

**MANAGEMENT LABOR ADVISORY COMMITTEE
VOCATIONAL REHABILITATION SUBCOMMITTEE**

Wednesday, March 3, 2004

Labor and Industries Building, Conference Room F

Subcommittee Members Present:

Ken Hector, CNF Service Company, Portland, OR
Diane Janzen, NorPac Foods, Lake Oswego, OR
John Kirkpatrick, IUPAT District Council #5, Portland, OR
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin, OR
Sheri Sundstrom, Hoffman Construction Company, Portland, OR

Subcommittee Member Absent:

Bob Shiprack, Oregon Building Trades Council, Tualatin, OR

Staff Present:

Barbara Smith, Workers' Compensation Division
Teri Bledsoe, Director's Office
Mike Manley, Information Management Division
Lou Savage, Director's Office
John Shilts, Workers' Compensation Division
Travis Wall, Injured Workers' Ombudsman

REVIEW MINUTES FROM FEBRUARY SUBCOMMITTEE MEETING

Chairperson Sheri Sundstrom called the Vocational Rehabilitation Subcommittee meeting to order at 1:37 p.m.

John Kirkpatrick moved to accept the February 19, 2004 meeting minutes as submitted. Ken Hector seconded the motion. The minutes were approved.

PUBLIC TESTIMONY

Nyla Jebousek —Ms. Jebousek was injured 20 years ago and received vocational services. She is now an attorney in Newport, Oregon. Her testimony before the subcommittee was in support of CDAs, which she feels allows injured workers more flexibility in deciding how they want to proceed with their retraining program. Written testimony was submitted.

Ernie Delmazzo —Mr. Delmazzo is the Executive Director of the Injured Workers' Alliance in Oregon. He discussed a recent situation with someone who was injured and needs help but did not get vocational training. He presented his view of the sad state of vocational assistance to Oregon workers, which was revealed in the DCBS 1999 study. There is a big difference in how many people are now eligible for vocational retraining. The numbers have decreased since 1987. Mr. Delmazzo stated that he went through the workers' compensation system and had to fight for vocational retraining. He felt the system did not work for him and it is his opinion that more and more workers are being tossed aside.

PRESENTATION BY WORKERS' COMPENSATION DIVISION ON OPTIONS FOR VOCATIONAL ASSISTANCE

Barbara Smith of the Workers' Compensation Division submitted a written report and briefly highlighted the options for injured workers.

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Below are the programs that were reviewed:

Employer at Injury Program (EAIP)

- 1) Allow skill building in lieu of transitional work within the EAIP.

There is the possibility that using a voc counselor to identify training courses would be an additional cost. There was discussion about identifying people who are not going back to their job and trying to get skill building training started earlier in the process. There had been testimony to this subcommittee about this issue. Getting someone back to work just to keep them on the payroll could be a problem. It could be a waste of time when someone really needs to be trained.

- 2) Allow more than one period of transitional work in an EAIP program.

Preferred Worker Program (PWP)

- 1) Provide placement assistance to preferred workers who do not receive vocational assistance (requires statutory change). This would include an 18 month pilot that would provide placement assistance including assessment; career goal-setting; brief, targeted training; job development/placement; and job retention services.
- 2) Allow the employer at injury to activate the benefits of the Preferred Worker Program.
- 3) Apply a fractional factor to the work disability PPD benefit when the worker cannot perform regular work but has returned to suitable modified work with the employer at injury (and possibly reverse it if employment terminated prior to the end of the three-year premium exemption period). This could be combined with the employer activation of the PWP.

Examples of two possible scenarios for using RTW status in the Senate Bill 757 work disability rating formula were discussed. First, an example of ratings with no distinction between modified and no RTW. Second, an example of ratings with lower value for modified versus no RTW. The goal of Senate Bill 757 is to get people back to work. It was suggested that the examples would be helpful and should include a dollar value. DCBS does evaluate their Return to Work Program, many people use this program, or how many were employed.

- 4) Automatically make injured workers eligible for the PWP when they become eligible for vocational assistance.

There are separate processes of evaluation for vocational assistance eligibility and PWP eligibility. Virtually all workers who are eligible for vocational assistance are also eligible to use the PWP. Therefore, it is not necessary to have a separate eligibility determination. The reason that these are separate processes is because these programs were developed at different times.

Vocational Assistance

- 1) Eliminate stay on vocational assistance when WCD eligibility decision is appealed.

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If this is eliminated, the worker could start on voc planning and start training. There is the issue of how long a contested case takes to get a decision. Time delays is an area the subcommittee is interested in reviewing. The subcommittee would like to see a timeline of the best and worse case scenarios in regards to time delays.

- 2) Allow the work disability benefit to help defray the costs of vocational assistance to eligible workers.
- 3) Provide vocational consultation prior to CDA of vocational benefits so workers can consider a return to work strategy. This would be optional for people before they took a CDA.

SUBCOMMITTEE DISCUSSION

Chairperson Sundstrom commented on hoping to integrate some of these programs and to work together better to address with some of the time gaps and assist workers.

The subcommittee has heard success and not so successful stories. Subcommittee members offered the following suggestions for the subcommittee to focus:

-Increase the utilization of the EAIP and Preferred Worker Program and try to get employers to increase their participation. Work on how to expand the utilization of these programs.

-Look into expanding access to voc rehab to those who do not qualify for it at this time.

-One of the biggest complaints the subcommittee has heard are about process timelines. There is a need to look at shortening timelines and try to find out where the delays are occurring, possibly looking at reducing litigation so that money can go to the employees and employers. The process needs to move along so people do not end up in a situation where there is a period of time with no income.

-Modify the rating formula for Work Disability PPD benefits under SB 757. One suggestion of stairstepping the rating formula based upon if a person returns to modified work at the employer at injury or not.

ADJOURNMENT

The meeting was adjourned at 4:13 p.m. The next Vocational Rehabilitation Subcommittee meeting is scheduled for **Wednesday, April 7, 2004, 1:00-3:00 p.m., at the Port of Portland Commission Room, 121 NW Everett.**