

 Yukon Workers' Compensation Health and Safety Board	<b>Part:</b>	<b>Return To Work and Rehabilitation</b>		
	<b>Board Approval:</b>		<b>Effective Date:</b>	<b>July 1, 2012</b>
	<b>Number:</b>	<b>RE-10</b>	<b>Last Revised:</b>	
	<b>Board Order:</b>		<b>Review Date:</b>	

## [VOCATIONAL REHABILITATION](#)

***When referencing any of the return to work policies (RE-01 to RE-13), it is important to recognize the responsibilities of the employer and worker within the context of the complete return to work process. Therefore, the whole return to work model must be considered in its entirety and not only the specific guidelines under an individual policy.***

### **GENERAL INFORMATION**

The vocational rehabilitation policy supports the fundamental principle “to provide injured workers with rehabilitation to assist them to overcome the effects of work-related injuries as much as possible.”

This policy falls within the context of the Yukon Worker’s Compensation Health and Safety Board’s (YWCHSB) strategic plan which states, in part: “Working together with workers, employers, injured workers and their families, YWCHSB focuses on addressing the needs of workers and employers in changing work environments and helping workers overcome work-related injuries in both human and economic terms”.

### **PURPOSE**

This policy outlines the objectives, application and process, services, and the roles and responsibilities of participating members of the Case Management Team in vocational rehabilitation.

### **DEFINITION**

- 1. Case Management Team:** A team that assists the injured worker with their recovery, early and safe return to work plan and, if needed, vocational rehabilitation. The team always includes the injured worker and YWCHSB. Employers have a duty to co-operate in their injured worker’s early and safe return to work and will be encouraged to use participation on the Case Management Team to facilitate that duty. The team can also include up to two

representatives of the injured worker<sup>1</sup> (as desired by the injured worker), disability manager and the health care community. Other members may be added depending on their specific roles and responsibilities.

## **PREVENTION**

Preventing workplace injuries is the responsibility of everyone in the workplace. When injuries do occur, it is important for workers and employers to minimize the impacts by:

- 1) When possible, keeping the worker at work in safe and productive work or
- 2) Returning the worker to safe and productive work as soon as it is functionally appropriate for the worker to do so.

Prevention of recurrences and further injuries once injured workers have returned to work is of utmost importance.

## **POLICY STATEMENT**

YWCHSB will encourage injured workers, health care providers, employers and other parties to work co-operatively as a Case Management Team and to explore all reasonable, creative and flexible solutions to design plans that will facilitate the worker staying at work, when possible, or facilitate the worker's early and safe return to work when the worker, functionally, cannot stay at work.

YWCHSB may provide vocational rehabilitation to a worker as part of the return to work process when the early and safe return to work (ESRTW) process with the pre-injury employer or an alternate employer has not restored the worker's pre-injury earnings capacity and the worker has reached, or is expected to reach, maximum medical improvement without fully recovering from a work-related injury.

Vocational rehabilitation may:

1. provide a vocational assessment;
2. develop vocational options and likely outcomes;
3. counsel injured workers to choose an option;
4. develop and implement a vocational rehabilitation plan;
5. monitor and adjust the vocational rehabilitation plan; and
6. provide any necessary assistance in returning the injured worker to employability.

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<sup>1</sup> Note that the only type of representative who may make decisions on behalf of the worker is a lawyer retained by the worker or a worker's representative with power of attorney and/or power of personal attorney.

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The desired outcome of vocational rehabilitation is to return the injured worker to employability at or as close to, the pre-injury earnings level as possible.

### **1. Vocational Assessment**

A vocational assessment is completed when the early and safe return to work (ESRTW) process with the pre-injury employer or an alternate employer has not restored the worker's pre-injury earnings capacity; and the worker has or is expected to reach maximum medical improvement without fully recovering from a work-related injury.

This assessment will take into account the injured worker's aptitudes, skills, interests, culture and gender, labour market opportunities, age, loss of earning benefits and employment profile. The assessment will be used to determine whether the worker needs additional skills, training or education in order to work and earn at the pre-injury earnings level taking into account the worker's functional abilities as a result of the work-related injury.

Where the worker does not require, or is not entitled to a vocational rehabilitation plan, the worker will be offered the Employment Readiness Program (see YWCHSB policy RE-12, "Employment Readiness".)

### **2. Options for Vocational Rehabilitation Plans**

Where it has been determined that a worker needs additional skills, training or education, the vocational assessment will generate options and possible outcomes and will be used as the basis for discussion with the worker and the Case Management Team. As part of the discussion, reasonable timeframes for choosing a vocational rehabilitation (VR) plan, completing the VR plan or different elements of the plan will be established between YWCHSB and the injured worker.

A default option, with associated possible outcomes based on cost-drivers to the fund, will be identified that will be used if another option is not chosen within the agreed-upon timeframe.

### **3. Evaluation of Vocational Rehabilitation Options**

Options for vocational rehabilitation plans shall be analyzed based on all of the following factors:

- a) likelihood for return to work or return to fitness for employment;
- b) offer of employment by pre-injury employer upon completion of the plan;

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- c) offer of employment by an alternate employer upon completion of the plan;
- d) impact on the worker;
- e) need for training or re-education; and
- f) costs to the fund.

In most cases, the cost to the fund will be determined by comparing:

- a) the total estimated costs of required vocational services, including any additional training allowance as determined by YWCHSB;
- b) the remaining compensation benefits that the worker is entitled to;
- c) the estimated cost of alternative vocational rehabilitation plans; and
- d) the estimated benefit costs if no vocational rehabilitation plans are provided.

In most cases, the impact on the worker will be determined through analysis of factors such as:

- a) opportunity to remain within Yukon;
- b) choice of employment pattern, whether full-time or seasonal;
- c) additional supports that may be required to implement the plan; and
- d) impact on the family.

Quantification of these factors may include the direct and indirect financial costs to the worker. However, not all of these factors are able to be quantified numerically and some judgment must be exercised, in accordance with the *Workers' Compensation Act S.Y. 2008* (the "Act") and this policy.

The National Occupation Classification and Canada Job Futures, as well as national and provincial labour market information will be used as references.

#### **4. Vocational Rehabilitation Plan**

Following the vocational assessment, a vocational rehabilitation plan will be developed, focused on return to suitable work other than the pre-injury job. The vocational rehabilitation plan will be developed in consultation with the injured worker and signed by the Case Management Team. The plan shall include:

- a) goal(s);
- b) measures;
- c) timeframes and default option(s); and
- d) action plan – what has to be done, who will do it, by when.

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Regular review of the vocational rehabilitation plan will be included in the plan. The injured worker is encouraged to bring concerns about the implementation of the plan to YWCHSB between scheduled reviews. This would include the failure of other members of the Case Management Team to meet their obligations under the plan. If the Case Management Team agrees, this lack of adherence to the obligations will result in the revision of the plan and timelines.

Wage loss benefits are determined and paid in accordance with YWCHSB policy EL-01, "Loss of Earning Benefits."

An additional training allowance may be paid where determined appropriate and where warranted by the analysis done on the cost to the fund in determining the worker's entitlement to a vocational rehabilitation plan. The additional training allowance shall not exceed the short-term benefit rate and shall only be paid where a worker is actively and successfully engaged in the activities associated with the vocational rehabilitation plan.

Additional financial assistance for re-education or retraining may be agreed to as part of the plan to cover additional costs of materials that are needed for the implementation of the plan.

Failure on the part of the injured worker to meet an obligation in the action plan may result in the interruption or conclusion of the rehabilitation plan as outlined in the Conclusion of Vocational Rehabilitation Services provision of this policy, unless the plan is revised with the consent of YWCHSB staff on the Case Management Team, based on analysis of the costs to the fund of the options remaining.

## **5. Interruption of a Vocational Rehabilitation Plan**

Where a legitimate situation (such as a high-risk pregnancy or a heart attack) requires an injured worker to interrupt their vocational rehabilitation (VR) plan YWCHSB will:

- a) review the situation to determine whether the interruption will affect the agreed upon vocational rehabilitation outcome or estimated completion of the vocational rehabilitation plan. If there is no negative impact, earnings loss benefits will not be affected.
- b) review the circumstances of the interruption and establish whether or not the injured worker may be able to resume the VR plan when the situation resolves. In this case:

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- i) YWCHSB may suspend the worker's loss of earnings benefits for the period of the VR plan interruption; and
  - ii) explore methods to assist the injured worker to safely shorten the interruption (for example, enrolling the worker in an on-line course when a semester has been interrupted and the worker is able to resume the VR plan prior to the next semester);
- c) review, and where appropriate, implement one of the other options established under Section 2 of this policy's provisions; or
- d) where the previously established options are no longer appropriate and there is little chance of a suitable VR plan being established under Section 2, YWCHSB may conclude VR Services under the provisions of Section 5 of this policy.

## 6. Conclusion of Vocational Rehabilitation Services

Vocational rehabilitation services shall be concluded by YWCHSB, with input from the Case Management Team, based on the following factors:

- a) The goals of vocational rehabilitation have been achieved as evidenced by progress reporting, evaluation, testing results and medical evidence validating that the injured worker is fit for employment;
- b) The injured worker is not going to benefit from continued vocational rehabilitation as determined by the Case Management Team;
- c) The injured worker fails to co-operate with and/or abandons the vocational rehabilitation plan; or
- d) The injured worker's choice to relocate to a place which significantly limits the ability of YWCHSB to continue with the provisions of the vocational rehabilitation plan.

The conclusion of the vocational rehabilitation plan may lead to further steps in the compensation process, such as:

- a) Employment Readiness;
- b) Suitable Employment and Earnings Capacity Loss;
- c) Suspension or Reduction of Compensation; or
- d) Relocation

## ROLES AND RESPONSIBILITIES

**Case Management Team** –The Case Management Team shall be responsible for providing input, assistance and expertise to the injured worker in deciding on options

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and developing, implementing and monitoring the effectiveness of a vocational rehabilitation plan. The team may provide advice to the worker or to other members of the Case Management Team as appropriate.

**Injured Worker** – Participates actively and communicates in the vocational rehabilitation process. The injured worker is responsible for considering options with outcomes as developed by the Case Management Team, and choosing an option within a timeframe that most effectively meets the goals of the vocational rehabilitation plan. The injured worker shall be accountable to fulfill the commitments and participate fully in the vocational rehabilitation plan.

If implementation issues arise, the injured worker should ask YWCHSB decision maker assigned to their claim and the Case Management Team to review the issues(s). This request for review by the Case Management Team will be accommodated, except where, in the opinion of YWCHSB, to do so will result in unwarranted delays in meeting the goals of the vocational rehabilitation plan.

**YWCHSB** – The staff will use their expertise in presenting information and options with likely outcomes, timelines, and practical expectations and help the injured worker make choices in developing the vocational rehabilitation plan. YWCHSB staff will facilitate the development and implementation of the vocational rehabilitation plan, and will monitor the effectiveness of the plan with the Case Management Team. YWCHSB will determine when the vocational rehabilitation plan is completed.

**Employer** – Provides support, participates, and promotes return to work opportunities during the vocational rehabilitation process as a member of the Case Management Team. The expertise of the employer in providing information on return to work opportunities following a vocational rehabilitation plan will play an integral role in the vocational rehabilitation process.

**Primary Health Care Provider** – According to Canadian Medical Association policy [1], the role of the attending physician is to diagnose and treat the injury or illness, to advise and support the patient, to provide and communicate appropriate information to the patient and the employer and to work closely with other involved health care professionals to facilitate the patient's safe and timely return to the most productive employment possible. This role may include participation in the Case Management Team, as appropriate.

**Other Health Professionals** – Shall be recognized as potential Case Management Team members and may participate in the treatment and rehabilitation as requested by the team on a case-by-case basis.

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**Other Resources** – Other resources may be used by the Case Management Team in the implementation of the rehabilitation plan. Examples include the union, the employer community, the Medical Consultant, community organizations and family members.

## **APPLICATION**

This policy applies to all workers and employers regardless of the date of injury.

## **EXCEPTIONAL CIRCUMSTANCES**

In situations where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or an unintended result, YWCHSB will decide the case based on YWCHSB policy EN-02, "Merits and Justice of the Case." Such a decision will be considered for that specific case only and will not be precedent setting.

## **APPEALS**

Decisions made by YWCHSB under this policy can be appealed in writing to YWCHSB Hearing Officer in accordance with subsection 53(1) of the *Act*, or any decision made under subsection 14(2) of the *Act* may be appealed directly to the Workers' Compensation Appeal Tribunal (WCAT).

A notice of appeal must be filed within 24 months of the date of the decision by YWCHSB, in accordance with section 52 of the *Act*.

## **ACT REFERENCES**

Sections 14, 39, 40, 52, 53 and 54

## **POLICY REFERENCES**

EL-01, "Loss of Earnings Benefits"

EN-02, "Merits and Justice of the Case"

RE-01, "Return to Work – Overview"

RE-02-2, "Duty to Co-operate Part 2 of 4 - Roles and Responsibilities"

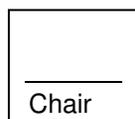
RE-12, "Employment Readiness"

## **HISTORY**

RE-10, "Vocational Rehabilitation", effective January 1, 2010, revoked July 1, 2012

RE-10, "Vocational Rehabilitation", effective July 1, 2008, revoked January 1, 2010

CS-11, "Rehabilitation", effective February 12, 2007, revoked July 1, 2008.

  
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