

# Memorandum

**TO:** Vocational Rehabilitation Counselors and Job Placement Specialists  
**CC:** Vocational Rehabilitation Specialists, Nancy Sedlacek  
**FROM:** Glenn Morton  
**DATE:** October 7, 2015  
**SUBJECT:** Meeting Announcement & Results of July 31, 2015 Meeting

The next informal meeting between court staff and certified vocational rehabilitation service providers is scheduled for Friday, October 23, 2015, at 2:00 pm. The meeting will be held at the court's administrative offices at 1221 "N" Street, Suite 402, in Lincoln. Regular meetings are typically held on a quarterly basis, and tentative meeting dates for 2016 will be discussed at the October 23, 2015 meeting.

The following are the results from the July 31, 2015 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. Court Staffing:** It was announced that Brett Ruoff has left his position as a vocational rehabilitation specialist with the court. As a result, the duties and geographic areas of responsibility for the two remaining specialists, Nicki McDevitt-Walter and Kathi Stultz, have been adjusted accordingly. A decision regarding filling the open position has been deferred due to the reduced number of plans being submitted to and reviewed by the section.

**2. Trust Fund Payments for Plan Expenses:** The court has consistently taken the administrative position that the trust fund is only obligated to pay for expenses that are reasonably necessary for the successful completion of an approved vocational rehabilitation plan. See the outcomes memorandum from the July 26, 2013 quarterly meeting. That memorandum addressed the court's administrative position relating to payment for tools and equipment, and noted that items which are required for the performance of a job rather than for completion of a vocational rehabilitation plan will generally not be approved by the Vocational Rehabilitation Section. However, further clarification is needed regarding payment of expenses in a job placement plan, given that the ability to perform the job sought is obviously essential to obtaining the job and thereby satisfactorily completing the plan.

It continues to be the court's administrative position that, with appropriate justification, the trust fund will pay for expenses that are reasonably necessary for the successful completion of an approved vocational rehabilitation plan. For formal training plans, this means expenses necessary for the successful completion of the program of study. For job placement plans, this means expenses necessary for *obtaining* employment consistent with the job goal or goals identified in the plan. This does not mean expenses that would improve the employee's performance, chances for advancement, or other such factors once the job has been obtained. Whether the expenses are reasonably necessary for obtaining the job, versus better performing the job, etc., once the job has been obtained, will be a case by case decision by the court

specialist based on labor market information or other factors in the individual case. Similarly, decisions regarding payment of expenses in a formal training plan will continue to be made by the court specialist on a case by case basis.

It should also be noted that the above policy applies regardless of the nature of the expense, including, for example, tools, equipment, licensure, certifications, books, supplies, and mileage. Additional restrictions and requirements may apply in accordance with the plan form instructions and other court policies. This policy also applies regardless of whether the expense is incurred before, during, or after the plan dates, so long as the expense is reasonably necessary for the successful completion of the approved plan. Nevertheless, counselors are required to identify any necessary expense as part of the proposed plan or as soon as possible once the need for the expense becomes known.

**3. Legislative Resolution 246:** There was discussion regarding LR 246 which is currently before the Business and Labor Committee of the Nebraska Legislature. The stated intent of the resolution is to analyze the effectiveness of vocational rehabilitation in Nebraska workers' compensation cases and to examine the outcomes for those in the system who receive such rehabilitation.

The purpose of the vocational rehabilitation program, as stated in §48-162.01, is to provide vocational rehabilitation services to those employees who, as a result of a work related injury, are unable to perform suitable work for which they have previous training or experience. There was a strong consensus among the meeting participants regarding the importance of the program to the workers' compensation system in Nebraska. Nevertheless, it was also agreed that there are problems with the system as it currently operates which could and should be addressed. Chief among those is the need for the counselor to become involved with the client much earlier in the process, rather than waiting for maximum medical improvement. It was noted that referrals to the counselor sometimes occur two years or more following the injury, at which point the counselor is often facing an uphill battle due to the employee's emotional and economic problems caused by the long delay.

Subsequent to this meeting a hearing on LR 246 was conducted by the Business and Labor Committee on October 1, 2015. Further activity on the resolution is expected before the start of the 2016 legislative session in early January, with the possibility of legislation being introduced at that time to address issues identified during the study.

**4. Next meeting agenda items:** At the next meeting on October 23, 2015 the following will be addressed:

- a. Establish tentative quarterly meeting dates for 2016. Suggested dates for consideration are January 29, 2016, April 22, 2016, July 29, 2016, and October 22, 2016.
- b. Continuing discussion regarding LR 246 and the Business and Labor Committee hearing on October 1, 2015.
- c. Discussion of any other issues of concern or interest to the counselors or court specialists.

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