

Title:	<b>Retention, Rehabilitation and Placement of Industrially Injured Employees</b>	
Purpose:	To provide a uniform process for administering the City's retention, rehabilitation and placement program for industrially disabled employees.	
Issued by:	Industrial Safety and Workers' Compensation	Date: August 1, 2019
References:	Hawaii Revised Statutes (HRS) Chapter 386, Hawaii Administrative Rules (HAR) Chapters 10 and 14; CS Circulars 1239 (3-24-80), 27-85 (7-30-85), 26-87 (12-1-87), 1-90 (1-15-90) and 4-95 (2-25-95)	

## **I. POLICY**

It is the policy of the City and County of Honolulu (City) that employees who become disabled due to a work related injury or illness covered under the workers' compensation statute (Chapter 386, HRS) shall be accorded due consideration for retention and placement within the civil service system in a position compatible with their ability to perform the essential functions of the position.

## **II. ELIGIBILITY**

All regular and probationary civil service employees shall be eligible for this program. Additionally, contract, limited term and other non-regular employees shall qualify with certain limitations as outlined in applicable civil service rules and regulations.

## **III. GENERAL PROVISIONS**

Any action taken within the provisions of this policy shall be in accordance with existing laws, rules and regulations and established procedures. Nothing in this policy shall be construed to deny employees the right to appeal to the Civil Service Commission pursuant to existing civil service laws, rules and regulations, process a grievance due to any action taken concerning the employee's status in accordance with appropriate contract provisions, or to file a complaint with the State Director of Labor and Industrial Relations alleging violation of the Workers' Compensation Law (Chapter 386, HRS).

## **IV. TEMPORARY TOTAL DISABILITY**

If, as a result of a work related injury or illness, an employee is temporarily unable to perform any productive work, the employee shall be classified as temporarily totally disabled and shall receive workers' compensation or related benefits until the end of the temporary total disability period.

## **V. TERMINATION OF TEMPORARY TOTAL DISABILITY**

Temporary total disability benefits shall terminate when:

- A. Clearance is received from the employee's treating physician and/or the Division of Health Services, Department of Human Resources (DHR), to return to regular duty. An employee so cleared shall return to work on the day indicated by the physician. Regular leave rules shall apply to an employee who fails to report as specified.

- B. The employee has been cleared for limited duty and limited duty work is available. If the employee refuses the limited duty assignment, regular leave rules shall apply. Refusal of a limited duty assignment will also impact upon the employee's eligibility to participate in vocational rehabilitation under Section 386-25, HRS. If no limited duty work is available for the employee, temporary total disability payments shall continue.
- C. The employee completes an approved vocational rehabilitation plan.
- D. The employee declines to accept available work and/or declines to participate in a vocational rehabilitation program designed to locate and place the employee in suitable employment.

## **VI. VOCATIONAL REHABILITATION ASSESSMENT**

As part of the ongoing claims adjusting process, all industrially injured employees receiving temporary total disability benefits will continually be assessed to determine if they will be able to return to their regular pre-injury job. This assessment will be made in conjunction with the employee's treating physician and/or the City's designated physician.

All work injured employees who are determined to be permanently unable to return to their pre-injury position will be placed in the City's Retention, Rehabilitation and Placement Program, as outlined in Section VIII below.

If it is determined that the employee is presently unable to return to his/her pre-injury position, but may be able to do other productive work in the interim, the employee will be evaluated to determine suitability for placement in a limited duty assignment, as outlined in Section VII below.

## **VII. LIMITED DUTY PROGRAM**

- A. An employee receiving temporary total disability benefits shall be eligible for a limited duty assignment as long as the employee retains employment status with any City department or agency.
- B. Limited duty assignments may be in any City department or agency and will consist of duties designed to accommodate the employee's disability. Before any employee is placed in a limited duty assignment, approval for such assignment must be obtained from the employee's physician and/or the City's designated physician.
- C. While on a limited duty assignment, the employee will receive full salary as though the employee had returned to full duty. Responsibility for the employee's payroll rests with the employee's department, even though the employee may be assigned to another department or agency.
- D. The DHR will coordinate this program. First preference will be given to assignment in the injured employee's department.

## **VIII. RETENTION, REHABILITATION AND PLACEMENT PROGRAM**

Injured employees who have been found permanently unable to return to their regular pre-injury position shall automatically be placed in the City's Retention, Rehabilitation and Placement Program.

- A. The injured employee shall meet with a City vocational rehabilitation counselor who will assist the employee in selecting alternative employment goals within the City civil service system. Once suitable employment goals have been identified, the employee will be placed on the priority placement lists for those positions in accordance with applicable civil service rules and regulations unless the employee's department is able to provide a suitable alternative position. Participation in the Priority Placement Program or alternative placement within the employee's department is optional, and the employee may elect to pursue other options that will be explained during a meeting scheduled by the employee's department. However, City employees who are eligible for the Priority Placement Program shall participate in and complete the Priority Placement Program, including limited duty placement efforts, as a prerequisite to vocational rehabilitation under Section 386-25, HRS.
- B. As soon as practical after the employee has entered the Retention, Rehabilitation and Placement Program, the employee's department will schedule a meeting to formally review the employee's status and to explain the rights, responsibilities and options available to the employee. These options may include, but are not limited to:
1. Regular service retirement.
  2. Ordinary disability retirement.
  3. Service connected disability retirement.
  4. Continuation in the Priority Placement Program.

Those attending this meeting will include, but are not limited to, the injured employee, a representative from the employee's department and a representative from the DHR. Additional persons may be invited at the option of any party. Injured employees will be encouraged to invite a representative from their union. After this meeting, the employee will be permitted an adjustment period of six months in order to further review the options and elect a course of action.

- C. If the employee has not been placed in another position prior to the end of the six-month period, the appointing authority may terminate the employee's employment under Section 9-4(d) of the Civil Service Rules. Except as provided in Section 386-25(a), HRS, termination from City employment shall not affect the employee's rights and/or benefits under the City's Priority Placement Program and the workers' compensation statute. In some cases, the Americans with Disabilities Act (ADA) may require that the employee be provided reasonable accommodation beyond the requirements of the Hawaii Workers' Compensation Law and this policy. It is the responsibility of an employee's department to assess the applicability of the ADA to an employee and perform any required steps prior to terminating employment.
- D. Subject to the prerequisite in Section 386-25(a), HRS, employees who have not been placed in another City position by the conclusion of the six-month period will be referred to a State certified vocational rehabilitation counselor to assist them in locating suitable employment outside the City in accordance with the rules and regulations of the Department of Labor and Industrial Relations pertaining to vocational rehabilitation. Participation in outside vocational rehabilitation services is optional and employees may elect not to participate.

- E. An employee who does not successfully complete the new probationary period due to the employee's work-related medical condition or lack of necessary skills and abilities to satisfactorily perform the duties of the position will be eligible for:
1. Further processing under the Retention, Rehabilitation and Placement Program to the extent of the unused portion of the six-month adjustment period.
  2. Subject to the prerequisite in Section 386-25(a), HRS, referral to a State certified vocational rehabilitation counselor for placement outside the city if the employee is unable to be placed in another City position prior to the conclusion of the six-month adjustment period or if the entire six-month period previously expired.
- F. An employee who does not successfully complete the new probationary period for reasons other than those related to the employee's work related medical condition or lack of necessary skills and abilities shall not be eligible for further benefits under this program. The employee will also be deemed to not have completed the prerequisite in Section 386-25(a), HRS, for vocational rehabilitation benefits.