

This brochure is not intended to be a full and complete description of law, and is not a substitute for legal advice. For further information, call the Education Unit at (401) 462-8100 - press # 1.

The RI workers' compensation system is a form of no-fault insurance designed to provide assistance to injured employees for medical expenses and lost wages. It applies to businesses with one or more employees, unless otherwise exempt by law.

## **RIGHT TO REINSTATEMENT**

### ▪ **What is reinstatement?**

RI Workers' Compensation law calls for the reinstatement of an injured worker under **certain** conditions. (RIGL 28-33-47)

Reinstatement to the job protects workers who have sustained a compensable injury while working for an employer with more than **nine (9)** employees. Compensable injuries are those for which the worker was paid or is being paid workers' compensation benefits, and liability for the injury/illness claim has been accepted either by the filing of a Memorandum of Agreement, or by court order.

### ▪ **What are my rights under this law?**

The law says that a worker will be reinstated to his/her former position upon written demand. The position is considered available even if the position has been filled by a replacement person or if the worker can perform the job with reasonable accommodations having been made by the employer.

**Reasonable accommodation** is any change to a job or work area that permits you to perform the essential parts of the job despite a disability.

If the former position is not available, the worker shall be reinstated in any other existing position which is vacant and suitable.

A certificate from the treating physician that approves the worker's return to their regular job or other suitable employment shall be evidence that the worker is able to perform the duties.

**Note:** These rights are subject to provisions for seniority rights and other restrictions contained in a collective bargaining agreement. Nothing shall exempt any employer from or excuse full compliance with any applicable provision of the Americans with Disabilities Act.

### ▪ **Are there workers who are not covered?**

Yes, the right to reinstatement does not apply to workers who are:

- Hired on a temporary basis
- Employed in a seasonal occupation
- Working out of a union hiring hall pursuant to a collective bargaining agreement
- On a probationary period of less than ninety-one (91) days.
- Working for an employer with nine (9) or fewer employees on the date of your injury.

### ▪ **When does the right to reinstatement end?**

Generally speaking, the right to reinstatement ends 1 year from the date of the injury. However, there are some exceptions:

- It ends 30 days after an employee reaches Maximum Medical Improvement (MMI). MMI is the point in time where any impairment suffered has become stable and will not improve with additional medical treatment. This determination must be

made by the Workers' Compensation Court.

- When an employee is participating in a rehabilitation program that has been approved by the Workers' Compensation Court, the right to reinstatement ends at 18 months. The Rehabilitation program has to be specifically designed to provide the employee with the ability to perform a job for which he/she is eligible. Questions regarding rehabilitation plans can be directed to the DONLEY CENTER (401) **243-1200**.
- It ends 30 days after an employee concludes or stops participating in a rehabilitation program that was approved by the court.
- If a petition to determine liability has been filed but not determined within the year of the date of injury, the right to reinstatement ends 21 days after the finding.
- When a medical determination is made by the treating physician, impartial medical examiner or a Workers' Compensation Comprehensive Independent Review Team stating that the worker cannot, at maximum medical improvement, return to the former position or any other existing position with the same employer that is vacant and suitable.
- When the Workers' Compensation Court approves a vocational rehabilitation program for the worker to train for alternative employment with another employer.
- If the worker reaches maximum medical improvement and accepts suitable employment with a new employer.

- If the worker refuses a bona fide offer from the employer of light duty employment or suitable alternative employment prior to reaching MMI.
- The expiration of ten days from the date the worker is notified by the insurer by mail that the treating physician has released the worker for employment unless the worker requests reinstatement within that time period.
- **What if my employer refuses to reinstate me?**
- Any violation of this section is deemed an unlawful employment practice. The RI Workers' Compensation Court is authorized to order reinstatement and award back pay and the cost of fringe benefits lost during the period as appropriate.
- **Does the Workers' Compensation Court hear all reinstatement disputes?**
- Yes, all determinations are rendered by the Court.
- **What if I am entitled to reinstatement but there is no position available?**
- The employee may file for unemployment benefits as if then laid off from that employment and unemployment benefits shall be calculated pursuant to law. An employee cannot collect both Workers' Compensation Indemnity Benefits and Unemployment Benefits under the law.

**IMPORTANT PHONE  
NUMBERS  
and  
WEBSITES**

Rhode Island Division of Worker's Compensation

**EDUCATION UNIT**  
[www.dlt.ri.gov/wc](http://www.dlt.ri.gov/wc)  
**(401) 462-8100 - press #1**  
**Monday through Friday**  
**8:30 a.m. to 4:00 p.m.**  
**TDD: (401) 462-8006**  
**Rhode Island Workers' Compensation Court**  
[www.courts.state.ri.us/workers](http://www.courts.state.ri.us/workers)  
**(401) 458-5000**  
**Unemployment Insurance Benefits**  
[www.dlt.ri.gov](http://www.dlt.ri.gov)  
**(401) 243-9100**  
**Rhode Island Governor's Commission on Disabilities**  
[www.gcd.state.ri.us](http://www.gcd.state.ri.us) **(401) 462-0100**

Equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.



Rhode Island  
Workers' Compensation  
Benefits

**The Right  
To  
Reinstatement**

RI Department of Labor & Training



Education Unit

Revised 5/04 ed.