

Section	Policy
40	43.10.60

Section Title: Benefits Administration – *Vocational Rehabilitation*
 Subject: Preventative Vocational Rehabilitation
 Effective Date: December 18, 1991, for accidents occurring on or after July 18, 1984.

A. POLICY

1. A worker may be provided preventive vocational rehabilitation (VR) services or benefits when all of the following criteria are met:
 - a worker has experienced a compensable injury and it is the opinion of the WCB, after review of all relevant information, that a return to the previous occupation or industrial process is likely to cause a further compensable disability, recurrence, aggravation, or similar injury. The determination that further physical injury or occupational disease and loss of earning capacity may likely be due to the worker's susceptibility or sensitivity associated with the compensable injury or due to a pre-existing condition of the worker which significantly increases risk factors; and,
 - there is a reasonable expectation of success in preparing for alternate employability; and,
 - savings at least equal to projected costs can be predicted with a cost-benefit analysis; and,
 - a comparable service is not available from some other source at no cost to the WCB.
2. The application of cost relief for preventive rehabilitation expenditures is set out in Schedule D of policy 31.05.10, *Cost Relief/Cost Transfer - Class E Employers*.
3. If a worker is offered and provided with preventive vocational rehabilitation, and subsequently rejects or discontinues an appropriate VR plan, and returns to the previous occupation or industrial process without the written approval of the WCB, further preventive VR for the same problem will not ordinarily be provided unless approved by a WCB Director or designate.
4. Notwithstanding 3 above, the WCB Director or designate may authorize additional preventive vocational rehabilitation benefits or services when the worker's previous refusal or discontinuation of an appropriate VR plan was due to extraordinary causes beyond the worker's ability to reasonably control.
5. Expenditures under this policy may be undertaken only in accordance with guidelines authorized by a WCB Director or designate.

B. REFERENCES

The Workers Compensation Act, subsections 27(15), 27(20) and 60(2) (Prior to January 1, 1992)
The Workers Compensation Act, subsections 27(20), 27.1, 39(1) and 60(2) (January 1, 1992 to December 31, 2021)
The Workers Compensation Act, sections 27, 27.1, 39 and 60(2) (On or after January 1, 2022)

Related WCB Policies:

Policy 31.05.10, *Cost Relief/Cost Transfer - Class E Employers*
 Policy 31.05.15, *Cost Transfer - Individually Assessed Employers*
 Policy 43.00, *Vocational Rehabilitation*
 Policy 44.30.60, *Notice of Change in Benefits or Services*

History:

1. Board Order 99/84, *Preventative Rehabilitation*, approved July 18, 1984.
2. Policy 43.10.60, *Preventive Vocational Rehabilitation*, approved December 17, 1991, by Board Order 33/91 to apply to all decisions made after approval for accidents which occurred on or after July 18, 1984. Board Order 99/84 rescinded.
3. Additional Administrative Guidelines issued March 1993, effective October 1, 1992.
4. Policy updated for current position and division titles, May 2, 1994.
5. Administrative Guidelines updated February, 1998.
6. Policy updated for current position titles December 30, 2002.
7. Minor formatting, grammar, and wording changes were made to the policy, June 27, 2012.
8. Administrative Guidelines updated July 2014.
9. Policy updated November 10, 2017 to reflect consequential amendments to Section 2 and the reference section arising out of transition to the new rate setting model.
10. Minor formatting changes were made to the policy February 2021.
11. In September 2022, the policy was revised to reflect changes in organizational structure. The policy was also updated to reflect the amendment and renumbering of section 27 by *The Workers Compensation Amendment Act* (commonly referred to as Bill 18). Further revisions respond to a change in terminology that was introduced by amendments to the Act by *The Minor Amendments and Corrections Act* (MACA) 2022. The term "self-insured employer" was replaced with "individually assessed employer". The policy was changed to reflect the new title of policy 31.05.15, *Cost Transfer - Self Insured*, which is now the *Cost Transfer - Individually Assessed Employers* policy. The name of policy 31.05.10 was also changed from *Cost Relief/Cost Transfer - Class E* to *Cost Relief/Cost Transfer - Class E Employers*.

C. ADMINISTRATIVE GUIDELINES

1. General Overview - The offer of preventive vocational rehabilitation is intended to give the worker the opportunity to establish employability outside of the occupation or industrial process deemed likely to cause a further similar compensable injury. Any preventive vocational rehabilitation intervention must be cost-effective.
2. Generally, potential candidates for preventive vocational rehabilitation are identified by Case Management (i.e., where the worker is considered sufficiently recovered from the effects of the compensable injury to return to work and no benefits would otherwise be payable but a significant risk of re-injury is identified). In some cases, possible candidates may be identified by Case Management or Vocational Rehabilitation staff when restrictions are reviewed or changed.

Claims which may be eligible for preventive vocational rehabilitation will be referred to the Vocational Rehabilitation Review Committee (or VRRRC).

Referrals to the VRRRC will include the following:

- i. an introduction detailing the particular circumstances of the claim being referred.
- ii. a summary of prior claims which meet the criteria under "Risk of Further Claims" in #4 below.
- iii. reasons why the case should be considered for preventive vocational rehabilitation.

The VRRRC will pre-screen all referrals to determine whether the claim meets the criteria in #4 below and the policy.

3. Risk of a Further Claim(s):

The worker has sufficiently recovered from the effects of a compensable injury to return to work and no benefits would otherwise be payable, but the WCB considers, after review of all relevant information, that a return to the previous occupation or industrial process poses a significant risk of further compensable disability, recurrence, aggravation, or similar injury. The risk of further physical injury or occupational disease and resulting loss of earning capacity may be due to:

- i. *the worker's susceptibility or sensitivity associated with prior compensable injury(ies); or,*
- ii. *a pre-existing condition of the worker which was affected by prior compensable injury(ies) that significantly increases risk of re-injury.*

In assessing the risk of further injury(ies), the WCB will consider the following:

- i. The severity of the worker's condition, in relation to the physical or exposure demands of the pre-injury employment/occupation (i.e., how does it affect what the worker is expected to do at work).
- ii. Whether there is medical opinion and rationale supporting the likelihood of further compensable disability, recurrence, aggravation, or similar type of injury. The medical opinion should define the nature of the worker's susceptibility or sensitivity associated with the compensable injury or the pre-existing condition and how and why it places the worker at risk; and,
- iii. Whether the past claims history of the worker establishes a pattern of risk and support the likelihood of further similar injuries. The past claims history review will consider:
 - prior claims in the same or similar employment or occupation with the same or similar physical or exposure demands. Prior claims from employment or occupations reasonably outside the area of risk will not be included in the risk assessment.
 - prior claims for similar types of injuries to the same general anatomical site or for similar conditions. Prior claims for other types of unrelated injuries or conditions, or injuries to other areas of the body will not be included in the risk assessment.

- prior claims where the source of the injury or the activity which resulted in the injury can be reasonably expected in the normal course of employment (e.g., lifting or carrying, use of chemicals). Where the source of mechanism of injury is reasonably unexpected in the normal course of employment (e.g., trip or fall, "Act of God", being struck by an object), the prior claim will not be included in the risk assessment.

It is recognized that predicting the future number of recurrences without intervention where there is no prior claims history (i.e., one claim only) is problematic. In these cases, the VRRC will rely on its past experience with similar circumstances in addition to the criteria in i. and ii. above (job requirements and medical rationale) in projecting future recurrences.

- iv. The WCB must be satisfied that employment opportunities exist in the occupation or industrial process which places the work at risk, and that the worker will likely return to that occupation or industrial process. Where it is reasonable for the WCB to assume that the worker cannot or will not return to the occupation or industrial process for reasons not related to the injury (e.g., because of limited employment opportunities), the worker would not be eligible for preventive intervention.
4. Claims meeting the referral criteria will be assigned to a VRC for further assessment and to determine whether a cost-effective plan can be developed.
5. As a first step, the worker, the worker's attending healthcare provider and the pre-accident employer, with the support of the VRC, should explore whether the risk of reinjury can be mitigated through available means such as improved body mechanics, physical conditioning, work site modification or other preventive measures in the workplace. The WCB will support this process. Additional preventive vocational rehabilitation intervention will only be considered after risk mitigation alternatives have been exhausted.
6. Where the alternatives in 6 have been exhausted, the worker must next explore eligibility for retraining through other public or private agencies (such as long-term disability plans, Employment Insurance, etc). If the worker is eligible for an adequate program, the WCB will not duplicate or replace that program.

The WCB may undertake a vocational rehabilitation program jointly with another agency, if the WCB considers this will improve the outcome.

7. If the worker is not eligible for an alternative retraining program, the worker and the employer will be advised that the WCB is exercising its discretion to consider providing preventive vocational rehabilitation. The WCB may provide preventive vocational rehabilitation services where the following criteria for demonstrating cost-effectiveness are met:

Cost Effectiveness:

There must be a demonstrable cost saving to providing preventive vocational rehabilitation services when compared to the projected cost of not intervening.

The WCB will use the attached worksheet to assess potential cost effectiveness (i.e., using computerized Financial Implications Report format).

Assessing cost-effectiveness will be based on a documented cost-benefit analysis which considers the following:

- i. The projected cost of further injuries without intervention. This will be based on estimates of frequency and duration of future claims from the "Risk of further Claims" assessment (see #4) and the number of employable years to anticipated retirement (no later than age 65);
- ii. The projected cost of the proposed preventive vocational rehabilitation plan including (where applicable):

- pre-plan costs (service provider and wage loss costs to assess eligibility and develop the plan).
 - plan costs (service provider and wage loss costs for the plan itself).
 - post-plan costs (partial wage loss for the difference between pre-injury earnings capacity and post-injury earning capacity after the preventive intervention).
- iii. The marketable or transferable skills of the worker which could facilitate either a job or career change to a lower risk occupation or training for alternative employment.
 - iv. Cost projections in i. and ii. above will be expressed in current dollars for comparison purposes.
8. All Preventive Vocational Rehabilitation plans require approval as follows:
- i. Plans with a projected cost/benefit ratio of greater than 2 and a projected cost of less than \$150,000, based on present value calculations, can be approved by the Manager of Vocational Rehabilitation.
 - ii. Plans with a projected cost/benefit ratio between 1 and 2, or with a projected cost of \$150,000 or more can only be approved by a Director of Compensation Services.
9. Case Managers are responsible for ensuring that eligibility and cost-effectiveness criteria continue to be met during the life of the preventive vocational rehabilitation plan.
10. Any subsequent amendments to the original plan which significantly increase total plan costs require an updated present value calculation to ensure the plan continues to be cost-effective and are subject to approval as outlined in 9. above.
11. Duration of Services and Wage Loss Benefits:

Preventive vocational rehabilitation benefits and services will only be provided on a prospective basis. This means from when the WCB decision to provide services is made, subject to the following:

a) While Assessing Eligibility (Pre-plan):

- i. The WCB will make best efforts to assess eligibility for preventive vocational rehabilitation services prior to recovery from the effects of the compensable injury. This is so that benefits and services to the worker may continue without being interrupted wherever possible.
- ii. Where this is not possible, and additional time is required to assess eligibility, the worker and the employer will be advised that:
 - the worker has recovered sufficiently from the effects of the compensable injury to return to work and benefits are being discontinued;
 - the worker may be at risk;
 - the WCB may assist in reducing this risk and will advise of eligibility when the assessment has been completed.

b) While in the Plan (Plan):

There is no prescribed limit on the duration of services and wage loss benefits during the course of the active vocational rehabilitation plan, provided that total plan costs (pre-plan, plan and post-plan) continue to meet the cost-effectiveness criteria of the policy and guidelines.

c) After Completion of the Plan (Post-plan):

- i. Where the most recent claim occurred before January 1, 1992, post-plan partial wage loss benefits for the difference between the pre-injury average earnings and the post-plan earning capacity shall not exceed:

- 12 weeks; or,
 - 3 years, where the preventive vocational rehabilitation plan consists solely of placement in an alternate, lower-paying occupation with the pre-injury or some other employer.
- ii. Where the most recent claim occurred on or after January 1, 1992, subject to Section 27.1, post-plan partial wage loss benefits are not limited, but remain subject to consideration of ongoing cost-effectiveness.

12. Limits on Ongoing and Future Entitlement:

A worker is expected to demonstrate an ongoing effort towards completion of the preventive vocational rehabilitation plan. Benefits and services will only be provided as long as the worker continues to cooperate with the WCB in carrying out the plan.

Preventive vocational rehabilitation benefits and services will not be provided or will cease where the worker:

- a) is offered and rejects an appropriate preventive vocational rehabilitation plan; or,
- b) is provided and interrupts or discontinues an appropriate preventive vocational rehabilitation plan; or,
- c) returns to the previous occupation or industrial process without the approval of the WCB.

Where the interruption or discontinuance (12. b.) is through no fault of the worker (e.g. the worker becomes unable to participate due to a non-compensable medical condition or other event), the worker will receive advance notice in accordance with WCB Policy 44.30.60, *Notice of Change in Benefits or Services*. The worker will be asked to contact the WCB when s/he is again able to participate in the preventive vocational rehabilitation plan. The WCB will re-evaluate ongoing eligibility at that time.

Where a worker whose accident occurred before January 1, 1992, returns to the previous occupation (12. c.), additional preventive vocational rehabilitation for the same problem will not ordinarily be provided unless approved by the Vice President or Director of Compensation Services.

Where a worker whose accident occurred on or after January 1, 1992, returns to the previous occupation (12. c.), the WCB will advise the worker in writing of the existence and potential application of Section 27.1 of the Workers Compensation Act, *Limit on Further Claims*.

Where the WCB discontinues the preventive vocational rehabilitation plan because it is no longer cost-effective, the worker will receive advance notice in accordance with WCB Policy 44.30.60, *Notice of Change in Benefits or Services*.

13. Cost Allocation:

Under Schedule D of policy 31.05.10, *Cost Relief/Cost Transfer - Class E*, Class E employers may be provided with cost relief for costs associated with preventive vocational rehabilitation. Case Managers will be responsible for providing appropriate cost relief.

Under policy 31.05.15, *Cost Transfer - Self Insured*, self-insured employers are not eligible for cost relief in this circumstance. However, workers of self-insured employers who meet the eligibility criteria of this policy will be eligible for preventive vocational rehabilitation services and benefits.

The guidelines established in support of the policy are intended to ensure that any decision to provide assistance is based on a genuine projection of future risk and cost-effectiveness. An individual guideline should not, by itself, prompt or preclude assistance.

**THE WORKERS COMPENSATION BOARD OF MANITOBA
VOCATIONAL REHABILITATION PROGRAM:
PREVENTIVE REHABILITATION COST-EFFECTIVENESS**

1. ESTIMATED FORECAST COSTS AVOIDED

a) Years to retirement

{ Average/declared } _ { Current }
Retirement age Age = _____(1)

b) Recurrences

Projected No./year (may be a fraction) _____(2)
[based on past pattern, all over;
or based on medical opinion]

No. of future recurrences
(1) x (2)

_____ (3)

c) Severity of condition

Days/recurrence _____(4)

d) Compensation costs/day

\$ _____(5)

e) Total cost of future recurrences

(3) x (4) x (5) \$ _____(6)

2. ESTIMATED FORECAST COSTS

a) Benefit services

Services required
(Including training costs)

Cost

\$ _____(1)

\$ _____(2)

\$ _____(3)

\$ _____(4)

\$ _____(5)

Total (1)+(2)+(3)+(4)+(5)

\$ _____(6)

b) Compensation Costs During Rehabilitation

Length of rehabilitation program _____ days(7)

Daily compensation \$ _____ (8)

Total compensation (7) x (8) \$ _____ (9)

c) Future Compensation & Wage Loss [up to 3 years]

Compensation per day during rehabilitation services \$ _____ (10)

Forecast days of compensation until employment secured _____ (11)

Ongoing wage loss/day after employment secured \$ _____ (12)

Forecast days of wage loss \$ _____ (13)

Total: (10) x (11) + (12) x (13) \$ _____ (14)d) Contributions by other agencies

<u>Agency</u>	<u>Contribution</u>
_____	_____
_____	_____
_____	_____

Total: _____ \$ _____ (15)e) **Total Costs (6) + (9) + (14) - (15) \$ _____ (16)****3. BENEFIT-COSTS**

a) Difference 1(6) - 2(16) = \$ _____

b) Ratio $\frac{1(6)}{2(16)} =$ _____

Note: The ratio should ordinarily exceed 2.

**THE WCB OF MANITOBA
PREVENTIVE REHABILITATION SERVICES
SCHEDULE OF EXPOSURES GIVING RISE TO OCCUPATIONAL DISEASES**

Preventive rehabilitation may be considered where a claimant suffers from a disease/condition aggravated by exposure to:

PHYSICAL AGENTS

Cold	Heat
Noise	Radiated Substances, Other
Repetitive Motion	Sun
UV-Equipment	UV-Welding
Vibration	

CHEMICAL AGENTS

Acids	Alcohols
Aliphatic Solvents	Alkalies, Other
Aluminum, Dust, Fumes	Ammonia
Aromatic Compounds, Other	Asbestos
Carbon Dioxide	Carbon Monoxide
Cement, Mortar	Chlorine-Fluorine Compounds
Chlorine (Dioxide)	Chromium, Dust, Fumes
Cleaning Compounds	Coal and Petroleum Products, Other
Coal, Dust	Coal Tars
Copper, Dust, Fumes	Cutting Oils
Cyanides	Disinfectants
Drugs, Medicine	Dusts, Other
Esters	Fibreglass
Fire, Smoke, Ashes	Formaldehyde
Fuel Oil	Gasoline
Gloves, Wet	Grains, Flours
Hairdressing Chemicals	Halogenated Compounds
Hydrocarbon Gases	Kerosene
Ketones	Lead, Dust, Fumes
Lube Oil, Grease	Manufactured Gases
Metal Compounds, Other	Nitrogen Compounds, Other
Nitrogen Oxides	Organophosphorus
PAH, Tar Fumes	PCB, PBB
PCP, TCP	Pesticides, Other
Petroleum Asphalts	Phenols
Plastic Items	Pyrolysis Products
Resins	Rubber and Compounds
Silica	Sulfur, Compounds
Tetrachloromethane	Textile Items

CHEMICAL AGENTS (Cont'd.)

Urethanes, Isocyan

Water Base Paints

Weldfume, Coated Surface

Wood Dusts, Other

W,Co and Hard Metals

Water, Other Liquids

Weldfume, Uncoated Surface

Chemicals, Other

BIOLOGICAL AGENTS

Animals

Fungi and Molds

Plants, Vegetation

Bacteria

Micro-Organisms, Other

Viruses