

# Vocational rehabilitation, Part 3: Job search, placement and repercussions



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In the last two columns, we examined the Office of Workers' Compensation Programs (OWCP) vocational rehabilitation (VR) program. OWCP will initiate VR in cases where injured workers have been found to be permanently disabled due to their workplace injuries and their employing agency has no work for them. Last month's column explained the role of rehabilitation counselors (RC) who are responsible for developing re-employment plans for the permanently disabled worker.

For OWCP to properly refer an injured worker for VR, the case file must contain medical evidence that indicates a permanent disability. It is vitally important that injured workers maintain a regular appointment schedule with their doctor. OWCP routinely conducts case-file reviews for injured workers on the periodic rolls. If the file shows little or no medical evidence over the previous year, claims examiners will schedule a second opinion examination (SECOP). VR is often based on SECOP reports that determine permanent disability.

**Once VR has been initiated, the injured worker needs** to be fully engaged in the process. The RC will confer with the injured worker in evaluating possible occupations that are consistent with the worker's experience, education and skills, and which conform to the worker's medical conditions.

When an injured worker has been contacted by an RC, the injured worker is required to work with the RC to identify at least two target occupations to explore as potential goals. The rehabilitation plan has several components, and the selected jobs must be in occupations that are determined to be medically and vocationally suitable for the worker and reasonably available within the commuting area.

For a plan to be medically suitable, the medical evidence should establish that the injured worker is able to perform the job, taking into consideration medical conditions due to the accepted work-related injury or disease, other medical conditions that pre-existed the work injury and/or any conditions that developed after the injury that are recognized by OWCP. The claims examiner is responsible for determining if the job is within the current, established physical capacities and work restrictions of the worker.

For a plan to be vocationally suitable, the job should be compatible with the worker's educational and vocational capabilities. If job placement will occur immediately, the worker must be capable of performing the identified jobs at the time of plan development. If a proposed re-employment plan calls for training, the evidence should establish that the worker will have the vocational skills for the targeted jobs following training.

**Once the target occupational areas are chosen, the RC is** required to complete one or more labor market surveys to explore the availability of the proposed target jobs within the worker's commuting area and to determine the prevailing wages.

The labor market survey is used to determine 1) if the target jobs exist and, if so, how many exist in the worker's local commuting area; 2) the current, recent and projected availability for each of the targeted jobs; 3) the salaries these jobs offer someone with the worker's experience and skill levels; 4) the qualifications required for each of the jobs and whether the worker has the background, skills, education and/or experience needed; 5) the true physical demands of each job and whether these demands match the worker's functional capacities and documented work restrictions; and 6) if it is reasonable to expect that the worker is capable of becoming employed in these jobs within his/her commuting area.

If it is confirmed that the jobs are reasonably available and the prevailing wages are as close as possible to the pre-injury wage, the worker will be asked to sign an agreement and begin the job search.

If the worker has not obtained employment after 90 days (or by the end of any approved extension period), or was not cooperative at any time during the placement period, the RC may be asked to submit a closure report. The targeted jobs will represent the worker's current or target wage-earning capacity and may be the future basis for adjusting workers' compensation benefits upon completion of placement services, whether or not the worker is successfully employed.

Despite the fact that an injured worker may never be offered a job, the Employees' Compensation Appeals Board (ECAB) has ruled that a job is considered reasonably available if just one such job exists within the worker's commuting distance.

**Herein lies the danger in the VR process: An injured** worker can dutifully look for a job, and then have the wage-loss compensation drastically reduced when they do not get hired.

The best way to forestall VR and help the injured worker is to compel management to find suitable work within the Postal Service. When an employee has partially overcome a compensable disability, *ELM*, Section 546-142 requires management to make every effort to assign the employee to limited duty consistent with the employee's medically defined work limitations. Branch grievance officers can help their injured members avoid the VR process by grieving management's failure to search for and find work within the Postal Service.