

Memorandum

TO: Vocational Rehabilitation Counselors and Job Placement Specialists
CC: Vocational Rehabilitation Specialists, Kris Peterson
FROM: Glenn Morton
DATE: July 17, 2009
SUBJECT: Meeting Announcement & Results of April 17, 2009 Meeting

The next informal meeting between court staff and certified vocational rehabilitation service providers is now scheduled for Friday, July 31, 2009, at 2:00 pm. The meeting will be held at the court's administrative offices at 1221 "N" Street, Suite 402, in Lincoln (TierOne Center). Meetings are held on a quarterly basis, with the final meeting for this year tentatively scheduled for October 23, 2009. Tentative dates for 2010 meetings will be determined at the October 23, 2009 meeting.

The following are the results from the April 17, 2009 meeting. If you have questions or concerns about any of the discussions or decisions at that meeting please notify the court's Vocational Rehabilitation Section prior to the next meeting and they will be considered at the next meeting.

1. Form Revisions: A number of new and revised forms were discussed and approved, as described below. These were subsequently circulated to all certified counselors and job placement specialists on April 20, 2009 and were approved for use immediately. The changes were largely intended to implement decisions made at the December 12, 2008 meeting. The new versions of the forms are also available on the court's web site.

Supplemental Billing Request and April 2009 Plan: The change on these two forms was to the Tutor Information & Fees billing request. The authorization for tutor fees will now be for a specified number of hours per week rather than for a number of hours per day and days per week.

GED, ESL, ABE Training Attendance Log: This log needs to be completed by clients in one of the non-postsecondary training plans for each training trip. The client will need to complete **all columns** on the log and obtain the trainer's signature at each session. At the end of the month the number of miles will need to be totaled and the total will be entered on the mileage reimbursement request. The log will need to be submitted to the counselor for verification with the mileage reimbursement request. The counselor should explain any discrepancies, add any clarification necessary BEFORE signing the request and submitting it to the court.

GED, ESL, ABE Training Mileage Reimbursement Request: The completed Attendance Log needs to be attached when the request is submitted to the court. The court will calculate the maximum monthly mileage rate after the form is received. Reimbursement is the actual mileage amount or the maximum monthly amount, whichever is lower.

Instructor's Progress Report: The only change to this form is to the frequency with which it must be submitted. The progress report needs to be completed by instructors (not tutors or language lab monitors) each time the client is tested. The form will be completed independent of any attendance record.

Monthly Tutor Payment Form: There has been no change to the Payment Form. The attendance record from the back has been eliminated in favor of the other two attendance logs.

Post-Secondary Training Mileage Reimbursement Request: The only change to this form is to the title. It is only to be used for formal post-secondary training plans. REMINDER: All columns on the Mileage Log need to be completed and any abnormality needs to be explained.

2. **General Issues:** There was continuing discussion of issues of ongoing concern to the counselors and court specialists, as follows:

Class Schedules: The court specialists noted that classes need to match up with the plan of study, or an explanation should be given. This includes identifying courses that will fulfill elective requirements and classes that substitute for another required class.

Differing Medical Opinions on Permanent Restrictions: There was discussion regarding what should be done in situations where there are differing medical opinions regarding permanent restrictions when a plan is being developed. Some counselors expressed concern that it is not within their scope of practice to make a choice between such differing opinions. If the differences are significant, either the parties need to agree on the restrictions to be used or a determination needs to be made by a judge. It was agreed that the existence of differing permanent restrictions should be addressed somehow, either on the plan form or otherwise.

Endorsement of Permanent Restrictions: There was a question as to what is needed to verify that a physician has endorsed permanent restrictions which are not authored by the physician, as required by the plan form instructions for item 4. It was agreed that a statement by the counselor that a physician has endorsed the permanent restrictions is sufficient. A written confirmation from the physician is not required.

Projected Wage: There was a question as to what should be done when the projected wage after rehabilitation is substantially lower than the wage at the time of injury. It was noted that the plan form instructions for item 6 state that in this situation the counselor should “confirm in the Plan Justification that this has been discussed with the employee and the employee understands and voluntarily accepts this difference.”

Assessment Tools: Concern was expressed that some counselors may be using out of date assessment tools. Counselors are encouraged to ensure that they are using only the current version of any instrument or test.

ESL Classes: There were further discussions regarding the availability of ESL classes. The court has attempted to contact the federal NAFTA program in Hastings as previously suggested, but has been unable to locate any information regarding ESL activities of that program. There were suggestions regarding possible contacts for further information. There has been no further contact between the court and the Department of Education on possible collaboration to improve the availability of such classes. However, the court will continue to pursue this option and present an update at the next meeting.

3. Next meeting agenda items. At the next meeting on July 31, 2009 we will address the following as time permits:

- a. New Court Specialist: Introduction of Fay Woodward.
- b. Class Schedules: There is a continuing problem with classes being reported on class schedules that are not on the plan of study, without an explanation being given. Would a form or forms help to avoid the problem? Is there another solution?
- c. Work Opportunity Tax Credit (WOTC) Program: It has been suggested that tax credits may be available under the WOTC program for employers hiring disabled workers in workers' compensation cases. To date the court's legal staff has found no authority for such credits to be extended to workers' compensation cases, and the Department of Education agrees. However, it has been reported that other states frequently make use of this credit in their workers' compensation systems. Is anyone aware of a contact in another such state making use of this program in workers' compensation cases?
- d. LOE Training & Fact Sheet: It was decided at the September 14, 2007 meeting that the court staff and counselors will partner in LOE evaluation training efforts and in development of a court "fact sheet" on LOE evaluations. A draft fact sheet developed by the court staff will be presented for initial discussion at this meeting. A revised draft will then be circulated for further consideration at a future meeting. Once the fact sheet has been signed off on by the specialists and counselors it will likely be submitted to the judges of the court for further input. Training efforts will be considered after the finalization of the fact sheet.

4. Future meeting agenda items. The following topics will likely be addressed at future meetings. Any suggestions for additional agenda items are welcome.

- a. ESL Classes: Continuing discussions regarding improving the availability of ESL classes, and the status of the court's interaction with the Department of Education on possible collaboration to expand access to such classes.
- b. Case Closure Form: Continuing discussion of possible changes to the form, including a number of suggestions made at the meeting on July 25, 2008. As discussed at that meeting, the court staff will prepare a draft of a revised form for consideration at a

future meeting.