
HOUSE BILL 1465

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Cole, R. King, Jones, Heavey, Franklin and O'Brien.

Read first time January 30, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to industrial insurance vocational rehabilitation
2 services; and amending RCW 51.32.095.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.32.095 and 1988 c 161 s 9 are each amended to read
5 as follows:

6 (1) One of the primary purposes of this title is to enable the
7 injured worker to become employable at gainful employment. To this
8 end, the department or self-insurers shall utilize the services of
9 individuals and organizations, public or private, whose experience,
10 training, and interests in vocational rehabilitation and retraining
11 qualify them to lend expert assistance to the supervisor of industrial
12 insurance in such programs of vocational rehabilitation as may be
13 reasonable to make the worker employable consistent with his or her
14 physical and mental status. Where, after evaluation and recommendation
15 by such individuals or organizations and prior to final evaluation of

1 the worker's permanent disability (~~and in the sole opinion of the~~
2 ~~supervisor or supervisor's designee~~), whether or not medical treatment
3 has been concluded, vocational rehabilitation is both necessary and
4 likely to enable the injured worker to become employable at gainful
5 employment, the supervisor or supervisor's designee (~~may, in his or~~
6 ~~her sole discretion,~~) shall pay or, if the employer is a self-insurer,
7 direct the self-insurer to pay the cost as provided in subsection (3)
8 of this section.

9 (2) When (~~in the sole discretion of the supervisor or the~~
10 ~~supervisor's designee~~) vocational rehabilitation is both necessary and
11 likely to make the worker employable at gainful employment, then the
12 following order of priorities shall be used:

13 (a) Return to the previous job with the same employer;

14 (b) Modification of the previous job with the same employer
15 including transitional return to work;

16 (c) A new job with the same employer in keeping with any
17 limitations or restrictions;

18 (d) Modification of a new job with the same employer including
19 transitional return to work;

20 (e) Modification of the previous job with a new employer;

21 (f) A new job with a new employer or self-employment based upon
22 transferable skills;

23 (g) Modification of a new job with a new employer;

24 (h) A new job with a new employer or self-employment involving on-
25 the-job training;

26 (i) Short-term retraining and job placement.

27 (3) (a) Costs for vocational rehabilitation benefits allowed by the
28 supervisor or supervisor's designee under subsection (1) of this
29 section may include the cost of books, tuition, fees, supplies,
30 equipment, transportation, child or dependent care, and other necessary

1 expenses for any such worker (~~in an amount not to exceed three~~
2 ~~thousand dollars in any fifty-two week period~~), and the cost of
3 continuing the temporary total disability compensation under RCW
4 51.32.090 while the worker is actively and successfully undergoing a
5 formal program of vocational rehabilitation. Such expenses may include
6 the cost of job placement services, training fees for on-the-job
7 training, and the cost of furnishing tools and other equipment
8 necessary for self-employment or reemployment(~~(:—PROVIDED, That~~
9 ~~such))~~.

10 (b) The compensation or payment of retraining with job placement
11 expenses authorized under this section may not be authorized for a
12 period of more than fifty-two weeks(~~(:—PROVIDED FURTHER, That such~~
13 ~~period may, in the sole discretion of the supervisor after his or her~~
14 ~~review, be extended for an additional fifty-two weeks or portion~~
15 ~~thereof by written order of the supervisor))~~, except that if the
16 injured worker's vocational rehabilitation plan includes education or
17 training at a vocational institution, community college, or institution
18 of higher education, the period may be extended for a maximum
19 additional one hundred fifty-six weeks by written order of the
20 supervisor.

21 (c) In cases where the worker is required to reside away from his
22 or her customary residence, the reasonable cost of board and lodging
23 shall also be paid. (~~Said~~) These costs shall be chargeable to the
24 employer's cost experience or shall be paid by the self-insurer, as the
25 case may be.

26 (4) The department shall establish criteria to monitor the quality
27 and effectiveness of rehabilitation services provided by the
28 individuals and organizations used under subsection (1) of this
29 section. The state fund shall make referrals for vocational
30 rehabilitation services based on these performance criteria.

1 (5) Injured workers who, at the time of a finding of employability
2 under this section, have not returned to work with the employer of
3 injury or have not otherwise returned to gainful employment shall be
4 provided job placement services. The department shall engage in, where
5 feasible and cost-effective, a cooperative program with the state
6 employment security department to provide job placement services under
7 this section.

8 (6) The benefits in this section shall be provided for the injured
9 workers of self-insured employers. Self-insurers shall report both
10 benefits provided and benefits denied under this section in the manner
11 prescribed by the department by rule adopted under chapter 34.05 RCW.
12 The director may, in his or her sole discretion and upon his or her own
13 initiative or at any time that a dispute arises under this section,
14 promptly make such inquiries as circumstances require and take such
15 other action as he or she considers will properly determine the matter
16 and protect the rights of the parties.

17 (7) A worker shall have the right to choose a vocational counselor
18 subject to the approval of the supervisor that the counselor selected
19 meets the standards and criteria established by the department.

20 (8) The benefits provided for in this section are available to any
21 otherwise eligible worker regardless of the date of industrial injury.
22 However, claims shall not be reopened solely for vocational
23 rehabilitation purposes.

24 (9) For the purposes of this section:

25 (a) "Gainful employment" means employment or self-employment which
26 is reasonably attainable and restores the injured worker as soon as
27 possible to an economic status and earning capacity as close as
28 possible to that which the worker would have had without the disability
29 or injury.

1 (b) "Employable" means having the skills and training commonly and
2 currently necessary in the labor market to be gainfully employed on a
3 reasonably continuous basis considering the worker's age, education,
4 experience, and physical and mental capabilities resulting from the
5 industrial injury. For a worker to be considered "employable," a
6 determination must be made that the worker is able to compete
7 successfully in the labor market.