

Frequently Asked Questions About Injured Workers

The Bureau of Labor and Industries Technical Assistance for Employers unit receives a number of inquiries from employers about injured workers. Below is the second of our two part series with answers to your most frequently asked questions.

When may I put an injured worker on OFLA (Oregon Family Leave Act) Leave?

Until January 2008, when an injured worker was off work because of an injury accepted for workers' compensation benefits, you could count the absence against the worker's OFLA leave. As a practical matter, this meant that if an injured worker was off for 3 months, the worker would exhaust the worker's OFLA leave for that tracking year. This has changed! As of January 2008, injured worker absences may no longer run concurrently with OFLA leave. Thus, if an OFLA eligible worker is off work for an accepted workplace injury for 4 weeks, you cannot deduct that 4 weeks from the worker's OFLA bank. This means that a worker who requires time off because of an on the job injury may still be eligible for up to 3 months of OFLA leave in that same leave year. Be sure to review the OFLA rules to make that determination.

What if the employee refuses light duty?

When an employee has been injured on the job and is not yet medically stationary but released to light duty, the employer may provide suitable light duty if such work is available. If an employee refuses the light duty job that has been offered to them, the employee's right to reinstatement to their former job or, if disabled from that job, reemployment in a permanent job that meets their needs, ends. However, because of amendments to Oregon law enacted in 2007 that disallow injured worker and OFLA leave to be run concurrently, an employee may use available OFLA time in lieu of taking the light duty position. The law provides that when the injured worker refuses available light duty, they are automatically put on OFLA leave should they qualify. The employee may stay on OFLA leave until released to full duty or the worker exhausts the worker's OFLA leave.

When may I require a medical verification that an employee is able to work?

If a worker is injured on the job, you are free to ask the worker to provide medical verification that the worker is physically able to perform the job.

Further, when an injured worker who has been off work has been released for light duty, you may request medical verification that explains the worker's light duty restrictions. You may also ask that the worker's doctor to approve and sign off on the light duty job that you intend to offer the injured worker.

When an injured worker is released to full duty, you are free to ask that the worker provide a full duty release from the worker's doctor.

For more information on this and other employment law related topics, join Technical Assistance for Employers at an upcoming seminar: Wage and Hours Laws in Corvallis on May 20 and Pendleton on June 5; Leave Laws in Eugene on May 21, Portland on June 3, and La Grande on June 4; Workplace Harassment in Albany on May 22; and Effective Supervision in Ontario on June 3. For registration information, visit our website at www.oregon.gov/BOLI/TA or call 971-673-0825.