

**New Approaches to Providing Vocational Rehabilitation  
Services to Injured Employees in the Texas Workers'  
Compensation System**



A Joint Report to The Legislature

By

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Rehabilitative Services (DARS)

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## **INTRODUCTION**

In Texas, a fundamental goal of the workers' compensation system is the return of injured employees to work as soon as the return is medically safe and appropriate. This report outlines the actions being taken by the Texas Department of Insurance, Division of Workers' Compensation (DWC) and the Department of Assistive and Rehabilitative Services (DARS) to work closely together to improve return-to-work and employment opportunities for injured employees.

During its 2004 review of the former Texas Workers' Compensation Commission (now DWC), the Texas Sunset Advisory Commission found that "relatively few resources were dedicated to return-to-work outcomes" and recommended increased focus on and dedication of resources to this critical area. Under House Bill (HB) 7, numerous administrative changes were made in the oversight of the workers' compensation system. Basic goals for the system were added to Section 402.021(a) (4) of the Texas Labor Code including the enhancement of return-to-work services for injured employees. HB 7 also provided for greater coordination between DWC and other state agencies, including DARS, in assisting injured employees to return to work.

This report focuses on the efforts being taken by DWC and DARS to improve access to vocational rehabilitation services for injured employees.

To fulfill the statutory requirements of HB 7 to improve coordination between DWC and DARS, a joint workgroup was established through a Memorandum of Agreement (MOA). This workgroup meets regularly to address issues, analyze the outcomes of referrals between the two agencies, and coordinate cross training and other joint educational and operational enhancements.

## **STATUTORY REQUIREMENTS OF REPORT**

Section 409.012 of the Texas Labor Code is amended by HB 7, 79<sup>th</sup> Legislature, to require the Texas Department of Insurance, Division of Workers' Compensation and the Department of Assistive and Rehabilitative Services to report to the Legislature not later than August 1, 2006, on their actions to improve access to and the effectiveness of vocational rehabilitation programs for injured employees. The report must include:

- A description of the actions taken by each agency to improve communication regarding and coordination of vocational rehabilitation programs;
- An analysis identifying the population of injured employees that have the poorest return-to-work outcomes and are in the greatest need for vocational rehabilitation services;

- Any changes recommended to improve the access to and effectiveness of vocational rehabilitation programs for the populations identified; and
- A plan to implement these changes.

## **AGENCY ACTIONS TO IMPROVE COORDINATION OF PROGRAMS**

During Fiscal Year 2006, DWC and DARS developed and conducted joint training for DARS, Division for Rehabilitation Services (DRS) Vocational Rehabilitation counselors and DWC local staff. This training included an overview of the workers' compensation process, return-to-work concepts and the vocational rehabilitation process for workers' compensation cases. Emphasis was given to making referrals from DWC to DARS earlier in the life of a workers' compensation claim and to the importance of the injured employee preparing for return to work as soon as practical following the injury. More than 500 DARS-DRS counselors received this training and about 300 DWC staff received training regarding return to work and DARS referrals.

DWC and DARS also developed training regarding changes to the workers' compensation law under HB 7 for DARS, Division for Blind Services (DBS) staff serving people who are blind or visually impaired. The training was presented to 188 DARS-DBS staff at a statewide conference in April 2006 and included the impact of workers' compensation law on vocational rehabilitation consumers injured on the job and strategies for providing effective vocational rehabilitation services for these consumers.

Other actions taken by DARS to improve communication regarding and coordination of vocational rehabilitation services include:

- The addition of a workers' compensation component to the DARS New Counselor Training program;
- The assignment of at least one counselor in each DARS-DRS field office to be a subject matter expert and liaison for workers' compensation or, if needed, have a specialty caseload to handle all workers' compensation cases;
- Modification of the DARS-DRS electronic case management system, Rehabilitation Services System (RSS), to more accurately identify referrals from DWC and those DARS-DRS clients who have current workers' compensation claims;
- Establishment of DARS-DRS procedures and guidelines for field offices to follow in handling DWC referral letters to encourage injured employees to contact DARS-DRS offices and apply for vocational rehabilitation services; and

- Development by DARS-DRS of an intranet Counselor Desk Reference chapter titled Return to Work Services for Injured Employees. The Counselor Desk Reference chapter titled “Workers’ Compensation” was updated to reflect the changes under HB 7.

Other actions taken by DWC to improve communication regarding and coordination of return-to-work outcomes include:

- Creation of an agency performance measure for Fiscal Year 2008-09 to track the percent of workers’ compensation claimants who receives benefits (temporary income benefits) for 90 days or less. Monitoring and analysis of this data, as well as data on the claimants receiving benefits for more than 90 days, will aid in identifying injured employee populations that may be at risk of not returning to work and that may benefit from vocational rehabilitation services; and
- Outreach to non-state agency vocational rehabilitation professionals, caseworkers, occupational therapists and physical therapists and others involved professionally in the functional and vocational restoration of employees. This outreach includes education on best practices for return-to-work programs such as:
  - Effective safety and training programs conducted regularly and to include accurate reporting of incidents and accidents, new employee basic safety, and targeted remedial training;
  - Improved communications and working relationships with local health care providers;
  - Communication with claims payers about the importance of early identification of “at risk” cases;
  - Changing workplace practices to become supportive and accepting of injured employees back into the workplace for the benefit of the employees and the company;
  - Review and improvement of the information available to injured employees during and after recovery; and
  - Education of management, supervisors and employees about the value of each employee to themselves, their families, their co-workers and the company.

## **ANALYSIS OF INJURED EMPLOYEES IN GREATEST NEED OF VOCATIONAL REHABILITATION SERVICES**

Preliminary analysis of injured employees who have received temporary income benefits for more than 90 days shows that over half of those injured employees have back or upper extremity injuries and the nature of their injury is a sprain or strain.<sup>1</sup> Additionally, more than one third of that population worked for the employer for less than a year when the injury occurred. This and other data analyses will be used to support changes in determining when interventions, such as a referral to DARS, occur and where to focus educational outreach efforts.

DWC has been referring persons with certain types of workers' compensation injuries to DARS for assistance since 1991. By DWC rule, referrals to DARS are made automatically when:

- The injury is an amputation of an arm, big toe, leg, and/or foot;
- The injury is a heart attack;
- The injury is an occupational disease;
- There are spinal cord injuries; and/or
- The injury results in an impairment rating of 15% or greater.

At the time the rule was adopted, these injuries were identified as those that would likely require vocational rehabilitation services. In addition to the required referrals, DWC staff may refer an injured employee with other injury types to DARS upon request or when vocational rehabilitation services are deemed appropriate.

Based on the current analysis of injured employees' temporary income benefit durations and other data analyses, DWC is reviewing rule requirements to determine if additional or different injury types should be added to the rule to result in automatic referrals to DARS.

### **Outcome of DWC Referrals to DARS:**

Since 2004, DWC has been providing DARS-DRS with data on all referrals made to DARS-DRS on an annual basis. DARS-DRS has matched its data to the DWC data to determine whether those injured employees referred to DARS-DRS apply for services, and if so, the outcome of employees' relationship with DARS-DRS.

<sup>1</sup> As a proxy for identifying how long an employee may be out of work due to a workplace injury, DWC is analyzing how long injured employees receive temporary income benefits. Temporary income benefits are paid while a person is unable to work at their pre-injury wage.

Approximately one quarter of injured employees referred to DARS-DRS in 2004 and 2005 applied for DARS-DRS services. Of those employees who applied for services in 2005, 76% were determined to be eligible. In 2005, 71 percent of referred injured employees who were determined to be eligible for DARS-DRS services received services under an Individualized Plan for Employment. This was a slight increase compared to 2004. (Please see Appendix). One target of opportunity may be to identify if there are interventions that may encourage more employees who are referred for vocational rehabilitation services to apply for those services.

Starting in 2006, DARS began providing claim level detail information on the cases referred by DWC that will enhance the cooperative efforts in identifying the employees who will most benefit from DARS services. With the ability to identify the employees that are referred to DARS, those who are determined to be eligible for vocational rehabilitation services from DARS-VR, and those who ultimately re-enter the workforce, DWC will begin determining if there are certain types of claims that benefit from the services provided by DARS. Conversely, if determinations can be made on why individuals do not apply for or complete DARS services, additional interventions may be identified to produce higher rates of success.

## **RECOMMENDATIONS**

### **Legislative Recommendations:**

There are no legislative recommendations at this time.

### **Administrative Recommendations:**

- DWC will analyze claims data, and work with DARS to analyze vocational rehabilitation data to more clearly identify types of injuries and other demographics related to poor return-to-work outcomes. Findings will be incorporated in rule and procedure changes related to referrals to DARS for vocational rehabilitation services.
- DWC will adopt return-to-work case management rules to provide assistance for injured employees who have been identified as being “at risk” for not returning to work, including identification of who is responsible for providing the return-to-work case management services.
- Continue training initiatives within both DWC and DARS and emphasize collaborative relationships and clear communication about referrals.
- Revise the Work Status Report (DWC 73), to identify what work activities an injured employee is able to do rather than only what he or she is limited in doing.

- Enhance public information strategies, including distributing brochures that describe and explain vocational rehabilitation services available through DARS, to promote the benefits of return to work.
- DARS counselors and their local DWC counterparts will maintain collaborative relationships.

## **PLAN TO IMPLEMENT CHANGES IN COORDINATION OF DWC AND DARS SERVICES**

### **In Fiscal Year 2007:**

- DWC will adopt amended Supplemental Income Benefits rules, including types of workers' compensation injuries that should be referred to DARS at the time of injury.
- DWC will adopt case management rules.
- DWC and DARS will analyze the case specific data for the claims referred to DARS.
- DWC will provide DARS counselors with access to DWC's online claim system (TXCOMP). This access will provide counselors with contact and claim information that will expedite eligibility determination and initiation of vocational rehabilitation services to injured employees who have been referred.
- DWC and DARS will identify any action items resulting from data analyses.
- DWC will continue to work with DARS to identify new collaborative initiatives.



**APPENDIX**  
**RESULTS OF DWC REFERRALS TO DARS-DRS FOR  
VOCATIONAL REHABILITATION SERVICES**

The Texas Department of Assistive and Rehabilitative Services (DARS) offers vocational rehabilitation services to injured employees who are eligible through the Division for Rehabilitation Services (DRS) and the Division for Blind Services (DBS). Determinations of eligibility for vocational rehabilitation and the services that are available through DARS are governed by federally-established regulations. Therefore, not all injured employees applying for services through DARS may be eligible for services, and DWC staff does not take into consideration the DARS eligibility requirements when making a referral to that agency. If it is determined that a person is not eligible for vocational rehabilitation services, they may be referred to the Texas Workforce Commission (TWC).

The table below shows the number of referrals made by DWC to DARS-DRS in 2004 and 2005 and the number of injured employees applying for DARS-DRS services.

Year of Referral	Number of DWC Referrals to DARS-DRS	Number of Injured Employees Referred by DWC Who Applied for DARS-DRS Services	% of Referrals Applying for DARS-DRS Services
2004	5,166	1,304	25%
2005	4,025	920	23%

Source: Division of Workers' Compensation claims referred to DARS-DRS matched to DRS records. The information about 2004 referrals is current as of March 2005; the information about 2005 referrals is current as of March 2006.

The table below shows the number of DWC referrals determined to be eligible for DARS services and, of those referrals, the number who applied and received services and returned to work for at least 90 days following receipt of services.

Year of Referral	Injured Employees Referred by DWC Who Applied for Services	Injured Employees Applying for Services Determined Eligible		Injured Employees Determined Eligible and Who Received Services Under an Individualized Plan for Employment (IPE)		Injured Employees Determined Eligible with an IPE Whose Cases Were Closed as Rehabilitated *		Injured Employees With an IPE Who are Continuing Planned Vocational Rehabilitation Services at Time of Reporting	
		#	%	#	%	#	%	#	%
2004	1,304	1,028	79%	719	70%	126	18%	404	56%
2005	920	703	76%	497	71%	78	16%	346	70%

\* Employed for at least 90 days.

Source: Division of Workers' Compensation claims referred to DARS-DRS matched to DRS records. The information about 2004 referrals is current as of March 2005; the information about 2005 referrals is current as of March 2006.