

AN EMPLOYER'S GUIDE
Kahnawake Occupational Safety & Health
Administration Program



MOHAWK COUNCIL OF KAHNAWAKE

CONTENTS

INTRODUCTION- Mohawk Self Insurance.....2

- Eligibility
- Plan Framework

Section 1: Health & Safety, Your Rights & Responsibilities.....6-8

- Employer's Responsibilities
- Worker's Rights

Section 2: MSI Benefits/Provisions.....9-15

- Income Replacement (IRB)
- Full Income Replacement
- Partial Income Replacement
- Indemnity for Students (18 yrs and over)
- Indemnity for a Child
- Calculating your IRB
- Compensation for Bodily Injury
- Permanent Disability Indemnity
- Reduction/Suspension of Benefits
- Pregnancy/Breastfeeding Program
- Medical Treatment/Rehabilitation
- Medical Expenses
 - * Medical Assistance
 - * Medication
 - * Travel
 - * Lodging/Meals
 - * Clothing
 - * Other expenses

Section 3: Benefits for Dependents.....16-17

- Deceased Worker's Family
- Spouse
- Minor Child/Adult Child
- Other Dependents
- Disabled Dependents
- Worker's Estate
- Dependents Death Benefits
- Dependents- Compensation to a Minor
- Compensation to a child of full age (less than 25 years)

| | |
|---|--------------|
| SECTION 4: Accident/Medical Reporting Procedures..... | 18 |
| • Worker Related Accident | |
| • Proof of Claim | |
| | |
| SECTION 5: Return to Work | 20-24 |
| • Graduated Return to Work | |
| • Labour Market Re-Entry (LMR) | |
| | |
| SECTION 6 : First Aid Requirements & Occupational Health & Safety Guide..... | 25 |
| | |
| SECTION 7 : Frequently Used Forms..... | 26 |
| • Guide – Purpose | |
| • Forms | |
| | |
| SECTION 8: Appeals Process..... | 27 |
| | |
| Glossary | |
| • Definitions | |
| • Forms | |
| • Appendix A – MSI First Aid Requirements | |
| • Appendix B – MSI Joint Health & Safety Policy & Procedure Manual for Employers | |

PREFACE

This handbook will show you step by step, how MSI helps to prevent workplace injuries and illnesses and it will explain how we can help workers recover and return to work following a work-related *injury. It also outlines key benefits and services available through the MSI plan.

While this guide will give you a general understanding of MSI benefits and services, because every worker's experience is different, we consider each claim individually. We commit to doing all that we can to support workers as they recover and return to work. We expect employers to participate in this process.

Whenever we use the term "injury" in this guide, we also mean occupational disease or illness.

INTRODUCTION

MOHAWK SELF INSURANCE

MSI is very unique and is the only known worker's compensation program developed by any First Nations community in Canada. The purpose of the Kahnawake Occupational Safety & Health Administration Program/Mohawk Self-Insurance Program is to provide a better quality of life for workers, both Native and Non-Native of the Mohawks of Kahnawake by ensuring that all entrepreneurs have proper workers compensation coverage for their workers in the event of an on the job accident/injury.

MSI Eligibility

All employers, both public and private are eligible to participate in MSI, provided that their business is located within the Territory of Kahnawake and other approved Mohawk Territories (e.g. Onentoken in Kahnasetake).

In special circumstances, MSI coverage is extended off the reserve of Kahnawake (e.g. EDC organization that travel to training, seminars, conferences, meetings). Under no circumstances does MSI provide coverage for private contractors for any prolonged work outside the reserve, and special permission is required from MSI prior to any off reserve work for any organizations.

If any businesses, contractor, or professional does business or provides professional services with MCK they must purchase MSI coverage. The employer is responsible to pay the premiums to MSI, nothing is to be deducted from the workers' salary.

What is covered by the plan?

All personal injuries 'arising out of' or 'in the course of' employment are covered under the program. As well, the program covers occupational illness/disease, meaning, an illness/disease contracted out of or in the course of work and characteristics of that work or directly related to the risks peculiar to that work, provided that the worker can demonstrate a relationship between the illness and the work, or the risk of the work.

Program Framework

MSI has four major components:

- **Prevention:** by promoting occupational health and safety, assisting workers and employers to create a health risk free work environment and inspecting worksites;
- **Program Administration:** providing funding for services through assessments;
- **Rehabilitation & Compensation:** compensating workers who suffer a work related injury, providing medical assistance and rehabilitation for workers who suffer permanent physical and mental impairment. Offer job modifications, re-training, new job opportunities.
- **Safe Maternity Program:** MSI has a prevention program entitled "For a safe maternity experience". This program enables a pregnant or breast-feeding worker to request a reassignment or in some cases, preventive withdrawal.

HEALTH & SAFETY, YOUR ROLE & RESPONSIBILITIES

MSI recognizes that workplace accidents and injuries can be prevented by implementing effective safety management systems not only out of concern for workers but because we understand that by being pro-active and knowledgeable of health and safety results, it in:

- Lower costs;
- Improved worker relations and worker trusts;
- Improved reliability and productivity;
- Improved protection from business interruption;
- Increased public trust and improved public image; and,
- Increased organizational capability

All workers covered under the MSI Program are required to adhere to the Disability Management and Return to Work Plan. Workers are required to follow the established safety regulations and report unsafe working conditions to their employers.

Employer's Responsibilities

The employer is responsible for ensuring that those under their supervision are placed in an appropriate role, while respecting the mandate of the MSI Program.

The immediate supervisor must ensure that all injuries/occupational illnesses/diseases of workers which are under their direction are managed in an efficient and appropriate manner. The employer's responsibilities are:

Leadership

- Demonstrate leadership in endorsing the mandate of the program.
- Ensure that a safe and secure workplace is provided to those under their direction as well as ensuring safe work practices are followed.
- Provide modified duties/work for injured workers
- Provide support to workers returning to work.

Communication

- Maintain communication with worker during their absence as per the established procedure.
- Inform co-workers regarding accommodations for injured workers.
- Provide a debriefing and make known to workers all resources available to them in a critical situation.

Return to Work Program Application

- Report and investigate occupational injury incidents and complete appropriate documentation (to be discussed later).
- Provide modified duties/work for injured workers
- Collaborate with the MSI Program in order to ensure a safe and prompt return to work.
- Participate in identifying a worker's return to work options.
- Inform co-workers of their role in a safe return to work.
- Implement the return to work program.
- Meet with the worker immediately upon the return to work in order to provide all necessary support.

- Follow the progress of workers participating in the return to work program and communicate with the MSI Program as needed.
- Participate in return to work team meetings
- Inform the MSI Program of all absences incurred by workers on modified work/hours.
- Ensure that the confidentiality of all information relative to the worker's file is maintained.

Worker's Rights

Once the worker has been deemed capable of returning to work by the **physician or doctor**, the employer is expected to offer the worker modified duties or other related duties as part of a successful rehabilitation. Once the worker has fully recovered, he/she should resume their original position. Should that position no longer exist, he/she has the right to work in a similar position with the equivalent salary.

A worker who is injured at work or victim of a work-related disease retains a priority in regards his position. Upon returning to work, if this position no longer exists, the worker may resume working for his employer in an equivalent position, with no loss of salary. If a worker is no longer able to perform the tasks related to his position because of permanent injury resulting from an accident or illness, the employer can modify his tasks or adapt his work station accordingly. If this is not feasible, the worker must be offered the first available suitable position.

- **Enforcement of this right**

A *return to work* is executed according to the collective agreement in force. If there is no collective agreement, return to work conditions will be determined by the employer's health and safety committee. If there is no collective agreement and no committee, the worker and employer must reach an agreement in this regard. MSI will only become involved as a last resort, at the request of the worker or the employer.

- **Duration of this right**

For companies with 20 or fewer workers, this right can be exercised for a period of 1 year from the beginning of a worker's leave of absence. For companies with 21 or more workers, this right can be exercised for a period of 2 years. The duration of this right is conditional on the employment contract not having expired.

What about the right to refuse to work/ what are a worker's options?

A worker has a right to refuse to perform work that would expose him or another person to danger to his health, safety or physical well-being. The worker may not exercise this right, however, if his refusal to perform the work puts the life, health, safety or physical well-being of another person in immediate danger (example, a firefighter on duty). The worker must immediately notify his or her superior (or an employer representative), indicating the reasons for the refusal to work. He or she must notably remain on the work premises, to perform any other tasks that may be necessary.

What are an employer's options?

The employer engages the worker's representative (prevention representative, or designated worker). The employer and the worker's representative then assess the situation, with the aim of proposing solutions and taking any necessary corrective measures.

In the event of a disagreement

If the employer and worker's representative do not concur as to the hazard or a given solution, they can ask that a MSI Safety Program Officer or CPU Safety Inspector to intervene. If the worker continues to believe there is a hazard, he can uphold his position (refusal to work) and

require the intervention of the MSI Safety Program Officer or CPU Safety Inspector. The MSI inspector shall determine immediately whether or not a danger exists that would justify the worker's refusal to work. The inspector's decision is effective immediately, and must be respected even if the parties do not agree with it. The employer and the worker or worker's representative have the option of requesting that the MSI review the decision in question.

Other information on the right to refuse to work

In certain situations, an employer can ask another worker to replace the worker who is exercising his or her right to refuse to work. In such a case, the employer must inform the replacement worker of the other worker's refusal to work and the grounds thereof. This worker may then accept or refuse to perform the work in question.

A worker may not be dismissed because he or she exercises his or her right to refuse to work. The worker will continue to be paid, and may in no way be penalized or punished. If an employer feels that a worker is abusing this right, it is responsible for proving that this is the case.

Temporary Work Assignment

Even if a worker's medical treatment continues, in order to promote a return to work or rehabilitation, the employer may assign the worker to temporary work other than his/her regular job.

- Any temporary work assignments must be supported and determined by the attending physician's consent. A worker will retain their regular salary or wage and the employment benefits for the duration of the temporary assignment

BENEFITS – PROVISIONS

Your Ability Management Consultant (AMC) is your main contact at MSI.

If a worker can no longer hold his job because of an employment injury, MSI guarantees financial support until he/she can again hold his/her job, an equivalent job, or a suitable job.

The victims of a work related injury or occupational disease are entitled to an income replacement benefit and, if applicable, compensation for bodily injuries.

Income Replacement Benefit (IRB)

If a worker sustains a work related injury and loses wages as a result, they are entitled to financial support through MSI. MSI guarantees financial support until the worker can return to his/her occupation, return to an equivalent occupation or an alternative occupation.

In order to be eligible for **IRB**, workers must:

- Provide MSI office with all of the necessary documentation required for the claim
- Co-operate with health care treatment as recommended by their healthcare providers
- Participate in all activities that will promote an early and safe return to work
- Become involved in a Labour Market Re-entry Plan (if required)

Full Income Replacement Benefits (IRB)

If a worker is unable to work due to an injury and are cooperating in a health care and/or return to work program, they are eligible for full **IRB**. The amount equals to 75% of the worker's gross earnings/income. The gross income taken into consideration may not exceed the maximum yearly insurable earning which is set annually.

IRB payments continue until:

- Worker no longer has a loss of earnings related to the injury, or
- Worker is no longer impaired by the injury, or
- Worker has reached **68 years of age**

Partial Income Replacement Benefits (IRB)

If the worker is able to return to work for less pay and the wage loss is as a result of your injury, they are eligible for partial **IRB**. In order to receive partial **IRB**, the worker must continue to cooperate with health care and their return to work program. The value of the partial benefit equals to 75% of the difference between the pre-accident and post-accident take-home pay, again up to a pre-set annual maximum.

Indemnity for Students under 18 years of age

MSI pays a weekly indemnity to a student aged *less than 18 years* who suffers an employment injury during the course of a training period without remuneration under the responsibility of the educational institution where he/she is pursuing his studies.

Indemnity for a child concerned by voluntary or alternative measures

MSI pays a weekly indemnity to a child who executes tasks, renders a service to the community or acts as a trainee, with or without remuneration, under voluntary measures taken pursuant to the Youth Protection Act or alternative measures taken under the Young Offenders Act, or in execution of a decision rendered by the Court of Québec under one of such Acts or the Code of Penal Procedure.

Compensation for Bodily Injuries

If it happens that a worker's physical or psychological integrity is permanently injured following an employment accident or occupational disease. He/she is then entitled to a lump sum payment for bodily injuries.

The amount of this compensation varies according to the percentage of physical or psychological integrity injury and according to the victim's age at the time of the injury.

Annual Re-Evaluation

The income replacement indemnity is revalorized each year at the anniversary date of the start of the worker's disability preventing him from performing his work.

Compensation for bodily injury (permanent partial incapacity)

The worker who suffers a work-related accident or disease and who sustains permanent physical or mental impairment is entitled to compensation for bodily injury that takes into consideration:

- Anatomico-physiological deficit (degree of severity of the disability);
- Physical disfigurement;
- Suffering and loss of enjoyment of life

Permanent Total Disability Indemnity

When, as the result, of a workplace injury or occupational disease/illness, a worker becomes totally and permanently disabled and is prevented from engage in any occupation for which he/she may be reasonably qualified by education, training, or experience, MSI will continue to pay a weekly income replacement indemnity of 75% of their gross salary to age 68.

Reduction or Suspension of Benefits

MSI may reduce or suspend the payment of an indemnity if the worker/beneficiary:

- Provides false information
- Refuses or neglects to produce the information MSI requires or to give the authorization necessary for obtaining it
- Refuses to cooperate with Physicians/MSI

- Clandestinely works and does not report it to MSI
- Interferes with or neglects the physician's medical advice
- Refuses medical treatments
- Refuses physiotherapy
- Makes him/herself unavailable to physicians and/or MSI
- Neglects or refuses to avail him/herself of the rehabilitation measures prescribed in their personal rehabilitation program
- Refuses work offered to him/her
- Refuses to return to the same employer
- Does not comply with instructions on a timely manner
- Collects from another insurance plan, CSST, welfare etc...
- Derives income from any other source MSI, upon receipt of a tip, report or notification from a person other than the worker, reporting that claimant is working and/or receiving other income. The identity of the informant shall not be divulged
- Returns to work prior to a medical release of his/her Physician/Doctor
- An injury arising solely as a result of the gross and willful negligence of the worker
- Injured while under the influence of drugs or alcohol
- Making an injury that did not happen at work, look or state that it happened at work

Pregnancy/Breast-Feeding

MSI has a prevention program entitled "For a safe maternity experience". This program enables a pregnant or breast-feeding worker to request a reassignment or in some cases, preventive withdrawal. To apply for the program, the worker must follow the steps below.

- A worker must see her physician or the doctor in charge of health services where they work as soon as they believe that their working conditions may constitute a hazard to them or to their unborn or breast-feeding child.
- Ask to complete the "Preventive Withdrawal and Reassignment Certificate for a Pregnant or Breast-feeding Worker" form
- If the certificate is issued by the worker's physician, he/she will need to consult the doctor in charge of health services where they work or, if this is not possible, the physician designated by the public health director for the region in which their employer's establishment is located, and this before completing the form. This will allow for the worker's working conditions to be assessed, and information on any hazards in the work environment communicated to their physician. The certificate will not be considered valid until such time as this consultation has taken place. The worker's physician, in turn, states that your working conditions constitute a hazard, based on your health condition and ability to work.
- Give the medical certificate to the employer. This step is mandatory, as it constitutes the worker's request for reassignment. At this time, the employer may choose to modify the worker's workstation or assign the worker to other tasks. If a reassignment is not possible, the worker can stop working and receive compensation until such time as they are reassigned, until the fourth week prior to the programmed delivery date, or until they are no longer breast-feeding, as the case may be.

- MSI will send a written notice regarding the entitlement to the "For a safe maternity experience" program. To avoid delays in the processing of this request, make sure the employer has completed the Reimbursement Claim for the Preventive Withdrawal or Reassignment of a Pregnant or Breast-feeding Worker) form.

Reassignment

When a worker is reassigned to a new position, the employer will keep paying the regular wages as well as all related benefits, even if the salary of the position that has been assigned is actually lower. The employer can receive a reimbursement for any difference in wages under a support program introduced within the framework of the "For a safe maternity experience" program.

Preventive withdrawal

- During Day 1 of a preventive withdrawal, the employer pays the regular salary. MSI does not reimburse this amount.
- Thereafter, either once the worker is reassigned, until the fourth week prior to the programmed delivery date, or until the worker resumes breast-feeding, MSI will pay an income replacement indemnity equal to 75% of the gross salary on a weekly basis.
- These MSI indemnities are not taxable, and cannot exceed the maximum insurable earnings

Medical Treatment/Rehabilitation

Workers who have sustained a workplace injury or occupational illness are entitled to such health care as may be necessary and must attend the hospital emergency department or be seen by a medical physician, who will prescribe appropriate medical treatment/rehabilitation which will facilitate recovery.

Health professional – is a member of a college of health profession. Health professionals include, but are not limited to:

- Physicians and surgeons
- Chiropractors
- Dentists and oral surgeons
- Massage therapists
- Occupational therapists
- Optometrists
- Physiotherapists
- Psychologists
- Registered nurses
- Speech language pathologists

Health care practitioner is:

- Any health professional
- A drugless practitioner such as an osteopath, naturopath, or
- Social worker

Health care includes:

- Professional services provided by a health care practitioner

- Services provided by or at hospitals and health facilities
- Prescription drugs
- Services of an attendant
- Modifications to a person's home and vehicle and other measures to facilitate independent living which are appropriate in MSI's opinion
- Assistive devices and prostheses
- Housekeeping assistance
- Therapeutic devices
- Medical tests/laboratory tests
- Travel expenses to secure health care
- Such measures to improve the quality of life of severely impaired workers as, in MSI's opinion, are appropriate

Location of Health Care – Generally, workers receive health care at the office or facility of the health care practitioner. MSI must pre-approve treatment that is to be provided in the worker's home.

MSI does not cover cancelled or missed appointments. MSI will deduct from the worker's indemnity payment, any fees charged for cancellation/missed appointments without valid or just rationale.

Medical Expenses

MSI pays all **medical assistance** costs related to an employment injury. It is notably responsible for the costs of:

- services dispensed by a health professional (physician, dentist, optometrist);
- care and treatment received in the Québec health and social services system (for example, in a hospital or local community service centre (CLSC));
- medicine and other pharmaceutical products;
- orthoses and prostheses;
- care and treatment provided by health care workers in private establishments, if this care or treatment has been prescribed by the attending physician (for example, physiotherapy treatments);
- technical aids and other expenses.

A worker is entitled to benefit **free of charge** from the health services necessitated by a condition sustained as a result of a work related accident. MSI pays the hospital or clinic directly for these services.

In certain circumstances, the worker may have to pay for some products and subsequently receive compensation by submitting the **original receipts** and any supporting documentation.

Other Related Expenses

Medication

Medication: All original receipts should be attached and must clearly identify the name of the medication as well as the doctor who prescribed the medication.

Travel

MSI shall reimburse, upon the production of supporting documents, to the worker and, if his physical condition requires it, to the person who must accompany him, the travel and accommodation expenses incurred to receive care, undergo medical examinations or take part in a personal rehabilitation program, according to the norms and amounts it determines.

- MSI Medical Transport
- Personal vehicle - \$0.41 per kilometer
- Taxi- upon approval- all expenses related to travel costs will be reimbursed upon proof of receipt
- Parking- expenses related to authorized cost are reimbursed upon proof of receipt
- Travel that exceeds 100 kilometers: should a worker choose to travel over 100 kilometers to receive medical care where as alternative medical care is available in closer proximity, reimbursement must **be discussed with MSI prior to travel**. If the travel is not pre-approved, the worker will be reimbursed for no more than 200 kilometers for a return trip.

Lodging/Meals

The cost of meals is not *generally* reimbursed if the destination is within 16 kilometers from the worker's home.

Meals that have been pre-approved require original receipts and are reimbursed based on the following:

- If the departure is prior to 7 h30, breakfast is reimbursed up to \$10.40
- If the departure is prior to 11 h 30 and the return is 13 h 30, lunch is reimbursed up to \$14.30
- If the departure is prior to 17 h 30 and the return is after 18 h 30, dinner will be reimbursed up to \$21.55

Lodging: The worker must obtain prior authority for lodging reimbursement if they choose to stay in a hotel or with family/friends. Authorization of cost is determined by each location.

- This may range between \$116.00 per night in Iles de Montreal, outside regions up to \$106.00 per night, Hull, Laval, Longueuil to \$96.00 and all other regions up to \$79.00
- An ancillary allocation of \$5.50 is also granted for each overnight stay
- Should a worker choose to stay with family/friends, he/she will be reimbursed up to a maximum of \$21.10 per night
- It should be noted that between June 1 and October 31, the maximum indemnity of \$96.00 and \$79.00 are changed to \$100.00 and \$83.00.

Clothing:

Workers are responsible to providing a brief description of the damage caused to their clothing at the time of the accident. The worker is responsible in providing the original receipts which detail costs incurred as a result of dry cleaning, repairs, and replacement of the garment. If the worker must replace the garment, he/she must provide the original cost of the damaged clothing.

An indemnity, upon the production of supporting documents, for the cleaning, repair or replacement of clothing damaged as a result of a work-related accident. Clothing damaged by a prosthesis or orthosis which the worker must wear subsequent to an employment injury. The worker must provide supporting documents. Repair or replacement of a prosthesis or orthosis involuntary damaged as a result of a sudden and unforeseen event arising out of a worker's employment.

The indemnity for repair and replacement is paid whenever the person involved is not entitled to such compensation under another program.

All Other Expenses

For reimbursement of services and expenses not covered above require the following:

- The period in which the service was provided
- The name of the service provider
- The nature of the service
- The number of children (in the case of childcare expenses)
- The amount of the costs

All costs related to medical care require original receipts

BENEFITS FOR DEPENDENTS

If a worker's death results from an employment accident or occupational disease, his/her dependents are entitled to compensation. The dependents include the spouse, dependent children and any other person with an economic dependence link with the worker.

Compensations Paid to Deceased Worker's Family

When an employment accident or occupational disease leads to the death of a worker, his/her dependents are entitled to compensation. The dependents are the spouse, minor children, and adult children younger than 25 studying full-time or disabled, as well as any other person with an economic dependence link with the worker.

Spouse

The spouse receives compensation equal to 55% of the income replacement benefit to which the worker would have been entitled on the date of his/her death. This compensation is temporary. It is paid as a monthly pension for a period of one to three years according to the spouse's age on the date of the worker's death.

MSI also pays the spouse a lump sum that is based on the worker's annual gross earned income at the time of his/her death and takes into account the maximum annual insurable amount. This has no impact on the Québec pension program benefits to which the spouse may be entitled.

Furthermore, MSI pays a compensation for funeral expenses and a lump sum payment for the immediate expenses resulting from the worker's death.

Minor Child and Adult Child

A minor child receives a monthly pension until he/she reaches legal age. This pension is indexed annually. At age 18, if he/she is still studying, he/she receives a lump sum payment.

The adult child who is younger than 25 on the date of the worker's death and is in full time studies is also entitled to a lump sum payment.

Other Dependents

The other dependents are entitled to a lump sum payment that varies according to their age and the percentage of their needs that were met by the worker at the time of his/her death.

Worker's Estate

If the deceased worker has no dependents, his/her estate is entitled to the lump sum payment.

Disabled Dependents

If the dependents entitled to compensation are disabled at the time of the worker's death, special terms and conditions may apply.

Dependents Death Benefits

Compensation paid to a surviving spouse-when a work-related accident or disease results in the death of a worker, the surviving spouse is entitled to a monthly and lump-sum indemnity.

The monthly indemnity is equal to 55% of the income replacement indemnity to which the worker would have been entitled. This temporary indemnity, granted for 1 to 3 years, may not exceed the pre-determined monthly amount. Such compensation will be increased if the person is disabled.

Compensation to a Minor

When a work-related accident or disease results in the death of a worker, the worker's child, if a minor at the time of the death, is entitled to a monthly indemnity until such time as he comes of age.

If the child is attending an educational institution on a full-time basis when he comes of age, he is then entitled to a lump-sum indemnity.

If the child is disabled when he comes of age, this lump-sum indemnity will be increased, unless the child is entitled to other compensation under another Act.

Compensation for Full Age (25 or less)

A child of full age *who is less than 25 years old* at the time of the worker's death is entitled to a lump-sum indemnity if he is a full-time student.

If the child is disabled, this lump-sum indemnity will be increased, unless he is entitled to other compensation under another program.

ACCIDENT/MEDICAL REPORTING PROCEDURES

Please note that this includes both lost time and medical aid/treatment claims. ALL INJURY CLAIMS MUST BE REPORTED WITHIN 5 WORKING DAYS.

1. Report the incident immediately to the supervisor.
2. Go to Hospital/Clinic or contact local ambulance or Kahnawake Peacekeepers Dispatcher. If a worker is incapacitated, a co-worker or supervisor should accompany the injured worker to the hospital.
 - Present Letter to Hospital L1 to hospital/clinic indicating that all charges are to be sent to the MSI office and **not** CSST.
3. Supervisor to provide the worker with MSI Forms (Worker **Form-A1**, Doctor **Form-D1** including the **Functional Abilities Form MSI-005** and **Letter to Hospital L1**. The Doctor's Form and Functional Abilities Form must be completed within 24 hours and returned to the employer. The worker must sign and return the Authorization for Release of Medical Information form to the employer, as well.
4. The Employer must inform the MSI Administrator of the accident by telephone within 24 hours of the accident at 450-638-0500 or 514-239-2195 (24 hour Emergency #).
5. The injured worker will pay the doctor's fee for completion of the forms/report (this will be reimbursed to the worker, please provide receipt).
6. The employer will investigate the incident promptly and complete an Accident Investigation Report with details leading the incident and corrective measures.
7. Communicate with the MSI Disability Management and Return to Work Coordinator all medical information and return to work information.

Work-Related Accident

- A **work-related accident** is when the injury or disease which occurred or from which the worker is suffering is the result of a sudden and unforeseen event during the course of employment or, in certain circumstances, while the worker was performing duties related to their work.
- MSI will determine whether the case could constitute a work-related disease, i.e. one that is typical of the employment or directly linked to specific risks.
- If the employer does not concur with the claim, it shall need to set forth arguments illustrating that the worker's injury or disease is not work-related. It is hence extremely important to accurately detail the circumstances related to the work-related accident or, on the onset of a work-related disease, to see a physician as soon as possible, and if possible, for the worker to immediately notify their employer of the injury that has occurred.

Proof of Claim

All accidents must be reported to the MSI office by completing the appropriate forms. Such reports must be submitted to the MSI administration, no later than 5 days after the accident. Failure to report any accident may result in denial of the claim.

RETURN TO WORK

Return to Work

Preventing workplace injuries and illness is the responsibility of everyone at the workplace. When injuries and illness do occur, however, it is important for you and your injured worker to minimize the human and financial impacts by focusing on getting the worker back to **safe and productive work** as soon as medically possible.

Benefits of Early and Safe Return to Work

Most injured workers can return to some type of work even while they are recovering. Returning to daily work and life activities can actually help in the recovery process. In fact, worldwide research shows that the longer a worker is off work due to injury or illness, the less likelihood there is of that person returning to work.

Both you and your injured workers benefit in cooperating in the injured worker's early and safe return to work. The injured worker benefits by restoring their source of income and staying active and productive, both of which are important to the healing/recovery process. You benefit by retaining valuable and knowledgeable people who contribute to your company's financial and market success.

Shared Responsibility for Return to Work

There are many participants in the Return to Work process, and each have a different role and responsibility.

Returning an injured worker to work is a shared responsibility primarily between the employer and the worker. MSI is responsible for managing the claim and monitoring, providing education and assistance to the worker and employer, and to the workplace. Health care providers are responsible for providing timely health or medical and functional abilities information. Together, all parties working toward a shared goal of early and safe return to work and full productivity has the potential to reduce the human and economic impact of workplace injuries and illness. Where there are shared responsibilities, communication and cooperation toward a common goal is essential.

As the employer of an injured worker, you are first required to report the injury to MSI and:

1. Contact your worker as soon as possible after the injury
2. Maintain communication throughout their recovery and return to work
3. Attempt to provide **suitable work**. In other words, work that:
 - Is safe and within your worker's (functional) physical capabilities
 - Your worker has the skills to do (or can acquire the skills to do)
 - Restores your worker's pre-injury earnings as closely as possible
4. Provide MSI any information requested about the worker's return to work.

5. Offer to re-employ workers who are medically fit to return to the essential duties of their pre-injury job or suitable work if:

- you regularly employ 20 or more workers
- the worker was continuously employed with you for at least one year at the time of the injury

Re-employment obligations are in effect for the earliest of:

- one year after the worker is declared fit to return to the essential duties of their pre-injury job or suitable work
- two years from the date of injury/illness
- the date the worker reaches age 68
- All IRB could be suspended

Most workers and employers cooperate in the Return to Work (RTW) process. Those who do not cooperate may be penalized.

You may be penalized if MSI determines that you are not fulfilling your re-employment obligations.

The Penalties may include, but not limited to:

- **The Worker's benefits may be reduced or suspended.**
- **The Employer's Premiums may be increased.**

Return to Work Process

Once medical evidence confirms that the worker is ready to return to regular work or modified work, the worker is admitted to the return to work program.

The goal of the return to work program is to provide a uniform return to work process for participants covered under MSI.

The MSI Disability Management & Return to Work Coordinator will work with the worker, employer and treating physicians to facilitate a return to work. This will involve communicating with the worker, treating physicians/practitioners and the employer to secure information regarding updated medical status and return to work information.

The return to work program encompasses the restrictions, the accommodations, as well as the proposed work schedule for the injured worker.

Once the worker is fit to return to:

Modified work:

- The MSI DMRTWC will notify the employer and together they will decide on the correct course of action within 24 hours of receiving notice.
- The employer will direct the worker's manager to complete the *modified duty program* and send a copy to the worker, treating healthcare provider, and the MSI DMRTWC.
- Once approved, the MSI DMRTWC and employer will determine how the modified work program will be monitored.
- The MSI DMRTWC will contact the worker to let him/her know at what time they will be expected to return to modified duties.
- When a *modified duty program* extends the original duration or when a *modified duty program* is not progressing according to program, the MSI DMRTWC will communicate with the doctor to discuss the situation, obtain a treatment program update and prognosis for return to regular work.

Graduated return to work

- Once a *graduated return to work program* is agreed upon, the MSI DMRTWC will forward a copy of the proposed program to the treating healthcare provider for approval.
- The MSI DMRTWC will maintain telephone contact with the treating healthcare provider to ensure a prompt response.
- If the treating healthcare provider does not approve the *graduated return to work program*, the MSI DMRTWC will maintain regular (at least weekly) telephone contact with the treating healthcare provider until a *Program* is approved.
- The MSI DMRTWC will fax a copy of the signed *graduated return to work program* to employer upon receipt of same.

The MSI DMRTWC will maintain weekly (or as otherwise agreed upon with the employer) contact with the worker and employer to monitor the return to work program.

The MSI DMRTWC will communicate with the treating healthcare provider and the MSI Administrator as required during the modified work period to modify the return to work program.

Return to regular work:

- Once the worker has resumed full hours and duties, the MSI DMRTWC will close the file.

Labour Market Re-Entry Plan (LMR)

A worker who sustains a personal injury by accident arising out of and in the course of his or her employment is entitled to benefits under the program.

A worker shall file a claim as soon as possible after the accident that gives rise to the claim, but in no case shall he or she file a claim more than six months after the accident or, in the case of an occupational disease, after the worker learns that he or she suffers from the disease.

Throughout the first year after a worker is injured, the employer shall make contributions for employment benefits in respect of the worker when the worker is absent from work because of the injury. However, the contributions are required only if,

- (a) the employer was making contributions for employment benefits in respect of the worker when the injury occurred; and
- (b) the worker continues to pay his or her contributions, if any, for the employment benefits while the worker is absent from work.

A worker who sustains an injury is entitled to such health care as may be necessary, appropriate and sufficient as a result of the injury and is entitled to make the initial choice of health professional for the purposes of this section.

MSI shall provide a worker with a labour market re-entry assessment if any of the following circumstances exist:

1. If it is unlikely that the worker will be re-employed by his or her employer because of the nature of the injury.
2. If the worker's employer has been unable to arrange work for the worker that is consistent with the worker's functional abilities and that restores the worker's pre-injury earnings.
3. If the worker's employer is not co-operating in the early and safe return to work of the worker.

Based on the results of the assessment, MSI shall decide if a worker requires a labour market re-entry program in order to enable the worker to re-enter the labour market and reduce or eliminate the loss of earnings that may result from the injury.

- The assessments consist of three types, Transferable Skills, Vocational Assessment and Psycho-vocational Assessment.
- The assessment chosen is based on a number of factors including; the wage earned by the injured worker. For lower wage earners MSI may utilize the transferable skills assessment. For higher paying workers that require retraining MSI may use a Vocational or Psycho-vocational Assessment
- The assigned vocational consultant has 45 days to meet with the worker, arrange and obtain the assessment results and submit in a report three occupations that they could potentially recommend based on the assessment results. The consultant recommends the most cost-effective reasonable option and creates an LMR program.
- The MSI DMRTWC reviews the LMR program submitted and either approves the LMR program or requests changes.

- Once an LMR program is approved the vocational consultant arranges for the implementation and the worker is monitored monthly until the completion of the LMR program.

This assessment also assists in determining potential **Future Economic Loss**. Benefits to replace lost future income will be available to workers who have a permanent injury. The calculation regarding future economic loss is based on 75% of the difference between the worker's gross pay before the injury and expected gross pay after the injury. These benefits are adjusted annually for inflation up to the maximum of 3%.

FIRST AID REQUIREMENTS & OCCUPATIONAL HEALTH & SAFETY GUIDE

As noted earlier in this handbook, one of the four major components of the Kahnawake Occupational Safety & Health Administration Program is **prevention**. MSI is committed to promoting occupational health & safety for all workplaces on MCK lands. Your responsibility encompasses both first aid requirements and occupational health and safety protocols.

The **first aid requirements** are outlined in **Appendix A** of this handbook.

In addition, we have included a Joint Health & Safety Policy & Procedure Manual for Employers, which is included in **Appendix B** of this handbook.

FREQUENTLY USED FORMS

| <u>Title</u> | <u>Purpose</u> | <u>Where</u> | <u>When</u> | <u>Who</u> |
|---|--|----------------|--|-------------------|
| MSI-008 Worker Form-A1 | Accident reporting form | MSI | As soon as possible following accident | Worker |
| MSI-009 Employer Form-EM1 | Accident reporting form | MSI | As soon as possible following accident | Employer |
| L-1 Form Letter to Hospital | To advise hospital to send all invoices/charges to MSI and not to CSST | MSI | As soon as possible following accident | Employer |
| MSI-010 Physician Form-D1 | To provide diagnosis, treatment recommendations, and medical restrictions related to workplace accident | MSI | Immediately following medical attention | Physician |
| MSI-005 Functional Abilities Form | To provide your employer with a list of your physical (functional) abilities to assist in return to work | Workplace /MSI | Your employer provides you this form at the time of injury or soon after | Worker |
| MSI-006 Preventative Withdrawal & Re-assignment Certificate | To provide a pregnant or breast-feeding worker re-assignment or preventative withdrawal certificate | MSI | Your employer provides you this form | Worker |
| MSI-011 MSI Program Complaint & Resolution Form | In cases of dispute | MSI | When there is dispute related to the program | Complaining party |

APPEALS PROCESS

The MSI on the Job Injury Program includes a conflict and resolution process which:

- Respects the need to resolve conflicts as soon as possible
- Allows for the participation of the worker, employer, and MSI team in the identification of a solution
- Recognizes the available options

MSI endorses an open door policy. The employers and workers must communicate their concerns and recommendations for resolution of the conflicts possible.

In cases where a worker or an employer are not in agreement with a decision regarding a claims decision or a return to work program, either party may make a complaint to the MSI Program Co-coordinator. The MSI team will be convened to review the complaint and make recommendations for the resolution of the conflict.

The complaint form relative to the MSI Program will be completed and given to the MSI Program Co-coordinator within 48 hours of the incident using the ***MSI Program Complaint & Resolution Form***.

The MSI Program Director will take the complaint form and forward a copy to the MSI team.

A meeting will be convened within 5 business days following receipt of the complaint. The resolution will be communicated to all parties within 24 hours of the team meeting.

If the worker remains unsatisfied with the conflict resolution, they may proceed to the SDU Committee.

DEFINITIONS

Worker

An eligible worker is a worker who has been declared by the participating employer and for which a premium has been paid.

Actively at Work

A worker is actively at work at any time in which he/she performs all of the usual and customary duties of their occupation where the employer's business requires the worker to be for the scheduled number of hours for that day.

Termination of Employment

Occurs at the time a person ceases to qualify under the definition of worker, or the date the worker ceases to be actively at work, whichever is the earlier.

Dependant

'Spouse' shall mean and include either a person who is married to an eligible worker or although not married to, has continuously resided with the worker for no less than one full year and who is publicly presented as the worker's spouse in the community in which they reside.

'Child' shall mean a person who is a natural child or legally adopted child of an eligible worker and or such worker's spouse and any other person in respect of whom a worker and/or such worker's spouse stands in loco parentis¹ and is claiming such as a dependant for Income Tax purposes or would qualify under the Income Tax Act (Canada).

'Dependant' shall mean a person who is the spouse or unmarried child who is dependant on the worker and/or the worker's spouse for support provided that: a) such child is under age 22 years, or b) is under age 25 years and is a full time student at an accredited educational institute.

Totally Disabled

A worker is totally disabled if the worker is wholly prevented by an 'accidental bodily injury' or an 'occupational illness/disease' from performing any work for compensation or profit for any gainful occupation.

Insurable Earnings

An insurable earnings means the salary that is declared by the employer, and on which a benefit is calculated.

Doctor

A qualified physician or surgeon duly licensed to practice medicine, and other licensed professional and medical specialists.

¹ "In place of a parent"

Medical Expenses

Expenses incurred by the worker following an accidental bodily injury or occupational illness/disease for medical treatment, must be accompanied by a referral from a licensed medical professional.

Medical Treatment

Services or supplies deemed necessary in order to provide the treatment of an accident bodily injury or occupational disease.

Accidental Bodily Injury

An unexpected and sudden injury suffered by a worker while performing his/her regular duties for the employer.

Occupational Illness/Disease

Occupational illness/disease means an illness/disease contracted out of or in the course of work and characteristic of that work or directly related to the risks peculiar to that work.

Injury

Whenever used in this program, means bodily injury caused by an accident occurring while this program is in force as to the worker whose injury is the basis of the claim and resulting directly or independently of all other causes in loss covered by the program provided such injury is sustained under the circumstances and in the manner described in 'description of hazards.'

Preventative Leave (Safe Maternity Program)

A pregnant worker may apply for this program, if her workplace becomes a danger to her and/or her unborn child. This must be confirmed by a licensed medical physician and meet the criteria of MSI.

Description of Hazards

The hazards against the coverage are provided under this program are injuries sustained by a worker while performing the normal and regular duties, which pertain to his/her occupation.

'His/her occupation' as used in this section means each and every occupation or task assigned by the employer that the worker is engage in for wage or profit on the date of the accident.

Social Development Unit Committee

The SDU Committee of the Mohawk Council of Kahnawake is responsible to provide input, guidance, and general direction to the MSI Program. This Committee replaces the former MSI Committee.

Mohawk Council of Kahnawake Safety Committee

A committee designated by the Mohawk Council of Kahnawake which is responsible to set up safety regulations which ensures the safety of all workers on the Mohawk territories.

Community Protection Safety & Health Inspectors

Hired by the Mohawk Council of Kahnawake and are responsible in enforcing safety regulations, inspecting the work place, investigating work related accidents and to report incidents.

MSI Program Safety Officer

The Program Safety Officer will act as a liaison officer between MSI and the employer, by ensuring that workplace safety is maintained at the highest level, and by working closely with employers under the MSI plan. The SPO will be visible, accessible and open to feedback regarding health & safety concerns as well as act as a liaison with the Safety Inspectors.