

Chapter: Return to Work

Legislative authority: section 116

Prevention statement

Preventing injuries is one of the most important responsibilities in the workplace. The Workers' Safety and Compensation Act (the 'Act') establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.

Purpose

This policy outlines the roles and responsibilities of participating members in vocational rehabilitation.

Definitions

board means the Workers' Safety and Compensation Board

case management team means a team that assists the worker with their recovery, early and safe return to work plan and, if needed, vocational rehabilitation. The team always includes the worker and the board. Employers have a duty to co-operate in their worker's early and safe return to work and will be encouraged to use participation on the Case Management Team to facilitate that duty. The team can also include up to two representatives of the worker (chosen by the worker), case manager and the health care providers. Other members may be added depending on their specific roles and responsibilities.

health care provider means

- a. a medical practitioner; or
- b. a health care provider recognized by the board.

worker means a person who performs work or services for an employer under a contract of service or apprenticeship, written or oral, express or implied and as further defined in section 77 of the Act

Policy statement

1. General

If a worker experiences a long-term loss of earning capacity as a result of a work-related injury and requires assistance to reduce or remove any impairment or assistance in the activities of daily living, the board may pay the costs of vocational or academic training or rehabilitation assistance, or both, as the board considers appropriate.

The board will encourage workers, health care providers, employers and other parties to work co-operatively as a Case Management Team and to explore all reasonable, creative and flexible solutions to design plans that will facilitate the worker staying at work, when possible, or facilitate the worker's early and safe return to work when the worker, functionally, cannot stay at work.

The board may provide vocational rehabilitation to a worker as part of the return to work process when the early and safe return to work (ESRTW) process with the employer at the time of the work-related injury or an alternate employer has not restored the worker's earnings capacity at the time of the work-related injury and the worker has reached, or is expected to reach, maximum medical improvement without fully recovering from a work-related injury.

Vocational rehabilitation may:

- a. provide a vocational assessment;
- b. develop vocational options and likely outcomes;
- c. counsel workers to choose an option;
- d. develop and implement a vocational rehabilitation plan;
- e. monitor and adjust the vocational rehabilitation plan; and
- f. provide any necessary assistance in returning the worker to employability.

The desired outcome of vocational rehabilitation is to return the worker to employability at or as close to, the earnings level at the time of the work-related injury, as possible.

2. Vocational assessment

A vocational assessment is completed when the early and safe return to work (ESRTW) process with the employer at the time of the work-related injury or an alternate employer has not restored the worker's earnings capacity at the time of the work-related injury and the worker has or is expected to reach maximum medical improvement without fully recovering from a work-related injury.

This assessment will take into account the worker's aptitudes, skills, interests, culture and gender, labour market opportunities, age, loss of earning benefits and employment profile. The assessment will be used to determine whether the worker needs additional skills, training or education in order to work and earn at the earnings level of the work-related injury taking into account the worker's functional abilities as a result of the work-related injury.

Where the worker does not require, or is not entitled to a vocational rehabilitation plan, the worker will be offered the Employment Readiness Program (see policy 4.16 Employment Readiness).

3. Options for vocational rehabilitation plans

Where it has been determined that a worker needs additional skills, training or education, the vocational assessment will generate options and possible outcomes and will be used as the basis for discussion with the worker and the Case Management Team. As part of the discussion, reasonable timeframes for choosing a vocational rehabilitation (VR) plan, completing the VR plan or different elements of the plan will be established between the board and the worker.

A default option, with associated possible outcomes based on cost-drivers to the fund, will be identified that will be used if another option is not chosen within the agreed-upon timeframe.

4. Evaluation of vocational rehabilitation options

Options for vocational rehabilitation plans will be analyzed based on all of the following factors:

- a. likelihood for return to work or return to fitness for employment;
- b. offer of employment by the employer at the time of the work-related injury, upon completion of the plan;
- c. offer of employment by an alternate employer upon completion of the plan;
- d. impact on the worker;

- e. need for training or re-education; and
- f. costs to the fund.

In most cases, the cost to the fund will be determined by comparing:

- g. the total estimated costs of required vocational services, including any additional training allowance as determined by the board;
- h. the remaining compensation benefits that the worker is entitled to;
- i. the estimated cost of alternative vocational rehabilitation plans; and
- j. the estimated benefit costs if no vocational rehabilitation plans are provided.

In most cases, the impact on the worker will be determined through analysis of factors such as:

- k. opportunity to remain within the Yukon;
- l. choice of employment pattern, whether full-time or seasonal;
- m. additional supports that may be required to implement the plan; and
- n. impact on the family.

Quantification of these factors may include the direct and indirect financial costs to the worker. However, not all of these factors are able to be quantified numerically and some judgment must be exercised, in accordance with the Act and this policy.

The National Occupation Classification and Canada Job Futures, as well as national and provincial labour market information will be used as references.

5. Vocational rehabilitation plan

Following the vocational assessment, a vocational rehabilitation plan will be developed, focused on return to suitable employment other than the employment at the time of the work-related injury. The vocational rehabilitation plan will be developed in consultation with the worker and signed by the Case Management Team. The plan will include:

- a. goal(s);
- b. measures;
- c. timeframes and default option(s); and

- d. action plan – what has to be done, who will do it, by when.

Regular review of the vocational rehabilitation plan will be included in the plan. The worker is encouraged to bring concerns about the implementation of the plan to the board between scheduled reviews. This would include the failure of other members of the Case Management Team to meet their obligations under the plan. If the Case Management Team agrees, this lack of adherence to the obligations will result in the revision of the plan and timelines.

Earnings loss benefits are determined and paid in accordance with policy 3.1 Loss of Earnings Benefits.

An additional training allowance may be paid where determined appropriate and where warranted by the analysis done on the cost to the fund in determining the worker's entitlement to a vocational rehabilitation plan. The additional training allowance will not exceed the short-term earnings loss benefit and will only be paid where a worker is actively and successfully engaged in the activities associated with the vocational rehabilitation plan.

Additional financial assistance for re-education or retraining may be agreed to as part of the plan to cover additional costs of materials that are needed for the implementation of the plan.

Failure on the part of the worker to meet an obligation in the action plan may result in the interruption or conclusion of the rehabilitation plan as outlined in the Conclusion of Vocational Rehabilitation Services provision of this policy, unless the plan is revised with the consent of board staff on the Case Management Team, based on analysis of the costs to the fund of the options remaining.

5.1 Interruption of a vocational rehabilitation plan

Where a legitimate situation (such as a high-risk pregnancy or a heart attack) requires a worker to interrupt their vocational rehabilitation (VR) plan the board will:

- a. review the situation to determine whether the interruption will affect the agreed upon vocational rehabilitation outcome or estimated completion of the vocational rehabilitation plan. If there is no negative impact, earnings loss benefits will not be affected.
- b. review the circumstances of the interruption and establish whether or not the worker may be able to resume the VR plan when the situation resolves. In this case:
 - i. the board may suspend the worker's loss of earnings benefits for the period of the VR plan interruption; and

- ii. explore methods to assist the worker to safely shorten the interruption (for example, enrolling the worker in an on-line course when a semester has been interrupted and the worker is able to resume the VR plan prior to the next semester);
- c. review, and where appropriate, implement one of the other options established under Section 3 of this policy's provisions; or
- d. where the previously established options are no longer appropriate and there is little chance of a suitable VR plan being established, the board may conclude VR Services under the provisions of Section 6 of this policy.

6. Conclusion of vocational rehabilitation services

Vocational rehabilitation services will be concluded by the board, with input from the Case Management Team, based on the following factors:

- a. The goals of vocational rehabilitation have been achieved as evidenced by progress reporting, evaluation, testing results and medical evidence validating that the worker is fit for employment;
- b. The worker is not going to benefit from continued vocational rehabilitation as determined by the Case Management Team;
- c. The worker fails to co-operate with and/or abandons the vocational rehabilitation plan;
or
- d. The worker's choice to relocate to a place which significantly limits the ability of the board to continue with the provisions of the vocational rehabilitation plan.

6.1 Further steps

The conclusion of the vocational rehabilitation plan may lead to further steps in the compensation process, such as:

- a. Employment Readiness;
- b. Suitable Employment and Earnings Capacity Loss;
- c. Suspension or Reduction of Compensation; or
- d. Relocation

History

- RE-10 Vocational Rehabilitation, effective July 1, 2012, revoked July 1, 2022
- RE-10 Vocational Rehabilitation, effective January 1, 2010, revoked July 1, 2012
- RE-10 Vocational Rehabilitation, effective July 1, 2008, revoked January 1, 2010
- CS-11 Rehabilitation, effective February 12, 2007, revoked July 1, 2008