

Employer's Guide to Return-to-Work

Information for developing a return-to-work program and sample documentation for a formal modified duty job offer.

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You have the power to impact your workers' compensation costs. The Colorado Workers' Compensation Act allows you to designate your medical provider and bring your injured workers back to work — assisting you in controlling your premium dollars.

Workplace accidents can be costly in terms of lost time wages, medical expenses and productivity. Injury prevention is the best way to control workers' compensation costs. Employers need to follow good claims management practices when injuries do occur; it is in the employer and employee's best interests to provide quality medical treatment and return the worker to the workplace in the shortest time possible.

Pinnacol Assurance has created this employer's guide to assist you in developing a return-to-work program. This program includes a step-by-step procedure that will maximize your control as you manage your workers' compensation claims. More and more employers are finding that they cannot afford to ignore the importance of a return-to-work program and how it impacts premium dollars.

If you have any questions after reading this guide, call 303-361-4000 or 1-800-873-7242 and ask for your return-to-work specialist. Be sure to have your policy number available.

We hope this guide is a useful tool for your business. Please feel free to make copies or use it in any way to develop your return-to-work program.

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Step One: Return-to-Work Action Plan

ACTIONS	COMMENTS
Injured worker reports injury to direct supervisor/designated coordinator. In case of emergency, worker seeks treatment at the nearest emergency facility.	Designated Coordinator: _____ Ext.: _____
Injured worker seeks appropriate medical treatment from designated medical provider.	Designated Medical Provider: _____ Address: _____ City, State, Zip: _____ PH/FAX: _____
Designated coordinator files injury with Pinnacol Assurance within 24 hours.	Filing can be done via the Internet, phone or fax. (Obtain current address and phone numbers from your claims team.)
Designated coordinator establishes and maintains ongoing contact with injured worker; also obtains work status reports from injured worker and/or medical provider to stay current with work restrictions and medical progress.	Injured worker should hand-deliver treatment visit reports within 24 hours, when physically possible.
Designated coordinator assesses whether injured worker's current restrictions allow a return to his or her pre-injury job, with or without accommodation.	If appropriate, designated coordinator submits the injured worker's pre-injury job description, in writing, to the treating physician for full release.
If injured worker is unable to return to pre-injury job, designated coordinator determines which modified duty tasks are appropriate based on current work restriction statement.	See "Sample Return-to-Work Task List" on page 7.
Designated coordinator determines appropriate wage and work schedule.	If partial wages are being paid, be sure to provide Pinnacol Assurance with ongoing payroll records during the modified duty period.
Designated coordinator implements Formal Modified Duty Job Offer.	See page 8 for the process. For temporary employment agencies, contact your Pinnacol return-to-work specialist.
At time of return to work, designated coordinator provides Pinnacol Assurance with Return-to-Work Verification statement.	Use template provided on page 13.
Designated coordinator re-evaluates and updates modified duty tasks as restrictions change.	Keep a list of modified duty tasks offered to the injured worker.
Need for temporary modified duty ends when injured worker reaches maximum medical improvement (MMI) or obtains full duty release.	Designated coordinator obtains written documentation from treating physician and notifies Pinnacol Assurance return-to-work specialist regarding full-duty release or the MMI statement.

Step Two: **Creating a Return-to-Work Policy**

Statement of Purpose

What is your objective in providing a return-to-work program? A statement of purpose outlines your company's philosophy and does not have to be more than one paragraph in length. Examples:

- To contribute in the medical recovery of injured workers by providing meaningful work activity that has been approved by their physician.
- To utilize injured workers in a productive capacity while they are recovering from a work related injury.
- To demonstrate (company name) is concerned for the welfare of its employees through implementation of their program.

Designated Coordinator

Build the responsibilities of the designated coordinator into an existing position within your organization rather than choosing a specific individual who you think would be good for the job. The designated coordinator should be accessible to all employees and possess the authority to make management level decisions. Possibilities include:

- Human Resource Manager
- Safety Director
- Owner
- Office Manager

Claims Management Practices

A designated coordinator must follow certain requirements throughout the life of a claim:

- 1) Contact the injured worker on a weekly basis.
- 2) Track recovery and restrictions placed on the worker by obtaining medical reports following each medical appointment. Require your injured worker to hand-deliver the documents after each appointment, if he or she is physically able.
- 3) Coordinate modified duty options:
 - Determine which modified duty tasks are within restrictions.
 - Confirm availability of identified tasks.
 - Initiate the Formal Modified Duty Job Offer (see page 8).
 - Contact your Pinnacol Assurance return-to-work specialist to process your documentation.
 - Notify Pinnacol Assurance when the injured worker accepts or declines your modified duty offer (see page 13).
 - After the injured worker returns to work, his or her payroll records must be provided to your Pinnacol Assurance claims representative.
- 4) Follow-up with injured workers while they are on modified duty:
 - Are their restrictions being adhered to?
 - Have their medical restrictions changed?
 - If restrictions have changed, can the modified duty tasks be expanded with medical approval?
 - If problems arise, contact your Pinnacol Assurance return-to-work specialist.

Time Frames

- Modified duty is intended to be temporary.
- You should offer modified duty as long as there is work available within an employee's restrictions.
- Modified duty may continue until Maximum Medical Improvement (MMI) is reached or until the worker gets a full duty release.

Why should I offer modified duty?

Keeping your injured workers active will help speed medical recovery and decrease wage compensation benefits, which are often the most expensive part of a claim. By helping control claims costs, you can keep your premium costs under control.

Your return-to-work policy should be tailored to your company. Pinnacol Assurance recommends you review each of the following topics and explore the various options to identify which best suits your company's needs. Once you choose to implement your policy, it is important you enforce it consistently.

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Wages

As part of your return-to-work program, you will determine the monetary value of your modified duty tasks and pay your injured workers accordingly. If their modified duty wages are less than their pre-injury wages, Pinnacol Assurance will pay two-thirds of the difference between the injured worker's pre-injury wage and modified duty wage.

Worker: 28-year-old male
Job Site: Construction
Injury: Twisted knee
Restrictions: No climbing, walking on uneven ground or standing for prolonged periods

The worker was offered modified duty in the office. The employer followed the formal return-to-work process outlined in the Formal Modified Duty Job Offer process. After proper notification, the worker failed to report to work at the time and on the date outlined in the job offer. With copies of the offer and proof of delivery from the U.S. Postal Service, the claims representative was able to terminate benefits based on the wage and number of hours offered.

Approximate TTD Savings: \$6,000 - \$8,000

Communicating Your Policy

Your return-to-work program will only be effective if your employees are aware of how the process works and how it affects everyone involved. Here are some suggestions on sharing your program with employees:

- 1) Stress the importance of reporting all injuries immediately to designated personnel (i.e., safety supervisor and/or coordinator). All injuries should be reported within 24 hours to Pinnacol Assurance.
- 2) Make your return-to-work program a part of your employment manual. Require all new employees review this policy as part of their orientation and sign to acknowledge their understanding of the program.
- 3) Explain the return-to-work program annually in one of your monthly safety meetings, in addition to new employee orientation.
- 4) Post procedures for seeking medical treatment after an injury in an area that all workers frequent.

“Recognizing the need to protect and maintain long-term relationships with our highly-skilled employees, a return-to-work program is imperative for us. The formulation of this program was greatly enhanced and made easier by the assistance of our Pinnacol return-to-work specialist.”

*Walrath Heating and Air Conditioning Company, Inc.
Lakewood, Colorado*

Worker: 35-year-old English/Spanish-speaking construction worker
Job Site: Construction
Injury: Back injury due to fall off a ladder
Restrictions: No lifting more than 15 pounds; no ladder climbing

The employer brought the worker back in two capacities. As a cut man, the worker would set up sawhorse platforms and cut forms to be utilized by other workers. Secondly, the worker acted as a translator for his foreman so that instructions and supply needs could be explained and gathered from the several employees who only spoke Spanish.

Approximate TTD Savings: \$8,000 - \$10,000

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Step Three: **Return-to-Work Sample Policy**

The sample policy on the following page includes all necessary elements of a return-to-work policy. Additional information may be included as needed.
(on company letterhead)

(name of company)_____ has elected to adopt a return-to-work policy with the intent to utilize eligible injured workers in a productive capacity while they are recovering from an injury. The goal of temporary modified duty is to provide a progression of job duties that will return the injured worker to their regular job.

The (job title)_____ will be responsible for coordinating the return-to-work program. The designated alternate/backup coordinator will be the (job title)_____.

The attached return-to-work program should be followed when a worker sustains a work-related injury or illness.

1. All injuries will be reported immediately to the worker's direct supervisor who will notify the designated coordinator. Injuries will be filed via the Internet, phone or fax to Pinnacol Assurance within 24 hours.
2. The injured worker will seek medical attention from the designated medical provider (see return-to-work program) (name of designated provider)_____.

In case of an emergency, the injured worker is to seek medical attention from the nearest medical facility. Follow-up care must be coordinated through the designated medical provider. Pinnacol Assurance may not pay for medical expenses incurred by the injured worker, if he or she seeks unauthorized treatment from a non-designated medical provider. When possible, follow-up medical appointments are to be made before or after work hours. Time off for medical appointments will be treated consistently with other personnel policies.

3. The injured worker should deliver a copy of the medical provider's work status report to the designated coordinator within 24 hours of the medical visit, if feasible.
4. The designated coordinator is responsible for maintaining regular contact with the injured worker and the medical provider, and obtaining recovery status information and work restriction updates.
5. The designated coordinator will maintain a list of modified duty tasks. Once the employer is ready to make a job offer to the injured worker, the coordinator sends the proposed tasks to the treating physician for approval, in accordance with the formal job offer process.
6. During the modified duty period, the designated coordinator will provide to Pinnacol Assurance records of wages paid to the injured worker. If the injured worker is receiving full wages during the modified duty period, the designated coordinator will provide Pinnacol Assurance a statement to that effect; no ongoing provision of pay records is then required.
7. Modified duty will be allowed as long as it is realistic for the job to continue, or until the injured worker receives a release to full duty or reaches maximum medical improvement (MMI).
8. The designated coordinator will monitor and document the injured worker's performance while on modified duty.

While on modified duty, the injured worker will be held to all existing personnel policies and will be responsible for maintaining acceptable performance standards as a condition of continued employment.

Modified duty assignments are designed to be temporary and transitional in nature. They will be reviewed jointly by the supervisor, injured worker and relevant staff to address increasing work duties and overall performance. This will be completed at least once a month.

Employer's Signature

Date

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Step Four: **Return-to-Work Job Tasks**

Sometimes the injured worker can perform some, but not all, of their regular job tasks. Review the job and identify which tasks are within their current work restrictions. Minor injuries can be accommodated by having co-workers assist injured workers with those activities that are outside of their physical restrictions. Also include injured workers in the planning of modified duty, as they often can introduce creative ways in which they can continue to do their jobs. Supervisors and co-workers should also be made aware of the injured worker's restrictions. While on modified duty the injured worker is expected to follow all company policies.

Remember that modified duty can be part-time or full-time, can be at reduced wages and should be reviewed periodically to see if additional tasks can be added with medical approval. Contact your return-to-work specialist as Pinnacol Assurance may have a list of modified duty tasks that could be performed within your industry or can be available to help in brainstorming solutions.

How to identify modified duty tasks:

Ideally, modified duty tasks are created prior to any injuries occurring. Creating modified duty tasks is a collaborative effort of supervisors, lead workers, and management:

- Develop a list of job tasks that might be available throughout the company for injured workers.
- Consider special projects that need to be done. Do you have files that need to be set up, a work area to be cleaned up, follow-up calls that need to be made or errands to be run?
- What tasks could an injured worker do that would free other employees to do their jobs more efficiently?
- Do you have tasks that are completed only on an occasional basis (i.e. inventory or assembling promotional materials)?
- Do you have staff that could benefit from temporary assistance?
- What additional tasks could be taken from other employees and converted into modified duty?
- Does your list of modified duty tasks match the type of injuries and physical restrictions you will most likely encounter?

I don't have any office work available. How can I provide modified work?

Modified duty does not always mean working in the "office." It is preferred that the injured worker remain in a familiar job environment. Pinnacol Assurance return-to-work specialists are available to provide onsite assistance to assess current job tasks and suggest alternative tasks for modified duty.

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Sample Return-to-Work Job Tasks List

(on your company letterhead)

XYZ Corporation
1234 Colorado Avenue
Denver CO

The following is a list of modified duty tasks that are available at XYZ Corporation and can be offered on a part-time or full-time basis. This list of tasks, in whole or in part, will be submitted to the treating physician for approval.

_____ Site Clean-up — Scrapping wood, debris (including weeds) and other litter. Requires alternating between walking, standing and bending on a frequent basis. Lifting up to 5 lbs. on a continuous basis is required.

_____ Safety Monitor — Driving to various job sites to ensure proper safety procedures are being used. Requires the ability to drive a vehicle with a standard transmission and walk on uneven surfaces. Minimal climbing may be required.

_____ Mail Sorter — Process incoming and outgoing mail and packages. Prepare mailing labels and operate postage meters. Requires ability to use hands and to sit or stand as needed. Minimal walking is required as is lifting up to 10 pounds.

_____ Maintain Files — Assist in maintaining equipment and vehicle files and records. May alternate sitting and standing. No lifting over 5 pounds.

_____ General Office Work — Includes photocopying, filing, data entry, and sorting mail. May sit or stand to perform job tasks. Lifting up to 5 pounds.

Worker: 32-year-old male carpenter

Job Site: Construction

Injury: Back injured due to lifting a section of pre-built framing

Restrictions: No lifting, climbing or walking on uneven ground

The employer felt comfortable with the workers' abilities and asked him to return to work full time handling punch lists. The employee would travel to finished construction sites to check that the work was completed correctly and to review any complaints about faulty construction.

Approximate TTD Savings: \$10,000 - \$12,000

Appendix: Modified Duty Process Packet

Formal Modified Duty Process

Modification, Termination or Suspension of Temporary Disability Benefits Process — Rule 6

The Colorado Worker's Compensation Act, Rules of Procedure, allows a claims representative to terminate/modify temporary disability benefits without a hearing for employees who do not voluntarily return to work. The claims representative files an Admission of Liability Form together with the following information:

“A certified letter to the claimant or copy of a written offer delivered to the claimant with a signed certificate of service, containing both an offer of modified employment, setting forth duties, wages and hours and a statement from an authorized treating physician that the employment offered is within the claimant's physical restrictions. A copy of the written inquiry to the treating physician shall be provided to the claimant by the insurer at the time the authorized treating physician is asked to provide a statement on the claimant's capacity to perform the offered modified duty. The claimant is allowed a period of three business days to return to work in response to an offer of modified duty. The three business days run from the date of receipt of the job offer.”

Workers' Compensation Rules of Procedure, Rule 6(6-1(A)(4))

To comply with this rule, complete the following steps:

1) Type **the Letter to Treating Provider** (see the sample letter on page 9) on your company letterhead. Under the Job tasks, list the hours per day and days per week you want your injured employee to work. Then list the actual job tasks the injured worker will perform at your company.

2) Fax or e-mail the above letter to your return-to-work specialist. The return-to-work specialist will forward it to the treating provider for signature, mail a copy to the injured worker, and fax a copy to the injured worker's attorney if he/she has one. If you do not receive a timely response, you may contact the treating provider.

Note: The signature must be from a licensed treating physician. The licensed physician must cosign signatures from a physician's assistant or nurse practitioner.

3) Once you receive the treating physician's approval, type the **Certificate of Service Letter** (see sample letter on page 11) on your letterhead. Complete all the blanks.

Note: Certificate of Service must be signed and dated at least three business days before the injured employee's start date.

4) Hand-deliver the **Certificate of Service Letter** to your injured employee and a copy of the **Letter to Treating Provider** with the physician's approval of modified duty work. Fax copies of both letters to your return-to-work specialist on the same day. The return-to-work specialist will fax a copy to the injured worker's attorney.

5) If you're unable to hand-deliver the **Certificate of Service Letter**, you must type a **Certified Job Offer Letter** on your company letterhead (see sample letter on page 12). Complete all the blanks.

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6) You must send the *Certified Job Offer Letter* via Certified Mail to your injured worker and request a return receipt from the U.S. Postal Service. Also, you must send a copy by regular mail to the worker. Include the certified mailing number on the letter. Include a copy of the *Letter to Treating Provider* with the physician's approval of modified duty work. If the injured worker has an attorney, send a copy of the Letter to Treating Provider with the physician's approval of modified duty work and a copy of the *Certified Job Offer* by certified mail. If the worker is in Colorado, allow him/her a minimum of seven business days from the date of certified mailing to report to work. If the injured worker is out-of-state, allow him/her 10 business days from the date of certified mailing to report to work.

7) Remember to make two copies of all mailings — one for your records and one for Pinnacol Assurance — including a copy of the receipt for the purchase of the certified letter and the green return receipt card you will receive from the postal service.

Your return-to-work specialist can assist you during this process.

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Appendix: Modified Duty Process Packet **Letter to Treating Provider**

(on your company letterhead)

Date: _____

TIME SENSITIVE
URGENT RESPONSE REQUIRED

Dr: _____

Facility: _____

Address: _____

Fax Number: _____

Re: (Injured Worker) _____

Claim # _____

FAX to: _____

Attn: _____

Phone: _____

Dear Dr. _____:

Our employee, _____, is currently unable to perform the work required of his/her regular job. We do have a temporary (full-time/part-time) position that I have outlined for your reference.

JOB TASKS

Work Shift: 8:00 a.m. – 5:00 p.m., Monday – Friday

Please check the activities that _____ is released to perform.

____ Purchase parts. Call vendors on the phone to purchase supplies or parts.

____ Troubleshoot. Provide verbal instructions and advice regarding repair procedures to mechanic and others. May alternate sitting and standing.

____ Maintain files. Assist with maintaining equipment files and records for each vehicle and piece of equipment. May alternate sitting and standing. Lifting no more than five pounds.

____ Organize paperwork. Assist with organizing and distributing of daily paperwork, making photocopies of work orders, using a magic marker to cross out various items on orders. May alternate sitting, standing and walking.

____ Run errands. Operate automatic transmission vehicle once or twice daily to pick up parts. This job task would require driving for a maximum of 20 minutes at one time and lifting 15 pounds frequently.

Employer's Signature

Patient is able to perform the tasks checked above.

COMMENTS:

Doctor's Signature

Date

Cc: Injured worker: _____

Cc: Attorney if appropriate: _____

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Appendix: Modified Duty Process Packet **Certificate of Service Letter**

(on your company letterhead)

Date: _____

Name of Employee: _____

Employee Address: _____

Claim #: _____

Date of Injury: _____

Dear Employee:

Your treating physician, Dr. _____, has released you to modified work. We have identified a temporary position for you, which your physician states you will be able to perform. Please refer to the attached job task list.

The job is:_____. You will receive \$ _____per (hour/week/month).

This modified duty job will begin at _____ on _____. Please report for work on this date and time.
Time Date

Your work schedule is as follows:

Hours/day & days/week:_____ Report Time:_____

Modified Duty Supervisor: _____

Work Site Location:_____

We wish you a continued recovery.

Sincerely,

Employer Signature

Certificate of Service

**I _____ hereby certify that I hand-delivered the above job offer
to _____ on _____.**

Employer's Signature

Date

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Appendix: Modified Duty Process Packet **Certified Job Offer Letter**

(on your company letterhead)

Date: _____

Name of Employee: _____

Certified Mail
Return Receipt Requested

Employee Address: _____

Certified Mail # _____

Claim #: _____

Date of Injury: _____

Dear Employee:

Your treating physician, Dr. _____, has released you to modified work. We have identified a temporary position for you, which your physician states you will be able to perform. Please refer to the attached job task list.

The job is: _____. You will receive \$ _____ per (hour/week/month).

This modified duty job will begin at _____ on _____. Please report for work on this date and time.
Time Date

Your work schedule is as follows:

Hours/day and days per week: _____ Time: _____

Modified duty supervisor: _____ Phone: _____

Work site location: _____

We look forward to seeing you and wish you a continued speedy recovery.

Sincerely,

Employer Signature

Enc.: Signed copy of Letter to Treating Provider with signature dated _____

Cc: Pinnacol Assurance

Cc: Attorney if appropriate:

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Appendix: Modification Process Packet **Return-to-Work Verification Statement**

Date: _____

Employer: _____

Address: _____

Claim #: _____

Date of Injury: _____

In order to correctly adjust your injured worker's compensation benefits, as a result of his/her return to work on modified duty, you need to fill out the following form and fax it to your return to work specialist, at 303-_____.
_____.

Date returned to work: _____

Is injured worker back at regular hours? Yes _____ No _____

Is injured worker back at regular wages? Yes _____ No _____

If you answered no to either question above, please provide the following:

Current wage rate: _____ Hours per week _____

Work status: (check one)

____ full-time ____ part-time

Employer's Signature

If your employee is working part-time or full-time, we would like to have copies of all his/her payroll records to determine if any differential benefits are owed.

Sincerely,

Return-to-Work Specialist

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Frequently Asked Questions

Why doesn't the injured worker find another job within their restrictions?

Injured workers can seek alternative employment at their own discretion; however, there is no law requiring them to look for other employment. Benefits will continue until one or more of the following conditions is met:

- a modified duty job is offered via the modification process,
- the employee obtains employment elsewhere at his/her pre-injury wage,
- the employee is given a full duty release or maximum medical improvement (MMI) is reached, or
- the employee receives a permanent impairment rating or is released from treatment without a permanent impairment rating.

What if full-time work cannot be provided within the injured workers' restrictions?

Under Colorado law, an employer can offer part-time work at a reduced wage while the worker is on modified duty. The insurance carrier will make up two-thirds of the difference between the modified duty wage and the wage rate at time of injury, up to the state maximum.

How long must a worker stay on modified duty?

There is no mandatory time limit for modified duty. Pinnacol Assurance guidelines suggest reviewing modified duty tasks every 30 days. This review should include periodic increases in job tasks as approved by your designated medical provider. The modified duty job offer should end when the injured worker receives a full-duty release.

Will benefits automatically end once the doctor releases the worker for modified duty?

No. If the injured worker is released to work with restrictions, benefits cannot be adjusted until the injured worker voluntarily returns to work in modified duty position or the employer completes a formal job offer.

Can an injured worker be fired?

Termination is not covered under workers' compensation law, but is relevant to employment law in Colorado. If an injured worker is fired while receiving compensation benefits, benefits will not automatically stop. They will continue until the injured worker is placed at MMI and given a permanent impairment rating or a medical release to regular duty is received. The only exception to stopping or adjusting compensation benefits is if a worker has acknowledged a formal job offer and either refuses to work or quits the modified duty job for non-injury related reasons.

"I see a direct correlation between length of disability and modified duty placement. When employers accommodate their injured workers in a modified duty position, the injured worker's recovery is enhanced and the disability is often shortened."

*Martin Senicki, D.O.
Orthopedic Surgeon
Orthopedic Surgery and Sports Medicine*

Does modified duty cause work interruptions due to a worker's ongoing medical treatment?

While ongoing medical treatment is common, employers can use their influence in the scheduling of medical appointments to keep interruptions to a minimum. Contact the treating physician or clinic to see if appointments can be made before or after work hours. Other appointments not related to the injury should not be used as an excuse to miss work.

What if an injured worker moves out of the area?

An employer in Colorado is entitled to make an offer of employment in the same geographic area in which the injury took place. An injured worker who relocates is still obligated to acknowledge the offer. If the injured worker is offered modified work using the modification process and fails to return to work, his or her benefits may be in jeopardy.

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What if an injured worker on modified duty comes to work and is not productive, takes excessive breaks and/or wastes the time of other workers?

Injured workers are expected to be productive within their capacity. If an injured worker persists in non-productive activity, the employer should follow their normal disciplinary procedures. The injured worker should be regarded as any other employee and held to the same company policies.

How will our designated provider know what type of work we do?

We encourage you to meet your designated provider and his/her staff. Give the provider information about your organization, including the descriptions of the various occupations that you employ, the industry you are in and the different modified duty tasks you have available. You may offer the provider the opportunity to visit your work site.

Worker: 55-year-old female telemarketer
Job Site: Office
Injury: Slip and fall, injured right knee
Restrictions: Cannot drive or take public transportation to work

The Pinnacol Assurance return-to-work specialist called the employer and persuaded them to set up a computer and phone hook-up so the employee could telecommute, which she did until she recovered and was allowed to drive. This allowed the worker to work the 2-3 months of recovery time before she was allowed to drive.

Approximate TTD Savings: \$3,000