



WHAT IS THE MANDATORY ALTERNATE DUTY PROGRAM?

New York State and the Public Employees' Federation (PEF) negotiated a Mandatory Alternate Duty Program that allows employees receiving Workers' Compensation benefits to return to work in an assignment that meets both the needs of the agency and the medical limitations of employees.

This program was negotiated by PEF and the State as part of the changes in the Workers' Compensation benefit in the 1991-1995 agreement and continues through the 2023-2026 agreement. Employees benefit from this program by receiving their regular salaries during the alternate duty assignment. Agencies benefit by being able to utilize the capabilities of these employees who would otherwise be unable to return to work.

The term "mandatory" as used in this program means that if you meet the eligibility criteria and request a mandatory alternate duty assignment, you must be offered an assignment or your agency will have to pay you a Workers' Compensation benefit supplement as if you are totally disabled. Alternatively, if you meet the eligibility criteria, your agency may require you to return to work in a mandatory alternate duty assignment even if you do not request it. Once a determination is made that you are 50% or less disabled your supplemental payments cease. The only way to receive compensation other than the statutory benefit is to request a mandatory alternate duty assignment or challenge the disability determination in a WCB hearing.

NOTE: Most agencies require that the injured employee request an alternate duty assignment. It is a good idea to make such requests in writing so that they are documented.

Eligibility Requirements

You are able to participate in the Mandatory Alternate Duty Program if you meet the following criteria:

- You must be classified as partially disabled at 50% or less by the State Insurance Fund;
- AND -
- You must have a prognosis of full recovery within 60 calendar days. **Full recovery is defined as the ability to perform the full duties of the job you held when injured.** These medical findings may occur as a result of an examination by a State Insurance Fund consulting physician or by your own physician. Your agency determines what documentation will be acceptable to establish your eligibility and determine your physical limitations.

Mandatory Alternate Duty Assignments

A mandatory alternate duty assignment is a short-term assignment (up to 60 calendar days per injury) that reflects your physical limitations as described in the medical documentation accepted by management.

Please note that your MAD assignment may be extended at management's discretion.

Your assignment may involve performing some duties of your regular position, some duties of another position, or a combination of tasks from several positions. Your assignment may also be performing the same duties for the entire period, or may consist of a series of different assignments, each performed for a specific period of time.

You should receive the following information when offered a mandatory alternate duty assignment by your agency:

- a. Description of the proposed alternate duties
- b. Location of the assignment
- c. Work hours and workweek
- d. Name of your supervisor
- e. Starting and ending dates

Your agency is expected to make every effort to tailor the assignment to your specific limitations and to discuss the assignment with you. The assignment may not necessarily fall within your regular title, grade, or job duties. Your agency is not required to provide you with your regular work location, schedule, or workweek. However, once a mandatory alternate duty assignment is established for a fixed period of time, the provisions of Article 32 (Workday/Workweek) cover you during that same period.

While performing a mandatory alternate duty assignment, you receive your regular salary and are treated like any other employee in full pay status for attendance and leave and benefit purposes. It is the policy of the State to attempt to place employees in mandatory alternate duty assignments that are as close to their regular title and duties as possible based on the needs of the agency.

The mandatory alternate duty assignment will be based on the medical documentation accepted by management. If you believe that some part of the proposed assignment constitutes a personal hardship, you may express your concern to the appropriate agency official. Your agency will respond in writing prior to the proposed start of your assignment or as soon thereafter as possible. You may not grieve your agency's determination. You should provide a copy of your request and management's response to your PEF representative.

Applying for a Mandatory Alternate Duty Assignment

Contact your agency to request a mandatory alternate duty assignment. You can request a mandatory alternate duty assignment 65 days before your full recovery date. However, you are not entitled to receive an assignment until 60 days before your full recovery date.

Once you meet the eligibility requirements, request a mandatory alternate duty assignment, and provide your agency with acceptable medical documentation, your agency must do one of the following:

1. Offer a mandatory alternate duty assignment for up to 60 calendar days which takes into account your physical limitations.

- OR -

2. If a mandatory alternate duty assignment cannot be provided, arrange for you to receive a supplemental payment that will provide you with 60% of your gross income when added to the SIF payment. The supplement will not be paid beyond the point the mandatory alternate duty assignment would have expired.

You are not required to apply for a mandatory alternate duty assignment, but your agency may direct you to return to work on a mandatory alternate duty basis if you meet the eligibility criteria. If you decline a mandatory alternate duty assignment, you will be referred to the State Insurance Fund for a benefit determination.

If you meet the eligibility requirements and do not request a mandatory alternate duty assignment, or your agency does not direct you to return to work, you will continue to receive wage replacement benefits from the State Insurance Fund in accordance with the Workers' Compensation Law until you are fully recovered. However, you will not receive the supplement.

Disabilities beyond 60 days

If the disability continues beyond the 60 days, the employee may request and extension of the assignment. If the extension is not granted by management, the employee continues to receive wage replacement benefits from the State Insurance Fund in accordance with the Workers' Compensation Law until you are fully recovered.