

Memorandum

TO: Vocational Rehabilitation Counselors
CC: Vocational Rehabilitation Specialists, Kris Peterson
FROM: Glenn Morton
DATE: May 18, 2004
SUBJECT: Meeting Announcement & Results of April 23, 2004 Meeting

The next informal meeting between court staff and certified vocational rehabilitation counselors is scheduled for Friday, May 21, 2004, at 2:00 pm. The meeting will be held in the conference room of the court's offices at 525 South 13th street in Lincoln.

The following are the results of the discussions at the April 23, 2004 meeting.

1. Previous meeting outcomes. The memorandum from Glenn Morton dated April 9, 2004 documenting the outcome of the meeting on March 26, 2004 was raised for discussion. At the request of court staff there were further discussions regarding testing. Changes were made to the outcomes previously reported under Paragraph 4,c (Plan justification) of the April 9, 2004 memorandum, as follows:

Testing:

- i. Required placement tests (standard requirements of the Nebraska Department of Education):
 - GED: TABE, including scores and grade level interpretation. Must be completed during development of the plan.
 - ESL: BEST, including scores and functioning educational level interpretation, or other standardized assessment utilized by the ESL training provider. If BEST is used, must be completed during development of the plan.
 - Post Secondary Training (community college): COMPASS and/or ASSET if required for admission, including scores and identification of developmental/remedial courses. Must be completed during development of the plan.
- ii. Testing must relate to the proposed plan.
- iii. Narrative interpretation of all testing results must be provided. Do not provide raw data only.
- iv. Aptitude testing, interpretation, and/or other supporting documentation (e.g. achievement and general cognitive ability testing) must support the employee's ability to get through the program and do the job.

v. Significant variances between test results and the proposed goal must be explained.

2. NWCC ethical standards. There was extensive discussion of the draft changes to NWCC ethical standards, and revisions were recommended as shown in the attached revised draft. All certified counselors are invited to submit comments regarding this revised draft to Glenn Morton by Thursday, May 21st. Comments will then be reviewed at the next meeting on May 21st, and further action will be considered. Once the revised standards are approved by the court these will be sent to all certified counselors with an acknowledgement form that must be signed by the counselor and returned to the court.

In discussing the draft changes, consideration was given to the notice that counselors must give to clients at the outset of the relationship. (See paragraph (1)(f) of the attached draft.) It was decided that the court will not require or endorse any particular form, and that no particular form will be referenced in the standards. It was recognized that this is primarily an ethical issue, rather than something that should be addressed by rule or regulation. It will be up to each individual counselor to develop his or her own form.

In the discussions it was recognized that both the NWCC and CRCC ethical standards state that the counselor's primary obligation is the client/injured employee. However, the group also recognized and agreed that the counselor has an obligation to be fair and unbiased in all of his or her activities, and that it is not the role of the counselor to be an advocate for either the employee or the employer/insurer.

3.. CRCC ethical standards. No additional comments were received since the last meeting regarding the proposal to accept the CRCC ethical standards as generally accepted standards of conduct for all counselors providing services under the Nebraska Workers' Compensation Act. This is now included in the revised draft changes to the NWCC ethical standards. (See paragraph (2) of the attached draft.)

4. Future agenda items. The following topics will be addressed at future meetings, beginning with the next meeting on May 21st.

a. Previous meeting outcomes. Review the "outcomes" memorandum from the previous meeting for corrections, deletions, or additions.

b. Cumulative Grade Point Average. In an e-mail to all certified counselors on May 13, 2004 Kris Peterson requested that counselors and clients work together to make sure the cumulative grade point average is included in the term grade report due by the end of the first class day of the new term. Is further discussion needed on this issue?

c. Plan of study. Court staff have requested that this issue be moved up on the agenda. For discussion purposes they propose the following definition: "A term by term projection of courses to be taken for the entire course of the program."

d. Hybrid plans. Discussion was in progress at the end of the last meeting. The court's

position has been that the court will generally not approve ESL/JP or GED/JP concurrently, but will consider this on a case by case basis with appropriate justification. The issue is should these be allowed at all, and if so under what circumstances.

e. ESL - Classwork vs. Tutoring. The court's position is that tutoring is for supplementing ESL classes, to be used concurrently with classes, and should not be the only component of a plan. What is the appropriate number of hours of class work versus tutoring?

f. Labor market information. The courts' position is that a full survey including documentation of each employer contacted is not necessary but may be requested depending on the case.

g. Transferable skills.

h. Reporting to the court. What type of reporting to the court is appropriate on a regular basis? Rule 37,B addresses monthly reports, Rule 37,D addresses notice to the court if an employee fails to make satisfactory progress or discontinues participating in an approved plan, and Rule 37,E addresses notification to the court upon termination of services or case closure. Are there questions regarding the current requirements for these reports and are changes needed? What type of reporting or updating is it appropriate for the court's specialists to request in monitoring a plan?

i. Job goals for ESL/GED/ABE. The court's current policy for ESL and GED is that vocational goals are not mandatory since the focus is on general employability, and that if ESL or GED is a first step in formal retraining the counselor may submit one consolidated plan or two separate plans at the same time. The court's current position for ABE or remedial programs is that they may be a component of a retraining plan but do not constitute retraining in and of themselves. Should the policies for ESL,GED, and ABE be the same and why or why not? Is the court's current policy regarding ESL and GED consistent with statute section 48-162.01(3)(e) and Rules 44,B,3,e and 44,C?

j. Services outside a plan. Under what circumstances, if any, is it appropriate for a counselor to provide vocational rehabilitation services outside the context of an approved plan? If it is appropriate, what are the notice and reporting requirements? Rule 36,B provides that all voluntary vocational rehabilitation plans must have prior approval of the court's vocational rehabilitation specialists. Is this a question of what services are and are not part of a vocational rehabilitation plan, and if so what services are and are not in fact part of a plan? Is it acceptable for a counselor to provide job placement services before or after the date of an approved plan?