

AB749
Worker's Compensation
Effective 7/1/04

Return to Work Program – Section 139.48.

The administrative director shall establish the Return-to-Work Program in order to promote the early and sustained return to work of the employee following a work-related injury or illness.

Upon submission by employers of documentation in accordance with the regulations, the administrative director shall pay the wage reimbursement, workplace modification expense reimbursement, and premium reimbursement allowed under this section. Any employer, except the state or an employer eligible to secure the payment of compensation pursuant to subdivision (c) of Section 3700, may apply for a reimbursement for wages paid to an employee who has returned to modified or alternative work, as defined in paragraphs (5) and (6) of subdivision (a) of Section 4644, with the employer during the period the employee is temporarily disabled from his or her employment in accordance with all of the following:

1. The reimbursement shall be allowed for up to 50 percent of wages paid to the employee.
2. The reimbursement shall be allowed for a period of no more than 90 days, or until the employee is released to the full duties of his or her usual occupation, or until the employee's condition becomes permanent and stationary, whichever occurs first.
3. The modified or alternative work is compatible with the employee's documented work restrictions imposed by the treating physician as a result of the work injury or illness.

The reimbursement shall be paid from the Workers' Compensation Return-to-Work Fund as a reimbursement to the employer after submission of documentation of eligibility and wages paid. The administrative director shall reimburse an employer for expenses incurred to make workplace modifications to accommodate the employee's return to modified or alternative work, as follows:

1. The maximum reimbursement to an employer for expenses to accommodate each temporarily disabled injured worker is one thousand two hundred fifty dollars (\$1,250).
2. The maximum reimbursement to an employer for expenses to accommodate each permanently disabled worker who is a qualified injured worker is two thousand five hundred dollars (\$2,500). If the employer received reimbursement under paragraph (1) and this paragraph shall not exceed two thousand five hundred dollars (\$2,500).

The modification expenses shall be incurred in order to allow a temporarily disabled worker to perform modified or alternative work within physician-imposed temporary work restrictions, or to allow a permanently disabled worker who is a qualified injured worker

to return to sustained modified or alternative employment with the employer within physician-imposed permanent work restrictions.

Allowable expenses may include physical modifications to the worksite, equipment, devices, furniture, tools, or other necessary costs for accommodation of the employee's restrictions. An insured employer may apply to the administrative director for reimbursement of workers' compensation insurance premiums attributable to the sustained employment of a qualified injured worker following the period for premium rebate provided in subdivision (a) of Section 4638. The reimbursement shall be equal to the standard premium computed on the wages paid by the employer to the qualified injured worker during each 12-month period.

An employer that employs 100 or fewer employees on the date of injury may be reimbursed for 100 percent of the workers' compensation insurance premium paid for the employee for up to two years. An employer that employs more than 100 employees on the date of injury may be reimbursed for 50 percent of the workers' compensation insurance premium paid for the employee for up to two years. The period subject to premium reimbursement shall begin on the first day after the end of the 12-month period for premium rebate provided in subdivision (a) of Section 4638 and shall continue for a maximum of two years.

The premium reimbursement shall be paid to the employer annually after each consecutive period of 12 months, provided that the qualified injured worker continues modified or alternative employment with that employer in a regular position that pays at least 85 percent of the employee's pre-injury wages and compensation.

This bill shall not create a preference in employment for injured employees over non-injured employees. It shall be unlawful for an employer to discriminatorily terminate, lay off, demote, or otherwise displace an employee in order to return an industrially injured employee to employment for the purpose of obtaining the reimbursement set forth in subdivisions (c), (d), or (e).

For purposes of this section, "employee" means a worker who has suffered a work-related injury or illness on or after July 1, 2004.