

Legislative Testimony on S.173

2/5/26

Good morning Senators, thank you for the opportunity to be here. I'm Karina Dunigan, I'm a vocational rehabilitation counselor and the owner of Catamount Case Management, a private company providing vocational rehabilitation services to injured Vermonters. My business has been in practice for over 30 years, though most of those years occurred under the previous owner who was also my father.

I am one of 25 counselors in Vermont that are certified by the Department of Labor to provide vocational rehabilitation services to injured workers. VR is one of four benefits that an injured worker might be entitled to. VR counselors providing these services to injured workers must have a Master's degree in counseling, and experience specifically in the Vermont Workers' Compensation system.

The VR screening was designed to cost-effectively identify individuals who may need assistance returning to work after an injury, but in practice it is not working as intended. It doesn't do a good job of identifying injured workers who likely need vocational rehabilitation services either because the screening is not being done at all, not being done correctly, or if it is done, it is not done timely, which results in a delay for injured workers who are accessing the services and delaying their return to work.

Other than some injured workers attorneys, there is no one checking to make sure the screening referral has been done, has been done correctly and timely, and no remedy if the system fails. Injured workers are not aware that vocational rehabilitation may be available to them, and only the individuals who are represented are made aware of the benefit.

I'd like to tell you about a real case I have that illustrates the problems with the screening. Just to be clear, this isn't one of Kelly's client, but this sort of issue is happening all over Vermont and claimant attorneys are aware of the issues with the screening. My client, who I'll call Sam, experienced a foot injury while employed as a stove installer at the age of 45. Stove installation is extremely physically demanding work, requiring among other things, lifting of 100 pounds while going up ladders. The federal Department of Labor categorizes this as Very Heavy Work. Sam had always done physically demanding work that required him to be on his feet all day. He struggled academically but did obtain his GED.

As a vocational rehabilitation counselor, I can tell you that an individual with this type of injury and this background is likely to be extremely limited in their options for going back to suitable work and is likely to need vocational rehabilitation services to help them pursue a different line of work.

First screening: 7/31/23. Sam was referred for a screening by the insurance carrier when he had been out of work for about 90 days, which is when the first screening is supposed to occur. As you know the screening considers information from three categories: medical records, employer contact and claimant contact. The screener determined that Sam did not need to be referred to a VR counselor for consideration of eligibility because the employer indicated they would “try” to have Sam avoid working on ladders due to his foot injury. Sam was still in PT and was “hoping to get back to work soon”. The screener concluded that Sam would eventually be able to return to his job as there was “no evidence to the contrary”. Follow-up screening in 90 days.

Second screening: 12/11/23, at about 150 days later, and it was a different screener. Sam was still in medical treatment with ongoing issues with his foot. Now out of work 8 months. Screener spoke with employer who stated Sam attempted to return to work but had worsening pain after two days of work and was taken back out of work by his doctor. The medical records document worsening pain and difficulty getting back to work, however, the screener determined that Sam didn’t need to be referred for a full eligibility assessment. Follow-up screening in 90 days.

Third screening: 3/1/23 by third person. Since the second screening, imaging showed a non-union fracture and sprain/tear of ankle. Screener spoke to employer who confirmed that the employer does not have any light duty work, and confirmed Sam needs to be at full duty before returning to work. Screener confirmed Sam is going to need surgery, and has not been released to work. At this point Sam has been out for nearly a year with significant additional treatment needed, and employer confirming no light work, and still not referred to a VR counselor for a full eligibility assessment. Follow-up screening needed in 90 days.

At a certain point Sam hired an attorney, who knows how much the screening process can delay VR, and she fought very hard to get Sam referred to me so I could determine his eligibility for Vocational rehabilitation services. By the time he started working with me he had been out of work for 18 months, had lost his housing and was living in a motel with his wife and step-son and had reached his full recovery. This timeline is not what the system intended, we want injured workers who need assistance to be involved with vocational rehabilitation much earlier than this.

The screening failed to identify Sam’s need for VR for the better part of a year. If what this bill proposes was in place, he could have been working with me or someone like me, a year earlier.

Because of the delay in getting referred to a VR counselor, Sam hasn’t been able to utilize vocational rehabilitation to the fullest extent he is entitled to as now he doesn’t have the time to participate in training that he actually needs in order to get back to suitable work and his prior wage. Out of financial necessity he has had

to accept a job that is below his wage and where he's on his feet all day. Even though the doctor cleared him for this work, we all agree this type of job is not the best option for his foot.

The screening is not working as intended and I support the proposed changes included in this bill, which will improve injured workers' timely access to vocational rehabilitation services and help them return to the workforce as quickly as possible.

Thank you for the chance to provide this information, and for your attention to helping injured workers.