

11 NCAC 23C .0109 VOCATIONAL REHABILITATION SERVICES AND RETURN TO WORK

(a) When performing the vocational assessment and formulating and drafting the individualized written rehabilitation plan for the employee required by G.S. 97-32.2(c), the vocational rehabilitation professional shall follow G.S. 97-32.2.

(b) Job placement activities may not be commenced until after a vocational assessment and an individualized written rehabilitation plan for vocational rehabilitation services specifying the goals and the priority for return-to-work options have been completed in the case in accordance with G.S. 97-32.2. Job placement activities shall be directed as defined by Rule .0103(5) of this Subchapter or by applicable statute.

(c) Return-to-work options should be considered in the following order of priority:

- (1) current job, current employer;
- (2) new job, current employer;
- (3) on-the-job training, current employer;
- (4) new job, new employer;
- (5) on-the-job training, new employer;
- (6) formal education or vocational training to prepare the worker for a job with current or new employer; and
- (7) self-employment, only when its feasibility is documented with reference to the employee's aptitudes and training, adequate capitalization, and market conditions.

(d) When an employee requests retraining or education as permitted in G.S. 97-32.2(a), the vocational rehabilitation professional shall provide a written assessment of the employee's request that includes an evaluation of:

- (1) the retraining or education requested;
- (2) the availability, location, cost, and identity of providers of the requested retraining or education;
- (3) the likely duration until completion of the requested retraining or education, the number of credits needed to complete the retraining or education, the course names and schedules for the retraining or education, and identification of which courses are available on-line versus in person;
- (4) the current or projected availability of employment upon completion of the requested retraining or education; and
- (5) the anticipated pay range for employment upon completion of the requested retraining or education.

(e) The rehabilitation professional shall obtain a list of work restrictions from the health care provider that addresses the demands of any proposed employment. If ordered by a physician, the rehabilitation professional shall schedule an appointment with a third party provider to evaluate an injured employee's functional capacity, physical capacity, or impairments to work.

(f) The rehabilitation professional shall refer the worker only to opportunities for suitable employment, as defined by Rule .0103(5) of this Subchapter or by applicable statute.

(g) If the rehabilitation professional intends to utilize written or videotaped job descriptions in the return-to-work process, the rehabilitation professional shall provide a copy of the description to all parties for review before the job description is provided to the doctor. The employee or the employee's attorney shall have seven business days from the mailing of the job description to notify the rehabilitation professional, all parties, and the physician of any objections or amendments thereto. The job description and the objections or amendments, if any, shall be submitted to the physician simultaneously. This process shall be expedited when job availability is critical. This waiting period does not apply if the employee or the employee's attorney has given prior approval to the job description.

(h) In preparing written job descriptions, the rehabilitation professional shall utilize standards including, but not limited to, the Dictionary of Occupational Titles and the Handbook for Analyzing Jobs published by the United States Department of Labor. These standards can be accessed at no cost at <https://www.dol.gov/agencies/oalj/topics/libraries/LIBDOT> and <https://skilltran.com/index.php/support-area/documentation/1991rhaj>, respectively. The Handbook for Analyzing Jobs may also be purchased from major online booksellers for approximately eighty-five dollars (\$85.00).

(i) The rehabilitation professional may conduct follow-up after job placement to verify the appropriateness of the job placement.

(j) The rehabilitation professional shall not initiate or continue placement activities that do not appear reasonably likely to result in placement of the injured worker in suitable employment. The rehabilitation professional shall report to the parties when efforts to initiate or continue placement activities do not appear reasonably likely to result in placement of the injured worker in suitable employment.

History Note: Authority G.S. 97-2(22); 97-25.5; 97-32.2; S.L. 2014-77, s. 6(4);

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