



## Temporary/Permanent Modified Duty Charity Work and Permanent Disability Issues

When you just cannot create a temporary modified duty job within your organization for your injured worker, you may consider having your employee do charity work outside of your company. The benefit of a reduced experience modification rate (EMR) still exists, since no Temporary Total Disability (TTD) benefits will be paid on the claim, and your employee will remain active and engaged in meaningful modified work. You also get a charitable deduction for the donated labor cost.

Your insurer will work with placement firms like ReEmployAbility Inc. that provide specialty return-to-work modified duty programs that focus on volunteerism/charity. ReEmployAbility sets up alternative work at nonprofit organizations within the injured workers' communities, where workers can perform volunteer duties while recovering from their injuries.

Generally, workers will be paid at the same rate that they would be paid if they were on the job with your company.

The placement firm charges a flat fee for the placement, which is paid by your insurance company or the claims administrator for your insurance program.

A charity program can be an extension to your return-to-work program. It also fits in well with corporate social responsibility initiatives, in addition to satisfying your workers' compensation responsibilities.

Both ReEmployAbility and VocWorks will do the following:

- Secure placement at a non-profit group
- Assist the employer with program documentation and a written job offer letter
- Meet employee/injured worker at the non-profit location on first day of work to review program details
- Perform ongoing telephonic follow up with the injured worker and non-profit supervisor

### What is Permanent Modified Duty?

Once your employee has reached Maximum Medical Improvement (MMI), he could be given permanent work restrictions. This means that, in the doctor's opinion, the employee cannot or should not do the same work he did prior to getting injured. "No longer able to do his customary work" means a job change for your employee, and less strenuous work.

Example: Suppose you have an employee with a permanent back injury. He's a solid employee that can still be of value to your operations in a safety role. You can offer him permanent modified duty in this role, however, the new role must be for at least 12 months. You should state the duration in writing to avoid ADA and FEHA issues. You can always increase the time as you see fit, but again, it should be in writing to protect your company's interests. At a minimum, your claims administrator will complete a form DWC-AD 10133.35 ("Notice of Offer of Regular, Modified, or Alternative Work...") on your behalf. Now you have an employee that is dedicated to your ongoing safety efforts for 12 months. There are other possibilities too, such as forklift operator, warehouse worker, etc.

How can you offer a Permanent Modified Duty position? First, you must conduct an interactive process to determine whether an accommodation can be made. This is a Human Resources task. Second, you must transition the worker into a "less strenuous role" by staying within the doctor's medical restrictions.

Accordingly, the requirements for a Permanent Modified Duty offer are:

- A. The job must be medically consistent with the doctors' restrictions.
- B. Offer must be valid for, but need not go beyond, 12 months.
- C. The offer must be made within 60 days from the last date of TTD.

### **What is a Vocational Rehabilitation Voucher?**

The Supplemental Job Displacement Benefit (SJDB) comes in the form of a non-transferable voucher that can be used to pay for educational retraining or skill enhancement at state-approved or accredited schools. The voucher is not an automatic payment. Evidence of tuition, etc. is required.

Employees injured on or after January 1, 2013, with injuries that result in permanent partial disability, and whose employer does not offer other permanent, modified or alternative work, may qualify for the SJDB voucher. The voucher amount is \$6,000 for all levels of permanent partial disability, and can be used for training at a California public school or any other provider listed on the State's eligible training provider list. It can also be used to pay licensing or certification and testing fees, to purchase tools required by a training course, to purchase computer equipment up to \$1,000, and to reimburse up to \$500 in miscellaneous expenses. Books required by the school for training are also included.

The incurred amount against the voucher can vary. It all depends on what is actually used by your former employee.

If issued on or after January 1, 2013 (most claims fall into this category), the voucher will expire within two years of being issued, or five years from the date of injury, whichever comes later.

### **Conclusion:**

Ultimately, each claim will have its own set of unique circumstances that will determine whether temporary modified duty, charity, permanent modified duty or a voucher will work. It is important to keep the big picture of the claim in mind and revisit your options on a regular basis.

Your advocates at PentaRisk are available and interested in helping you navigate your way through the claims process. Contact us today for more information.

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