WHO'S RETURNING INJURED EMPLOYEES TO WORK?
At Missouri Employers Mutual we have a simple but effective philosophy of “Taking Care of Folks.” In keeping with that philosophy, we have developed this Transitional Duty Return to Work (TDRTW) guide to help you develop and implement an effective TDRTW program. Such a program is your solution to managing work-related injuries, as well as the high costs associated with accidents and injuries. It aims to return injured employees back to work—and life—as safely and successfully as possible.

The easiest and most cost-effective way to return an employee to the workforce is to have a TDRTW plan in place before an accident or injury happens. This guide will help you:

- Develop a plan
- Communicate the many benefits to your employees, and
- Unite all participants as one productive team.

Open and honest communication is so crucial to a successful TDRTW program that it is addressed separately in this guide. When everyone understands their role in the program, the benefits are compounded.

In addition to this guide, MEM offers:

- An expert Loss Prevention team that can provide on-site TDRTW task reviews and assistance in managing your safety program.
- Claims Representatives that have extensive knowledge and experience handling Missouri workers compensation claims and understand the benefits of a TDRTW plan.

Transitional Duty Return to Work programs work. Don’t hesitate to gain firsthand experience. Begin creating your program today!
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These materials are provided for informational purposes only. Missouri Employers Mutual assumes no liability for the use or sufficiency of the information provided. The applicability of this information to your specific workplace can be determined only in consultation with your own legal counsel and/or safety professional.
Research indicates for every dollar spent on direct workers compensation claims costs, the indirect costs range from $4-$10. That means for every $1,000 claim, you can expect to spend an additional $4,000-$10,000 in indirect costs, including:

- Lost production
- Reduced customer satisfaction
- Overtime
- New hires or temporary staffing
- Employee training
- Time for OSHA inspections
- Investigation of an injury or accident.

A TDRTW program attacks indirect costs and offers many other benefits for your organization. It allows your employee to return to work, within his or her restrictions, as soon as it is medically safe and provides your business with a productive employee. With your employee back at work, your business can:

- **REDUCE WORKERS COMPENSATION COSTS:** The sooner an employee returns to work, generally the lower the claims cost. A reduction in claims costs positively impacts your company’s experience modifier (e-mod), which in turn positively affects your workers compensation premium. The higher the e-mod, the higher the factor is for determining your work comp premium.

  Reducing the time an injured employee spends away from work also positively affects your loss ratio, a reflection of your company’s loss frequency and severity and another factor in determining work comp premium. An improvement in loss ratio means an improvement in the price you pay for insurance.

- **REDUCE INDIRECT COSTS.** With an employee away from work come related business costs such as overtime, temporary employees, training replacement employees, lost bidding opportunities due to a limited supply of labor and reduced customer satisfaction. These indirect costs—often four to five times higher than the direct costs of a claim—are not covered by work comp insurance.

  • **REDUCE EMPLOYEE TURNOVER.** Statistics show that the longer an employee is off work the less likely the employee is to return. Estimates indicate that an employee who is off work for 12 weeks or longer has only a 50 percent chance of returning to their employment.

  The cost of replacing an employee can mean a significant investment for a business. On average it can cost up to one third of a new hire’s annual salary to replace an employee. It can also take a new employee more than 13 months to become efficient at their job.

  The Society for Human Resource Management estimates that it costs $3,500 to replace one $8 per hour employee when all costs—recruiting, interviewing, hiring, training, reduced productivity, etc.—are considered. The estimates are significantly higher when replacing supervisors or managers. Use these two Web sites to help calculate your organization’s turnover costs:

  - [http://www.dol.gov/cfbc/turnover.htm](http://www.dol.gov/cfbc/turnover.htm)

  When an employee returns to work on transitional duty, they remain a productive employee, active in the work force and reduce the employer’s need to hire a replacement employee.

- **MAINTAIN PRODUCTIVITY.** Your injured employee is an experienced and skilled worker, and a very valuable resource. Although they may not be able to do their regular job, an early return to work gets the employee back in the workplace and paves the path to their regular job. Several return to work options, including reduced hours, reduced pay and volunteer options, are detailed later in this guide.
INCREASE EMPLOYEE MORALE. Employee morale can fuel your organization to out perform your competitors, or it can give your competitors the edge they need to out perform you. If employees feel they are a valuable resource, they will want to return to their regular job as soon as medically possible after a work-related injury.

REDUCE FRAUD AND NONCOMPLIANCE: When an injured employee is not allowed to return to work they lose touch with the workforce and may develop habits that are not conducive to improving their medical condition. If an injured employee has restrictions that are not particularly limiting, they may still be able to complete day-to-day tasks, such as gardening, yard work and participating in hobbies. If the injured employee is working, there is no need for expensive surveillance, and the temptation to conduct fraudulent activities is largely reduced.
Finding time to develop a new program can seem daunting, but adopting a return to work philosophy will quickly pay back the time spent. Eight key components of an effective TDRTW program follow and will assist you in developing a successful and long-lasting TDRTW program.

ESTABLISH MANAGEMENT COMMITMENT: Assure management commitment and employee involvement are present in the organization. To be successful, a TDRTW program, as well as a safety program, must have top management commitment and involvement.

OSHA says it well: “Management commitment and employee involvement are complementary. Management commitment provides the motivating force and the resources for organizing and controlling activities within an organization. In an effective program, management regards workers’ safety and health as a fundamental value of the organization and applies its commitment to safety and health protection with as much vigor as to other organizational purposes. Employee involvement provides the means through which workers develop and/or express their own commitment to safety and health protection, for themselves and for their fellow workers.”

Following is a sample safety policy statement that can be used to solidify management commitment in your organization:

**POLICY STATEMENT**

(Insert Company Name) is committed to creating a workplace that is safe, healthy and injury-free. Our employees are our most valuable assets, and their safety and health is our first priority. Safety is essential to all business functions and is never compromised under any circumstance. Every employee has a responsibility to maintain our work environment, including reporting hazards and working toward preventing accidents. I appreciate your full cooperation to follow our safety program and make our workplace safe, healthy and injury-free.

Sincerely,

(Insert signature)(Insert name)

President and CEO

COMMUNICATE: Communicate that TDRTW is now a benefit of employment and will be offered to employees injured on the job. Making sure employees, supervisors, managers, physicians, nurses and owners know that the company has a TDRTW program will result in a successful, more reliable program. Provide employees with information regarding the numerous benefits of a TDRTW program and a TDRTW policy statement. New or updated policies should be communicated with all employees, posted in a conspicuous location, provided to all employees and their signature recorded to indicate they have read and understand the policy.

An Intracorp study indicated that, “employees were most likely to return to work if they felt that their communication needs were met, and if they were satisfied with how they were treated by their employer. Disability durations were twice as long for employees who were not satisfied with an employer’s involvement while they were out of work.” Communication is such a vital part of any successful TDRTW program, additional information is detailed in the Communication section of this guide.

DESIGNATE A COORDINATOR: Decide who in the organization will be the coordinator and “go-to” person for the program. Possible coordinators might be the dispatcher, owner, safety manager or office assistant. The coordinator should be involved in the claim process from the very beginning, assist with directing medical care and coordinate the TDRTW process. The coordinator is responsible for regular follow-up communication with the employee, setting a time limit on the TDRTW assignment, and developing tasks and job duties as the employee progresses in the program.

DEVELOP A WRITTEN POLICY: Develop a written policy that outlines the company expectations for TDRTW and details the company’s policies and procedures. A written policy helps employees understand the standards and expectations of the workplace, illustrates management’s commitment to the program and protects both you and your employees. Developing policies and procedures will create a culture where employees are expected to return to work and eliminate confusion after an injury occurs.
The company policy and procedures should be communicated to all employees, and all employees should sign and date their understanding of the program. When policies are modified, the revised program should be communicated to all employees.

Employees should also be expected to renew their commitment to the policy every year by signing the policy statement. Employees will understand the policy is just as important after they’ve been with the company for years as it was on Day One.

Make the program an active program versus a reactive program. With a policy in place prior to an accident, job tasks have been reviewed, contact made with a physician, and policies and procedures in place and ready to go, if and when an accident happens. A reactive policy may delay time off work, medical treatment and timely claim management—all increased costs.

**SAMPLE TDRTW POLICY STATEMENT:** (Company name) is committed to the well-being and safety of our employees. As a result of our commitment, we have implemented a Transitional Duty Return to Work Policy. Our policy is to return all employees to work as soon after an accident as safely and medically possible.

To do this, our organization will provide transitional return to work duties and assignments to our injured employees. (Company name) defines transitional duty as modified duties within the employee’s physical abilities, knowledge and skills. Transitional duty positions are developed and assigned using the known physical condition as defined by the authorized treating physician. Transitional duty positions are developed with consideration of the employee’s physical condition, the business needs of (Company name) and the availability of transitional duties.

The implementation of this policy gives injured employees assurance they are a valued part of our organization and reduces the financial hardships often caused by accidents.

**ESTABLISH A PHYSICIAN PARTNERSHIP:** In the state of Missouri, employers have the right to direct medical care for an employee who has been injured on the job. For a physician to adequately and timely assess an injured employee for TDRTW, he or she must see the person immediately, understand that the employer offers light duty and have a clear understanding of what the injured employee’s job entails. Physicians play a critical role in the success of your TDRTW program since they determine your employee’s medical condition, ability to work and any necessary job restrictions.

To establish the relationship, consider inviting medical providers to visit your facility and learn what type of work you perform and what duties might be available to an injured employee. Consider making a video of different jobs so physicians can have a clear picture of the tasks performed. In fact, making a video of specific job duties is a good transitional duty job task for an injured employee.

If you have a job description for the injured employee, forward a copy to the treating physician along with asking him or her what duties the injured employee can perform. Make sure a clear picture of the injured employee’s job tasks are communicated to the physician and supervisors. An employee may think he is required to lift 100 pounds during the day, but actually lifts 10 pounds 10 times a day. A physician must know the amount of weight lifted, the frequency of weight lifted, any unusual physical requirements, such as bending over for two hours at a time, and what restricted duties may or may not be available. Use MEM’s Employers Physical Capacities Requirements form (in the Form section of this guide) to determine the physical demands of the jobs and the injured employee’s physical capacities as outlined by the physician.

Maintain regular communication with the medical providers throughout the course of the treatment and rehabilitation. Regular communication will assure your commitment to the injured employee’s recovery, provide updates on changes in job restrictions and provide answers to your questions.
MEM’s Medical Director Craig Heligman believes in the benefits of TDRTW programs:

“Temporary modified duty programs reduce health care costs by allowing on-the-job functional restoration instead of extending medical care and medical functional restoration. Modified duty programs promote a shortened recovery period in general because the employee is off work a much shorter period of time, if at all. These programs are also a behavioral tool that lets employees and their treating physicians know that there are expectations for the person to return to work as quickly as their medical condition allows. As long as the employer and employee both understand the physician-defined restrictions and don’t exceed the physician’s recommendations, there is minimal risk for re-injury or exacerbation/aggravation of the existing medical problem.”

If you need help locating and establishing a relationship with a physician, contact MEM at 1.800.442.0593 or custsrv@mem-ins.com and ask for assistance locating a Dimensions Partner physician.

**DEVELOP JOB DESCRIPTIONS:** Written job descriptions identify the physical functional requirements for jobs in your organization. Written job descriptions are not a requirement, but they do facilitate a clear picture of the tasks required to perform a specific job. Physicians can use the job descriptions to evaluate employee’s functional capabilities and work restrictions for a successful return to work. An injured employee’s functional capacities should be compared to the job description for their normal job position, as well as any positions that may be considered for transitional duty tasks.

**REPORT CLAIMS PROMPTLY:** Make sure all claims are reported to MEM within 24 hours. Timely reporting of claims allows MEM’s experts to help manage the process to provide the best outcomes for everyone involved. Reporting a claim gives you instant access to a resource who can assist with a timely return to work. Claims can be reported online at www.mem-ins.com, by calling 1.800.442.0593, or by faxing the report of injury to 1.800.442.0598.

**IDENTIFY TRANSITIONAL DUTIES:** Seek safe, meaningful and productive transitional duty tasks before an injury happens. Consider Temporary Partial Disability as an excellent option if an employee cannot work a full shift or requires rehabilitation. (More detail on TPD is available under Transitional Duty Options.) Set time limits on TDRTW. Make sure employees know that TDRTW is a temporary process and not a permanent job duty. Remember to notify the MEM Claims Representative immediately if an injured employee is not able to return to work, is working temporary partial duty, is being paid while off work or if the injured employee has refused transitional duty.

MEM’s Loss Prevention Consultants can also visit with you at your location. Often someone not familiar with your operation and day-to-day work can more easily see TDRTW tasks and jobs. Request a walk-through and job duty review of a specific job for ideas on how an injured employee on restrictions can still benefit your organization.

MEM’s Loss Prevention staff is located throughout the state to best serve your needs. Contact us at 1.888.499.SAFE (7233) or worksafe@mem-ins.com.

Starting a successful TDRTW program can be simple. Commit your organization to the multiple benefits of a program, and you are on your way to saving time, money and resources.
Communication between owners, managers, supervisors, team leaders, injured employees and all employees is a crucial component to the success of a transitional duty return to work program. Communication with injured employees provides opportunities for team building and development of new light duty job tasks, eases financial fears, and provides a genuine feeling of concern for the injured employee.

Following are important aspects of communication in a TDRTW program:

- Remember the injured employee’s family may also require information and communication to ease their concerns.

- Include the injured employee in planning for the transitional duty job tasks as they may have ideas for assignments that they are capable of performing or accommodations that would allow them to perform most, if not all, of their regular duties.

- Treat injured employees with dignity and respect, and let them know how much they benefit the organization and what part they play in the company’s success. Communication can take the form of a card, phone call, flowers, personal visit or e-mail.

- Make communication an ongoing process that is proactive and beneficial.

- Maintain regular contact with the injured employee throughout the TDRTW process. If an injured employee is off work, communication is crucial to determine when and what restrictions the injured employee has so that a timely return to work can be accomplished. Ask the injured employee to meet with you on a weekly basis, personally deliver the physician capacities form and restrictions, and stay in contact to provide updates on their progress. Ask injured employees to provide 24 hours notice if they have a change in medical condition.

Request the injured employee communicate with the contact at least weekly in person to advise of their progress and provide updates on job restrictions or tasks that could be added to the work duties.

- Stay in regular contact with your MEM Claims Representative. MEM has four claims offices located throughout Missouri in Columbia, Kansas City, Springfield and St. Louis to serve your needs. Make sure to communicate with the Claims Representative and Nurse Case Manager that TDRTW is available and being offered. These MEM staff members have experience working with physicians that can facilitate a timely and productive return to work, as well as provide detailed job restrictions in a timely manner.

- Ask questions: Is the injured employee getting better? Are there simple job modifications that can be made? Is the supervisor responsible for the daily oversight? Is the employee staying within the job restrictions? What is the time limit for the duty? Does the physician understand the duties available? Can physical therapy be received before or after work hours?

Effective communication can be the difference between getting an injured employee back to work in hours versus days. A claim is considered “lost time” when the injured employee is off work more than three days. Coordinating TDRTW prior to the injured employee being off work three days helps assures a claim will not be considered lost time. (See the statutes section for more information on the three-day wait.)

Results indicate that employee perceptions of and experience with the benefits process strongly impacts their return to work. Employees are more likely to return to work if they feel that their communication needs were met and if they are satisfied with how they are treated by their employer.
TRANSITIONAL DUTY OPTIONS

Transitional duty return to work can be accomplished in a number of ways. It can mean an injured employee can:

• Return to their pre-injury position with accommodations
• Return to an altered position that accommodates their restrictions
• Be provided a modified work schedule
• Have lowered productivity expectations, or
• Provide volunteer services to the community.

There are several options that should be considered when evaluating an injured employee’s ability to return to work in your organization. Before deciding upon the option, questions should be asked so that you can determine the appropriate duties and assignments, including:

• Can the injured employee perform their normal job?
• Are there modifications such as providing a chair, modifying their desk, providing a mechanical lifting aid that would assist the injured employee?
• Are there other jobs that could be performed for the same or less pay?
• Is there a volunteer organization, such as the United Way, food bank or Salvation Army, that could use assistance?
• Could a co-worker perform heavier lifting tasks?
• Is a reduction in hours beneficial to the employee’s medical recovery?

Following are definitions, options and examples for various TDRTW options:

TEMPORARY TOTAL DISABILITY (TTD)—Temporary total disability is disability that is temporary in duration and provides the injured employee with benefits to replace his or her wage loss.

TTD is subject to a state minimum and maximum amount. In Missouri, the state minimum is $40 and the maximum changes every July 1. The maximum represents 105 percent of the State Average Weekly Wage.

TTD is paid by MEM when an employee is completely off work and not performing any job functions for their employer. Notice should be given to an MEM Claims Representative as soon as an injured employee is not able to return to work.

All TTD benefits are paid at 66 2/3 of the State Average Weekly Wage and must be paid by the insurance carrier. A state-mandated three-day waiting period is not paid unless an employee is off work more than 14 days, and then it is paid retroactively.

TEMPORARY PARTIAL DISABILITY (TPD)—Temporary partial disability is disability that is temporary in duration and partial in nature. It typically covers the period of time after TTD ends, but before the injured employee can return to work full-time or to regular work duties.

Temporary partial disability is probably the most under-utilized benefit available. Temporary partial disability is provided when an injured employee has reduced work
hours, reduced wages or performs tasks associated with a job that pays less money.

If the employee’s wage for the transitional duty assignment is less than the pre-injury wage, MEM can supplement the wage at 66 2/3 of the employee’s average weekly wage.

**EXAMPLE:**
An injured employee returns to work at a job paying $10 an hour. Their pre-injury wage was $15 an hour. MEM would pay the $5 per hour difference at 66 2/3, tax free to make up the difference in wages.

TPD can also be provided for a reduction in hours worked. Should an employee work fewer hours than they would have before the injury, then TPD can be paid for the difference in hours.

**EXAMPLE:**
An injured employee works four hours per day vs. eight hours per day before the injury. TPD would be paid at 66 2/3 for the four hours not worked.

After a serious injury or an extended time off work, an injured employee may not be capable of working a full shift or eight hours per day. TPD is an excellent way to allow an injured employee to work their way back to full duty.

TPD also provides an opportunity for an employee to remain productive, be a part of the team, avoid developing bad habits and continue their rehabilitation program while continuing to improve their medical condition.

Any reduction in claims costs affects the frequency and severity of injuries and thus could contribute to reducing the employer’s e-mod and resultant work comp premium. Remember to stay in contact with your Claims Representative and report any reduction in pay or hours worked.

**PERMANENT TOTAL DISABILITY (PTD)—**Individuals who suffer a disability that is total in character and permanent in quality and duration have sustained a permanent total disability.

The issue of PTD is often disputed depending upon the physicians’ and vocational rehabilitation experts’ opinions. In general, if the injured employee cannot find gainful employment because of his work injuries, he would be deemed permanently and totally disabled.

The benefit rate for PTD is the same as TTD. PTD benefits are paid to the injured employee for his entire lifetime. A successful TDRTW program can significantly reduce PTD exposure. Reducing or eliminating the exposure can return an injured employee to gainful employment, reduce the claim costs and limit the length of time the claim is open. Returning a severely injured employee to work means the injured employee is capable of gainful employment.

**PERMANENT PARTIAL DISABILITY (PPD)—**Permanent partial disability is disability that is permanent in duration and partial in character. It is the disability that remains after an injured employee has achieved maximum medical improvement.

In Missouri, the nature and extent of PPD must be approved by an Administrative Law Judge with the Division of Workers’ Compensation. The length of time that an injured employee remains off work and receiving benefits could affect the amount of permanent partial disability awarded to the injured employee at the conclusion of their claim.

**VOLUNTEER PROGRAM—**Consider referring an injured employee to a not-for-profit agency that is in need of volunteer help. The indemnity payments (TTD) will continue. While you would not experience a positive impact to your e-mod, the employee would be maintaining a routine and assisting your business in community involvement activities.
## Sample Transitional Job Duties

Ask these questions when developing duties:
- What lighter duty functions are daily tasks?
- What tasks need to be completed?
- Are there seasonal lighter tasks?
- What tasks are available for a couple hours?
- What tasks can be performed for other positions?
- Has the employee been asked what duties they could perform?
- Did the supervisor provide input?

- Address correspondence (holiday, envelopes, picnic, new customers)
- Cross-train employees
- Clean and improve premises
- Pick up debris, clean aisle ways, pick up job site
- Clean job trailer
- Perform regular job with some tasks removed to meet medical restrictions
- Sort and inventory supplies and parts
- Review old files, records, payment logs
- Clean and maintain vehicles and equipment
- Organize library
- Volunteer with charitable organization
- Perform truck/vehicle inspections
- Dispatch or answer phones
- Work as a spotter or flagman
- Perform training duties
- Give Toolbox Talks
- Ride along with other employees
- Perform job safety analysis
- Write standard operating procedures
- Revise/create safety manual
- Perform groundskeeping duties
- Serve as security, night watchman or guard
- Light painting
- Conduct hazard elimination inspections
- File, copy, sort, wrap/package
- Videotape jobs and their duties
- Walk through safety inspections
- Conduct quality control inspections
- Repair or clean equipment
- Hand other employees tools, wire, supplies
- Operate equipment, such as lifts
- Provide water or snacks to employees
- Deliver supplies to jobsites
- Organize storage areas
- Clean and stock food storage and service areas
- Run cash register and greet customers
- Rotate job tasks to avoid repetition
- Provide mechanical lifting aids to assist with job tasks
- Provide transportation to and from work, if injured employee is restricted from driving
You would have no need for a Transitional Duty Return to Work program if you never had an injury. That’s why being proactive in creating and maintaining a safe work environment for your employees is the first step in controlling your workers compensation costs and providing a safe and accident-free workplace.

Making workplaces safe takes more than just hard hats, earplugs and safety glasses. It takes employees who have safe attitudes. By focusing employees on safety awareness and workplace behavior, MEM can help you eliminate injuries in the workplace. We believe this so strongly that it is the basis of our corporate vision: safe, healthy and injury-free workplaces.

Studies indicate that 80 percent of injuries are caused by unsafe acts while 20 percent are caused by unsafe conditions. Therefore, we believe 100 percent of injuries are avoidable! It is the mission of MEM’s Loss Prevention Department to promote safe, healthy and injury-free workplaces by providing timely and effective safety consultation services that create a partnership to eliminate unsafe acts or conditions. It also instills a WorkSAFE™ attitude and helps employees Work Smart in an Accident-Free Environment. Let us bring our WorkSAFE philosophy to you by providing sample safety programs, training sessions and customized plans and recommendations aimed at sending every employee home safely each night.

GETTING STARTED

To get started, make sure you have a written safety program in place that identifies the hazards in your business. The safety program should be reviewed by all employees and each employee should sign off to indicate they have read and understood the program. Obtain input on the program from your managers, supervisors, safety directors and employees. The people who perform the jobs on a daily basis know what safety measures are needed and how to do their jobs safely.

For a sample safety program, to build a safety program and get technical reference materials, log in to iNet at www.mem-ins.com.

When developing a safety program focus on the areas that have the highest accident or injury potential first. These areas represent your largest exposure and risk to your employees’ safety. Review accident statistics to include department frequency, cause and type of accident, body part injured and status of any open claims. MEM (and most other workers compensation insurance companies) can provide a loss run or loss analysis of accidents that have occurred. The OSHA 300 log is also a good source for reviewing accident data.

An accident investigation procedure will assist you in developing sound accident and injury investigations and access to specific accident data. According to OSHA, “Thousands of accidents occur throughout the United States every day. The failure of people, equipment, supplies or surroundings to behave or react as expected causes most of them. Accident investigations determine how and why these failures occur. By using the information gained through an investigation, a similar, or perhaps more disastrous, accident may be prevented. It is important to conduct accident investigations with prevention in mind.”

Accident investigation forms are available at the Forms section of this guide, on our Web site at www.mem-ins.com or by contacting us at 1.800.442.0593 or custsrv@mem-ins.com. OSHA also offers accident investigation information at www.OSHA.gov.

CONSULTATIVE APPROACH

MEM’s Loss Prevention Consultants utilize a customized consultative approach to evaluate our policyholders’ safety programs. Each workplace is unique, and we know there is no one-size-fits-all safety solution. Our Loss Prevention Consultants partner with policyholders to find innovative solutions to difficult safety problems. For assistance in providing an injury-free workplace, contact a Loss Prevention Consultant at 1.888.499.SAFE (7233) or worksafe@mem-ins.com.

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**FACT:** Nearly 24,000 employees are injured every 8 hour work day.  
**FACT:** Almost 17 of these employees die each day.  
**FACT:** These injuries cost society $127.7 billion in 1997, according to the National Safety Council figures.  

*Source: OSHA*
Following are excerpts from Missouri state statutes relevant to Transitional Duty Return to Work programs.

RIGHT TO DIRECT CARE

287.140. 1. In addition to all other compensation paid to the employee under this section, the employee shall receive and the employer shall provide such medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance and medicines, as may reasonably be required after the injury or disability, to cure and relieve from the effects of the injury. If the employee desires, he shall have the right to select his own physician, surgeon, or other such requirement at his own expense.

This statute grants the employer the right to direct medical care in the State of Missouri. The right to direct medical care is a tremendous benefit and is one that is often under utilized. Employers should establish a partnership with their choice of a treating physician and refer injured employees to the physicians for medical care and treatment.

Benefits to be paid, when—reduction of benefits, when.

287.149. 1. Temporary total disability or temporary partial disability benefits shall be paid throughout the rehabilitative process.

2. The permanency of the employee’s disability under sections 287.170 to 287.200 shall not be established, determined or adjudicated while the employee is participating in rehabilitation services.

3. Refusal of the employee to accept rehabilitation services or submit to a vocational rehabilitation assessment as deemed necessary by the employer shall result in a fifty percent reduction in all disability payments to an employee, including temporary partial disability benefits paid pursuant to section 287.180, for each week of the period of refusal.

SAFETY PENALTY:

287.120.5 RSMo - Where the injury is caused by the failure of the employee to use safety devices where provided by the employer, or from the employee’s failure to obey any reasonable rule adopted by the employer for the safety of employees, the compensation and death benefit provided for herein shall be reduced at least twenty-five but not more than fifty percent; provided, that it is shown that the employee had actual knowledge of the rule so adopted by the employer; and provided, further, that the employer had, prior to the injury, made a reasonable effort to cause his or her employees to use the safety device or devices and to obey or follow the rule so adopted for the safety of the employees.

The new law repeals the requirement for an employer to post the rule in a conspicuous place on the employer’s premises. The safety changes will encourage employees to use the safety devices provided by the employer and follow the safety rules adopted by the employer. It is recommended that all policies be in writing and all employees sign and date their acknowledgement of the program.

DRUG/ALCOHOL PENALTY

287.120.6 RSMo - (1) Where the employee fails to obey any rule or policy adopted by the employer relating to a drug-free workplace or the use of alcohol or non-prescribed controlled drugs in the workplace, the compensation and death benefit provided for herein shall be reduced fifty percent if the injury was sustained in conjunction with the use of alcohol or non-prescribed controlled drugs.

(2) If, however, the use of alcohol or non-prescribed controlled drugs in violation of the employer’s rule or policy is the proximate cause of the injury, then the benefits or compensation otherwise payable under this chapter for death or disability shall be forfeited.

(3) The voluntary use of alcohol to the percentage of blood alcohol sufficient under Missouri law to constitute legal intoxication shall give rise to a rebuttable presumption that the voluntary use of alcohol under such circumstances was the proximate cause of the injury. A preponderance of the evidence standard shall apply to rebut such presumption. An employee’s refusal to take a test for alcohol or a non-prescribed controlled substance, as defined by section 195.010, RSMo, at the request of the employer shall result in the forfeiture of benefits under this chapter if the employer had
sufficient cause to suspect use of alcohol or a non-prescribed controlled substance by the claimant or if the employer’s policy clearly authorizes post-injury testing.

**STATUTE OF LIMITATIONS:**
287.430. Except for a claim for recovery filed against the second injury fund, no proceedings for compensation under this chapter shall be maintained unless a claim therefore is filed with the division within two years after the date of injury or death, or the last payment made under this chapter on account of the injury or death, except that if the report of the injury or the death is not filed by the employer as required by section 287.380, the claim for compensation may be filed within three years after the date of injury, death, or last payment made under this chapter on account of the injury or death. This statute extends the statute of limitations one year if a claim is not reported, thus the statute of limitations is three years on an unreported claim. Report claims to Missouri Employers Mutual by fax, internet or phone.

**THREE DAY WAITING PERIOD:**
287.160. 1. Except as provided in section 287.140, no compensation shall be payable for the first three days or less of disability during which the employer is open for the purpose of operating its business or enterprise unless the disability shall last longer than fourteen days. If the disability lasts longer than fourteen days, payment for the first three days shall be made retroactively to the claimant.

**MEDICAL COSTS PAID BY THE EMPLOYER:**
In Missouri, you may choose to pay claims out of pocket if: they are equal to or less than 20 percent of the split point applicable on the effective date of the policy during which the date of injury occurred, and do not have more than three days of lost time. Please contact MEM Claims Services at claims@mem-ins.com or 1.800.442.0593 if you need assistance calculating the threshold applicable to your specific claim.

MEM offers a service to assist with reducing the overall medical costs through the use of the managed care organization. Bills can be forwarded to MEM’s Columbia office where they will be routed to the appropriate managed care organization, re-priced and return by the managed care organization directly to the employer.

**DEFINITION OF INJURY AND ACCIDENT:**
287.020, 287.062 & 287.067 - Statute indicates that an employee will have to show that work was “the prevailing factor” in causing both the resulting medical condition and disability. An injury is compensable if it is clearly work-related and if work was a substantial factor in causing the resulting medical condition or disability. The prevailing factor is defined as the primary factor in relation to any other factor, causing both the resulting medical condition and disability.
An effective transitional duty return to work program does not exist in isolation. Understanding more about workers compensation and your partnership with MEM will arm you with more knowledge to create safe workplaces and manage claims if they do occur. Following are key MEM resources to help you create safe, healthy and injury-free workplaces.

**POLICYHOLDER KIT**
Information on all of MEM’s services, including how to contact MEM, complete payroll reports, report a workplace injury and manage medical costs and. Request one from Customer Service at 1.800.442.0593 or custsrv@mem-ins.com.

*Division of Workers’ Compensation Poster*
Included in the policyholder kit are posters from the Missouri Division of Workers’ Compensation to display in order to comply with the Missouri Workers Compensation Law 287.127. For additional copies in English or Spanish, contact Customer Service at 1.800.442.0593 or custsrv@mem-ins.com.

**INDUSTRY-SPECIFIC SAFETY TIPS**
MEM’s Loss Prevention experts have developed guides with safety tips for key industries and practices. Contact us at 1.888.499-SAFE (7233) or worksafe@mem-ins.com for safety guides for roofing, carpentry and masonry.

**SEMINARS**
MEM offers free seminars across the state to policyholders. Visit our Web site at www.mem-ins.com to learn more about the available seminars and to register.

**FLEET MANAGEMENT SAFETY PROGRAM**
Want to know how to build a fleet safety program? Contact MEM’s Loss Prevention Department and ask for a Fleet Management Safety Program.

**DRUG-FREE WORKPLACE PROGRAM**
Drug-free workplaces aren’t as elusive as you might think. Log in to iNet at www.mem-ins.com to access several free resources from MEM on creating and maintaining a drug-free workplace program.

**SAFETY VIDEOS**
Policyholders can borrow a wide variety of safety videos for free. The list of available videos and lending agreement is available by logging in to iNet at www.mem-ins.com.

**INJURY REPORTING KIT**
MEM’s injury reporting kit has all of the details you need to report a claim quickly and correctly, from the injury report form to pharmacy coupons. An Injury Reporting Kit is included in the Policyholder Kit, or can be requested separately by contact Customer Service at 1.800.442.0593 or custsrv@mem-ins.com. You can also find the Injury Reporting Kit when you log in to iNet at www.mem-ins.com.

**SAVE ON CLAIMS—EMPLOYER PAID MEDICAL OPTION**
Under Missouri’s workers compensation law you have the right to pay up to $3,200 of medical costs on report only claims. With MEM’s Dimensions Program, you have the privilege of discounts on those charges—at no additional cost to you! Contact us at 1.800.442.0593 or custsrv@mem-ins.com and ask for more information on the Employer Paid Medical Option.
Will returning an injured employee to work affect the morale of other employees?
Yes, for the positive. Even though injured employees are off work, the duties they performed must still get done. Often overtime is required by the remaining employees. If injured employees are brought back to work on transitional duty, they remain productive employees and overtime is reduced.

Statistics have shown that the earlier employees return to work after an injury, the sooner they become fully productive employees. If employees are off work on restrictions, they may still be able to perform housekeeping duties, tend to yard and garden work, complete projects and enjoy hobbies. Would other employees rather have an injured employee on the job doing transitional duty or seeing the injured employee go fishing while they are working overtime hours?

Do I have to offer Transitional Duty Return to Work to all employees whether they are injured on or off the job?
A TDRTW plan can be implemented either solely for on-the-job injuries or for any injury requiring modified duty to return to work. An employee that is not at work remains a non-productive employee whether or not they were injured on or off the job.

Is there a situation in which an employee is not entitled to receive potential temporary total or temporary partial disability benefits under the law?
The concept of “post-injury misconduct” is included in Missouri’s workers compensation law. If an injured employee returns to work and is terminated due to “post-injury misconduct,” the employee is not eligible for temporary partial or temporary total disability benefits. “Post-injury misconduct” does not include absence from work due to an injury unless the employee is capable of working with restrictions, as certified by a physician.

What if the employee refuses transitional duty return to work?
If an injured employee refuses a transitional duty assignment that is within the restrictions identified by the treating physician, they may no longer be qualified for temporary total or temporary partial disability wage replacement benefits. An injured employee’s refusal to return to work should be forwarded to your Human Resources Department or corporate counsel to assure compliance with all personnel policies, and state and federal laws regarding disability. Refusal of transitional duty may also adversely affect employment, reinstatement and vocational assistance rights.

Should a transitional duty return to work program be limited in time?
Yes, setting a time limit for transitional return to work duties provides the injured employee with a goal for medical improvement and gives the employer a timeframe in which to offer specific job tasks. Once a time limit is set, the employer and injured employee should review the timeframe on a regular basis and make modifications, if appropriate. The timeframe should be flexible to allow for physician restrictions, medical improvements and productive job tasks.
All correspondence should be sent to the Columbia headquarters.