



Vocational Assessments in Washington State under RCW 51.32.095

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Workplace risk management protocols are in place in an effort to keep workers safe and injury free.

However, accidents do happen. If you are injured on the job and need the assistance of a vocational rehabilitation counselor to assess your employability, what is the process?



When you have been injured at work and you may or may not be able to return to your job, a vocational counselor could be assigned to you to assess your ability to return to work.

The Revised Code of Washington (RCW) 51.32.095 and Washington Administrative Code (WAC) 296-19A guides the process.



Title 51 in the State of WA pertains to the Industrial Insurance Laws. Section 32.095 is dedicated to the laws surrounding vocational rehabilitation services, benefits, priorities and allowable costs. A vocational counselor, using the return-to-work priorities set forth in RCW 51.32.095 will arrive at their employability recommendation.

Employable means having the skills and training that are commonly and currently necessary in the labor market. The worker should be capable of performing and obtaining gainful employment on a reasonably continuous basis when considering the workers age, education and experience, pre-existing physical and mental limitations and physical and or mental limitations caused at least in part by the workers industrial injury or occupational disease. Physical and or mental limitations that arose after the industrial injury/occupational disease that were not caused or aggravated by the industrial disease are not considered in determining whether the workers employable under the industrial Insurance Act.

The link below details the process.

<https://lni.wa.gov/forms-publications/F207-085-000.pdf>



When I am asked to arrive at an employability recommendation per RCW 51.32.095/WAC 296-19A I will ask for and or receive a complete copy of the file, review the documents provided and then send out the following documents to the injured worker for their review and completion before we meet:

- Business Card
- Professional Disclosure Statement
- Vocational Questionnaire
- Professional Consent for Release of Information
- WAC 296-19A-030 (What are the responsibilities of the parties?)
- WAC 296-14-410 (Reduction, suspension, or denial of compensation as a result of noncooperation.)
- RCW 51.32.095 (Return to Work Priorities)
- WAC 296-19A-065 (What is Ability to Work Assessment?)



Once I have met with the injured worker, I will complete a transferable skills analysis. A transferable skills analysis is a systematic study of the transferable skill or skills the injured worker has demonstrated to see if that skill set makes him or her employable. Transferable skills are any combination of learned or demonstrated behavior, education, training, work traits and work related skills that can be readily applied by the worker. They are skills that are interchangeable among different jobs and workplaces. Non work related talents or skills (such as hobbies) that are both demonstrated and applicable may also be considered.



If at all possible, I will also go on site to where the worker was injured and complete a job of injury job analysis. A job analysis is the gathering, evaluating, and recording of accurate, objective data about the characteristics of a particular job. This includes the essential functions of the position any cognitive aspects of that job as well as the physical demands.

Once I have gathered that data and generated a job analysis report, that report will then go back to the employer where the job analysis was done for review as well as to the worker to review for accuracy. Once I have the job of injury job analysis complete as well as any transferable skills job analyses applicable to the worker's prior work history and educational background including any hobbies, I will then send those job analyses to claim related medical professionals including the attending physician for review.



Pending the signed releases to gainful employment by applicable medical professionals, I will work with the injured worker and the employer of record in an effort to evaluate if there are any return-to-work options that fit with what the worker can do and what the employer has to offer. In some instances, there are on site medical professionals such as HPMC at the Department of Energy/Hanford that require a fit for duty test for workers before they are allowed back on site. If the worker is not able to go back to work in any position with the employer of record, then depending upon the types of job analyses that were signed off on by the claim related medical professionals, I will then complete labor market surveys to document if the worker is employable based on transferable skills in the general labor market.



A labor market survey is a survey of employers in an industrial injured or ill workers labor market to obtain specific information such as physical demands and qualifications related to job possibilities.

An injured worker can be found employable in a vocation that has a wage that is lower than the wage the worker was receiving at the time of injury. There is no wage replacement guarantee in the Workers' Compensation system. As long as the possible return to work vocation based upon transferable skills has a wage more than or at minimum wage a vocational rehabilitation counselor can state that the worker is able to work based on transferable skills. The current Washington State minimum wage is \$14.49 per hour. An example of a transferable skill that an individual has and could be found employable in a new position based on transferable skills would that of Cashier. For example, if a Carpenter who was making \$45.00 an hour could no longer return to work as a Carpenter but has transferable skills on a competitive basis as a Cashier and their doctor and or medical providers applicable to the claim released the worker to the vocation of cashiering and the labor market was supportive (meaning jobs exist in that field in the workers geographical labor market) the injured worker could be found employable based upon transferable skills.

If found employable, time loss/disability income being received by the worker ends. Whether the injured worker wants to or is interested in returning to work in vocations they have transferable skills for is not relevant when assessing their employability.



If an injured worker is not able to return to work with their employer of record, and they cannot return to work based on transferable skills, a vocational counselor could recommend that the worker is eligible for retraining.



Vocational Retraining.
In the State of Washington there are
two distinct options if you are eligible
for training.

Please click on the link below for detailed
information from the WA State
Department of
L & I.

<https://lni.wa.gov/forms-publications/F280-018-000.pdf>



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VOCATIONAL CONSULTING AND MEDICAL CASE MANAGEMENT

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