

Memorandum

TO: Vocational Rehabilitation Counselors and Job Placement Specialists
CC: Vocational Rehabilitation Specialists, Nancy Sedlacek
FROM: Glenn Morton
DATE: July 12, 2013
SUBJECT: Meeting Announcement & Results of May 10, 2013 meeting

The next informal meeting between court staff and certified vocational rehabilitation service providers is scheduled for Friday, July 26, 2013, at 2:00 pm. The meeting will be held at the court's administrative offices at 1221 "N" Street, Suite 402, in Lincoln. Meetings are held on a quarterly basis, with the final meeting for this year scheduled for October 25, 2013. Tentative dates for 2014 quarterly meetings will be identified at the October 25, 2013 meeting.

The following are the results from the May 10, 2013 meeting. Please bring any questions or concerns regarding the discussions or decisions to the attention of court's Vocational Rehabilitation Section and they will be considered at the next meeting.

- 1. ACH/Debit Cards:** There was an update on implementation of the new direct deposit and debit card system for payments from the Workers' Compensation Trust Fund. The system went into effect March 1, 2013 and implementation has gone very smoothly. Responses have been overwhelmingly positive.
- 2. Case Closure Report Form:** There was an update on implementation of the revised case closure report form (VR-37E). The revised form and related instructions were placed on the court's web site immediately following the meeting, and use of the revised form became mandatory effective July 1, 2013. The purpose of the revisions is to allow the court to better respond to inquiries from the Legislature and others regarding the performance of the vocational rehabilitation program. The revised form does not include cost information, which is due largely to the inability to appropriately allocate costs when a counselor is assigned to provide both vocational rehabilitation services and a loss of earning power evaluation. The form is applicable only to vocational rehabilitation services, and some services may be applicable to both the evaluation and development of a vocational rehabilitation plan and to a loss of earning power evaluation (e.g., a labor market survey).
- 3. Counselor Designation Form:** There was a review of proposed changes to the counselor designation form (VR-42), copies of which were circulated to all certified counselors prior to the meeting. The revised form was subsequently approved by the court and will be required for both new and reopened cases effective June 1, 2013. The changes were made in response to a concern that the current form does not adequately address reopened cases if the counselor has been appointed vs. agreed to. The Social Security Number was also removed from

the form as part of the court's ongoing effort to remove this number from court forms due to privacy concerns.

A question was raised as to whether this form should be submitted if the case is reopened for a loss of earning power evaluation only and the counselor was originally agreed to or appointed for both vocational rehabilitation and a loss of earning power evaluation. The answer was yes, the counselor should submit this form (VR-42), although the case closure report form (VR-37E) should not be submitted. As noted previously, the case closure report form is applicable only to vocational rehabilitation services and not to a loss of earning power evaluation.

4. Legislative Update: The only workers' compensation bills passed and approved by the Governor from the 2013 legislative session were LB 21 and LB 141. LB 21 eliminated the sunset found in §48-1,111 for mental-mental injuries sustained by first responders which are covered under §48-101.01. LB 141 was a technical bill which (1) synchronized two provisions of the Nebraska Workers' Compensation Act relating to modification or reconsideration of compensation court orders, and (2) synchronized statutory provisions for appeals from a trial court decision of the compensation court with Nebraska Supreme Court rules governing appeals from the state district courts. Other workers' compensation related bills remain in committee and may receive further consideration during the 2014 legislative session. These include LBs 307, 310, 324, and 584. Descriptions of these bills may be found on the Legislature's web site at <http://nebraskalegislature.gov>.

5. Mileage Reimbursement: Concerns had been raised that some of the court's administrative policies regarding mileage reimbursement were overly restrictive or created unnecessary barriers to the successful completion of a vocational rehabilitation plan. After careful consideration the following changes have now been implemented.

- a. Rule 38(D) recipients are now allowed to submit mileage reimbursement requests for local travel in addition to the one roundtrip to and from their customary residence at the beginning and end of each term.
- b. The 4-hour rule is abolished. Mileage reimbursement may be allowed for multiple trips on one day.
- c. Mileage reimbursement may now be allowed on days classes are not scheduled for the individual. For example, mileage may be allowed on such days for things such as registration, advisor meetings, purchase of books or supplies, meeting with a tutor, studying, exam/test taking, and using computer labs.
- d. Mileage reimbursement in job placement plans is no longer limited to a maximum of 345 miles per week. Such mileage will be based on the actual mileage accrued.
- e. Mileage reimbursement for supportive services (GED, ELL, ABE or other) will no longer be limited by the MBR rate for the school or training facility. Such mileage will be based on the actual mileage accrued.

It must be noted, however, that in all cases mileage reimbursement is subject to a standard of reasonableness. The court specialist will use his or her professional judgment regarding the reasonableness of trips or potential abuse of mileage and additional supporting justification/documentation may be required. In all cases, the reason for each trip must be included on the log sheet submitted with the reimbursement request. Requests submitted without a log sheet or without listing the reason for each trip will not be considered for reimbursement.

The above changes will necessitate revisions to multiple court forms and instructions. Proposed changes to the forms and instructions will be forward to all certified counselors in advance of the July 26, 2013 meeting and will be considered at that meeting.

A question was raised regarding the court's administrative policy of not reimbursing for books or supplies purchased before the beginning date of the plan. It was recognized this can create difficulties for those students who wish to be prepared on the first day of classes, but it was also understood that appellate courts have ruled that an employee must be engaged in an approved plan before compensation is owed. This issue is currently under consideration by the court and will be discussed further at the July 26, 2013 meeting.

6. LOE Evaluations: There was discussion regarding the quality of loss of earning evaluations being performed by some counselors who are certified and appointed by the court and whether those reflect poorly on the professionalism of counselors as a whole. A number of possible options were considered, including requiring LOE training for counselor certification. It was understood that a separate certification for LOE evaluations would likely not be possible given the wording of §48-162.01. Nevertheless, it was agreed that the possibility of requiring such training will be considered further, perhaps as a condition for certification. Issues to be resolved would include whether Nebraska specific training would be available, given the unique aspects of our law, and whether such training would be available on a long term basis.

7. Next meeting agenda items: At the next meeting on July 26, 2013 the following will be addressed as time permits:

a. Court Forms and Instructions: Review of proposed revisions to several court forms and instructions necessitated by changes to the court's administrative policies regarding mileage reimbursement. (See attached copies.)

b. Books and Supplies: Consideration of changes to the court's administrative policy regarding reimbursement of books and supplies purchased before the plan start date.

c. Tools and Equipment: Review of the court's administrative position regarding job vs. plan related tools and equipment.

d. General Issues: Discussion of any other issues of concern or interest to the counselors or court specialists.

8. Future meeting agenda items: No additional agenda items are currently identified for future meetings. Suggestions are welcome.

