

## **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 an industrial injury or occupational disease 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 shall aid in the development of procedures for providing reimbursable vocational rehabilitation services.

### **(B) Referrals for vocational rehabilitation services.**

- (1) Anyone can refer an injured worker for vocational rehabilitation services.
- (2) The bureau shall determine the eligibility of an injured worker referred for vocational rehabilitation services.
- (3) Once eligibility has been determined, the MCO shall contact the injured worker referred for vocational rehabilitation services within three working days.
- (4) After the MCO contacts the injured worker, the MCO, with bureau oversight, shall determine the feasibility of the injured worker referred for vocational rehabilitation services.
- (5) An injured worker shall not be able to 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.
- (6) Referrals for vocational rehabilitation in inactive claims shall be processed in accordance with rule 4123-3-15 of the Administrative Code.

### **(C) Eligibility for vocational rehabilitation services.**

To be eligible for rehabilitation services the injured worker must meet the following criteria:

- (1) Referred claim that is:
  - (a) A claim allowed by an order of the bureau of workers' compensation or the industrial commission or of its hearing officers with eight or more days of lost time due to a work related injury; or
  - (b) A claim certified by a state university or state agency; or
  - (c) A claim certified by a self-insuring employer.
- (2) The injured worker must have 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 must have 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 must include the date of referral. For purposes of this section, payments made in lieu of temporary total compensation (e.g. salary continuation) shall be treated the same as temporary total compensation; or
  - (b) Granted a scheduled loss award under division (B) of section 4123.57 of the Revised Code; or

- (c) Received or awarded a permanent partial award under division (A) of section 4123.57 of the Revised Code and has job restrictions as a result of that award documented by the physician of record and dated not more than one hundred eighty days prior to the date of referral; or
- (d) Determined to have reached maximum medical improvement in the claim (with eight or more days of lost time due to a work related injury) by an order of the bureau or the industrial commission, or the injured worker's physician of record has documented in writing that the injured worker has reached maximum medical improvement in the claim, and the injured worker is not currently receiving compensation and 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
- (e) 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
- (f) Sustained a catastrophic injury claim and a vocational goal can be established; or
- (g) Was receiving living maintenance wage loss not more than ninety days prior to the date of referral, has continuing job restrictions documented by the physician of record as a result of the allowed conditions in the claim, and has lost his or her job through no fault of his or her own.

(4) The injured worker must not be 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 that an employee of a state agency or state university may not meet the eligibility criteria of paragraph (C)(3) of this rule, the employee shall be eligible for rehabilitation services where the employee meets the eligibility criteria of paragraph (C)(1)(b) of this rule 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 shall include a statement describing why the injured worker needs job retention services to maintain employment.

(F) Non-eligibility for vocational rehabilitation services.

The injured worker is not eligible for vocational rehabilitation services and such services shall be terminated:

(1) After the effective date of a lump sum settlement (medical and/or indemnity); or

(2) If the claim is subsequently disallowed by an order of the industrial commission, its district or staff hearing officers, or by an order of the court.

(G) Diagnostic evaluations.

Prior to comprehensive rehabilitation plan implementation, diagnostic evaluations may be used in determining feasibility for vocational rehabilitation services. Payment for such examination(s) and the vocational rehabilitation case management occurring during this period may be charged to the surplus fund.

(H) Determination of feasibility for vocational rehabilitation services.

(1) Feasibility for vocational rehabilitation services means there is a reasonable probability that the injured worker will benefit from services at this time and return to work as a result of the services. Feasibility is initially determined at the time of referral and is assessed throughout the rehabilitation process.

(a) An injured worker is feasible for vocational rehabilitation services when a review of all available information demonstrates that it is likely the provision of such services will result in the injured worker returning to work.

(b) An injured worker is not feasible for vocational rehabilitation services when a review of all available information demonstrates that, in spite of the provision of such services, it is likely the injured worker will not return to work.

(c) "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.

(2) A determination of feasibility shall be written and shall enumerate all available information utilized in making the determination.

(I) Appeal process for vocational rehabilitation eligibility and feasibility determinations.

(1) Facts supporting a decision concerning either the acceptance or denial of an injured worker into vocational rehabilitation due to eligibility shall be documented in the bureau's decision. Appeals of eligibility determinations shall be filed with the bureau within fourteen days of receipt of the bureau's determination.

(2) Facts supporting a decision concerning either the acceptance or denial of an injured worker into vocational rehabilitation due to feasibility shall be documented in the MCO's decision. Appeals of feasibility determinations shall be governed by the alternative dispute resolution process provided for in rule 4123-6-16 of the Administrative Code.

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

Denial of rehabilitation services will 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.

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