

WAC 296-62-07629 Medical removal protection benefits. (1) Provisions of medical removal protection benefits. The employer must provide to an employee up to six months of medical removal protection benefits on each occasion that an employee is removed from exposure to MDA or otherwise limited pursuant to this section.

(2) Definition of medical removal protection benefits. For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer must maintain the earnings, seniority, and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to MDA or otherwise limited.

(3) Follow-up medical surveillance during the period of employee removal or limitations. During the period of time that an employee is removed from normal exposure to MDA or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to WAC 296-62-076.

(4) Workers' compensation claims. If a removed employee files a claim for workers' compensation payments for an MDA-related disability, then the employer must continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation must be reduced by such amount. The employer must receive no credit for workers' compensation payments received by the employee for treatment-related expenses.

(5) Other credits. The employer's obligation to provide medical removal protection benefits to a removed employee must be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from non-MDA-related employment with any employer made possible by virtue of the employee's removal.

(6) Employees who do not recover within the six months of removal. The employer must take the following measures with respect to any employee removed from exposure to MDA:

(a) The employer must make available to the employee a medical examination pursuant to this section to obtain a final medical determination with respect to the employee;

(b) The employer must ensure that the final medical determination obtained indicates whether or not the employee may be returned to their former job status, and, if not, what steps should be taken to protect the employee's health;

(c) Where the final medical determination has not yet been obtained, or, once obtained indicates that the employee may not yet be returned to their former job status, the employer must continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to their former job status; and

(d) Where the employer acts pursuant to a final medical determination which permits the return of the employee to their former job status, despite what would otherwise be an abnormal liver function test, later questions concerning removing the employee again must be decided by a final medical determination. The employer need not automatically remove such an employee pursuant to the MDA removal criteria provided by WAC 296-62-076.

(7) Voluntary removal or restriction of an employee. Where an employer, although not required by WAC 296-62-076 to do so, removes an employee from exposure to MDA or otherwise places limitations on an employee due to the effects of MDA exposure on the employee's medical condition, the employer must provide medical removal protection benefits to the employee equal to that required by this section.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 19-01-094, § 296-62-07629, filed 12/18/18, effective 1/18/19. Statutory Authority: Chapter 49.17 RCW. WSR 93-04-111 (Order 92-15), § 296-62-07629, filed 2/3/93, effective 3/15/93.]