

CS FOR SENATE BILL NO. 147()

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR KAUFMAN

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to reemployment rights and benefits; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 23.30.041(b) is amended to read:

5 (b) The administrator shall

6 (1) enforce regulations adopted by the board to implement this section;
7 (2) recommend regulations for adoption by the board that establish
8 performance and reporting criteria for rehabilitation specialists;

9 (3) enforce the quality and effectiveness of reemployment benefits
10 provided for under this section;

11 (4) review on an annual basis the performance of rehabilitation
12 specialists to determine continued eligibility for delivery of rehabilitation services;

13 (5) submit to the department, on or before October 1 [MAY 1] of each
14 year, a report of reemployment benefits provided under this section for the previous

calendar year; the report must include a general section, sections related to each rehabilitation specialist employed under this section, and a statistical summary of all rehabilitation cases, including

(A) the estimated and actual cost of each active rehabilitation plan;

(B) the estimated and actual time of each rehabilitation plan;

(C) a status report on all individuals requesting, waiving, beginning, completing, or terminating a reemployment benefits program including

(i) reasons for denial, waiver, suspension, or termination;

(ii) dates of completion and return to work; and

(iii) other information required by the director;

(D) the cost of reemployment benefits;

(E) status reports of all individuals who successfully completed a reemployment plan that includes

(i) the plan's occupational goal and whether the individual obtained work after completion in the planned or another occupation; and

(ii) the individual's employment status six months, one year, and two years after reemployment plan completion;

(6) maintain a list of rehabilitation specialists who meet the qualifications established under this section;

(7) promote awareness among physicians, adjusters, injured workers, employers, employees, attorneys, training providers, and rehabilitation specialists of the reemployment program established in this subsection.

* **Sec. 2.** AS 23.30.041(c) is amended to read:

(c) An employee and an employer may stipulate to the employee's eligibility for reemployment benefits at any time. If an employee suffers a compensable injury and, as a result of the injury, the employee is totally unable, for 45 consecutive days, to return to the employee's employment at the time of injury, the administrator shall

1 notify the employee of the employee's rights under this section within 14 days after the
2 45th day. If the employee is totally unable to return to the employee's employment for
3 60 consecutive days as a result of the injury, the employee or employer may request an
4 eligibility evaluation. The administrator may approve the request if the employee's
5 injury may permanently preclude the employee's return to the employee's occupation
6 at the time of the injury. If the employee is totally unable to return to the
7 employee's employment at the time of the injury for 90 consecutive days as a
8 result of the injury, the administrator may, without a request, order an eligibility
9 evaluation unless a stipulation of eligibility was submitted. If the employee is
10 totally unable to return to the employee's employment at the time of the injury for 120
11 [90] consecutive days as a result of the injury, the administrator shall, without a
12 request, order an eligibility evaluation unless a stipulation of eligibility was submitted.
13 If the administrator approves a request or orders an evaluation, the administrator shall,
14 on a rotating and geographic basis, select a rehabilitation specialist from the list
15 maintained under (b)(6) of this section to perform the eligibility evaluation. If the
16 person that employs a rehabilitation specialist selected by the administrator to perform
17 an eligibility evaluation under this subsection is performing any other work on the
18 same workers' compensation claim involving the injured employee, the administrator
19 shall select a different rehabilitation specialist.

20 * Sec. 3. AS 23.30.041(d) is amended to read:

21 (d) Within 60 [30] days after the referral by the administrator, the
22 rehabilitation specialist shall perform the eligibility evaluation and issue a report of
23 findings. [THE ADMINISTRATOR MAY GRANT UP TO AN ADDITIONAL 30
24 DAYS FOR PERFORMANCE OF THE ELIGIBILITY EVALUATION UPON
25 NOTIFICATION OF UNUSUAL AND EXTENUATING CIRCUMSTANCES AND
26 THE REHABILITATION SPECIALIST'S REQUEST.] Within 14 days after receipt
27 of the report from the rehabilitation specialist, the administrator shall notify the parties
28 of the employee's eligibility for reemployment preparation benefits. Within 10 days
29 after the decision, either party may seek review of the decision by requesting a hearing
30 under AS 23.30.110. The hearing shall be held within 30 days after the hearing [IT] is
31 requested. The board shall uphold the decision of the administrator except for abuse of

discretion on the administrator's part.

* Sec. 4. AS 23.30.041(e) is amended to read:

(e) An employee shall be eligible for benefits under this section upon the employee's written request and by having a physician predict that the employee will have permanent physical capacities that are less than the physical demands of the employee's job as described in the **job analysis developed by the rehabilitation specialist** [1993 EDITION OF THE UNITED STATES DEPARTMENT OF LABOR'S "SELECTED CHARACTERISTICS OF OCCUPATIONS DEFINED IN THE REVISED DICTIONARY OF OCCUPATIONAL TITLES"] for

(1) the employee's job at the time of injury; or

(2) other jobs that exist in the labor market that the employee has held or received training for within 10 years before the injury or that the employee has held following the injury for a period long enough to obtain the skills to compete in the labor market. [, ACCORDING TO SPECIFIC VOCATIONAL PREPARATION CODES AS DESCRIBED IN THE 1993 EDITION OF THE UNITED STATES DEPARTMENT OF LABOR'S "SELECTED CHARACTERISTICS OF OCCUPATIONS DEFINED IN THE REVISED DICTIONARY OF OCCUPATIONAL TITLES."]

* **Sec. 5.** AS 23.30.041(h) is amended to read:

(h) Within 90 days after the rehabilitation specialist is selected or assigned [SPECIALIST'S SELECTION] under (g) of this section, the rehabilitation specialist shall prepare and provide to the employee and employer a complete reemployment plan [MUST BE FORMULATED AND APPROVED]. The reemployment plan must require continuous participation by the employee and must maximize the usage of the employee's transferrable skills. The reemployment plan must include at least the following:

(1) a determination of the occupational goal in the labor market;
(2) an inventory of the employee's technical skills, transferrable skills, physical and intellectual capacities, academic achievement, emotional condition, and family support;

(3) a plan to acquire the occupational skills to be employable; **the plan**

1 **must consider use of training and employment services offered by the**
2 **Department of Labor and Workforce Development under AS 23.15;**

3 (4) the cost estimate of the reemployment plan, including

4 **(A)** provider fees

5 **(B)** [; AND THE COST OF] tuition;

6 **(C)** [,] books;

7 **(D)** [,] tools [,] and supplies;

8 **(E)** [,] transportation;

9 **(F)** [,] temporary lodging;

10 **(G)** [, OR] job modification devices; **and**

11 **(H) job search and job placement activities;**

12 (5) the estimated length of time that the plan will take;

13 (6) the date that the plan will commence;

14 (7) the estimated time of medical stability as predicted by a treating
15 physician or by a physician who has examined the employee at the request of the
16 employer or the board, or by referral of the treating physician;

17 (8) a detailed description and plan schedule;

18 (9) a finding by the rehabilitation specialist that the inventory under (2)
19 of this subsection indicates that the employee can be reasonably expected to
20 satisfactorily complete the plan and perform in a new occupation within the time and
21 cost limitations of the plan; and

22 (10) a provision requiring that, after a person has been assigned to
23 perform medical management services for an injured employee, the person shall send
24 written notice to the employee, the employer, and the employee's physician explaining
25 in what capacity the person is employed, whom the person represents, and the scope of
26 the services to be provided.

27 * **Sec. 6.** AS 23.30.041(j) is amended to read:

28 (j) **The rehabilitation specialist shall serve the reemployment plan on the**
29 **employee and employer. If the employee and employer agree to the plan, the**
30 **[THE] employee, rehabilitation specialist, and the employer shall sign the**
31 **reemployment benefits plan. If the employer and employee fail to agree on a**

1 reemployment plan, either party may submit a reemployment plan for approval to the
2 administrator not later than 90 days after the date of service of the reemployment
3 plan on the employee and employer. The plan must ensure remunerative
4 employability. The [; THE] administrator shall approve or deny a plan submitted
5 under this subsection within 14 days after the plan is submitted. Within [; WITHIN]
6 10 days after [OF] the decision, either party may seek review of the decision by
7 requesting a hearing under AS 23.30.110. The [; THE] board shall

8 (1) uphold the decision of the administrator unless evidence is
9 submitted supporting an allegation of abuse of discretion on the part of the
10 administrator; and

11 (2) [THE BOARD SHALL] render a decision within 30 days after
12 completion of the hearing.

13 * **Sec. 7.** AS 23.30.041(l) is amended to read:

14 (l) The cost of the reemployment plan incurred under this section shall be the
15 responsibility of the employer, shall be paid on an expense incurred basis, and may not
16 exceed \$22,150. The department shall, by regulation and not less than once every
17 five years, adjust the cost limit set out in this subsection to account for inflation
18 [\$13,300].

19 * **Sec. 8.** AS 23.30.041 is amended by adding a new subsection to read:

20 (s) In addition to the benefits provided to an employee under a reemployment
21 plan prepared under this section, an employee who elects to use reemployment
22 benefits under this section is entitled to payment by the employer of costs incurred for
23 specialized job modification devices or services and reasonable travel and relocation
24 expenses associated with searching for new employment, returning to work in a new
25 location, and attendance at an on-the-job training program. The employer shall pay the
26 cost of the additional benefits incurred under this subsection on an expense incurred
27 basis. The cost of the additional benefits incurred under this subsection may not
28 exceed \$4,000, and may not, when combined with the cost of the reemployment plan
29 incurred under this section, exceed the cost limit set out in (l) of this section.

30 * **Sec. 9.** AS 23.30.041(p) is repealed.

31 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).