



POLICE ASSOCIATION OF NEW SOUTH WALES

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09 November 2016

State Insurance Regulatory Authority
Locked Bag 2906,
Lisarow NSW 2252

By email only to consultation@sira.nsw.gov.au

Dear Sir/Madam,

Re: Proposed Guidelines for Return to Work Programs

We write in relation to the draft Guidelines for Return to Work Programs ('draft guidelines') which have been published on your website. The Association would like to provide feedback in relation to this document and we are grateful for your consideration of our submission.

The Police Association of New South Wales (PANSW) represents the professional and industrial interests of approximately 16,500 members, covering all ranks of sworn police officers in NSW. Due to the inherent nature of policing, injuries are frequent and as such strong return to work protections are of crucial importance to our membership.

The Association notes that this document intends to replace the current *Guidelines for workplace return programs* which were made in 2010 ('hereafter referred to as 2010 guidelines').

We note that the 2010 guidelines contain a paragraph titled Obligations. This is easy to read and understandable in that it is an outline of the rights and responsibilities of each party in the system. We find it deeply concerning that this has been removed from the draft guidelines. It would appear that the draft guidelines only reinforce the obligations of injured workers and diminish the obligations of the insurer and employer. We would seek that pages 2 – 7 of the 2010 document be reintroduced in the new document in an easy to read and understandable form.

We will now deal with some of those matters in more detail.

1. Employer's Responsibilities

The draft document removes the requirements for the following employer's responsibilities:

- a) Produce the program in printed form
- b) Display at minimum, a summary in the workplace of the Workers Compensation legislation about giving a notice of an injury and making of the claim
- c) Provide a worker with workers compensation claim form if requested
- d) Send an injured worker's claim form to the insurer within 7 days of receipt
- e) Cooperate with the insurer in engaging assistance from a workplace rehabilitation provider if the worker faces barriers in returning to work

These are all very important aspects which protect our members and as such they should remain in the document.

2. Insurer's responsibilities

It would appear that the draft document has removed the insurer's responsibilities such as to:

- 1. contact the nominated treating doctor,
- 2. develop injury management plan, consult with injured worker,
- 3. commence provisional liability

We believe that the early intervention of an insurer can be beneficial in putting pressure on the employer to provide suitable employment. Removal of the insurer's role from the process does not benefit the overall intention of the guidelines and needs to be reintroduced. .

3. Nominated treating doctor responsibilities

Again the document omits the role of the nominated treating doctor in the process. This is a very important safeguard for the health and safety of injured workers and as such is of crucial importance. We find that often without the input from the nominated treating doctor there can be pressure for the employer to return worker to unsafe environments which can cause further setbacks. The NTD has a very important role to play in the workers compensation and RTW space and should be included in this document.

4. Workplace rehabilitation provider

There is no mention of workplace rehabilitation providers in this document. The 2010 document contains a range of roles allocated to a workplace rehabilitation provider (page 7) which have been removed from this document. This represents a significant downgrade in the rights of injured workers.

There is also no express right for an injured worker to choose his or her own rehab provider which is a requirement and should be outlined and made clear.

5. Return to work hierarchy

The 2010 guidelines contain the requirement to follow a RTW hierarchy when attempting return to work of injured workers.

Same employer/same job
Same employer/different job
Different employer/similar job
Different employer/different job

The hierarchy has now been removed in the draft guidelines under the guise of '*cultural shift towards recovery at work and utilizing the most direct path back to employment*'.

Removal of this process will have a likely effect that the employers will not feel the need to attempt to return the worker to their substantive employment and will instead try to relocate them shifting the responsibility of employers.

The Association has assisted a number of members recently where the employer has refused to carry out reasonable modifications to their role insisting that if they could not perform full duties they would be referred for re-deployment. We believe that this is contrary to the principles of return to work and we would seek that return to work hierarchy be kept in the proposed document. The hierarchy could remain with appropriate wording around modification and direct path but noting the options and the order of such options.

It is also noted that the paragraphs (iv) *Early commencement of injury management and early return to the work* and (v) *Providing suitable duties and or vocational retraining/job placement assistance* of the 2010 guidelines (pages 13-15) have been removed and largely not replaced in the new document. This goes against the very principles of early return to work and rehabilitation. The information contained within these sections is important to an injured worker and should remain.

6. Consultation vs agreement

These draft guidelines do not require the employer to obtain the agreement of the stakeholders such as employees and their representatives but to merely consult. This represents further erosion of workers' rights and less meaningful say in the process. We believe that the system should provide for the consensus of all parties rather than the employer's imposed policy view. In order for a recovery at work plan to succeed, it is well known that having the involvement and buy in from the injured worker and the nominated treating Doctor is crucial. Reaching an agreement can ensure that all parties are aiming for the same goal and will work hard towards achieving it. Imposing something on an injured worker limits its success.

7. Compulsory training

The Draft guidelines remove the training requirement for approved return to work coordinators. Instead of holding the appropriate qualification it is proposed that they will need to have the necessary skills, knowledge and experience to deal with return to work which leaves that quite open. We would submit that suitably trained coordinators only enhance the system and assist both employers and employees

and we would submit that there has to be some sort of minimum training standard adopted.

Thank you for your opportunity to provide feedback in this matter. Should you require any further information or clarification please do not hesitate to contact Industrial Officer [REDACTED] or via email [REDACTED]

Yours sincerely,

[REDACTED]

Kirsty Membreno
Industrial Manager
Police Association of NSW