



Commonwealth of Massachusetts
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Office of Educational and Vocational Rehabilitation



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*OEVR Guidelines
for
Certified Vocational
Rehabilitation Providers*

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**Office of
Education and Vocational Rehabilitation
Mission Statement**

The mission of the Department of Industrial Accidents, Office of Education and Vocational Rehabilitation (OEVR) is to assist injured workers, who have accepted or established liability workers' compensation cases under G.L. c. 152, to return to meaningful employment through the delivery of vocational rehabilitation services. To qualify for these services an injured worker must have residual restrictions, due to their work related injury, that prohibit a return to his/her pre-injury job. The goal of vocational rehabilitation services (VR) delivered to injured workers, under G.L. c. 152, § 30G, is to return an employee to his/her pre-injury average weekly wage (AWW). OEVR is the overseeing authority for these services. It facilitates agreements to return workers to meaningful gainful employment with a focus on wage replacement.

OEVR GUIDELINES FOR
VOCATIONAL REHABILITATION
PROVIDERS

SUMMARY OF CONTENTS

PART I: PRACTICE GUIDELINES.....4

PART II: LEGAL AUTHORITY.....25

PART I

PRACTICE GUIDELINES FOR CERTIFIED PROVIDERS

TABLE OF CONTENTS

I. INTRODUCTION.....6

II. PRACTICE GUIDELINES.....6

A. ROLE OF THE PROVIDER.....6

B. PRESERVING THE INTEGRITY OS SERVICES.....6

C. OTHER PRACTICE REQUIREMENTS.....7

1. PERSONNEL WHO MAY PROVIDE SERVICES.....7

2. APPROVAL OF PROVIDERS/REPORTING MATERIAL.....7

CHANGE TO OPERATIONS.....7

3. REFERRAL OF CASES TO OEVR.....7

4. INITIATION OF VOCATIONAL SERVICES..... 8

5. CONTACT WITH INJURED EMPLOYEE/LEGAL REPRESENTATIVE.....8

6. CONSENT FORMS/ EXPIRATION..... 8

7. DOCUMENTATION OF CONTACT WITH PRE-INJURY EMPLOYER.....9

8. PRESENTATION OF IWRP.....9

9. SUBMISSION OF IWRP/REPORTS.....9

10. CASE CLOSURE/NOTIFICATION AND CONSENT..... 9

11. MODIFIED EMPLOYMENT/DEVELOPMENT OF IWRP..... 10

| | |
|--|-----------|
| 12. REPORTING OF PROVIDER COST DATA FOR VOCATIONAL SERVICES..... | 10 |
| 13. INCLUSION OF INCIDENTAL EXPENSES IN IWRP/RATE OF REIMBURSEMENT..... | 10 |
| 14. APPLICATION OF OUTSIDE FUNDING SOURCES..... | 11 |
| 15. REPRODUCTION OF OEVR FORMS..... | 11 |
| 16. 15% REDUCTIONS..... | 11 |
| 17. LABOR MARKET SURVEYS..... | 12 |
| 18. LAST BEST OFFER..... | 12 |
| 19. IWRP..... | 12 |
| 20. FILLING OUT THE IWRP..... | 15 |
| 21. IWRP AMENDMENTS..... | 17 |
| 22. PROVIDER MONTHLY PROGRESS REPORTS..... | 19 |
| 23. CASE CLOSURE..... | 20 |
| 24. COMPLIANCE..... | 22 |
| 25. TEAM MEETINGS..... | 23 |
| 26. RRO CONTACT INFO..... | 24 |

PRACTICE GUIDELINES FOR PROVIDERS

I. INTRODUCTION

The purpose of these guidelines is to help familiarize approved vocational rehabilitation providers with policies and practices established over time by the Office of Education and Vocational Rehabilitation (OEVR). These guidelines are sub regulatory and are incorporated into the yearly RFR Provider certification process.

In addition to the guidelines set forth below, providers should be familiar with the following:

- Massachusetts General Law, chapter 152, sections 1(12), 30E – 30I;
- 452 CMR 4.00 et seq.;
- the Request for Proposals (RFP) issued annually by the department for approval of vocational rehabilitation providers;
- the terms and conditions of the standard state contract for those providers under contract to perform services payable by the Workers' Compensation Trust Fund (as established under M.G.L. c. 152, s. 65 (2) (d)); and
- the Code of Professional Ethics for Rehabilitation Counselors.

II. PRACTICE GUIDELINES

A. ROLE OF THE PROVIDER

The role of an approved vocational rehabilitation provider is to service the injured employee and to restore, at a reasonable cost, the injured employee to suitable employment at a wage that best approximates the pre-injury wage.

B. PRESERVING THE INTEGRITY OF SERVICES

To enhance the effectiveness of vocational rehabilitation services, it is necessary to ensure the integrity of the environment in which such services are delivered. This integrity can only be maintained where there is clear understanding as to the purposes of both the vocational rehabilitation services and the approved vocational rehabilitation provider. Consequently, in order to better promote the understanding of all parties and to better assist

OEVR in overseeing the performance of each provider, the following guidelines are established:

1. In all instances, an approved vocational rehabilitation provider must ensure that all services, including all disclosures relating to such services, are provided in a manner consistent with all applicable statutory and regulatory provisions, as well as those requirements set out in the Code of Professional Ethics for Rehabilitation Counselors and the Commonwealth of Massachusetts Licensed Rehabilitation Counselor standards of practice as accepted by the Commission on Rehabilitation Counselor Certification.

2. In all instances in which OEVR has determined that an employee is suitable for vocational rehabilitation, an approved vocational rehabilitation provider shall, upon receipt of the referral, immediately notify OEVR as to the provider's rendering of any service involving the same injured employee prior to or concurrent with the provision of vocational rehabilitation services. In determining whether the rendering of any service prohibits the provision of vocational rehabilitation services, OEVR will be guided by 452 CMR 4.04 (3), which reads as follows:

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.

C. OTHER PRACTICE REQUIREMENTS

1. PERSONNEL WHO MAY PROVIDE SERVICES

Only persons approved by OEVR, or under the supervision of a person approved by OEVR, are permitted to provide vocational rehabilitation services under G.L. c. 152 and 452 CMR 4.00 et seq.

2. APPROVAL OF PROVIDERS/REPORTING MATERIAL CHANGES TO OPERATION

Providers are approved by OEVR for a period not to exceed one year. Any material change(s) to the operation of the provider from information submitted as part of the application for approval must be filed immediately with OEVR. This includes VR staff changes or additions. *Providers must notify OEVR immediately of any staff changes or additions by providing a copy of the resume and qualifications of any new VR staff.*

(Requests for approval are accepted year-round but all approvals expire at the end of each fiscal year, which runs from July 1st through June 30th.)

3. REFERRAL OF CASES TO OEVR

Providers **are required** to ensure, in every instance where liability has been

established or where the employee is not able to return to work in a comparable capacity with the pre-injury employer, that each injured employee receiving vocational rehabilitation services from the provider has been referred to OEVR. All provider referrals **MUST be sent in by e mail.** All e-mail transmissions must have the DIA board number and name of the claimant in the subject line.

(Since an important function of OEVR is to educate injured workers as to all potential rights and responsibilities relating to vocational rehabilitation benefits, it is critical that providers ensure that all such injured workers have been referred to OEVR at the appropriate time.) -

4. INITIATION OF VOCATIONAL REHABILITATION SERVICES

No vocational rehabilitation services (including, but not limited to: training, job placement and job seeking skills but excluding vocational testing and counseling, transferable skills and job evaluation) may be initiated on a case in which suitability has been determined by OEVR until an Individualized Written Rehabilitation Program (IWRP) has been approved by OEVR.

(Services, excluding those relating to the establishment of a vocational goal, are not to be provided and later included on an IWRP that had not been approved by OEVR. OEVR will facilitate its approval process by use of all available resources, including facsimiles and e mails.)

5. CONTACT WITH INJURED EMPLOYEE/LEGAL REPRESENTATIVE

The provider is responsible for contacting the injured employee and his or her legal representative following the provider's assignment to the case. Inability to meet with an injured employee or with the injured employee and his or her legal representative following a determination of suitability by OEVR should be immediately reported by the provider to OEVR.

(OEVR can help facilitate participation of all parties when notified by the provider in a timely manner.)

6. CONSENT FORMS/EXPIRATION

Any and all consent forms signed by an injured employee during the course of vocational rehabilitation are to expire upon the termination of vocational rehabilitation services.

(To ensure that the use of consent forms drafted during the course of vocational rehabilitation relates to vocational rehabilitation purpose only, the duration of the consent must not exceed the period of the voc rehab program.)

7. DOCUMENTATION OF CONTACT WITH PRE-INJURY EMPLOYER

Providers must document contact with the former employer to determine whether modified or alternative employment is available. Obviously, you will make note of this in your monthly progress report.

(Contact with the former employer by either the insurer or provider must be accomplished in all cases in order to ensure the setting of appropriate vocational goals and adherence to the established hierarchy of needs relating to return-to-work.)

8. PRESENTATION OF IWRP

In order to obtain OEVR approval, all IWRPs must set out the rehabilitation plan in a complete, clear and legible manner. All amendments to IWRPs are subject to the same submission requirements as the original plan. All IWRPs as well as closures must be typed and submitted **by e mail or FAX** to the appropriate Regional Review officer. Again, any missing date on an IWRP, Amendment or Closure will be sent back to the provider for correction.

(Since the IWRP is often the centerpiece of a vocational rehabilitation program, IWRPs and all amendments will not be approved by OEVR if, in form or content, they fail to meet accepted professional standards.)

9. SUBMISSION OF IWRP/REPORTS

The provider is responsible for ensuring that all IWRPs, progress and closure reports are submitted *in a timely fashion* to the employee (if *pro se*, or if otherwise requested), the employee's legal representative and the insurer. The preferred method of document submission is by e-mail. IWRPs should be submitted within 90 days of initiating vocational rehabilitation services and that progress reports on active cases be submitted every 30 days, or every 90 days if there is an ongoing training program.

Repeated instances of late reporting or missing reports may result in corrective action, up to and including suspension or revocation of certification.

(Timeliness and mutual information sharing are key to the delivery of successful vocational rehabilitation services. Consequently, it is the duty of the provider to timely submit all reports to all affected parties. The Director will monitor provider time lines of service delivery to ensure adherence)

10. CASE CLOSURE/NOTIFICATION AND CONSENT

In all cases where suitability has been determined, providers shall immediately notify OEVR whenever any party requests the cessation of

vocational rehabilitation services. No such case may be closed by the provider without the expressed consent of OEVR.

(Requiring OEVR consent on closures not only ensures that the provider and OEVR will work closely together in overseeing the progress of each case but further ensures continuity in instances where such services are to be resumed by the insurer or provided under the auspices of the Workers' Compensation Trust Fund pursuant to s. 30H. Again, OEVR will facilitate its approval process by use of all available resources, including facsimiles and e mails)

11. MODIFIED EMPLOYMENT/DEVELOPMENT OF IWRP

Vocational rehabilitation services involving placement into modified employment follow the same requirements in respect to the filing of progress reports and development of IWRPs that apply to all cases. When vocational rehabilitation services have been administered to an employee who has returned to employment in a transitional status for thirty (30) or more days following OEVR's determination of suitability, the provider should contact the assigned departmental Rehabilitation Review Officer (RRO) for the purposes of determining the need for an IWRP. **No IWRP will be approved which does not involve placement into permanent employment.**

(Providers are to report the progress of every case to OEVR in thirty (30) day intervals until case closure or as otherwise required in accordance with an approved IWRP developed according to the established hierarchy of employment goals within ninety (90) days of a provider's assignment to the case. Where modified employment will not result in permanent placement, an IWRP for permanent placement must be developed.)

12. REPORTING OF PROVIDER COST DATA FOR VOC REHAB SERVICES

Costs of vocational rehabilitation services Pre and Post IWRP are to be calculated from the date of OEVR's initial Determination of Suitability (DOS) and reported to OEVR on Quarterly and Closure reports. Where applicable, the actual or estimated cost of each individual vocational rehabilitation service must be accurately entered on the IWRP. If the data is incomplete the RRO will return the document back to the provider requesting it be completed properly.

(Where OEVR requires the reporting of overall cost data, in the Case Amendment/Closure reports, such data should reflect the costs relating to vocational rehabilitation services provided subsequent to OEVR's initial determination of suitability. Where individualized (per service) cost data is otherwise required, as in the IWRP, such data must also be completely and accurately reported.)

13. INCLUSION OF INCIDENTAL EXPENSES IN IWRP/RATE OF REIMBURSEMENT

All incidental expenses necessary to the provision of vocational rehabilitation services shall, whenever possible, be expressly set forth in the IWRP. The rate of reimbursement for related automobile travel shall be negotiated by the parties and the cost spelled out in detail. The established travel reimbursement rate set by the Commissioner shall be utilized for mileage costs for Trust Fund cases. All other necessary expenses are to be reimbursed in a reasonable manner.

(All necessary incidental expenses including: travel, training materials and fees inclusive of mandated insurance requirements should be addressed in the IWRP or by an amendment to the IWRP.)

14. APPLICATION OF OUTSIDE FUNDING SOURCES

Providers are expected to research and utilize, where appropriate, all available funding sources to assist in the timely provision of vocational rehabilitation services.

(Outside funding sources, including Pell grants, veteran's benefits and various state and federal tax credits, may often serve as additional tools to promote vocational rehabilitation services. Their use is encouraged provided that the implementation of an IWRP is not delayed or otherwise adversely affected.)

15. REPRODUCTION OF OEVR FORMS

Any OEVR form may be reproduced and submitted consistent with all other DIA Forms, provided that the reproduction bears precise resemblance to the OEVR form in regard to content and layout. Referral form, IWRP and Amendment/Closure forms are available in Word format on the OEVR web site.

16. 15% Reductions: Providers are to document non-cooperation and refrain from commenting on whether the file warrants a reduction. Furthermore, providers are not to close a case file unless they can substantially document non-cooperation and obtain OEVR approval for closure. Insurers must request authorization of 15% reduction in writing to the Director of O.E.V.R. and determination is made upon complete review of the case. When a reduction is warranted, the client must either contact O.E.V.R. to resume VR services and upon such prompt notification will be sent to the insurer for re-instatement OR the client must file a claim to prove to an Administrative Judge that **NO** V.R. of any kind would be appropriate.

17. Labor Market Surveys: If the rehabilitation provider does a hypothetical Labor Market Survey, they are not to perform vocational rehabilitation services on that same case. If a provider involved in the rehabilitation process, under §35(d)5, a Labor Market can be done to support the stated rehabilitation job goal But not to support an earning capacity. The statute does offer limited protection to the employee provided the labor market survey is attached to the IWRP and is used exclusively to justify the stated vocational goal set forth in the IWRP.

18. Last Best Offer: The best offer occurs before the rehabilitation so if the provider is doing a last best offer for an insurer at conciliation then they are not to do the rehabilitation on the file. So if the rehabilitation provider becomes involved in a last best offer, they are not to do the rehabilitation.

19. Individual Written Rehabilitation Program (IWRP)

There is no limit on the length of VR program voluntarily funded by an insurer. OEVR-funded programs are limited to fifty-two (52) calendar weeks for pre-12/23/91 injuries and one hundred and four (104) calendar weeks for post-12/23/91 injuries. The insurer often will use OEVR limits as guidelines for the length of the programs which they will support.

The IWRP is the document which lists the client's vocational goal, the services the client will receive to obtain that goal, an explanation why the specific goal and services were selected, and the signatures necessary to implement it. Inasmuch as it is the chief document setting forth the delivery of VR services, it must be drafted clearly and legibly and submitted in a timely fashion by e mail or Fax to the appropriate Regional Review Officer.

The vocational goal should be one which allows the client to work within their restrictions and to earn as close as possible to their pre-injury wage (average weekly wage). OEVR's priority of employment goals should be followed. They are:

- (1) RTW same employer, same job modified,
- (2) RTW same employer, different job,
- (3) RTW different employer, similar job,
- (4) Different employer, different job,
- (5) Retraining.

The provider should have a good knowledge of, or access to, information about employers, labor markets, training resources, funding sources, agencies and other resources within the geographical area in which they work. The Regional Review Officers can assist you in researching resources. The Division of Career Services can also assist the V.R. provider with research and development of an appropriate vocational goal for the IWRP.

Particularly in light of ADA and other legislation, the provider needs to consider all reasonable accommodations, including light duty or other work modifications before proceeding to other employment goals. Labor agreements need to be considered since they may also impact on the job offer. Although employers at times make verbal offers for modified work, the provider needs to obtain written confirmation of such an offer from the employer along with the job description. If the employer does not want to provide modified work, the provider should procure written confirmation that there is no modified work available from the employer. An appropriate offer for modified employment must be for a permanent position within the client's functional limitations at a pay equivalent to the pre-injury job. Clients who accept a temporary position with the pre-injury employer retain their rights to VR. During a transitional period of temporary modified work, the provider should be reporting to OEVR regarding the necessity of developing an IWRP. An IWRP is not required, nor will it be approved, if placement is not into permanent employment.

The IWRP should be developed jointly with the client. If the client isn't an active participant in this process, the client's investment will be minimal and the chance for a successful VR outcome reduced. Many of the complaints which OEVR receives concern providers who start discussing want ads on the first visit and thereby create a feeling of mistrust on the client's part.

A clear process helps facilitate the VR counseling process. Clients often are confused and uncertain about vocational issues and the role of the provider. An ability to focus the process through the use of interest, aptitude, and other testing can save time and increase the injured worker's confidence in the counseling he/she is receiving. Testing increases the probability that the client's vocational goal is feasible. Testing should be part of the vocational counseling process if an extensive or expensive training program is being considered.

Although the client needs to be actively involved in the development of the vocational goal and plan the provider needs to remain realistic. It is not appropriate to agree with an unrealistic goal simply because the client won't consider anything else. OEVR should be contacted at such times to help resolve the issue in a Team Meeting.

The IWRP goal should be as specific as possible, especially if training is being provided. It should be developed within a timely manner. All IWRPs with an employment goal of permanent, modified work must include:

- (a) A complete job description of the modified position (including the physical requirements of the position);
- (b) A letter from the employer that the job is being offered on a permanently modified basis and
- (c) A statement that the client's treating physician has had the opportunity to review and comment on the job description for the proposed modified job.

Functional capacity issues are important, but some vocational counseling can be initiated based on general limitations arising from specific injuries or diagnoses. If it takes longer than ninety (90) days to develop an IWRP something is amiss with the process and the case should be examined carefully. The RRO will ask the provider to provide reasons for the delay. A Team Meeting may be necessary to expedite the process if the IWRP is not developed within this time frame.

It is inappropriate to provide placement services prior to the development of the IWRP. This is especially true if the client refuses to sign the IWRP. These cases are usually unsuccessful unless the underlying issues are identified and resolved. The injured worker's rights to vocational rehabilitation services remain open if an IWRP is not developed and signed.

VR services, other than vocational assessment and counseling, should not be provided until an IWRP is signed by all parties. OEVR won't sign an IWRP if these services already have been provided, especially if the dates for service delivery have expired or are close to expiring. In these cases another updated and current IWRP will be required. It is the provider's responsibility to see that the insurer signs and returns the IWRP within ten (10) days. If attempts to do so are not successful, the provider should notify OEVR so that the RRO can take further action.

Issues relative to the IWRP should be discussed and resolved prior to being signed. It becomes much more difficult to resolve issues after plan services are implemented. Training programs in particular need to be clear. The client is entitled to reasonable and related components to the training. These items include books and supplies, fees (including health insurance) if mandated by the school, and specific transportation costs. These expenses should be reasonable and clearly set forth in the IWRP.

OEVR expects that all IWRPs generally will contain at least sixty (60) days of job placement and sixty (60) days of post placement follow-up services. Successful case closure occurs when the client has been employed for sixty (60) days.

The RRO will review and sign the IWRP within ten (10) days of its receipt if there are no issues regarding the IWRP. If such issues exist, the RRO will contact the parties to try and resolve them. An IWRP is not effective until signed by all necessary parties. The RRO will call a Team Meeting and attempt to resolve any issues if any of the parties disagree with a proposed IWRP. If agreement cannot be reached then the RRO will make a decision and recommendations based on M.G.L. Chapter 152 and Department regulations and guidelines.

SUMMARY

- A. The IWRP is ready to be written when an employment goal and a vocational goal has been identified consistent with the client's interests, skills and abilities and it is marketable and will not aggravate or compound the disability.
- B. The IWRP must be approved by OEVR before all VR activity (with the exception of those services detailed in C below) has begun. IWRPs must be reduced to writing in a manner approved by OEVR. Do not present a "verbal" IWRP to the insurer for approval. If the Insurer refuses to support the IWRP it must be returned to you with a letter stating the reasons for the refusal.
- C. On-Site Job Analysis, Transferable Skills Analysis, Work Evaluation and Vocational Counseling are the only services that may be performed prior to IWRP approval since this information will be needed in order to develop an IWRP.
- D. Providers are responsible to ensure that the pre-injury employer has been contacted to determine if modification or alternative employment is available
- E. Books, supplies, transportation etc. must be accounted for in the IWRP and arrangements for tuition payment, books, supplies, transportation, parking, etc. should be made well before the start of each semester.
- F. Providers are expected to present the parties with all applicable information relating to the availability of outside sources of funding.
- G. To insure an appropriate and successful retraining program, clients must first be vocationally and academically evaluated to determine whether they are able to pursue a retraining program. Testing should include such evaluation instruments as: WAIS, WRAT, vocational evaluation work samples, interests inventories, etc... Test results of any academic testing must be in grade equivalents or in percentiles.
- H. Providers are responsible for ensuring that a program description setting forth required courses, entry requirements and school placement rate is obtained & attached to IWRP.

20. Filling Out the IWRP

All items must be filled out completely. All IWRPs must be typed. Client name and board number are required when submitting an IWRP. Any IWRP lacking completeness will be returned to the Provider with a request from the RRO indicating what items need to be completed.

1. **Employment Goals:**
Check off only one employment goal. If it needs to be changed in the future use the IWRP Amendment Form.
2. **Wage information:** include all appropriate information.
3. **Completion date:** record estimated date when all services will be completed.
(This will usually be the end date of the 60 days Post Placement Activity (Follow-up).
4. **Vocational Goal:**
Multiple vocational goals may be listed. [Ex. (page 1 of IWRP) “Accountant and related occupations”. Job title of the related occupations must be recorded in the narrative section of IWRP. If employment is obtained in one of the related occupations a plan amendment must be filed.]
5. **Functional Limitations:**
Describe and list client’s functional limitations as stated by the treating, evaluating and/or impartial physician.
6. **Transferable Skills:**
List the actual skills learned / performed on the job that can be used in another job.
7. **Estimated cost:**
List the estimated total cost for each services and hours involved. Do not merely list your hourly fee.
8. **Program Justification:**
 - a. Client Profile-work history, education, disability, limitations, abilities, interests, diagnosis, prognosis, treatment, etc...
 - b. Justify why the employment goal is appropriate and the others are not. Record the following statements and answer:

RTW same employer, same job modified is not possible because.(explain)

RTW same employer, different job is not possible because..... (explain)

RTW different employer, similar job is not possible because (explain)

RTW different employer, different job is not possible because(explain)

Retraining is not possible because (explain)

c. Describe details on how each service will be provided.

d. Describe and delineate client and provider responsibilities.

(Ex. “Counselor will be responsible for making all arrangements to start school in the Fall. Client will be responsible for daily attendance, maintaining a C average and contacting the counselor once every two weeks,” etc.)

e. Record exact job modification(s), if any.

f. Summarize why the VR service(s) selected will help achieve the vocational goal.

g. Justify the job demand by recording results of market research in client’s immediate geographical area.

IWRP Amendments

The IWRP Amendment is used to record changes in the IWRP and agreement by all parties with those changes. These changes include: a new vocational goal, or change in employment goal, addition or deletion of IWRP services, a significant change in VR costs, or changes in IWRP dates of service.

Procedures involving an Amendment are essentially the same as with an IWRP. As with the IWRP, the Amendment should be sent to OEVR by e mail within ten (10) working days after it has been submitted to the insurer. The name of the employee should be listed on the Amendment. Items one through three should be completed. The Amendment will not be approved unless the employee, provider and insurer have signed it. RRO disapproval of the Amendment will follow the same procedures as for IWRP disapproval.

Services provided without an amendment being developed, especially if there has not been provider contact with the RRO, will be considered a serious violation of OVER policy.

At times, provision of vocational rehabilitation services need to be interrupted, usually for medical reasons. Such cases should be discussed with the RRO who may agree to suspend the case for up to ninety (90) days. The provider can continue to provide medical management or other appropriate services during this period.

A report, indicating the cause for suspension should be sent to the RRO, along with the suspension form. The report should indicate the reason for the suspension of services be signed by the provider. Vocational rehabilitation services should be resumed as soon as possible. Case closure may need to be considered if the issues which led to the suspension have not been resolved by the end of the ninety day period. The provider must contact the RRO for permission to close the case.

SUMMARY

- A. The following items must be completed on the IWRP Amendment:
1. Current status of plan
 2. Proposed amendment
 3. Reason for amendment
 4. Specification of any additional vocational rehabilitation services which will be required
 5. Amended projected total vocational rehabilitation costs
 6. Amended completion date
- B. The IWRP Amendment is used to record and justify changes in the IWRP, new issues or setbacks affecting vocational rehabilitation plan completion, change of employment or vocational goal, addition or deletion of one or more vocational rehabilitation services or the extension of the IWRP completion date.
- C. A signed IWRP Amendment must be immediately forwarded to OEVR. The same justification required on the IWRP is required on the IWRP Amendment. It must be signed and dated by client, provider, insurer and approved first by OEVR before services start.

PROVIDER MONTHLY PROGRESS REPORTS

Progress Reports (MUST BE SUBMITTED BY E-MAIL)

It is the responsibility of the provider to submit monthly progress reports every 30 days in order for the RRO to clearly understand the current case status. In those cases where an IWRP has not been developed within ninety (90) days, the provider must request an extension from the RRO. Cases where monthly activity occurs or where the provider has monthly contact with the insurer also require monthly reports to OEVR. These reports should be copies of the reports sent to the insurer.

The RRO should be able to understand the case status based on the last report in the case. OEVR should remain apprised of current case status in instances where monthly provider/client contact does not occur or where a case is suspended. These cases usually involve medical treatment issues or clients performing well in long-term training programs (which require reports every 90 days).

For clients in training programs, the level of reporting should be sufficient to ensure successful completion of the training program and ability to intervene if problems arise. A report following the start of the training program should be submitted to OEVR. If there are no apparent problems then reporting can occur every ninety (90) days. If there are problems, case activity and subsequent reports need to be more frequent. There should not be a need for monthly provider/client contacts for motivated clients who are doing well in training. Contacts should occur at the beginning of training and at the end of the training cycle. If problems arise during the training cycle the responsible client will contact the provider. Copies of client grades should be sent to the RRO as well as copies of whatever other documentation is sent to the insurer.

In general, progress reports should include a summary of the current case status, progress toward IWRP development, barriers affecting VR, progress/problems in training programs, general results of placement activities, and reasons for case closure.

Chronic late reporting or missing progress reports will be cause for review by OEVR and can result in suspension or termination of a provider's right to provide vocational services to workers compensation claimants in Massachusetts.

SUMMARY

- A. Progress reports must include the following:
1. Present status of vocational activity; DIA board number
 2. Status of IWRP development (including explanation if IWRP has not been completed within 90 days);
 3. If a client is in retraining, a copy of the grades received from each marking period should be sent to the RRO;
 4. Summary of all vocational testing used to help develop an employment goal and vocational goal;
 5. The name of the OEVR review officer.
- B. Prior to an approved IWRP, progress reports shall not contain job ads from newspaper and other sources. This is considered akin to a labor market survey. Extensive monthly lists of job referrals generally are unnecessary and increase case costs. Labor market surveys may be performed upon approval of an IWRP by OEVR. Market research may be performed only on the vocational goal recorded on the IWRP. You can determine marketability without a Labor Market Survey by using other vocational tools.

[EX: “A review of the job market for IV Nurse and Recovery room Nurse was conducted. 20 Hospitals were contacted with 12 of them currently having several positions available. 3 do not at present but were hiring 3 months ago. Review of job ads and information received from DET-FRS reveal a moderate level of employment in the Boston area. 20% of existing job ads were in these fields. The vocational goal appears fairly marketable, thus we are ready to write up a plan.”]

Case Closure

A closure takes place when VR services have been initiated and later it is determined that services are no longer necessary, feasible, or desired by the client. Closure also occur when an injured worked completes a vocational rehabilitation program and is employed successfully for sixty (60) days.

All requests for closure must be filed with OEVR on its Closure Form. This form is completed and signed by the provider and then sent to the appropriate RRO. This form is required in order to close any case in which OEVR has deemed the client suitable for services and such services have been initiated. The provider

should send a narrative report in addition to the closure form as the closure form is insufficient for the RRO to assess the appropriateness of case closure.

Vocational rehabilitation services are terminated for many reasons and not all requests for closure are appropriate. For example, a lump sum settlement in and of itself is not a valid reason for case closure. The provider has a responsibility to discuss that case with the RRO prior to case termination.

Closures should meet the following criteria: (1) all parties should understand the reasons for case closure, (2) the client is told of the possible impact on future VR rights, (3) the case is discussed with the RRO, (4) a complete closure form is submitted by the provider to OEVR. When a client successfully completes an IWRP and has worked for at least sixty (60) days the case should be closed. The closure form must list the new job title, DOT code, employer name and address, client wage, and the other required information.

SUMMARY

A. The Closure Form must contain the following information:

1. Employment status
2. Name of employer
3. Hourly wage
4. Whether the client has been continuously employed for 60 or more days
5. Date returned to work
6. Job title and DOT code

Total vocational rehabilitation costs of all services rendered before and after IWRP development

B. The provider does not need to submit a closure form if OEVR has not deemed the client suitable for VR. However, **no case in which OEVR has determined suitability may be closed in respect to VR services without the submission of a signed and dated VR closure form and approval by OEVR.** The provider needs to submit a closure form to OEVR on any case in which OEVR has deemed the client suitable for services and VR services have been provided.

Compliance with OEVR 452 CMR 4.04

Pursuant to 452 CMR 4.00 *et seq.*, the Office of Education and Vocational Rehabilitation monitors the provision of vocational rehabilitation services under Workers Compensation in Massachusetts. Each rehabilitation provider will be evaluated periodically by OEVR. The evaluation will focus on the quality of services provided, the costs of such services, and the results achieved by such services. Implementation of such evaluations may be done through random case file audits, audits triggered by written or verbal complaints from interested parties, or audits otherwise determined as necessary by the OEVR director.

All VR case files with OEVR need to be properly documented by the rehabilitation provider in order for this office to assess the appropriateness and timeliness of services being provided. File documentation is focused on the following items:

- OEVR is to be notified as soon as possible when a referral for vocational services is received from the carrier by the provider. An initial vocational evaluation report by the vocational consultant *should not be* the first notice of referral by the provider. Ideally OEVR should be copied on the referral acceptance letter to the carrier.
- Progress reports are required every 30 days while the plan is being developed.
- An IWRP (form 151) will be filed within 90 days of referral. An extension request should be done if the IWRP is expected to take longer than that to develop.
- An OEVR closure (form 152) is done when the case is closed or when services have ended regardless of whether an IWRP has been developed.

OEVR's preferred method of receiving documents is by e-mail attachments. We do have the capacity to receive encrypted e-mails and documents. Please contact this office directly if you have any concerns or questions relative to this issue. Because of the signatures required for IWRPs and Closure forms, it is permissible to Fax such documents to us. These documents should be typed and legible upon receipt here. Ideally they should be originals or first generation copies.

Team Meetings

Team meetings are one of the primary tools available to assist OEVR in resolving disputes, disagreements and other barriers to the vocational rehabilitation process. The classic definition and purpose of a team meeting is cited in 452 CMR 4:07 1(b) which reads in part:

“In the event that the client disapproves of the rehabilitation services planned for him or her by the insurer, no such IWRP shall be approved by the office until a representative of the insurer authorized to approve expenditures for rehabilitation, the rehabilitation provider, and client have met with the office and agreed on the employment goal, the scope of services and the cost of the program.”

A team meeting may take place anytime after the client has been found eligible and services have been initiated. A meeting would generally be a last resort attempt to resolve an issue. In other words, phone calls, letters, etc., have been unsuccessful or impractical.

A formal team meeting as defined above would generally take place to resolve any issue that might have substantial financial impact on the cost of services. The insurer's representative should be present for such meetings.

An informal team meeting would be defined as occurring when the issues involved have minimal impact on financial aspects but may be more centered around client/vendor issues, e.g., personality conflicts, difficulties in determining a job goal, poor cooperation by the injured worker, etc. Such meetings are usually attended by the client, the provider and OEVR.

Any person who would be a signatory to the IWRP may request a team meeting. The request is made to the appropriate RRO who will make a determination of its necessity. Other, more expedient forms of resolution, should be investigated first. If a meeting is finally called, make sure that the reasons for the meeting are clear to all parties. Develop an agenda beforehand and stick to the main issue during the meeting.

If any of the participants fail to appear for the meeting, that person should be contacted before rescheduling. In rare situations, it may be possible to settle the issue satisfactorily without that person. If there is a repeat no show by a participant, you may have to make a decision without their input. If the client is the repeat no show without cause then strong consideration should be given to closing the case.

All team meetings will end in one of two ways. The issue is resolved and appropriate action is taken, or there is no resolution but the issue is referred back to the concerned participants with recommendations and an action plan. This latter situation may require a follow-up meeting.

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PART II: LEGAL AUTHORITY

TABLE OF CONTENTS

| | | |
|-----|---|----|
| I. | <u>G.L. c. 152 Reform Act</u> | 26 |
| II. | <u>452 CODE MASS. REGS. §§ 4.0 -- 4.11</u> | 29 |

Many of the December 23, 1991 new law revisions impacted and expanded the role of the Office of Education and Vocational Rehabilitation. Most of the mandates are procedural, effecting injuries back to November 1, 1986 when the previous reform was enacted. The following outlines all OEVR sections of the new statute with the BOLD print indicating amendments to Chapter 152:

Sec. 30: Medical and hospital services

In any case where AJ/ALJ, OEVR or HCSB is of opinion that fitting of an employee eligible for compensation with an artificial eye or limb, or other mechanical appliance, will promote restoration to or continue in industry, it may be ordered that such employee be provided with such item, at the expense of the insurer.

These provisions are applicable, notwithstanding the fact that maximum compensation under other sections of the chapter may have been received by the employee. This is procedural and applies to all dates of injury. St. 1991, c. 398, §53. See *Stevens v. Northeastern Univ.*, 11 Mass. Workers' Comp. Rep. 167 (1997) (discussing breadth of mechanical appliances which may be ordered in order to return an employee to gainful employment).

Secs. 30E: Development of voluntary agreements

It shall be policy of the department to encourage and assist in development of voluntary agreements between injured employees and insurers to provide and utilize vocational rehabilitation services when necessary to return such employees to suitable gainful employment. The department shall promulgate rules and regulations to implement such policy. (no change)

Sec. 30F: Identification of cases in which vocational rehabilitation services may be required

The Commissioner shall promulgate rules and regulations for the identification and reporting to the office of education and vocational rehabilitation of cases in which vocational rehabilitation services may be required. The purpose of said rules and regulations shall be to facilitate the earliest possible identification of such cases. (no change)

Sec. 30G: Meeting with injured employees requiring vocational rehabilitation services

OEVR shall contact and meet with each injured employee who believes may require vocational rehabilitation services in order to return to suitable employment. Any such employee who refuses to meet with OEVR shall not be entitled to weekly compensation benefits during period of such refusal. (no change)

Sec. 30G (cont): An insurer may reduce weekly benefits by 15% to any employee deemed suitable for vocational rehabilitation services by OEVR when employee refuses such services during period of refusal. No lump sum settlement shall be reached when deemed suitable by OEVR (Note: this does

not mean a certified provider) who has not completed an appropriate vocational rehabilitation program, pursuant to Section 30, without express written consent of the Office. Employee aggrieved by 15% reduction or prohibition of a lump sum settlement under this section may file a claim for reinstatement of benefits or removal of prohibition; provided that compensation shall not be reinstated nor settlement allowed unless claimant demonstrates no vocational rehabilitation program of any kind would be appropriate for such claim.

Sec. 30H: Applications for vocational rehabilitation services

If insurer and employee fail to agree to a vocational rehabilitation program, employee may apply to OEVR for services. If the Office determines vocational rehabilitation is necessary and feasible, it shall promptly develop, after such consultation as it judges reasonable with the employee and insurer, an appropriate program of no greater than **one hundred and four weeks for the employee** (consecutive calendar weeks).

The commissioner shall provide by rule for efficient procedures and quality controls in the office's management of such programs, which may be carried out under contract by private rehabilitation services providers. If, upon completion of the program, the office determines that the program was successful and returned the employee to suitable employment, it shall assess the insurer no less than twice the cost incurred by the office and such assessment shall be paid unto said trust fund. The insurer may contest any aspect of the assessment by filing a complaint with the division of dispute resolution. The injured employee shall not be a party to such proceedings. (no change)

A public employer or public employer insurance group filed notice of non-participation under §65, and which has appealed the determination of OEVR shall be bound by decision of Commissioner and if required by such decision, shall provide vocational rehabilitation program developed by the Office. Decision shall be enforceable in same manner as an order pursuant to §12.

Sec. 30 I: Availability of new jobs and job training programs

“The department shall assist and cooperate with the division of employment and training, the United States Department of Labor, and any other appropriate state or federal agency, in attempting to make available to disabled employees eligible to receive compensation benefits, new jobs and job training programs, including, but not limited to those conducted under the job training partnership act of nineteen hundred and eighty-two and successor programs. The division of employment and training shall assist in such efforts.”

Sec. 35D(5): Computation of weekly wage

The fact that employee has enrolled or is participating in a vocational rehabilitation program paid for by the insurer or the department shall not be

used to support contention that employee's compensation rate should be decreased in any proceeding under this chapter.

Sec. 45: Examination by physician; filing copy of report; refusing or obstructing examination; reimbursement of travel expenses and wages

The employee's right to compensation shall also be suspended during period the employee refuses insurer's written request that the employee be evaluated by a vocational rehabilitation specialist within the department. This request may occur only once every six months.

Sec. 48(2): Lump sum agreements

No employee shall be entitled to vocational rehabilitation benefits for any injury unless such employee shall have requested such benefits within two years of perfection of any settlement under this section of benefits due for said injury.

(3): **Where employee has been found suitable for vocational rehabilitation services pursuant to §30G, lump sum agreements shall be valid only where employee returned to continuous employment for a period of six months or more; or completed an approved rehabilitation plan; or received express written consent from the OEVR; or an order or decision from an administrative judge or administrative law judge authorizing such agreement.**

Sec. 65 (2)(d): Special Fund; trust fund

Payment of vocational rehabilitation benefits pursuant to § 30H by the Trust Fund. If the insurer refuses to provide the vocational rehabilitation program developed by office, the office shall provide it to the employee with trust fund money pursuant to § 65. The Commissioner shall provide by rule for efficient procedures and quality controls in the office's management of such programs, which may be carried out under contract by private rehabilitation service providers. If upon completion of the program, the office determines that the program was successful and returned the employee to suitable employment, it shall assess the insurer no less than twice the cost incurred by the office and such assessment shall be paid into said trust fund.

II. 452 CODE MASS REGS. §§ 4.00 – 4.11

452 CMR 4.00: VOCATIONAL REHABILITATION

Section

- 4.01: Scope and Authority
- 4.02: Definitions
- 4.03: Qualifications and Standards of Providers
- 4.04: Evaluation, Suspension and Removal of Providers
- 4.05: Mandatory Meeting
- 4.06: Notice to Insurer of Suitability
- 4.07: Design of Individual Written Rehabilitation Program
- 4.08: Amendment, Suspension or Termination of Rehabilitation Program
- 4.09: Notification and Authorization to Insurers Relative to Refusal of Vocational Services
- 4.10: OEVR Consent to Lump Sum Settlements
- 4.11 OEVR Director and Rehabilitation Review Officers

4.01: Scope and Authority

452 CMR 4.00 is promulgated pursuant to M.G.L. c.152, §1(12), as amended by St. 1991, c.398, §15 and §30F, as amended by St. 1986, c.662, §29, for the purpose of carrying out the requirements of M.G.L. c.152 relative to the provision of appropriate vocational rehabilitation services as overseen by the office of education and vocational rehabilitation (OEVR).

4.02: Definitions

(1) Amendment to the individual written rehabilitation program as used in 452 CMR § 4.00, shall mean any addition, deletion, or substitution in the employment goal, scope of services, responsibilities, or costs of the individual written vocational rehabilitation plan.

(2) Catastrophic Injury as used in 452 CMR § 4.00, shall be one in which an individual has sustained loss of function involving, but not limited to, any of the following conditions:

- (a) mangled, crushing or amputation of a major portion of an extremity,
- (b) traumatic injury to the spinal cord that has caused or may cause paralysis,
- (c) severe burns that require burn center care, or
- (d) serious head injury, loss of vision in both eyes, or loss of hearing in both ears.

- (3) Determination of Suitability, as used in 452 CMR §4.00, shall mean an evaluation of an injured employee as to appropriateness for vocational rehabilitation review officer employed by OEVR, referred to in M.G.L. c. 152, §30G.
- (4) Feasibility of Vocational Rehabilitation, as used in M.G.L. c. 152, §30H, and 452 CMR § 4.00, shall mean the practicality of recommending vocational rehabilitation services with respect to the cost-benefit ratio of such services, predictable return to function and duration of future employment, and the injured employee's pre-injury wage.
- (5) Functional Limitation, as used in 452 CMR §4.00, shall mean the residual effect of **physical or psychiatric injury or occupational disease as related to capacity to work.**
- (6) Individual Written Rehabilitation Program (IWRP), as used in 452 CMR §4.00, shall mean the source document for the injured employee's individual rehabilitation program, referred to in M.G.L. c. 152, §30G, which lists the services, costs, and responsibilities of all participants and which is developed by an OEVR certified rehabilitation provider but approved by the office of education and vocational rehabilitation.
- (7) Mandatory Meeting, as used in M.G.L. c.152, § 30G and 452 CMR §4.00 shall mean the initial interview between a workers' compensation recipient and a vocational rehabilitation review officer employed by OEVR. [referred to in M.G. L. c. 152, § 30G].
- (8) Necessity of Rehabilitation, as used in M.G.L. c. 152, §30H, and 452 CMR §4.00, shall mean circumstances in which an injured employee can not return to his or her former job with his or her former employer without job modification or job redesign, or placement in another job with or without retraining because of the functional limitation resulting from his or her injury.
- (9) Qualified Rehabilitation Counselor, as used in 452 CMR §4.00, shall mean any person who is approved to serve workers' compensation recipients pursuant to 452 CMR §4.03 (2).
- (10) Reasonable Incidental Costs, as used in 452 CMR §4.00, shall mean the cost of travel to a rehabilitation program site, as well as other expenses directly related to the rehabilitation program without which the injured employee would be unable to participate.
- (11) Successful Rehabilitation, as used in 452 CMR §4.00, shall mean sixty (60) days of **consecutive employment in a job compatible with the IWRP.**

(12) Systemic Injury, as used in 452 CMR §4.00, shall mean an injury which affects an entire body system, such as the respiratory or neurological system, as opposed to an injury which limits function in one area, such as a muscle sprain or strain.

(13) Team Meeting, as used in 452 CMR §4.00, shall mean a special meeting with OEVR inclusive of all parties involved in the vocational services being administered to an injury employee.

(14) Transferable Skills, as used in 452 CMR §4.00, shall mean any combination of learned behavior, natural talents, and work-related skills which can be adapted from one work setting to another.

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. Requests 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 disability management specialist designation;

(b) a master's degree in vocational rehabilitation 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 in which case the counselor shall have attained at least two years work 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.

(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;

(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;

(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 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 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.

(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) transferrable 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

OEVER 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 (10) working days of receipt of such notification, the insurer shall provide to OEVER all pertinent medical records on the injured employee if not previously submitted. If the insurer fails to produce the requested medical information and the treating physician is unable to provide a current medical report, OEVER shall order an impartial medical examination, the reasonable cost of which shall be reimbursed by the insurer. Otherwise, OEVER will determine suitability based on the information submitted.

4.07: Design of Individual Written Rehabilitation Program

(1) In the event that OEVER determines that vocational rehabilitation services are necessary and feasible for an injured employee, OEVER shall proceed as follows:

(a) When the injured employee, on the date of such determination, is participating in a vocational rehabilitation program initiated by the insurer, OEVER shall require that the individual written rehabilitation program be sent to OEVER and to any person participating in the implementation of the program. OEVER shall either approve or disapprove the program within ten (10) calendar days from the date of receipt of the program. Any comments on the program shall be submitted by participants to OEVER within seven calendar days of date of the office's receipt of the program.

(b) When the injured employee, on the date of such determination, is not participating in a vocational rehabilitation program initiated by the insurer, OEVER will contact the insurer and request that the insurer provide rehabilitation services to the injured employee through an approved provider as outlined in 452 CMR § 4.03. In selecting a provider, OEVER shall consider such matters as: the home address of the injured employee, the business address of the provider, the service specialties, if any, of the provider, the experience of the provider, and the current caseload of the provider. In the event that the injured employee disapproves of the rehabilitation services planned for him or her by the insurer, no such IWRP shall be approved by OEVER until a representative of the insurer authorized to approve expenditures for rehabilitation, the rehabilitation provider, and the injured employee have met with OEVER and agreed on the employment goal, the scope of services, and the cost of the program.

(c) When the insurer, rehabilitation provider, and injured employee fail to agree on the implementation of a program pursuant to 452 CMR § 1.06(1)(b), an individual written rehabilitation program shall be designed by a selected rehabilitation provider in accordance with OEVER specifications. The cost of such a 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.

(2) Vocational rehabilitation services set out in an individual written rehabilitation program may include, but not need 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) In establishing the employment goal of the individual written rehabilitation program, the participants shall give priority to returning the injured employee to employment with the pre-injury employer in the pre-injury job, or in said job modified to accommodate the injured employee's residual impairments. In the event that the injured employee's functional limitations or constraints of the local labor market preclude return to the pre-injury job, then the participants shall establish an employment goal appropriate to such injured employee's pre-injury wage, transferable skills, and employment history.

4.08 Amendment, Suspension or Termination of the Rehabilitation Program

(1) Whenever significant change in the life circumstances of the injured employee such as a medical reversal occurs, the IWRP shall be amended, suspended or terminated. Any amendment shall document the changed life situation and reflect appropriate medical, vocational or environmental intervention of the injured employee. Although an amendment may be substantive, such as a change in the employment goal or scope of service, the insurer shall not be liable for the cost of multiple or successive rehabilitation programs as defined by OEVR.

(2) In any circumstance in which the office determines that the health or well-being of the injured employee is jeopardized, OEVR may order that services be terminated immediately.

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

(1) If it is determined by OEVR that an initial interview is appropriate, said office shall schedule the mandatory meeting of said injured employee at a mutually convenient time as soon as practicable. If the injured employee fails to appear at the scheduled interview, OEVR shall reschedule by certified letter, however, if the injured employee fails to appear again, OEVR shall notify the insurer in writing, pursuant to M.G.L. c. 152, § 30G, that the injured employee is not entitled to weekly compensation during the period of such refusal to attend the mandatory meeting.

(2) When an injured employee is determined suitable for vocational rehabilitation services by OEVR and refuses such services, the insurer may request written authorization from OEVR for a 15% reduction in weekly benefits for the time such injured employee refuses vocational services. In accordance with M.G.L. c. 152

§ 8 (2)(f), OEVR will confirm authorization for reduction for refusal of such services in writing after the following:

(a) where OEVR holds a team meeting of all parties to resolve vocational issues and obstacles in the process; and/or

(b) where a certified letter is sent to the injured employee instructing s/he to contact OEVR within five (5) working days;

Reinstatement will be authorized by OEVR when an injured employee actively resumes services or otherwise justifies to the satisfaction of OEVR the appropriateness of the refusal.

(3) Whenever an injured employee attends a mandatory meeting, actively resumes services, or otherwise justifies to the satisfaction of OEVR the appropriateness of his or her refusal of services, OEVR will confirm in writing to the insurer that no authorization for suspension or reduction of benefits remains in effect.

4.10: OEVR Consent to Lump Sum Settlements

Where an injured employee who has been deemed suitable for vocational rehabilitation services by OEVR but has not completed an appropriate rehabilitation program requests the consent of OEVR to a proposed lump sum settlement, a letter must be submitted to the Director of OEVR at least two weeks prior to the lump sum conference. The letter must include the following information:

- (a) employee name;
- (b) DIA board number;
- (c) date and region of lump sum conference; and
- (d) reason why a review for consent is being requested.

4.11: OEVR Director and Rehabilitation Review Officers

No Vocational Rehabilitation Review Officer or OEVR Director shall be called to testify at any proceeding within the Division of Dispute Resolution regarding any vocational issue which has come before him as the Director or as the Vocational Review Officer.

REGULATORY AUTHORITY 452 CMR § 4.00: M.G.L. c. 152, § 5.