

Vocational Improvement Project

Report to the Legislature

as required by Chapter 72, Laws of 2007

November 2010



Introduction

This report describes the implementation and results to date of the 2007 governor-request legislation to improve Washington's vocational rehabilitation system for injured workers. This legislation, and the changes associated with it, is referred to as the Vocational Improvement Project (VIP) to improve outcomes for workers and employers in Washington's workers' compensation system.

Background

In 2007, Governor Gregoire requested legislation to improve vocational services under the workers' compensation laws. These services are provided to eligible workers under Title 51 RCW and focus on knowledge and skill-building so they are able to re-enter the workforce following a debilitating industrial injury or occupational disease.

In fiscal year 2010, 1,500 workers covered by Labor and Industries (referred to as state fund) and 200 self-insured workers were found eligible for retraining. A worker is eligible when the department determines that he or she is not employable due to the effects of the industrial injury or occupational disease, and that retraining is necessary for the worker to be employable. L&I and self-insured employers use the services of private vocational rehabilitation counselors (VRCs) to assess a worker's employability and whether they would be able to participate in retraining. VRCs assist eligible workers to develop a retraining plan that is submitted to the department for approval. A number of barriers can impede the development of a plan, including changes in medical conditions and limited options for some workers due to barriers such as academic limitations and language difficulties. Vocational and retraining services have traditionally been perceived as expensive and often ineffective.

Prior to the legislative changes, a worker who was eligible for retraining had up to \$4,000 and one year available for a retraining program. These limited benefits provided access to few programs offered by community and vocational technical colleges. The previous system did not offer a worker the option of claim closure and independent retraining rather than participate in a department-monitored plan. Anecdotal evidence suggested that some workers were not motivated to successfully complete their retraining program because the program did not address their job goals and needs.

Under the previous system, L&I's workers' compensation program was not active in the broad arena of workforce development. There were no established links to organizations primarily involved in helping people with employment and training needs.

Engrossed Substitute Senate Bill 5920 directed L&I to pilot a number of changes to vocational services beginning January, 2008, and ending June, 2013, unless the legislature takes action to make the changes permanent or to extend the pilot period.

Brief Summary of Changes

- Provides access to better training opportunities by increasing available tuition and allowing up to two years for a retraining program. Tuition was changed from \$4,000 to \$12,000 with automatic adjustments based on changes in the tuition for Washington community colleges. The available tuition is currently \$14,029 for training plans approved on or after July 1, 2010.
- Permits eligible workers the choice to pursue self-directed retraining and receive a vocational award equivalent to six months of time-loss benefits, with the ability to use their retraining funds for five years. Their claim will be closed.
- Increases accountability for workers and VRCs by requiring accountability agreements for workers, defining acceptable reasons for interrupting a plan and establishing a time limit on plan development for VRCs.
- Establishes a goal for retraining plans to be in high-demand jobs to improve workers' employment options.
- Increases accountability for L&I by requiring that action be taken on a proposed retraining plan in 15 days, or it is "deemed approved".
- Gives employers a deadline for offering suitable employment, in lieu of the development of a training plan.
- Establishes the vocational rehabilitation subcommittee to advise the department on implementation of the legislation and to maintain the involvement of business and labor representatives in future changes.
- Establishes partnerships with a number of WorkSource locations and provides vocational services to injured workers from these locations.
- Creates new training options by engaging with employers and community colleges in the WorkSource target areas to identify on-the-job training opportunities.
- Requires an independent study of the outcomes of the changes for workers and employers.

Expected Outcomes

- Improve the percentage of workers who successfully complete their retraining plan.

- Return workers to higher demand occupations.
- Reduce costs to the system and employers by eliminating delays and unproductive attempts at vocational plan development and retraining.
- Reduce the amount of time it takes to develop a viable retraining plan.
- Shift vocational rehabilitation services and time-loss benefit costs from repeated attempts at counseling and plan development to retraining.
- Reduce the number of workers who return to jobs that are inconsistent with their medical restrictions. This occurs because they are not able to obtain other work with earnings to adequately support their families.

Results to Date

Implementation

Following the passage of the legislation, work was started to prepare for the changes effective January 1, 2008. These efforts involved significant numbers of L&I staff and programs and included:

- Information technology (system) programming.
- Communication strategies (letters, brochures, web, and presentations).
- Rule and policy development.
- Selection of the researcher to perform the independent review and study identified in the law. The University of Washington was selected.
- Training of staff and external vocational providers.
- Selection of WorkSource sites for partnerships.

Vocational Rehabilitation Subcommittee

The director appointed four individuals to the subcommittee to provide the business and labor partnership called for in the legislation. These same four individuals were actively involved in the development of the original legislation. The subcommittee helps maintain the focus and intent of the program, advises the department in areas such as the development of rules and policies, and considers trends in various vocational services and outcomes based on department data. This group will recommend to the director and the legislature any additional statutory changes needed.

The subcommittee has met with representatives from L&I on a quarterly basis since passage of the legislation. The subcommittee has been instrumental in the implementation, including development of rules, policies and communications, selection of the independent researcher and identification of research elements, selection of

WorkSource sites, and discussion of internal measures to track the effects of the VIP changes

Training Programs

The previous training benefit of up to one year and \$4,000 provided access to few programs offered by community and vocational technical colleges. The new retraining provisions include a current maximum of \$14,029 for tuition, fees and other costs and up to two years' training time. The tuition funds were adopted at \$12,000, indexed annually to increases in Washington community college tuition. The increased retraining benefit has allowed workers to access training that provides broader skills, which should lead to increased employment opportunities and less likelihood of re-entry into the workers' compensation system. The average cost of a plan approved under VIP is \$9,548 for the state fund and \$8,600 for self-insured workers. The average length of an approved plan is 496 days for the state fund and 498 days for self-insurers.

Examples of plan goals approved under VIP include:

- Graphic designer.
- Computer network technician.
- General office clerk.
- Phlebotomy technician.
- Medical billing specialist.

Each of these examples was considered a "demand" occupation at the time the plan was approved. Additional information on demand occupations is found elsewhere in this report.

Option 2

A worker who is eligible for retraining is assigned a vocational counselor for development of a retraining plan. Under the legislation, after the plan is approved by L&I, the worker has 15 days to choose either "option 1" or "option 2." A worker who chooses option 1 will participate in the approved training and the claim will remain open until training is completed. A worker who chooses option 2 elects to receive a vocational award equivalent to six months' time-loss benefits, and will have access to the retraining dollars for self-directed training, for up to five years. The worker's claim is closed.

A total of 1,081 workers (about 23% of those with approved plans) have selected option 2 from January 2008, through September 2010. About 14% of these workers have

begun utilizing their training funds. The University of Washington will be following these workers to determine what types of employment they are securing after claim closure and how they are using their training funds.

Of these 1,081 workers, 891 are insured with the state fund. As of September 30, 2010, 57 (6%) have reopened their claim and new claims were filed by 53 (6%) of these workers. This compares to a baseline of state fund workers who, prior to the VIP changes, had completed a plan and had their claim closed: 7% of those workers reopened their claim and 21% filed a new claim.

Of the 112 self-insured workers who chose option 2 and whose claim was closed, 6 (5%) have reopened their claims. No self-insured workers who chose option 2 have filed a new claim.

Accountability and Requirements of the Parties

A number of changes were made to increase accountability for workers, vocational rehabilitation counselors, employers and the department:

- A rehabilitation plan must be submitted within 90 days. Exceptions can be granted for good cause.
- VRCs are directed to focus retraining plans for high demand jobs whenever possible.
- The department must act on submitted plans within 15 days or the training plan is deemed approved.
- Employers may offer appropriate work to the worker at any time, but the worker is not obligated to accept a job offer, stopping the development of a training plan, unless it is made within 15 days after the worker is found eligible for retraining.
- Benefits to workers who are not cooperative with their training plan are suspended.

Under the pilot, the initial meeting between the worker and the VRC must be in-person, and the VRC is required to fully inform the worker of the return-to-work priorities contained in law, and of his or her rights and responsibilities under the workers' compensation vocational system. L&I developed new publications designed to help workers and VRCs understand their responsibilities. These include:

- "Assessing Your Ability to Work - "What are my rights and Responsibilities?"
- "Plan Development, What are my Rights and Responsibilities?"
- "Vocational Plan Accountability Agreement."
- "Retraining Plan Option Selection Form."
- "Option 2 Information."

Copies of these materials are included in the appendix.

WorkSource Partnerships

The pilot directs L&I to establish partnerships at a number of WorkSource locations and to provide vocational services to injured workers from those locations. WorkSource is a nationally recognized system of one-stop career centers that offer employment and training services to job seekers and businesses through a partnership of government agencies, colleges, and non-profit organizations. The partnerships with WorkSource will provide insight into whether services provided from this resource-rich environment will result in better outcomes for workers.

L&I has placed vocational services specialists on site at six WorkSource locations: Mt. Vernon, Renton, Tacoma, Tumwater, Spokane, and Kennewick. These specialists are helping workers identify return-to-work options. They explain WorkSource resources, including workshops on resume writing, interviewing techniques and using the computer for job searches. Examples of vocational outcomes that are being measured:

- Workers who are assisted in return-to-work.
- The speed of services delivered.
- Workers who successfully complete their training plan.

We have identified ways to raise the awareness of all injured workers and VRCs about the services offered at WorkSource by providing open house events for local VRCs, and updating our web site and communications to workers to refer them to WorkSource for help. Our WorkSource staff participate in ongoing dialogue with other workforce development organizations.

On-the-Job Training Opportunities

The pilot calls for L&I to work with employers to market the benefits of on-the-job training programs for injured workers and their employers, so these opportunities can be shared with VRCs and workers to consider when developing a retraining plan. Regional L&I staff located across the state have been trained to market employers about the benefits of training and hiring injured workers. A marketing brochure has been developed, "Are You an Employer Who Can Provide On-the-job Training?" We have set up a web site for sharing these opportunities:

<http://www.lni.wa.gov/ClaimsIns/Voc/Ojt/Default.asp>

Rulemaking

- Updates and new sections were added to WAC 296-19A to define responsibilities of the various parties. These rules were adopted February 29, 2008.
- WAC 296-15-430 was created to establish self-insured employer vocational data reporting requirements. These rules were adopted February 29, 2008.
- WAC 296-19A-500-590 establishes qualification requirements for training programs or schools that are not otherwise licensed or accredited. These rules were adopted December 2, 2009.
- WAC 296-19A-600-670 provides definitions and establishes processes for accessing option 2 benefits. These rules were adopted March 12, 2010.

Preliminary Results

It is too soon to draw broad conclusions from the results of the changes so far. For example, most of the training plans approved after January 1, 2008, are not yet completed. We are collecting considerable data and information for many vocational processes, and working with the University of Washington staff performing the independent study and review of outcomes.

Independent Review and Study

The University of Washington was chosen to perform the independent review and study of the VIP changes. The department worked closely with the researchers and the vocational rehabilitation subcommittee to identify the research elements, which include the specific measures listed in the legislation. The scope includes workers covered by both the state fund and self-insured employers. Much of the analytical work will rely on L&I's claims data. Employment Security Department data will be used to obtain baseline and follow-up employment and earnings measures. The researchers will also conduct two surveys to capture information only available through self-reporting by workers.

The researchers began implementing the worker surveys in August, 2009:

Survey A (baseline):

- 360 workers determined eligible for training plan development
- Surveyed prior to option 1/option 2 selection
- Survey dates: 8/09-12/09
- Focus: baseline differences between those who choose option 1 versus option 2. Also examine differences for those workers who don't make it to an approved plan. Common reasons why a worker would not make it to an approved plan include medical issues, other changes in circumstances and plan denied as inappropriate.

Survey B (follow-up):

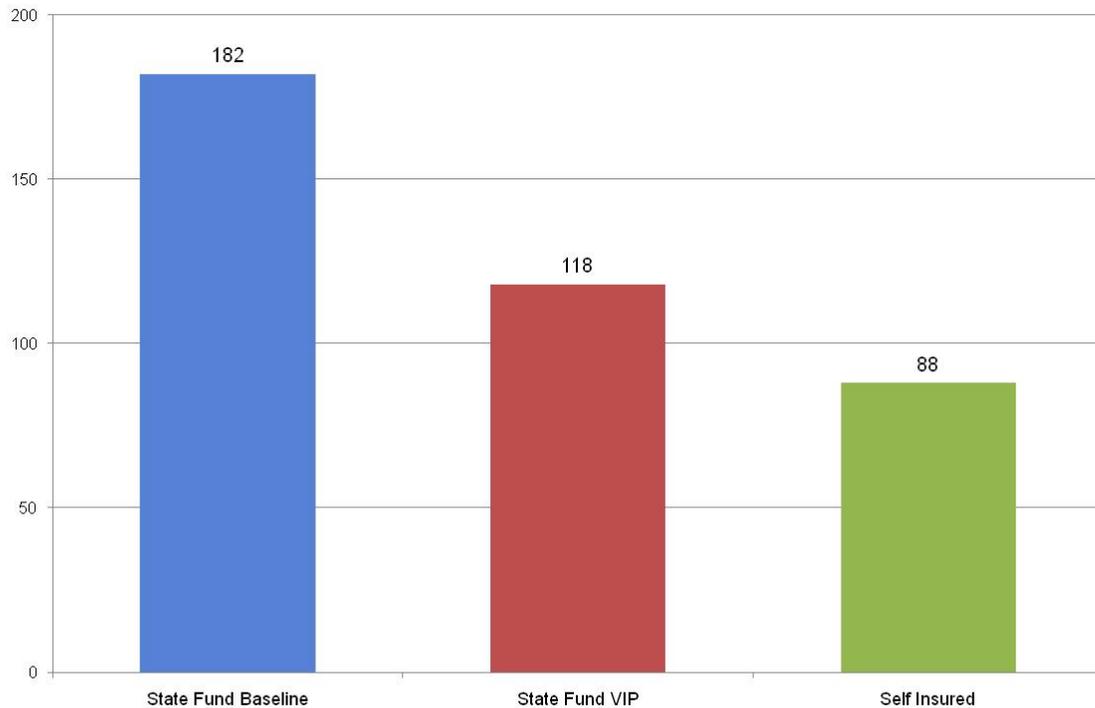
- 360 workers with training plans approved after 1/1/08
- Surveyed 3-6 months after claim closure
- Approximate survey dates: 8/09-6/11
- Focus: use of acquired skills, employment outcomes, and satisfaction

The first annual report from the researchers, due December 2010, includes preliminary results from the worker surveys.

Reducing Delays

We have reduced the time it takes to develop a retraining plan. This results from the requirement that plans be developed within 90 days, along with expectations for workers and VRCs clarified through accountability agreements. Previously there was no time limit on plan development. As the chart shows, the time it takes to develop a rehabilitation plan has decreased by 64 days since the VIP changes began.

Days to Complete a Vocational Rehabilitation Plan Development Referral
Before and After Improvement Project
Data through 09/30/10

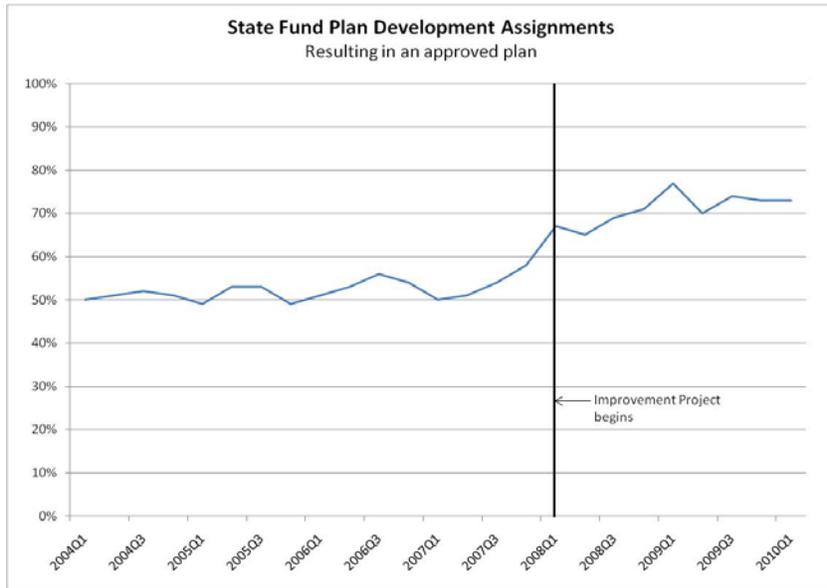


The reduction equals more than two months of time-loss compensation. In fiscal year 2010, the resulting savings in state fund time-loss benefits is estimated at approximately \$12 million. This improvement, along with the requirement that the department act on a submitted plan within 15 days, helps eligible workers move more quickly to retraining.

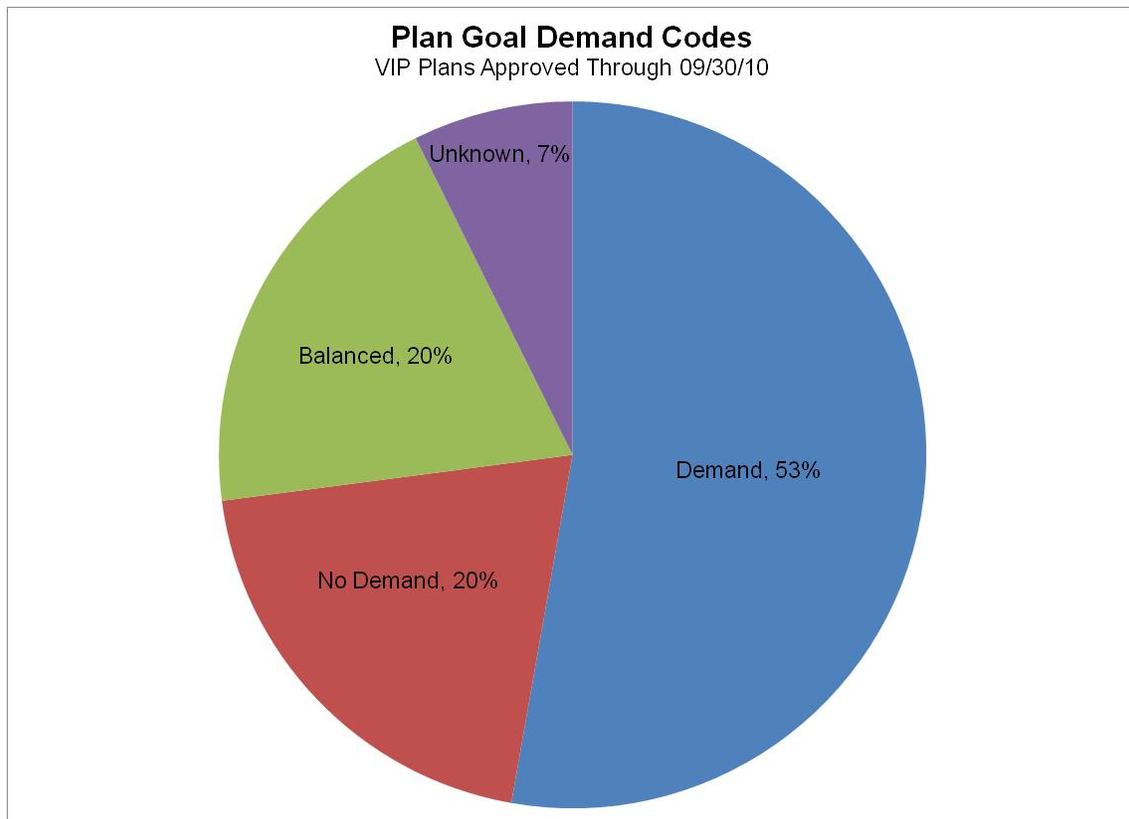
Baseline information prior to the VIP changes is not available for plans approved for workers covered by self-insured employers.

It's important to note that plan development work is only one step in managing the vocational aspects of complex workers' compensation claims. Other considerations such as the timing and completion of assessments of workers' employability and vocational needs, and the completion of retraining programs also influence the duration of vocational services and costs.

We have increased the proportion of approved state fund retraining plans submitted by VRCs by 40%. This means lower costs and reduced delays. Repeated attempts at plan development can add VRC and time-loss costs to a claim. We attribute this success to clear expectations for workers and vocational counselors and to the access to more training programs through increased training funds and training time. We do not have baseline information for this measure for self-insured claims. However, since VIP began, about 80% of self-insured plans are approved.



High Demand Jobs



Seventy-three percent of approved plans are for high or balanced demand job goals (53% high demand and 20% balanced demand). A high demand occupation is one that has more job openings than there are qualified candidates in a particular Washington labor market. A balanced demand occupation means that the demand for workers in that occupation is approximately equal to the supply of workers. The “unknown” category means that the plan goal does not match occupations listed on the demand list.

Worker Accountability

A total of 70 workers covered by the state fund had their benefits suspended because of non-cooperation with their retraining plan in FY2010. This compares to 25 workers whose benefits were suspended under these conditions prior to the VIP changes. A total of five self-insured workers had their benefits suspended because of non-cooperation with their retraining plan in FY2010.

Department Accountability

A rehabilitation plan must be acted on in 15 days, or it is “deemed approved.” Out of 4,600 plans submitted since January, 2008, (including both state fund and self-insured employers) six have been deemed approved. Department vocational staff takes action on a plan in less than five days of receipt, on average.

Employer Job Offers

Considerable effort is made early in every claim to maintain the relationship of the worker and his or her employer. Employers have a legal right to offer work consistent with the worker’s restrictions. The worker is obligated to accept a valid offer of employment, or risk losing their workers’ compensation benefits. If a worker can return to work for his or her employer at injury, retraining is not needed.

The VIP law contains a provision that stops training plan development and time-loss benefits if the employer at injury makes a valid return-to-work offer within 15 days from the date of the eligibility determination to offer work. After that, the employer may offer work, but the worker is not obligated to accept it.

Employers and workers are notified of this right with their letters notifying them of the worker’s eligibility for retraining plan development.

A total of fifty-eight job offers for state fund claims have been made by employers during the 15-day period after plan development eligibility. This is slightly more than 1% of all workers found eligible during the period.

Next Steps

During the coming year, data will continue to develop related to the results of the VIP changes:

- Training plan completion rates will show whether more workers are successfully completing their plans, and/or returning to work.
- Referral data will show whether we have reduced repeated attempts at vocational services.
- An analysis of workers who have received vocational services and who subsequently re-enter the system will be completed.
- Outcomes for workers receiving services at WorkSource will be available.
- Results from worker surveys conducted by the University of Washington will be known.

Representatives from L&I continue to meet with the vocational rehabilitation subcommittee on a quarterly basis. The group is currently discussing potential statutory changes to clarify certain areas and to address some of the lessons we've learned about timeframes available to employers to make a job offer, and for a worker to make their option choice.

L&I continues to emphasize speedy and effective return-to-work assistance for workers and employers soon after an on-the-job injury. While these services are not part of the Vocational Improvement Project, they play a critical role in helping workers to return quickly to gainful employment, and helping employers to maintain their workforce.