

HOUSE BILL NO. 163
INTRODUCED BY T. CALLAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATING TO REHABILITATION BENEFITS TO PROVIDE THAT THE REHABILITATION PROVIDER BE DESIGNATED BY THE DISABLED WORKER AND TO REMOVE THE PROVISION THAT THE PROVIDER BE DESIGNATED BY THE INSURER FROM THE DEFINITION OF "REHABILITATION PROVIDER"; AMENDING SECTIONS 39-71-1006 AND 39-71-1011, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-1006, MCA, is amended to read:

"39-71-1006. Rehabilitation benefits. (1) A worker is eligible for rehabilitation benefits if:

- (a) (i) the worker meets the definition of a disabled worker as provided in 39-71-1011; or
 - (ii) the worker has, as a result of the work-related injury, a whole person impairment rating of 15% or greater, as established by objective medical findings, and has no actual wage loss;
- (b) a rehabilitation provider, as designated by the ~~insurer~~ disabled worker, certifies that the worker has reasonable vocational goals and reasonable reemployment opportunity. If the worker is eligible because of an impairment rating of 15% or more, the certification must state that with rehabilitation, the worker will have a reasonable increase in the worker's wage compared to the wage that the worker received at the time of injury. If the worker is eligible because of a wage loss, the certification must state that the worker will have a reasonable reduction in the worker's actual wage loss with rehabilitation.

(c) a rehabilitation plan is agreed upon by the worker and the insurer and a written copy of the plan is provided to the worker. The plan must take into consideration the worker's age, education, training, work history, residual physical capacities, and vocational interests. The plan must specify a beginning date and a completion date. The plan must specify the cost of tuition, fees, books, and other reasonable and necessary retraining expenses required to complete the plan.

(2) A disabled worker is entitled to receive biweekly compensation benefits at the worker's temporary total disability rate. The benefits must be paid for the period specified in the rehabilitation plan, not to exceed 104 weeks. The rehabilitation plan must be completed within 26 weeks of the completion date specified in the plan. Rehabilitation benefits must be paid biweekly while the worker is satisfactorily progressing in the agreed-upon

rehabilitation plan. Benefits under this section are not subject to the lump-sum provisions of 39-71-741.

(3) In addition to rehabilitation benefits payable under subsection (2), a disabled worker who was injured on or after July 1, 1997, is entitled to receive payment for tuition, fees, books, and other reasonable and necessary retraining expenses, excluding travel and living expenses paid pursuant to the provisions of 39-71-1025, as set forth in department rules and as specified in the rehabilitation plan. Expenses must be paid directly by the insurer.

(4) A worker may not receive temporary total benefits and the benefits under subsection (2) during the same period of time.

(5) A rehabilitation provider authorized by the ~~insurer~~ disabled worker shall continue to assist the injured worker until the rehabilitation plan is completed.

(6) To be eligible for benefits under this section, a worker is required to begin the rehabilitation plan within 78 weeks of reaching maximum medical healing.

(7) A worker may not receive both wages and rehabilitation benefits without the written consent of the insurer. A worker who receives both wages and rehabilitation benefits without written consent of the insurer is guilty of theft and may be prosecuted under 45-6-301."

Section 2. Section 39-71-1011, MCA, is amended to read:

"39-71-1011. Definitions. As used in this chapter, the following definitions apply:

(1) "Board of rehabilitation certification" means the nonprofit, independent, fee-structured organization that is a member of the national commission for health certifying agencies and that is established to certify rehabilitation practitioners.

(2) "Disabled worker" means a worker who has a permanent impairment, established by objective medical findings, resulting from a work-related injury that precludes the worker from returning to the job the worker held at the time of the injury or to a job with similar physical requirements and who has an actual wage loss as a result of the injury.

(3) "Rehabilitation benefits" means benefits provided in 39-71-1006 and 39-71-1025.

(4) "Rehabilitation plan" means a written individualized plan that assists a disabled worker in acquiring skills or aptitudes to return to work through job placement, on-the-job training, education, training, or specialized job modification and that reasonably reduces the worker's actual wage loss.

(5) "Rehabilitation provider" means a rehabilitation counselor certified by the board of rehabilitation certification for rehabilitation certification ~~and designated by the insurer.~~

(6) "Rehabilitation services" means a program of evaluation, planning, and implementation of a rehabilitation plan to assist a disabled worker to return to work."

NEW SECTION. **Section 3. Effective date -- applicability.** [This act] is effective on passage and approval and applies to claims for rehabilitation benefits filed on or after [the effective date of this act].

- END -

