, GWL, WCB or another disability case management provider).

### Return to Work During the General Illness Period
(employees return during the 80-day elimination period: before the LTD period commences)

Obtain confirmation from the treating physicians that there will be temporary or permanent limitations to the employees’ abilities to fulfill obligations of their pre-disability employment. (See Definitions [page 3-2]: Temporary and Permanent Limitations.)

1. In consultation with the employee and the treating physician, determine what return to work accommodations need to take place: job modifications, workplace modifications, or both. (See Definitions [page 3-2].)

2. Through consultation with the employee be sure to thoroughly understand how medical restrictions may affect employees’ abilities to work, and for how long.

3. Arrange for any necessary job or workplace modifications.

4. Develop a return to work plan with the employee (union representative if requested), in consultation with their treating physician, which outlines workplace re-entry goals, objectives, and milestones. (See Return to Work Plan, under “Forms.”)

5. Monitor progress.

6. Re-evaluate the return to work plan with the employee to be sure goals and objectives are appropriate. Also keep the plan flexible to adjust for a longer rehabilitation period, if needed.

7. Offer and ensure the employee is aware of the Government of Alberta’s employee support service available under the EFAP, which includes Health Coaching services.
Return to Work After the General Illness Period
(employees return after the 80-day elimination period: during the LTD period)

To help employees return to work from Long Term Disability Income (LTDI) or Workers’ Compensation (WCB), request information from the service provider that explains any temporary or permanent limitations that need to be accommodated for employees to return to their pre-disability positions. (See Definitions [page 3-2]: Temporary and Permanent Limitations.)

(Note: During this period, the employee may be receiving assistance through a disability case management provider.) (See Definitions [page 3-2]: Temporary and Permanent Limitations.)

1. Find out what job and workplace changes the service provider can assist with. Also determine what supports are available to help the employee re-enter the workforce and for ongoing support for the employee, such as counselling, retraining, and rehabilitation. This information can be obtained from the service provider (i.e., Great-West Life, WCB, Lifemark Health or a disability case management provider) or the ministry LTDI liaison officers, or HRCs.

2. Obtain information about ongoing income support (if needed) through the return to work period. Contact your ministry LTDI liaison officer or HRC for further information on the LTDI plan, WCB, or disability case management services.

3. Work with the service providers, LTDI liaison officers, union representatives (if requested), and HRC to develop a return to work plan, identifying such issues as limitations, durations, areas of responsibilities and financial supports.


5. Re-evaluate the return to work plan with your employee and insurance provider to be sure goals and objectives are appropriate. Also keep the plan flexible to adjust for a longer rehabilitation period, if needed. If the employee is taken off work again due to the medical condition, notify the service provider (GWL) to determine if the claim needs to be reopened.

6. Offer and make employees aware of the Government of Alberta’s employee support services under EFAP.

Definitions

General Illness

General Illness means any sickness, disability, or injury that causes employees to be absent from work for more than three (3) consecutive work days to a maximum of eighty (80) work days.

Temporary Limitations

- Modifications or alterations to employees’ job duties or hours of work are temporarily changed to allow them time to recover from an injury or illness.
- The medical prognosis suggests recovery and rehabilitation should help employees to resume their former job duties.

Permanent Limitations

- Changes to employees’ job duties are indefinite as a result of the injury or illness.
- The medical prognosis supports that employees are unlikely to return to their former job duties.
Job Modifications

- Changes to job duties and responsibilities that take medical limitations into account, allowing employees a safe and healthy return to work.
- Medical restrictions determine how the job could be modified, and for how long.
- Job modifications may include:
  - reduced number of hours worked for a specified period of time,
  - frequent rest breaks,
  - self-paced work,
  - reduced repetitive and physically demanding tasks,
  - larger assignments divided into smaller tasks, and/or
  - flexible work schedules.

Workplace Modifications

- Changes to the worksite or work area and equipment that take medical limitations into account, allowing employees a safe and healthy return to work.
- Workplace modification examples may include the following:
  - ergonomic adjustments to work stations or recommendations for new equipment, like chairs or tools,
  - more accessible work environment, like assigned parking or ramps,
  - fewer noise and visual distractions,
  - telecommuting, if possible, and/or
  - rest area, if job requires a lot of standing.

(See Return to Work Plan, under "Forms.")
DUTY TO ACCOMMODATE: LEGAL FRAMEWORK
Discrimination

Discrimination includes behaviour that puts an employee at a disadvantage based on any of the prohibited grounds in the *Alberta Human Rights Act* (the Act) [website address is on page 5-2]. This behaviour has a harmful effect on employees, even if it was not intended.

Prohibited grounds include:

- Race
- Religious beliefs
- Colour
- Gender
- Gender identity
- Gender expression
- Physical disability
- Mental disability
- Sexual orientation
- Age
- Ancestry
- Place of origin
- Marital status
- Source of income
- Family status

### Accommodation in Return to Work

Accommodation is a modification or relaxation of an employment rule, practice, condition, or requirement to meet the specific needs of an individual or group when the identified need is associated with one of the grounds protected under the Act.

Employees may require accommodation when faced with temporary or permanent disability. If an employee requests accommodation, the employee will need to provide their supervisor with a medical certificate from their treating physician, clearly stating that this need for accommodation is required. Accommodation can take many forms:

- modifying job duties;
- altering a building or work site to make it accessible;
- providing technical aids; and
- finding an alternate placement or varying requirements to meet the work schedule.

John is preparing to return to his pre-disability position behind the customer service desk. His supervisor has learned, that due to injuries sustained in a motor vehicle accident (which has left John wheelchair bound), John can no longer work at the counter as it is currently set up.

Since physical disability is one of the grounds set out in the Act, a requirement that only able-bodied individuals can work on the customer service desk would be discriminatory. The ministry would need to find a way to accommodate John’s work at the customer service desk. This could include widening the space behind the customer service desk for John to move about in his wheelchair, or it could include modifying the counter. (The process of finding and implementing an alternate arrangement is an accommodation and meets the employer’s legal obligation.)
What Constitutes a Disability?

The Alberta Human Rights Act (the Act) defines a physical disability as “any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness. This includes, but is not limited to, epilepsy; paralysis; amputation; lack of physical coordination; visual, hearing and speech impediments; and physical reliance on a guide dog, service dog, or wheelchair or other remedial appliance or device.”

The Act defines a mental disability as “any mental disorder, developmental disorder or learning disorder, regardless of the cause or duration of the disorder.”

Undue Hardship in Return to Work

Undue hardship means that employers cannot accommodate employees’ restrictions without significantly hindering their business. Accommodation is a balance of employee rights to be treated fairly in spite of a disability and employer rights to maintain productive workplaces.

A high degree of hardship must be demonstrated if the resolution cannot be found. This is balanced by the fact that an employer’s duty to accommodate is not infinite, and is limited to the point of undue hardship.

There are several factors to consider when assessing whether an accommodation would result in undue hardship. These factors include:

- size of the employer’s operation;
- health and safety considerations;
- actual costs of the accommodation;
- effect on workplace production;
- interference with the collective agreement provisions;
- effect of accommodation on the rights of other employees; and
- interchangeability of the workforce and facilities.

Accommodation Options

In accommodating employees’ returning to work, the goal is to find a solution that meets the needs of the employee and the employer in a timely manner. A graduated approach ensures that, where appropriate, consideration is given to a range of options:

a) Accommodating Employees In Their Current Positions

The employer should first see if it is possible to accommodate the employee in their existing position:

i. The positions can be modified by removing duties the employee cannot perform.

ii. Certain job responsibilities can be assigned to other employees.

iii. Duties can be rebundled.

Other employees may be asked to assume some of a disabled employee’s duties while the disabled employee may be asked to perform some of her co-workers’ duties, which are possible within her limitations. Changing shift schedules may require consideration, allowing the employee more frequent breaks from repetitive tasks, temporary re-assignment - including temporary light duties - or a graduated return to work.

Accommodations may be for a certain duration of time, with a targeted end date, to allow an employee to recover from an illness or injury, or they may be indefinite, as the employee’s medical prognosis indicates an unlikely return to full time pre-disability duties.
b) Alternate Placement

Where it is not reasonable to modify employees' existing positions to accommodate their needs, supervisors/managers need to consider alternate placements.

When considering alternate placements, vacancies within the ministry and geographic location, and with other ministries within the employees’ geographic location, should be given priority. (The managers/supervisors are required to work with their ministry HR in these efforts.)

Application of Legal Framework
(determining reasonable occupational requirements)

A three-part test based on a Supreme Court decision can help employers determine if particular occupational requirements are reasonable and justifiable. Employers must ensure that the standard of performance chosen was:

1. chosen for a purpose that is connected to job performance;
2. chosen in an honest and good-faith belief that the standard is necessary for the fulfillment of genuine business purposes; and
3. reasonably necessary to accomplish that purpose. This means the employer must demonstrate it is impossible to accommodate employees without suffering undue hardship.

As this landmark case demonstrated, employers can set standards that reflect the legitimate requirements of the job. Even when a job requirement is valid, the employer must show the employee cannot be accommodated without the organization experiencing undue hardship.

For further information on this case and to view Bona Fide Occupational Requirements and Bona Fide Justifications under the Canadian Human Rights Act, please refer to: https://www.chrc-ccdp.gc.ca/eng/content/bona-fide-occupational-requirements-and-bona-fide-justifications-under-canadian-human-rights
All reference materials are available at www.psc.alberta.ca/Practitioners/?file=health/returntowork/section5&cf=13

Forms

The forms.templates listed below have been developed for use in the return to work process. As indicated in the Overview of the APS Return to Work Guidelines, the objective of the guidelines is to provide consistent processes when returning employees to work. However, recognizing that every employee’s situation is unique, you are encouraged to tailor these forms to fit the needs of your ministry and the employee you are accommodating.

- Manager/Supervisor Return to Work Checklist
- Memo to Schedule Meeting with Employee
- Health Care Provider Return to Work Form
- Return to Work Plan
- Return to Work Weekly Progress Review
- Health Care Provider Progress Report
All reference materials are available at www.psc.alberta.ca/Practitioners/?file=health/returntowork/section5&cf=13

Resources

Duty to Accommodate Checklist

Frequently Asked Questions (for Managers/Supervisors)

Tools and supports

- Advice for managers/supervisors on planning meetings with your employees and monitoring progress:
  - Manager/Supervisor and Employee Discussion Guide
  - Tips for Successful Re-integration During the Return to Work Period

- APS employee programs:
  - EFAP
  - Government of Alberta disability case management providers
  - LTDI Continuance Plan

- Governing legislation:
  - Alberta Human Rights Act
  - Alberta Public Service Act
    www.qp.alberta.ca/574.cfm?page=p42.cfm&leg_type=Acts&isbnln=9780779735211
  - Canadian Human Rights Act
  - Freedom of Information and Protection of Privacy Act
    www.qp.alberta.ca/574.cfm?page=F25.cfm&leg_type=Acts&isbnln=9780779743568
  - Workers’ Compensation Act
    www.qp.alberta.ca/574.cfm?page=W15.cfm&leg_type=Acts&isbnln=9780779743872