

State Dislocated Worker Program Desk Reference For Category Eight Non-Work-Related Injuries and Illnesses

2024 legislative updates to the State Dislocated Worker Program (DW) have expanded the eligibility criteria to new populations, including those with non-work-related injuries and illnesses. This Desk Reference provides guidance on eligibility requirements, best practices, and FAQs to stakeholders.

Required Criteria

Eligibility for State DW Program for non-work-related injuries and illnesses includes individuals who:

1. Have a non-work-related injury or illness(es), and,
2. Does not have a workers' compensation case, and
3. Needs support to reenter or remain in the workforce.

Defining “Non-Work-Related Injuries or Illnesses”

Injuries and illness that are the result of activities, accidents, or other personal tasks unrelated to employment or outside the work environment and may leave an individual unable to work.

Required Supplemental Documentation

Both of the following **are required**:

1. Documentation of injury/illness conditions (i.e., written note/form documentation from healthcare providers, referral form from MN RETAIN, etc. and,
2. Documentation or record of non-work relatedness (Self Attestation).

Note: Referral forms from MN RETAIN/DEED are considered ‘Documentation of injury/illness conditions’

Retaining Employment and Talent After Injury/Illness Network (MN RETAIN) Co-enrollment

- Individuals accessing the State DW Program through this eligibility criteria are encouraged to also be referred to MN RETAIN for eligibility determination within 15 business days of enrollment into State DW.
- MN RETAIN staff are available to determine MN RETAIN eligibility. They can be reached at healthcare@mnretain.com or 507-284-453.

MN RETAIN Co-Enrollment and Referral Frequently Asked Questions

Q: Will the DW Counselor co-case manage with the MN RETAIN Case Manager?

A: No. There are two separate counselors for the two separate programs. The MN RETAIN enrollment and case will be managed by the MN RETAIN Return-to-Work Case Manager.

Q: Are there communication plans for working jointly with the MN RETAIN Case Manager and the participant?

A: The MN RETAIN Return-to-Work Case Manager’s contact information is included in the referral document. Counselors are encouraged to communicate and coordinate as needed to best support the participant.

Q: Does the participant need to complete all enrollment documents for the DW program, or can some documents from the MN RETAIN counselor be transferred to Workforce One?

A: All standard enrollment procedures and required documentation for the DW program must be followed. The referral document is one of those acceptable documents that serves as proof of eligibility for State DW Category Eight enrollment. The referral document does not cover general eligible for the State DW Program (Minnesota residency, citizenship/worker authorization, etc.). Those still need to be confirmed by the DW counselor.

Q: Do we need to write a separate Individual Employment Plan (IEP), or will it be a joint plan with the MN RETAIN Counselor?

A: A new IEP must be created when enrolling into State DW. The MN RETAIN IEP primarily addresses accommodation needs, while the DW IEP focuses on employment and career development. Following [DEED’s IEP policy](#) and using the standard DW IEP format will be more useful to both the counselor and the participant.

Q: When a participant is referred to DW, are they considered “ready to work,” or do they require further assistance?

A: Participants referred to DW are considered ready for work, though many may be seeking a career change due to disability or health-related limitations. Counselors should conduct career assessments and employment goal discussions based on each participant's individual circumstances and goals following normal DW procedures.

Q: Will DW providers receive additional training on how to assist participants with accommodations, referrals to Vocational Rehabilitation Services (VRS), or other topics related to illness or injury?

A: Additional training can be scheduled as needed. However, all MN RETAIN referrals should be treated the same as any other participant seeking DW services. Counselors should provide services according to standard DW procedures, regardless of any visible impairments (participant in a wheelchair) or non-visible disabilities.

Q: When a referral is made, does this mean the participant's association or enrollment with MN RETAIN has ended?

A: Not necessarily. The participant's status with MN RETAIN varies on a case-by-case basis. Some participants may remain enrolled in MN RETAIN while also receiving DW services. Note that DW counselors will not be able to see MN RETAIN related case notes.

Q: What information is being provided to referred participants about DW services and requirements?

A: Currently, only basic information about the program is shared with the referred participants. DW Counselors are encouraged to share all relevant information about the program with the referred participant.

Q: Is it expected that Community Based Organizations (CBOs) and Small Layoffs Independent Grantees (SLIGs) utilize funding from the referring Workforce Development Area (WDA)?

A: DEED only receives the referral along with the CareerForce location selected by the participant for DW services. DEED's process is to refer the participant to the WDA's DW manager.

If that WDA subgrantee receives the referral from the WDA, it is best practice to consult with the WDA to determine whether the case should be enrolled under the WDA's COFFR or if the subgrantee may proceed using their own grant/ SLIG grant funds.

Q: Is there an estimated number of referrals expected?

A: The number of referrals will depend on the CareerForce locations that MN RETAIN participants select as their preferred location for receiving DW services.

General Category Eight Frequently Asked Questions

Q: What is the "work environment"?

A: The U.S. Department of Labor's (DOL) Occupational Health and Safety Administration (OSHA) defines the work environment as "the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of their work."

Q: *Are there situations where an injury or illness occurs in the work environment and is not considered work-related?

A: Yes, an injury or illness occurring in the work environment that falls under one of the exceptions listed in [29 CFR 1904.5\(b\)\(2\)](#) are defined as non-work related.

Q: Who is providing RETAIN programming in the metro area? How will connections to RETAIN projects take place?

A: Mayo Clinic is MN RETAIN's lead healthcare provider. They have a dedicated Return-to-Work Case Management Team that provides case management services across Minnesota. They primarily operate virtually but have staff available to meet in-person if requested.

Q: Will DW case notes be private due to medical and Health Insurance Portability and Accountability Act (HIPAA) related information?

A: Case notes should follow standard protocols when it comes to medical information. Counselors must adhere to HIPAA requirements when handling or referencing medical information.

For example, documents containing identifiable health information such as health status, provision of health care, or payment for health care must be marked as "private" within Electronic Data Storage (EDS) to ensure confidentiality in accordance with all federal and state guidance related to confidentiality and the handling of protected information. Refer to [DEED's EDS Policy](#) for additional information if needed.

Q: Can participants have a workers' compensation case pending and still be eligible?

A: No. Participants cannot have a current or pending workers' compensation case and have no intentions to submit a case.

Q: If a person is already employed and receiving income while injured/ill, can they be eligible under this category? What would disqualify them from continuing to receive DW services?

A: Yes, participants can be employed and receiving income while injured/ill. However, the employment must be considered a stop gap employment. Refer to the State DW Eligibility Policy which outlines disqualifying reasons requiring an exit.

Note: See below for additional information about referrals to VRS.

Q: At what point would a referral be made to Vocational Rehabilitation Services or other programming?

A: There are no "one size fits all" timelines when it comes to returning to work after an illness or injury. Staff should use their best assessment of the participant's needs, and if those needs (i.e., job coaching, more intensive accommodations or services needed) are greater than what MN RETAIN can provide and/or their 6-month eligibility period for services through MN RETAIN is ending, a VRS referral would be appropriate.

Q: All WDAs and CBOs have different application forms and processes, but also must follow all of the same DEED, DOL, and Local policies.

A: Correct.