

NEW SECTION

**WAC 296-15-4302 What is the Self-Insurance Vocational Reporting Form?** The Self-Insurance Vocational Reporting Form replaces the Employability Assessment Report (EAR) and is used as a cover sheet for all vocational reports submitted to the department by the self-insured employer.

**Note:** A Self-Insurance Vocational Reporting Form is not required if the worker is not eligible for vocational services because they returned or were released to work at the job at the time of injury or on the date of disease manifestation.

NEW SECTION

**WAC 296-15-4304 What must the self-insurer do when an assessment report is received?** (1) A self-insurer must submit a Self-Insurance Vocational Reporting Form and the assessment report to the department within ten working days after receiving the completed report. A completed report is one that, in the opinion of the department, meets the requirements in WAC 296-19A-070.

(2) When time-loss is terminated, based on the vocational rehabilitation provider's recommendations, the self-insurer must notify the worker or the worker's representative as required in WAC 296-15-420(9).

(3) The self-insurer can terminate time-loss on the date they receive the recommendation but, if the department determines the assessment report failed to demonstrate the worker is able to work, the self-insurer must request additional information from the vocational rehabilitation provider before resubmitting the report and an updated Vocational Services Reporting Form to the department.

(4) If the self-insurer terminated time-loss based on the assessment report's recommendation but the department concludes the assessment report failed to demonstrate the worker is able to work, the self-insurer must reinstate time-loss effective the day after the last date paid.

NEW SECTION

**WAC 296-15-4306 When must a self-insurer submit a vocational rehabilitation plan to the department?** No later than ninety calendar days after the date the department determined the worker was eligible for vocational plan development services, the employer must submit a Self-Insurance Vocational Reporting Form and a completed vocational plan for the worker.

If the plan cannot be completed and submitted to the department within that time period, the self-insurer must, prior to the ninetieth day, submit a Self-Insurance Vocational Reporting Form and the vocational rehabilitation provider's request for an extension as required in WAC 296-19A-094.

NEW SECTION

**WAC 296-15-4308 What must the vocational rehabilitation plan include?** The vocational rehabilitation plan must meet the requirements in WAC 296-19A-100.

NEW SECTION

**WAC 296-15-4310 What must the self-insurer do when the department denies the vocational rehabilitation plan?** The vocational rehabilitation plan may be denied if the plan does not meet the requirements in WAC 296-19A-100 and the department cannot make a determination based on the information provided.

If the plan does not meet the requirements or is denied as incomplete, the self-insurer must correct the plan and/or obtain the information requested by the department, and resubmit the completed plan and an updated Vocational Services Reporting Form.

If the plan cannot be corrected and/or completed and submitted to the department within ninety calendar days after the date the department determined the worker was eligible for vocational plan development services, the self-insurer must, prior to the ninetieth day, submit a Self-Insurance Vocational Reporting Form and the vocational rehabilitation provider's request for an extension as required in WAC 296-19A-094.

NEW SECTION

**WAC 296-15-4312 What must the self-insurer do when the vocational rehabilitation plan is successfully completed?** The self-insurer must:

(1) Notify the worker or the worker's representative of the time-loss termination as required in WAC 296-15-420(9).

(2) Submit a Self-Insurance Vocational Reporting Form to the department within ten working days of the date time-loss benefits ended. The Self-Insurance Vocational Reporting Form must include:

(a) The total cost and time expended for the plan;

(b) The total time-loss compensation benefits paid during the plan; and

(c) The total vocational services costs paid since the date the worker was found eligible for services; and

(d) A closing report with a copy to the worker or the worker's representative. The closing report must meet the requirements in WAC 296-19A-120.

NEW SECTION

**WAC 296-15-4314 What must the self-insurer do if the vocational rehabilitation plan is not successfully completed?** When a vocational rehabilitation plan ends before successful completion, the vocational rehabilitation provider will submit a closing report to the self-insurer.

(1) **Plan not completed due to causes outside the worker's control.** Within ten working days of receiving the vocational closing report, the self-insurer must:

(a) Continue time-loss benefits; and

(b) Submit a Self-Insurance Vocational Reporting Form to the department. The form must include:

(i) The total cost and time expended for the plan;

(ii) The total time-loss compensation benefits paid during the plan;

(iii) The total vocational services costs paid since the date the worker was found eligible for services; and

(iv) A closing report with a copy to the worker or the worker's representative. The closing report must meet the requirements in WAC 296-19A-120(2).

(2) **Plan not completed due to worker's actions.** Within ten working days of receiving the vocational closing report, the self-insurer must:

(a) Submit a request for suspension of benefits with supporting documentation.

(b) Submit a Self-Insurance Vocational Reporting Form to the department. The form must include:

(i) The total cost and time expended for the plan;

(ii) The total time-loss compensation benefits paid during the plan;

(iii) The total vocational services costs paid since the date the worker was found eligible for services; and

(iv) A closing report with a copy to the worker or the worker's representative. The closing report must meet the requirements in WAC 296-19A-120(2).

(3) **Worker is employable.** When the worker is employable based on an assessment of the training completed to date, the self-insurer must:

(a) Notify the worker or the worker's representative of the time-loss termination as required in WAC 296-15-420(9).

(b) Submit a Self-Insurance Vocational Reporting Form to the department within five working days of the date time-loss benefits ended.

(c) The Self-Insurance Vocational Reporting Form must include:

(i) The total cost and time expended for the plan;

(ii) The total time-loss compensation benefits paid during the plan;

(iii) The total vocational services costs paid since the date the worker was found eligible for services; and

(iv) A closing report with a copy to the worker or the worker's representative. The closing report must meet the requirements in WAC 296-19A-120(2).

#### NEW SECTION

**WAC 296-15-4316 What must the self-insurer do when the worker declines further vocational rehabilitation services and elects option 2 benefits?** When the department approves a rehabilitation plan, the worker will be notified in writing of their right to decline further vocational rehabilitation services and elect option 2 benefits within fifteen calendar days. When the worker elects option 2 benefits, the self-insurer must take the following action within five working days of receiving the worker's request:

(1) Terminate time-loss benefits with proper notification to the worker as required in WAC 296-15-420(9);

(2) Establish the total amount of the option 2 award and a payment schedule for the option 2 benefits that begins the date time-loss is terminated;

(3) Submit a Self-Insurance Vocational Reporting Form to the department. The Self-Insurance Vocational Reporting Form must include:

(a) The total vocational services costs paid since the date the worker was found eligible for services;

(b) The option 2 election form signed by the worker; and

(c) Documentation that includes the total amount of the option 2 award and payment schedule; and

(4) Commence payment of option 2 benefits to the worker according to the established payment schedule. The first payment must be made no later than fifteen days after the date time-loss is terminated. Option 2 benefits may be paid before the department issues an order.

NEW SECTION

**WAC 296-15-4318 What must the self-insurer do when the worker elects option 2 benefits and the claim is closed?** The self-insurer must submit a quarterly report to the department on the Self-Insurance Vocational Reporting Form listing the total retraining costs paid to date for the worker since the option 2 benefit was granted. These quarterly reports must be submitted until the worker has expended the total vocational costs available to him or her, or until five years have passed since the benefit was granted.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-15-430 Vocational services.

AMENDATORY SECTION (Amending WSR 03-11-009, filed 5/12/03, effective 2/1/04)

**WAC 296-19A-030 What are the responsibilities of the parties?**  
~~((All parties will))~~ The attending health care provider, department, self-insured employer, employer, worker and vocational rehabilitation provider have the following responsibilities in assisting the ~~((injured))~~ worker to become employable at gainful employment:

(1) **Attending health care provider.** The attending ~~((physician shall))~~ health care provider must:

(a) Maintain open communication with the ~~((industrially injured or ill))~~ worker's assigned vocational rehabilitation ~~((counselor))~~ provider and the referral source. ~~((The attending physician shall))~~

(b) Respond to any request ~~((s))~~ for information ~~((in a timely fashion and will))~~ which is necessary to evaluate a worker's:

(i) Ability to work;

(ii) Need for vocational services; and

(iii) Ability to participate in a vocational retraining plan.

(c) Do all that is possible to expedite the vocational rehabilitation process, including making an estimate of the ~~((worker's))~~ physical or mental capacities that affect the worker's employability. If unable to provide an estimate, refer the worker for the appropriate consultation or evaluation.

~~((2) ((The claims unit within the department shall notify the employer of the referral to a vocational rehabilitation provider.))~~  
**Department.**

(a) **State fund claims.** For state fund claims, the department must:

(i) Obtain medical information required to initiate vocational rehabilitation services before a referral is made to a vocational rehabilitation provider.

(ii) Notify the chargeable employer(s), if any, at the time any referrals are made to a vocational rehabilitation provider.

(iii) Provide the vocational rehabilitation provider with access to all reports and any other relevant documentation generated during prior vocational rehabilitation services including plans that have been provided on any claim.

(iv) Review the assessment report and determine whether the worker is eligible for vocational rehabilitation plan development services.

(v) Notify all parties of the eligibility determination in writing. When the worker is eligible for plan development services, the notification letter must advise that the chargeable employer(s), if any, has fifteen calendar days from the date of the letter to make a valid return to work offer.

(vi) Assign plan development services to the vocational rehabilitation provider that completed the assessment report unless the department decides the provider cannot complete the required report.

(vii) Review the submitted vocational rehabilitation plan within fifteen days of receipt at the department, and determine whether to approve or deny the plan.

(viii) Notify all parties of plan approval or denial in writing. Should the department fail to send a notification letter within fifteen calendar days of the date the report is received by the department, the plan is considered approved.

When a plan is approved, the notification must advise the worker that he or she has fifteen calendar days from the date of the notification letter to decline vocational services and elect option 2 benefits as defined in RCW 51.32.099.

(b) **Self-insured claims.** For self-insured claims, the department must:

(i) Review the assessment report and determine whether the worker is eligible for vocational rehabilitation plan development services.

(ii) Notify all parties of the eligibility determination in writing.

When the worker is eligible for plan development services, the notification letter must advise the employer it has fifteen calendar days from the date of the letter to make a valid return to work offer; and

(iii) Review the submitted vocational rehabilitation plan within fifteen days of receipt at the department, and determine whether to approve or deny the plan.

(iv) Notify all parties of plan approval or denial in writing. Should the department fail to send a notification letter within fifteen calendar days of the date the report is received by the department, the plan is considered approved.

When a plan is approved, the notification letter must advise the worker that he or she has fifteen calendar days from the date of the letter to elect option 2 benefits as defined in RCW 51.32.099.

(3) **Employer.** The employer ((shall)) must:

(a) Assist the vocational rehabilitation ((counselor)) provider in any way necessary to collect data regarding the ((former)) worker's gainful employment ((of the injured worker. Further, the employer will)) at the time of the injury.

(b) Assist the vocational rehabilitation ((counselor)) provider and attending ((physician)) health care provider to determine whether ((or not)) a ((modified)) job could be made available for employment of the ((injured)) worker.

(4) ((The injured worker shall cooperate with all reasonable requests from all responsible individuals in determining disability, developing and implementing the rehabilitation process. Should the injured worker fail to be cooperative, the sanctions as set out in RCW 51.32.110 shall be applied.)) **Worker.** The worker must fully participate in all aspects of their vocational services

including determination of physical capacities, development of vocational goals, and implementation of the rehabilitation process. Examples include but are not limited to:

- Providing accurate and complete information regarding his or her work history and educational background.
- Attending all scheduled appointments.
- Cooperating with return to work efforts when it is determined return to work opportunities exist.
- Actively participating in selecting a job goal when it is determined retraining is necessary.

(5) **Vocational rehabilitation provider.** In assisting the ((injured)) worker to become employable at gainful employment, the vocational rehabilitation provider ((is to)) must:

(a) Follow the priorities ((as set out)) in RCW 51.32.095 and the requirements ((as set out)) in this chapter. ((This includes providing, upon request, copies of reports and attachments submitted to the referral source to the injured worker or their representative.))

(b) For state fund claims, immediately inform the department orally if the worker:

- (i) Returns to work;
- (ii) Is released for work without restrictions;
- (iii) Returns to work and is unsuccessful; or
- (iv) Fails to cooperate.

**Note:** Written notification and documentation must follow oral notification within two working days.

(c) Identify all vocational rehabilitation counselors and interns who provided services in each reporting period.

(d) Provide copies of reports and attachments submitted to the referral source to the employer (if different than the referral source) and the worker or the worker's representative when requested.

(e) Prior to a determination of eligibility, work with the employer, if necessary, to develop job analyses for work the employer is offering or has available and provide other assistance necessary to facilitate return to work with the employer.

(f) When providing plan development services, the vocational rehabilitation provider should, whenever possible and appropriate, focus on identifying goals and occupations that are considered high demand in the workforce. High demand means the number of job openings in the labor market for the occupation or with the required skill set exceeds the supply of qualified workers.

(g) Should the employer choose to make a valid return to work offer within fifteen calendar days of the date of the notification letter, the vocational rehabilitation provider may provide assistance necessary to facilitate return to work with the employer.

AMENDATORY SECTION (Amending WSR 03-11-009, filed 5/12/03, effective 2/1/04)

**WAC 296-19A-040 What vocational rehabilitation services require authorization?** All vocational rehabilitation services must be preauthorized. For state fund claims, the department may make one or more of the following type of referrals: Early intervention; ability to work assessment ("AWA" or "assessment"); plan development; plan implementation; forensic services; or stand alone job analysis. Each referral is a separate authorization for vocational rehabilitation services.

AMENDATORY SECTION (Amending WSR 03-22-030, filed 10/28/03, effective 2/1/04)

**WAC 296-19A-045 Which rules under "~~((department))~~ vocational rehabilitation referrals" apply only to ~~((the department))~~ state fund claims?** WAC 296-19A-050, 296-19A-060, 296-19A-080, 296-19A-098, 296-19A-118, and 296-19A-125 through 296-19A-137 pertain only to referrals for vocational rehabilitation services made by the department for state fund claims.

AMENDATORY SECTION (Amending WSR 03-11-009, filed 5/12/03, effective 2/1/04)

**WAC 296-19A-065 What are ~~((ability to work))~~ assessment ~~((AWA))~~ services?** ~~((AWA))~~ Assessment services are used by the department or self-insured employer to determine if ~~((an industrially injured or ill))~~ a worker should receive vocational rehabilitation plan development services. ~~((AWA))~~ Assessment services may include, but are not limited to, the following:

- ~~(1) ((Performing job analyses;~~
  - ~~(2) Conducting labor market surveys;~~
  - ~~(3) Assessing transferable skills;~~
  - ~~(4) Obtaining work restrictions;~~
  - ~~(5) Evaluating the injured worker's ability to work at the job of injury or any other job;~~
  - ~~(6) Coordinating with medical providers to obtain physical capacities and restriction information and a release to participate in vocational rehabilitation plan development services;~~
  - ~~(7) With authorization from the department, vocational testing may be used to evaluate the industrially injured or ill worker's ability to benefit from vocational rehabilitation services;))~~
- Obtaining work restrictions;

- (2) Performing job analyses;
- (3) Evaluating the worker's ability to work at the job of injury;
- (4) Assessing transferable skills;
- (5) Conducting labor market surveys as defined in WAC 296-19A-140;
- (6) Evaluating the worker's ability to work at any other job;
- (7) Evaluating the worker's ability to benefit from plan development services, including vocational testing if appropriate; and
- (8) Assessing the ~~((industrially injured or ill))~~ worker's need for preferred worker status and when appropriate educating the worker on the preferred worker benefit ~~((, if appropriate))~~.

AMENDATORY SECTION (Amending WSR 03-11-009, filed 5/12/03, effective 2/1/04)

**WAC 296-19A-070 What ~~((is an ability to work))~~ information must an assessment report include?** (1) The ~~((AWA))~~ assessment report must include ((an)) information and evaluation of the ~~((industrially injured or ill))~~ worker's:

- ~~((a) Age, education and experience;~~
- ~~((b) Transferable skills;~~
- ~~((c) Preexisting physical and mental conditions and the effect of those conditions on the worker's employability;~~
- ~~((d) Physical and mental conditions proximately caused by the worker's industrial injury or occupational disease and the effect of those conditions on the worker's employability;~~
- ~~((e) Wage at the time of injury;~~
- ~~((f) Work pattern;~~
- ~~((g) Significant barriers to employment;~~
- ~~((h) Labor market;~~
- ~~((i) Complete work history, addressing any gaps in employment, in addition to information about education level, courses or transcripts, licenses, certifications or registrations that the worker may have obtained in the past; and~~
- ~~((j) The report must address the first four return to work priorities set forth in RCW 51.32.095(2).~~

~~(2))~~ (a) Age;

- (b) Education, including information about education level, courses or transcripts, licenses, and certifications or registrations that the worker may have obtained in the past;
- (c) Entire work history, addressing any gaps in employment;
- (d) Transferable skills and experience, whether obtained from prior employment, prior courses and training, prior vocational rehabilitation services or plans, or nonwork related activities such as hobbies and/or volunteer experience;
- (e) Physical and mental conditions proximately caused by the

worker's injury or occupational disease, and the effect of those conditions on the worker's ability to work and/or benefit from vocational services;

(f) Preexisting physical and mental conditions and the effect of those conditions on the worker's ability to work and/or benefit from vocational services;

(g) Postinjury physical and mental conditions and the effect of those nonrelated conditions on the worker's ability to work and/or benefit from vocational services;

(h) Wage and employment pattern at the time of injury;

(i) Barriers to employment, including whether the barriers can be removed and/or what is needed to address the barriers; and

(j) Labor market information as defined in WAC 296-19A-140.

(2) If the vocational rehabilitation provider cannot obtain one or more of the above categories of information, the provider must document in the report all efforts made to obtain the information and why the information could not be obtained.

(3) The report must address whether the worker can return to work in any capacity with the employer of injury or if the worker is employable at a new job with transferable skills.

(4) The ((AWA)) assessment report must also include one of the following recommendations:

(a) **Able to work:** The ((injured)) worker is employable at gainful employment. The report must include:

(i) Whether the worker is employable with the employer of injury or current employer, or if not, a list of job possibilities for which the worker is qualified;

(ii) A medically approved job analysis. When this is not obtainable, medically approved physical capacities information regarding the worker's ability to perform the job may be used; and

(iii) Labor market information as defined in WAC 296-19A-140 supporting the vocational rehabilitation provider's recommendation. Labor market information is not necessary when the ((injured)) worker is medically released to work for their job of injury at their previous work pattern;

(b) **Further services appropriate:** Vocational rehabilitation services are necessary and likely to enable the ((injured)) worker to become employable at gainful employment. The report must include:

~~(i) ((An analysis demonstrating how vocational rehabilitation plan development services are necessary and likely to enable the injured worker to become employable at gainful employment;~~

~~(ii) The specific return to work possibilities investigated and the reasons why they were ruled out including labor market information when necessary; or)) The specific return to work possibilities investigated and the reasons why they were ruled out which may include labor market information as defined in WAC 296-19A-140;~~

(ii) An analysis explaining how vocational rehabilitation plan development services are likely to enable the worker to become employable at gainful employment. The analysis may include but is not limited to:

(A) Vocational evaluation that addresses the worker's ability to benefit from vocational rehabilitation services;

(B) Information regarding the worker's medical and/or psychological condition(s);

(C) Labor market information as defined in WAC 296-19A-140;

(D) A discussion of the worker's participation in vocational activities to date; and

(E) Any other relevant information.

(c) **Further services not appropriate:** The ((injured)) worker is not likely to benefit from vocational services. The report must include:

(i) An analysis explaining why vocational rehabilitation services are not appropriate;

(ii) ((Identifying)) Barriers identified that will make it unlikely the worker will benefit from vocational rehabilitation services, consistent with the requirements in WAC 296-19A-010(1);

(iii) Medical, ((labor market, and/or)) psychological or other vocationally relevant information(~~(, as necessary, supporting the))~~;

(iv) Labor market information as defined in WAC 296-19A-140;  
and

(v) Other information, as necessary, supporting the vocational rehabilitation provider's recommendations.

(d) **Return to work:** The ((injured)) worker has returned to work. The report must specify and/or document attempts to obtain the following information:

(i) A description of the job the worker returned to;

(ii) The name of the employer;

(iii) The date that the worker returned to work; and

(iv) The worker's monthly wages.

~~((3) The provider must immediately inform the department orally if the worker has returned to work or if the provider has documentation that the worker is medically released without restrictions or has returned to work. The provider must follow the oral notification with written notification within two working days. The provider must attach documentation showing the worker was medically released to work without restrictions. Except for completing the closing report, the provider should not perform any other work on the AWA without the prior authorization of the referral source.))~~ (5) When the worker has returned to work to the job of injury or is medically released without restrictions, the vocational rehabilitation provider should complete the closing report. No other work should be performed without the prior authorization of the referral source.

AMENDATORY SECTION (Amending WSR 03-22-030, filed 10/28/03, effective 2/1/04)

**WAC 296-19A-080 How often must written progress reports be ~~((completed and))~~ submitted during assessment activities provided for state fund claims?** ~~(1) The vocational rehabilitation provider must submit a written progress report to the department, and upon request, to the ~~((injured))~~ employer, worker or ~~((the injured worker's))~~ his or her representative, every thirty calendar days from the date of the electronic referral ~~((summarizing progress during the most recent reporting period))~~).~~

~~(2) The written progress report must summarize progress during the most recent reporting period and include:~~

~~((1)) (a) A detailed explanation why the ~~((AWA))~~ assessment report was not completed as of the date of the report;~~

~~((2)) (b) A summary of all activities taken in the past thirty days, including progress on previously recommended actions;~~

~~((3)) (c) Identification and analysis of any barriers preventing completion of the referral; and~~

~~((4)) (d) A description of the specific actions the provider intends to take to overcome barriers and the expected time frame to complete those actions.~~

AMENDATORY SECTION (Amending WSR 03-11-009, filed 5/12/03, effective 2/1/04)

**WAC 296-19A-090 What are vocational rehabilitation plan development services?** Vocational rehabilitation plan development services are authorized to obtain the vocational rehabilitation provider's assistance in producing a vocational rehabilitation plan for ~~((an industrially injured or ill))~~ a worker. The vocational rehabilitation provider will work with the ~~((industrially injured or ill))~~ worker in the development of the plan. Covered services include, but are not limited to~~((, the following))~~:

~~(1) ((Vocational counseling and occupational exploration;~~

~~(2) Identifying job goal, training needs, resources, and expenses;~~

~~(3) Vocational rehabilitation plan development services are authorized for the vocational rehabilitation provider to produce a recommended vocational rehabilitation plan for an industrially injured or ill worker;~~

~~(4) Coordinating with medical providers to obtain physical capacities and restrictions information and a release to participate in a vocational rehabilitation plan;~~

~~(5) Vocational testing; and~~

~~(6) Identify, evaluate, and plan education and training resources, when necessary.)) An initial meeting between the assigned vocational rehabilitation provider and the worker.~~

The assigned vocational rehabilitation provider must meet with the worker in person and fully inform the worker of the return to work priorities set forth in RCW 51.32.095(2) and of his or her rights and responsibilities under the workers' compensation vocational system. The vocational rehabilitation provider must use tools provided by the department in order to document this requirement.

Exception: For out-of-state referrals, the counselor providing direct services to the worker may be considered the assigned vocational rehabilitation provider for purposes of this meeting.

The rights and responsibilities include but are not limited to:

(a) The responsibility of the worker and vocational services provider to cooperate with the plan development process and to submit a plan within ninety calendar days;

(b) An explanation of the benefits available to the worker, including the right to choose to participate in retraining or elect option 2 benefits after a plan has been approved; and

(c) An explanation of the possible action the department or self-insured employer may take under RCW 51.32.110 and WAC 196-14-410 should the worker be determined to be noncooperative during the plan development process.

(2) Vocational counseling and occupational exploration;

(3) Identifying a potential job goal and estimating the training needs, resources, and expenses necessary to complete that goal;

(4) Vocational testing; and

(5) Coordinating with medical providers to obtain approval of job analyses and a release to participate in a vocational rehabilitation plan.

#### NEW SECTION

**WAC 296-19A-092 When must plan development be completed?** The vocational rehabilitation provider must submit the completed plan within ninety calendar days of the date the worker was notified by letter that plan development services were authorized. The ninety-day requirement may be extended only for good cause. The vocational rehabilitation provider must continue working on plan development while the department evaluates the extension request.

NEW SECTION

**WAC 296-19A-094 How can a provider request an extension of time to complete plan development?** (1) When the plan cannot be completed and submitted to the department within ninety calendar days (see WAC 296-19A-094), the vocational rehabilitation provider seeking an extension must submit a written request to the department for state fund claims or the self-insured employer. The vocational rehabilitation provider must continue working on plan development while the department evaluates the extension request.

(2) The written request for an extension must:

(a) Explain why there is good cause for an extension, with supporting documentation;

(b) Specify the number of additional calendar days requested to complete plan development; and

(c) Identify any anticipated barriers to the completion of plan development.

NEW SECTION

**WAC 296-19A-096 How will the department determine whether there is good cause to grant an extension of time?** (1) The department will determine whether good cause exists on a case-by-case basis.

(2) The department will grant an extension of time for good cause when there is a significant delay in the plan development process and the cause is beyond the worker's or vocational rehabilitation provider's control.

Examples of causes that are beyond the worker's or provider's control include, but are not limited to:

- A death in the worker's immediate family. For purposes of this section, immediate family is defined as spouse, domestic partner, child, sibling, parent or grandparent.

- Delays caused by documented changes in the worker's medical ability to participate in plan development.

- Information received by the vocational rehabilitation provider that impacts plan development and was not available when assessment services were provided.

- Documented delay in receipt of requested information from a medical provider relevant to developing the vocational plan.

- The impact of previously identified barriers to employment and/or retraining.

(3) Noncooperation by a worker, under RCW 51.32.110 and WAC 196-14-410, is not good cause for granting an extension of time.

(4) If the department finds there is not good cause for the delay in submitting a vocational plan, the department may take action, including but not limited to:

(a) Suspension of further vocational services if the worker

has been found noncooperative under RCW 51.32.110 and WAC 196-14-410, until such noncooperative actions cease or have been cured.

(b) Assignment of a new vocational provider.

(c) Allowing the vocational rehabilitation provider to complete the referral with monitoring of further plan development services by the department or self-insured employer.

#### NEW SECTION

**WAC 296-19A-098 How often must written progress reports be submitted when plan development services are provided for state fund claims?** (1) The vocational rehabilitation provider must submit a written progress report to the department every thirty calendar days from the date of the electronic referral.

(2) The first progress report must document the assigned vocational rehabilitation provider met with the worker in person and fully informed the worker of the return to work priorities in RCW 51.32.095(2) and his or her rights and responsibilities.

(3) All progress reports must summarize progress during the most recent reporting period and include the following:

(a) Description of the return to work goals explored, accepted or ruled out, including any jobs offered by the employer;

(b) Review of the return to work priorities being addressed;

(c) Summary of all actions taken, including progress on previously recommended actions;

(d) Description of the worker's participation in vocational activities and compliance with the responsibilities in WAC 296-19A-030(4).

(e) Identification and analysis of any barriers preventing completion of the referral; and

(f) Description of the specific actions the vocational rehabilitation provider intends to take to overcome barriers and the expected time frame to complete those actions.

AMENDATORY SECTION (Amending WSR 03-11-009, filed 5/12/03, effective 2/1/04)

**WAC 296-19A-100 What reports (~~(does the department require)~~) are required when vocational rehabilitation plan development services are (~~(provided at its request)~~) completed?** (~~(1) Progress reports. The vocational rehabilitation provider must submit a written progress report to the department, and upon request, to the injured worker or the injured worker's representative, every thirty calendar days from the date of the electronic referral summarizing~~)

~~progress during the most recent reporting period. The progress report must include the following:~~

- ~~(a) Description of the return to work goals explored, accepted or ruled out;~~
- ~~(b) Review of the return to work priorities being addressed;~~
- ~~(c) Summary of all actions taken, including progress on previously recommended actions;~~
- ~~(d) Identification and analysis of any barriers preventing completion of the referral; and~~
- ~~(e) Description of the specific actions the provider intends to take to overcome barriers and the expected time frame to complete those actions.~~

(2)) When plan development services are completed, the vocational rehabilitation provider must submit one of the following reports:

(1) Vocational rehabilitation plan. The vocational rehabilitation provider must address the return to work priorities listed in RCW 51.32.095(2) in the plan and explain why each preceding priority would not help the ~~((industrially injured or ill))~~ worker return to work. The vocational plan must also include the following information:

~~(a) An assessment of the ~~((industrially injured or ill))~~ worker's skills and abilities considering the ~~((industrially injured or ill))~~ worker's:~~

(i) Physical capacities and mental status~~((7))~~;

(ii) Aptitudes ~~((and))~~;

(iii) Transferable skills gained through prior work experience, education, training ~~((and avocation))~~, hobbies, volunteer experience or other nonwork related activities;

~~(b) ~~((The services necessary to enable the industrially injured or ill worker to become employable in the labor market;~~~~

~~(c) Labor market survey supportive of the industrially injured or ill worker's employability upon plan completion;~~

~~(d) Documentation of the time and costs required for completion of the plan;~~

~~(e) A direct comparison of the industrially injured or ill worker's skills, both existing and those to be acquired through the plan, with potential types of employment to demonstrate a likelihood of plan success;)) Proposed occupational goal;~~

(c) The services necessary to enable the worker to become employable in the labor market;

(d) Labor market survey as defined in WAC 296-19A-140, supportive of the worker's employability upon plan completion;

(e) Documentation of the time and costs required for completion of the plan;

~~(f) A medically approved job analysis for the proposed retraining job goal;~~

~~(g) ~~((Any other information that may significantly affect the plan; and~~~~

~~(h) An agreement signed by the provider and industrially injured or ill worker that:~~

~~(i) Acknowledges that the provider and the industrially~~

~~injured or ill worker have reviewed, understand and agree to the vocational rehabilitation plan; and~~

~~(ii) Sets forth the provider's and industrially injured or ill worker's responsibilities for the successful implementation and completion of the vocational rehabilitation plan.)~~ A list of the skills the worker will acquire through retraining;

(h) A description of the services that will be provided prior to completion of the plan that will assist the worker to successfully transition to gainful employment;

(i) Any other information that may significantly affect the plan; and

(j) An accountability agreement signed by the vocational rehabilitation provider and worker that:

(i) Acknowledges that the vocational rehabilitation provider and the worker have reviewed, understand and agree to the vocational rehabilitation plan;

(ii) Sets forth the vocational rehabilitation provider's and worker's responsibilities for the successful implementation and completion of the vocational rehabilitation plan;

(iii) Details expectations regarding progress, attendance, and other factors influencing completion of the plan; and

(iv) Acknowledges the worker understands that failure to comply with the agreed expectation will result in initiation of the process to suspend benefits in accordance with RCW 51.32.110 and WAC 296-14-410.

The vocational rehabilitation provider must use a statement approved by, or substantially similar to a statement used by, the department in order to document this agreement.

~~((+3))~~ **(2) Closing report.** If the vocational rehabilitation provider has to stop plan development before a rehabilitation plan is ~~((submitted and/or))~~ approved, the vocational rehabilitation provider must submit a plan development closing report. The report must include:

(a) A list of the reasons the vocational rehabilitation provider cannot proceed with vocational rehabilitation plan development activities;

(b) Supporting documentation, such as: ~~((Goals))~~ The goals that were researched, the job analyses that were developed, and/or labor market research as defined by WAC 296-19A-140 that was conducted; and

(c) ~~((Address))~~ An assessment addressing whether ~~((or not))~~ further vocational rehabilitation services may be necessary and likely to enable the ~~((injured))~~ worker to become employable.

**WAC 296-19A-110 What are vocational rehabilitation plan implementation and monitoring services?** Vocational rehabilitation plan implementation and monitoring services are those services a vocational rehabilitation provider provides to assist ~~((an industrially injured or ill))~~ a worker to successfully complete a vocational rehabilitation plan. These services may include, but are not limited to, the following:

~~(1) ((Maintain sufficient contact with the industrially injured or ill worker, trainer and medical providers to make sure the worker successfully enters and progresses in the vocational rehabilitation plan;~~

~~(2))~~ Contacting the worker and trainer or appropriate representative of the training program or school, at least every fourteen calendar days to:

(a) Confirm ((that)) the ((industrially injured or ill)) worker has received all necessary equipment and supplies;

~~((3) Contact the industrially injured or ill worker and trainer at least every thirty days to identify potential problems;~~

~~(4) Notify the department if the plan needs to be interrupted;~~

~~(5) Notify)~~ (b) Make sure the worker successfully enters and progresses in the vocational rehabilitation plan;

(c) Identify potential problems;

(d) Monitor the worker's progress; and

(e) Resolve any problems that might arise, or submit documentation regarding why it cannot be resolved;

(2) Notifying the department or self-insured employer when the ((industrially injured or ill)) worker completes the plan;

~~((6) Monitor the industrially injured or ill worker's progress and resolve any problems that might arise or address by submitting supporting documentation regarding why it cannot be brought to resolution;~~

~~(7))~~ (3) Assisting ((in)) with job search assistance ((prior to)) before the completion of the vocational rehabilitation plan((-

~~(8) Document the industrially injured or ill)) and may include referral to community based organizations offering free resources for job search assistance such as resume writing and job seeking skills;~~

(4) Documenting the worker's acquisition of skills; ((and

~~(9) Notify))~~ (5) Notifying the department if the plan needs to be terminated((-

~~(10) Obtain)); and~~

(6) Obtaining preferred worker status for worker, if appropriate.

NEW SECTION

**WAC 296-19A-118 How often must written progress reports be submitted when plan implementation and monitoring services are provided for state fund claims?** (1) The vocational rehabilitation provider must submit a written progress report to the department every thirty calendar days from the date of the electronic referral.

(2) All progress reports must summarize progress during the most recent reporting period and must include the following:

(a) A review of the worker's compliance with the accountability agreement and vocational rehabilitation plan, including any issues involving attendance, grades and progression;

(b) A list of the dates the vocational rehabilitation provider contacted the worker and training site;

(c) A description of the work-related skills the worker has acquired so far and a comparison with the vocational rehabilitation plan;

(d) A summary of all actions taken in the past thirty days, including progress on previously recommended actions;

(e) Identification and analysis of any barriers preventing completion of the plan and actions taken by the vocational rehabilitation provider to address those barriers; and

(f) A statement of whether the worker is progressing as expected and will complete the plan by the target end date.

AMENDATORY SECTION (Amending WSR 03-22-030, filed 10/28/03, effective 2/1/04)

**WAC 296-19A-120 What reports (~~does the department require~~) are required when vocational rehabilitation plan implementation and monitoring services are (~~provided at its request~~) completed?**

~~((1) Progress reports. The vocational rehabilitation provider must submit a written progress report to the department, and upon request, to the injured worker or the injured worker's representative, every thirty calendar days from the date of the electronic referral summarizing progress during the most recent reporting period. The progress report must include the following:~~

~~(a) Review of the industrially injured or ill worker's compliance with the vocational rehabilitation plan;~~

~~(b) A list of the dates the provider contacted the industrially injured or ill worker and training site;~~

~~(c) Description of the skills the worker has acquired so far and a comparison with the vocational rehabilitation plan;~~

~~(d) Summary of all actions taken in the past thirty days, including progress on previously recommended actions;~~

~~(e) Identification and analysis of any barriers preventing completion of the referral;~~

~~(f) Statement of whether the industrially injured or ill worker will complete the plan by the target plan end date.~~

~~(2) Closing report.)~~ When plan implementation and monitoring services are completed, the vocational rehabilitation provider must submit a closing report with one of the following recommendations:

(1) Plan successfully completed. If the ~~((industrially injured or ill))~~ worker successfully completes the vocational rehabilitation plan, the closing report, at a minimum, must contain the following information:

(a) An assessment of the ~~((industrially injured or ill))~~ worker's employability status at the time of closure;

~~(b) ((An assessment of the skills acquired by the industrially injured or ill worker as compared to the vocational rehabilitation plan;))~~ A list of courses the worker completed and an assessment of the work-related skills acquired by the worker during the training plan;

~~(c) ((A statement as to))~~ Whether ((or not the industrially injured or ill)) the worker has returned to gainful employment. If so, list the job title, employer, return to work date, and monthly salary; ((and))

~~(d) ((A description of the barriers, if any, to the ((industrially injured or ill)) worker's ability to return to gainful employment; and~~

(e) A description of the job search assistance provided.

~~((+3))~~ (2) Plan not completed. If the ~~((industrially injured or ill))~~ worker does not successfully complete the vocational rehabilitation plan, the closing report, at a minimum, must contain the following information:

(a) ~~((Explain))~~ An explanation of why the vocational rehabilitation plan cannot be modified or completed;

~~(b) ((Assess the industrially injured or ill))~~ An assessment of the worker's employability status at the time the plan stopped;

~~(c) ((Assess what skills the industrially injured or ill worker acquired and compare them to the vocational rehabilitation plan;))~~ A list of the courses completed and an assessment of the work-related skills the worker acquired during the training plan;

~~(d) ((Indicate))~~ Whether ((or not the industrially injured or ill)) the worker has returned to work. If so, list the job title, employer, return to work date, and monthly salary; and

~~(e) ((Describe))~~ A description of any remaining barriers that may keep the ((industrially injured or ill)) worker from returning to work.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-19A-480

When must providers comply with

these rules?