



## To Offer Temporary Modified Duty or Not

### The First 30—60 Days

Your employee is injured on the job, you send him to the doctor and he comes back with work restrictions. What do you do now?

First of all, you are no more obligated to provide light duty to your employee, than your employee is required to accept it. However a modified light duty program can be one of the most important programs you can have, and making the offer of temporary modified or alternative work, is usually in your best interest.

Providing modified duty to your newly injured employee will alleviate temporary total disability benefits (TTD) being paid out on your claim, thus keeping down claims cost and your Experience Modification Rate (EMR). The impact to your EMR can be significant.

For example, if your employee earns \$1,000 per week, one month of modified duty can equate to saving 3 EMR points on average.

TTD is paid at a rate of 2/3 the average weekly wage (based on the 52 weeks prior to the injury), with a maximum weekly rate of \$1,215.27 for 2018 dates of injury. This rate by itself can be a motivator for high wage earners (over \$65,000/year) to return to full duty.

What you need to have in place for a successful modified (light) duty program:

1. A list of job descriptions for all of your employees. Does your medical provider network (MPN) have copies of them now? Consider creating a *job bank*, a file containing job descriptions for all of your company's positions.
2. Notify your employee and your claims adjuster of the availability of modified duty; and use an appropriate modified duty offer letter. For a sample of a modified duty offer letter please click [HERE](#)
3. Have a modified duty coordinator (H.R. or safety representative) evaluate modified duty after each doctor visit and every 30-45 days for effectiveness.

Bringing injured employees back to work in a temporary modified or alternative duty hopefully expedites their return to full duty. Provide the treating doctor(s) with a list of available alternative jobs to help the doctor craft restrictions (if any) that focus on the **employee's ability** rather than their disability. The initial medical evaluation by the medical treater is your best chance to get your employee back with restrictions if the doctor knows your job options.

Modified duty does not necessarily have to be the pre-injury position, but at a position that allows for continued work that is consistent with the employee's work restrictions.

Here is a list of potential modified duty jobs:

- Doing general inventory tasks
- File paperwork/shred
- Inspect fire extinguishers & eye washes
- Answer phones
- Deliver mail
- Participate in shipping
- Security guard
- Safety monitor
- Flag person
- Conducting inventory of company equipment, and gathering their serial numbers
- Clean up duties at job sites
- Perform quality control inspections
- Housekeeping at your business location
- Wash and wax company vehicles
- Paint curbs and aisle markings
- Driving company vehicles to make deliveries and pick up
- Order supplies
- Update MSDS manuals
- Work normal job but slower
- Work normal job but with specific limitations
- Watch safety and training videos, or learn English/Spanish

How about using this injury as an opportunity to cross-train your employees in different jobs or departments as backup employees for a specific job within your company?

If nothing else, reach out to the injured worker for ideas. Keep an open mind. Maybe your injured worker will imagine a perfect modified duty role to support your company that you did not consider to be possible. A win for everybody.

Creating a culture that says we value you as employee and encourages an injured employee to return to work is terrific. We think that our clients that provide temporary modified work assignments to employees create a great culture, but beware that some injured workers could attempt to take advantage of your good intentions. Accordingly, be diligent to evaluate injured workers. Should they stay on modified/alternative duty or not? If they display that they don't really care for the benefit you have granted them, maybe it is time to put them on TTD. Morale is a tricky thing. If other employees see that an injured worker does not have his heart into his modified duty, maybe it is time to exercise your right to stop it. Keeping an employee's wage steady is a good policy, but keep in mind that TTD is always an option for some injured workers for whom full productivity does not seem to be their goal.

Please remember when labor markets are tight and qualified applicants limited, expediting the return of the employee to full duty is integral to your company's productivity. You will avoid the need to search for, hire, and train a replacement. It is both a time and cost savings to get employees back to full duty.

Daytime television is usually filled with "hire me as your lawyer" commercials. Providing modified duty to your employee enables them to recover more quickly by your giving them meaningful activities to do rather than being home and watching television. Also, keep in mind that maintaining workplace social contacts could be the main social contact for your employee.

Furthermore since most people self-identify with their job, an assignment to do something different may be uncomfortable to the employee. The result could be that an employee who is motivated may heal more quickly and return to their usual and customary duties out of pride or another emotional connection to their job. There is a direct correlation between the mind and the speed of physical recovery, and your modified duty program can serve as a catalyst for an expeditious return to full duty.

Offering modified duty can sometimes be a gamble. If your employee refuses your modified duty offer then no TTD benefits are due, a win for you. No TTD can push your employee to retain an attorney, or change doctors, if they just don't want to work. The decision to offer modified duty should be made with the understanding that it may not be effective in every circumstance.

Part Two of our modified duty series is coming in November 2018.

**For more information, contact Nicole Corey, Workers' Compensation Claims Manager, at 408.418.2746, [ncorey@pentarisk.com](mailto:ncorey@pentarisk.com), or your PentaRisk broker or account executive. Visit our website at <http://pentarisk.com/>.**

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