

§ 10.516

20 CFR Ch. I (4–1–07 Edition)

§ 10.516 How will an employee know if OWCP considers a job to be suitable?

OWCP shall advise the employee that it has found the offered work to be suitable and afford the employee 30 days to accept the job or present any reasons to counter OWCP's finding of suitability. If the employee presents such reasons, and OWCP determines that the reasons are unacceptable, it will notify the employee of that determination and that he or she has 15 days in which to accept the offered work without penalty. At that point in time, OWCP's notification need not state the reasons for finding that the employee's reasons are not acceptable.

§ 10.517 What are the penalties for refusing to accept a suitable job offer?

(a) 5 U.S.C. 8106(c) provides that a partially disabled employee who refuses to seek suitable work, or refuses to or neglects to work after suitable work is offered to or arranged for him or her, is not entitled to compensation. An employee who refuses or neglects to work after suitable work has been offered or secured for him or her has the burden to show that this refusal or failure to work was reasonable or justified.

(b) After providing the two notices described in § 10.516, OWCP will terminate the employee's entitlement to further compensation under 5 U.S.C. 8105, 8106, and 8107, as provided by 5 U.S.C. 8106(c)(2). However, the employee remains entitled to medical benefits as provided by 5 U.S.C. 8103.

§ 10.518 Does OWCP provide services to help employees return to work?

(a) OWCP may, in its discretion, provide vocational rehabilitation services as authorized by 5 U.S.C. 8104. These services include assistance from registered nurses working under the direction of OWCP. Among other things, these nurses visit the worksite, ensure that the duties of the position do not exceed the medical limitations as represented by the weight of medical evidence established by OWCP, and address any problems the employee may have in adjusting to the work setting. The nurses do not evaluate medical

evidence; OWCP claims staff perform this function.

(b) Vocational rehabilitation services may also include vocational evaluation, testing, training, and placement services with either the original employer or a new employer, when the injured employee cannot return to the job held at the time of injury. These services also include functional capacity evaluations, which help to tailor individual rehabilitation programs to employees' physical reconditioning and behavioral modification needs, and help employees to meet the demands of current or potential jobs.

§ 10.519 What action will OWCP take if an employee refuses to undergo vocational rehabilitation?

Under 5 U.S.C. 8104(a), OWCP may direct a permanently disabled employee to undergo vocational rehabilitation. To ensure that vocational rehabilitation services are available to all who might be entitled to benefit from them, an injured employee who has a loss of wage-earning capacity shall be presumed to be "permanently disabled," for purposes of this section only, unless and until the employee proves that the disability is not permanent. If an employee without good cause fails or refuses to apply for, undergo, participate in, or continue to participate in a vocational rehabilitation effort when so directed, OWCP will act as follows:

(a) Where a suitable job has been identified, OWCP will reduce the employee's future monetary compensation based on the amount which would likely have been his or her wage-earning capacity had he or she undergone vocational rehabilitation. OWCP will determine this amount in accordance with the job identified through the vocational rehabilitation planning process, which includes meetings with the OWCP nurse and the employer. The reduction will remain in effect until such time as the employee acts in good faith to comply with the direction of OWCP.

(b) Where a suitable job has not been identified, because the failure or refusal occurred in the early but necessary stages of a vocational rehabilitation effort (that is, meetings with the OWCP nurse, interviews, testing,