

4123-18-03

Guidelines for referral to and acceptance into vocational rehabilitation.**(A) Scope of vocational rehabilitation.**

- (1) Vocational rehabilitation is the process of restoring the vocational functioning of a worker who experiences a work related injury and who voluntarily agrees to participate in vocational rehabilitation. Vocational rehabilitation services are focused on return to work and are not reimbursable from the surplus fund if solely directed toward the medical management of a claim.
- (2) The vocational rehabilitation rules of Chapter 4123-18 of the Administrative Code aid in the development of procedures for providing reimbursable vocational rehabilitation services.

(B) Participation in vocational rehabilitation services.

- (1) Anyone can refer an injured worker for vocational rehabilitation services.
- (2) The bureau will determine the injured worker's eligibility under paragraph (C) of this rule for vocational rehabilitation services.
- (3) The MCO will make a recommendation to the bureau regarding the injured worker's feasibility under paragraph (G) of this rule for vocational rehabilitation services.
- (4) An injured worker cannot participate in a vocational rehabilitation plan or receive vocational rehabilitation services until the injured worker has been determined to be both eligible and feasible for vocational rehabilitation services. The bureau will issue an order approving or denying the injured worker's participation in vocational rehabilitation services.
- (5) Referrals for vocational rehabilitation in inactive claims will be processed in accordance with rule 4123-3-15 of the Administrative Code.

(C) Eligibility for vocational rehabilitation services.

The following criteria apply to requests for vocational rehabilitation services:

- (1) The injured worker has a claim that is:
 - (a) Allowed by an order of the bureau of workers' compensation or the industrial commission or of ~~its a hearing officers officer,~~ with eight or more days of lost time due to a work related injury; or

- (b) Certified by a self-insuring employer.
- (2) The injured worker has a significant impediment to employment or the maintenance of employment as a ~~direct~~ result of the allowed conditions in the referred claim.
- (3) The injured worker has at least one of the following present in the referred claim:
 - (a) The injured worker is receiving or has been awarded temporary total, non-working wage loss, or permanent total compensation for a period of time that includes the date of referral. For purposes of this rule, payments made in lieu of temporary total compensation (e.g. salary continuation) will be treated the same as temporary total compensation; ~~or~~
 - (b) The injured worker was granted a scheduled loss award under division (B) of section 4123.57 of the Revised Code; ~~or~~
 - (c) The injured worker is not currently receiving compensation ~~and~~ but has job restrictions in the claim documented by the physician of record and dated not more than one hundred eighty days prior to the date of referral; or
 - (d) The injured worker is receiving job retention services to maintain employment or satisfies the criteria set forth in paragraph (E) of this rule on the date of referral; ~~or~~
 - ~~(e) The injured worker sustained a catastrophic injury claim and a vocational goal can be established~~
- (4) The injured worker was not working on the date of referral, with the exception of referral for job retention services.
- (D) Eligibility for rehabilitation services for an employee of a state agency or state university employer.

Notwithstanding the eligibility criteria of paragraph (C)(3) of this rule, an employee of a state agency or state university is eligible for rehabilitation services where the state agency or state university ~~has certified the claim~~ and the employee and employer agree upon a program of rehabilitation services.

(E) Job retention services.

- (1) Job retention may be furnished when an injured worker is working and experiences a significant work related problem as a ~~direct~~ result of the allowed conditions in the claim.

(2) Job retention services may be provided if:

- (a) The injured worker has received temporary total compensation or salary continuation from an allowed claim with eight or more days of lost time due to a work related injury; ~~and~~
- (b) The physician of record provides a written statement in office notes or correspondence indicating that the injured worker has work limitations related to the allowed conditions in the claim that negatively impact the injured workers' ability to maintain the injured worker's employment; and
- (c) The injured worker's employer describes the specific job task problems the injured worker is experiencing to the MCO and the MCO documents these problems in the claim. The MCO will include a statement describing why the injured worker needs job retention services to maintain employment.

(F) Non-eligibility for vocational rehabilitation services.

~~The~~ An injured worker ~~is not eligible~~ becomes ineligible for vocational rehabilitation services and such services will be terminated:

- (1) After the effective date of a lump sum settlement (medical, ~~and/or~~ indemnity, or both); ~~or~~
- (2) ~~If~~ When the claim is subsequently disallowed by an order of the industrial commission, ~~its~~ a district or staff hearing ~~officers~~ officer, or by an order of the court; or
- (3) When the injured worker, after successfully completing a comprehensive vocational rehabilitation plan, subsequently resigns from employment or is terminated for cause and the resignation or termination is not due to the allowed conditions in the claim.

(G) Determination of feasibility for vocational rehabilitation services.

- (1) Feasibility for vocational rehabilitation services means, based upon all available information:
 - (a) The injured worker is willing to participate in vocational rehabilitation services;
 - (b) The injured worker is able to participate in vocational rehabilitation services; and

(c) There is a reasonable probability that the injured worker will benefit from vocational rehabilitation services and return to work as a result of the services.

(2) "All available information" means records, documents, written and oral statements, and any and all medical, psychological, vocational, social, and historical data, of any kind whatsoever, developed in the claim through which vocational rehabilitation is sought or otherwise, that is relevant to the determination of an injured worker's feasibility for vocational rehabilitation services.

(H) Appeal process.

Facts supporting a decision concerning either the acceptance or denial of an injured worker into vocational rehabilitation will be documented in the bureau's order approving or denying the injured worker's participation in vocational rehabilitation services. The bureau's order approving or denying participation in vocational rehabilitation services may be appealed to the industrial commission pursuant to section 4123.511 of the Revised Code.

(I) Injured worker's right to compensation or benefits.

(1) Approval of an injured worker to participate in vocational rehabilitation services makes the injured worker eligible to receive living maintenance payments in accordance with section 4121.63 of the Revised Code and rule 4123-18-04 of the Administrative Code.

(2) Denial of an injured worker to participate in vocational rehabilitation services does not affect an injured worker's right to compensation or benefits under Chapters 4123., 4127., and 4131. of the Revised Code for which the injured worker otherwise qualifies.

Effective:

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Certification

Date

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