

Chapter 4.0: Vocational Rehabilitation

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4.01: Scope and Authority

[No change]

4.02: Definitions

[No changes]

4.03: Qualifications and Standards of Providers

(1) Vocational rehabilitation services may be provided to injured employees only by organizations approved by OEVR as qualified providers. Request for such approval may be submitted to OEVR by:

(a) any state vocational rehabilitation agency or employment and training agency which delivers vocational rehabilitation services or placement services to handicapped persons, or

(b) any insurer, self-insurer, or private vocational rehabilitation organization, including corporations, partnerships, and sole proprietorships engaged in the provision of vocational rehabilitation services or placement of handicapped persons in employment.

(2) Any such vocational rehabilitation provider shall furnish to the office of education and vocational rehabilitation certification that each rehabilitation counselor who serves workers' compensation recipients has attained any or all of the following credentials:

(a) the certified rehabilitation counselor designation or the ~~certified insurance rehabilitation~~ certified ~~disability management specialist~~ designation;

(b) a master's degree in vocational rehabilitation ~~or an allied social science, such as physical therapy, occupational therapy, psychology, social work, nursing, guidance and counseling,~~ and a minimum of one years work experience in vocational rehabilitation;

(c) a bachelor's degree and a minimum of five years work experience in vocational rehabilitation, unless the bachelor's degree is in vocational rehabilitation, ~~nursing, or an allied social science,~~ in which case the counselor shall have attained at least two years work experience in vocational rehabilitation; or

~~—(d) a minimum of ten (10) years work experience in vocational rehabilitation;~~

~~—(e) registered nurses with three (3) years experience in vocational rehabilitation; or~~

(d) licensure as a rehabilitation counselor from the board of allied mental health and human services professions.

(3) No employee of a vocational rehabilitation provider shall have primary responsibility for a workers' compensation rehabilitation case unless he or she has been approved as a qualified rehabilitation counselor pursuant to 452 CMR 4.03 (2). ~~Employees hired to serve workers' compensation rehabilitation recipients during the certification year must be approved by OEVR as qualified rehabilitation counselors prior to working such cases. Qualified providers must notify OEVR in writing of any qualified rehabilitation counselor staff changes when they occur during the certification year. Persons who have not been so approved may serve injured employees provided that they do so under the supervision of an approved rehabilitation counselor. Such supervision shall include co-signing of any report or plan required by OEVR. No supervised employee shall share supervision with more than three (3) other such employees.~~

(4) Approval of a vocational rehabilitation provider shall be effective for up to one year from the date of approval. Any provider which has secured such approval may request that OEVR renew such approval. Any such renewal shall be effective for up to one year from the date of renewal. In considering whether approval or renewal is appropriate, OEVR shall determine whether the provider has:

(a) observed all applicable federal, state, and local laws, regulations, ~~as well as OEVR regulations and policies and ordinances;~~

(b) accurately represented its services and credentials in reports or certifications required by OEVR, and in any advertisements;

(c) avoided conflicts of interest in the provision of vocational rehabilitation services; and

(d) honored injured employees' rights to privacy; ~~and~~

~~(e) maintained a satisfactory performance record with OEVR if applying for recertification.~~

4.04: Evaluation, Suspension and Removal of Providers

(1) Pursuant to M.G.L. c. 152, § 30H, each rehabilitation provider which offers services to workers' compensation recipients shall be evaluated periodically by OEVR. The evaluation shall focus on the quality of services provided **based on file audit and/or a review of monthly progress reports and IWRPs, interactions with OEVR staff and injured workers,** the costs of such services, and the results achieved by such services **as determined by number of clients returned to employment. OEVR will also consider the including** providers record relative to the avoidance of conflicts of interest in the provision of vocational rehabilitation services. In conducting such an evaluation, OEVR shall monitor and evaluate each individual written rehabilitation program implemented by the provider, documenting the injured employee's utilization of services and achievement of program goals.

(2) OEVR shall notify in writing any rehabilitation provider who, according to the periodic evaluation, fails to meet service or cost effectiveness standards. Such notice shall state specifically the reasons for OEVR's finding of sub-standard performance. In order to satisfy OEVR that a performance deficiency has been corrected, each such provider shall submit any documentation required by OEVR to monitor and evaluate corrective actions taken by the provider. Unless the provider corrects each stated performance deficiency within 30 calendar days from the receipt of such notice, said provider may be suspended or removed by the commissioner from OEVR's list of approved providers. In the event that the provider is removed from the approved list of providers, an appeal may be submitted in writing to the **commissioner** **Director of the Department** within 14 days of such providers receipt of notice of removal or suspension.

(3) Certified providers performing any type of claims functions apart from vocational rehabilitation services, including hypothetical labor market surveys and earning capacity evaluations, shall be prohibited from providing vocational services to the same injured employee.

4.05: Mandatory Meeting

(1) Whenever an insurer makes payments pursuant to a memorandum submitted to the department pursuant to 452 CMR 1.05(2), or pursuant to an order or decision of an administrative judge, OEVR may contact the injured employee, to determine whether an initial interview is appropriate. **~~according to the following schedule:~~**

~~(a) any such injured employee who has sustained a catastrophic injury shall be contacted within 14 calendar days of the receipt of such memorandum or issuance of such order or decision;~~

~~—(b) any such injured employee who has sustained loss of function due to back injury, cardiac condition, cancer, or other systemic injury would require that the individual receive vocational rehabilitation services before returning to work shall be contacted within 49 calendar days of the receipt of such memorandum or issuance of such order or decision;~~

~~—(c) any other such injured employee shall be contacted within 84 calendar days of the receipt of such memorandum or issuance of such an order or decision, provided that the department has not received a notice of suspension or discontinuance of compensation pursuant to 452 CMR 1.06.~~

(2) Information gathered by OEVR at the initial interview shall be used to determine whether rehabilitation services are necessary and feasible. Such information shall include, but need not be limited to, the injured employee's:

- (a) functional limitations;
- (b) employment history;
- (c) transferable skills;
- (d) work habits;
- (e) vocational interests;
- (f) pre-injury earnings;
- (g) financial needs; or
- (h) medical information.

4.06: Notice to Insurer of Suitability

OEVR shall notify the insurer in writing of its determination of suitability and whether vocational rehabilitation has been found to be necessary and feasible for an injured employee. Within ten working days of receipt of such notification, the insurer shall provide to OEVR all pertinent medical records on the injured employee if not previously submitted. If the insurer fails to produce requested medical information and the treating physician is unable to provide a current medical report, OEVR shall order an impartial medical examination, the reasonable cost of which shall be reimbursed by the insurer. Otherwise, OEVR will determine suitability based on the information submitted.

When the injured employee, on the date of such determination, has not been referred to an approved provider, OEVR will request in writing that the insurer provide vocational

rehabilitation services to the injured employee through an approved provider as outlined in 452 CMR 4.03 **within 30 days of the receipt of the request.**

[Ed. note: language of second paragraph above currently found in 452 CMR 4.07(b)]

If the insurer fails to assign an approved provider after they have received a second request from OEVR to do so, OEVR will assign an approved provider who will initiate services and, if appropriate, develop an IWRP. The cost of such services and program shall be assumed by the Workers' Compensation Trust Fund under M.G.L. c. 152, § 65(2)(d) and the insurance company will be assessed pursuant to M.G.L. c. 152, § 30H upon the attainment of a successful rehabilitation as defined in 452 CMR 4.02.

[Ed. note: Portions of third paragraph above currently found in 452 CMR 4.07(c)]

4.07 Design of Individual Written Rehabilitation Plan

(1) In the event that OEVR determines that vocational rehabilitation services are necessary and feasible for an injured employee, **and a certified provider has been assigned**, OEVR shall proceed as follows:

(a) **The qualified provider must provide progress reports every 30 days beginning 30 days after the first meeting with the injured worker.**

(b) **An individual written rehabilitation plan shall be developed for injured employees found suitable for services within 90 days of the qualified provider's receipt of the referral from the insurer or OEVR. If circumstances do not allow for such a plan to be developed within such time then OEVR shall be notified of the delay, in writing by the provider, as soon as possible but no later than 30 days after the original due date of the IWRP. That written notice from the qualified provider shall note the reasons for the delay and a proposed timeline for submission of the written plan.**

(2) Vocational rehabilitation services set out in an individual written rehabilitation program may include, but need not to be limited to:

(a) vocational assessment;

(b) work evaluation;

(c) job analysis;

(d) job modification;

(e) vocational counseling;

- (f) job placement and follow-up;
- (g) on the job training; or
- (h) retraining.

(3) All IWRPs shall be signed by all parties and submitted to OEVR on forms approved by OEVR.

OEVR shall require that the individual written rehabilitation program (IWRP) be sent to OEVR and to any person participating in the implementation of the program. OEVR shall either approve or disapprove the program within ten calendar days from the date of receipt of the program.

Any comments on the program shall be submitted by participants to OEVR within seven calendar days of date of OEVR's receipt of the program. In the event that the insurer, OEVR, or the injured employee disproves of the rehabilitation services planned for him or her, no such IWRP shall be approved by OEVR until a representative of the insurer authorized to approve expenditures for rehabilitation, the rehabilitation provider, and the injured employee have met with OEVR and agreed on the employment goal, the scope of services, and the cost of the program.

4.08: Amendment, Suspension or Termination of the Rehabilitation Program

[No change]

4.09: Notification and Authorization to Insurers Relative to Refusal of Vocational Services

[No change]

4.10: OEVR Consent to Lump Sum Settlements

[No change]

4.11: OEVR Director and Rehabilitation Review Officers

[No change]