

Vocational Rehab Changes - 2008

Comment [MHH1]:

The Vocational Improvement Project (VIP) is one of Labor and Industries (L&I) major undertakings following the 2007 legislative session. The provisions of the 2007 legislation **ESSB 5920** take effect January 1, 2008.

Changes are being made that will allow workers more choices in the vocational rehab services they receive. The changes are designed to not only provide greater choice but if successful, should result in reduced time-loss and costs to employers.

The L&I Voc Improvement Website (www.ImproveVoc.LNI.wa.gov) contains information about the changes and will continue to be updated as progress moves forward. Below are some of the questions and answers as provided on this website about the project. As the stakeholding process continues the current answers may change as progress is made in the planning.

- **How will the project improve training opportunities for injured workers?**

Workers will be able to participate in training programs that cost up to \$12,000 and last for up to 2 years. A major change from the old maximum of \$4,000 and 1 year to complete a program.

This expands the number of good training programs available. Some highlights of the increased training include:

- The funds will be available for programs and courses offered at accredited or licensed institutions or approved by L&I.
- Covered costs are the same as they are today. This includes tuition, books, fees, supplies, equipment and tools. Child care may also be covered. ***Are all of the voc costs charged against the employers account? In the medical aid or accident fund? (Of course understanding that time loss amounts are charged against the accident fund). Currently all vocational retraining funds are charged against the employers account. This will continue with the new legislation***
- The amount available for costs will increase annually based on changes in Washington state community college tuition.

- **What is the new option for workers who choose not to participate in vocational services?**

Workers who don't want retraining can now receive an amount equal to 6 months of time-loss compensation. The benefit can be paid biweekly or, at L&I's discretion, in a lump-sum payment. Some highlights of this new option – Option 2: ***When would the claim be closed? After the completion of the bi-weekly payments or upon the agreement with the worker. Claim will be closed when the medical is in the file for closure. If medical is in the file when the worker chooses Option 2, the claim will be closed after the first payment has been made. Does the benefit calculation equal to 6 months of time loss include health care benefits? Whatever the compensation rate is on the date that the Option 2 order was issued, if this calculation includes health care benefits, then yes, the payments will include this. If the employer has a claim free experience and has kept the worker on salary, does this benefit take them OUT of the claim free experience? Yes this would. Can the employer do a "side bar" agreement with the worker so that the employer can pay the benefit equal to 6 months of time loss and the worker can forgo the benefit from the department? No, this is not time loss, this is a vocational award, and the worker is also entitled to the \$12,000 vocational retraining funds.***

- Workers will be fully informed of their options. They can choose to participate in a retraining plan, Option 1, or choose Option 2. Option 2 is available after a retraining plan has been approved.
- Tuition funds of \$12,000 remain available to workers, with some limitations, for 5 years after their claim closes. L&I will not oversee the tuition funds paid out under Option 2. The only requirement is the funds must be spent for a program or a school that is licensed, accredited or on L&I's list of approved programs.

- **What about other, less formal training options for workers?**

There will be new support for workers who want vocational services but not formal training.

- L&I voc counselors will work on-site at 6 WorkSource locations in Washington. This will help to evaluate the readiness to return to work and to develop training options. L&I voc staff will work with local area employers and unions to find on-the-job training opportunities. Private and self-insured voc counselors could consider these alternatives when developing retraining plans. ***When you state “work with local area employers and unions” what industries will those be in? Will this be the same industry in which the worker was injured or others? How will those be determined? We will be making decisions about this early next year.***
- L&I WorkSource voc staff will work with other organizations to develop industry-specific training opportunities. ***How will you determine what “organizations”, i.e. if there is a construction organization that already provides industry specific training would you work with them, i.e. SMART Education and Training Centers? Is there funding for the “organization” from L&I to provide the training or maybe even reimbursement costs for training materials, etc? Will L&I be creating the training and providing materials? The decisions about industry-specific training opportunities and WorkSource will be part of the implementation beginning July 1, 2008. These decisions will be made early next year.***

- **What will happen to workers in plan development on December 31, 2007?**

Workers and their VRC's will be notified that they will be subject to the new benefit system if their plans are approved on or after January 1, 2008. This means the worker and the VRC will have 90 days from January 1, 2008 to submit a plan.

- **How will parties be accountable under the new law?**

- The assigned VRC's initial meeting with the worker must be face to face. ***How soon after the injury? This meeting will be after the referral for vocational assessment is made – each claim is different, so no timeline can be set.***
- At the initial meeting, the VRC and worker will review “rights and responsibilities” provided by L&I. ***Is there a draft of the “rights and responsibilities”? Does the worker sign this and does the employer of record get a copy? The rights and responsibilities will be available on our website after 12/26. The worker will sign a copy of the plan development rights & responsibilities and this will go into their claim file.***
- The VRC and worker must develop a voc plan within 90 days of referral. ***Does the employer of record receive a copy of the plan? If so when in the process? The employer may request a copy of the plan from the VRC, also the plan will be available to the employer in the Claim and Account Center.***
- L&I must approve or reject voc plans within 15 days of receipt.
- All voc plans must contain an accountability agreement detailing expectations. ***What will these look like, i.e. must attend classes, etc? Will the worker be expected to sign the expectations? And if they don't adhere to the expectations, what happens? The accountability agreement is the same that is currently in use today. If the worker does not adhere to these expectations, the claims manager will move towards suspension of the claim.***
- Acceptable reasons for a worker interrupting a plan are defined in the legislation. These reasons will be more explicitly defined in new WAC's being developed. ***Are the WAC's drafted yet? Is there a copy available for review? What is the timeline for the WAC's? WACs have been filed, and are now available for review.***
- An employer has 15 days to offer a job (after the worker has been determined eligible for plan development) and stop the voc process. ***Is this 15 days from the referral to the voc counselor? 15 days from the date that the worker was found eligible for further services.***

Is it 15 work days or calendar days? **15 calendar days.** How will the employer of record know when a referral has been made? **A letter goes out to all parties.** Can the job offer come even BEFORE the face-to-face meeting? **Yes, that process has not changed.** What if the worker does not accept the job? **If it is valid & bona fide, time loss benefits will end whether or not the worker accepts the job.** Are they still eligible for voc? **Not if the job offer meets the requirements.** Is there going to have to be a Job Analysis that takes place with this? **No job analysis is required for these permanent job offers.** However, the claim manager will review the job offer to make sure it meets the required elements and is **within the worker's permanent restrictions.** If no job is offered, or it's not appropriate, the worker can choose whether or not to take any offers from the employer after the 15 day period.

- o An independent third party will study the results of the changes. This includes:
 - The outcome and behaviors of workers and
 - Costs to employers and
 - Report to Legislature and L&I

When will the study period start and end? We are currently working on the time periods. What is included in "costs to employers"? **All vocational costs, including time loss benefits.** Will it be only time-loss and voc costs or is there more that will be included?

Other question:

- **If a worker is working on a project (such as construction) in Tacoma and commutes daily from Aberdeen to Tacoma; post injury would a "bona fide" job offer include commuting to Tacoma, as he was doing pre-injury? Construction jobs require commuting and when a project is complete the commute changes to a new location. It's the nature of the business. The job offer must take into consideration the new permanent restrictions and include a location of the work site.**
- **Is there accountability for the doctors? If so is there something that speaks to that accountability? The WACs that are now available for review cover the accountability of all parties.**