

David Sichel  
Deputy Director of Risk Management Services

Peggy Tucker  
Claims Manager, Workers' Compensation  
Vermont League of Cities and Towns

Testimony on April 13, 2016 on Workers' Compensation Vocational Rehab Issues in S.23  
Vermont House Commerce and Economic Development Committee

H.799, Section 2: Proposed Amendments to 21 V.S.A. §641

Workers' Compensation is intended to be a system of benefits for injured workers without proof of fault in exchange for a limited and determinate liability on employers. The amendments to the Workers' Compensation Vocational Rehabilitation statute, 21 V.S.A. §641, proposing narrower initial time frames and additional steps will serve to increase VR expenses significantly without ensuring that services are provided to injured workers who require it. This seems like a solution seeking a problem

- In most cases, 60 days would be premature to determine whether VR services are necessary. By 60 days, most injured workers expect and/or are expected to return to their current employer. For those with more serious injuries, formal treatment is still in its nascent stage. A claimant may not even be scheduled for surgery at this point, all with the expectation that there will be a return to the same work.
- This statute eliminates the Vocational Rehabilitation screening which is done at a fixed cost of \$160, by a neutral, impartial evaluator (one that will never be in the position of providing services) and instead requires use of a certified Vocational Rehabilitation Counselor (VRC) who will bill at an hourly rate, currently \$80.00, plus administrative charges, plus expenses.
- Further study needs to be done to determine the costs associated with a “preliminary entitlement assessment” which requires significant legwork and communications with the injured worker, the treating physician and employer. We estimate that this could cost over \$1000.00 per claim.
- Nearly every referral at 60 days will result in no conclusive determination on the future need for VR services and an extension will be requested, all at the employer's expense.
- Currently, in most cases, most VRC's are unable to make a determination at 90 days. At best, extensions are filed, often for substantial periods of time, at the employer's expense.
- Confronting an injured worker with VR services at 8 weeks post-injury seems to suggest that they do not have a job to return to which can be stressful frustrate the injured workers' medical recovery.

- The reevaluation of an injured worker every 30 days is patently unreasonable and likely costly. It could require a VR services be paid for indefinitely even with there never being a finding of entitlement. One option is to have the burden to pursue VR should shift to the injured worker to seek reevaluation on request.
- We do support a requirement that the VRC document all communications with the Claimant and other parties; this is currently lacking in reports and billing.
- We would also like a provision not requiring employer to subsidize private meetings between VRC's and the claimant's attorneys. The employer should be permitted to participate and or receive documentation and communications at all times that they are paying for the service.
- Some Statistics:
  - For the two year period 12/1/2014 - 12/31/2015 VLCT PACIF covered 166 lost time workers' compensation claims.
  - Of these 107 returned to work with less than sixty days of lost time.
  - Of the 59 claimants with sixty or more days of lost time:
    - 32 received a vocational rehab assessment and services as required by current law because they had more than ninety days of lost time.
    - The cost of vocational rehab services for these claims is \$39,242 to date.
    - The remaining 27 (45 percent) of the claimants with more than sixty days of lost time lost between sixty and ninety days of work and then returned to work.
    - The cost of providing a vocational rehab evaluation and an update every thirty days thereafter would have cost in the range of \$25,000 without a change in outcomes.