

ACT 256

S.B. NO. 2454

A Bill for an Act Relating to Vocational Rehabilitation.

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

SECTION 1. Section 386-25, Hawaii Revised Statutes, is amended to read as follows:

“§386-25 Vocational rehabilitation. (a) The purposes of vocational rehabilitation are to restore an injured worker’s earning capacity as nearly as possible to that level which the worker was earning at the time of injury and to return the injured worker to suitable work in the active labor force as quickly as possible in a cost-effective manner.

(b) The director [shall] may refer employees who may have or have suffered permanent disability as a result of work injuries and who in the director’s opinion can be [physically or] vocationally rehabilitated to the department of human services or to private providers of rehabilitation services for [such physical and] vocational rehabilitation services [as] that are feasible. A referral shall be made upon recommendation of the rehabilitation unit established under section 386-71.5 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] meeting the minimum standards established[;] under paragraph (2); and
- (4) To [coordinate and] enforce the implementation of rehabilitation plans.

(c) 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] The injured employee may select a certified provider of rehabilitation services [for the injured employee after consultation with the employee and the employer]. Both the certified provider and the injured employee, within a reasonable time after initiating rehabilitation services, shall give proper notice of selection to the employer.

(d) 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(a). 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.

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

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

(g) The eligibility of any injured employee to receive other benefits under this chapter shall in no way be affected by the employee's entrance upon a course of [physical or] vocational rehabilitation as herein provided.

(h) Vocational rehabilitation services for the purpose of developing a vocational rehabilitation plan [shall] may be approved by the director and the director [shall] may periodically review progress in each case."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)