

Guidelines for workplace return to work programs – summary of changes

BACKGROUND INFORMATION

The purpose of the Guidelines for workplace return to work programs project is to develop a simple and straight-forward document for NSW employers that outlines the process of developing a return to work program to ensure compliance with the legislation.

A working party was established to obtain and analyse feedback with representation from the State Insurance Regulatory Authority (SIRA), icare, small and large employers, unions, Workers Compensation Independent Review Office (WIRO), self-insurers and return to work coordinator trainers.

The purpose of the working party was to provide advice on:

- the key elements of a successful workplace return to work program
- how the key elements are operationalised by employers
- the content/structure of the *Guidelines for workplace return to work programs* (Guidelines)
- the issues experienced in the implementation of the Guidelines.

The working party also provided suggestions on how to improve the Guidelines so they:

- are simple, straight-forward and easy to apply
- provide consistent, relevant and accessible information
- succinctly outline the process to ensure compliance with the legislation
- reduce regulatory burden.

SUMMARY OF CHANGES

The following changes to the Guidelines should be noted when reviewing and providing feedback on the document:

Structural changes

Writing style

The revised Guidelines have been written in plain English to improve understanding and allow a greater level of access for employers and workers. The Guidelines clearly articulate the legislative obligations of Category 1 (>50K base tariff premium) and Category 2 (<50K base tariff premium) as it relates to return to work programs and return to work coordinators.

Structure

The structure of the document has been improved to logically reflect the two employer categories and is colour coded to allow employers to navigate to the section that applies to them – either Category 1 or Category 2. The definition of each employer category is included in the introduction.

Policy changes

Consultation vs. an agreed system

The workers compensation legislation requires employers to consult with their workers and any unions representing their workers when developing a return to work program.

To align with the intent and wording of the legislation the term ‘agreed system’ has been removed from the Guidelines. To be considered compliant, employers will need to articulate their consultation arrangements in their return to work program and retain evidence of this consultation.

Training requirements for Return to Work Coordinators

The Guidelines have removed the requirement for a Category 1 employer to have a return to work coordinator who holds a certificate of attendance from the Authority-approved course – Introduction to return to work coordination. The Guidelines now require a Category 1 employer to appoint or engage a Return to Work (RTW) Coordinator who has ‘relevant training, skills and competency’.

Employers will need to ensure that the RTW Coordinator they employ or engage can undertake the roles and responsibilities outlined in the Guidelines. These are considered thorough and more likely to achieve positive outcomes than the requirement to attend a single two-day workshop.

A RTW coordinator will be considered to have met the relevant training and experience requirements if they have completed previous Authority-approved RTW Coordinator training.

Engaged/shared RTW coordinator arrangements

The Guidelines remove the requirement for employers to obtain Authority approval before choosing to enter into a shared arrangement or engage a return to work coordinator who is not an employee.

Nomination of preferred workplace rehabilitation providers in a Standard RTW Program

The requirement for a Category 2 employer (<\$50K BTP or insured with a specialised insurer and less than 20 employees) to nominate a workplace rehabilitation provider in the Standard RTW Program has been removed. This improves accessibility for employers with minimal exposure to the system.

The requirement for Category 1 employers to nominate a workplace rehabilitation provider in their program remains.

Return to work hierarchy

The table of return to work options, commonly referred to as the ‘return to work hierarchy’ has been removed from the Guidelines to reflect the cultural shift towards recovery at work and utilising the most direct path back to employment.

CONSULTATION PROCESS

Consultation commences with the publication of the draft guideline and a call for public submissions (links are available on the SIRA website, former WorkCover website, and NSW Government 'Have Your Say' website).

SIRA will also directly contact selected stakeholders to invite their review and submission, however, all interested parties are welcome to review the draft guidelines and make submissions using the provided form.

The consultation will be for a period of six weeks from 5 October 2016 to 15 November 2016.

Gazettal of the revised Guidelines is proposed for December 2016.

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers. However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website legislation.nsw.gov.au.

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