
ENGROSSED HOUSE BILL 1845

State of Washington

56th Legislature

1999 Regular Session

By Representatives B. Chandler, Clements, McMorris, Lisk, Conway and Wood

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1 AN ACT Relating to the maximum expenditure allowed for vocational
2 rehabilitation benefits under industrial insurance; reenacting and
3 amending RCW 51.32.095; creating a new section; providing an effective
4 date; and declaring an emergency.

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

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

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

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

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

11 (a) Return to the previous job with the same employer;

12 (b) Modification of the previous job with the same employer
13 including transitional return to work;

14 (c) A new job with the same employer in keeping with any
15 limitations or restrictions;

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

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

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

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

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

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

25 (3)(a) Except as provided in (b) of this subsection, costs for
26 vocational rehabilitation benefits allowed by the supervisor or
27 supervisor's designee under subsection (1) of this section may include
28 the cost of books, tuition, fees, supplies, equipment, transportation,
29 child or dependent care, and other necessary expenses for any such
30 worker in an amount not to exceed three thousand dollars in any fifty-
31 two week period except as authorized by RCW 51.60.060, and the cost of
32 continuing the temporary total disability compensation under RCW
33 51.32.090 while the worker is actively and successfully undergoing a
34 formal program of vocational rehabilitation. ((Sueh))

35 (b) Beginning with vocational rehabilitation plans approved on or
36 after the effective date of this section, costs for vocational
37 rehabilitation benefits allowed by the supervisor or supervisor's
38 designee under subsection (1) of this section may include the cost of
39 books, tuition, fees, supplies, equipment, child or dependent care, and

1 other necessary expenses for any such worker in an amount not to exceed
2 four thousand dollars in any fifty-two week period except as authorized
3 by RCW 51.60.060, and the cost of transportation and continuing the
4 temporary total disability compensation under RCW 51.32.090 while the
5 worker is actively and successfully undergoing a formal program of
6 vocational rehabilitation.

7 (c) The expenses allowed under (a) or (b) of this subsection may
8 include training fees for on-the-job training and the cost of
9 furnishing tools and other equipment necessary for self-employment or
10 reemployment(~~(:—PROVIDED, That such)~~). However, compensation or
11 payment of retraining with job placement expenses under (a) or (b) of
12 this subsection may not be authorized for a period of more than fifty-
13 two weeks(~~(:—PROVIDED FURTHER)~~), except that such period may, in the
14 sole discretion of the supervisor after his or her review, be extended
15 for an additional fifty-two weeks or portion thereof by written order
16 of the supervisor.

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

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

23 (4) In addition to the vocational rehabilitation expenditures
24 provided for under subsection (3) of this section, an additional five
25 thousand dollars may, upon authorization of the supervisor or the
26 supervisor's designee, be expended for: (a) Accommodations for an
27 injured worker that are medically necessary for the worker to
28 participate in an approved retraining plan; and (b) accommodations
29 necessary to perform the essential functions of an occupation in which
30 an injured worker is seeking employment, consistent with the retraining
31 plan or the recommendations of a vocational evaluation. The injured
32 worker's attending physician must verify the necessity of the
33 modifications or accommodations. The total expenditures authorized in
34 this subsection and the expenditures authorized under RCW 51.32.250
35 shall not exceed five thousand dollars.

36 (5) The department shall establish criteria to monitor the quality
37 and effectiveness of rehabilitation services provided by the
38 individuals and organizations used under subsection (1) of this

1 section. The state fund shall make referrals for vocational
2 rehabilitation services based on these performance criteria.

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

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

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

19 NEW SECTION. **Sec. 2.** The department of labor and industries shall
20 conduct a cost-benefit analysis of the benefit increase authorized in
21 RCW 51.32.095(3)(b). The analysis must include an examination of
22 utilization of the benefit increase, including the number of claims in
23 which vocational rehabilitation benefits are used more than once, and
24 vocational results, including return-to-work and long-term wage
25 replacement outcomes. The department shall report the results of the
26 analysis to the workers' compensation advisory committee and the
27 appropriate committees of the legislature by November 1, 2001.

28 NEW SECTION. **Sec. 3.** Section 1 of this act is necessary for the
29 immediate preservation of the public peace, health, or safety, or
30 support of the state government and its existing public institutions,
31 and takes effect July 1, 1999.

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