WORKERS' COMPENSATION AND DISABILITY LAWS

When your injured employee returned to work, you likely made modifications to their job and/or job site to accommodate their needs as they healed and became fully functional again. But what if your employee is permanently disabled, and now is part of the protected class of people covered by the Americans with Disabilities Act (ADA)? Satisfying your workers’ compensation obligation as an employer does not necessarily mean your obligations have been met under the ADA, as well as California’s Fair Employment & Housing Act (FEHA). A return to work program is voluntary, to help ease an injured employee’s transition back to work. But if your employee is disabled and coming back to work, accommodating their disability is no longer voluntary.

RETURN TO WORK AND ADA/FEHA – DUAL COMPLIANCE

The ADA is a federal law, which extends benefits to the disabled through the Civil Rights Act of 1964. California’s FEHA also dictates an employer’s legal responsibility to provide reasonable accommodations to a qualified employee with a disability. These acts are NOT related to California workers’ compensation law or benefits.

Please make sure that you consider possible ADA and FEHA requirements, even if you have met your obligations under workers’ compensation laws and regulations. If you have questions about ADA and FEHA, we strongly advise you to seek competent legal advice.

For information on the Americans with Disabilities Act, call the Equal Employment Opportunity Commission (EEOC) at 1-800-669-4000, or visit the EEOC Web site (www.eeoc.gov). For information regarding California’s FEHA, please contact the Department of Fair Employment and Housing at 1-800-884-1684, or or visit their Web site (http://dfeh.ca.gov). Other resources are available on the U.S. Department of Justice’s ADA Web site (http://www.ada.gov).