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ENGROSSED HOUSE BILL 1653

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State of Washington                      53rd Legislature                      1993 Regular Session

By Representatives King, Lisk, G. Cole and Fuhrman

Read first time 02/05/93. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to vocational rehabilitation in industrial  
2 insurance; amending RCW 51.32.095; and adding a new section to chapter  
3 51.12 RCW.

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

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

7            (1) One of the primary purposes of this title is to enable the  
8 injured worker to become employable at gainful employment. To this  
9 end, the department or self-insurers shall utilize the services of  
10 individuals and organizations, public or private, whose experience,  
11 training, and interests in vocational rehabilitation and retraining  
12 qualify them to lend expert assistance to the supervisor of industrial  
13 insurance in such programs of vocational rehabilitation as may be  
14 reasonable to make the worker employable consistent with his or her  
15 physical and mental status. Where, after evaluation and recommendation  
16 by such individuals or organizations (~~and prior to final evaluation of~~  
17 ~~the worker's permanent disability~~)) and in the sole opinion of the  
18 supervisor or supervisor's designee, whether or not medical treatment  
19 has been concluded, vocational rehabilitation is both necessary and

1 likely to enable the injured worker to become employable at gainful  
2 employment, the supervisor or supervisor's designee may, in his or her  
3 sole discretion, pay or, if the employer is a self-insurer, direct the  
4 self-insurer to pay the cost as provided in subsection (3) of this  
5 section.

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

- 10 (a) Return to the previous job with the same employer;
- 11 (b) Modification of the previous job with the same employer  
12 including transitional return to work;
- 13 (c) A new job with the same employer in keeping with any  
14 limitations or restrictions;
- 15 (d) Modification of a new job with the same employer including  
16 transitional return to work;
- 17 (e) Modification of the previous job with a new employer;
- 18 (f) A new job with a new employer or self-employment based upon  
19 transferable skills;
- 20 (g) Modification of a new job with a new employer;
- 21 (h) A new job with a new employer or self-employment involving on-  
22 the-job training;
- 23 (i) Short-term retraining and job placement.

24 (3)(a) Costs for vocational rehabilitation benefits allowed by the  
25 supervisor or supervisor's designee under subsection (1) of this  
26 section may include the cost of books, tuition, fees, supplies,  
27 equipment, (~~transportation, child or dependent care,~~) and other  
28 necessary expenses for any such worker in an amount not to exceed  
29 (~~three thousand dollars~~) one hundred fifty-five percent of the  
30 average monthly wage in the state as computed under RCW 51.08.018 in  
31 any fifty-two week period, (~~and~~) the cost of continuing the temporary  
32 total disability compensation under RCW 51.32.090 while the worker is  
33 actively and successfully undergoing a formal program of vocational  
34 rehabilitation, and the cost of transportation and of child or  
35 dependent care related to the worker's participation in the vocational  
36 rehabilitation program. Such expenses may include training fees for  
37 on-the-job training and the cost of furnishing tools and other  
38 equipment necessary for self-employment or reemployment(~~(: PROVIDED,~~  
39 ~~That such))~~). The department shall establish by rule allowable

1 reimbursement rates for mileage and either child or dependent care, or  
2 both. The compensation or payment of retraining with job placement  
3 expenses authorized under this section may not be authorized for a  
4 period of more than fifty-two weeks(~~(: PROVIDED FURTHER, That such)~~).  
5 However, this period may, in the sole discretion of the supervisor  
6 after his or her review, be extended for an additional fifty-two weeks  
7 or portion thereof by written order of the supervisor.

8 (b) In cases where the worker is required to reside away from his  
9 or her customary residence, the reasonable cost of board and lodging  
10 shall also be paid. ((Said)) The costs shall be chargeable to the  
11 employer's cost experience or shall be paid by the self-insurer as the  
12 case may be.

13 (4) The department shall establish criteria to monitor the quality  
14 and effectiveness of rehabilitation services provided by the  
15 individuals and organizations used under subsection (1) of this  
16 section. The state fund shall make referrals for vocational  
17 rehabilitation services based on these performance criteria.  
18 Organizations to which referrals are made may include administrative  
19 entities of service delivery areas as established under the federal job  
20 training partnership act if the entities meet minimum standards  
21 established by the department.

22 (5) The department shall engage in, where feasible and cost-  
23 effective, a cooperative program with the state employment security  
24 department to provide job placement services under this section.

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

34 (7) The benefits provided for in this section are available to any  
35 otherwise eligible worker regardless of the date of industrial injury.  
36 However, claims shall not be reopened solely for vocational  
37 rehabilitation purposes.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 51.12 RCW  
2 to read as follows:

3        A person who provides rehabilitation for injured workers in the  
4 form of on-the-job training or transitional work under this title may  
5 elect coverage under this title for the injured workers receiving the  
6 services, regardless of whether the person providing the services pays  
7 wages to the workers for the on-the-job training or transitional work  
8 program.    RCW    51.16.120(3) shall apply to the workers for whom  
9 coverage has been elected as authorized in this section.    For the  
10 purposes of this section, "person" means an individual, firm,  
11 corporation, partnership, trust, legal representative, or other legal  
12 entity.

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