

ACT 224

S.B. NO. 2914-80

A Bill for an Act Relating to Workers' Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

“Sec. 386- Rehabilitation unit. There is established within the department of labor and industrial relations a rehabilitation unit. All professional and clerical employees of this unit shall be appointed by the director. The rehabilitation unit shall have the duties and responsibilities provided in section 386-25. Employees of the unit shall be subject to chapters 76 and 77.”

SECTION 2. Section 386-25, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 386-25 Vocational rehabilitation. (a) The director shall refer employees who may have or have suffered permanent disability as a result of work injuries and who in his opinion can be physically or vocationally rehabilitated to the department of social services and housing or to private providers of rehabilitation services for such physical and vocational rehabilitation services as are feasible. A referral shall be made upon recommendation of the rehabilitation unit established under section 386- and after the employee has been deemed physically able to participate in rehabilitation by the employee's attending physician. The unit shall include appropriate professional staff and shall have the following duties and responsibilities:

- (1) To foster, review, and approve rehabilitation plans developed by certified providers of rehabilitation services, whether they be private or public;
- (2) To adopt rules consistent with this section which shall expedite and facilitate the identification, notification, and referral of industrially injured employees to rehabilitation services, and establish minimum standards for providers providing rehabilitation services under this section;
- (3) To certify private and public providers of rehabilitation services in accordance with the minimum standards established; and
- (4) To coordinate and enforce the implementation of rehabilitation plans.

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(b) Enrollment in a rehabilitation plan or program shall not be mandatory and the approval of a proposed rehabilitation plan or program by the injured employee shall be required. After securing such approval the director shall select a certified provider of rehabilitation services for the injured employee after consultation with the employee and the employer.

(c) An injured employee's enrollment in a rehabilitation plan or program shall not affect the employee's entitlement to temporary total disability compensation if the employee earns no wages during the period of enrollment. If the employee receives wages for work performed under the plan or program, the employee shall be entitled to temporary total disability compensation in an amount equal to the difference between the employee's average weekly wages at the time of injury and the wages received under the plan or program, subject to the limitations on weekly benefit rates prescribed in section 386-31. The employee shall not be entitled to such compensation for any week during this period where the wages equal or exceed the average weekly wages at the time of injury.

(d) The director shall adopt rules for additional living expenses necessitated by the rehabilitation program, together with all reasonable and necessary vocational training.

(e) If the rehabilitation unit determines that physical and vocational rehabilitation are not possible or feasible, it shall certify such determination to the director.

(f) The eligibility of any injured employee to receive other benefits under this chapter shall in no way be affected by his entrance upon a course of physical or vocational rehabilitation as herein provided."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 4. This Act shall take effect upon its approval, but the rehabilitative services furnished under this Act to injured workers shall commence on January 1, 1981.

(Approved June 7, 1980.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.