

Document Code No.: PER 22-6-1-EP

Title: Transitional Duty for Employees with Temporary Medical Restrictions

Affected Agencies: All Executive Branch Agencies of King County Government

Authorities: ADA, as amended, WLAD Chapter 49.60 RCW, Family Medical Leave Act of 1993, as amended, KC Policy 22-4-3-EP, KC Personnel Guidelines, Limited Duty Assignment due to Pregnancy KCC 3.12.247, Industrial Insurance Chapter 51 RCW, Employment – Handicapped Persons, 162-22 WAC

Keywords: Transitional Duty, Alternative Duty, Accommodation, Disability

Sponsoring Agency: Department of Executive Services, Human Resources Division

Executive signature:

Date signed and effective:



King County

Shonda L. Berry
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I. Purpose

This policy establishes standards for the administration of transitional duty assignments. Transitional duty consists of limited duration work assignments for employees who have temporary medical restrictions that restrict them from performing one or more of their essential job functions.

This policy does not create an employment contract or term or limit the reasons for dissolution of the employment relationship. This policy does not constitute an expressed or implied contract, and it is simply a statement of King County policy, which cannot form the basis for a private right of action.

Applicability and Audience This policy applies to the Administrative Offices and Executive Departments that are organized under the direction of the King County Executive. Additionally, non-Executive Departments may elect to adopt this policy.

II. Definitions

Claims Office Staff: An employee working within the Workers' Compensation Claims Section, Human Resources Division, Department of Executive Services.

Department Representative: The employee's supervisor, human resources representative, or designated transitional duty coordinator for the employee's department.

Disability Services Staff: An employee working within the Disability Services Program of either the Human Resources Division, Department of Executive Services or Transit Division, Department of Transportation.

Essential Functions: An essential function is a fundamental job duty of a position an employee must be able to perform, with or without reasonable accommodation.

Medical Restriction: A limitation of a physical, sensory, or mental nature that is documented by a licensed health care provider. The restrictions may be the result of occupational or non-occupational medical conditions. Non-occupational medical conditions may include illness resulting from, or occurring during pregnancy (Refer to the King County Code section 3.12.247 for additional guidance on limited duty assignments due to pregnancy).

Indefinite Medical Restriction: A medical restriction that is documented by a licensed health care provider with an unknown duration or resolution.

Permanent Medical Restriction: A medical restriction that is documented by a licensed health care provider as permanent, fixed and stable, and/or not expected to improve.

Prolonged Medical Restriction: A medical restriction that is documented by a licensed health care provider to be present for over six months.

Temporary Medical Restriction: A medical restriction that is documented by a licensed health care provider to improve or resolve within six months.

Non-occupational Medical Condition: An injury or illness that did not result from the employee performing his or her job duties. This includes injuries and illness for which a Workers' Compensation claim was filed and subsequently denied.

Occupational Medical Condition: An injury or illness that resulted from the employee performing his or her job duties and for which a Workers' Compensation claim has been filed.

Transitional Duty: Limited duration work assignments for employees who have temporary medical restrictions that preclude them from performing one or more essential job functions. Transitional duty assignments include alternative duty and restricted duty.

Alternative Duty: Assigned work for employees who are unable to perform the essential functions of their regular position. Alternative duty is not part of the employee's regular body of work.

Restricted Duty: Assigned work that includes the temporary elimination of job functions the employee is unable to perform due to temporary medical restrictions.

III. Policy

A. Transitional Duty Conditions and Provision

1. The following conditions must be met for an employee to qualify for a Transitional Duty opportunity:

- a. Temporary medical restrictions must be documented by a licensed health care provider and the employee must provide this documentation to Disability Services staff, Claims Office staff, and/or department representative; and
- b. A determination must be made that the temporary medical restrictions restrict the employee from performing one or more essential functions of his or her position; and
- c. It must be possible and reasonable to temporarily remove one or more essential job functions from the employee's regular position or provide the employee with alternative work.

2. When transitional duty is available, it will be offered for a defined period of time, not to exceed six calendar months per incident, injury, illness and/or workers' compensation claim. The availability of transitional duty is determined by:

- a. Considering how long it is reasonable for the department to provide it; and
- b. the duration of the employee's temporary medical restrictions; and
- c. the continued availability of work within the employee's temporary medical restrictions.

3. Transitional duty may be offered for a period of time shorter than the predicted duration of the employee's temporary medical restrictions.

4. The following conditions must be met before Alternative Duty can be offered to an employee:

- a. alternative duty is available; and
- b. the duties enable the employee to work within his or her temporary medical restrictions; and
- c. funding for the alternative duty is available; and
- d. the work duties are not in violation of any collective bargaining agreement.

5. An employee may perform alternative duty in any department that participates in alternative duty.

6. King County has no obligation to create vacant positions or provide promotional positions for transitional duty assignments.

7. The transitional duty process has no obligation to waive job qualifications or probation requirements.

8. A transitional duty assignment may be terminated at any time by the department representative, Disability Services staff, or Claims Office staff.

9. Employees who do not meet the conditions for Transitional Duty and Alternative Duty will not be qualified to participate.

B. Medical Restrictions Exceeding Six Months

1. When transitional duty has been provided and it subsequently becomes known that an employee's restrictions will exceed six months, Disability Services staff must be notified.

2. Transitional duty assignments shall not exceed six months without authorization from Disability Services staff.

3. Employees who are unable to return to their regular jobs due to permanent, prolonged, or indefinite medical restrictions are not eligible for transitional duty but may be eligible for Reassignment Services as outlined in the Reasonable Accommodation in Employment for Individuals with Disabilities Policy (PER 22-4-3-EP).

C. FMLA/KCFML Provisions

1. When offering transitional duty to employees who are eligible for leave under the Family Medical Leave Act (FMLA) and/or the King County Family Medical Leave Ordinance (KCFML), the follow provisions apply:

- a. If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, including a period of recovery, or for bonding with a newborn child or placement of a child for adoption or foster care, the employee may be required to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position.
- b. The alternative position must have equivalent pay and benefits as compared to the employee's regular position.
- c. The alternative position may not be used to discourage the employee from taking leave or otherwise present a hardship to the employee.
- d. When the employee no longer needs to continue on leave and is able to return to full-time work, the employee will be returned to the same or equivalent job as the job he or she left when the leave commenced.

D. Benefits

1. An employee receives the same county benefits while working in a transitional duty assignment as provided for in his or her regular position.

2. An employee who refuses transitional duty when offered may be found ineligible for Workers' Compensation wage replacement income and/or Long Term Disability benefits.

IV. Implementation Plan

- A. This policy becomes effective for the Administrative Offices and Executive Departments that are organized under the direction of the King County Executive on the date that it is signed by the Executive. Additionally, non-Executive Departments may elect to adopt the policy. The Human Resources Division's Disability Services Program is responsible for implementation of this policy.
- B. The Human Resources Division is responsible for communicating this policy to the management structure within the respective agencies and other appropriate parties.

- C. All Administrative Offices and Executive Departments that are organized under the direction of the King County Executive as well as non-executive branch departments adopting this policy will be responsible for coordinating with the Human Resources Division's Disability Services program to ensure compliance with this policy, dissemination of this policy, and training.

V. Maintenance

- A. The Human Resources Division's Disability Services Program is responsible for maintaining, administering, and implementing this policy.
- B. This policy will automatically expire five (5) years after its effective date. A new, revised, or renewed policy will be initiated by the Human Resources Division's Disability Services Program or its successor agency prior to the expiration date.

Consequences for Noncompliance

The Director of the Human Resources Division in the Department of Executive Services, or his or her designee, shall make all final determinations related to consequences for noncompliance with this policy.

Appendices:

None