



REPORT ADM-2015-025

TO: Mayor and Members of Council

FROM: Karen Landry, CAO/Clerk

DATE: December 16, 2015

SUBJECT: Modified Work Program Policy and Workplace Accommodations Policy
A09MOD and A09WOR

RECOMMENDATIONS

That Report ADM-2015-025 regarding Modified Work Program Policy and Workplace Accommodation Policy be received; and

That Council adopt the Modified Work Program Policy and Workplace Accommodation Policy attached as Schedules “A” and “B” to Report ADM-2015-025.

DISCUSSION

Purpose

The purpose of Report ADM-2015-025 is to adopt policies with regard to the implementation of a modified work program and workplace accommodation.

Background

The Accessibility for Ontarians with Disabilities Act, the Integrated Accessibility Regulation 191/11 together with the Health and Safety Act, and the Human Rights Code requires an organization to have a policy in place regarding modified work and workplace accommodations.

Policy

A proposed Modified Work Program and Workplace Accommodation Policy are attached as Schedules “A” and “B” for review and consideration by Council. Outlined below is a summary of the key components of the proposed policies:

Modified Work Program

The modified work program policy is attached as Schedule A and outlines:

- The forms of accommodation
- Duration of the program
- Benefits and Salary continuity
- Responsibilities of the Employee, Department Head, Health and Safety Representative, Co-worker and the employee's treating physician
- Confidentiality
- Criteria for exiting the program

Workplace Accommodation Policy

The Workplace Accommodation Policy is attached as Schedule B and outlines:

- The requirement to establish reasonable job qualifications that pertain to the job
- Recruitment Accommodation process
- Permanent Accommodation requests and the process for reviewing the request and developing an accommodation plan

Financial Implications

There are no direct financial implications associated with adoption of the policies. Budgetary impacts would be realized upon a need for accommodation being identified and assessed.

Applicable Legislation and Requirements

Accessibility for Ontarians with Disabilities Act
Integrated Accessibility Regulation 191/11
Health and Safety Act
Human Rights Code

Schedules

Schedule A – Modified Work Program Policy
Schedule B – Workplace Accommodation Policy



Schedule "A"

Policy No. 2015-0 Modified Work Program - Human Resources Policy Corporate Policy

Purpose

To define organizational policy relating to employee modified work.

By offering a Modified Work Program (MWP) the Township wants to ensure that:

- Encouragement is given to an injured/ill employee to participate in a modified return to work program.
- Fairness and respect for an employee's functional capacity is considered.
- Meaningful work is provided.
- A manager takes an active approach towards an employee's reintegration.
- Emphasis on prevention of a recurrence is applied.

Scope

The provisions of the MWP apply to the organization's full-time permanent employees, who are away from work because of an injury or illness. The MWP also applies to full-time permanent employees who are still at work but for whom the MWP would prevent a future absence. An employee may be in receipt of Workers' Compensation Benefits, Short Term Disability Benefits (STD) or Long Term Disability Benefits (LTD).

Definitions

Accommodation is a requirement for the Township to undertake any and all actions that will respond to a full-time permanent employee with special needs, subject to the limitation of undue hardship.

Comparable Job is a job that is comparable to the job held by an employee prior to the pre-accident or pre-disability state with regard to: working conditions, duties, hours of work, efforts, responsibilities, skills, working environment, wages and benefits.

Disability is an inability to pursue an occupation because of physical or psychological impairment.

Essential Duties are the duties necessary to produce the actual job outcome being the final product or service required.



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Functional Capacity the combination of individual movements, activities or use of body systems and intellectual abilities which are required to achieve specific tasks.

MWP is a program outlining a strategy and process to assist an employee in returning to productive and employable work and includes the evaluation of an employee's functional capacity in relation to the physical and psychological demands of the job.

Treating Physician the physician who is most involved in evaluating, prescribing tests and treatments, and following up on an employee's condition.

Undue Hardship in assessing undue hardship consideration will be given to the guidelines from the Ontario Human Rights Code entitled Guidelines for Assessing Accommodation Requirements for Persons with Disabilities. These guidelines indicate that for undue hardship to exist, it would have to be established that either extensive costs would be incurred due to the accommodation or that there were bona fide health and safety requirements that could not be overcome.

Work Conditioning is a program that offers an employee, with a defined degree of impairment, a graduated introduction to an increasingly greater work load.

GENERAL

Forms of accommodation for an employee participating in a MWP include:

- Limiting the types of duties involved in the job by reassigning functions or altering the way tasks are accomplished.
- Modifying the facility, premise or equipment to overcome the limitations of the employee.
- Adjusting the work schedule of the job including reduced hours or work week.
- Supplying ergonomic devices to assist an employee in the performance of the required duties.
- Providing assistance and support staff to the employee.

In determining the form of accommodation, the following factors will be taken into consideration:

- The modification of the work or the workplace for the employee to the extent that the accommodation does not cause the organization undue hardship.



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- The health and safety of the employee and his/her co-workers.
- Where it is not possible for an employee to carry out the regular job duties, attempting to reassign the employee to temporary modified work within the organization.

Duration of MWP

A MWP has a designated time frame as outlined below:

- Initially offered for a two-week period.
- If an employee is progressing, but unable to return to work after the initial two week period, an additional two to four week period may be authorized.
- An extension of up to an additional six weeks may be authorized for work conditioning.
- Only in exceptional cases requiring a lengthy recovery period, should the MWP period exceed 3 months.

Modified Work Benefits and Salary continuity

While on a MWP, the following will apply:

- Wages will not be less than the wages earned prior to the health condition or injury/disability occurring, unless the employee chooses to work in a lower classified job for unrelated reasons.
- When an employee's hours under the MWP are shortened, further remuneration up to pre-disability earnings may be compensated from STD benefits, LTD benefits or Workers' Compensation supplement as appropriate, according to Township policy and its benefits program.

While participating in an approved MWP, an employee's:

- time worked will be recognized to satisfy vacation entitlement; and
- service dates will be retained and/or continued according to Township policy.

The Township will reimburse an employee the cost for a completed Attending Physician's Statement, upon presentation of a receipt.



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An employee is responsible for:

- Reporting an accident and illness to his/her immediate supervisor as soon as possible in accordance with the Township's Health and Safety Policy – Accident and Incident Reporting.
- Obtaining medical aid immediately and diligently following the prescribed treatment.
- Taking the Attending Physician's Statement or WSIB Functional Abilities Form (form supplied by the employer after a work accident), to his/her treating physician and returning the completed form to the Health and Safety Representative as soon as possible.
- Participate in establishing a modified work plan with his/her treating physician, and Medical Rehabilitation Case Worker (when on LTD), Health and Safety Representative and the Department Head.

An employee whose functional capacity allows for modified work will:

- Ensure that tasks are done safely and that the duties performed are confined to those specified in a MWP.
- Promptly communicate any problems which may arise with the MWP.
- Ensure that other scheduled activities such as physical therapy or treating physician appointments have a minimal impact on the MWP.

A department head is responsible for:

- Ensuring that timely medical care is sought by the employee following a workplace injury.
- Investigating the workplace accident immediately in accordance with the Township's Health and Safety Policy – Accident and Incident Reporting.
- Ensuring that the employee leaves the premises with the MWP kit, containing the WSIB Functional Abilities Form, for his/her treating physician in a case of the workplace accident.
- Notifying the Health and Safety Representative of the absence.



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- Coordinating the MWP with the assistance of the Health and Safety Representative.

During reintegration:

- Documenting and clarifying any discrepancy between the observed functional capacities and the functional abilities outlined by the employee's treating physician
- Meeting regularly with the returning employee to discuss any concerns he or she may have during the course of the modified work period
- Reviewing, on a weekly basis the MWP with the employee and the Health and Safety Representative
- Integrating other scheduled activities such as physical therapy or treating physician appointments, so that they have a minimal impact on the MWP
- Following up with the Health and Safety Representative on progress and assessment of the duties being performed

The Health and Safety Representative is responsible for:

- Providing the treating physician with the employee's job description and/or physical demands analysis.
- Working with the employee and his/her treating physician to establish a proactive, safe modified work plan according to the employee's functional capacity.
- Developing in conjunction with the employee and the department head, a modified work plan that matches the employee's functional capacity.
- Communicating on a regular basis with the employee and providing early assistance and orientation to care and treatment that is appropriate for the employee's condition.
- Communicating on a regular basis with the department head on the progress of the employee with regard to his/her return to work.

A co-worker is responsible for:

- Providing support and encouragement to the employee participating in the MWP.



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- Respecting and becoming aware of the employee's functional limitations.
- Providing help and assistance when appropriate.

The employee's treating physician is responsible for:

- Assessing the employee's functional capacity, providing objective functional reports on the impairments and the expected length of disability by completing the Attending Physician's Statement or WSIB Functional Abilities Form.
- Supporting the MWP as a viable rehabilitation process.

Confidentiality

All those who are involved in assisting with an employee's return to work will respect the confidentiality of an employee's medical and personal information. It is recognized that some functional capacity details pertaining to the illness/injury will be important for an employer and other employees to know in order to provide proper accommodations.

Criteria for Exiting the MWP

A MWP is complete when:

1. An employee can resume full duties prior to completion of the MWP defined period upon submission of:
 - a medical review by his/her treating physician (Attending Physician's Statement); and
 - an evaluation demonstrating functional capacity, as required.
2. An employee can resume full duties at the completion of MWP period upon submission of:
 - a medical review by his/her treating physician; and (Attending Physician Statement)
 - an evaluation demonstrating functional capacity, as required.
3. An employee cannot perform work and will continue on STD until he/she is capable of modified or full job duties.

Permanent Modified Work



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When an employee is declared permanently unable to perform all or some of his/her regular duties by his/her treating physician, the employee's department head, the Health and Safety Representative and the Rehabilitation Case Worker in an LTD claim, will evaluate the available accommodation options based on the following:

- The initial step will be to determine whether the pre-disability job can be permanently modified to accommodate the employee's functional capacity and allow him/her to perform the essential duties of the job.

- If assignment to the pre-disability job is not possible, a determination will be made whether accommodation into a comparable job that is open and available can be offered, where the employee has the functional capacity required to perform the job.

- If an employee is reassigned to a different position, the handling for the employee's rate of pay will be determined in accordance with the Township's Remuneration By-law.



Purpose

The Township is committed to an inclusive workplace to provide accommodations to current and potential employees with a disability.

The Township's commitment extends to all employment activities including recruitment, selection, orientation, working conditions, career development/advancement and performance management.

Employment accommodations are assessed and delivered on an individual basis for people with disabilities who make their needs known. Each situation must be considered individually in order to assess appropriate accommodations. Requests for employment accommodations will be dealt with efficiently and effectively in order to ensure an employee can fully participate in all aspects of employment and recruitment.

An individual with a disability will be accommodated in a way that respects their dignity, independence and right to privacy in the workplace. All information relating to a request for accommodation will be treated as confidential and will only be used for the purpose of meeting an accommodation requirement.

Job Descriptions

Job Descriptions will be developed using the Township's Job Description template.

Job qualifications will be reasonable and pertain to the job. Job qualifications focus on education, experience, skills and abilities that reflect the bona fide occupational requirements of the job.

Recruitment Accommodation

Accommodation will be provided to a candidate during the recruitment process which includes assessment and orientation.

The following outlines the steps to be taken:

1. A potential applicant will be made aware that the Township will take steps to accommodate disability related needs in the interview or testing process by including a statement to this effect as outlined in the Township's Hiring Policy.



2. To assist a candidate with identifying whether they need accommodation, a Department Head when requested will communicate and explain to a candidate the assessment methods and formats that will be used at each stage of the assessment.
3. When a request for accommodation is made, a Department Head will request a candidate to identify what he or she will need in order to be able to allow him or her to compete on an equal basis with other candidates. A Department Head shall only discuss details regarding the disability when required to clarify the need of the candidate.
4. An accommodation shall not change the nature of the qualification you are assessing or the level at which you assess it. An accommodation will be designed to allow for equitable assessment of a candidate with accommodation needs without placing the candidate at an advantage or disadvantage when comparing them to another candidate.
5. Upon making an offer of employment, the candidate will be advised of the Township's commitment to providing accommodation in the workplace.

Permanent Accommodations

An employee will be made aware of the Township's policy regarding workplace accommodations at the time of hiring and annually at a staff meeting.

An accommodation request will be processed in the following manner:

1. An employee who makes a request for accommodation will be involved in the development of an accommodation plan.
2. Upon receipt of an accommodation request, the designated member of the Township's Health and Safety Committee will request the necessary medical information regarding accommodation needs and direction on appropriate modifications.
3. The designated Health and Safety Representative may request at the Township's expense outside medical expertise to assist in determining if accommodation can be achieved, and if so, how accommodation can be achieved.



4. The designated Health and Safety Representative will consult with the employee, their Manager, and a Health Care Practitioner on accommodation requirement options. Once an accommodation option has been selected, the employee will be informed and the accommodation measures will be implemented as quickly as possible.
5. The designated Health and Safety Representative will document accommodation plans and include:
 - a. Any information regarding accessible formats or communication supports required;
 - b. Individualized workplace and emergency response information, if necessary;
 - c. The frequency of a review of the accommodation plan;
 - d. Identify any other accommodation that is to be provided.
6. To protect an employee's privacy a request and accommodation plan implementation details will only be shared with those employees or individuals necessary to facilitate the implementation of the accommodation plan.
7. If an accommodation request is denied, the Health and Safety Representative will inform the employee of the reason for denial.

Performance Management

The accessibility needs of employees with disabilities, as well as individual accommodation plans, will be taken into account when providing career development and advancement or redeploying an employee with a disability.

Return to Work Process

Refer to the Township's Modified Work Program Policy.