

Memorandum

TO: Vocational Rehabilitation Counselors and Job Placement Specialists
CC: Vocational Rehabilitation Specialists, Nancy Sedlacek
FROM: Glenn Morton
DATE: October 16, 2014
SUBJECT: Meeting Cancellation & Results of July 25, 2014 Meeting

The next informal meeting between court staff and certified vocational rehabilitation service providers was tentatively scheduled for Friday, October 24, 2014. However, the meeting has been cancelled due to a lack of agenda items.

Regular meetings are typically held on a quarterly basis at the court's administrative offices at 1221 "N" Street, Suite 402, in Lincoln. Future meetings have been tentatively scheduled for January 30, 2015, April 17, 2015, July 31, 2015, and October 23, 2015.

The following are the results from the July 25, 2014 meeting.

- 1. ReliaCard Conversion:** Changes to the US Bank ReliaCard system were announced and discussed. This system is used for Workers' Compensation Trust Fund payments to vocational rehabilitation clients who have not elected to receive such payments by direct deposit. All certified counselors and specialists were subsequently notified of changes, and these have now gone into effect.
- 2. Late Submission of VR Plans:** There was a follow-up discussion regarding the policy changes announced in the outcomes memorandum from the April 18, 2014 meeting relating to plans submitted for approval by a court specialist. As a result of those changes numerous form letters used by the vocational rehabilitation section in communicating with the parties have now been revised. Revisions to the plan form signature page were also discussed and agreed to in order to insure that the client is advised of the risk that he or she may be responsible for plan expenses incurred before the plan is finally approved. An amended plan form (VR-44) including the revised signature page and other changes was subsequently circulated to all certified counselors and specialists, and is now required for all plans submitted to the section.
- 3. Temporary LOE for Member Injuries:** A question was raised by a counselor regarding a recent order and appointment to provide a loss of earning power evaluation for temporary partial disability where the injury was to a scheduled member. The question was why such an evaluation is appropriate for a scheduled member injury.

While complex, the legal basis for this appears to be as follows: Section 48-121(3), which establishes a schedule of benefits for member injuries, applies only to *permanent* injuries and not to temporary injuries. Further, 48-121(2), which provides for benefits for partial disability based on loss of earning power, is not limited to whole body injuries. Therefore, compensation based on loss of earning power is appropriate for *temporary* partial disability due to a scheduled

member injury, whereas it is not appropriate for *permanent* partial disability due to a scheduled member. For purposes of *permanent* partial disability, a whole body injury is still required under section 48-121(2) for an award based on loss of earning power. The exception to this is for multiple member injuries as addressed in the third paragraph of section 48-121(3).

The vocational rehabilitation section has received other such requests in recent months, and after careful consideration has appointed a counselor to perform the evaluation. For such requests evidence of maximum medical improvement and permanent restrictions is obviously not required, but the section does require evidence of temporary restrictions authored or endorsed by a physician. The counselor appointment request form (VR-42b) has now been revised to account for this type of request.

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