

Vocational Benefits in WA State Workers' Compensation Claims

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The facts of every case are unique. The information provided here is brief and intended for general information only. It is not legal advice. If you wish to discuss any of these or other questions, please feel free to contact me.

Inevitably injured workers (and their friends and family) will confuse the remedies and benefits an individual can receive under a workers' compensation claim versus those they can receive when injured outside of the workplace, such as in an auto accident or a slip and fall. Generally, the types and amounts of benefits are going to be greater and more expansive when dealing with personal injury claims. The benefits that an injured worker can receive, however, are limited and will vary state by state.

In Washington, one benefit an injured worker can receive under their workers' compensation claim that is typically *not* available in a personal injury claim is vocational retraining. The primary benefit of retraining, outside of the training itself, is that the claim remains open while the training is happening. This is particularly beneficial in case the original injury worsens and needs additional treatment. Having an open claim is also helpful when the retraining itself exacerbates the injury or causes a new injury. It is always easier to address these kinds of issues when the claim is open, the injured worker is still under their Attending Physician's care, and L&I is still footing the bill. Another unique benefit is that the injured worker continues to receive time-loss benefits while retraining and does so until retraining is concluded, at which point the claim is typically closed.

Retraining is not offered to all injured workers. If the injured worker's treating providers do not believe the worker has any physical restrictions related to the injury, then vocational services cannot be offered. If, however, there are physical restrictions related to the injury, a Vocational Rehabilitation Counselor ("VRC") will be assigned to assess the injured worker's employability and ultimately make a recommendation to the Department or Self-Insured Employer as to whether retraining is appropriate. A VRC will evaluate the medical evidence and can only consider the injury and any pre-injury conditions. The VRC will then go through 9 factors when determining an injured worker's employability. To summarize those factors, the VRC will first determine whether the injured worker can return to the job of injury with accommodations. If not, then the VRC will evaluate whether the injured worker has existing transferable skills and whether there is a valid labor market that fits within the injured worker's restrictions. If so, retraining will not be offered and the claim can close *even if the injured worker is still unemployed*. Only if the VRC determines that the injured worker does not have any transferable skills that could render them employable will retraining be considered.

Retraining itself is short-term and typically does not exceed 2 years. Retraining is only intended to render the worker employable – it need not place the injured worker in an occupation they would desire to work in and it need not place them at the same earning capacity as they were prior to the injury. The goal, per the law, is simply to ensure that injured workers are rendered employable before their claim is closed. Oftentimes, however, as seen in recent news, there remains a genuine question as to whether the injured worker has genuinely been rendered employable before having their claim closed. Simply taking a VRC or the Department's word for it is not necessarily the wisest option.

Our firm has represented many clients who successfully complete retraining programs, as well as many who had difficulty with the process. If you have questions about vocational services, employability, or other issues in your claim, we're here to help.