

Operational
Policy

Section
Labour Market Re-entry

Subject
LMR Assessments

Policy

The WSIB conducts a labour market re-entry (LMR) assessment to determine whether a worker requires assistance to re-enter the labour market and reduce or eliminate the loss of earnings that may result from the work-related injury/disease. Such assistance may be provided through an LMR plan.

In those cases where assistance to re-enter the labour market may be required, the WSIB ensures that LMR assessments are conducted in a timely manner.

Guidelines

NOTE

For the purposes of this policy, “pre-injury earnings” may in relevant cases refer to either the worker’s average earnings at the time of the injury, or any appropriate recalculation of those earnings.

LMR assessments when the worker has not returned to work

If the worker has not returned to work after the work-related injury/disease, and there is evidence that a permanent impairment is present or likely, the WSIB examines the following factors when determining the worker’s eligibility for an LMR assessment, i.e., if

- it is unlikely the worker will be re-employed by the accident employer due to the nature of the injury
- the employer has been unable to arrange suitable and available work that restores the worker’s pre-injury earnings
- the worker is unable to perform the pre-injury job due to his/her work-related injury/disease
- the worker requires accommodation to perform work due to the work-related injury disease
- the employer is not co-operating in the early and safe return to work of the worker
- the employer has breached his or her obligation to re-employ (see 19-04-09, Re-employment Penalties and Payments), and
- the worker has received LMR services previously (see 19-03-08, LMR Re-assessments).

LMR assessments when the worker has returned to work

If the worker has returned to work following the work-related injury/disease, and there is evidence that a permanent impairment is present or likely, the WSIB examines the following factors when determining the worker’s eligibility for an LMR assessment, i.e., if

- the employer has been unable to continue to arrange suitable and available work that restores the worker’s pre-injury earnings

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- the worker is permanently laid off from a suitable job but is still unable to perform the pre-injury work as a result of the work-related injury/disease (see 15-06-03, Entitlement Following Work Disruptions: Permanent Layoffs)
- the worker suffers a deterioration of the work-related injury/disease to the extent that he or she is no longer able to perform post-injury work
- the employer is not co-operating in the early and safe return to work of the worker
- the employer has breached his or her obligation to re-employ (see 19-04-09, Re-employment Penalties and Payments)
- the worker requires significant accommodation to perform post-injury work due to the work-related injury/disease, and that accommodation is not likely to be readily available in the general labour market
- concerns exist about the sustainability of the work (see 19-02-02, Return to Work: Key Concepts, Definitions and Responsibilities), and
- the worker has received LMR services previously (see 19-03-08, LMR Re-assessments).

LMR assessment not provided

The WSIB does not generally provide an LMR assessment, even where a permanent impairment is present or likely, if a worker returns to suitable work but later stops working due to

- a labour strike or lock-out, unless the labour dispute is prolonged (see 15-06-05, Entitlement Following Work Disruptions: Strikes and Lockouts), or
- a short-term temporary lay-off (see 15-06-02, Entitlement Following Work Disruptions: Short-term and Long-term Layoffs).

LMR assessments in special circumstances

Following a final review of wage loss benefits

Once the WSIB has conducted the final review of a worker's wage loss benefits, the WSIB can only provide the worker with an LMR assessment and plan in exceptional cases (see 18-03-03, Reviewing LOE Benefits; and 18-04-14, Reviewing FEL Benefits.)

Pre-1998 claims

Workers, with accident dates prior to January 1, 1998, may be entitled to an LMR assessment if they only received vocational rehabilitation (VR) services in the past. For further information, see 19-01-01, Overview; 19-01-02, VR Assessment, No Program; and 19-01-03, VR Assessment, Program Provided.

Information gathered

As part of an LMR assessment, the WSIB gathers information regarding a worker's

- degree of permanent impairment resulting from the injury
- clinical prognosis
- functional abilities

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- transferable skills
- aptitudes
- job search skills and abilities
- degree or amount of wage loss benefits, and
- pre- and post-injury non-work-related disabilities.

The WSIB may gather the relevant information or, if appropriate, may arrange for an external agency to conduct the LMR assessment.

Evaluation tools

Evaluation tools used to gather the relevant information may include, but are not limited to

- psycho-vocational evaluations
- vocational/transferable skills assessments
- functional abilities evaluations
- specific functional abilities evaluations
- work trials, and
- ergonomic assessments.

NOTE

When conducting an LMR assessment the WSIB must have regard for a worker's rights under the *Ontario Human Rights Code* or the *Canadian Human Rights Act*. For more information see 19-02-07, Human Rights Legislation and Accommodation in the ESRTW/LMR Process.

Assessment for surviving spouse

The WSIB may provide an LMR assessment to a surviving spouse of a worker, see 20-02-03, Labour Market Re-entry Assessments for Surviving Spouses or Same-sex Partners.

Entitlement to an LMR plan

Using the information gathered, the decision-maker identifies potential suitable employment or business (SEB) options and determines entitlement to an LMR plan. The SEB options may include a return to suitable employment with the accident employer (see 19-03-04, Entitlement to LMR Plans).

Application date

[Prospective date to be determined]

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Document history

This document replaces 19-03-02 dated October 12, 2004

This document was previously published as:

19-03-02 dated June 15, 1999

12.2 dated January 1, 1998

05-01-12 dated August 9, 1991.

References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended
Sections 42, 44, 48, 104, 102, 107, 108

Workers' Compensation Act, R.S.O. 1990, as amended
Section 53

Minute