

NEW SECTION

WAC 296-16-100 What is the department's "preferred worker" program? The department's "preferred worker" program provides eligible employers with financial incentives to hire certified "preferred workers," and to reemploy certified "preferred workers" with developmental disabilities.

NEW SECTION

WAC 296-16-110 Who may be certified as a "preferred worker"? A worker may be certified as a "preferred worker" if he or she has an open claim for an industrial injury or occupational disease that:

(1) Prevents the worker from returning to work with the employer of record, and substantially impairs the likelihood of the worker's reemployment with a different employer; or

(2) Has resulted in payment of time-loss compensation benefits for a period of at least fourteen consecutive days, if the worker has a developmental disability as defined by RCW 71A.10.020.

NOTE: WAC 296-16-112 was created as a result of public comments received and to clarify the Preferred Worker rules. This WAC section was not proposed in the CR 102, rule proposal package for this rulemaking and therefore could not be adopted with the other WAC sections on December 15, 2004. L&I will initiate a new and separate rulemaking to adopt this rule.

NEW SECTION

WAC 296-16-115 How does a worker apply for "preferred worker" certification? Any claim party may inquire about the "preferred worker" program by contacting the claim manager, vocational counselor, or the department's "preferred worker" section.

A worker who is unable to return to work with the employer of record must receive assistance applying for "preferred worker" certification from a registered vocational provider.

Exception: A worker with developmental disabilities, who will be reemployed by the employer of record, does not need to apply for "preferred worker" certification. Instead, the department will consider the worker's eligibility for certification after receiving the employer's *Intent to Hire Preferred Worker* form.

NEW SECTION

WAC 296-16-120 Who certifies industrially injured or ill workers as "preferred workers"? Only a department employee with authority to do so may certify a worker as a "preferred worker."

NEW SECTION

WAC 296-16-130 How long does a worker's "preferred worker" certification last? A worker's "preferred worker" certification lasts for thirty-six consecutive months, and will not be extended.

Exception: The department may interrupt the certification period if:

- (1) Medical documentation shows that the worker is unable to work or look for work, due to the industrial injury or occupational disease for which the "preferred worker" certification was granted; and
- (2) The worker's claim for the same injury or disease is still open.

When the worker is again able to work or look for work, the certification period will resume. The period of interruption does not count toward the thirty-six month total.

NOTE: WAC 296-16-135 was created as a result of public comments received and to clarify the Preferred Worker rules. This WAC section was not proposed in the CR 102, rule proposal package for this rulemaking and therefore could not be adopted with the other WAC sections on December 15, 2004. L&I will initiate a new and separate rulemaking to adopt this rule.

NEW SECTION

WAC 296-16-140 Which employers are eligible to benefit from the "preferred worker" program? When an employer offers the worker a medically appropriate job, the employer is eligible to benefit from the "preferred worker" program if:

(1) The employer is the employer of record who reemploys their own worker, and the worker:

(a) Has a developmental disability as defined by RCW 71A.10.020; and

(b) Under the open claim with that employer, has received payment of time-loss compensation for a period of at least fourteen consecutive days; or

(2) The employer is NOT the employer of record, and the employer hires a certified preferred worker.

NEW SECTION

WAC 296-16-150 What benefits do eligible employers receive from the "preferred worker" program? (1) Eligible employers insured with the state fund who hire a certified "preferred worker," or who reemploy a certified "preferred worker" with developmental disabilities:

(a) Do not pay accident fund and medical aid fund premiums for that worker during the "preferred worker" certification period; and

(b) Will not have the cost of any new claim filed by that worker charged to their experience rating, if the claim is for a new injury sustained or an occupational disease diagnosed during the "preferred worker" certification period.

(2) Eligible self-insured employers who hire a certified "preferred worker," or who reemploy a certified "preferred worker" with developmental disabilities, will receive reimbursement from the second injury fund for all benefits paid on any new claim filed by that worker, if the claim is for a new injury sustained or an occupational disease diagnosed during the "preferred worker" certification period.

NEW SECTION

WAC 296-16-160 What must an employer do to qualify for benefits when hiring or reemploying a "preferred worker"? An employer must complete an *Intent to Hire Preferred Worker* form. The employer must return the completed form to the department within sixty days from the "preferred worker's" first day of:

(1) Employment, if the employer is a subsequent or new employer. In these situations, the employer must also provide the department a description of the job offered to the worker.

(2) Reemployment, if the employer is the employer of record and the worker has a developmental disability as defined by RCW 71A.10.020. In these situations, if the doctor has released the worker without restrictions and the worker is returning to the job of record, a job description is not needed.

NEW SECTION

WAC 296-16-170 Where may an employer obtain an *Intent to Hire Preferred Worker* form? Employers may obtain an *Intent to Hire Preferred Worker* form from the department's offices or website.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-16-010	Premium waived for employment of preferred worker.
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