

2019/12/11-03

WORKERS' COMPENSATION BOARD
RESOLUTION OF THE BOARD OF DIRECTORS
RE: Vocational Rehabilitation

WHEREAS:

Pursuant to section 82 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, the Board of Directors of the Workers' Compensation Board ("WorkSafeBC") must set and revise as necessary the policies of the Board of Directors, including policies respecting compensation, assessment, rehabilitation, and occupational health and safety;

AND WHEREAS:

In April 2018, WorkSafeBC's Board of Directors received the compensation policy review entitled *Restoring the Balance: A Worker-Centred Approach to Workers' Compensation Policy* ("CPR");

AND WHEREAS:

The CPR contains a number of recommendations regarding policies in the *Rehabilitation Services & Claims Manual*, Volume II ("*RS&CM*");

AND WHEREAS:

Recommendations #5 through #15 in the CPR propose amendments to vocational rehabilitation ("VR") policies to emphasize a worker-centric approach to the provision of VR services;

AND WHEREAS:

The Policy, Regulation and Research Division ("PRRD") developed amendments to policy in the *RS&CM* to address recommendations #5 through #15 in the CPR;

AND WHEREAS:

The PRRD has undertaken stakeholder consultation on this issue and has advised the Board of Directors on the results of the consultation;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. The amendments to Item C11-85.00, *Vocational Rehabilitation – Principles and Goals*, Item C11-88.00, *Vocational Rehabilitation – Nature and Extent of Programs and Services*, and Item C11-89.10, *Vocational Rehabilitation – Income Continuity* of the *RS&CM*, as set out in Appendix 1 attached to this resolution, are approved, and apply on or after February 1, 2020.
2. This resolution is effective February 1, 2020.
3. This resolution constitutes a policy decision of the Board of Directors.

I, Ralph McGinn, hereby certify for and on behalf of the Board of Directors of WorkSafeBC that the above resolutions were duly passed at a meeting of the Board of Directors held in Richmond, British Columbia on December 11, 2019.

RALPH MCGINN, P. ENG
Chair, Board of Directors
Workers' Compensation Board

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ADDITIONS IN BOLD. DELETIONS STRUCKTHROUGH



REHABILITATION SERVICES & CLAIMS MANUAL

RE: Vocational Rehabilitation Principles and Goals

ITEM: C11-85.00

BACKGROUND

1. Explanatory Notes

This policy sets out the principles and goals of vocational rehabilitation.

2. The Act

Section 16:

- (1) To aid in getting injured workers back to work or to assist in lessening or removing a resulting handicap, the Board may take the measures and make the expenditures from the accident fund that it considers necessary or expedient, regardless of the date on which the worker first became entitled to compensation.
- (2) Where compensation is payable under this Part as the result of the death of a worker, the Board may make provisions and expenditures for the training or retraining of a surviving dependent spouse, regardless of the date of death.
- (3) The Board may, where it considers it advisable, provide counselling and placement services to dependants.

POLICY

Quality Rehabilitation

The mission of the Board with respect to vocational rehabilitation services is to provide quality interventions and services to assist workers in achieving early and safe return to work and other appropriate rehabilitation outcomes. Quality rehabilitation requires individualized vocational assessment, planning, and support provided through timely intervention and collaborative relationships to maximize the effectiveness of rehabilitation resources and worker-employer outcomes.



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The Board is committed to timely intervention to assist workers and employers in achieving successful return to work outcomes. The Board recognizes that early return to safe and durable work plays an important role in workers' recovery while helping maintain workers' dignity and productivity.

Principles of Vocational Rehabilitation

The guiding principles of quality vocational rehabilitation are:

1. Vocational rehabilitation should be initiated without delay and proceed in conjunction with medical treatment and physical rehabilitation to restore the worker's capabilities as soon as possible.
2. Reasonably necessary vocational rehabilitation assistance will be provided to overcome the immediate and long-term vocational impact of the compensable injury, occupational disease or fatality.
3. Successful vocational rehabilitation requires that workers be motivated to take an active interest and initiative in their own rehabilitation. Vocational programs and services should, therefore, be offered and sustained in direct response to the commitment and determination of workers to re-establish themselves.
4. Maximum success in vocational rehabilitation requires that different approaches be used in response to the unique needs of each individual.
5. Vocational rehabilitation is a collaborative process, which requires the involvement and commitment of all concerned participants.
6. Effective vocational rehabilitation recognizes, within reason, workers' personal preferences and their accountability for independent vocational choices and outcomes.
7. The gravity of the injury and residual disability is a relevant factor in determining the nature and extent of the vocational rehabilitation assistance provided. The Board should go to greater lengths in cases where the disability is serious than in cases where it is minor, including measures to assist workers to maintain useful and satisfying lives.
8. Where the worker is suffering from a compensable injury or disease together with some other impediment to a return to work, rehabilitation assistance may sometimes be needed and provided to address the combined problems. Rehabilitation assistance should not be initiated or



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continued when the primary obstacle to a return to work is non-compensable.

9. Vocational rehabilitation services should be provided in a cost-effective manner.

Goals

The objective of vocational programs and services is timely return to safe and durable work.

The goals of vocational rehabilitation are:

1. For workers with a temporary total disability, the goal is to assist injured workers in expediting recovery and return to work with the pre-injury employer. As these workers are considered unable to perform their pre-injury employment due to the disability, the goal is to return a worker to work with the pre-injury employer in a selective/light employment, a graduated return to work or a modified return to work arrangement.
2. For workers with a temporary partial disability, the goal is to assist injured workers in their efforts to return to work in a suitable occupation and maximize short-term earning capacity up to the pre-injury wage rate. This goal reflects the wording of section 30 of the *Act*, which refers to an assessment of what a worker is earning or is capable of earning in a suitable occupation.
3. For workers entitled to a permanent partial disability award, the goal is to assist injured workers in their efforts to return to work in a suitable occupation and maximize long-term earning capacity up to the pre-injury wage rate.
4. For workers entitled to a permanent total disability award, the goal is to assist in improving quality of life and minimizing the impact of the disability.
5. For surviving spouses and dependants of deceased workers, the goal is to provide counselling and vocational assistance to overcome the impact of the fatality.

In all cases, the goal is to provide reassurances, encouragement and counselling to help those entitled to compensation to maintain a positive outlook and remain motivated toward future economic and social capability.

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Services Provided

These goals are met by providing the following services to its clients:

- counselling;
- vocational assessment and planning;
- job readiness/skill development;
- placement assistance;
- residual employability assessment; and
- assessment of a worker's need or continued need for rehabilitation and health care services and supports, where a worker's permanent total disability will continue past retirement age.

PRACTICE

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

EFFECTIVE DATE:	September 1, 2015 February 1, 2020
AUTHORITY:	Section 16 of the <i>Act</i> .
CROSS REFERENCES:	Sections 22, 23, 29 and 30 of the <i>Act</i> ; Item C11-91.00, <i>Vocational Rehabilitation – Vocational Assistance for Surviving Spouses and Dependants of Deceased Workers</i> ; and Item C18-116.30, <i>Retirement Benefits – Retirement Services and Personal Supports</i> of the <i>Rehabilitation Services & Claims Manual</i> , Volume II.
HISTORY:	February 1, 2020 – Policy revisions to add statements related to VR principles and goals. September 1, 2015 – Policy revisions to ensure consistent treatment of workers with permanent partial disability awards under sections 23(1) and 23(3) of the <i>Act</i> . June 1, 2009 – Deleted references to Vocational Rehabilitation Services. November 1, 2002 – Policy changes to set out the mission, principles and goals of Vocational Rehabilitation Services. Replaced policy items #85.00 to #85.60 of the <i>Rehabilitation Services & Claims Manual</i> , Volume II. Applies to decisions made on or after November 1, 2002 on claims adjudicated under the <i>Act</i> , as amended by the <i>Workers Compensation Amendment Act, 2002</i> .
APPLICATION:	This Item applies on or after September 1, 2015 February 1, 2020 .



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RE: Vocational Rehabilitation
Nature and Extent of Programs and Services

ITEM: C11-88.00

BACKGROUND

1. Explanatory Notes

This policy sets out the nature and extent of vocational rehabilitation programs and services available for injured workers.

2. The Act

Section 16:

- (1) To aid in getting injured workers back to work or to assist in lessening or removing a resulting handicap, the Board may take the measures and make the expenditures from the accident fund that it considers necessary or expedient, regardless of the date on which the worker first became entitled to compensation.

POLICY

PROGRAMS AND SERVICES

General

Programs and services in support of the vocational rehabilitation process may be implemented individually or in combination, as part of a rehabilitation plan.

Early Intervention

Vocational rehabilitation assistance should be provided as soon as a worker is medically able to participate in his or her own vocational future.

Application of the Vocational Rehabilitation Process

The vocational rehabilitation process is generally applicable as follows:



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Temporary total disability under section 29 of the *Act* – Phases I and II of the vocational rehabilitation process apply. Vocational rehabilitation services are limited to work assessments, work site/job modifications and to an advisory role regarding the worker's recovery or selective light duties with pre-injury employer.

Temporary partial disability under section 30 of the *Act* – Phases I and II of the vocational rehabilitation process apply. Vocational rehabilitation services are limited to counselling, work assessments, graduated return to work ("GRTW"), placement assistance, mediation between worker and employer, and work site/job modifications.

Permanent partial disability under section 23 of the *Act* – Phases I through V of the vocational rehabilitation process apply. Vocational rehabilitation services may include counselling, work assessments (GRTW), placement assistance, mediation between worker and employer, work site/job modifications, job search, training-on-the-job, and formal training.

Permanent total disability under section 22 of the *Act* – Quality of life assistance may include vehicle modifications, home modifications, personal care allowances, independence and home maintenance allowances and homemakers' services.

Rehabilitation Plan

A rehabilitation plan is developed for each eligible worker. Ongoing medical opinion and a variety of Board and community resources assist the Board and the worker in developing the plan. The principles regarding medical opinion apply equally to the rehabilitation process.

The Board develops the plan in collaboration with the worker, the employer and appropriate health care providers. To demonstrate understanding of the plan, the plan should be signed by the worker, the Board and where appropriate, the employer.

The written rehabilitation plan:

- Defines the overall vocational goal. The plan is considered appropriate if the worker has a reasonable probability of successfully achieving the vocational goal.
- Outlines the supporting rationale, which makes the vocational goal attainable. The plan will clearly document how the worker's vocational profile matches the targeted suitable occupation. A description of the worker's vocational profile will include objective functional capacity, education, existing transitional skills or projected skills, aptitudes, training, interests and personal and occupationally significant characteristics.



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- Describes a suitable occupation in which the worker can competitively pursue employment upon achievement of the vocational goal. This will be based on recognized methods of occupational classification. Where applicable, the description will include community-specific features of the occupation as determined through job analysis.
- Details the specific programs and services for the vocational goal to be attained and outlines the obligations of the participants.
- Details the methods, techniques and supports, which will be utilized to assist the worker in attaining the vocational goal. The sponsorship opportunities of other agencies are considered in providing integrated service delivery. Their availability does not limit the Board's provision of additional services in accordance with its policies.
- Outlines the wage-loss equivalency benefits and/or allowances (such as transportation and subsistence allowances) which will accompany the plan.
- Indicates the timeframes associated with the overall plan and its component steps.

A worker is entitled to one rehabilitation plan. The Board will monitor the plan to determine if the plan is progressing as anticipated. A plan may be modified or a new plan substituted where:

- worker's compensable condition deteriorates or improves, making the initial plan inappropriate in relation to the goal; and/or
- There are significant and unanticipated developments in the vocational rehabilitation process, impacting the expected outcome of the plan.

Approval by the Director of Vocational Rehabilitation Services is required in order to proceed with the development of a new plan.

All involved parties will acknowledge the modified or new plan. The requirements for developing the initial plan apply to the modified or new plan.

Financial Implications/Cost Effectiveness

Each plan must set out the financial implications of implementing the plan and/or its cost effectiveness. The analysis may include such things as a comparison of the estimated cost of the necessary vocational services, the remaining compensation benefits that the worker is entitled to, the estimated cost of alternative rehabilitation plans, and the estimated benefit costs if no return to work services are provided. The analysis must also set out when it is expected that specific costs will be experienced.



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Discontinuation of Vocational Rehabilitation Services

Vocational rehabilitation services may be discontinued where:

- the worker refuses available employment that is considered suitable in relation to the applicable phase of benefit entitlement;
- the worker fails to cooperate with vocational rehabilitation process;
- the worker has for personal reasons, withdrawn from the labour force;
- non-compensable medical, psycho-social or financial problems alone preclude active participation in the rehabilitation process;
- the worker retires or is deemed to have retired; or
- the plan is completed and it is neither necessary nor cost effective to provide further vocational rehabilitation assistance.

Wage-Loss Equivalency and Other Benefits

Wage-loss equivalency benefits provided by the Board are payable only when wage-loss benefits have concluded and follow the same rules with regard to the deduction of permanent disability awards. These benefits may apply while workers are either awaiting or undertaking specific vocational programs.

Transportation and subsistence allowances may also be considered in support of vocational programs.

The sponsorship opportunities of other agencies are considered in providing integrated service delivery, but their availability does not diminish the Board's primary service and funding responsibilities.

PRACTICE

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

EFFECTIVE DATE:

~~September 1, 2015~~ **February 1, 2020**

AUTHORITY:

Section 16 of the Act.

CROSS REFERENCES:

Sections 22, 23 and 29 and 30 of the Act;

Chapter 9 Average Earnings;

Policy item #34.11, *Selective/Light Employment*;

Policy item #69.10, *Deduction of Permanent Disability Periodic Payments from Wage Loss*;

Policy item #70.30, *Permanent Disability Awards*;

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Item C10-83.00, *Transportation Allowances*;
Item C10-83.10, *Subsistence Allowances*;
Item C11-85.00, *Vocational Rehabilitation – Principles and Goals*;
Item C11-87.00, *Vocational Rehabilitation – Process*;
Item C11-90.00, *Vocational Rehabilitation – Spinal Cord and Other Severe Injuries*; and
Policy item #97.30, *Medical Evidence of the Rehabilitation Services & Claims Manual*, Volume II.

HISTORY:

February 1, 2020 – Policy revised to add heading related to wage-loss equivalency and other benefits and to remove language that developments in VR process allowing a VR plan to be changed be ‘unanticipated’.

September 1, 2015 – Policy revised to remove Vice President approval, and direct that the Director of VR Services is only required to approve the development of a new VR plan. Amendments also ensure workers who receive permanent partial disability awards under section 23(1) and 23(3) of the *Act* are treated consistently, and the elements that must be included in the financial analysis of a VR plan are revised.

June 1, 2009 – Deleted references to Board officer, Vocational Rehabilitation Services and Compensation and Rehabilitation Services.

November 1, 2002 – Reformatted and revised policy to set out the nature and extent of programs and services generally applicable in relation to the entitlement provisions of the *Act*. Amendments also include the criteria for modifying or creating a new plan and guidance on when vocational rehabilitation services may be discontinued. Replaced policy items #87.00 and #88.00 of the *Rehabilitation Services & Claims Manual*, Volume II and applies to decisions made on or after November 1, 2002 on claims adjudicated under the *Act*, as amended by the *Workers Compensation Amendment Act, 2002*.

APPLICATION:

This Item applies on or after ~~September 1, 2015~~ **February 1, 2020**.



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**RE: Vocational Rehabilitation -
Income Continuity**

ITEM: C11-89.10

BACKGROUND

1. Explanatory Notes

This policy deals with the payment of a rehabilitation allowance pending the assessment of a permanent **partial** disability award ~~under section 23(3).~~

2. The Act

Section 16:

- (1) To aid in getting injured workers back to work or to assist in lessening or removing a resulting handicap, the Board may take the measures and make the expenditures from the accident fund that it considers necessary or expedient, regardless of the date on which the worker first became entitled to compensation.

Section 23:

- (1) ... if a permanent partial disability results from a worker's injury, the Board must
 - (a) estimate the impairment of earning capacity from the nature and degree of the injury, and
 - (b) pay the worker compensation that is a periodic payment that equals 90% of the Board's estimate of the loss of average net earnings resulting from the impairment.

...

- (3) ... if
 - (a) a permanent partial disability results from the a worker's injury, and
 - (b) the Board makes a determination under subsection (3.1) with respect to the worker,

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the Board may pay the worker compensation that is a periodic payment that equals 90% of the difference between

- (c) the average net earnings of the worker before the injury, and
 - (d) whichever of the following amounts the Board considers better represents the worker's loss of earnings:
 - (i) the average net earnings that the worker is earning after the injury;
 - (ii) the average net *earnings that the Board estimates the worker is capable of earning in a suitable occupation after the injury.* (emphasis added)
- (3.1) A payment may be made under subsection (3) only if the Board determines that the combined effect of the worker's occupation at the time of the injury and the worker's disability resulting from the injury is so exceptional that an amount determined under subsection (1) does not appropriately compensate the worker for the injury.
- (3.2) In making a determination under subsection (3.1), the Board must consider the ability of the worker to continue in the worker's occupation at the time of the injury or to adapt to another suitable occupation.

POLICY

Continuity of Income Pending Assessment of Permanent **Partial** Disability Award

The Board may pay a rehabilitation allowance to assist workers who are not actively engaged in the rehabilitation process but who are awaiting assessment of their disability ~~pension~~**award**. This allowance will be considered for workers

- whose disability has stabilized,
- who are unemployed, or employed at a reduced income level due to their compensable disability,
- who are not entitled to temporary wage-loss benefits,
- who are not receiving other wage-loss equivalency benefits from the Board, and



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- who are likely to receive a permanent partial disability award under section 23(3) of the *Act*

Consideration will be given to the payment of a rehabilitation allowance between the end of wage-loss or other wage replacement payments and the commencement of the permanent **partial** disability award ~~under section 23(3)~~.

Prior to implementing an income continuity payment, the Board must have considered and offered to the worker all rehabilitation measures which are reasonable and might be of assistance to the worker.

Amount of Payment

Continuity of income payments are based initially on the same rate as the wage-loss benefit rate and will continue at that level until the permanent **partial** disability award is granted, except in any of the following circumstances:

1. The worker has retired.
2. The worker is experiencing non-compensable medical, psycho-social or financial problems which preclude active participation in the rehabilitation process.
3. The worker refuses to actively participate in the rehabilitation process.

In the above circumstances, the Board will complete the employability assessment required under section 23(3), and will provide a copy of that assessment to the worker. Thirty (30) days after the worker has been provided with a copy of the employability assessment, the Board will adjust the income continuity rate to the rate which best reflects the conclusions contained in the employability assessment regarding the worker's projected long-term earning capacity. However, the Board will not adjust the rate at this point if, during the 30-day period based on new evidence, the Board decides the employability assessment requires revision.

As part of the completion of the employability assessment and prior to adjusting the income continuity rate, the Board must investigate the worker's circumstances and must consider the impact of the compensable disability on the worker's decision to retire or not to participate in the rehabilitation process.

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Permanent Disability Award Reopenings

Continuity of income payments will also be considered for workers who are already receiving a permanent disability award on the claim, where the Board has reopened the award decision and it is likely that the worker will receive a significant increase in the award. As well, there must be evidence of a deterioration in the worker's medical condition which is likely to be permanent, and the worker must be experiencing a reduction in income during the period which is related to the reasons for the reopening. Benefit levels will be established in accordance with this policy.

PRACTICE

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

EFFECTIVE DATE:	June 1, 2009 – Delete references to Board officers and Board officers in Vocational Rehabilitation Services. February 1, 2020
AUTHORITY:	ss.16 and 23(3) of the <i>Act</i> .
CROSS REFERENCES:	Suitable Occupation (policy item #40.12), and Vocational Rehabilitation - Employability Assessments – Temporary Partial Disability and Permanent Partial Disability (Item C11-89.00) of the <i>Rehabilitation Services & Claims Manual</i> , Volume II.
HISTORY:	February 1, 2020 – Revised policy to update terminology and to clarify when income continuity benefits are considered. June 1, 2009 – Delete references to Board officers and Board officers in Vocational Rehabilitation Services. March 3, 2003 - Amendments to reference a reopening of a permanent disability award, consequential to the <i>Workers Compensation Amendment Act (No. 2), 2002</i> . November 1, 2002 - Reformatted and revised policy to clarify that income continuity allowances will be considered for workers who are likely to receive a permanent partial disability award under section 23(3) of the <i>Act</i> . Replaces policy items #89.11 and #89.13 of the <i>Rehabilitation Services & Claims Manual</i> , Volume II. Applies to decisions made on or after November 1, 2002 on claims adjudicated under the <i>Act</i> , as amended by the <i>Workers Compensation Amendment Act, 2002</i> .
APPLICATION:	Applies on or after June 1, 2009 February 1, 2020 .