

SENATE BILL NO. 3

INTRODUCED BY T. FACEY

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE THRESHOLD LEVEL OF IMPAIRMENT REQUIRED FOR EVALUATION OF ELIGIBILITY FOR VOCATIONAL REHABILITATION BENEFITS IN WORKERS' COMPENSATION CLAIMS; AMENDING SECTION 39-71-1006, MCA; AND PROVIDING AN EFFECTIVE 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 ~~45%~~ 10% or greater, as established by objective medical findings, and has no actual wage loss;

(b) a rehabilitation provider, as designated by the insurer, certifies that the worker has reasonable vocational goals and reasonable reemployment opportunity. If eligible because of an impairment rating of ~~45%~~ 10% or more, 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 eligible because of a wage loss, 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 rehabilitation 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

1 rehabilitation plan. Rehabilitation benefits payable pursuant to a retraining rehabilitation plan under this section  
2 are not payable in a lump sum. Rehabilitation benefits may be paid in a lump sum for job placement services.

3 (3) In addition to rehabilitation benefits payable under subsection (2), a disabled worker who was injured  
4 on or after July 1, 1997, is entitled to receive payment for tuition, fees, books, and other reasonable and  
5 necessary retraining expenses, excluding travel and living expenses paid pursuant to the provisions of  
6 39-71-1025, as set forth in department rules and as specified in the rehabilitation plan. Expenses must be paid  
7 directly by the insurer.

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

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

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

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

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18 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2015.

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