



TBI-BH ECHO

Traumatic Brain Injury - Behavioral Health ECHO
UW Medicine | Psychiatry and Behavioral Sciences

Returning to Work after TBI

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TBI-BH ECHO

Speaker disclosures

- ✓ No conflicts of interest

The following series planners have no conflicts of interest:

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Focusing on

- Returning to work after TBI
- Early intervention strategies
- Disclosure: when & how
- Employment rights (ADA, FMLA)
- ADA based job accommodations
- Job accommodation guidelines



Value of Employment

Work-Life-Health Balance

- Quality of life
- Maintenance of identity
- Physical & emotional health
- Financial security
- Healthcare benefits
- Change in employment status can impact individual & family



Value of Employment

Work-Life-Health Balance

10 years post-TBI - Quality of Life⁴

- ✓ Greater independent function
- ✓ Less disability
- ✓ Community participation
- ✓ **Being employed**
- ✓ Fewer depression & anxiety symptoms



Traumatic Brain Injury

Return to Work

Mild TBI (mTBI)¹

- 50% (1 month post injury)
- 80% (6 months post injury)

Moderate Severe TBI (msTBI)²

- 1/2 (employed post injury)
- 1/3 (returned to pre-injury level work)
 - 35% (1 year post injury)
 - 42% (up to 5 years post injury)
 - 50% (after 5 years post injury)
- Work related difficulties, more likely
- Work part-time
- Lower RTW rates



Return to Work Risk Factors in TBI patients³



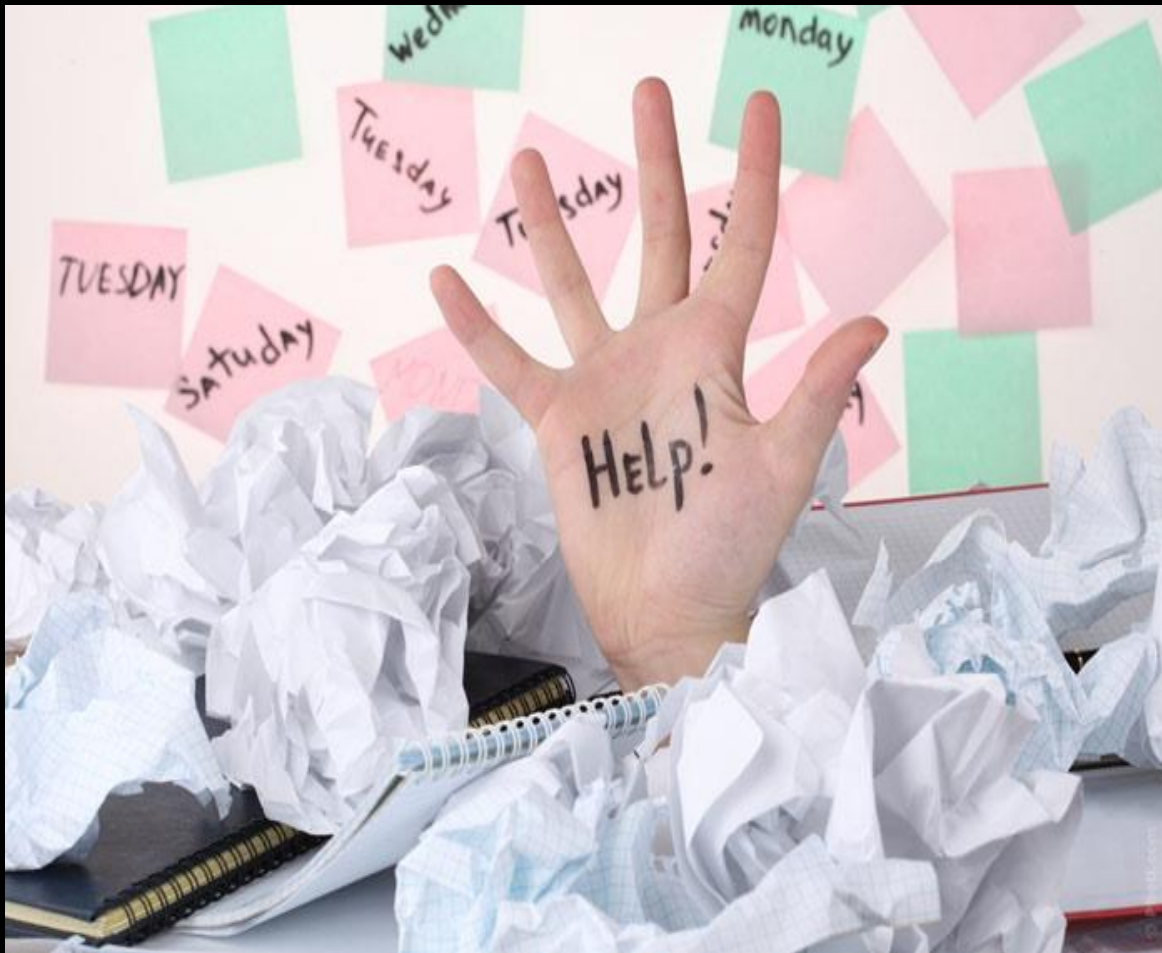
- TBI severity
- Hospital LOS
- Cognitive impairment
- Impaired awareness
- Fatigue
- Depression
- Lack of social support
- RTW too early

Return to Work Predictors in TBI patients³



- Strong work history
- RTW motivation
- Financial incentives
- Medical leave options
- Job accommodations
- Employer support
- Social support
- Access to Vocational Rehabilitation

Employment Impact



- Job performance problems
- Cognitive limitations (errors, missed deadlines)
- Physical demands exceed physical abilities
- Fatigue
- Loss of productivity
- Attendance problems

Employment Impact

- Negative feedback
- Under increased scrutiny
- Poor job performance review
- Performance Improvement Plan
- Value diminished
- Employer / HR ask about job accommodation need
- Building case against employee
- Job in jeopardy



Patients & families often have fear,
uncertainty and concerns about the
impact of brain injury on work.



Employment Challenge is often unreported to healthcare providers

- Assume work difficulties unrelated to TBI
- Minimize the importance of events
- Feel embarrassed to admit work problems
- Lack of awareness of deficits & job impact
- False sense of employment protection due to misunderstanding of disability rights
- Challenge reported in employment crisis



Impact of Health Changes on Employment

Questions to ask our patients



- Do you have difficulty performing your job duties?
- Have you received negative feedback on your job performance?
- Does it take you longer to complete tasks?
- Are you behind in your work or putting in extra hours to keep up?



Impact of Health Changes on Employment

Questions to ask our patients



- Do you miss work, arrive late or leave early? How often?
- Have you reduced or eliminated activities after work or on weekends?
- What percentage of your energy is spent on work?



When Facing Job Challenge



**KEEP
CALM
AND
PLAN YOUR
APPROACH**

- Don't panic or make rash decisions
- Approach rationally
- Engage in problem solving
- Explore options
- Don't immediately quit, change jobs or reduce hours
- Don't disclose health info
- Consider level of urgency:
 - *Are you the only one aware?*
 - *Negative feedback?*
 - *Facing discipline or termination?*

When Facing Job Challenge

- Seek guidance from healthcare team
- Share level of urgency
- Clinical evaluation
- Interdisciplinary care
- Treatment goal: *symptom improvement/management*
- Collect information: *benefits & work options*



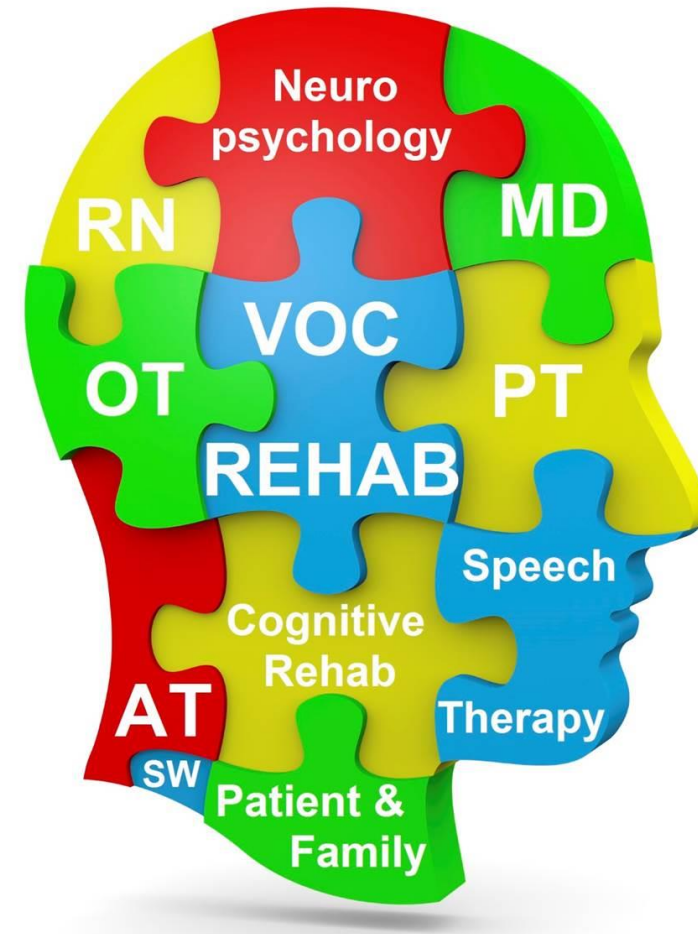
Interdisciplinary Team

- ✓ Work barriers & solutions may not be apparent in clinic visit



Interdisciplinary Team

- ✓ Work barriers & solutions may not be apparent in clinic visit
- ✓ Early intervention: increases work outcomes
- ✓ Collaborative care: identify barriers & develop job supports. Make informed decisions about when to return to work and in what capacity



Brain Injury and Employment

**Returning to work after
brain injury is a process.
Not an event.**



Early Intervention

- The journey back to work begins at the point of brain injury
- Do not comment on RTW potential in early stages. Focus on recovery & rehabilitation
- Request medical leave of absence
- Buy time: Family & Medical Leave Act (FMLA) and short-term disability



Early Intervention

- Encourage limited disclosure & communication with employer/coworkers
- No work, including phone & email
- Discuss timeframe of recovery to set patient/family realistic expectations
- Direct & coordinate interdisciplinary care
- Refer to Vocational Rehabilitation





Employment & Disability

Disclosure 101

Job Protection

DISABILITY RIGHTS



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Question: *Should I tell my employer about my disability?*

- Simple answer: NO
- Consider purpose of disclosure
Obligated, Support, Understanding
- Attention on medical condition rather than employment activity
- Perceived value of employee
- Disability discrimination
- Control of information, decision making



Guidelines for Disclosure

Employee perspective

- Under no legal obligation to disclose health:
 - Job interview, hiring or employment
 - Diagnosis or symptom change
 - Avoid FYI disclosures
- Only when addressing employment needs:
 - Job accommodation/modification (ADA)
 - Family & Medical Leave Act (FMLA)
 - Disclose only what is necessary
 - Begin with HR (forms, requirements to maintain confidentiality)



Question: *Can my employer fire me if I have a disability?*

✓ YES

- Must meet essential job demands
- Poor performance
 - Discipline
 - Termination
 - Loss of medical
 - No access to Short / Long-term Disability benefits



Question: *Can my employer fire me if I have a disability?*



✓ Early Intervention

- When employee is at risk
- Contact healthcare team
- Advise against quitting job
- Request medical leave
 - Use FMLA
 - Use WA PFML
 - Short-term Disability
 - Medical & Rehab
 - Employment Support

Family & Medical Leave Act

- Federal program
- Provides 12 work weeks of unpaid leave
- Protects job and health insurance benefits
- Leave options: Continuous or Intermittent
- Eligibility requirements:
 - ✓ Serious health condition that makes the employee unable to perform the essential functions of the job
 - ✓ Employer \geq 50 employees
 - ✓ Employee worked \geq 12 months
 - ✓ Employee worked \geq 1,250 hours past year (25 hrs/wk)



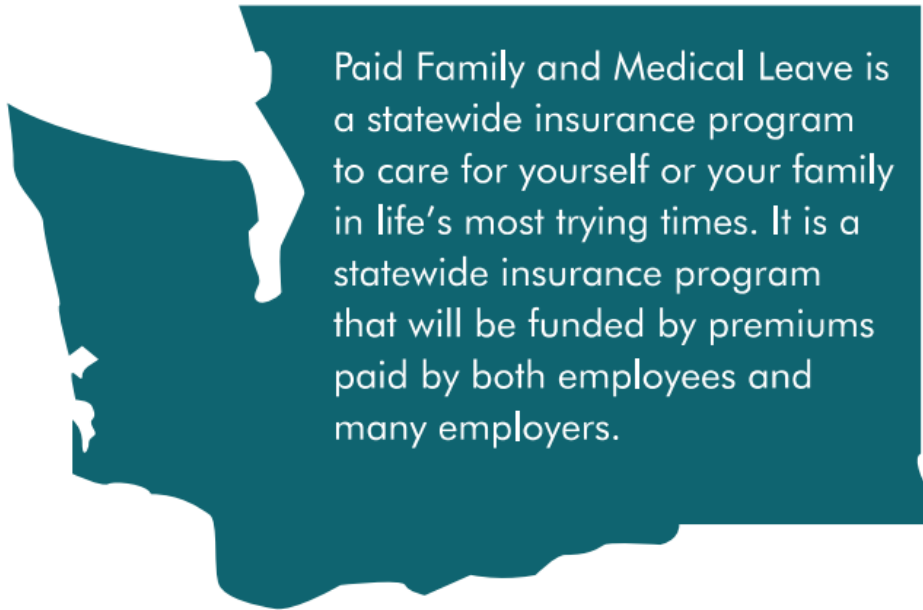
ADA Leave

- Request medical leave as an ADA-based job accommodation
- Use when FMLA is not available:
 - ❖ Employer fewer than 50 employees
 - ❖ Employed less than 12 months
 - ❖ Employee worked fewer than 1,250 hours past year
 - ❖ Employee has exhausted FMLA leave
- ADA leave cannot be an indefinite amount
- Follow FMLA format



WA Paid Family & Medical Leave

Washington's Paid Family and Medical Leave Program



- WA Employment Security
- 12 weeks paid leave
- Continuous / Intermittent
- Does NOT protect job & benefits (federal FMLA)
- Coverage: self or family
- Eligible: 820+ work hours past year
- 90% wage replacement (up to \$1,300 per week)

Question: *What are my employment rights?*

**DISABILITY
RIGHTS
ARE CIVIL
RIGHTS**

- Americans with Disabilities Act (ADA)
- Federal civil rights protection for individuals with disabilities
- Prohibits employment discrimination
- Employer \geq 15 employees (ADA)
- Employer \geq 8 employees (WA)

Question: *What are my employment rights?*

- Must be qualified for the job
- Able to perform essential functions *with or without accommodation*
- Employer not required to:
 - Eliminate essential functions
 - Create new jobs
 - Lower production standards
 - Approve request from provider



Practical Guidelines

- ▶ Put all accommodation requests in writing
- ▶ Be specific: Do not describe all symptoms
- ▶ Symptom → Accommodation → Resolution
- ▶ Must meet essential job demands
- ▶ Review job description
- ▶ Consider changes to non-essential tasks
- ▶ Perception: Cognitive v. Stamina/Fatigue challenge
- ▶ Risk of accommodation interpreted as “medical restrictions” → document unable to perform job
- ▶ Avoid absolute terms. Use, “Would benefit from...”



Practical Guidelines

- ▶ Private: not disclosed to co-workers
- ▶ Accommodation ≠ Employment privilege
- ▶ Permanent: as long as the need exists
- ▶ Consider temporary accommodations when permanent not an option (trial basis, light duty)
- ▶ Employers can request additional medical information
- ▶ Do not release medical records to employer
- ▶ Use physician letter or employer forms
- ▶ Submit accommodation to HR, not supervisor





Rights & Resources

Job Accommodation Network

JAN
Job Accommodation Network

About JAN JAN en Español Contact

A to Z ADA Library Accommodation Search Publications Training Resources

Have questions about workplace accommodations or the Americans with Disabilities Act (ADA)?
Ask us. We can help.

Live Chat
+
Show Reader

A to Z of Disabilities and Accommodations

- Select a Category - - Select a... - Go

<https://askjan.org/>

For Employers



- Private Employers
- Federal Employers
- State & Local Governments



JAN Workplace Accommodation Toolkit

For Individuals



- Employees
- Job Seekers
- Entrepreneurs

For Others



- Rehabilitation & Medical Professionals
- Union Representatives
- Attorneys & Legal Representatives

CONNECT WITH JAN AT (800) 526-7234 (VOICE) OR
(877) 781-9403 (TTY)

If you have a question about workplace accommodations or the Americans with Disabilities Act (ADA) and related legislation, ask us.

JAN on Demand

Live Help



Accommodation and Compliance Series

Accommodation and Compliance Series: Employees with Brain Injury

Job Accommodation Network
PO Box 6080
Morgantown, WV 26506-6080
(800)526-7234 (V)
(877)781-9403 (TTY)
jan@askjan.org
AskJAN.org



Funded by a contract with the Office of Disability Employment Policy, U.S. Department of Labor



Effective Accommodation Practices (EAP) Series

Job Accommodations for People with Cognitive Impairment

Job Accommodation Network
PO Box 6080
Morgantown, WV 26506-6080
(800)526-7234 (V)
(877)781-9403 (TTY)
jan@askjan.org
askjan.org



A service of the U.S. Department of Labor's Office of Disability Employment Policy



TBI-BH ECHO

Serve people with disabilities who want to work but face substantial barriers to finding or keeping a job.

- Training, education, tools, equipment, technology, & some medical services
- Community based assessments (CBA)
- Job seeking skills
- Job placement
- Employment retention



Washington State
Department of Social
& Health Services

DVR

Division
of Vocational
Rehabilitation



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Employment & Disability Resources

Job Accommodation Network

<https://askjan.org/>

ADA National Network

<https://adata.org/>

United States Department of Justice, Civil Rights Division

ADA Homepage

<https://www.ada.gov/>

Family & Medical Leave Act

<https://www.dol.gov/agencies/whd/fmla>

WA Paid Family & Medical Leave

<https://paidleave.wa.gov/>



Employment & Disability Resources

US Equal Employment Opportunity Commission (EEOC)

<https://www.eeoc.gov/>

Washington State Human Rights Commission

<https://www.hum.wa.gov/>

WA State Division of Vocational Rehabilitation

<https://www.dshs.wa.gov/dvr/services-individuals-disabilities>

State Vocational Rehabilitation Agencies

<https://askjan.org/concerns/State-Vocational-Rehabilitation-Agencies.cfm>



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