

**Private Sector
Vocational Technical Stakeholder Group (VTSG)
May 18, 2015 Tumwater**

VOCATIONAL REHABILITATION PROVIDERS

Attendees

Robert Gaffney, Gaffney Consulting
Brad Reckord, Rainier/Vocational Options Inc.
April Poier, Ability Vocational Consulting
Cory Turner, Vocational Connections
Nicole Hernandez, Advanced Vocational Solutions
Jan Veling, Pacific Rehabilitation Centers
Bradley Ehrlich, Career Opportunities Group
Scott Whitmer, Whitmer & Associates
Todd Martin, Martin Consulting
Kimberly North, Achieve Consulting Team
Todd Gendreau, Strategic Consulting Services Inc.

Absent

Jennifer Bowes, Bowes Vocational LLC

DEPARTMENT OF LABOR AND INDUSTRIES/RETURN TO WORK SERVICES

Attendees

Vickie Kennedy, Assistant Director, Insurance Services
Ryan Guppy, RTW Partnerships Chief
Richard Wilson, RTW Program Manager
Rheo Aieta, Private Sector Rehabilitation Services Supervisor
Debra Hatzialexiou, Legal Services Program Manager
Donna Spencer, RTW Services Management Consultant
Kristine Ostler, Vocational Service Specialist Supervisor
Melissa Sutherland, Vocational Service Specialist Supervisor
Jody Witham, Vocational Performance Measure Administrator
Mary McEvoy, PSRS Customer Service Specialist II

Absent

Laurinda Grytness, Policy & Education Coordinator

Audience Members

Kaethe Long, Grant & Associates
Cathy Cottingham, People Systems
Coreen Urrutia, People Systems
Patti Kacz, J. Donley & Associates
David Jordan, Office Careers

Darisa Greene, Nelco Rehabilitation
Chrissy Pierce, Favorite Associates
Earl Shimogawa, Dura Vocational
Kari D'Aboy, D'Aboy Career Horizons
Michelle Barre, Vocational Rehab Specialists
Cleo Risser, Ability Vocational Services
Cheryl Baker, Sound Vocational
Heidi Trisler, Sound Vocational
Kittie Toy, SCA Pacific Case Management
Irina Razvina, Ability Vocational Services
Sean Murphy, Peninsula Vocational Services

Welcome and Announcements

The VTSG meeting minutes from March 16, 2015 were reviewed and approved.

Rheo Aieta—Safety Tip

CFL lightbulbs contain traces of mercury and should never be discarded with household trash. The Environmental Protection Agency recommends consumers use local recycling options for CFLs. Visit www.earth911.org to identify local recycling options or www.nfpa.org/education for steps to take if the CFL glass is accidentally broken.

Jody Witham Announcement

May performance score calculations were temporarily suspended as a result of the high volume of manual PR submissions that needed to be processed due to the inability to submit electronic progress reports during the month of April. Scoring will be reinstated on June 1, 2015. Less than 25 VRC's are expected to receive direct follow up notifications to further address non-receipt of progress reports.

Ryan Guppy Announcements

We've received feedback from the legal community that some VRCs are either not producing Self-Insured progress or closing reports and that some state fund VRCs are not providing attorneys with progress reports even when they are requested. It is a best practice to always cc the attorney. If the attorney requests a progress report then the VRC MUST provide a copy per WAC 206-19A-030 (5) (d).

Legislative updates were provided regarding the Preferred Worker Program enhancements, the permanent adoption of the Vocational Improvement Project and the Voc-Subcommittee, Option 2 Enhancements, WorkSource VSS being permanent, and job placement language in the bill as a mechanism to develop enhanced VRC services.

Kristine Ostler and Melissa Sutherland Announcement

VSS Supervisors Kristine Ostler and Melissa Sutherland announced they are hiring for Claims VSS. In addition, with claims floor reconfiguration, Unit VSS assignments will change beginning 5/22/15. Information on the internet will be updated.

Rich Wilson's Announcements

In April, L&I sponsored "Return-to-Work Toolkit" training by Jason Parker. There were nearly 250 VRCs in attendance. The feedback was overwhelmingly positive.

In response to a petition for rulemaking, the Department of Labor & Industries filed a CR 102, proposed rulemaking relating to WAC 296-20-1103 with the Code Reviser's Office. The proposed rulemaking will align WAC 296-20-1103 with RCW 51.32.099(3) (e) to ensure workers can receive reimbursement for all miles driven associated with active participation in a retraining plan. There will be a public hearing at the L&I headquarters in Tumwater on June 2nd, beginning at 1:00.

Debra Hatzialexiou Announcements

Coral Macy was introduced as the new supervisor in VDRO. She has experience as a Claim manager, VSS, and Claims Consultant as well as having a CDMS certification. One of the two reviewers, Chris Peerboom, left VDRO to go work in the private sector.

Two recent board cases were summarized where workers were awarded pensions after the department non-cooped them and closed their claims.

In the first example, *Boaz v. Dept.*, the worker was minimally cooperative with his accountability agreement. He wasn't regularly attending classes and was not timely or fully responsive to questions he was asked by his VRC. The worker had recently moved and did not yet have phone or internet service, so although it sometimes took longer than 48 hours for the worker to respond the BIIA found that the delay was reasonable given his lack of access to phone or email at home as well as the significant delays it took for regular mail to reach his address. In essence, the BIIA found that the worker could have his benefits suspended for failure to comply with the agreement, but if the worker could show good cause for the failure, the benefits should not be suspended. The BIIA stated the worker had good cause, and then found him to be totally and permanently disabled.

In the second case, *Cushing v. Dept.*, a worker developed a medical condition, kidney stones, and couldn't participate in his schooling, so the department terminated his plan based on the medical evidence indicating that he could not benefit from retraining. The worker asked the department to close his claim, which it did. After the worker appealed, the BIIA upheld the department actions, but the Superior Court disagreed and placed the worker on a pension agreeing with the worker's argument that the department failed to take the RCW 51.32.099 and WAC 296-14-410 steps to suspend his benefits for non-

cooperation. The court ordered the worker on pension because it was undisputed that without retraining he was unable to work.

There have been questions about whether a pattern of employment would qualify as full time (40 hours) if the transferrable skills job was one in which 32 hours was the norm for full time employment. This would have to be decided on a case-by-case basis because it is very fact specific, but the difficulty this scenario poses was acknowledged.

The importance of showing your work in vocational reports was emphasized. For example, if you have insider knowledge about why a LMS is positive for a particular worker, but it is not obvious to the reader from your report, it may not be possible to uphold the decision if disputed to VDRO. The example of a Cashier II vs. Parking Lot Cashier was presented. In that case, the worker was found employable as a Parking Lot Cashier, but not as a Cashier II. On the face of the two JAs, they appear identical so this didn't make sense, but when challenged the VRC verbally explained why the worker could do the parking lot job. The VRC used examples such as that the grasp requirement was "soft" for the parking lot job, and he didn't need to reach because he could step forward to give change. While it is good for the VRC to explain to VDRO after the fact and on the phone why the recommendation is sound, this information was needed to be in the LMS or in the report. If it is unstated, it can't be considered and VDRO may need to issue a non-uphold decision.

A question was asked where VDRO wants to see this explanation. This information should be put in the report or LMS. The important thing is to have it documented in our recommendation to the director.

Updates on Vocational Letters-- Debra Hatzialexiou

The V3 letters have been updated to make it clear when an employer does and does not have the right to offer a job within 15 days of the finding of eligibility. These are the letters that find workers eligible for plan development, that they continue to be eligible with or without a new counselor, or that they are newly eligible due to a change in medical.

Role of Occupational Nurse Consultant (ONC) –Diane Reus

A typical day for an ONC based in the Tumwater home office includes 12-14 medical management referrals from claim managers. A claims training handout listing the referral criteria for claim managers to involve an ONC was distributed. The handout included over 30 examples of required ONC referrals and over 10 recommended referrals. Questions about ONCs visiting doctor's offices pertain to field ONCs and may be addressed in a future VTSG meeting.

Resumes — Rheo Aieta

An initial resume utilization review of 100 claims with resume billing codes found only seven resumes in the ORION vocational folder. It was learned many resumes were otherwise imaged in injured worker, claims, or other folders. In other situations, neither the person completing the resume nor the assigned VRC submitted the resume to L&I.

VTSG discussion concluded with a consensus that the person completing the resume should immediately send it to the department using a Resume Cover Sheet with a scan index code that ensures all resumes can be found in the same location. Final details will be forthcoming in a *What's New* announcement.

Functional Capacity Evaluation Project Update – Sarah Martin

A new pilot will be starting this month. Seven members of the Therapy Stakeholder Group will be testing the new Capacity Summary form and Report Summary template. Changes include:

- Putting conclusions on the report summary and not separately on the JA summary sheet/signature page;
- If the evaluator determines inadequate effort, they will not fill out the Capacity and portions of the report summary.
- No longer designating a physical demand level
- Requesting that FCE clinics not ask the AP for concurrence. In general, we want to stop the practice of asking APs for concurrence. Rather, the question to the AP should be to make return to work decisions based on the results of the FCE.

We are working on getting a list of FCE Clinic providers added to the Vendor Lookup Tool. This is projected for next month.

AWA Improvement Project – Megan Bjornberg

The AWA enhancement project includes a standardized form to be used by all VRCs when completing AWAs. This will ensure that WACs and RCWs are followed and will provide ease of use to all parties (CMs, VDRO, BIIA, etc.)

The form was designed to make vocational determinations more easily defensible as it will encourage clear and concise reporting from the VRC. It also promotes standard work, by requiring that the date of intake, date JAs sent to AP, and date JAs addressed by AP are imbedded within the report. Other enhancements include the work source visit date, the job search tools used, and the date the counselor assisted with the resume.

Claim managers are currently expected to review all Ability to Work Assessment reports that do not have an outcome code of SAS3 (Eligible for Plan Development). With caseloads between 200-300 claims they do not have the time to search for the

information that is needed. A standardized report with pertinent information will increase productivity and accuracy of work.

A disputing party will be able to cite certain sections of the report and the VDRO reviewer will then be able to easily determine if the necessary information is provided. It can also reduce the amount of disputes and minimize rework or need for additional referrals.

Initial data review by VSS staff of 60 closing reports with outcomes other than SAS3 revealed only 18% of the reports met the WAC requirements. If the form is properly completed, the report should be able to easily meet the WAC requirements.

VTSG Meetings -- Ryan Guppy

Members were reminded VTSG represents an opportunity to exchange ideas and brainstorm issues. Ideas were solicited to enhance meetings to ensure they continue to add value. Discussion of the frequency of meetings concluded with support for the current bi-monthly schedule.

Discussion of meeting minutes generated a request for earlier completion of the minutes (rather than wait until they are approved at the next VTSG meeting two months later). There was some support for a brief recap of each agenda item (particularly if it meant earlier posting of the final minutes) while others advocated for the status quo.

A previous Gemba walk demonstration was well received so similar demonstrations of other internal department processes were requested. Other suggested agenda items included skill enhancement training (such as tips for Breaking through Passive Resistance) and a visit by the L&I Director, Joel Sacks.

Many members have been obtaining post approval CEUs for attending VTSG meetings; however it was requested that pre-approved CEU's be considered.