

**Risk Management
Workers Compensation Program
Return-to-Work/Designated Medical
Provider Program**



RMWCP Premium Reduction Program Implementation Guide

March 2018

FREQUENTLY ASKED QUESTIONS

WHAT IS A TRANSITIONAL WORK PLAN?

- It is a plan that employers have in place to assist employees who sustain an occupational injury or disease and cannot return to his or her regular (pre-injury) job for a period of time.

Why is transitional work important?

- By having a transitional work plan in place before an injury occurs, you will be better prepared in the event that you need to place an injured worker in tasks consistent with any medical restrictions imposed by the doctor after an injury has occurred.
- It allows the injured worker to “transition” into the work environment after sustaining a work related injury.
- It encourages a safe and early return to work taking into account the injured workers abilities and their injury.
- While the injured worker benefits by being productive again and receiving a salary, an employer also benefits by having an experienced and productive worker back on the job.

What is the State Policy regarding Return-to-Work/Transitional Duty

- The State of North Dakota has established a Transitional Duty Program that will enhance recovery, comply with the Americans with Disabilities Act (ADA), help minimize workers compensation costs, and provide a service to employees who are injured or contract an occupational disease in the scope of employment with the State. Employees will be placed in transitional duty positions, when feasible, during the course of recovery from an occupational injury or disease that precludes the employee from performing normal job tasks. In the event of a permanent disability that prevents an employee from performing the essential functions of his or her regular position and for which reasonable accommodations cannot be made, every effort will be made to place the employee in an alternative

vacant position that he or she is qualified to perform and that matches his or her physical limitations.

What is the Transitional Duty Pool?

- State entities are encouraged to establish and locate transitional duty positions in-house. However, if none are available to accommodate an injured employee's restrictions, a position will be located through the Risk Management Workers Compensation Program (RMWCP). The state entity that is the employer at the time the injury occurred to the employee will be required to pay the full pro-rated salary of the employee while the receiving entity will enjoy the benefit of an extra employee compensated by the originating entity. The Administrative Rules adopted by the Risk Management Division govern the operation of the Transitional Duty Pool.
- If a state entity has a position or special project that would be appropriate to accommodate someone with a physical limitation, a description of the duties and physical requirements can be sent to the entity's personnel or administrative officer or the Risk Management Division for addition to the Transitional Duty Pool.

What is a Designated Medical Provider (DMP)?

- A DMP is a team of physicians, nurse practitioners, physician assistants, therapists, and nurse case managers who are specialists in the field of *occupational medicine*.
- The team is specially trained to evaluate work place injuries and develop appropriate treatment plans that include using the job as part of the recovery process. The team members' training in occupational medicine and the members' knowledge of the workers compensation system enhances the implementation of reasonable accommodations for the injured worker and positively impacts the healing process. In other words, they will help you recover more quickly and completely.

What is Occupational Medicine?

- Occupational medicine is the specialty devoted to the prevention and management of occupational and environmental injury, illness and disability, and the promotion of the health and productivity of workers, their families,

and communities.

Why would I want treatment from the State's DMP in place of treatment from my own physician?

- The State has carefully selected DMPs who have systems in place to 1) treat workplace injuries; 2) are familiar with workers compensation; and, 3) have doctors who are trained in occupational medicine.
- The DMPs selected by the State have established networks of clinics that allow the clinic physicians to be in touch with an off-site occupational medicine physician and with nurse case managers. Their experience in treating workplace injuries and their ability to provide quality care following an injury are the reason they have been chosen to fill this role.
- The selected DMPs have the opportunity to familiarize themselves with your workplace, the type of work you do, and are available to communicate with you and the RMWCP on a regular basis.

Shouldn't I see my specialist if I have a pre-existing medical condition?

- If you have a pre-existing medical condition, you should tell the occupational medical specialist about your condition and concerns. He or she will treat you accordingly and will refer you to your specialist should that be necessary.
- This program would be similar to how you would be treated in case you were involved in an accident and required emergency treatment. You would be taken to the emergency room where you would be treated and then, if necessary, the ER doctor would consult with your specialist.
- Consultation between specialists is routinely done. Remember the goal of all medical care is to provide you with the best treatment possible.

Can I be referred to another Provider?

- You can be referred to another provider or specialist if that is required to provide you with the best possible care.
- The State's DMPs were chosen for the providers' knowledge in the treatment of workplace injuries.
- The DMP is an independent care provider who does not work for the State or Workforce Safety and Insurance.

- ✦ We all want the best medical care possible and by selecting a specialist in workplace medicine, all state employees have the opportunity to receive quality care.

What if medical treatment was an emergency or you did not know the injury or disease was work related when you sought treatment?

- ✦ The DMP Program does not apply to emergency care or care that you did not know was related to a work injury. It is important to seek first aid or medical treatment promptly after a workplace injury occurs. When seeking medical treatment in emergency situations, seek immediate medical care at the nearest emergency room.
- ✦ Remember, this program only affects the treatment you receive as the result of a workplace injury. You would continue to see your private physician for any other type of medical treatment.

If I choose not to seek treatment from the DMPs selected by the State, will my workers compensation benefits be affected?

- ✦ The state of North Dakota, your employer, is participating in WSI's Risk Management Program; therefore, you are required to see your state entity's selected DMP for medical care unless you have informed your employer, in writing, of a different medical provider selection **BEFORE** any injury occurred.
- ✦ If you see your employer's DMP, you may request to change providers after being treated for 30 days by the DMP. If you do not choose a different medical provider (and inform your employer appropriately) you still must see your employer's DMP. If you did not see either your employer's DMP or the different medical provider you chose before an injury occurred, but rather choose your own medical provider at the time of your injury, it may result in nonpayment of medical benefits making you liable for the medical costs.
- ✦ If your state entity does not have a DMP, or notified you of a selected DMP, you may go to a doctor of your choice. When seeking medical treatment for a work related injury, it is important to inform the doctor that your injury is work related. Also, inform the doctor of your work duties and ask if you can return to work within any work restrictions the doctor may impose. Follow restrictions, both on and off the job. Your

medical provider is encouraged to complete **Return-to-Work Capability Assessment** whenever restrictions are needed for return to work.

Why did I receive a \$250.00 deductible billing?

- ✚ State entities that use one of the Program's DMPs can expect to see reduced costs associated with their workers compensation claims by the elimination of the \$250 deductible. Any state entity that participates in the DMP program is required to notify its employees of its DMP choice. Employees have the option of selecting a different provider, but must make the selection known to the employer before they seek treatment for a workplace injury. However, the \$250 deductible will only be waived if the employer and the employee have adopted the DMP program. If the state entity is not participating in the DMP program that entity will be assessed the \$250 deductible cost associated with each workers compensation claim filed on behalf of the entity's employees.

Return-to-Work/Designated Medical Provider Program (Implementation Guidelines)

If feasible, state entities must have prearranged medical care for injured employees. The name of the provider must be posted and well publicized by the employer. An injured employee should be encouraged, but cannot be required, to have care provided by this provider. The state entity should encourage providers to review the workplace ahead of time to build understanding and assist in early return to work. Normally, the state entity's designated provider will treat the employer's injured employee. However, there may be circumstances where this is not possible.

It is essential that all employees are trained as to who has been named the state entity's medical provider and as to the communication that will take place between the injured worker, the state entity, the medical provider, and Workforce Safety & Insurance.

1. Designated Medical Provider

- **Make a DMP selection from the State Selected Designated Medical Providers List.**

The Risk Management Workers Compensation Program (RMWCP) has selected state-wide occupational health specialists to serve as the Program's DMPs. The occupational health specialists are located in medical facilities (including satellite care centers) across North Dakota. They employ registered nurses to assist injured workers who seek medical treatment. These nurses assist with coordinating care and reviewing restrictions for medical necessity and appropriateness; provide recommendations; act as a liaison between the injured worker, employer, medical provider, and WSI claims adjuster; and, assist in the coordination of transitional work.

- **Inform the provider, in writing, that they have been selected as a DMP and that you have a Transitional Work Program.**

The medical provider a state entity selects must be informed of the selection. If not, WSI may not recognize the selection.

- **Inform Workforce Safety & Insurance of the Designated Medical Provider selected.**

2. Written Return-to-Work Policy

- The agency must implement a written **Return-to-Work policy** which includes the following elements:
 - a. Clear description of the agency's commitment to accommodating injured workers with temporary transitional duties.
 - b. Identifies roles and responsibilities.
 - Agency Responsibilities:**
 - i. Provide transitional duty that accommodates the physical limitations of employees who are recovering from an occupational injury or disease.
 - ii. Identify possible alternative work or special projects prior to the need to implement transitional duty.
 - iii. Communicate the employee's and supervisor's responsibilities in regard to their role in this program and ensure that all parties perform those responsibilities.
 - iv. Communicate with the Risk Management Division, Workforce Safety & Insurance (WSI), and the health care provider in regard to the availability of transitional duty, the status of the employee's claim and any extenuating facts or circumstances that could affect the employee's early return to work.
 - v. If unable to accommodate the employee's restrictions, contact the agency's personnel or administrative officer and Risk Management to locate an appropriate transitional duty within another state entity.

Employee Responsibilities:

- i. If your medical provider indicates that you have temporary physical restrictions that do not allow you to perform your regular job, consideration will be given to modify your duties as necessary. If it is not possible or feasible to modify your duties, either a transitional duty assignment that meets your physical restrictions will be developed, or an appropriate position will be located. You will receive your normal wages and benefits that will be pro-rated if less than 8 hours a day are worked.
- ii. You must respond to a transitional duty assignment offer within 24 hours, when possible, but not later than two days. Exceptional circumstances will allow up to seven days for a response. Disability benefits may discontinue if an employee does not accept a transitional duty position that is approved by the medical provider and is within 25 miles of the pre-injury position.

Note: Employees may, at their own discretion, accept a temporary position that is more than 25 miles from their original position. An employee will not be subject to the denial of benefits if he or she does not accept the temporary position that is more than 25 miles from their original position. Employees may elect to utilize their rights under the Family Medical Leave Act, if applicable, in lieu of accepting a transitional duty position. Provisions of FMLA will supersede the provisions of this program. However, workers compensation disability benefits may be discontinued.

- c. Work-related incident procedures.
 - i. The Risk Management Workers Compensation Program requires state entities to establish a post-injury procedure to be effective in managing workers compensation claims. Employer management of claims will help prevent minor claims from developing into major and more costly lost-time claims. This post-injury procedure must

address the following claims management principles:

- a. **Procedures for training** on claims management program.
 - b. Procedures for informing the injured employee on **how to file for benefits** and nature of benefits.
 - c. **Immediate report of injury** by injured employee.
 - d. Designated Medical Provider.
 - e. A **Return-to-Work Plan** that includes modified and alternate duty.
- d. Implementing the Return-to-Work/Transitional Duty Program - The Process:
- i. After a transitional duty position is identified, a copy of the job duties must be sent to the employee's treating medical provider for approval.
 - ii. The receiving agency supervisor who will be responsible for the employee will be required to sign the temporary transitional duty job description. It is imperative that the physical limitations set by the medical provider are not exceeded.
 - iii. Consideration will need to be given to part-time situations and required time off to attend medical appointments.
 - iv. If the State is unable to provide transitional duty or if a medical provider refuses to release the employee to any type of work, the employing agency must establish a regular schedule of consistent contact with the employee to provide moral support, assistance, and to monitor the progress of their medical status.
 - v. If an employee's medical provider certifies that the employee has sustained permanent limitations that do not allow the employee to perform the essential functions of their regular position, every

effort will be made to make reasonable accommodations. This includes a reassignment to an appropriate vacant position. State agency personnel should interview qualified employees with permanent limitations from other agencies who are referred from the agencies personnel or administrative officer for vacant positions, and give consideration to hiring them.

vi. Transitional Duty Explained-Transitional Duty Assignment Defined Matrix:

OPTION 1	Employee remains assigned to regular job with some key tasks or functions temporarily altered or suspended or hours temporarily reduced. If the employee is performing at least 51% of the essential functions of their position there will not be a classification issue and this transitional duty will not necessarily be limited to 90 days. This is considered reasonable accommodation provided that an undue hardship is not placed on the entity due to the limited work status of the employee.
OPTION 2	Medical restrictions prevent an employee from performing significant portions of his or her regular job tasks. Supplemental tasks not usually done by the employee, but within medical restrictions are identified. Supplemental tasks are assigned to fill employee’s allowed work time.
OPTION 3	Employee’s medical restrictions prevent employee from accomplishing most of his or her regular job. A series of supplemental tasks are assembled and combined to fill employee’s allowed work time. Creativity is essential-special projects, volunteer related activities, assistance with safety program implementation, etc.
OPTION 4	The injured employee’s entity cannot accommodate temporary transitional duty requiring the location of an appropriate position within another entity. The employee works in a vacant position, volunteer position, or special project for a maximum of 90 days. The original entity will continue to pay the employee’s salary. Special efforts must be made by the original entity, receiving entity, and WSI to ensure that all related issues are properly handled. Risk Management must be notified and will coordinate this option.

a. In all of the defined options shown in the Matrix, the employee remains in their regular position and job classification. The employee continues to receive regular wages and accrue benefits. Wages and benefits are pro-rated, based on actual hours worked. In some cases, when an employee is only working part-time, wages may be supplemented by payment of temporary partial disability. These benefits end when wages return to at least 90% of the employee's gross weekly pre-injury wages.

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b. Changes in transitional duty are based on the treating medical provider's documented physical limitations. The employee must bring an updated physical assessment form to their supervisor after EACH appointment to evaluate the possibility of changes or increase in duties. **SFN 58550 Capability Assessment** is recommended for use by WSI and is used by many medical providers.

c. Options 2, 3, and 4 of the Matrix are **temporary** special assignments. They are offered when there is medical documentation that the employee cannot perform his or her regular job, but is expected to recover from the injury or illness within a reasonable period of time. Transitional duty is not reinstatement or reemployment. Special assignments will end when one of the following occurs:

- Ninety consecutive calendar days have elapsed from the day the employee starts the assignment.
- The employee is released to return to work.
- A permanent restriction is determined that prevents the employee from

performing the essential functions of his or her regular position and for which reasonable accommodations cannot be made.

- The temporary assignment is no longer available or other conditions require the agency to stop the temporary assignment.
- The claim for workers compensation benefits is denied.
- Suitable transitional work which will last for the remainder of the time ordered by the physician becomes available with the original agency or facility.

Note: A second 90 day temporary position may be approved if the employee performs one term while being conservatively treated for an injury and then ends up having a surgery which requires some lost time and a subsequent recovery period is needed. An option to extend the 90 days will temporarily reclassify the employee's position if the disability is projected to continue for an extended period of time and the reclassification does not pose a hardship to the agency.

- vii. Develop transitional duties based on essential job functions so the DMP knows transitional work is available.
- a. A detailed review of each job description to determine the essential and nonessential job functions and the physical and mental demands of each job must be completed. The following links will assist you in developing your essential job functions.

<http://www.nd.gov/efrms/Doc/sfn54325.pdf>
<http://www.nd.gov/efrms/Doc/sfn54326.pdf>



Frequently Asked Questions Regarding Transitional Duty:

Q. What should I do if an employee's medical appointments create numerous interruptions due to an employee's ongoing medical treatment?

A. While ongoing medical treatment is common; employers can use their influence in scheduling medical appointments to keep interruptions to a minimum. Let employees know when you need them to be at work and ask that they schedule appointments around this time.

Q. What if an injured employee moves out of the area or doesn't want to return to work?

A. An employer is entitled to make an offer of employment in the same geographic area (within 25 miles) of where the injury took place. An injured employee who relocates is still obligated to acknowledge the offer. If the employee is offered light duty and fails to return to work, his or her benefits may be terminated.

Q. What if an employee reports to work, but complains that he or she hurts too bad to work?

A. If an employee is released to return to work and is provided work within his or her restrictions, the employee needs to perform the required job tasks. If the employee is in too much pain, inform him or her to get a doctor's release to be off work. Otherwise, if the employee chooses to leave work he or she will be charged sick or annual leave or leave without pay.

Q. What if permanent restrictions do not allow an employee to perform his/her essential function on the job?

A. An employee who cannot return to a pre-injury position isn't guaranteed employment. However, an agency may want to consider job restructuring or job modification and the use of assistive technologies to

retain previously productive employees. Workforce Safety and Insurance in conjunction with Vocational Rehabilitation can assist many employees with training and assistive technologies to return to his or her previous position.

Q. What if an injured employee on light duty comes to work, and is not productive, takes excessive breaks and/or wastes the time of other employees?

A. Injured employees are expected to be productive within his or her capacity. If an injured employee persists in non-productive activity, the employer should follow normal disciplinary procedures. The injured employee should be regarded as any other employee and held to the same agency policies.

Q. How is the employee paid?

A. The employee will remain in regular classification and position. Wages are supplemented up to 66.6% by WSI. An employee can use leave benefits to keep pay at regular level. Wages and benefits will be pro-rated for hours worked if employee is eligible for temporary partial disability benefits.

3. Sample Forms/Documents (contact Risk Management at 328-7583 for a copy of the forms/documents listed below)

Designated Medical Provider Form

State Selected Designated Medical Providers

Benefits of an Effective Workers Compensation Designated Medical Provider Program (brochure)

Return to Work Sample Policy

Transitional Duty Checklist

Doctor Information Letter

Transitional Duty Process

Transitional Duty Assignment

Transitional Duty Matrix

Workers' Compensation Leave Choice Option

Policy 117 – Worker's Compensation

4. Training

■ All employees must be trained at the time of hire and annually on the following:

- Purpose and benefits of the Designated Medical Provider and Return-to-Work Program.
- Transitional duty roles and responsibilities.
- Inform employees of the DMP selection and their options.
 - i. You must provide information to all employees on the DMP. The employee must sign a form acknowledging receipt of this information and return that form to the employer. An electronic copy of this form is acceptable. Designated Medical Provider Form Sample
 - ii. You must inform employees that they may elect to opt out of the DMP the employer has selected. They will be required to choose a different medical provider prior to the injury. If the employer disagrees with the employee's choice of a DMP, the law provides a process for WSI to ultimately decide. You may file an objection to the employee's choice of provider with WSI within five days of being informed of the employee's choice. **You must display the selection of the DMP and where the DMP is located in a place where all workers can easily see it.**
 - iii. If an injured employee is not treated by the state entity's chosen DMP, or the one they chose before being injured, it may result in nonpayment of worker compensation benefits.
 - iv. The state entity must notify WSI if an employee did not seek treatment with the DMP or selected a different provider. DMP information can be indicated on the First Report of Injury Form (FROI). If the employee was not treated by the DMP, it is recommended that the claim be questioned and reason stated in Section 4 of the FROI as, "the employee did not seek medical treatment with the DMP or opted to seek a different medical provider". A copy of the employee's DMP notification form needs to be faxed or mailed to WSI as soon as possible.

- v. If an injured employee was treated by the state entity's DMP, they must receive care from that provider for 30 days before they can change providers. After 30 days, the injured employee must request in writing to WSI, a change in providers or request a referral from the treating physician.
 - vi. DMP law does not apply to emergency care or care the injured worker did not know was related to their compensable injury or care directed by WSI.
 - vii. DMP selection should be reviewed annually.
- All training must be clearly documented to include training topic, employee name and signature, and date of training.