

1 S.173

2 An act relating to vocational rehabilitation

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. 21 V.S.A. § 641 is amended to read:

5 § 641. VOCATIONAL REHABILITATION

6 (a) When as a result of an injury covered by this chapter, an employee is
7 unable to perform work for which the employee has previous training or
8 experience, the employee shall be entitled to vocational rehabilitation services,
9 including retraining and job placement, as may be reasonably necessary to
10 restore the employee to suitable employment. Vocational rehabilitation
11 services shall be provided as follows:

12 (1) The employer shall designate a vocational rehabilitation provider
13 from a list provided by the Commissioner to initially provide services.
14 Thereafter, absent good cause, the employee may have only one opportunity to
15 select another vocational rehabilitation provider from a list provided by the
16 Commissioner upon giving the employer written notice of the employee's
17 reasons for dissatisfaction with the designated provider and the name and
18 address of the provider selected by the employee.

19 (2) The Department shall provide an injured worker with a form that
20 includes information and employee rights. The form shall clearly and simply
21 explain the worker's rights, including the choice of provider, the right to

1 challenge a determination, the right to request vocational rehabilitation
2 services in the future if the work injury affects the worker's ability to earn the
3 worker's preinjury wage, and reimbursement for related expenses. The worker
4 shall sign the form and return it to the Department.

5 (3) The Commissioner shall adopt rules to ensure that a worker who
6 requests services or who has been out of work for more than 90 days is timely
7 ~~and cost effectively screened for benefits under this section~~ referred to a
8 vocational rehabilitation counselor. The rules shall:

9 (A) Provide that all vocational rehabilitation work, ~~except for initial~~
10 ~~screenings,~~ be performed by a Vermont-certified vocational rehabilitation
11 counselor, including counselors currently certified pursuant to the rules of the
12 Department. ~~Initial screenings shall be performed by an individual with~~
13 ~~sufficient knowledge or experience to perform adequately the vocational~~
14 ~~rehabilitation screening functions.~~

15 (B) ~~Provide for an initial screening to determine whether a full~~
16 ~~assessment is appropriate. An injured worker who is determined to be eligible~~
17 ~~for a full assessment shall be timely assessed and offered appropriate~~
18 ~~vocational rehabilitation services. [Repealed.]~~

19 (C) ~~Provide a mechanism for a periodic and timely screening of~~
20 ~~injured workers who are initially found not to be ready or eligible for a full~~

1 ~~assessment to determine whether a full assessment has become appropriate.~~

2 [Repealed.]

3 (D) ~~Protect against potential conflicts of interest in the assignment~~
4 ~~and performance of initial screenings.~~ [Repealed.]

5 (E) Ensure the injured worker has a choice of a vocational
6 rehabilitation counselor.

7 (F) Ensure the injured worker may initiate vocational rehabilitation
8 services with the worker's chosen vocational rehabilitation provider if the
9 employer fails to assign a vocational rehabilitation provider within 90 days
10 following the worker being out of work.

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12 Sec. 2. VOCATIONAL REHABILITATION WORKING GROUP; REPORT

13 (a) Creation. There is created the Vocational Rehabilitation Working
14 Group to provide recommendations to the General Assembly on how to
15 improve the current vocational rehabilitation system to ensure that it meets the
16 needs of eligible injured workers in a timely and cost-effective manner.

17 (b) Membership. The Working Group shall be composed of the following
18 members:

19 (1) the Director of Workers' Compensation and Safety or designee;

1 (2) two representatives on behalf of workers' compensation claimants,
2 one of whom shall be appointed by the Speaker of the House and one of whom
3 shall be appointed by the Committee on Committees;

4 (3) two representatives on behalf of employers and workers'
5 compensation insurance carriers, one of whom shall be appointed by the
6 Speaker of the House and one of whom shall be appointed by the Committee
7 on Committees; and

8 (4) two vocational rehabilitation counselors currently certified in
9 Vermont, one of whom shall be appointed by the Speaker of the House and one
10 of whom shall be appointed by the Committee on Committees.

11 (c) Powers and Duties. The Working Group shall meet over the summer
12 and fall to discuss and develop recommendations on how to improve the
13 current vocational rehabilitation system and prepare recommendations for
14 consideration by the General Assembly. The Working Group shall consider
15 the following questions:

16 (1) What mechanisms could better identify which claimants are likely to
17 require vocational rehabilitation services?

18 (2) Could utilization of vocational services be improved by enabling
19 claimants to access vocational rehabilitation benefits while receiving wage
20 replacement benefits?

1 (3) Could the workers' compensation system take into account the
2 diminished earning capacity of those claimants who are unable to earn a
3 preinjury wage but are not eligible to receive permanent total disability
4 benefits?

5 (4) Should the average weekly wage be indexed to the cost of living for
6 vocational rehabilitation purposes?

7 (5) What improvements could be made to ensure that vocational
8 rehabilitation providers who provide services to workers' compensation
9 claimants are familiar with Vermont's workers' compensation system?

10 (6) Are some of the current requirements for providing vocational
11 rehabilitation services too onerous and administratively unnecessary?

12 (7) How could the Department of Labor's oversight of vocational
13 rehabilitation be improved?

14 (8) How could vocational rehabilitation services be provided in a way
15 that is more cost-effective for the workers' compensation system?

16 (d) Meetings. The Director of Workers' Compensation and Safety shall
17 call the first meeting of the Working Group to occur on or before August 14,
18 2026.

19 (e) Assistance. The Working Group shall have the administrative,
20 technical, and legal assistance of the Department of Labor.

- 1 (f) Report. On or before December 15, 2026, the Working Group shall
2 submit a written report to the House Committee on Commerce and Economic
3 Development and the Senate Committee on Economic Development, Housing
4 and General Affairs with its findings and any recommendations for legislative
5 action. The Working Group shall cease to exist upon submission of the report.
6 (g) Compensation and reimbursement. Except for those members regularly
7 employed by the State, members of the Working Group shall be entitled to
8 reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more
9 than five meetings. These payments shall be made from monies appropriated
10 to the Department of Labor.