

## WHAT STATES CAN DO TO ENGAGE EMPLOYERS IN SAW/RTW PROGRAMS

The Transition Back to Work Policy Working Group (PWG) of the U.S. Department of Labor's Office of Disability Employment Policy's (ODEP's) Stay-at-Work/Return-to-Work (SAW/RTW) Policy Collaborative developed recommendations to state actors that would help workers who have lost work time due to injury, illness, or disability make the transition back to work as early as possible in their recovery process. This guide addresses the following recommendations made by the PWG: 1) Educate employers about the benefits of supporting transition back to work for employees who have left the workforce due to injury, illness, or disability; 2) Provide employers with technical resources for supporting the transition back to work; and 3) Implement SAW/RTW programs for state employees, both to assist state employees and to provide the state's employers with a model.

### What can state policymakers do?

State policymakers can establish SAW/RTW policies, initiatives, laws, and regulations in areas such as workers' compensation, healthcare service delivery, and occupational safety, by working to:

- **Develop legislative and policy initiatives that authorize the establishment and operation of employer-based SAW/RTW programs.** In this effort, the experience of other states can be instructive. Some states have, in recent years, passed legislation specifically authorizing SAW/RTW programs and initiatives or incorporating relevant concepts into other laws and regulations. For example, Oregon implemented their [Reemployment Assistance Program](#) under statute to provide for RTW in workers' compensation cases.<sup>12</sup> Reviewing laws and regulations implemented in other states can help policymakers understand what issues need to be considered in their states and what steps to take to move similar policy forward.
- **Adapt/replicate other states' effective efforts with employer-based SAW/RTW programs.** Similarly, examples of current SAW/RTW programs such as that of the [Texas Department of Insurance](#) can show the policymaker how other states have addressed challenges faced in such programs and what the effectiveness of a particular program may be.
- **Financially incentivize employers who make investments in safely transitioning employees back to work following injury, illness, or**

**disability.** Commonly-used approaches include wage subsidies; reimbursement, tax credits or loans for costs related to job accommodations and workplace modifications; grants to develop transitional work plans; and insurance premium discounts for designing and implementing an approved SAW/RTW program. One example is the [employer incentives](#) provided by Washington State.

- **Provide funding and related resources to employers to develop SAW/RTW programs.** Developing and implementing a comprehensive SAW/RTW program requires a significant amount of planning on the part of the employer. Without assistance in developing such a program, employers may be reluctant to commit the necessary time and resources. Assistance from state administrators may be helpful in getting such programs off the ground.

Examples of some of these policies in action include:

**Wage subsidies for employers.** Employers may be apprehensive about RTW for employees who may have temporary limitations that prevent them from being fully productive in performing their jobs. Providing employers with subsidies for returning employees to transitional or partial RTW can help them financially justify implementing RTW strategies. The State of Oregon's Employer-at-Injury Program, for example, funded by worker and employer contributions to the Workers' Benefit Fund, encourages the early RTW of injured workers by helping reduce the employer's RTW-related costs

and reducing claims costs. It is administered by the insurer responsible for the claim. Wage subsidies repay the employer for 45% of the early RTW gross wages for up to 66 work days within a 24-consecutive-month period. The insurer helps the employer develop the early RTW and request reimbursement from the department.

#### **Funding support for transitional work programs.**

The Ohio Transitional Work Grants program is designed to help employers develop a transitional work program specific to their business and employees. Eligible employers receive funding to work with an accredited transitional work developer to formulate customized policies and procedures, work with unions if applicable, and establish relationships with healthcare providers who will respond to the employee's medical and rehabilitation needs and understand the business operations. The Ohio Bureau of Workers' Compensation (BWC) will reimburse the employer 75% of the total cost the employer paid to the transitional work developer for covered services. If the employer does not use all of the BWC-approved funding after the initial grant reimbursement is made, the money will go into the employer's implementation fund, which can be used at any time, so long as BWC's Transitional Work Grant Program is active and grant funds are available.<sup>13</sup>

#### **What else can states do to engage employers in SAW/RTW?**

To provide useful support and guidance for employers in the development and implementation of RTW programs, states should consider the following additional recommendations:

1. Implement a model RTW program for State employees to further demonstrate the effectiveness and ROI associated with such programs, sharing lessons learned and tools used in this process with employers. Georgia, Montana and West Virginia are examples of states with Return-to-Work and Transitional Work programs for state employees that may provide useful information.<sup>14,15,16</sup>
2. Develop template communication, training and documentation tools identified as model program components, and support employers

using these tools to minimize the time and investment otherwise associated with employers developing them independently.

3. Create an RTW Program guide book that explains the benefits associated with implementing RTW programs, how the programs support positive outcomes and legal compliance, and an overview of the various steps to take/consider. Utilize materials developed by other states<sup>8,10,11</sup> and the Job Accommodation Network.<sup>9</sup>
4. Create a resource guide of technical resources employers can use in developing RTW strategies and selecting appropriate assistive technology, including identifying and taking advantage of resources available locally and around the state.
5. Work with intermediaries to increase employers' awareness of, and ability to implement, SAW/RTW programs. For programs to be effective, they must involve a range of stakeholders working collaboratively with defined roles and responsibilities.

#### **Communicating the benefits to employers of SAW/RTW programs**

The high cost to business of workers leaving the job due to injury, illness, or disability is well documented.<sup>1,2</sup> Improving the worker's ability to

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In 2012, the Integrated Benefits Institute found that poor worker health costs employers \$576 billion annually, for expenses that include disability and group health programs and workers compensation. Of that amount, 39%, or \$227 billion, results from lost productivity tied to poor worker health.<sup>1</sup>

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transition back to work as soon as possible helps lower the cost to business for expenses such as absenteeism, lost productivity, and, in some cases, the need to replace employees.<sup>3</sup> In some instances, employees are ready to RTW, but not full-time or to perform all the usual responsibilities of the job. State administrators can play an important role in supporting SAW/RTW programs by communicating

the benefits of such programs to the state's business community.

To a business, retaining an employee at reduced productivity or retraining him or her for another position may initially seem to be an unacceptable cost. Although many employers see it is worth the investment for an employee with specialized skills, and some large companies view it as cost-effective to support low-wage workers as well, not all companies have actually assessed the costs and benefits of RTW,<sup>4</sup> and may avoid investing in an SAW/RTW program on the basis of perceived cost. Most employers would benefit from considering both the up-front costs and the long-term benefits of supporting RTW, and determining if the benefit of a program that keeps the employee outweighs costs such as expenditures for retaining an employee at reduced productivity or retraining him or her for another position.

Research shows that improving the worker's ability to transition back to work as soon as possible helps lower the cost to business for expenses such as absenteeism, lost productivity, and, in some cases, the need to replace employees.<sup>5</sup> One of the most effective ways to support positive employment outcomes for the worker is to implement RTW strategies early in the recovery process, as soon after the employee takes leave from the job as possible, with a focus on maintaining the employer-employee relationship.<sup>6</sup>

State administrators can alleviate employer concern about the real and perceived barriers to investing in such a program by providing employers with guidance and resources on best practices for developing, implementing, and maintaining a SAW/RTW program. This guidance should include a focus on three key primary concerns:

1. The cost of interventions to return employees with temporary limitations to the workplace;
2. The loss of productivity and associated costs that can result from an employee performing transitional work; and
3. Concerns about whether the employer has the necessary expertise to identify and implement

appropriate, effective, and cost-effective strategies to support RTW.

This guide is intended to outline for state administrators the program development guidance they can offer to employers within their state, including the key components to include in a model SAW/RTW program. These resources can significantly reduce the investment employers might otherwise incur if developing such a program on their own, such as the cost of utilizing an RTW consultant and the personnel costs associated with time spent in program development and implementation.

## What does a model SAW/RTW program look like?

Both by implementing a strong SAW/RTW program for state employees as an example, and by providing guidance to employers, state administrators can communicate what the various components of a comprehensive, collaborative and proactive SAW/RTW program look like. Developing a suite of "best practices," such as formal, written policies and procedures that apply across the organization, creates a consistent and cohesive framework, and facilitates successful and sustained RTW.<sup>7</sup> These components can be utilized by both large and small employers, as well as public and private-sector entities. Employers should be encouraged to include as many aspects as practicable, tailoring the specific details to their own organization.<sup>8</sup> For an SAW/RTW program to be successful, it is imperative that the employer make a fundamental commitment to retaining/returning employees with an injury, illness, or disability to work in a timely and safe manner, and to communicating within the organization that SAW/RTW is part of their business strategy to retain valued employees and to enhance the productivity of the workforce overall.<sup>9</sup>

These program components suggest actions that states can take to provide the guidance and support employers need to make this commitment, such as:

**#1: Develop and maintain communication tools and instructional materials to introduce SAW/RTW to employers and set expectations within employer organizations regarding RTW.**

These tools and instructional materials may be customized to particular audiences within the employer organization, including (as applicable):

- *Upper management* – Explain the financial benefits and return-on-investment (ROI) associated with RTW to gain buy-in and program support.
- *Line supervisors* – Outline the supervisors' role in the RTW process, set the expectation for support of RTW, and explain benefits and program parameters.
- *Labor/union* – Promote buy-in and support from labor organizations and highlight the benefit of RTW for their employee members.
- *Healthcare providers* – Solicit providers' support for RTW as a goal, educating them on the RTW options available to employees, and encourage the timely provision of detailed information on employee limitations and capabilities for RTW.
- *Insurance carriers* – Define the insurers' role in the employer RTW program and set expectations for program support and timely communication of information regarding employee restrictions and RTW capacity.
- *Other departments in the employer organization, such as Workers' Compensation or Leave Management departments* – Foster collaboration across stakeholders to minimize duplication of effort, support positive outcomes, and ensure compliance with a range of applicable laws.

## **#2: Recommend that employers to establish an RTW Coordinator role and functions within their organization.**

Depending on the size of the employer and their resources available, this may include creating an RTW Coordinator position or the assignment of RTW coordination tasks to an already existing position. These functions would include assisting the employee in navigating through the process, providing education to supervisors on appropriate RTW strategies, identifying transitional work tasks available within the organization, and facilitating/documenting communication among all parties related to RTW efforts and outcomes.<sup>8</sup>

## **#3: Convey the importance of identifying and communicating roles and responsibilities for all entities involved in RTW.**

Assigning specific roles and responsibilities establishes the accountability required for positive outcomes and overall program success, and helps promote collaboration across the various entities within the employer organization. Descriptions of roles and responsibilities should be developed for:

- Supervisors/managers
- Employees
- RTW Coordinator (and/or Human Resources)
- Health care providers
- Unions (if applicable).

## **#4: Support development, implementation, and communication of the organization's policy on RTW.**

The Return-to-Work policy statement is a joint labor/management directive offering an introduction to the workforce of the organization's RTW program. The policy statement will be a point of reference throughout the entire development and operation of the RTW program as it sets the general scope of, and guidelines for, the program.<sup>10</sup> Once developed, it is important to communicate the employer's commitment to RTW throughout the organization.

## **#5: Develop and deliver training resources for all entities involved in RTW.**

Given that the RTW program is designed to work as a partnership between employee, employer and healthcare provider, it is important to educate the entities involved in RTW efforts to make them aware of the practices of the program and the benefits of making a commitment to the program. Training those involved in the organization's RTW efforts will set clear expectations, support consistency in practices as well as encourage the use of appropriate strategies throughout the RTW process. Training should be developed and delivered to:

- Supervisors/managers
- Employees
- Unions
- RTW and related coordinators

**#6: Stress the need to develop a method to document essential job functions and associated job demands.**

RTW strategies are based on a comparison of the employee's limitations and the demands associated with performing the essential functions of the job. This comparison allows the employer and employee to identify what accommodations or assistance may be needed to support productive work, either in full or partial performance of the essential functions, or in other productive work tasks as needed. It is best for employers to identify essential functions and job demands proactively and in collaboration with employees and (as applicable) unions. As jobs may change over time, the essential functions and job demands should also be reevaluated when working with individual employees and supervisors to identify RTW strategies.<sup>11</sup> The Job Accommodation Network provides guidance on the [development of job descriptions](#) with essential job functions.

**#7: Similarly, emphasize the need to identify and implement the process by which temporary, transitional work tasks are identified.**

As part of the individualized RTW plan, an employee may temporarily be unable to perform all essential functions of his or her job. In those situations, assigning other productive work tasks to employees will support early and sustained RTW. When opportunities for transitional work tasks exist in an organization, employees are twice as likely to successfully resume work.<sup>7</sup> Employers should implement a means to solicit from various managers, supervisors, and leaders what productive work tasks they have available, especially those tasks better suited for individuals with restrictions or limitations as a result of illness or injury. Once the tasks are identified, the RTW Coordinator can also determine and document the physical and mental demands associated with performing the tasks, so that appropriate matches can be made between an employee's limitations and a medically appropriate task.

**#8: Provide guidance on methods and resources that can be used to assess assistive technologies and other technical expertise in RTW.**

Research shows that most job accommodations provided are low cost or no cost, and are effective at supporting RTW.<sup>4</sup> Assistive technology can be an important component to RTW for some employees. One potential barrier to employers considering RTW strategies such as assistive technology, is the concern that they do not have the expertise to identify accommodations that will be effective in supporting the individual's ongoing productive employment. The fear that the money invested into these efforts may simply not result in the desired outcome can prevent the employer from moving forward. When employers receive technical resources and access to experts, they can be more confident that the costs incurred will result in RTW. Employers should be made aware of resources such as the [Job Accommodation Network](#) and other resources potentially provided by their State which employers can utilize to both offset costs incurred with RTW and support successful employment outcomes.

**#9: Provide resources that help employers establish standardized communication and documentation tools.**

Developing and utilizing formal, written policies and procedures that apply across the organization creates a consistent and cohesive RTW framework and supports successful and sustained RTW. Included in the procedures should be samples of standardized forms used to communicate about the program, guide the various entities involved through the steps of the program consistently, relay information needed to develop RTW plans, and document the outcomes of the process. Included in this collection of templates would be:

- RTW Program FAQs
- RTW Coordinator checklist
- Supervisor checklists
- Healthcare provider forms to provide limitations/restrictions
- RTW Task assignment agreement form
- Letters to employee to communicate RTW status and actions
- Job description format
- Transitional task description format.

## #10: Help employers identify information to be collected and analyzed in support of RTW program effectiveness, cost/benefit, and ROI calculations.

Evaluation is critical to identifying the strengths and weaknesses in employer RTW programs, both in terms of positive employment outcomes and positive financial gains.<sup>8</sup> Employers should have methods established to collect data pertaining to time frames for RTW, RTW plan durations, cost of accommodations or modifications, changes in trends for lost-time work days, rate of employee retention, and cost savings associated with RTW such as avoiding the cost of hiring new employees if current employees had not returned back to work.

## What “best practices” can help support program success?

In addition to the components of SAW/RTW programs outlined above, there are a number of “best practice” behaviors that states might encourage employers to follow that can help support positive RTW outcomes and reap the benefits associated with RTW programs. These practices include:

- **Establishing early and sustained communication with the employee.** Successful RTW after injury, illness, or disability is not a standardized, “one-size-fits-all” process, so employees may have varying understandings of the process, expectations, motives and results as they attempt to navigate through the process.<sup>5</sup> RTW programs need to emphasize for supervisors, human resources staff and RTW coordinators the importance of maintaining communication with the employee throughout the process.
- **Implementing a process to identify case-by-case needs when developing an individualized RTW plan (including a focus on partial RTW).** The individualized RTW plan will map out the steps needed to keep an employee on the job or return them to the job as quickly as possible, and is based on the information provided by the healthcare provider on the employee’s specific limitations and duration of limitations. The plan is developed jointly by the RTW Coordinator, supervisor and employee, and

will include the provision of partial RTW as necessitated by the employee’s limitations and organization’s available productive work tasks that are medically appropriate. Ideally, the plan will include a component to support, ultimately, a progressive RTW in the full scope of the job.<sup>8</sup>

- **Communicating and collaborating among various entities within and supporting the organization.** All of the entities involved in RTW efforts are better positioned to support positive outcomes and compliance with all applicable regulations if they institute a regular practice of working together collaboratively. This can also help to streamline the amount of personnel time devoted to RTW by the organization overall, minimizing duplication of efforts to obtain information and to develop successful, compliant strategies.
- **Documenting agreements and expectations.** Documenting what the RTW plan entails will serve as an agreement between employer and employee regarding the specifics of how the employee will perform productive work that is medically appropriate. This documentation clearly defines what is expected of both the employer and employee in the process, and also serves as documentation of the employer’s efforts regarding accommodating individuals with disabilities.
- **Following up as part of all RTW plans to ensure ongoing effectiveness and productivity, including provisions to make adjustments as needed.** The individualized RTW plans employers develop need to include a component for monitoring the ongoing success of the employee in performing productive work safely. RTW is intended to be a “win-win” where employee gains the benefits of early and sustained RTW and employers benefit from employees contributing to the productivity of the organization. If at any point it is unclear if the work can be performed safely and within the employee’s limitations, or if it is unclear if the employee is able to continue to be productive, then steps should be taken to reassess and revise the RTW plan.

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12. Under the authority of statute <https://www.oregonlaws.org/ors/656.622>, the Oregon Department of Consumer and Business Services adopted Oregon Administrative Rules ([http://wcd.oregon.gov/Rules/div\\_105/105\\_13054ub.pdf](http://wcd.oregon.gov/Rules/div_105/105_13054ub.pdf)) for its Employer at Injury program and ([http://wcd.oregon.gov/Rules/div\\_110/110-16057.pdf](http://wcd.oregon.gov/Rules/div_110/110-16057.pdf)) for its Preferred Worker Program. Another example is Texas, where every state agency is required by the Texas Workers' Compensation Act <http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.412.htm> to develop, implement, and maintain a program to assist employees who sustain compensable injuries to return to work. See: <http://www.statutes.legis.state.tx.us/Docs/LA/htm/LA.412.htm> <https://www.sorm.state.tx.us/claims-coordinator-overview/return-to-work-program>.
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16. West Virginia's Return-to-Work guidelines for state agencies is available at: <http://www.wvinsurance.gov/Portals/0/pdf/SAWC%20RTW.pdf>

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The Stay-at-Work/Return-to-Work (SAW/RTW) Policy Collaborative was established by the U.S. Department of Labor’s Office of Disability Employment Policy (ODEP) to support the development of policies, programs, and practices that encourage the continued employment of workers likely to leave the workforce due to injury, serious illness, or disability. The Collaborative consists of a Community of Practice to provide input and real-time feedback on specific policy topics related to SAW/RTW, and Policy Working Groups (PWGs), led by Subject Matter Experts (SMEs) and supported by IMPAQ International, who explored policies and practices that curtail long-term work disability and job loss due to injury and illness, provide policy recommendations to key stakeholders, and develop resources to support policy action. The 2017 PWGs focused on three topics: (1) Replicating and Adapting the State of Washington’s Centers of Occupational Health and Education (COHE) Model; (2) Musculoskeletal Conditions and Pain Management; and (3) Transition Back to Work. This document is a product of the Transition Back to Work PWG co-led by Roberta Etcheverry (SME Lead) and Kay Magill (IMPAQ Lead).

Preparation of this document was funded by the Office of Disability Employment Policy, U.S. Department of Labor, Contract Number DOLQ121A21885/ DOL-OPS-16-U-00178. This document does not necessarily reflect the views or policies of the Office of Disability Employment Policy, U.S. Department of Labor, nor does the mention of trade names, commercial products, or organizations imply endorsement by the U.S. government.

For more information about the work of the Stay-at-Work/Return-to-Work Policy Collaborative, see ODEP’s website at: <https://www.dol.gov/odep/topics/SAW-RTW/research-publications.htm> and IMPAQ’s website at: <http://www.impaqint.com/stay-workreturn-work-policy-collaborative-swr2w>

