

Regulations of Connecticut State Agencies

TITLE 31. Labor

Agency

Workers' Compensation Commission

Subject

Structure and Operation of Workers' Rehabilitation Programs

Inclusive Sections

§§ 31-283a-1—31-283a-6

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Structure and Operation of Workers' Rehabilitation Programs

Sec. 31-283a-1. Definitions

As used in sections 31-283a-1 through 31-283a-6, inclusive:

(1) "Chairman" means the Chairman of the Connecticut Workers' Compensation Commission, selected by the Governor pursuant to Section 31-276, whose powers are enumerated in Sec 31-280(b); or his designee.

(2) "Commissioner" means one of the sixteen (16) Workers' Compensation Commissioners as defined in Section 31-275(3).

(3) "Rehabilitation Programs" means the following vocational rehabilitation services provided by the Workers' Compensation Commission, with available supporting benefits, to employees who have suffered disabling injuries within the provisions of the Connecticut Workers' Compensation Act:

- (A) Outreach
- (B) Testing and evaluation
- (C) Counseling
- (D) Training
- (E) Job placement
- (F) Post-placement follow-up

(Adopted effective October 18, 1995)

Sec. 31-283a-2. Vocational rehabilitation benefit eligibility

As provided in Section 31-283a of the general statutes, a disabled employee may be eligible for vocational rehabilitation benefits, provided the Chairman or his designee finds that:

(1) The employee, employer, insurance carrier, physician, Commissioner, or other interested party has requested vocational rehabilitation services by completing and filing an application signed by the applicant for vocational rehabilitation benefits with the Chairman or his designee.

(2) There exists a permanent impairment which substantially disables the employee for a significant period of time from performing the worker's most recent or customary type of work and that such permanent impairment is a direct result of an injury found to be compensable under Chapter 568 of the general statutes by a Commissioner, a voluntary agreement, an award; or in lieu of those, a stipulation approved by a Commissioner.

(Adopted effective October 18, 1995)

Sec. 31-283a-3. Vocational rehabilitation programs and benefits provided to eligible employees

(a) **Vocational evaluation.** Each employee may be evaluated to determine the need and/or type of rehabilitation services which may be provided. This evaluation may include a summary of physical, psychological, intellectual capabilities and limitations, a work

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accommodation analysis, work history, education, inventories of transferable skills and vocational interests, and all other data pertinent to the individual's vocational capabilities.

(b) **Employment capabilities determination.** Following vocational evaluation, the Chairman or his designee shall determine whether:

(1) The employee has the capacity to return to his or her customary or most recent work. In this case all services will be terminated.

(2) The employee has the capacity to return to his or her customary or most recent work provided job modifications are effected. In this case the Commission will assist the employee in obtaining suitably modified employment.

(3) The employee possesses adequate vocational skills to obtain other employment. In this case the Commission will assist the employee in obtaining suitable employment.

(4) The employee's current medically documented residual capacities and vocational status is so unstable or unclear that no meaningful rehabilitation effort is practicable. In this case the Chairman or his designee will defer further determination until a change in circumstances warrants reconsideration.

(5) The employee's medically documented residual capacities present a reasonable expectation of successful completion of a program of vocational rehabilitation including but not limited to reemployment by the same employer in a different capacity, on-the-job training, or vocational education for a new occupation. In this case the Chairman or his designee will provide an appropriate program.

(6) The employee lacks sufficient transferable skills to function adequately within the labor market to which the employee is most likely to be exposed. In this case the Chairman or his designee will provide an appropriate program.

(7) Accommodation of the employee's vocational goals would not require modification of the policies, practices and procedures of the rehabilitation program such that it would cause a fundamental alteration of the nature of the services offered thereunder.

(c) **Determination of employment objective.** The Chairman or his designee shall determine which of the following employment objectives is the most feasible in each case:

(1) Reemployment by the same employer with appropriate job modification.

(2) Reemployment by the same employer after the employee has received vocational rehabilitation services.

(3) Reemployment in the competitive labor market with other than the original employer in a job after the employee has received vocational rehabilitation services.

(d) **Establishment and structure of vocational rehabilitation plan.** The Chairman or his designee will prepare an individual rehabilitation plan and trainee program manual for each disabled employee whose determined employment objective will require the disbursement of funds. Such plan shall be approved by the Chairman or his designee and contain the following data:

(1) Employment objective;

(2) Proposed beginning and ending dates;

(3) Program content;

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- (4) Program source;
- (5) Special conditions upon which the program is based;
- (6) All other data including the cost effective factors as may be required by the Chairman or his designee;
- (7) Total estimated program cost;
- (8) Program approval as evidenced by the signatures of the injured employee, counseling coordinator, and the Chairman or his designee. No commitment of funds shall be effected or disbursement made in the absence of these approvals.

(e) **Job placement.** The Chairman or his designee will provide appropriate services for each eligible employee for whom reemployment is proposed. These may include, but are not limited to, the following:

- (1) Formal training in job seeking skills;
- (2) Job market research and assessment;
- (3) Job accommodation analysis;
- (4) Job placement assistance as appropriate or through other agencies both public and private;
- (5) Post-placement follow-up to assess the employee's successful reentry into the labor market.

(f) **Vocational counseling.** The Chairman or his designee shall provide appropriate individual counseling and rehabilitation services to each eligible employee in a timely manner.

(Adopted effective October 18, 1995)

Sec. 31-283a-4. Rehabilitation allowance payments

(a) **Eligibility.** The Chairman or his designee may provide to each person for whom a vocational rehabilitation plan has been approved, timely allowances for basic living expenses of the employee while engaged in a full-time vocational training program under the rehabilitation program's sponsorship, provided:

- (1) The employee is not receiving or eligible to receive any benefits provided by Chapter 568 of the general statutes, is not receiving or eligible to receive other benefits such as, but not limited to, unemployment compensation or social security disability benefits.
- (2) The employee is engaged in a training program described by a vocational rehabilitation plan requiring the trainee to be present at the place of instruction at least 25 scheduled hours, or at a college level program consisting of a course load of no less than 12 credit hours required and earned per semester, or no less than six credit hours required and earned during the summer.

(3) The trainee is adhering to the specific terms of the plan and trainee manual and is providing timely and accurate information as to training progress, performance, and attendance, as required by the Chairman or his designee.

(b) **Schedule of payments.** The Workers' Compensation Commission may pay vocational rehabilitation allowances to eligible trainees in accordance with the following:

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(1) The allowance paid each trainee shall be a percentage of the benefits which the trainee would receive for the same period if eligible for compensation provided in Section 31-307, 31-307a, 31-308(a), or 31-308a of the general statutes; which percentage shall be established at least annually by the Chairman or his designee. An additional allowance includes travel expenses from the employee's home to the training facility and return.

(2) Each trainee's starting date and payment amount shall be approved by a Workers' Compensation Commissioner and submitted to the Chairman or his designee on an authorization for rehabilitation allowance.

(3) Payments will be made at two-week intervals, upon completion and submission to the Chairman or his designee of a claim for payment of rehabilitation allowance, at the end of each period.

(c) **Termination of payments.** The Workers' Compensation Commission shall cease to pay vocational rehabilitation allowances to any person whose training under the plan has been concluded. If payments are terminated for reasons other than scheduled expiration of the trainee's vocational rehabilitation plan, written notice of termination and the reason therefor shall be provided to the employee by the Chairman or his designee.

(Adopted effective October 18, 1995)

Sec. 31-283a-5. Discontinuance of benefits

(a) **Maintenance of benefits.** The trainee shall complete each approved vocational rehabilitation plan unless the Chairman or his designee shall find one or more of the following conditions to exist:

(1) Absences from training exceed ten percent (10%) of the scheduled instruction time for a period; being one semester or one module (a single course or unit of instruction as defined by the training school's course description).

(2) Performance is determined to be substandard, as evidenced by a grade report, transcript, or training progress report form received from the training provider.

(3) The Commission is informed by written statement from the training provider that the trainee's conduct at the training site fails to meet minimum standards as established by the training site's written policy.

(4) Trainee has willfully submitted false claims, reports or statements to the Workers' Compensation Commission.

(5) Any combination of the preceding conditions as a result of which the program no longer offers a reasonable expectation of successful conclusion.

(b) **Procedure for vocational rehabilitation plan termination.** Except for those plans terminated for reasons stated in subdivision (5) of subsection (a) of this section, no plan may be terminated except in accordance with the following procedure:

(1) The trainee shall be given written warning specifying why his or her conduct, performance or attendance record is unacceptable, and that failure to correct the deficiency shall result in his/her termination from the program.

(2) If the deficiency set forth in the warning notice has not been corrected within 30

days, or such other time specified therein, he/she shall be withdrawn from the program.

(Adopted effective October 18, 1995)

Sec. 31-283a-6. Contested vocational rehabilitation cases. Appeal process

(a) **Notice of appeal.** Any person having made application for vocational rehabilitation benefits and aggrieved by action of the Workers' Compensation Commission in withholding or providing benefits, and having been unable to effect resolution through informal discussion, shall be afforded an opportunity for hearing upon submission of a written notice of appeal to the Chairman or his designee. This notice shall include but not necessarily be limited to the following:

- (1) The specific nature of the grievance;
- (2) The remedy sought;
- (3) Acceptable alternative remedies, if any.

(b) **Appeal procedure.** Upon receipt of a notice of appeal as provided in subsection (a) of this section the Chairman or his designee shall initiate the following appeal procedure:

(1) Within fifteen (15) days of receipt of a notice of appeal, an informal conference will be scheduled with the grievant, at a mutually acceptable time and place, for the purposes of effecting a remedy acceptable to both parties.

(2) If the informal conference does not result in resolution of the issue within 15 days, the grievant will be so informed in writing. The grievant may further pursue a remedy by submitting a written request for a hearing to the Chairman or his designee.

(3) The Chairman or his designee shall, not more than 30 days following receipt of the request for hearing, notify the employee of the time and place selected for the hearing.

(4) The Chairman shall conduct the hearing, accepting all relevant evidence, both oral and written.

(5) Within 30 days of the conclusion of the hearing, the Chairman shall render his written decision notifying the grievant of what remedial action, if any, the Workers' Compensation Commission is prepared to implement.

(6) The Chairman's final decision shall be binding and shall not be appealable.

(Adopted effective October 18, 1995)