

2 ESB 5631 - H COMM AMD  
3 By Committee on Commerce & Labor

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 51.32.095 and 1996 c 151 s 1 and 1996 c 59 s 1 are  
8 each reenacted and amended to read as follows:

9 (1) One of the primary purposes of this title is to enable the  
10 injured worker to become employable at gainful employment. To this  
11 end, the department or self-insurers shall utilize the services of  
12 individuals and organizations, public or private, whose experience,  
13 training, and interests in vocational rehabilitation and retraining  
14 qualify them to lend expert assistance to the supervisor of industrial  
15 insurance in such programs of vocational rehabilitation as may be  
16 reasonable to make the worker employable consistent with his or her  
17 physical and mental status. Where, after evaluation and recommendation  
18 by such individuals or organizations and prior to final evaluation of  
19 the worker's permanent disability and in the sole opinion of the  
20 supervisor or supervisor's designee, whether or not medical treatment  
21 has been concluded, vocational rehabilitation is both necessary and  
22 likely to enable the injured worker to become employable at gainful  
23 employment, the supervisor or supervisor's designee may, in his or her  
24 sole discretion, pay or, if the employer is a self-insurer, direct the  
25 self-insurer to pay the cost as provided in subsection (3) of this  
26 section.

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

- 31 (a) Return to the previous job with the same employer;  
32 (b) Modification of the previous job with the same employer  
33 including transitional return to work;  
34 (c) A new job with the same employer in keeping with any  
35 limitations or restrictions;

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

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

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

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

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

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

10 (3)(a) Except as provided in (b) of this subsection, costs for  
11 vocational rehabilitation benefits allowed by the supervisor or  
12 supervisor's designee under subsection (1) of this section may include  
13 the cost of books, tuition, fees, supplies, equipment, transportation,  
14 child or dependent care, and other necessary expenses for any such  
15 worker in an amount not to exceed three thousand dollars in any fifty-  
16 two week period except as authorized by RCW 51.60.060, and the cost of  
17 continuing the temporary total disability compensation under RCW  
18 51.32.090 while the worker is actively and successfully undergoing a  
19 formal program of vocational rehabilitation. ((Sueh))

20 (b) Beginning with vocational rehabilitation plans approved on or  
21 after the effective date of this section, costs for vocational  
22 rehabilitation benefits allowed by the supervisor or supervisor's  
23 designee under subsection (1) of this section may include the cost of  
24 books, tuition, fees, supplies, equipment, child or dependent care, and  
25 other necessary expenses for any such worker in an amount not to exceed  
26 four thousand dollars in any fifty-two week period except as authorized  
27 by RCW 51.60.060, and the cost of transportation and continuing the  
28 temporary total disability compensation under RCW 51.32.090 while the  
29 worker is actively and successfully undergoing a formal program of  
30 vocational rehabilitation.

31 (c) The expenses allowed under (a) or (b) of this subsection may  
32 include training fees for on-the-job training and the cost of  
33 furnishing tools and other equipment necessary for self-employment or  
34 reemployment(~~(:—PROVIDED, That such)~~). However, compensation or  
35 payment of retraining with job placement expenses under (a) or (b) of  
36 this subsection may not be authorized for a period of more than fifty-  
37 two weeks(~~(:—PROVIDED FURTHER)~~), except that such period may, in the  
38 sole discretion of the supervisor after his or her review, be extended

1 for an additional fifty-two weeks or portion thereof by written order  
2 of the supervisor.

3 (d) In cases where the worker is required to reside away from his  
4 or her customary residence, the reasonable cost of board and lodging  
5 shall also be paid. ((Said))

6 (e) Costs paid under this subsection shall be chargeable to the  
7 employer's cost experience or shall be paid by the self-insurer as the  
8 case may be.

9 (4) In addition to the vocational rehabilitation expenditures  
10 provided for under subsection (3) of this section, an additional five  
11 thousand dollars may, upon authorization of the supervisor or the  
12 supervisor's designee, be expended for: (a) Accommodations for an  
13 injured worker that are medically necessary for the worker to  
14 participate in an approved retraining plan; and (b) accommodations  
15 necessary to perform the essential functions of an occupation in which  
16 an injured worker is seeking employment, consistent with the retraining  
17 plan or the recommendations of a vocational evaluation. The injured  
18 worker's attending physician must verify the necessity of the  
19 modifications or accommodations. The total expenditures authorized in  
20 this subsection and the expenditures authorized under RCW 51.32.250  
21 shall not exceed five thousand dollars.

22 (5) The department shall establish criteria to monitor the quality  
23 and effectiveness of rehabilitation services provided by the  
24 individuals and organizations used under subsection (1) of this  
25 section. The state fund shall make referrals for vocational  
26 rehabilitation services based on these performance criteria.

27 (6) The department shall engage in, where feasible and cost-  
28 effective, a cooperative program with the state employment security  
29 department to provide job placement services under this section.

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

1 (8) Except as otherwise provided in this section, the benefits  
2 provided for in this section are available to any otherwise eligible  
3 worker regardless of the date of industrial injury. However, claims  
4 shall not be reopened solely for vocational rehabilitation purposes.

5 NEW SECTION. Sec. 2. The department of labor and industries shall  
6 conduct a cost-benefit analysis of the benefit increase authorized in  
7 RCW 51.32.095(3)(b). The analysis must include an examination of  
8 utilization of the benefit increase, including the number of claims in  
9 which vocational rehabilitation benefits are used more than once, and  
10 vocational results, including return-to-work and long-term wage  
11 replacement outcomes. The department shall report the results of the  
12 analysis to the workers' compensation advisory committee and the  
13 appropriate committees of the legislature by November 1, 2001.

14 NEW SECTION. Sec. 3. Section 1 of this act is necessary for the  
15 immediate preservation of the public peace, health, or safety, or  
16 support of the state government and its existing public institutions,  
17 and takes effect July 1, 1999."

18 Correct the title.

EFFECT: Limits application of the increased benefit cap to claims  
that have vocational rehabilitation plans approved on or after July 1,  
1999, and requires a cost-benefit analysis of the increased cap.

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