

Oregon Workers' Compensation

Topic of Interest

Vocational Dispute Resolution

The Vocational Assistance Program is part of the Employment Services Team (EST) within the Benefit Services Section. Their primary purpose is to resolve vocational disputes between Oregon injured workers and insurers.

Issues

Many disputes are not black and white, but involve “gray” issues which often lend themselves to compromise and agreement. Issues typically fall into the following categories:

Original eligibility for vocational assistance
Substantial handicap
What constitutes suitable employment
Entitlement to training versus direct employment
Ending eligibility

Re-determining eligibility
Quality of services
Choice of counselor
Direct worker purchases

Process

Because vocational dispute resolution involves facilitation as well as arbitration, the vocational reviewer follows a variety of processes in the pursuit of a solution which could include any or all of the following examples:

- Review file materials and resource documents
- Facilitate in-person or telephone conferences with the parties
- Visit a worksite to observe the performance of a particular job
- Use his or her expertise to review and analyze complex labor market information

When a vocational reviewer facilitates an agreement, they will issue:

- A formalized letter of Agreement between parties, if the agreement involves provision of services under the vocational assistance rules; or
- An Order of Dismissal, if the worker withdraws the request for review.

If the dispute is not resolved by agreement or dismissal, the reviewer issues a Director's Order. As the director's delegate, the reviewer investigates the facts, weighs the evidence and renders a decision consistent with the statute and administrative rules governing vocational assistance. A preponderance of evidence is required in order for a party to prevail.

Resolution facts and figures

In fiscal year 2007, EST vocational reviewers resolved approximately 459 disputes. Thirty-four percent of those disputes resulted in Director's Orders. Approximately seven percent were Dismissals and twenty-eight percent were Letters of Agreement. ORS 656.283 requires the Director to complete the review “within a reasonable time.” The median number of days between the time EST receives a request until resolution is 26 days.

For more information contact: Employment Services Team: 503-947-7816