

Practice Directive #52

Vocational Rehabilitation - Extent of Service

Date: November 1, 2002

A. BACKGROUND

Effective June 30, 2002, the *Workers Compensation Act* (the “Act”) was amended by Bill 49, *the Workers’ Compensation Amendment Act, 2002*. On October 16, 2002, the Panel of Administrators approved amendments to the Board’s policies concerning vocational rehabilitation entitlement and services.

B. EFFECTIVE DATES AND TRANSITION RULES

The policy changes are effective November 1, 2002 and apply to all decisions made on or after November 1, 2002, on claims occurring on or after June 30, 2002. For recurrences, please refer to Practice Directive #38A, *Effective Dates and Transition Rules*, and Practice Directive #38B, *Recurrences*.

C. PURPOSE

This practice directive defines the level and extent of service that may be provided during different phases of the vocational rehabilitation process and outlines the criteria for extensions and exceptions.

D. LAW

Section 16 of the *Act* provides the guidelines under which vocational rehabilitation services may be provided to an injured worker.

E. POLICY

The following sections of the *Rehabilitation Services and Claims Manual* (“RSCM”) relating to the provision of vocational rehabilitation services, have been amended:

- Policy item C11-88.30 Job Search
- Policy item C11-88.40 Training-on-the-Job (TOJ)
- Policy item C11-88.50 Formal Training
- Policy item C11-88.60 Business Start-ups

The previous policies described the types of vocational rehabilitation services available, but did not provide guidance as to the level or extent of these services. The amended

policy provides a basis upon which to make decisions related to the extent of service that is considered reasonably necessary or expedient to assist a worker in:

- his or her return to work, or
- “in lessening or removing a resulting handicap”, as stated in the *Act*.

The amended policy defines reasonable levels of service. It also details the specific criteria for consideration of extensions and identifies the approval process for extension requests. All extensions to the extent outlined in policy require approval by the Vice-President, Rehabilitation and Compensation Services Division, or the Director of Rehabilitation Services.

There may be times where the circumstances of a specific case will warrant a level of assistance that goes beyond the policy and practice limits established. Some examples where this level of support may be justified might include:

- Workers who have sustained a severe permanent impairment.
- Surviving spouses and dependents.
- Where the worker is being considered for an award under section 23(3).
- Young workers.

The practice directive also includes limits related to the level of extensions that may be approved. On no less than a bi-annual basis, these levels for extensions will be reviewed in light of the realities of the labour market, and approved by the Senior Executive Committee of the Worker’s Compensation Board of BC.

F. POLICY ITEM C11-88.30 JOB SEARCH ASSISTANCE

Job search assistance will be provided to workers who require assistance in securing suitable employment. Eligibility remains contingent on the worker’s active participation, cooperation, and provision of proof of his or her job search activity. Policy states the payment of a job search allowance will be for up to 12 cumulative weeks.

In order for consideration to be given to an extension of job search one of the following criteria must first apply:

- Labour market data supports a greater average number of weeks of job search for the worker’s home geographic area and/or the worker’s occupation;
- The severity of the injury and resulting residual disability are such that the average number of weeks to locate suitable employment will be greater than 12 weeks; or
- The worker has actively participated in the job search process and there is objective evidence that a period of greater than 12 weeks is necessary to locate

suitable employment that will allow the worker return to an occupational category comparable in terms of earning capacity to the pre-injury occupation.

Prior to requesting an extension for job search, the Board officer in Vocational Rehabilitation Services (“VRS”) will review the worker’s job search efforts and the supporting objective information to ensure that an extension is required and warranted.

If the Board officer in VRS is satisfied that both the worker’s efforts and the labour market information support an extension, the Board officer will put together a written recommendation outlining the details and rationale of the request, including a cost benefit analysis. This will be forwarded to the Director of Vocational Rehabilitation Services for consideration.

The supporting documentation should include:

Criteria	Rationale
> 12 weeks – Geographic/Occupation	<ul style="list-style-type: none"> ▪ Details of the geographic area and/or occupation that support the need for more than 12 weeks of job search assistance ▪ Labour market information to support the availability of employment ▪ HRDC/Stats Canada data on number of weeks, on average, required
> 12 weeks – Severity of Injury	<ul style="list-style-type: none"> ▪ Impact of injury on worker’s employment options ▪ Impact of injury on worker’s job search and placement options
> 12 weeks – Comparable earning capacity	<ul style="list-style-type: none"> ▪ Labour market information shows reasonable availability of jobs that would maximize worker's earning potential

To ensure consistency and equity in determining how much of an extension should be approved, a table outlining the specific criteria that will be accepted for the purpose of approving an extension, including maximums, is provided. The formula is a compilation of data, derived primarily from WCB population data, on the length of time taken to secure employment, length of unemployment data from Statistics Canada, and post-formal training job search data.

An extension beyond 12 weeks for workers who have recently completed a formal training program will be rare and will only be as a result of extenuating circumstances. For example, a severely injured worker or a worker with a head injured may need a longer period of job search assistance to secure employment following a formal training program.

Where the worker has not recently completed a formal training program, the following three factors are considered:

- wage rate,
- education, and
- geographic region.

The Board officer in VRS selects the appropriate number of weeks for the corresponding factor as it relates specifically to the worker's circumstances. The average number of weeks for the three factors is then considered to be the upper limit for the extension request.

Factor Wage Rate	< \$400	\$400- \$499	\$500- \$599	\$600- \$699	\$700- \$799	\$800- \$899	\$900 +	Factor Value
Weeks	14	17	20	22	25	26	26	

Factor Education	< Grade 9	Grade 9 - 11	Grade 12	Some Post Gr. 12	Diplom or Cert.	Degree +	Factor Value
Weeks	26	16	20	16	20	20	

Factor Geographic Region	Prince George North	Cariboo	Kootenay	Thompson Okana.	Van. Island & Coast	Lower Main Land	Factor Value
Weeks	15	19	23	16	24	20	

Sum of Factor Values: _____

Divide by 3 = # of Weeks: _____

Extension = # of Weeks – Original 12 Weeks: _____
Maximum Extension

For example, a worker in Prince George who has a grade 10 education and a pre-injury gross wage rate of \$649 per week is placed on a job search allowance. After 12 weeks the worker has not yet secured employment in spite of his substantial effort. The Board officer in VRS is considering an extension. By adding together the number of weeks corresponding to each of the three factors (22,16,15), a total of 53 weeks is derived. Dividing this total by the number of factors (3) yields a derived extension limit of 18 weeks. The original 12-week limit is subtracted from the derived 18-week limit, allowing an extension of 6 weeks.

G. POLICY ITEM C11-88.40 TRAINING-ON-THE-JOB (“TOJ”)

The TOJ will be negotiated for up to six months in length, as specified in policy. For consideration of an extension to the six months, one of the following criteria must first apply:

- A program greater than six months will result in no loss of earnings for a worker who is being assessed for a section 23(3) award;

- A program greater than six months will result in permanent long-term employment;
- A program greater than six months is necessary to develop/demonstrate the required occupational skill levels; or
- A program greater than six months is required for ticketing and/or certification in the identified occupation.

In these instances, the total timeframe for the TOJ must form part of the vocational rehabilitation plan. Appropriate approvals must be secured prior to any commitment being made.

As part of the vocational rehabilitation plan, the Board officer in VRS must document the supporting evidence and demonstrate the cost effectiveness of the plan. The Board officers must forward the recommendation to the Director of Vocational Rehabilitation Services for consideration of the request.

The supporting documentation should include:

Criteria	Rationale
> 6 months – No LOE for Section 23(3)	<ul style="list-style-type: none"> ▪ Details of the occupation that support the need for more than six months of TOJ ▪ Labour market information to support the training requirements ▪ HRDC/Stats Canada data on the long term wage rate
> 6 months – Permanent Long-term employment	<ul style="list-style-type: none"> ▪ Details of the occupation that support the need for more than six months of TOJ ▪ Worker’s existing education and/or skill levels relative to job requirements ▪ Impact of injury on worker’s training requirements ▪ Labour market information to support the training requirements ▪ HRDC/Stats Canada data on the long term wage rate

> 6 months – Develop/demonstrate required occupational skills	<ul style="list-style-type: none"> ▪ Worker’s existing education and/or skill levels relative to job requirements ▪ Impact of injury on worker’s training requirements ▪ Labour market information to support the training requirements ▪ HRDC/Stats Canada data on the long term wage rate
> 6 months – Required for ticketing or certification	<ul style="list-style-type: none"> ▪ Labour market information to support the training requirements ▪ HRDC/Stats Canada data on the long term wage rate

The following may be referenced in determining the limit of an extension request:

	Policy	Extension Limits Section 23(1) Workers	Extension Limits Section 23(3) Workers
TOJ following a formal training program	12 weeks	Maximum length of TOJ is three months	No extension
Gross wage rate less than \$600 per week	12 weeks	No extension	Extension up to nine months with clear reference to time required for skill acquisition
Gross wage rate equal to or greater than \$600 per week	12 weeks	Extension up to 12 months. Time required clearly based on time required for skill acquisition.	Extension up to 18 months. Time required clearly based on time required for skill acquisition.
TOJ involves formal apprenticeship	12 weeks	Extension up to 24 months of wage top up including classroom time.	Extension up to 36 months of wage top up including classroom time.

H. POLICY ITEM C11-88.50 FORMAL TRAINING

Formal training will generally be skill based and of short duration – typically six months or less. In order for consideration to be given to a formal training program of more than six months in length, one of the following criteria must apply:

- A program greater than six months is required to assist a worker who is assessed under section 23(3) in mitigating his or her loss of earnings;
- A program of less than six months is not sufficient to provide new occupational skills in the individual circumstances of the case; or

- The rehabilitation plan that is developed identifies and provides supporting documentation for a lengthier formal training program based on the worker's objective functional capacity, existing transitional skills, aptitudes, education, and training or labour market demands.

In these instances the total timeframe for the formal training must form part of the vocational rehabilitation plan and appropriate approvals secured prior to any commitment made.

As part of the vocational rehabilitation plan, the Board officer in VRS must provide the supporting objective evidence and demonstrate the plan's cost effectiveness. The program should be directly related to suitable employment opportunities that will maximize the worker's earning potential in the long term.

The supporting documentation should include:

Criteria	Rationale
> 6 months – Mitigating LOE under Section 23(3)	<ul style="list-style-type: none"> ▪ Details of the occupation that support the need for more than 6 months of formal training ▪ Labour market information to support the training requirements ▪ HRDC/Stats Canada data on the long term wage rate
> 6 months – Develop new occupational skills	<ul style="list-style-type: none"> ▪ Details of the occupation that support the need for more than 6 months of formal training ▪ Worker's existing education and/or skill levels relative to the occupational requirements ▪ Labour market information to support the training requirements ▪ HRDC/Stats Canada data on the long term wage rate
> 6 months – Functional Capacity, Transferable Skills, Education, etc.	<ul style="list-style-type: none"> ▪ Detail worker's existing functional abilities, transferable skills and/or education levels relative to occupational requirements & earning potential ▪ Labour market information to support the training requirements ▪ HRDC/Stats Canada data on the long term wage rate

The following should be referenced in determining the limit of an extension request:

Gross Weekly Wage Rate	Extension Limits for Section 23(1) Workers	Extension Limits for Section 23(3) Workers
< \$500	No extension	No extension
\$500 - \$799	Up to 12 months	Up to 18 months
> \$800	Up to 12 months	Up to 24 months

I. POLICY ITEM C11-88.60 BUSINESS START-UPS

Consideration of business start-up and self-employment funding will only be considered in limited situations where the worker has previous successful business experience.

The level of assistance will not exceed what would be required if the worker chose to return to work with another employer. Prior to consideration of self-employment funding, the Director of Vocational Rehabilitation Services must approve the completion of a business feasibility study.

If the business feasibility study confirms the viability of the proposal and this constitutes the "vocational plan" for the worker, the Board Officer in VRS must make a final submission to the Director, Vocational Rehabilitation Services, for approval of the plan. As such, it must be presented in the same manner as the vocational plan for any other worker. (See the details regarding the plan as outlined in Practice Directive #51, *Programs & Services*.)

The Director of Vocational Rehabilitation Services must approve all funding under this section.