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Sent: Wednesday, March 21, 2018 1:14 PM

To: Rep. Tammie Wilson <Rep.Tammie.Wilson@akleg.gov>; Rep. David Guttenberg <Rep.David.Guttenberg@akleg.gov>

Subject: SB303

As a 30 year Voc Rehab Counselor in the State of Alaska I can not support this bill. It will make it harder for injured workers to get the services they need to become reemployed under our current system of reemployment training. The only two parts of this bill that I can support is the extension of time required to complete an Eligibility Evaluation, from 30 to 60 days, and the increase in training funds to just over \$19000 for a reemployment training plans. The other sections of this bill that address Rehab Specialist fees is completely misguided as the fees currently charged are based on one's individual credentials. These vary greatly among the professional group of rehab counselors qualified to work with injured workers in the State of Alaska. Setting one standard fee for the whole group will undercut the more qualified among us who have worked very hard to obtain Masters degree and national certification to do this type of work. There is no way I would continue this important work if my fees are artificially set at a much lower rate to match the much lesser qualified individuals doing this type of work who do not have a Master's degree. Alaska needs more well qualified Rehabilitation Counselors and this bill as written will discourage new up and coming professions in the field from coming to Alaska to work. Also I do not think going backwards to non mandatory eligibility evaluations is a good idea either. If people do not want to participant in the reemployment process there should be a way for them to op out of these services. By making them voluntary as they were several years ago, no one knows to request these services and many go without training because of this switch in the regulations, as they simply do not know the services are available. And finally I'd like to stress the importance of making this a fair system for the injured worker. Changing the regulations so that large very profitable companies can increase their profits on the backs of the injured workers is a very bad idea and not fair to the hard working people who happen to get injured on the job. Working in Alaska is not an easy and often very difficult and dangerous proposition. When someone gets injured on a job we need to do everything we can to make sure they are afforded a fair chance to get back into the workforce. Slanting a system more toward big employers and away from the injured workers as this bill does, is not good for the people of Alaska or our economy. Adding more personal to the state administration as proposed by SB 303 will not make the services more effective, just more expensive. And this at time when fiscal realities dictate we cut back on needless bureaucracy and government bloat. Injured Workers in Alaska need a fair and balanced system that provides the best options possible for a quick and effective return to work process. SB 303 as written will not result in improvements, only more cost to state government, that we can ill afford at this time. Our country was built by hard working men and women who are not disposal commodities that big business can just throw away when done with them. These are the people who built this country and they deserve a fair chance at earning a decent wage in a safe work environment.

Daniel A. LaBrosse, M.A. CRC

DAL Enterprises, LLC,

"Nothing in this world can take the place of persistence" Calvin Coolidge

Dear Representative Neal Foster, Paul Seaton and the members of the Finance Committee.

Thank-you for your time and your efforts for our great state.

At the end of this there is a brief list with the sectional analysis of HB 303 version A referenced for the points being made.

I am a Vocational Rehabilitation Specialist who has been working with injured workers for over twenty years now in Alaska. I have a Master's Degree in Counseling Psychology, I am licensed by the State of Alaska as a Professional Counselor and I have two National Certificates requiring training, mentoring, and in-depth testing. I am writing mostly in opposition to HB 303. Briefly so you realize why you may be receiving opposition from other vocational rehabilitation specialists has to do with how this resolution came to be. The Alaska Workers' Compensation Board signed the resolution on October 6, 2017. On October 10, 2017 the vocational rehabilitation specialists who do the reemployment plans received an email from Marie Marx requesting input on the already signed resolution that you received. Our voices were not heard in the creation of that resolution.

A very troubling aspect of this bill is in in sec 3. The administrator is suppose to track the rehabilitation specialists and to enforce the quality and effectiveness of reemployment and review on an annual basis the performance of the rehabilitation specialist. The following recommended section cuts out the following tracking of very important data that needs to be incorporated to determine the effectiveness of reemployment benefits and the counselors that are performing this work. It removes the following data points (which have not been collected consistently):

The difference between estimated and actual plan costs.

The difference between estimated and actual time of each plan

Who completed a plan

Who waived a plan and why

Who terminated a plan and why

Who obtained work after completion of the plan

These are very important to understand the quality of the work being assessed. Rather it seems that the only numbers that they are wanting to collect are if things such as status reports, extension for more time and reports were timely

The above data points that are suggested to be eliminated are vital, but there are more data points that are not collected at all. The main one, from my point of view, is the amount of plans that are settled with the insurance company and then completed by the injured worker independent of the insurance company. This means that the insurance companies give the injured worker a lump sum close to the value of the plan and the injured worker uses the money to train themselves. In many cases this is the most beneficial route to go. Often times people can do their plans slightly better if they are not constrained by the limits of the act. An example of this is the act requires returning a person to work at remunerative wage as fast as possible. Maybe a person can take an extra semester at school and gain a double major or add a minor using their own money. This takes their money that they have been given as a right and make it go further than the original plan.. Lastly many of the clients that are found eligible have contentious relationships with the insurance companies. Many of them have had to jump through many hoops to obtain their surgeries and needed treatments. They have been subjected to numerous Independent Medical Exams that are performed by physicians hired by the insurance company. These physicians will often find other reasons than the injury for the ailment. This sets off the injured worker having to appeal and get a hearing and then a Second Independent Medical Evaluation where the physician is agreed on by all parties. By this time (sometimes up to a year in process) the injured worker and the insurance companies are at odds with each other and for the mental health of the injured worker a settlement that still provides them with their rights of reemployment benefits but does not require a continued negative relationship solves many problems for all concerned.

Many of those people who settle with the insurance company go on and complete their plan. These data figures need to be gathered because from a vocational rehabilitation stand point this is an effective use of reemployment benefits. For some people disconnecting from the disability payment source and managing their own finances is in itself an intervention. I believe the bill is also eliminating this possibility of settlement with the insurance company based on no true data gathered.

This Bill is also recommending that the eligibilities be moved from a mandatory 90 day referral to a voluntary basis. I hate to say I have been doing this long enough to remember the days when it was a voluntary basis. It took ages for people who needed vocational rehabilitation services to first understand the process and then to actually take the needed steps to get there. I urge you to think of your own process in reviewing this bill. How much have you struggled to understand the whole system. I agree that 90 days is to short. I am in favor of a six month mandatory referral with a process for the obvious cases to be referred earlier.

The bill recommends that the division will require people at about the 100 day mark from their injury to attend an informational meeting so that the injured worker is aware of their rights. Currently when I meet with an injured worker around that same time frame, they really have no idea of their rights, the process, the lingo, or even what vocational rehabilitation entails. Many are still in the hopeful process that they will return to their jobs. In a one on one meeting it can take up to an hour to explain what reemployment benefits are and what the criteria are for eligibility. These people often call me for clarification. They are confused by the alphabet soup of the way their money gets paid, (TTD, PPI, 041k stipend...) Most of the people I write plans for have a reading comprehension level between a third and seventh grade with a very few outliers at first grade and with degrees. Please do not misinterpret this data. They are very smart people without a formal education. The office thinks that one meeting a month that will have all the injured workers who are at about 100 days from sustaining their injury will

suffice. The office will be overwhelmed with people trying to understand the system. In fact the office is overwhelmed already. The new RBA Beth is doing a lot and working to improve the system.

The Workers' Compensation division has requested money to hire a return to work person. Between making the eligibilities voluntary and now performing return to work activities increasing the work load of the workers' compensation employees. They are expecting one person to do what a quite a number of us have been doing and they are requesting the tax payer to fund these activities rather than the insurance companies. Our state is already in a fiscal crisis. To move the burden from workers compensation insurance companies to the state budget when these services are being covered better by trained professionals and funded from other sources seems more of an alignment with industry than with the injured worker. Many insurance companies complain about Alaska being the most expensive state etc. As a resident of this state I think of course we are. We have inclement weather for a long time, we perform hazardous work such as fishing, construction, oil field work and injuries happen in remote locations. That does not mean that our injured workers do not deserve the best available treatments. It has been shown that early vocational rehabilitation intervention increases workers returning to work in a more timely fashion. Lets not move this important function to a one person position at the cost of our budget.

Currently there are not enough Vocational Rehabilitation Specialists to serve the needs of injured workers. The current list is lacking. If the board takes on the regulation of setting the fee's of rehabilitation specialist's it deter people from doing this work. It will interfere with the natural process that competition allows for how fees get set. Lastly why would the board be involved in such matters. Do they set the fee's for attorneys? I am a State of Alaska Licensed Professional Counselor and the licensing board does not set my fees. The bulk of specialists are either self-employed or work for a small business. Regulating and setting fee's of small businesses by government officials seems an over extension of government. The qualifications for rehabilitation specialists have already been established.

There are things in this bill that I do support. Increasing the training funds and setting a formula for continuation of increases without having to return to the legislature will help immensely. For any of you that have raised children, think about having only two years and currently only \$13,300 to educate your kids and in some cases requiring that that training will guarantee an income of \$60,000 a year... All of us parents would be putting our kids in that program. The increase to \$19,000 will seem like a lot but can it really be expected to educate people who have 3rd to 7th grade reading level into professional jobs that do not require lifting. I like the increase I wish it could be more....

I really like the additions that if an informal hearing seems appropriate it can happen. I have had clients who have been stalled in their process because the insurance company lawyer refused to have an informal hearing

I also like that clients can waive their remunerative wage and the plan can be approved by the RBA. As explained earlier, it is hard to take someone who has been use to earning over \$100,000 a year doing heavy lifting jobs but without much formal education and find a new career in two years and with only \$13,300, minimal lifting and earning \$60,000. It is important though that the injured worker has to sign that they are willing to waive their remunerative wage. The injured worker must approve and have investment in the plan.

So in brief:

1. Don't create a return to work position- this position has not been properly vetted for using money efficiently – One person cannot serve the whole state of Alaska (That would be a lot of traveling to be able to work with employers etc.). Vocational Rehabilitation Specialists have been working hard at returning workers as quickly and as safely to their places of employment, doing this as it is part of the eligibility process. (If anything use the funds to create a position that will gather data and help alleviate the work load of those already in the office.) (Section 3)
2. Do not change the mandatory referral to a voluntary referral process. When it was a voluntary process years ago it was very chaotic and people were not getting the services they needed. Do change the mandatory referral from 3 months to five or six months or sooner when apparent that the services maybe needed. (Section 4)
3. Don't eliminate the data collection currently required, expand it to include plans that are settled and what happens to those people.
4. Don't get involved in setting rehabilitation fees. This is a complex issue. (Section 1)
5. Don't take away injured workers' rights to settle the value of their plan costs. (Section 2)
6. Do increase training funds from \$13,300 to \$19,000 or more. (Section 12)
7. Do allow the RBA to have an informal and formal hearing regarding reemployment benefits at the request of any of the parties involved.
8. Do extend the time limit from 30 days to 60 days for completion of an eligibility report. (Section 5)

Thank-you for taking the time to read this. If you have any questions please do not hesitate to contact me.

Kaya T. Kade, LPC, CDMS, TEP

Dear Representative Seaton :

HB303 as presently proposed should not be supported. The stakeholders most impacted by this proposed legislation were not consulted in its drafting. HB 303 offers employers no incentives to hire disabled workers and further erodes the minimal benefits available to disabled workers. The following would improve this proposed legislation for injured Alaskan workers:

1. Section 11

In cases in which the Board has determined that benefits should not have been denied it will award past compensation. This may include reemployment stipend benefits that should have been paid but for the insurer's wrongful controversy. These stipend benefits may total more than one year for the period before a viable plan can be developed. Section 11 proposes to limit these to one year, which will leave such workers without any benefits until a plan is developed.

For example, in a decision reached by the Board in April 2017 the Board awarded benefits that it determined had been wrongly denied by the employer. It awarded the 041(k) stipend benefits retroactive to June 29, 2016 and an eligibility determination. A plan has still not been able to be developed for this worker. If section 11 applied to this worker she would have been left with no benefits since June 29, 2017 to the present and continuing until a plan could be approved. Such a result, if Section 11 of HB303 is adopted, rewards the insurer for its wrongful denial of benefits and punishes the injured worker who is left with nothing until a plan can be approved.

2. Section 12

The reemployment costs usually exceed a \$19,300.00 maximum. These costs include tuition, books, lab fees, parking, travel to and from school. The costs for training may also include equipment, tools, ergonomic workstation, ergonomic chair, computer, etc. in order to pursue the job for which the worker is being trained. The maximum should be increased to \$30,000.00.

3. The remunerative wage of 60% of gross hourly wages in AS 23.30.041 (r) (7) should be revised to 75%. Gross hourly wages do not include the value of benefits such as pension and health insurance paid to a worker. It is unclear if it includes all overtime wages earned. Raising to 75% is consistent with AS 23.30.041(f)(1).

4. Section 15

Workers should be allowed to settle their stipend benefits in a lump sum. Current law provides that the Board must find settling vocational reemployment benefits is in the

worker's best interest. 8AAC(45.160(a). In fact settling vocational rehabilitation benefits is presumed not to be in the worker's best interest. 8AAC(45.160(e). There is simply no

reason to adopt section 15 and eliminate the possibility of settling vocational rehabilitation benefits. Workers are adults and should be treated as adults.

5. Section 17

Due to the 6th edition of the AMA Guides to the Evaluation of Permanent Impairment almost all workers fall within the 0% to 15% whole person impairment. The job dislocation benefits in AS 23.30.041(g)(2) should be raised to more than \$6,500.00 for whole person impairment ratings up to 15%. To do otherwise forces workers' to pursue a vocational plan they may not want or believe they need and unnecessarily increases cost of workers' compensation to employers and their insurers. It is time to increase the job dislocation benefits substantially.

It is respectfully requested that HB 303 in its current version be rejected. HB 303 merely deprives injured workers of benefits and offers no incentives to employers, which would encourage them to hire the disabled.

Sincerely,

Michael J. Jensen

Law Offices of Michael J. Jensen