

WAC 296-19A-010 Definitions. (1) What does it mean to say an injured worker is employable?

(a) "Employable" means having the skills and training that are commonly and currently necessary in the labor market to be capable of performing and obtaining gainful employment on a reasonably continuous basis when considering the worker's:

- (i) Age, education, and experience;
- (ii) Preexisting physical and mental limitations; and
- (iii) Physical and mental limitations caused, at least in part, by the worker's industrial injury or occupational disease.

(b) Physical and/or mental conditions that arose after the industrial injury/occupational disease that were not caused or aggravated by the industrial injury/occupational disease are not considered in determining whether the worker is employable under the Industrial Insurance Act.

(c) If there are no physical or mental restrictions caused by the worker's industrial injury/occupational disease, the worker must be found employable under the Industrial Insurance Act.

(2) **What are vocational rehabilitation services?** Vocational rehabilitation services are those provided by a vocational rehabilitation provider and include, but are not limited to, the following:

(a) Gathering industrially injured or ill workers' work and/or education histories and physical capacities information;

(b) Assessing industrially injured or ill workers' employability;

(c) Developing, documenting, and writing vocational rehabilitation plans;

(d) Monitoring injured workers' progress during training;

(e) Writing progress reports;

(f) Analyzing and documenting the transferable skills of the injured worker and writing transferable skills analyses;

(g) Performing occupational research;

(h) Conducting labor market surveys and writing labor market survey reports;

(i) Conducting and writing job analyses;

(j) Communicating with industrially injured or ill workers, employers, physicians and others;

(k) Developing job modifications and work site modifications, as well as prejob accommodations, and writing reports for this work;

(l) All work done to obtain any job with any employer for injured workers referred for vocational rehabilitation services; and

(m) Providing the Option 2 vocational services listed in WAC 296-19A-631.

(3) **What is a vocational rehabilitation provider (provider)?** A provider is any person, firm, partnership, corporation, or other legal entity that provides vocational rehabilitation services to industrially injured or ill workers, pursuant to Title 51 RCW. A provider must meet the qualifications listed in WAC 296-19A-210.

(4) **What is an injured worker's labor market?** Generally, the worker's relevant labor market is the geographic area where the worker was last gainfully employed. The labor market must be within a reasonable commuting distance and be consistent with the industrially injured or ill worker's physical and mental capacities. The exceptions to this rule are listed in the table below:

When a worker:	Then the department:
<ul style="list-style-type: none"> • Relocates to a labor market other than at the time of injury and • Returns to work and • Suffers an aggravation of the work-related condition. 	<p>Uses the labor market where the industrially injured or ill worker worked at the time of the aggravation. This applies whether the department closed and reopened the claim or whether the claim remained open during the period of aggravation.</p>
<ul style="list-style-type: none"> • Relocates after the industrial injury/illness or aggravation and • Now lives in a labor market with more employment opportunities than where the industrially injured or ill worker worked at the time of injury. 	<p>Uses the industrially injured or ill worker's current labor market. For example, an industrially injured or ill worker was injured in Forks but after the injury, moves to Tacoma. Provider would use Tacoma as the industrially injured or ill worker's labor market.</p>
<ul style="list-style-type: none"> • Relocates to a labor market other than at the time of injury or onset of illness and • The move was proximately caused by the medical condition arising from the occupational injury or disease. 	<p>Uses the injured or ill worker's current labor market. For example, an industrially injured or ill worker moves to a drier climate due to an accepted asthma condition. Provider would use the labor market in the drier climate.</p>

(5) **What is a labor market survey (LMS)?** It is a survey of employers in an industrially injured or ill worker's labor market to obtain specific information (such as physical demands and qualifications) related to job possibilities.

(6) **What is a job analysis (JA)?** It is the gathering, evaluating, and recording of accurate, objective data about the characteristics of a particular job.

(7) **What is a transferable skill?** Transferable skills are any combination of learned or demonstrated behavior, education, training, work traits, and work-related skills that can be readily applied by the worker. They are skills that are interchangeable among different jobs and workplaces. Nonwork-related talents or skills that are both demonstrated and applicable may also be considered.

(8) **What is a transferable skills analysis?** It is a systematic study of the transferable skill or skills a worker has demonstrated to see if that skill set makes him/her employable.

(9) **What are job modifications?** Job modifications are adjustments or alterations made to the way a job is performed to accommodate the restrictions imposed by an industrial injury or occupational disease. The purpose of job modification benefits is to encourage employers to modify jobs to retain or hire injured workers. Job modifications are used when an employer-employee relationship exists, and they may include worksite adjustment; job restructuring; and/or tools, equipment or appliances.

(10) **What are prejob accommodations?** Prejob accommodations are adjustments or alterations made to the way a job is performed to accommodate the restrictions imposed by an industrial injury or occupa-

tional disease. The purpose of prejob accommodation benefits is to make it possible for the worker to perform the essential functions of a job. Accommodations are used when an industrially injured or ill worker is engaged in a vocational rehabilitation plan or in a job search, and they may include tools, equipment or appliances.

[Statutory Authority: RCW 51.04.020, 51.04.030 and 2015 c 137. WSR 17-19-089, § 296-19A-010, filed 9/19/17, effective 10/20/17. Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. WSR 03-11-009, § 296-19A-010, filed 5/12/03, effective 2/1/04; WSR 00-18-078, § 296-19A-010, filed 9/1/00, effective 6/1/01.]