

1-26-82

HB 159

HOUSE LABOR & COMMERCE  
STANDING COMMITTEE  
January 26, 1982  
1:07 p.m.

Members Present: Rep. Martin, Chairman  
Rep. Bylsma, Vice Chairman  
Rep. Gardiner  
Rep. Randolph  
Rep. Rogers

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 159 An act relating to workers' compensation;  
and providing for an effective date.

WITNESS REGISTER

Zee Jackson  
Rehabilitation Consultant  
PO Box 3130  
Anchorage, Alaska 99510  
264-2460  
Position Statement: Presented preliminary results of survey of  
injured workers.

Jim Robison  
W/C District Council of Laborers  
Alaska State AFL-CIO  
Box 899  
Anchorage, Alaska  
276-1640  
Position Statement: Comments.

Barbara Grisson  
Pacific Marine Insurance  
201 Danner  
Anchorage, Alaska  
800-426-4115  
Position Statement: Suggestions.

Jack Thompson  
WCCA  
2216 Post Road  
Anchorage, Alaska 99501  
Position Statement: Comments.

PREVIOUS ACTION

HB 159

No previous action. No action taken this date.

Statutory Reference: AS 18.80; AS 23.30.

ACTION NARRATIVE

Tape #005  
Recording  
Number 1058

The meeting was called to order by Chairman Martin at 1:07 p.m. He introduced Zee Jackson, who had prepared a study for presentation to the committee.

Number 1070

Zee Jackson, rehabilitation consultant from Anchorage, presented the preliminary findings of a comprehensive study of vocational rehabilitation in the Alaska Workers Compensation Program. She went over the abstract prepared. Jackson noted that workers are not timely referred for rehabilitation, and Workers Compensation is not advising workers of their potential entitlement to vocational rehabilitation because of a lack of staff.

Number 1092

Jackson gave her recommendations and an overview of rehabilitation in workers compensation (see page 10 of her report). Her recommendations were: 1) early identification of injured workers who potentially need rehabilitation; 2) use of competent rehabilitation providers; 3) provide opportunities for return to direct employment; 4) maintenance of atmosphere conducive to rehabilitation; and, 5) provide incentives and remove disincentives to rehabilitation. She said that getting people back to work is the crux of rehabilitations.

Number 1160

Jackson referred to page 14 of her report, and presented a summary and interpretation of data. She said the primary sources of data were the state Division of Rehabilitation; two private rehabilitation firms; records of the Division of Workers Compensation; hearing testimony; and meetings of system participants, attorneys, medical community, insurers, and others. She pointed out the limitations of the data, such as different meanings to different people of some terms (eg, "successfully

rehabilitated worker").

Number 1199

Jackson went over comparisons of public and private agency rehabilitations data (pages 18-19 of report). She explained comparison data for four workers compensations acts with provisions for rehabilitation benefits (Alaska, Idaho, and two federal programs) (p. 22 of report).

Number 1280

Rep. Randolph had questions about actual costs of rehabilitation (see table 1, p. 18). There was discussion between the committee and Jackson regarding figures. Don Koch, of the state Division of Insurance, gave figures for insured workers compensation programs last year.

Number 1336

Jackson referred to p. 16 of her report regarding findings and recommendations. She said there is no rule about when an injured worker is referred for rehabilitation. Many agencies use a timeframe based on injuries received, but referral generally runs 60-120 days from the date of injury. She said catastrophic injuries are referred right away. Jackson suggested instituting a reporting requirement for sending injury reports to Division of Workers Compensation. She also recommended the Division screen reports to ensure services are provided, and to notify injured workers of their rehabilitation rights. She referred to p. 17 of her report, and questioned counselors' qualifications to evaluate clients; she felt counselors may misperceive their roles; eg, advising people to settle cases or by giving advice to the Board, which is beyond the counselors' expertise. She felt the plans presented by counselors don't contain enough information (eg, specific goals, progress reporting timeframes). She said the problem exists because there are no guidelines or definitive procedures.

Number 1398

Jackson said there seems to be a lack of understanding of roles in the system. There should be standards of time for evaluation, how long to implement plan, length of programs. She said counselors should be required to report consistently, and contents of report should be defined.

Number 1412

Jackson noted that there is not much effort

on the part of employers to take injured workers back. She said there is a need to develop return to work programs with employers and injured workers. Rep. Randolph said if an employer puts an injured worker back to work, he is putting someone else out of work. There was discussion between the committee and Jackson about back-to-work programs.

Number 1476

Rep. Martin asked Jackson which parties she had evaluated in her study; Jackson explained.

Number 1491

Jackson went over the elements needed to maintain an atmosphere conducive to rehabilitation. She referred to page 24 of her report, and explained the need to provide incentives and remove disincentives to putting injured workers back to work. She gave examples of incentives and disincentives.

Jackson felt that putting a dollar limit on the second injury fund creates difficulties because the upper limit becomes a "goal" for people; they come to expect \$10,000 worth of rehabilitation. She said the injured worker's right to money must be tied to the worker's need. She suggested rewording to leave a dollar amount and replace with language such as "all necessary costs". She felt this would not increase the cost of the program if properly managed.

Number 1625

Jackson said the Workers Compensation Board needs to have unquestioned authority.

Number 1637

Jackson discussed the risks of premature compromise and release settlements. She said self-employment plans often do not work. She felt settlements should be the exception rather than the rule. She went on to say that excessive litigation can impede successful rehabilitation. Jackson felt that attorneys don't really have a place in the system. She saw the need for a well-defined procedural mechanism for delivering rehabilitation to avoid excessive litigation. She felt that a major reason for litigation is a lack of information available to the worker. She said that void can be filled if there is a rehabilitation delivery system that sets the tone for a

positive rehabilitation program which, early on, lets the worker know his rights and responsibilities. She said this system has to have remedies when one party is not cooperating or not playing by the rules.

Number 1724

Jackson went over commonly expressed concerns on the part of physicians, counselors, injured workers, insurer/employer, and attorneys (see p. 30 of report).

Number 1737

Rep. Rogers said these were good suggestions, but only three or four required legislative action. He said that most of her suggestions could be within the administration, or in the self-interest of insurers and employers. Jackson responded that legislators could help. She said the primary ingredient is the ability of the administrative agency to provide assistance which all parties will need. She felt the Division doesn't currently have the staffing or background, and said they need a person with a good understanding of how to construct a program.

Number 1772

Rep. Martin asked how far the state is from a reasonable program. Jackson replied that she was surprised no one was monitoring rehabilitation. She added that, as a counselor, she would never attempt to work with a client with an attorney present. She said the Board encounters resistance when trying to deliver assistance, and was surprised the Board's authority is taken so lightly. She saw a high element of "outlaw mentality". Jackson said the authority is in the law, but is not used. She felt that, because roles and procedures are not defined, it is hard for the Board to exercise authority. She said the state needs a defined procedures manual. She also noted that counselors are not given, and probably would not take, directions.

Tape 6, Side A,000

Jim Robison, of W/C District Council of Laborers and the Alaska State AFL-CIO, commented on Jackson's presentation.

Number 0017

Barbara Grisson, of Pacific Marine Insurance in Anchorage, said one incentive not mentioned is a 6% saving on Second Injury Fund tax when an employer re-employs an

injured worker.

Number 0036

Jack Thompson, of WCCA, Anchorage, felt there were economics people dor't realize.

Number 0050

Jackson again reiterated the need for regulations to define the Board's authority.

Number 0090

As there was no further business to come before the committee, the meeting was adjourned at 2:50 p.m.

Presentation  
of  
Preliminary Findings  
of a  
Comprehensive Study of Vocational Rehabilitation  
in the  
Alaska Workers' Compensation Program

Presented by

Zee Pamplin Jackson  
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January 26, 1982

Abstract, Summary of Recommendations, Overview

## ABSTRACT

This study was conducted to determine the effectiveness of the delivery system for rehabilitation benefits to injured workers covered by the Alaska Workers' Compensation Act. Factors examined in evaluating the system included the average time from the date of injury to the date of referral to rehabilitation, the percentage of lost-time cases receiving rehabilitation benefits, the percentage successfully rehabilitated, the average time spent in rehabilitation programs, and the average cost of such programs. The primary sources of information and data were the state Division of Vocational Rehabilitation and one of the private rehabilitation firms doing business in Alaska. Another source of data was a survey of injured workers who had previously participated in rehabilitation programs, and of workers who had signed compromise and release agreements in which the right to participate in such programs as part of the compensation system was waived. The rehabilitation programs used in two other state workers' compensation systems were evaluated, in order to show examples of the potential savings to be derived from a properly structured and managed system, and to examine procedures to be considered in developing an effective delivery system for rehabilitation. Gathering quantifiable data from all sources was difficult, due to the incomplete nature of the available records.

The study found that the delivery system is not providing timely and adequate rehabilitation services to a substantial number of those workers who could benefit from them, for two primary reasons. First, the system does not afford prompt referral of appropriate cases to rehabilitation facilities. Second, the Division of Workers' Compensation is not consistently advising workers of their potential entitlement to these services, nor is it monitoring the services being provided, primarily due to a lack of resources and trained personnel, as well as the absence of established guidelines and procedures for monitoring the system.

## SUMMARY OF RECOMMENDATIONS

### RECOMMENDATION 1

That insurers/employers report to the Division of Workers' Compensation:

- a. All injured workers who experience continuous time loss of 90 to 120 days from the date of injury, depending on the staffing level of the Division, and
- b. All acutely injured workers where an immediate determination can be made that the worker will not likely be able to return to the job held at the time of injury.

### RECOMMENDATION 2

That the Workers' Compensation Division screen reports no later than 5 working days from the date each report is received.

### RECOMMENDATION 3

That subsequent to, or during the screening process, the Workers' Compensation Division contact each reported worker. The purpose for contact is to explain the benefits to which the worker may be entitled, and to set the tone for a positive rehabilitation outcome by explaining the objective of rehabilitation, the worker's rights and responsibilities in the rehabilitation effort.

### RECOMMENDATION 4

That the Workers' Compensation Division establish and publish the procedural mechanism to support the reporting, screening and contact activities.

### RECOMMENDATION 5a

That pursuant to the adoption of regulations on vocational rehabilitation, (See Exhibit 1 ) the Workers' Compensation Division establish, publish and distribute guidelines for providers of rehabilitation services in accordance with recommendation 5b through 5e, and the following time frames:

- Completion of Vocational Evaluation and Plan Recommendation - 6 weeks
- Complete Development of Plan - 6 weeks
- Direct Placement Program - 3 months
- On-The-Job Training - 3 to 6 months, depending on the skills to be acquired coupled with the skill level of the injured worker.
- Vocational Training - 52 weeks (extensions subject to prior approval by the Board)

#### RECOMMENDATION 5b

That rehabilitation providers issue a report within 30 days of initial contact with an injured worker. Background information regarding the worker's age, education, work history, and general medical condition, as well as a summary of activities conducted during the 30 day period should be included in the report. Information regarding the next immediate plan of action should also be included.

#### RECOMMENDATION 5c

That plans submitted for approval contain pertinent information as outlined in proposed regulations on Vocational Rehabilitation 8 AAC 47.040(b)(1) through (9).

#### RECOMMENDATION 5d

That subsequent to implementing plans, rehabilitation providers issue monthly progress reports sufficient in content and scope to inform all interested parties of the progress being made toward achieving the vocational goal of the plan.

#### RECOMMENDATION 5e

That approval by the Board must be obtained prior to amendment, suspension or termination of an approved rehabilitation plan.

#### RECOMMENDATION 6

That insurers provide assistance to employers in developing programs for re-employment of injured workers.

#### RECOMMENDATION 7

That insurers/employers arrange for counselor services to include on-site-job analyses and assistance in modification of jobs to enhance reemployment opportunities of an employer's injured employees.

#### RECOMMENDATION 8

That the Workers' Compensation Division encourage the development and implementation of reemployment programs by providing positive monitoring/endorsement of the efforts of parties.

#### RECOMMENDATION 9

That contractual agreements be negotiated for reemployment/rehabilitation of injured union members.

#### RECOMMENDATION 10

That insurers/employers increase their efforts to effectively and timely communicate with injured workers by contacting them as soon after the injury as possible to explain their entitlement to benefits and the procedure for securing these benefits.

RECOMMENDATION 11a

That in the case of workers experiencing time loss, who may need rehabilitation services, insurers/employers assign a counselor to contact the worker as soon as this determination can reasonably be made.

RECOMMENDATION 11b

That insurers/employers consider hiring a rehabilitation professional to enhance their ability to effectively communicate with, and timely provide services for injured workers.

RECOMMENDATION 12a

That insurers assist employers by providing loss control services to assure appropriate rating consistent with their safety record and reemployment practices.

RECOMMENDATION 12b

That to supplement the loss control services provided by insurers, employers seek the assistance of the States Division of Insurance in rating matters and methods.

RECOMMENDATION 13

That counselors enhance their efforts to place injured workers by informing employers of Targeted Jobs Tax Credit provisions and by providing assistance necessary to facilitate employer participation in the program.

RECOMMENDATION 14

That language in AS 23.30.040(e) be changed to remove the dollar amount and provide for necessary costs of rehabilitation services subject to Board approval.

RECOMMENDATION 15

That the Workers' Compensation Division increase employer awareness and encourage employer use of the Second Injury Fund in employment of industrially injured workers. Increased publicity and eligibility interpretation will enhance this effort.

RECOMMENDATION 16

That cooperative agreements involving transfer of Second Injury Fund monies to the Division of Vocational Rehabilitation be discontinued.

RECOMMENDATION 17

That criteria for development, recommendation and implementation of rehabilitation plans, in accordance with recommendations 5a through 5e, be applied to all providers of vocational rehabilitation services to injured workers covered by the state compensation laws.

RECOMMENDATION 18

That as a general policy, the Board deny settlement of claims, prior to an injured worker's completion of a supervised rehabilitation program.

RECOMMENDATION 19

That the Division of Workers' Compensation acquire the necessary staff to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

## OVERVIEW OF REHABILITATION

### IN WORKERS' COMPENSATION

#### A. HISTORY OF REHABILITATION PROVISIONS FOR INDUSTRIALLY INJURED WORKERS.

Rehabilitation in workers' compensation programs in the United States has been paid increasing attention over the past 10 years following publication of the 1972 Report of the National Commission on State Workmen's Compensation Laws. However, the realization that workers' compensation laws should include provisions of rehabilitating industrially injured workers was manifested by the Massachusetts Industrial Accident Board as early as 1914, when a member of that board went to study the German program. Pursuant to that study, and a meeting in 1916 of the International Association of Industrial Accident Boards and Commissions (IAIABC), during which the delegates were advised that a primary goal of workers' compensation programs would be the rehabilitation of disabled workers, the first state vocational rehabilitation law was enacted in 1918 in Massachusetts. The law, administered by the Industrial Accident Board, covered only those persons disabled by industrial accidents and occupational diseases. Following Massachusetts' lead, other states enacted laws with similar rehabilitation provisions. Congress, through the passage of Public Law 236 in 1920, created the State/Federal Vocational Rehabilitation Program. Its statement of purpose provided for the promotion of vocational rehabilitation of industrially disabled workers. Thus, persons with occupational disability were the prime target for vocational rehabilitation services. Subsequent Congressional mandates, however, shifted the attention to other specific disability groups and resulted in obscuring the focus on industrially injured workers. This shift in focus, coupled with the existence of the common law tort liability in the compensation system with its inherent litigation, resulted in the failure of both systems to adequately provide rehabilitation services to the industrially disabled: a condition which still exists today, according to the report of the National Commission (National Commission on State Workmen's Compensation Laws, 1972) and Larson, who suggests that one-half of 1% of industrially injured workers are rehabilitated under the federal/state programs. Larson further suggests that 10% of workers currently being injured could benefit from vocational rehabilitation services. (Larson, 1980).

#### B. REHABILITATION DEFINED.

The increased emphasis on the inclusion of rehabilitation benefits in a modern workers' compensation system has prompted attempts by those in the system to define rehabilitation. A noteworthy observation is made by Sawyer in this regard, wherein he makes a distinction between the philosophical differences in rehabilitation of the workers' compensation system and the state/federal program. He observes that the objective of workers' compensation rehabilitation is to restore the industrially injured worker to a state of employability equal to, or as near as possible to that of his pre-injury status, through the provision of only those services necessary to achieve this objective. On the other hand, Sawyer notes, the state vocational program seeks to rehabilitate disabled persons to their maximum potential through the provision of

educational and other services deemed necessary by the disabled worker to achieve a chosen vocational objective. (Sawyer, 1978).

A further distinction can be made through examination of the primary funding source of each program. The state vocational rehabilitation program is supported by federal and state funds, while the cost of rehabilitation in a workers' compensation system is borne by private industry through contributions to a special or second injury fund and direct payment to private rehabilitation providers. The employer further contributes to the rehabilitation of industrially injured workers through payment of compensation benefits during the period of rehabilitation.

A third distinction, perhaps more revealing than the first two, is the difference in population served by each system. As was previously discussed, Congressional mandates have directed the focus of the state/federal program to give priority to specific disability groups classified as severely disabled. These include developmental disabilities, congenital, orthopedic and neurological conditions, and catastrophic injuries resulting in paraplegia and quadriplegia. The bulk of individuals in these disability categories are adolescents and young adults, most of whom have never participated in the world of work. Therefore, the process employed in making them work ready is habilitation, as opposed to rehabilitation. Since their backgrounds do not include significant work experience which would have imparted marketable skills, their plans usually include long-term pre-vocational and vocational preparation centered around academic training toward a specific career goal chosen by the individual. Contrast this to the industrially injured group, who for the most part, have not been severely disabled by their injuries according to state/federal guidelines, and whose pre-injured work experiences have imparted skills which can usually be marketed in the workplace. On the whole, their natural orientation is not likely to be toward academic or classroom training, as they did not choose this method to enter the world of work to begin with, and they have not usually chosen to engage in academic pursuits at any point in their work life prior to the injury and subsequent visits to the state vocational rehabilitation office. It is reasonable to conclude that the approach taken in assisting them to return to the workplace will differ considerably from that taken for the other group.

The socially underlying concept of rehabilitation embraced by rehabilitation professionals is the intrinsic dignity of man, his feeling of self-worth and his right to life, liberty and the pursuit of happiness. In a workers' compensation system, this concept cannot realistically exist independent of economic wisdom. The timely return of an industrially injured worker to a safe employment status, commensurate with that held at the time of injury, through the investment of necessary resources, is a logical goal in a workers' compensation system. The end result is an economic as well as a social asset to the injured worker, the compensation system and society. Well-managed, cost-effective rehabilitation will enable many disabled workers to return to productive jobs and thus reduce compensation costs.

#### C. THE APPROPRIATENESS OF REHABILITATION IN A WORKERS' COMPENSATION SYSTEM.

In 1976, the Rehabilitation Committee of the International Association of Industrial Accident Boards and Commissions conducted research on rehabilitation in state compensation agencies. The Committee called for the inclusion of rehabilitation services in all state workers' compensation programs and went

on to submit a model program of medical care and rehabilitation which was adopted by the IAIABC in 1977. The stated purpose of the model program was the assurance and coordination of efficient and timely delivery of services necessary to restore the industrially disabled employee to optimum physical and vocational well-being. (Ross, 1976).

The need for rehabilitating injured workers was stressed in the 1977 report of the President's Interdepartmental Workers' Compensation Task Force. The report which stressed reemployment, advocated increased private rehabilitation efforts by employers and insurance companies. (Interdepartmental Workers' Compensation Task Force, 1977).

The Insurance Rehabilitation Study Group is an organization whose purpose is to provide a forum for members of the insurance industry to explore and develop concepts and programs of rehabilitation and medical administration applicable to all phases of insurance. The group undertook a project to develop guidelines and language dealing with rehabilitation and subsequently published a report which in part stated:

While insurance losses and benefits are usually stated in monetary terms, the full consequences of human disability cannot be measured by money alone. Earnings lost due to accident or sickness can be replaced and medical expenses can be reimbursed, but there is no meaningful way to financially translate the value of an arm or a leg, or the personal dignity of being able to contribute to society as a useful member rather than merely existing disabled and dependent.

The study group went on to state that:

If insurance is to protect against these human losses, it must do more than provide financial compensation alone. It must also strive to restore such losses. Insurance should provide the means for disabled workers to return to gainful employment whenever possible, and to regain as much functional independence as they can, even if they cannot return to work. Compensation cannot accomplish these goals without rehabilitation. (Insurance Rehabilitation Study Group, 1975).

The Study Groups' report included its model rehabilitation program.

Based on the cited research and studies conducted by recognized authorities in workers' compensation, it is clear that the consensus among those in the compensation system supports the premise that rehabilitation is an effective tool which should be included in workers' compensation if the system is to fulfill its total responsibility to the industrially injured worker and to society within the economy.

D. WHO SHOULD FUND REHABILITATION IN WORKERS' COMPENSATION

Leading insurance companies, employers and other members of the workers' compensation community support the belief that all costs of the system should

be borne by the employer and not by the general public. Sawyer suggests:

While some individual insurers and self-insured employers still approach the subject of rehabilitation with varying degrees of acceptance, the matter of involvement is no longer an option. Through a combination of either basic legislative changes or administrative regulation, the responsibilities of carriers and employers to provide rehabilitation services, specifically directed toward returning injured workers to suitable gainful employment are spreading to all jurisdictions. (Sawyer, 1981.)

#### E THE ROLE OF THE STATE WORKERS' COMPENSATION AGENCY IN REHABILITATION.

The National Commission on State Workers' Compensation Laws suggested that a state agency has six primary obligations in a workers' compensation program. Those obligations are applicable to rehabilitation and will be used for the purpose of this discussion.

First, the agency must ensure that the basic objective of rehabilitation is met by taking the initiative to administer the laws relative to rehabilitation.

Second, the agency must continually review the performance of the rehabilitation program and make procedural changes to improve the program when change is indicated.

Third, the workers' compensation agency is obliged to advise workers of their rights and obligations under the law and to assure that they receive the rehabilitation benefits to which they are entitled.

Fourth, the agency should apprise employers and carriers of their responsibilities and rights under the law. Physicians and attorneys must also be informed of their obligations in the rehabilitation process.

Fifth, the agency should assist in voluntary and informal resolution of rehabilitation issues and assure that such resolutions are consistent with the law.

Sixth, in the absence of voluntary resolutions, the workers' compensation agency must make adjudicatory decisions to resolve issues affecting rehabilitation.

The compensation agency must have sufficient authority and staff to fulfill these six obligations. Moreover, the skills and background of the staff must be consistent with the functions to be served and the tasks to be performed.

PART ONE

Five Specific Goals of Rehabilitation

in a

Workers' Compensation Program

## PART ONE

### Five Goals of Rehabilitation in a Workers' Compensation Program

#### I. Early Identification of Injured Workers Who Potentially Need Rehabilitation

Workers who may not be able to return to regular employment after suffering job related injuries should be referred to rehabilitation as soon as this determination has been made or can be reasonably predicted. Proponents of the early involvement theory share the common realization that time can be a deadly enemy to successful rehabilitation. Benign neglect of what originally may be a minor disability can result in a protraction of the condition to the point where an unwholesome outlook regarding return to work becomes permanent and fixed, and the psychological hurdle required to overcome this is extremely difficult if not impossible to achieve.

##### Needs:

1. A funding source (employer/insurer)
2. A non-adversary approach (employer/carrier)
3. Effective administration by workers' compensation
  - a. Screen reports
  - b. Contact workers
  - c. Monitor services
  - d. Settle disputes

#### II. Use of Competent Rehabilitation Providers

The unusual characteristics of workers compensation and the different approach required for successful rehabilitation, as this report has previously elaborated, are strong arguments for the use of counselors trained in industrial rehabilitation. While this training does not require an intimate knowledge of the law, it should include the ability to recognize the needs of the industrially injured population and the compensation community alike. The backgrounds of most rehabilitation professionals include formal training in rehabilitation or a behavioral science. However, institutions have traditionally failed to include substantial courses on workers' compensation in rehabilitation programs. Thus, the degree of competence required to achieve success in a workers' compensation rehabilitation program has generally been acquired through well designed, in-service programs and practical hands on training.

Critical Elements Needed:

1. Sound background in basic rehabilitation principles
2. Ability to work with multiple parties
3. Willingness to deliver according to needs of the system
  - direct placement approach
  - on-the-job training
  - appropriate evaluation (timely and limited)
  - timely developed training (as needed only)
  - timely issued reports (information)
4. Respect for, and responsive to Board authority

III. Provide Opportunities for Return to Direct Employment

The success of rehabilitation in a workers' compensation program rests on the attainment of one of its most critical goals: the earliest possible return of workers to direct employment. Members of the workers' compensation community share the widely held belief that the fewer changes made in the life of an injured worker in the rehabilitation process, the more successful that process is likely to be. Conversely, a more complex rehabilitation plan requiring numerous changes in the life of the injured worker, and requiring a proportionate period of time to implement, diminishes the chance of a successful outcome.

Needs:

1. Employer Responsibility
  - modify old job
  - offer new job  
(Use on-site job analysis)
2. Employee Responsibility
  - cooperate w/employer efforts
  - timely accept job offer
  - maintain flexibility
3. Union Support and Involvement
  - go to bat for member (negotiate)
  - negotiate contract agreements to support light duty and rehabilitation

4. Counselor Role

- consult physician for sound work restrictions
- perform on-site job analysis
- counsel worker toward accepting job
- keep all interested parties informed

5. Attorney Obligation (for both parties)

- remain on side line and advise respective clients to cooperate

6. Workers' Compensation Agency

- advise, assist, monitor

7. Board

- settle disputes

IV. Maintenance of Atmosphere Conducive to Rehabilitation

Rehabilitation is a process which does not occur in isolation. The conditions and atmosphere surrounding this process are primary determinants of its eventual outcome. The screening and early identification of injured workers who potentially need rehabilitation services will not necessarily result in a successful outcome if the process is fraught with hostilities, mistrust and excessive litigation. Certain elements which may be conveniently termed the "Four C's" must be present to ensure successful rehabilitation.

1. Concern - employer/carrier for worker
2. Communication - employer/carrier - worker - workers' compensation agency - counselor - physician - attorney
3. Coordination - counselor
4. Commitment/Cooperation -- all parties

V. Provide Incentives, Remove Disincentives to Rehabilitation

A rehabilitation program which makes early identification of workers needing rehabilitation, provides for early return to direct employment, uses competent rehabilitation providers and maintains an atmosphere conducive to rehabilitation, may fall short of fully achieving the primary objective of a workers' compensation system unless it maintains sufficient incentives and removes disincentives in its rehabilitation program. Caution must be exercised so that expectations regarding rehabilitation are not solely based on the premise that good faith efforts will spontaneously occur. There must be a realization that basic human nature usually requires the existence or application of stimuli necessary to create sufficient incentives before actions are taken to achieve a desired goal.

## A. Incentives

### 1. Proper Rating of Employers.

Authorities in workers' compensation have suggested that internalizing the costs of workers' compensation by properly rating small, as well as large employers would provide an incentive for reemploying injured workers.

- a. Experience Rating - provides for a before the fact look at safety and reemployment record for recent years. A good record results in credit toward future premium.
- b. Retro Rating - employer pays advance premium based on classification rate times estimated payroll. Losses are assessed after period of months (pre-determined). Depending on experience, employer may get reimbursed.

### 2. Targeted Jobs Tax Credit

- Incentive for private employers who hire certain targeted groups (vocational rehabilitation clients included)

50% of first \$6000 wages for first year

25% of first \$6000 wages for second year

### 3. Second Injury Fund

- Widely publicized
- Adequate eligibility interpretation
- Effectively managed - guard against abuse

### 4. Additional maintenance for extra expense during rehabilitation

### 5. Monitoring by workers' compensation agency

## B. Removal of Disincentives

1. Prevention of premature and inappropriate compromise and release settlements
2. Eliminate excessive litigation

## C. Other Stimuli

1. Penalty for non-cooperation (Both Parties)
2. PPD determination should reflect non-cooperation

PART TWO

Findings, Conclusions, Recommendations

## SUMMARY AND INTERPRETATION OF DATA

The primary providers of vocational rehabilitation services to injured workers in Alaska are the state vocational rehabilitation agency and two private rehabilitation firms. The state agency and one of the private firms, offered data retrieved from their automated data systems. Collection of data from the other private firm was precluded due to incomplete records which lacked essential information pertinent to the study. Limitations do exist for the purpose of comparing data collected from the two sources.

First, data for the state rehabilitation program reflects a three year period from FY 78 through FY 81. Data supplied by the private rehabilitation firm is for the FY 81 period.

Second, terms common to rehabilitation of disabled persons have several definitions for the purposes of statistics, depending on who collects the data. For example, a workers' compensation rehabilitation program, for purposes of closure statistics, defines a successfully rehabilitated worker as one who has 1) maintained paid employment for at least sixty days; 2) in a job consistent with the restrictions imposed by the disabling condition. The state rehabilitation program defines a successfully rehabilitation person as one who has completed a rehabilitation program and has 1) maintained paid employment for at least 60 days in a job which may or may not be consistent with restrictions imposed by the disabling condition; or 2) has not returned to work, but has been restored to an optimum level of function as an unpaid home maker. In this case, the private rehabilitation firm describes a successful case as one in which the injured worker 1) returned to paid employment in a job which may or may not be consistent with restrictions imposed by the disabling condition; or 2) whose claim was closed or denied as a result of the involvement of the rehabilitation firm. Again, it is important to keep these limitations in mind when making comparisons between data presented for the two sources.

Tables 1 and 2 present data received from the state vocational rehabilitation program. Tables 3 and 4 present data received from the private rehabilitation firm.

Although data limitations do not allow us to make any unequivocal conclusions concerning workers' compensation rehabilitation in Alaska, several widely accepted ideas are supported by the figures presented here. For both the state/federal program and the private sector rehabilitation firm, the earliest referrals become, on average, the least expensive cases. While there is an anomaly in the trend at 19-24 months (where both providers experienced an unexplainable dip in cost), the general direction is one of increased costs as the time between date of injury and date of referral increases. There do appear to be differences between the state program and the private firm in terms of average cost. In Table 3a, the private rehabilitation firms shows 75% of the sample cases with costs below \$2500. The comparable figure for the state is 64% below \$2500, seen in Table 2a. This difference can be explained several ways. First, as seen in Table 1, the average time between date of injury and date of referral for the state/federal program is 16.8 months. A similar figure for the private firm is 11.8 months. Given the relationships expressed in Tables 2b and 3b, one would then expect the state program's average costs to be higher. A second factor affecting costs is the average time spent in the rehabilitation

process. Table 1 shows the state program's clients spending 27 months, on average, in rehabilitation in FY 80. A similar figure from the private firms was 7.4 months, on average, between referral and closure. A third explanation for cost differences between the State program and the private firm is found in Table 1 which shows a significant percentage of the state/federal program's cases received college training in FY 80. While no similar figure exists for the private rehabilitation firm, meetings and discussions revealed that very few of their clients received college training. Given rising tuition costs, this would clearly add significant expense to the State program's services.

Table 1 shows that as the percent of clients receiving college training has decreased since FY 78, the percent of clients successfully rehabilitated has increased. This inverse relationship supports studies which have been conducted outside Alaska and concluded that shorter, less expensive programs tend to be more successful than longer and more expensive rehabilitation plans.

Table 1 also shows 54% of DVR's eligible referrals experienced successful outcomes in FY 80, although it is not known how many unpaid homemakers, or workers whose jobs were not consistent with restrictions imposed by the disabling condition, were included in this figure. A similar figure in the private firm's survey, seen in Table 4, is 55%. However, it is important to note that in the private firm survey, 34 cases were closed "via cash settlement/account denies coverage," and were classified as "successful" even though it was not known whether these persons returned to productive employment consistent with restrictions imposed by the disability. Subtracting these cases from the total number of successful cases then, reduces the success factor to 20.7%.

While many inferences and suggestions can be drawn from the data presented in Tables 1-4, one must remember that the percentage of clients involved in rehabilitation with respect to the total number of time-loss cases is quite small. For FY 81, the Second Injury Fund officer estimated 200-250 cases were determined eligible for second injury rehabilitation funds. From FY 78 - FY 80, the Workers' Compensation Division processed an average of 6838 time-loss cases. Because of the referral time lag mentioned earlier, it cannot be stated that a certain percentage of time-loss cases from a given year will receive rehabilitation. However, an estimated 3 to 4 percent of time-loss cases in a given year, eventually become eligible for rehabilitation. The Second Injury Fund officer has also reported that in a recent purge of 45 active rehabilitation files, only 17 (38%) had completed a program and returned to work. He cited the signing of compromise and release agreements as a major reason for workers dropping out of a program. In fact, the survey of 142 workers eligible for rehabilitation found almost 70% of them had signed compromise and release agreements, and most of these were after rehabilitation had begun.

What conclusions do these figures suggest? Because they represent such a small number of injured workers, a pure statistician could take any one piece of data mentioned here and find it is not statistically valid. But when all pieces are considered together, the data begins to support itself. Early referrals should cost less, and they do in Alaska. A longer period between injury and referral should raise costs, and it appears to do so for both programs.

## GOAL I

### Early Identification of Injured Workers Potentially Needing Rehabilitation.

#### CONCLUSION

There is no universally accepted, hard and fast rule regarding the point at which an injured worker should be referred to rehabilitation. Among the workers compensation agencies with organized rehabilitation units, the range is 60 to 120 days of continuous time loss from the date of injury. Immediate reporting is encouraged for workers with acute or catastrophic injuries.

Based on available data, it appears that the average time from the date of injury to referral of injured workers to rehabilitation is 14.3 months in Alaska. (See Tables 1 & 3) In light of the existing trends among those agencies with organized rehabilitation units, coupled with the results of two of the units discussed in the main report, it appears that the Alaska system could benefit from changes which would enhance its efforts to achieve the early identification goal.

#### RECOMMENDATION 1

That insurers/employers report to the Division of Workers' Compensation:

- a. All injured workers who experience continuous time loss of 90 to 120 days from the date of injury, depending on the staffing level of the Division, and
- b. All acutely injured workers where an immediate determination can be made that the worker will not likely be able to return to the job held at the time of injury.

#### RECOMMENDATION 2

That the Workers' Compensation Division screen reports no later than 5 working days from the date each report is received.

#### RECOMMENDATION 3

That subsequent to, or during the screening process, the Workers' Compensation Division contact each reported worker. The purpose for contact is to explain the benefits to which the worker may be entitled, and to set the tone for a positive rehabilitation outcome by explaining the objective of rehabilitation, the worker's rights and responsibilities in the rehabilitation effort.

#### RECOMMENDATION 4

That the Workers' Compensation Division establish and publish the procedural mechanism to support the reporting, screening and contact activities.

## GOAL II

### Provision of Rehabilitation Services by Competent Counselors

#### CONCLUSION

Counselors presently providing rehabilitation services to injured workers covered by the Act are presumed to have sound backgrounds in basic rehabilitation principles. However, a review of rehabilitation plans, reports and correspondence, as well as views expressed by these counselors, raises questions regarding whether the remaining three critical elements are sufficiently present to meet the objective of a workers' compensation rehabilitation program. (See discussion of Critical Elements Needed Under Goal II in Part One). First, some counselors appear not to understand their roles as they attempt to interpret laws regarding a worker's entitlement to rehabilitation benefits to the Board and they inappropriately make recommendations to the Board regarding settlement of workers' claims.

Second, it appears that some counselors are unable/unwilling to deliver services in a manner consistent with supporting the objective of the system. Services are not timely delivered (six months to complete a vocational evaluation and make recommendations). Training plans are developed prior to pursuing opportunities for direct return to employment. Some plans do not clearly define the vocational objective of the worker, or provide information regarding the type, scope and time frames within which services are to be provided. In cases where the vocational goal is defined, subsequent reports do not reflect specifically what has been accomplished toward achieving the goal.

Third, some counselors believe the system should afford a "pure" environment within which rehabilitation services can be provided to workers: They should not be required to interact with insurance adjusters, attorneys or the Board, as this interferes with their ability to effectively deliver services.

Finally, some counselors seem unprepared/unwilling to accept the Board's authority to make decisions regarding the rehabilitation of injured workers covered by the Act. Board requests for information in support of recommended plans are questioned and in some cases ignored. In some instances, attempts to coerce Board approval of second injury fund expenditures are made simultaneous to the counselor's overt resistance to Board requests for information needed to support a plan recommended by the counselor.

Clearly, the lack of regulations, definitive procedures and guidelines for vocational rehabilitation, has affected the performance of counselors providing services to injured workers covered by the Act.

#### RECOMMENDATION 5a

That pursuant to the adoption of regulations on vocational rehabilitation, (See Exhibit 1) the Workers' Compensation Division establish, publish and distribute guidelines for providers of rehabilitation services in accordance with recommendation 5b through 5e, and the following time frames:

- Completion of Vocational Evaluation and Plan Recommendation - 6 weeks

TABLE 1

DVR<sup>1/</sup>

	Eligible Cases Closed	Avg. Time in Rehab. Process	% College Training	Successful Rehabs.	Avg. Cost Per Eligible Case	Avg. Cost/ Successful Case
FY80	61	27(mos.)	21%	33 (54%)	\$2280	\$3505
FY79	50	23	36%	22 (44%)	1615	2821
FY78	48	32	38%	20 (42%)	1468	3021

\* Through 7/1/81 -

Average time between date of injury and date of referral (includes cases still open): 16.8 Months.

<sup>1/</sup>Table 1 is data received from DVR off the R-300 form.

TABLE 2

DVR<sup>2/</sup>

For 72 Eligible Closed Cases Referred through 7/1/80:

a. Cost	#	b. Referral Period	#	Avg. Cost/Case
0-500	18	0-6 Months after inj.	14	\$2168
500-1000	9	7-12	26	2391
1000-1500	9	13-18	10	2494
1500-2000	7	19-24	7	975
2000-2500	3	25-30	10	2332
2500-3000	3	30-36	4	2492
3000-3500	2	36 and over	1	8258
3500-4000	7			
4000-4500	1			
4500-5000	3			
5000-and over	10			

The average time between injury and referral was derived from DVR data and injury dates produced from AK Workers' Comp. files.

<sup>2/</sup> Since these figures reflect only closed rehabilitation files, an average referral period derived from Table 2b will not correlate with the corresponding figure presented in Table 1 of 16.8 months.

TABLE 3  
PRIVATE REHAB.

For 188 case files closed between 7/1/80 and 7/31/81

a. Cost	#	b. Referral Period	#	Avg. Cost/File
0-500	40	0-6 Months after inj.	NA	\$1414
500-1000	36	7-12	"	1670
1000-1500	28	13-18	"	2003
1500-2000	25	19-24	"	1875
2000-2500	13	25-30	"	1926
2500-3000	12	30-36	"	2198
3000-3500	11	36 and over	"	-
3500-4000	10			
4000-4500	4			
4500-5000	2			
5000 and over	7			

\* The average length of time between date of injury and date of referral:  
11.8 months.

TABLE 4  
PRIVATE REHAB.

	Cases	%
<u>Total</u>	188	<u>100.0</u>
<u>Successful Rehabilitation</u> .....	91	<u>48.4</u>
(Due to Company Involvement)		
Return to Work.....	39	20.7
Case Closed via Cash Settlement/ Account Denies Coverage.....	34	18.1
Other.....	18	9.6
<u>General Success</u> .....	13	<u>6.9</u>
<u>Other</u> .....	84	<u>44.6</u>
Evaluation Only Requested.....	15	8.0
Lack of Cooperation by One of the Involved Parties..	11	6.0
Company Requests Closure - Costs Not Warranted.....	38	20.0
Other.....	20	10.0

- Complete Development of Plan - 6 weeks
- Direct Placement Program - 3 months
- On-The-Job Training - 3 to 6 months, depending on the skills to be acquired coupled with the skill level of the injured worker.
- Vocational Training - 52 weeks (extensions subject to prior approval by the Board)

#### RECOMMENDATION 5b

That rehabilitation providers issue a report within 30 days of initial contact with an injured worker. Background information regarding the worker's age, education, work history, and general medical condition, as well as a summary of activities conducted during the 30 day period should be included in the report. Information regarding the next immediate plan of action should also be included.

#### RECOMMENDATION 5c

That plans submitted for approval contain pertinent information as outlined in proposed regulations on Vocational Rehabilitation 8 AAC 47.040(b)(1) through (9).

#### RECOMMENDATION 5d

That subsequent to implementing plans, rehabilitation providers issue monthly progress reports sufficient in content and scope to inform all interested parties of the progress being made toward achieving the vocational goal of the plan.

#### RECOMMENDATION 5e

That approval by the Board must be obtained prior to amendment, suspension or termination of an approved rehabilitation plan.

### GOAL III

#### Provide for Early Return to Direct Employment

The extent to which injured workers are provided opportunities for return to direct employment is a primary determinant of the ultimate success of rehabilitation in a workers' compensation program. Administrators of rehabilitation programs for the Idaho Industrial Commission and the Office of Workers' Compensation Programs (OWCP) as well as others in the industrial rehabilitation community, support this premise. The Idaho program states as its primary goal: the earliest possible return of the injured worker to meaningful safe work. (See Exhibit 2). The OWCP, in an effort to improve its rehabilitation program has developed/endorsed return to work programs for injured workers covered by the Longshoremen's and Harbor Worker's (LHCA) and the Federal Employee's Compensation Acts (FECA). According to information received from the OWCP, 763 injured workers were successfully rehabilitated under the FECA for FY 81. Sixty eight percent of these workers were reemployed by their previous employers. Savings in compensation payments alone totaled 7½ million dollars. During the same fiscal year, 368 workers were successfully

rehabilitated under the LHCA, resulting in actual savings of 3½ million dollars in compensation payments. Twenty-three percent of these rehabilitated workers were reemployed by their previous employers. (See Table 5 for comparative figures on the rehabilitation programs of the Federal Acts, the States of Idaho and Alaska Compensation Acts)

Insurance companies can be exceedingly instrumental in helping their insureds develop reemployment programs. A carrier for a large employer covered under the LHCA reports services provided the employer in establishing a reemployment program approved by the OWCP, resulted in the employer rehiring 18 injured workers over a nine month period during FY 82. A 1½ million dollar savings in projected compensation payments resulted from this effort. Additionally, the employer reported higher morale and reduction in suspected fraudulent claims as additional payoffs. That tremendous benefits are derived by the reemployment of injured workers by employers at the time of injury is too obvious for further elaboration.

### CONCLUSIONS

There is little evidence in support of Alaska employers providing measurable opportunities for reemployment of injured workers. Only one self-insured reported having an organized return-to-work program. Figures to substantiate this effort were not afforded. The risk manager of a major employer indicated an extensive feasibility study has been conducted over the past year in preparation for developing a comprehensive reemployment program. A precious few employers reported a limited effort of temporarily assigning employees to light duty. On the whole, employers readily proclaimed the nature of their business precludes rehiring their injured employees: Their operations simply cannot accommodate workers with less than full body integrity. Insurer's comments contributed little to modify or change the complexion of this proclamation. Neither party admitted to having particular knowledge on how to improve this present state of affairs, although the suggestion of some insurers regarding performance of on-site-job analyses in cases of reemployment, dispels the notion of complete unawareness in this matter.

### RECOMMENDATION 6

That insurers provide assistance to employers in developing programs for reemployment of injured workers.

### RECOMMENDATION 7

That insurers/employers arrange for counselor services to include on-site-job analyses and assistance in modification of jobs to enhance reemployment opportunities of an employer's injured employees.

### RECOMMENDATION 8

That the Workers' Compensation Division encourage the development and implementation of reemployment programs by providing positive monitoring/endorsement of the efforts of parties.

A few union representative claimed favorable dispositions to contractual agreements providing for reemployment of injured workers. However, previous

TABLE 5

## Comparison Data for Four Workers' Compensation Acts with Provisions for Rehabilitation Benefits

Program	No. of Time Loss Workers	Received Rehabilitation Services		Worker's Successfully Rehabilitated			
		No.	% of Time Loss	No.	% of Workers Received Services	% of Time Loss Workers	% of Return to Work w/previous employer
<u>1/</u> Alaska	6,356	249	3.9	72	28.9	1.1	Unknown
<u>2/</u> Idaho	7,800	1431	18	344	24	4.4	38
<u>3/</u> OWCP - <u>4/</u> FECA	47,982	7608	16	763	10	1.6	68
OWCP - <u>5/</u> LHCA	19,082	4947	26	386	7.8	2.0	23

Remarks: 1/ Figures based on information collected for FY 80 and 81.  
2/ Figures obtained from FY 81 statistics of Idaho Industrial Commission  
3/ Office of Workers' Compensation Programs  
4/ Federal Employees' Compensation Act  
5/ Longshoremen's Harbor Workers' Compensation Act

efforts in this regard were reportedly rebuffed by management and were thus abandoned by labor. Trust fund sponsored, on-the-job training programs are provided for injured union members by at least two locals.

#### RECOMMENDATION 9

That contractual agreements be negotiated for reemployment/rehabilitation of injured union members.

#### GOAL IV

Maintenance of Atmosphere Conducive to Rehabilitation

#### CONCLUSIONS

The element of concern is sufficiently intangible to render itself unmeasurable in a quantifiable way. It is therefore difficult to present an elaborate discussion on the extent to which insurers/employers are concerned about their injured employees during the course of their claims. This would require a detailed examination of randomly selected files maintained by carriers, with particular notations made of such items as timeliness of first and subsequent compensation payments, timely and adequate provision of medical and rehabilitation services, the extent to which claimants were advised of their entitlement to benefits, etc. Moreover, the quality of contacts between the injured worker and the insurer/ employer would be difficult if not impossible to capture. The elements of communication, coordination and commitment lend themselves to more discussion, particularly in regards to rehabilitation.

In general, the extent and timeliness of communication with injured workers seem inadequate for the purpose of supporting a successful rehabilitation program. First, the lag between date of injury to date of referral as previously noted, supports the conclusion that injured workers are not timely contacted and advised of their entitlement or potential need for rehabilitation services. Second, rehabilitation reports and other correspondence reflect communication is sporadic and generally inadequate to ensure the rehabilitation effort of a successful and cost effective outcome. Progress in rehabilitation plans is not timely monitored or timely reported. Concurrently, coordination of activities necessary to develop realistic return to work plans is insufficient, so that inordinate delays and interruptions occur to the detriment of injured workers, the rehabilitation program and the compensation system alike.

As to the extent of commitment to rehabilitation in the Alaska system, the time lag from date of injury to referral for services, and the percent of time-loss workers provided services, (approximately 5.4), coupled with the percent of time-loss workers successfully rehabilitated, (approximately 1.1%) indicate this element too, is woefully inadequate to support a rehabilitation program.

#### RECOMMENDATION 10

That insurers/employers increase their efforts to effectively and timely communicate with injured workers by contacting them as soon after the injury as possible to explain their entitlement to benefits and the procedure for securing these benefits.

#### RECOMMENDATION 11a

That in the case of workers experiencing time loss, who may need rehabilitation services, insurers/employers assign a counselor to contact the worker as soon as this determination can reasonably be made.

There is a developing trend among leading insurance companies to hire a rehabilitation staff member who serves as a communication link between the injured worker and insurance company, as well as other appropriate parties in the system. This staff member assists in creating an atmosphere conducive to an early return to work and facilitates coordination and development of rehabilitation plans for those workers who may not be able to return to direct employment.

#### RECOMMENDATION 11b

That insurers/employers consider hiring a rehabilitation professional to enhance their ability to effectively communicate with, and timely provide services for injured workers.

#### GOAL V

Provision of Incentives, Removal of Disincentives

#### CONCLUSIONS

##### Incentives

##### A. Experience and Retro Rating

The extent to which these methods are used in rating Alaska employers is unknown and is beyond the presentation of this report. Their suggested use by authorities in workers' compensation has been sufficient to present them as incentives for employers to reemploy their injured workers.

#### RECOMMENDATION 12a

That insurers assist employers by providing loss control services to assure appropriate rating consistent with their safety record and reemployment practices.

#### RECOMMENDATION 12b

That to supplement the loss control services provided by insurers, employers seek the assistance of the States Division of Insurance in rating matters and methods.

##### B. Targeted Jobs Tax Credits

According to the Division of Employment Security, Alaska employers rarely take advantage of this tax credit when employing the industrially injured worker. Several factors, such as eligibility criteria and employer awareness may be influencing this. Whether counselors adequately advise employers of this incentive when attempting to place injured workers is unknown.

### RECOMMENDATION 13

That counselors enhance their efforts to place injured workers by informing employers of Targeted Jobs Tax Credit provisions and by providing assistance necessary to facilitate employer participation in the program.

#### C. Additional Maintenance

Injured workers undertaking a rehabilitation program can receive up to two hundred dollars in additional maintenance to defray extra expenses incurred during their rehabilitation program. This provision appears to be adequately serving the purpose for which it was established.

#### D. Second Injury Fund

The Alaska Workers' Compensation Act has provisions for a Second Injury Fund to be administered in accordance with orders and awards of the Board. AS 23.30.040(a). Subsection (e) authorizes expenditures for rehabilitation expenses and maintenance during the period of rehabilitation which may not exceed \$10,000 for one person. When it comes to placing limitations on rehabilitation benefits in a workers' compensation system, there is an inherent problem in stating these limitations in monetary terms: Expectations and rehabilitation plans are designed around the upper limits of the dollar amount, rather than around what services are actually needed to make the injured worker employable. The worker believes his is an undeniable right to a program which costs \$10,000, even though a less expensive program may be more appropriate to restore his employability. The counselor views the \$10,000 as the worker's personal account which he has a right to exhaust by charging the costs of items and services superfluous to his rehabilitation program. In settlement negotiations, the attorney seeks to include \$10,000 in the total figure for rehabilitation benefits, which he argues is his client's right.

All parties appear to have forgotten a basic tenet in a workers' compensation rehabilitation program: An injured worker's right to rehabilitation services coexists with the need of the worker for such services. The type, scope and duration of a rehabilitation program will vary with each injured worker, depending on such factors as skill level, education, age and extent of disability. It is therefore, a reasonable assumption, that the costs of services will vary for individual programs. Provisions for rehabilitation should be made with this in mind which is the current practice in most state compensation programs.

### RECOMMENDATION 14

That language in AS 23.30.040(e) be changed to remove the dollar amount and provide for necessary costs of rehabilitation services subject to Board approval.

This provision would enhance continual efforts of the Board to provide necessary expenditures for workers seeking to rehabilitate themselves back to the work place and at the same time, protect the investment of insurers/employers who support the Fund.

There appears to be a lack of employer awareness regarding the existence or purpose of the Second Injury Fund and its provision for pre-existing conditions, under AS 23.30.205. This incentive will not realize its basic purpose if employers are not aware of its nature or not encouraged to use it.

#### RECOMMENDATION 15

That the Workers' Compensation Division increase employer awareness and encourage employer use of the Second Injury Fund in employment of industrially injured workers. Increase publicity and eligibility interpretation will enhance this effort.

Provisions also exist for the Board to make cooperative arrangements with insurance companies, private organizations and institutions, and state or federal agencies to provide rehabilitation services to injured workers covered by the Act. Through the end of FY 81, the Board maintained a cooperative agreement with the Alaska Division of Vocational Rehabilitation. The agreement permitted transfer of lump sum funds from the Second Injury Fund on a fiscal year basis, to the Division of Vocational Rehabilitation, for the provision of rehabilitation services to injured workers in the compensation system. Currently, a cooperative agreement does not exist between the two agencies due to unresolved differences surrounding the Board's authority to approve rehabilitation plans submitted by counselors of the Division of Vocational Rehabilitation requiring Second Injury Fund expenditure. The wisdom of transferring lump sum Second Injury Funds to the agency, and attempting to renew a cooperative agreement between the two agencies is questionable for at least three reasons.

First, the traditional basis for forming cooperative agreements between a compensation and state rehabilitation agency may no longer exist. During the formative years of no fault workers' compensation, the sole provider of vocational rehabilitation services to the disabled population was the state vocational rehabilitation agency. However, the National Commission, as well as other authorities in workers' compensation, has detailed the past failures of state programs in general, to meet the needs of the workers' compensation system due to the philosophical differences of the two agencies. Additionally, there has been an emergence of private rehabilitation providers, who appear more able to gear their services to the needs of the compensation system. In view of these factors, cooperative agreements between the two agencies may well be obsolete.

Second, removal of Second Injury Fund monies from the administration of the Commissioner of Labor, by transferring them to another agency which has no administrative oversight in the workers' compensation system, undermines the commissioner's ability to effectively administer the Fund in accordance with the orders and awards of the Board.

The last reason has legal implications. As the law clearly assigns the administrative responsibility of the Fund to the commissioner, and transfer of monies from the Fund undermines the commissioner's ability to discharge that responsibility, it would appear that meeting the requirement of the law is precluded by a cooperative agreement. This issue is of particular

importance in view of the reluctance of the Division of Vocational Rehabilitation to respect the Board's authority to approve rehabilitation plans submitted by its counselors requiring expenditure of Second Injury Fund monies.

#### RECOMMENDATION 16

That cooperative agreements involving transfer of Second Injury Fund monies to the Division of Vocational Rehabilitation be discontinued.

#### RECOMMENDATION 17

That criteria for development, recommendation and implementation of rehabilitation plans, in accordance with recommendations 5a through 5e, be applied to all providers of vocational rehabilitation services to injured workers covered by the state compensation laws.

#### Disincentives

##### A. Premature Compromise and Release Settlements

Larson and other authorities in workers' compensation, are strong opponents to settlements which prematurely preclude an injured worker's participation in a supervised rehabilitation program. There is real concern for the worker who settles his claim and releases his rehabilitation benefits. He may quickly exhaust his settlement funds and find himself with inadequate skills to earn a living.

That workers submit applications for settlements to fund proposed self employment ventures, in lieu of participation in a supervised rehabilitation program, is common knowledge. Almost equally as common, and particularly disturbing in the Alaska system, and probably elsewhere, is the recommendation for such plans, without adequate documentation to support the soundness or feasibility of the proposals. The parties involved have varying motivations for this unfounded recommendation.

The injured worker views it as an opportunity to do what he has always wanted to do: Besides, he will not have to work as hard if he can work at his own pace.

The insurer/employer suggests it as a mutual agreement which affords an equitable solution toward the disposition of the claim: It will also relieve the insurer/employer of any future liability related to compensation and rehabilitation benefits.

Claimant's attorney argues it will allow his client to get on with resuming a normal life: It will also afford the attorney an immediate appreciable fee.

The rehabilitation counselor opines that: Given the workers vocational evaluation results, his interests and motivation to succeed, the proposed venture will afford him a realistic vocational goal: It will also provide the counselor with much needed relief from the task of developing a sound

rehabilitation plan, which has been difficult if not impossible to achieve in light of the worker's resistance to any plan other than the self employment venture.

In instances such as this, all parties seem to lose sight of the end goal of rehabilitation: The return of the injured worker to productive employment by restoring his ability to earn a living. The injured worker's desire to start his own business is inappropriately equated with the goal of rehabilitation. A self employment plan may restore the worker to productive employment which will afford him a livable wage, and thus is a means to an end. However, an unsound plan may not afford him a sufficient income and thereby fails to achieve the end goal of rehabilitation.

This is not to suggest that all self employment plans are unsound and thus should not be considered, or that all workers must participate in an approved rehabilitation plan before a claim can be settled. It is suggested however, that each plan must be carefully evaluated for its soundness and potential for successfully returning the worker to productive employment. In cases not involving self employment plans, claims should be settled only after a determination has been made that to do so is in the best interest of justice.

#### RECOMMENDATION 18

That as a general policy, the Board deny settlement of claims, prior to an injured worker's completion of a supervised rehabilitation program.

#### B. Excessive Litigation

Rehabilitation professionals providing services to injured workers in Alaska, readily attest to the activities of both the plaintiffs' bar and defense attorneys, as interfering in the rehabilitation process. Indeed this seems to be borne out by testimony during public hearings on Workers' Compensation and in the claims files of injured workers. Excessive litigation serves little if any useful purpose in the rehabilitation process and if allowed to exist, will undermine the primary objective of rehabilitation. It causes the focus to shift from restoring the worker's competitive earning ability to highlighting his disability. In the ensuing process, rehabilitation is not used as an effective, productive tool for the long range benefit of the injured worker. It becomes a bargaining stick employed by the claimant's attorney in his quest to obtain his client's pot of gold, and it is simultaneously used as a trade-off carrot by the defense attorney to limit the employer's/insurer's future liability. To an appreciable extent, the Board can provide a remedial solution to this problem. Regulations, guidelines and well defined procedures regarding rehabilitation, will remove much of the need and opportunity to litigate issues surrounding the rehabilitation process. (See recommendations 1 through 5e).

#### C. Other Stimuli

Parties who refuse to cooperate or who sabotage the rehabilitation effort by passive-aggressive means, should be encouraged to cooperate through the application of remedial penalties acting upon both the insurer/employer and

the injured worker similarly. The Board has the authority to apply such remedies. A review of its more recent decisions and orders reflects an increased effort to make sufficient applications in support of the rehabilitation objective.

#### Delivery of Rehabilitation in Alaska's Workers' Compensation System

The Alaska Workers' Compensation program must have an effective rehabilitation delivery system if it is to meet its six obligations as outlined in the overview section of this report, and achieve the five specific goals of rehabilitation. Administrative monitoring and positive assistance to injured workers and all other members of the workers' compensation community, require the adoption of the recommendations set forth in this report. Despite the on-going efforts of the Division of Workers' Compensation to improve its delivery system to the workers' compensation community, it continues to lack the resources and staff necessary to achieve a successful rehabilitation program which will ultimately reduce the cost of the compensation system.

The savings experienced in other compensation programs cited in this report, resulted from the delivery of well managed, cost effective rehabilitation benefits. These results did not occur independent of the economic wisdom of administrators for those programs, who realized that a relatively small investment of resources would yield tremendous gains in the reduction of compensation costs to employers, injured workers and society.

#### RECOMMENDATION 19

That the Division of Workers' Compensation acquire the necessary staff to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

## PHYSICIANS' CONCERNS

1. Rehabilitation counselors should consult with treating physician before contacting injured worker. The counselor often gives advise which conflicts with physician's planned course. Physician can pave the way and make the prospects of rehabilitation less threatening if he is aware of the counselor's contact in advance.
2. Workers should be advised of benefits from day one of injury. Rights and responsibilities of worker should be spelled out. This would reduce adversary atmosphere.
3. Employers engage in inappropriate hiring practices to begin with. Thorough pre-hiring physical exam should be conducted. Conditions incompatible with physical demands of certain jobs would be detected at that time.
4. Workers' compensation should take natural aging process into account. Wear and tear process should not be financed by workers' compensation system.
5. Remedies should be more vigorously applied to workers who fail to follow doctor's orders.
6. Attorneys are too involved in the rehabilitation process. Counselor, physician and injured worker should be primary parties involved.
7. Rehabilitation benefits should be consistent and uniformly delivered. There is no control in the present system. Physician and patient need rules to play by.
8. Employer must assume more responsibility to provide light duty work until worker can resume regular job.
9. Union dispatch precludes loyalty to the employer - Union regarded as the "employer".
10. Union rules should be more flexible to support rehabilitation.
11. Unions must assure worker's who are dispatched are physically able to perform the duties of the job.
12. Professional rehabilitation providers inadequate. A more clearly defined system would encourage more providers to practice in Alaska's system.
13. Services provided by DVR are not particularly geared to industrial workers - more effective with catastrophically disabled population.
14. Insurance adjusters have inadequate backgrounds in medicine and human behavior. Inappropriate actions against claimants result in adversary behavior by claimant; (foot dragging and going against doctor's recommendations.) Adjusters must use more amiable approach.

## REHABILITATION COUNSELORS' CONCERNS

1. Attorneys often interfere with rehabilitation. Some attorneys forbid their clients to see counselors, insist on being present at every counseling session, attempt to dictate what program should be developed for the injured worker, and often advise their clients not to cooperate with the counselor by using passive aggressive tactics. Counselors would like to see guidelines or regulations developed which forbid attorneys to interfere or attempt to run the rehabilitation process.
2. The workers' compensation system expects counselors to be miracle workers. Successful rehabilitation of injured workers in the compensation system is difficult if not impossible in light of the following:
  - a. Inadequate requirements of workers to cooperate with the counselor.
  - b. Ineffective enforcement of the vague rules presently existing in the system when evidence clearly shows the worker has been uncooperative.
  - c. Some insurance companies act in good faith in attempting to arrange rehabilitation services for workers who need them. Other companies fail to make such arrangements and may even interfere when workers seek services on their own.
  - d. Those companies that support the rehabilitation effort are often penalized as the Board allows uncooperative workers too many chances to cooperate. Limitations should be placed on these chances.
3. The Workers' Compensation agency should be staffed with rehabilitation professionals who determine which agency will provide services to injured workers in disputed cases. This would reduce the level of excessive "rehabilitation shopping" by all parties which presently exists, and it would eliminate dual assignment of rehabilitation providers by both sides.
4. Counselors have too little time as it is to provide adequate services to the disabled population. Requiring counselors to appear in hearings and other judicial processes further reduces the time counselors should be devoting to rehabilitating the disabled population.

## INJURED WORKERS' CONCERNS AND REACTIONS

1. The system has gotten so complex that an attorney is absolutely necessary in proceeding with many cases. Yet, some injured workers were not advised that they needed an attorney until it was too late.
2. Injured workers have reported receiving "high pressure" from carriers to settle for smaller settlements than required by law. This included threats of holding up final settlement unless the injured worker agrees to carrier's terms.
3. Injured workers who realized later that they needed rehabilitation assistance, were not given any indication that the option was available, at the time of injury.
4. Benefits are either cut-off without notice or held up as part of pressure tactics. In cases of jobs which pay by commission, an injured worker reported that benefits stopped immediately upon taking the job, although it was 4 months before he received his first commission check.
5. There were positive reactions to some insurance companies' case management, in addition to positive feelings about some injured workers' rehabilitation experience.
6. There is concern expressed that DVR does not cooperate with the injured worker's interest in rehabilitation. This point was expressed in a case where the injured worker reported the counselor stalled 6 months in getting the program started and took 2 months in getting the purchase of a calculator approved.
7. Concern has been expressed over the proper medical treatment. The use of chiropractors is more helpful in some cases, yet is discouraged by some doctors.
8. Injured workers are frustrated that some of the jobs they are retrained for are not available on the job market when the rehabilitation program is completed. They wind up returning to their old job or taking a position which has a high probability of reinjury.

## INSURER/EMPLOYER CONCERNS

1. The Act requires insurers/employers to provide rehabilitation services to injured workers. Thus, the insurer/employer should be able to determine which rehabilitation agency the worker will be referred to for these services. This would eliminate the current practice of workers/attorneys shopping around to find the counselor who will recommend the longest training program.
2. Claimants' attorneys should be restricted from practicing "rehabilitation" and submitting training/rehabilitation plans for their clients.
3. Insurers/employers should not be required to provide rehabilitation services to workers who refuse reemployment offers by employers. There should be a limit placed on the time an injured worker has to accept the offer.
4. When training plans are presented for approval, the Board should make every effort to ensure the need for training before approving the plan and requiring the insurer to continue total compensation payments. Training should be approved on the basis of need as opposed to the desire of workers who merely want a new career.
5. Counselors should be used to perform on-site-job analysis to determine if the job is compatible with the worker's restrictions. Presently, the physician, who does not have sufficient knowledge of the world of work, makes this decision based on the whims of the patient, who often misrepresents physical demands of a given job.

## ATTORNEYS' CONCERNS

1. Alaska has an inadequate number of competent rehabilitation counselors. Often, workers do not have a choice and must use DVR.
2. Particular counselors are inconsistent in serving injured workers; engage in power playing to control worker's life; dabble in claims and legal matters; incorrect information given worker, sometimes intentionally, if worker has not followed the counselor's "rules".
3. Present system does not have mechanism to make rehabilitation work. No one to monitor system and keep parties in line, particularly counselors who behave in questionable manner.
4. Disputes regarding rehabilitation should be promptly heard and decisions timely issued. Delays destroy motivation for rehabilitation.
5. Artificial rehabilitation hurts workers with serious injuries.  
EX: Sixty-one year old worker w/65% rating. Has fifth grade education and no work skills other than heavy labor. Ineligible for retirement by 4 years. Placed in pie shop as a part-time wrapper. Paid \$4.00/hr = \$80/week = approx. \$200/month. Counselor issued a report of "successful rehabilitation" so worker was found PPD, thus \$60,000 limit applied. Questionable whether worker will be able to continue in work force due to severity of injury, age, and limited skills. If unable to continue working, \$60,000 inadequate source of income for worker's remaining lifetime. If PTD, rating is precluded by "successful rehabilitation" stamp.
6. Board should penalize insurers/employers who misrepresent the law. Failure to advise worker of entitlement to rehabilitation is misrepresentation.

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APPENDIX OF EXHIBITS

## CHAPTER 47

### VOCATIONAL REHABILITATION

8 AAC 47.010. GOAL OF VOCATIONAL REHABILITATION. The board shall direct and provide for the vocational rehabilitation of employees entitled under the Act. Vocational plans formulated under the Act and this chapter must be designed to restore the injured employee to gainful employment. (Eff. / / , Register ).

Authority: AS 23.30.005  
AS 23.30.040

8 AAC 47.020. DUTIES OF THE PARTIES. (a) The employer, the self-insurer, the insurance carrier, and the employee shall promptly recognize the need for the evaluation of vocational rehabilitation and shall initiate necessary action to restore the injured employee to gainful employment as expeditiously as possible.

(b) The employee shall cooperate in all phases of vocational rehabilitation. The employee shall promptly and responsibly participate in a board-approved vocational plan when ordered to do so by the board. If the employee does not choose to enroll in a vocational plan, nothing in this chapter is to be interpreted so as to require the employee to do so. However, in cases where the employee chooses not to enroll in a vocational plan, or unreasonably refuses to complete a vocational plan, the degree of permanent partial disability will be determined as though the employee had enrolled in, and successfully completed, the vocational plan. The employee shall notify the board and the employer within 14 days of the first consultation with a vocational rehabilitation representative.

(c) The vocational rehabilitation representative shall notify the board and all interested parties within 14 days of the first consultation with an employee. Thereafter, the vocational rehabilitation representative shall file regular monthly reports with the board during the consultation period. Within 14 days of the final consultation, the vocational rehabilitation representative shall file a report of consultation which must contain the findings, conclusions and recommendations regarding vocational rehabilitation. (Eff. / / , Register ).

Authority: AS 23.30.005  
AS 23.30.040

8 AAC 47.030. EVALUATION ANALYSIS. (a) No vocational plan may be initiated until board approval has been secured. Board approval may be secured by any party by filing a petition for initiation of a vocational plan, accompanied by a written evaluation analysis. Copies of the petition and the evaluation analysis must be served upon all parties and the administrator of the Alaska Second Injury Fund, in accordance with 8 AAC 45.060.

CHAPTER 47  
VOCATIONAL REHABILITATION

Section

- 10. Goal of vocational rehabilitation
- 20. Duties of the parties
- 30. Evaluation analysis
- 40. Vocational plans
- 50. Modification, suspension, or termination of vocational plans
- 60. Vocational rehabilitation definitions

(b) A written evaluation analysis must be accompanied by copies of all medical reports referred to in the analysis and must, in addition, include

(1) an assessment of the employee's employable skills, including a synopsis of his work history and educational background;

(2) a summary of the disabilities limiting the employee's employment opportunities; and

(3) a specific accounting of the employee's pre-injury wage and an assessment of his post-injury wage-earning capacity.

(c) After the complete, written evaluation analysis has been filed the board will review the factors discussed in the analysis and will determine whether the employee is able to return to his previous employment or to modified employment or whether, instead, direct job placement, on-the-job training or formal retraining is necessary in order to return the employee to gainful employment.

(d) If the board determines that formal retraining is necessary, it shall direct the employer or the employee, or both, to initiate a vocational plan in accordance with 8 AAC 47.040. The board will give preference to direct job placement and on-the-job training over a formal retraining program. (Eff. / / , Register ).

Authority: AS 23.30.005

8 AAC 47.040. VOCATIONAL PLANS. (a) Following evaluation in accordance with 8 AAC 47.030, a vocational plan may be initiated by direction of the board or by any person. Vocational plans must be developed by a qualified rehabilitation representative designated by either the employer, the carrier, the self-insurer, the employee, or the board.

(b) Proposed vocational plans must be submitted to the board in the form of a petition by the person responsible for initiating the vocational plan. The petition must be in writing and must include

(1) the gainful employment objectives of the vocational plan, including estimated earnings and reasonable availability of gainful employment;

(2) the name and location of the educational institution, public or private vocational training agency, or company or business involved in the vocational plan;

(3) the nature, extent, and duration of services to be provided during the period of rehabilitation;

(4) the dates of commencement and expected completion of the vocational plan;

(5) a statement regarding the general financial condition of the employee;

(6) the amount of weekly income maintenance benefits, tuition, fees, and transportation costs, if any, and the time and manner of such payments to the employee during the period of rehabilitation;

(7) the employee's written acceptance of the plan, plus any comments the employee desires to make a matter of record concerning why the plan is in his best interests;

(8) the name of the rehabilitation representative who prepared the plan, a complete description of his or her qualifications, and the name and address of the representative's institution, agency, or company; and

(9) all medical, psychological, and vocational evaluation reports related to the case.

(c) Objections to a vocational plan must be filed in writing with the board within 10 days of the date of service of the plan upon the board.

(d) Upon receipt of written objections, or where it appears obvious that the employee and the employer are unable to reach agreement on the terms of the vocational plan, a prehearing conference will be scheduled. If agreement is reached at the conference, the board may approve the plan. If the differences cannot be resolved at the prehearing conference, the matter shall be set for a hearing. Hearings shall be held in accordance with the provisions of this chapter.

(e) Upon receipt of a proposed vocational plan acceptable to all parties concerned, or following a hearing, and after review the board shall approve, disapprove, or modify the plan.

(f) Implementation of the plan must begin as soon as the employee is capable of participating in the program and medical opinion indicates the employee's recovery will not be impeded by participation in the plan. The plan shall begin upon the date of board approval or the date specified in the plan, whichever occurs last.

(g) In the event

(1) a vocational plan is not offered by the employer; or

(2) an employer-offered plan or a rehabilitation agency-offered plan is not accepted by the employee; or

(3) the board finds that the employee is eligible for a plan but the proposed plans are not effective

the board, on its own motion or upon the petition of any party, shall

make a determination by means of a hearing or hearings of the services necessary to restore the employee to gainful employment. (Eff. / / , Register ).

Authority: AS 23.30.005  
AS 23.30.040

8 AAC 47.050. MODIFICATION, SUSPENSION, OR TERMINATION OF VOCATIONAL PLANS. Any party may petition the board for modification, suspension, or termination of a plan. The petition shall be treated as any other petition under § 050 of this chapter. The board shall order the modification, suspension, or termination if it finds

(1) satisfactory progress is not being made in the approved plan; or

(2) the plan is not likely to prepare the employee for gainful employment due to unexpected contingencies; or

(3) the employee refuses to complete the vocational plan approved by the board; or

(4) a more suitable plan becomes available. (Eff. / / , Register ).

Authority: AS 23.30.005

8 AAC 47.060. VOCATIONAL REHABILITATION DEFINITIONS. As used in this chapter

(1) "Gainful employment" means employment which is reasonably attainable and which offers an opportunity to restore the employee as soon as possible to maximum self-support, due consideration being given to the employee's qualifications, physical and mental condition, interests, motivation and incentives, pre-injury earnings and future earning capacity, and the present and future labor market.

(2) "Implementation of a plan" means commencement by the employee of an actual return-to-work plan of direct job placement, on-the-job training or vocational training in accordance with an approved vocational rehabilitation plan.

(3) "Initiation of a plan" means the creation and drafting of a written vocational rehabilitation plan.

(4) "Vocational rehabilitation" means a program of services, not limited to medical services, designed to restore an injured or disabled employee to gainful employment.

(5) "Vocational rehabilitation representative" means a person who possesses the special skills, knowledge, education, training, and experience necessary to develop and implement vocational rehabilitation plans.

(6) "Vocational rehabilitation plan" means the planning and providing of services, not limited to medical services, reasonably necessary to restore an employee to gainful employment. Such services include, but are not limited to, vocational evaluation, counseling, retraining, on-the-job training, and job placement assistance. (Eff. / / , Register ).

Authority: AS 23.30.005

~~AS 23.30.040~~

Idaho

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Phone: 734-8300

**COMMISSIONERS**  
Gerald A. Geddes - Lawrence G. Sirhall - Willis Diefenbach

# Worker Rehabilitation



Idaho  
Industrial Commission  
Rehabilitation Division

## The Rehabilitation

**Division** was established by the 1978 Legislature in an effort to reduce the period of temporary disability resulting from industrial injury or disease and to aid in restoring the disabled employee to gainful employment with the least possible physical impairment.



## What Are Our Goals?

- To provide for the earliest possible return of the injured worker to meaningful, safe work
- To return the injured worker to as near his pre-injury status as possible
- To reduce the period of temporary benefits paid injured workers

## Who Is Eligible For Our Services?

Workers receiving Idaho Workmen's Compensation benefits for whom the Rehabilitation Division can be of assistance in reducing the period of temporary disability or aiding the worker in a return to employment compatible with his disability.

## What Services Are Provided?

Services provided are those necessary to return the worker to a job with his former employer, or to a job similar to the one held prior to becoming injured.

Services available include:

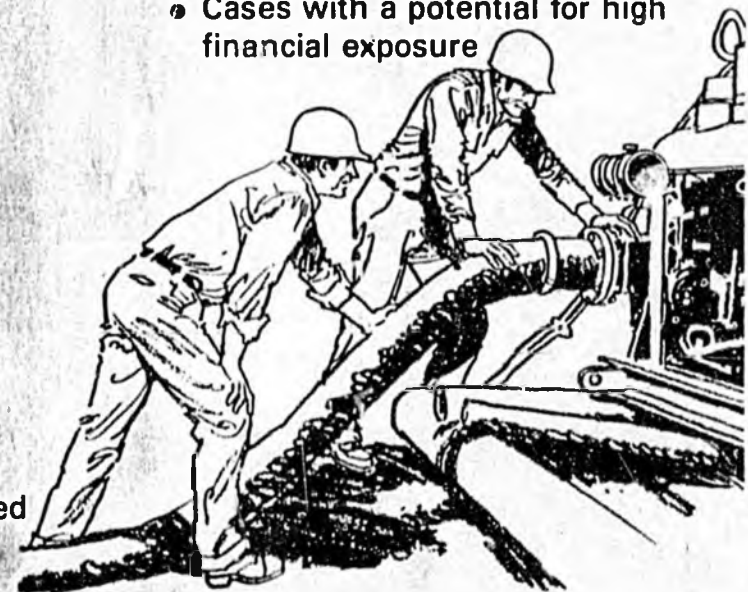
- Vocational evaluation
- Job site evaluation
- Vocational counseling
- Assistance in job modification
- Training in job seeking skills
- Placement
- Follow-up
- Reporting system to those involved in the rehabilitation process

## Who Benefits From Our Services?

- Disabled workers
- Employers
- Attorneys
- Physicians
- Society

## Who Should Be Referred?

- Workers requiring a change of occupation.
- Cases with long periods of disability
- Injuries resulting in restrictions of function
- Cases with a potential for high financial exposure



9:00 Jeff - Resolutions;

Discussion  
of  
Preliminary Results  
of  
Survey of Injured Workers

## METHODOLOGY

This survey was conducted to measure the post injury, economic status of injured workers and to examine their reactions to the delivery system of rehabilitation benefits in the Alaska Workers' Compensation System

A time frame considered to be most useful to the survey was established. Workers who sustained injury between January, 1977 and December 1980 were included in the survey. This time frame eliminated injuries occurring during the pipeline "boom" economy of the mid-seventies. It also provided an adequate stabilization period for injured workers to get back on their "economic feet."

Injured workers surveyed were divided into three groups. The first group included workers who had signed compromise and release agreements, which did not include provisions for rehabilitation benefits. The second group of injured workers were those referred to the state vocational rehabilitation agency, and the third group of injured workers were those referred to private rehabilitation firms.

Survey forms were mailed to all 142 workers in the two rehabilitation groups. For the compromise and release group, every second case was selected out of a total of 1000 cases. Surveys were mailed to 468 injured workers in this group. Thus, the total number of workers surveyed for the three groups was 610. This represents an adequate cross section of the entire universe.

### Response to the Survey

Due to time constraints and problems experienced in obtaining correct addresses, the survey has not been completed. Of the 610 survey forms sent out, 180 (30%) were returned as undeliverable as the worker was either unknown at the address, or the forward had expired. Of the remaining 430 surveys, 65 (15%) have been completed and returned. In the next two weeks, telephone surveys will be conducted to complete the sample of respondents.

### Preliminary Results

Of the 65 workers who responded, 26 had received rehabilitation services. In evaluating how helpful rehabilitation was in returning them to work, 14 respondents stated "very helpful", 7 chose "not helpful" and 5 chose something in between. As more surveys are returned, the responses will be correlated with the source of referral. Of the 25 rehabilitation respondents, 10 were referred to rehabilitation by a source other than the choices given in the survey. This "other" source was the doctor and 8 of these 12 found rehabilitation was "very helpful" in returning them to work. However, until more responses are received, no hard and fast conclusions or inferences can be made with any degree of validity.

Responses to questions on income from employment only, are more complete. Virtually all the workers had been injured well over two years ago. Yet in 1980, 52% of the 65 workers had incomes under \$12,000. In 1981, 55% of the 65 respondents reported incomes under \$12,000. For the remaining group, in 1980, only 10 respondents had incomes over \$25,000, while that number rose to 15 in 1981. These figures support the beliefs of those in the workers' compensation community regarding the fate of injured workers. Unless positive steps are

taken quickly to return them to the work place, injured workers can get stuck at a level of income far below that held at the time of injury. However, due to the small percent of survey response received to date, definitive conclusions cannot be made.

The survey does allow a look at income in another way. Of the 65 respondents, 31 were employed at the time they received the survey. A comparison of pre-injury and post-injury average weekly wage (AWW) for this group shows that 12 respondents had an AWW in the same income bracket as before injury, 15 had weekly wages in a higher bracket than before injury, while only 3 had an AWW which fell into a lower bracket than before injury. These figures support another commonly held belief in the compensation system. For workers who timely return to the work place, upward, economic mobility is possible. Responses which evaluate physical demands of current jobs add another dimension regarding employability of injured workers. Despite the fact that 27 of the 31 employed respondents are working for wage at or above their pre-injured weekly wage, 16 or over half the group, are in positions that required less physical demand than their pre-injure jobs. In other words, an injury which results in physical limitations need not result in limiting the personal and economic achievement, afforded by productive employment.

ZEE PAMPLIN JACKSON

*Rehabilitation Consultant*

December 11, 1981

The Alaska State Legislature has funded a study of rehabilitation and retraining for injured workers in the state. The goal is to develop more efficient and constructive rehabilitation and retraining services in Alaska so that injured workers can receive the best help possible during their period of disability. Part of this study will compare the post-injury experience of people who have gone through rehabilitation and retraining, with the post-injury experience of people who have signed compromise and release agreements.

As someone who has signed a compromise and release agreement, you can provide useful information for the study. If you would fill out the brief enclosed questionnaire and return it in the postage paid envelope, I would greatly appreciate it.

I want to emphasize that any information you provide will remain strictly confidential. This study is in no way connected with any benefits you may have received in the past, or might receive in the future. If you have any questions, please call me collect at (907) 264-2460 from 8:00 a.m. to 4:30 p.m. Alaska Standard Time.

Your help in this project could make a difference in getting better and more effective laws passed for the protection of injured workers. Thank you for your time and cooperation in returning the questionnaire as quickly as possible.

Sincerely,

Zee Jackson  
Rehabilitation Consultant

Zee Jackson  
P.O. Box 3130  
Anchorage, Alaska 99510

# WORKERS' COMPENSATION VOCATIONAL REHABILITATION SURVEY

1. When were you injured? MONTH \_\_\_\_\_ YEAR \_\_\_\_\_

2. Since your injury, have you received any rehabilitation services?

YES

IF YES, ANSWER THESE QUESTIONS NEXT

NO

IF NO, CONTINUE WITH QUESTION #3



2a. Who referred you to the rehabilitation services?

Insurance Carrier

Employer

Division of Workers Comp.

Attorney  Other

2b. How helpful was the rehabilitation service in returning you to work?

Very helpful  Helpful

A little helpful  Not helpful

NOW GO TO QUESTION #3

3. How long were you unable to work because of your injury?

Less than 1 month

1-3 months

4-6 months

7-12 months

Over 1 year

4. Are you currently employed?

YES

IF YES, ANSWER THESE QUESTIONS NEXT

NO



4a. What is your usual gross weekly income?

Under \$200  100-299  300-499  500-800

Over 800

4b. How long have you been at your present job?

Under 1 month

1-3 months

4-6 months

7-12 months

Over 1 year

4c. Are the physical demands of your current job greater than  less than

the same as

your pre-injury job?

4d. Is this a seasonal job?

Yes

No

Other (Explain) \_\_\_\_\_

NOW GO TO QUESTION #5

4e. Is your work injury preventing you from working?

YES

NO

5. Approximately what was your gross income from employment in 1980?

Under \$12,000

12-18,000

18,001-25,000

25-35,000

35,000 or over

6. Approximately what do you expect to earn from employment only in 1981?

Under \$12,000

12-18,000

18,001-25,000

25,000-35,000

35,000 or over

PLEASE WRITE ANY COMMENTS YOU MIGHT HAVE ABOUT YOUR EXPERIENCE WITH THE WORKERS' COMPENSATION SYSTEM

You can use the reverse side

B. Reeves

DISINCENTIVE 25 to RTW

1. AWW -

a. best of last 3 could be more than ~~any~~ @ time  
of signing order - AWW more than

b. Spendable income should be basis for comp. rates

Should not include room board or fringes

Primary Parties in W/C

Employee - Labor

Employer - Management

Labors,  
Operating Engineers,  
Carpenters,  
Teamsters

Needs of Primary Party

RTW. Timely

Reduce Comp. cost

RTB Services compatible = accomplishing  
goals

RTB counselors are facilitators, (all)  
NOT primary parties

# House Labor & Commerce

SIGN-IN SHEET

Voc. Rehab

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Pat Young	0581 - 50 Blvd. Juneau	Voc. Rehab-	?	586-6500
Mr. Budsell	0589 - 60 Blvd Juneau	Voc Rehab.		586-1245
Mike Thomas	Box 1211 Juneau	Am. Insurance Assn	No	5863340
Jim Robinson	Box 899 Anch.	W/C district council of labor Alaska State AFL-CIO		276-1640
Don Roulet	Box 11 - 2653 Anch.	"	No	274-5464
Paul House	P.O. Box 1149	Workers' Comp. Second Injury Fund	No	465-2791
Kel. Makam	P.O. Box 330 Anch		Yes	242-2460
Jackie MacIntosh	P.O. B 1149 Juneau	Dept of Labor W/C Div.	NO	465-2790
ED HITE	201 DANNER, ANCH	Daryl A. Cody	NO	349-6733
Jack Thompson	2216 Post Rd Anch 99501	WCCA		
MICHAEL THILL	CAPITAL RM 119	SENATE LABOR & COMMERCE Aide	NO	465-3116
Eileen Blante	P.O. Box 1149	La Ser	NO	465-2700
David [unclear]	P.O. Box 1149	W/C Board Man	NO	465 2790
Elaine VanderSaude	" " "	Workers Comp	No	465-2790
Janet [unclear]		A.M.C		6-1740
W. Rogers		A.G.C	NO	276 5359
Barbara Lussion	201 Danner - Anchorage	Pacific Marine Ins	NO	800-426-4115
Paul [unclear]	5921 Sunset St	Self	NO	586-6856
DAVID KERTNER	P.O. B. 1149, DEPT LABOR	LABOR W/CA Workers Comp	NO	465.2780
Wes Coyner				



LABOR & COMMERCE COMMITTEE  
DAILY COMMITTEE HEARING

Date: 1/26/82

Place: \_\_\_\_\_

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		1:05	
Rep. D. Randolph	✓		12:58	
Rep. B. Rogers	✓		1:15	
Rep. T. Gardiner	✓		1:18	
Rep. T. Martin, Chair	✓		12:58	

Subject Matter:

House Bill No. 159 \_\_\_\_\_

Senate Bill No. \_\_\_\_\_

Special Orders: