

## VOCATIONAL REHABILITATION EXTENT OF SERVICE

Amended: January 29, 2003  
Effective Date: November 1, 2002

### A. BACKGROUND

On October 16, 2002, the Panel of Administrators approved amendments to the Board's policies concerning extent of entitlement to vocational rehabilitation services.

### B. EFFECTIVE DATES AND TRANSITION RULES

The policy changes are effective November 1, 2002 and apply to all decisions made on or after November 1, 2002, on claims adjudicated under the *Act* as amended by the *Workers' Compensation Amendment Act, 2002*. For recurrences, please refer to Practice Directive #C1-1, *Effective Dates and Transition Rules* and Practice Directive #C14-3, *Reopenings*.

### C. PURPOSE

This practice directive provides guidance on the level and extent of service that may be provided by Vocational Rehabilitation Services and outlines the criteria for extensions.

### D. LAW

Section 16 of the *Act* is discretionary in nature and guides the Board in the provision of vocational rehabilitation services to injured workers.

### E. POLICY

The following sections of the *Rehabilitation Services and Claims Manual* ("RSCM ") Vol. II relating to the provision of vocational rehabilitation service have been amended:

- Policy item C11-88.30      Job Search
- Policy item C11-88.40      Training-on-the-Job (TOJ)
- Policy item C11-88.50      Formal Training
- Policy item C11-88.60      Business Start-ups

The policy provides a basis upon which to make decisions related to the extent of service that is considered reasonably necessary or expedient to assist a worker in:

- his or her return to work, or

- “lessening or removing a resulting handicap”, as stated in the *Act*.

The policy defines reasonable levels of service. It also details the specific criteria for consideration of extensions and identifies the approval process for extension requests.

All extensions to the extent of service outlined in policy require approval by the Vice-President, Rehabilitation and Compensation Services Division, or the Director of Vocational Rehabilitation Services.

The Department provides guidelines that are outlined in the VR Procedures Handbook for assessing the level of extensions that may be approved.

## **F. POLICY ITEM C11-88.30 JOB SEARCH ASSISTANCE**

Job search assistance will be considered for workers who require assistance to conduct a successful search for suitable employment. Eligibility remains contingent on the worker’s active participation, cooperation, and provision of proof of his or her job search activity. Policy states the payment of a job search allowance will be for up to 12 cumulative weeks.

In order for consideration to be given to an extension of job search one of the following criteria will first apply:

- Labour market data supports a greater average number of weeks of job search for the worker’s home geographic area and/or the worker’s occupation;
- The severity of the injury and resulting residual disability are such that the average number of weeks to locate suitable employment will be greater than 12 weeks; or
- The worker has actively participated in the job search process and there is objective evidence that a period of greater than 12 weeks is necessary to locate suitable employment that will allow the worker to return to an occupational category comparable in terms of earning capacity to the pre-injury occupation.

Prior to requesting an extension for job search, the Board officer in Vocational Rehabilitation Services (“VRS”) will review the worker’s job search efforts and the supporting objective information in relation to the extension criteria set out above, to ensure that an extension is required and warranted. Extensions will only be considered and approved in limited circumstances. It should be noted that the third criterion will only apply to worker’s who meet the “so exceptional” test under Section 23(3).

If the Board officer in VRS is satisfied that both the worker’s efforts and the labour market information support an extension, the Board officer will put together a written recommendation outlining the details and rationale of the request.

The supporting documentation should include:

Criteria	Rationale
> 12 weeks – Geographic/Occupation	<ul style="list-style-type: none"> <li>▪ Details of the geographic area and/or occupation that support the need for more than 12 weeks of job search assistance</li> <li>▪ Current labour market information to support the availability of employment</li> <li>▪ Current HRDC/Stats Canada data on number of weeks, on average, required</li> </ul>
> 12 weeks – Severity of Injury	<ul style="list-style-type: none"> <li>▪ Impact of injury on worker's employment options</li> <li>▪ Impact of injury on worker's job search and placement options</li> </ul>
> 12 weeks – Comparable earning capacity (23(3))	<ul style="list-style-type: none"> <li>▪ Current labour market information shows reasonable availability of jobs that would maximize worker's earning potential</li> </ul>

To ensure consistency and equity in determining how much of an extension should be approved, the VRS managers will review each request prior to forwarding it to the Director, VRS for approval. The review will include a consideration of the individual merits of the claim, the extension criteria set out previously and a review of the extension guidelines outlined in the VR Procedures Handbook.

## **G. POLICY ITEM C11-88.40 TRAINING-ON-THE-JOB (“TOJ”)**

The TOJ will be negotiated for up to 26 weeks in length, as specified in policy. For consideration of an extension to the 26 weeks, one of the following criteria will apply:

- A program greater than 26 weeks will result in no loss of earnings for a worker who is being assessed for a section 23(3) award;
- A program greater than 26 weeks will result in permanent long-term employment;
- A program greater than 26 weeks is necessary to develop/demonstrate the required occupational skill levels; or
- A program greater than 26 weeks is required for ticketing and/or certification in the identified occupation.

In these instances, the total timeframe for the TOJ must form part of the vocational rehabilitation plan. Appropriate approvals must be secured prior to any commitment being made.

As part of the vocational rehabilitation plan, the Board officer in VRS will document the supporting evidence and demonstrate the financial implications/cost effectiveness of the plan. The Board officers will forward the recommendation to the VR Manager for review prior to consideration of the request by the Director of Vocational Rehabilitation Services.

The supporting documentation should include:

Criteria	Rationale
> 26 weeks – No LOE for Section 23(3)	<ul style="list-style-type: none"> <li>▪ Details of the occupation that support the need for more than 26 weeks of TOJ</li> <li>▪ Current labour market information to support the training requirements</li> <li>▪ Current HRDC/Stats Canada data on the long term wage rate</li> </ul>
> 26 weeks – Permanent Long-term employment	<ul style="list-style-type: none"> <li>▪ Details of the occupation that support the need for more than 26 weeks of TOJ</li> <li>▪ Worker’s existing education and/or skill levels relative to job requirements</li> <li>▪ Impact of injury on worker’s training requirements</li> <li>▪ Current labour market information to support the training requirements</li> <li>▪ Current HRDC/Stats Canada data on the long term wage rate</li> </ul>
> 26 weeks – Develop/demonstrate required occupational skills	<ul style="list-style-type: none"> <li>▪ Worker’s existing education and/or skill levels relative to job requirements</li> <li>▪ Impact of injury on worker’s training requirements</li> <li>▪ Current labour market information to support the training requirements</li> <li>▪ Current HRDC/Stats Canada data on the long term wage rate</li> </ul>
> 26 weeks – Required for ticketing or certification	<ul style="list-style-type: none"> <li>▪ Current labour market information to support the training requirements</li> <li>▪ Current HRDC/Stats Canada data on the long term wage rate</li> </ul>

#### H. POLICY ITEM C11-88.50 FORMAL TRAINING

Formal training will generally be skill based and of short duration – up to 26 weeks. In order for consideration to be given to a formal training program of more than 26 weeks in length, one of the following criteria must apply:

- A program greater than 26 weeks is required to assist a worker who is assessed under section 23(3) in mitigating his or her loss of earnings;

- A program of less than 26 weeks is not sufficient to provide new occupational skills in the individual circumstances of the case; or
- The vocational rehabilitation plan that is developed identifies and provides supporting documentation for a lengthier formal training program based on the worker's objective functional capacity, existing transitional skills, aptitudes, education, and training or labour market demands.

In these instances the total timeframe for the formal training must form part of the vocational rehabilitation plan and appropriate approvals secured prior to any commitment made.

As part of the vocational rehabilitation plan, the Board officer in VRS must provide the supporting objective evidence and demonstrate the plan's financial implications/cost effectiveness. The program should be directly related to suitable employment opportunities that will maximize the worker's earning potential in the long term.

The supporting documentation should include:

Criteria	Rationale
> 26 weeks – Mitigating LOE under Section 23(3)	<ul style="list-style-type: none"> <li>▪ Details of the occupation that support the need for more than 26 weeks of formal training</li> <li>▪ Current labour market information to support the training requirements</li> <li>▪ Current HRDC/Stats Canada data on the long term wage rate</li> </ul>
> 26 weeks – Develop new occupational skills	<ul style="list-style-type: none"> <li>▪ Details of the occupation that support the need for more than 26 weeks of formal training</li> <li>▪ Worker's existing education and/or skill levels relative to the occupational requirements</li> <li>▪ Current labour market information to support the training requirements</li> <li>▪ Current HRDC/Stats Canada data on the long term wage rate</li> </ul>
> 26 weeks – Functional Capacity, Transferable Skills, Education, etc.	<ul style="list-style-type: none"> <li>▪ Detail of worker's existing functional abilities, transferable skills and/or education levels relative to occupational requirements &amp; earning potential</li> <li>▪ Current labour market information to support the training requirements</li> <li>▪ Current HRDC/Stats Canada data on the long term wage rate</li> </ul>

## **I. POLICY ITEM C11-88.60 BUSINESS START-UPS**

Business start-up and self-employment funding will only be considered in limited situations where the Board is satisfied that the worker has demonstrated previous business experience and presents a viable business plan. The Board officer needs to investigate the worker's prior business experience and the viability of the business before considering a Board funded business start-up.

The level of assistance will normally not exceed what would be required if the worker had undertaken a vocational rehabilitation plan considered reasonable and necessary to overcome the effects of the compensable injury. Prior to consideration of self-employment funding, the Director of Vocational Rehabilitation Services must approve the completion of a business feasibility study.

If the business feasibility study confirms the viability of the proposal and this constitutes the "vocational rehabilitation plan" for the worker, the Board officer in VRS must make a final submission to the Director, Vocational Rehabilitation Services, for approval of the plan. As such, it must be presented in the same manner as the vocational rehabilitation plan for any other worker. (See the details regarding the plan as outlined in Practice Directive #C11-2, *Vocational Rehabilitation Programs & Services*.)

The Director of Vocational Rehabilitation Services must approve all funding under this section.

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