

Injured workers lack means for retraining

AS I SEE IT DANIEL STERN

Wednesday, May 02, 2007

The Patriot News

Employers and insurers regularly challenge the injured worker's right to either wage or medical workers' compensation benefits, and thousands of dollars are spent every day in the hiring of doctors, vocational experts and lawyers, all to prove that the worker is not injured as he claims.

They contend his medical treatment is unreasonable, he can work in light of his injuries, or that his continuing complaints relate to some other medical condition and are, therefore, not "work-related," the legal key that unlocks the system of benefits.

The goal of returning the injured worker to productive employment is given lip-service only; our system is at best inept and at worst counterproductive in failing to address the thousands of people whose injuries prevent them from returning to the type of work they customarily perform, and providing little guidance, funding or other assistance in re-education or retraining in an appropriate skill to permit return to work in a new job. The same, incidentally, is true for workers whose jobs have been outsourced.

An injured worker who can no longer lift or carry heavy objects, working for an employer who has no "light duty" work available, is directed to find and accept other employment. These other jobs are typically low-wage, entry-level positions in which the injured person has neither experience nor interest. But the only legal issue that matters is the workers' physical ability to do the new job -- not his long-term future, availability of insurance or other benefits, or even the hours or location of work.

The midnight desk clerk position at the local motel, or cashier position at a gas station, are perennial favorites found by insurer-hired vocational "experts" seeking to aid the injured worker back into the workforce, and a lot of time and money is spent to prove these jobs suitable. There is value in that work, but it is far from suitable, in any sense other than physical ability, for many injured workers.

How much smarter would it be to redirect the money spent on proving the availability of low-wage jobs, in order to justify cutting workers' comp benefits, to paying for re-education in a new field by obtaining an associate's degree at the local community college? Answer: incredibly smarter.

Why doesn't it happen? Because the law imposes no obligation on insurers or employers to either evaluate, retrain or re-educate injured workers. An insurer easily will spend \$10,000 to prove the suitability of a low wage job: it needs a medical expert to show physical capability, a vocational expert to show job availability and a lawyer to present evidence of both. What would that same \$10,000 buy? Probably an associate's degree.

Admittedly, not all injured workers would qualify for or be interested in going back to school, but my bet is that many would if given the chance, or if they were at least advised of the availability of additional education, some guidance about how to decide what to learn, how to enroll and continuation of benefits for two to three years. This outcome can happen now, but only by a combination of luck, good advice and self-direction. How many people would know about the Office of Vocational Rehabilitation, a state agency charged with, among other things, helping injured workers, unless they are told about it? THERE IS THE potential for big gains in money saved,

careers rehabilitated and increased economic competitiveness. The legislative fix could be as simple as requiring insurers to vocationally evaluate injured workers (similar to what they do now, but earlier in the game, and for the right purpose -- i.e. increased job opportunities); notify workers of the educational and retraining opportunities that exist, and, in cooperation with local community colleges, monitor enrollment and timely completion of classes, and pay for tuition and related expenses while continuing wage loss benefits for the time required for completion and job acquisition following graduation.

Workers who without good cause don't follow through with an approved retraining program could have benefits suspended. Without a meaningful opportunity to be re-educated to perform new work, injured workers will remain essentially forgotten except by those whose only motive is to reduce, in some way, the costs of maintaining, rather than genuinely helping them.

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