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SENATE BILL 5610

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State of Washington

58th Legislature

2003 Regular Session

By Senators Keiser, Franklin, Kohl-Welles and Kline

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

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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