

Help In Returning To Work

Vocational Rehabilitation Benefits for Workers Injured after January 1, 1994

What is vocational rehabilitation?

Vocational rehabilitation is a workers' compensation benefit that helps injured workers return to work.

You generally qualify for vocational rehabilitation if you can no longer do your old job, and your employer does not offer you another.

If you qualify, a plan to return you to work will usually be developed by a vocational counselor - - with assistance from you and your claims administrator, the person who is handling your claim for your employer or your employer's insurance company.

California law limits the amount of money for rehabilitation services.

How do I find out if I'm eligible for vocational rehabilitation services?

When you are off work for 90 days, your claims administrator will give the doctor who is treating you a job description that lists the exact duties you performed at work.

Your claims administrator will ask for your help in preparing this job description. This is to make sure that your doctor has an accurate picture of your job duties

Your participation is very important, because if you do not assist, the claims administrator may send your doctor the employer's description of your job.

If you need help filling out the job description form, you may contact the Division of Workers' Compensation (DWC) Information and Assistance office.

Once your doctor reports whether you can return to your job, you will receive a letter from the claims administrator and a copy of the doctor's regarding medical eligibility.

If you are unable to return to your old job, your employer will decide whether you can return to other work with your disability. You should receive a notice in about a month from the date you receive the notice of potential eligibility from the claims administrator.

If your employer offers you work within your medical restrictions, and you reject or fail to accept the job within 30 days of the offer, you will not qualify for rehabilitation services.

What if the job my employer offered does not work out?

You may still be entitled to rehabilitation services if the job doesn't last for 12 months or your disability prevents you from performing the tasks.

If you have concerns, talk to your employer, claims administrator, or Information and Assistance officer.

What if my employer does not offer me a job?

You will receive an offer of vocational rehabilitation services. You have 90 days to accept. You may ask for an evaluation to help you decide.

If you want services but can't start immediately, you should let your claims administrator know and ask about the possibility of delaying services.

If you do not wish rehabilitation at all, you may decline these services by signing a form. This ends your employer's obligation to provide rehabilitation services at a later date.

Can I settle my vocational rehabilitation services?

No, for injuries which occurred prior to January 1, 2003. California law does not permit prospective vocational rehabilitation services to be settled.

Yes, for injuries which occur on or after January 1, 2003. An employer and represented employee may agree to settle rights to prospective vocational rehabilitation services with a one-time payment not to exceed \$10,000 for use in self directed vocational rehabilitation.

If I accept vocational rehabilitation, what should I expect?

You and your claims administrator can choose an agreed upon counselor who will

develop a rehabilitation plan for you. This can include job modification, job placement assistance, short-term training, and self-employment possibilities - - whatever is the best way to return to work

You also have the right to request a change of counselor.

What income do I receive if I accept vocational rehabilitation?

If you are receiving temporary disability payments when you start vocational rehabilitation, you may continue receiving them until your doctor reports your condition is "permanent and stationary." When this occurs, you will then receive a maintenance allowance of up to \$246 per week. There is a 52-week limit to the maintenance allowance that counts against the \$16,000 cap. It is better for you to start your rehabilitation as soon as possible. You may also receive advance payments of permanent disability benefits to supplement the maintenance allowance.

What are the limits of vocational rehabilitation?

The California Legislature has placed very strict limits on rehabilitation plans:

- * The plan must be completed within 18 months.
- * Vocational rehabilitation maintenance allowance payments are limited to a total of 52 weeks.
- * Once you agree to a plan, changes are limited.

* Total cost, including maintenance allowance, counseling fees, services and expenses, are generally limited to \$16,000.

What if I'm already enrolled in a college or university?

If you are already enrolled and have made substantial progress toward a degree or certificate at a community college, California State University, or the University of California, you may be able to waive the services of a rehabilitation counselor. Funds normally paid for counseling may then be used to help pay for the college or university program in which you are enrolled. Contact the DWC Rehabilitation Unit for details.

What other services or benefits could I receive as part of the vocational rehabilitation benefit?

- * Transportation allowance at a rate specified by the State of California.
- * Specific costs required for your rehabilitation plan, such as the cost of re-training, supplies, tools and equipment, tuition and student fees.
- * Reasonable additional living expenses, such as temporary relocation costs during evaluation or training. This consists of the costs of your food and lodging when you are required to be away from home.
- * Reasonable relocation expenses if permanent relocation is required.
- * Remember, total costs cannot be more than \$16,000 except in very limited circumstances.

What are my responsibilities?

You are expected to:

- * Take an active role in your rehabilitation.
- * Complete assignments.
- * Be on time for all appointments, classes, interviews and scheduled meetings.
- * Notify your rehabilitation counselor immediately if you are unable to keep appointments.
- * Maintain an accurate, complete travel expense log.
- * Stay in contact with and immediately notify your counselor of any problems.
- * Keep your counselor and claims administrator advised of any change of your address or phone number.
- * Be available for rehabilitation services Monday through Friday, during reasonable business hours.

You should be aware that if you do not participate fully, your maintenance allowance may be stopped.

What are the claims administrator responsibilities?

The claims administrator in a timely manner:

- * assists you in returning to work with your employer.
- * pays your benefits that are due.
- * pays for rehabilitation services and expenses that are agreed upon.
- * notifies you of changes in benefits
- * submits required paperwork to DWC

* responds to your questions.

If your claims administrator causes a delay in the provision of services, you may be entitled to additional benefits that could extend beyond the \$16,000 limitation. You must file a Request for Dispute Resolution (DWC Form RU-103) if you wish a written determination as to whether there was a delay.

How do I request assistance from the DWC Rehabilitation Unit?

We hope that you can resolve problems informally with your claims administrator. However, the DWC Rehabilitation Unit is the agency responsible for resolving disputes in vocational rehabilitation.

You can contact the Rehabilitation Unit by phone, or you may request assistance by completing a Request for Dispute Resolution (DWC RU-103).

There is also a toll-free information number you may call for a recorded message - - 1-800-736-7401. You may also request any forms or printed information that you may need by calling the toll free number.

Should I have an attorney represent me? How much will it cost?

Both the DWC rehabilitation consultant and the information and assistance officer are available to help at no cost to you.

If you decide you want the services of any attorney, you will be represented on matters involving your workers' compensation claim(s). Your attorney will represent you before the

Workers' Compensation Appeals Board and Rehabilitation Unit. Your attorney will also represent you in proceedings before any appellate court, or any proceedings designed to execute on an award.

You should be aware that your weekly vocational rehabilitation maintenance allowance payment (VRMA) may be reduced to pay the attorney. Generally 12% of your weekly VRMA is set aside for payment of attorney fees. For example, if you are entitled to the maximum rate of \$246 per week, a 12% reduction means that you would receive \$216.48 per week. For this reason, you should discuss fees with the attorney.

You may or may not be entitled to other rights.

The federal Americans with Disabilities Act (ADA) prohibits discrimination against qualified individuals. Qualified individuals include persons who have a physical or mental impairment that substantially limits one or more life activities and who can perform essential job functions. The employer is required to provide a reasonable accommodation if it would not impose an "undue hardship" on the employer.

For information on the Americans with Disabilities Act, call the Equal Opportunity Commission at 1-800-USA-EEOC.

The state Department of Fair Employment and Housing (FEHA) administers California laws that prohibit harassment or discrimination in employment, housing and public accommodations. If you feel an employer has discriminated against you and you want information, the phone number is

1-800-884-1684.

Here is how to get helpful information:

This publication is intended to answer the most frequently asked questions. It may not necessarily provide a solution for your particular problem, because the specific facts of your situation may call for a different approach. The information contained here is general in nature, and not intended as a substitute for legal advice.

If you have more questions after reading this publication, contact one of the DWC Information and Assistance offices or Rehabilitation offices listed in the white pages of your telephone directory under "State Government Offices, Department of Industrial Relations" or contact the web site at:

www.dir.ca.gov

ANYONE WHO KNOWINGLY FILES OR ASSISTS IN THE FILING OF A FALSE WORKERS' COMPENSATION CLAIM MAY BE FINED UP TO \$50,000 AND SENT TO PRISON FOR UP TO FIVE YEARS.

[Insurance Code Section 1871.4]

**State of California
Department of Industrial Relations
Division of Workers Compensation
Rehabilitation Unit**

Note: Authority cited: Sections 133, 139.5, 139.5, 139.6, and 5307.3, Labor Code.
Reference: Sections 139.5, 4646, and 4636, Labor Code.