

§ 97-32.2. Vocational rehabilitation.

(a) In a compensable claim, the employer may engage vocational rehabilitation services at any point during a claim, regardless of whether the employee has reached maximum medical improvement to include, among other services, a one-time assessment of the employee's vocational potential, except vocational rehabilitation services may not be required if the employee is receiving benefits pursuant to G.S. 97-29(c) or G.S. 97-29(d). If the employee (i) has not returned to work or (ii) has returned to work earning less than seventy-five percent (75%) of the employee's average weekly wages and is receiving benefits pursuant to G.S. 97-30, the employee may request vocational rehabilitation services, including education and retraining in the North Carolina community college or university systems so long as the education and retraining are reasonably likely to substantially increase the employee's wage-earning capacity following completion of the education or retraining program. Provided, however, the seventy-five percent (75%) threshold is for the purposes of qualification for vocational rehabilitation benefits only and shall not impact a decision as to whether a job is suitable per G.S. 97-2(22). The expense of vocational rehabilitation services provided pursuant to this section shall be borne by the employer in the same manner as medical compensation.

(b) Vocational rehabilitation services shall be provided by either a qualified or conditional rehabilitation professional approved by the Industrial Commission. Unless the parties mutually agree to a vocational rehabilitation professional, the employer may make the initial selection. At any point during the vocational rehabilitation process, either party may request that the Industrial Commission order a change of vocational rehabilitation professional for good cause.

(c) Vocational rehabilitation services shall include a vocational assessment and the formulation of an individualized written rehabilitation plan with the goal of substantially increasing the employee's wage-earning capacity, and subject to the following provisions:

- (1) When performing a vocational assessment, the vocational rehabilitation professional should evaluate the employee's medical and vocational circumstances, the employee's expectations and specific requests for vocational training, benefits expected from vocational services, and other information significant to the employee's employment potential. The assessment should also involve a face-to-face interview between the employee and the vocational rehabilitation professional to identify the specific type and sequence of appropriate services. If, at any point during vocational rehabilitation services, the vocational rehabilitation professional determines that the employee will not benefit from vocational rehabilitation services, the employer may terminate said services unless the Commission orders otherwise.
- (2) Following assessment, and after receiving input from the employee, the vocational rehabilitation professional shall draft an individualized written rehabilitation plan. The plan should be individually tailored to the employee based on the employee's education, skills, experience, and aptitudes, with appropriate recommendations for vocational services, which may include appropriate retraining, education, or job placement. The plan may be changed or updated by mutual consent at any time during rehabilitation services. A written plan is not necessary if the vocational rehabilitation professional has been retained to perform a one-time assessment.

(d) Specific vocational rehabilitation services may include, but are not limited to, vocational assessment, vocational exploration, sheltered workshop or community supported employment training, counseling, job analysis, job modification, job development and placement, labor market survey, vocational or psychometric testing, analysis of transferable

skills, work adjustment counseling, job seeking skills training, on-the-job training, or training or education through the North Carolina community college or university systems.

(e) Vocational rehabilitation services may be terminated by agreement of the parties or by order of the Commission.

(f) Job placement activities may commence after completion of an individualized written rehabilitation plan. Return-to-work options should be considered, with order of priority given to returning the employee to suitable employment with the current employer, returning the employee to suitable employment with a new employer, and, if appropriate, formal education or vocational training to prepare the employee for suitable employment with the current employer or a new employer.

(g) The refusal of the employee to accept or cooperate with vocational rehabilitation services when ordered by the Industrial Commission shall bar the employee from further compensation until such refusal ceases, and no compensation shall at any time be paid for the period of suspension, unless in the opinion of the Industrial Commission the circumstances justified the refusal. Any order issued by the Commission suspending compensation per G.S. 97-18.1 shall specify what action the employee should take to end the suspension and reinstate the compensation. (2011-287, s. 13; 2012-135, s. 7.)