
HOUSE BILL 1626

State of Washington

58th Legislature

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By Representatives Conway, Campbell, Berkey, Cooper, Hudgins, Lovick, Miloscia, Romero, Chase, Moeller, Santos and Kenney

Read first time 02/03/2003. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to enhancing industrial insurance vocational
2 rehabilitation benefits; and amending RCW 51.32.095.

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

4 **Sec. 1.** RCW 51.32.095 and 1999 c 110 s 1 are each amended to read
5 as follows:

6 (1) One of the primary purposes of this title is to enable the
7 injured worker to become employable at gainful employment. However, it
8 is also a purpose of this section to reduce the injured worker's
9 suffering and economic loss by providing services that are intended to
10 assist the worker to become employable at monthly wages that are at
11 least eighty percent of preinjury wages. To this end, the department
12 or self-insurers shall utilize the services of individuals and
13 organizations, public or private, whose experience, training, and
14 interests in vocational rehabilitation and retraining qualify them to
15 lend expert assistance to the supervisor of industrial insurance in
16 such programs of vocational rehabilitation as may be reasonable to make
17 the worker employable consistent with his or her physical and mental
18 status. Where, after evaluation and recommendation by such individuals
19 or organizations and prior to final evaluation of the worker's

1 permanent disability and in the sole opinion of the supervisor or
2 supervisor's designee, whether or not medical treatment has been
3 concluded, vocational rehabilitation is both necessary and likely to
4 enable the injured worker to become employable at gainful employment or
5 to assist the injured worker to become employable at monthly wages that
6 are at least eighty percent of preinjury wages, the supervisor or
7 supervisor's designee may, in his or her sole discretion, pay or, if
8 the employer is a self-insurer, direct the self-insurer to pay the cost
9 as provided in subsection (3) of this section.

10 (2) When in the sole discretion of the supervisor or the
11 supervisor's designee vocational rehabilitation is (~~both necessary and~~
12 ~~likely to make the worker employable at gainful employment, then~~)
13 authorized under subsection (1) of this section, services must be
14 provided that are intended to assist the worker to become employable at
15 monthly wages that are at least eighty percent of preinjury wages. In
16 providing these services, the following order of priorities shall be
17 used:

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

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

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

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

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

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

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

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

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

32 (3)(a) Except as provided in (b) of this subsection, costs for
33 vocational rehabilitation benefits allowed by the supervisor or
34 supervisor's designee under subsection (1) of this section may include
35 the cost of books, tuition, fees, supplies, equipment, transportation,
36 child or dependent care, and other necessary expenses for any such
37 worker in an amount not to exceed three thousand dollars in any fifty-
38 two week period (~~except as authorized by RCW 51.60.060~~), and the cost

1 of continuing the temporary total disability compensation under RCW
2 51.32.090 while the worker is actively and successfully undergoing a
3 formal program of vocational rehabilitation.

4 (b) Beginning with vocational rehabilitation plans approved on or
5 after July 1, 1999, costs for vocational rehabilitation benefits
6 allowed by the supervisor or supervisor's designee under subsection (1)
7 of this section may include the cost of books, tuition, fees, supplies,
8 equipment, child or dependent care, and other necessary expenses for
9 any such worker in an amount not to exceed four thousand dollars in any
10 fifty-two week period (~~except as authorized by RCW 51.60.060~~), and
11 the cost of transportation and continuing the temporary total
12 disability compensation under RCW 51.32.090 while the worker is
13 actively and successfully undergoing a formal program of vocational
14 rehabilitation.

15 (c) The expenses allowed under (a) or (b) of this subsection may
16 include training fees for on-the-job training and the cost of
17 furnishing tools and other equipment necessary for self-employment or
18 reemployment. However, compensation or payment of retraining with job
19 placement expenses under (a) or (b) of this subsection may not be
20 authorized for a period of more than fifty-two weeks, except that such
21 period may, in the sole discretion of the supervisor after his or her
22 review, be extended for an additional fifty-two weeks or portion
23 thereof by written order of the supervisor.

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

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

30 (4) In addition to the vocational rehabilitation expenditures
31 provided for under subsection (3) of this section, an additional five
32 thousand dollars may, upon authorization of the supervisor or the
33 supervisor's designee, be expended for: (a) Accommodations for an
34 injured worker that are medically necessary for the worker to
35 participate in an approved retraining plan; and (b) accommodations
36 necessary to perform the essential functions of an occupation in which
37 an injured worker is seeking employment, consistent with the retraining
38 plan or the recommendations of a vocational evaluation. The injured

1 worker's attending physician must verify the necessity of the
2 modifications or accommodations. The total expenditures authorized in
3 this subsection and the expenditures authorized under RCW 51.32.250
4 shall not exceed five thousand dollars.

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

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

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

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

26 (9) For the purposes of this section, "preinjury wages" means the
27 monthly wages, including benefits provided by the employer, that were
28 earned by the worker at the time of injury.

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