

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**  
**WORKERS' COMPENSATION DIVISION**  
**VOCATIONAL REHABILITATION ELIGIBILITY EVALUATION PILOT**  
**AUDIT**



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## **OBJECTIVE**

Investigate and evaluate insurers' data-indicated non-compliance with requirements for determining injured workers' eligibility for vocational assistance.

## **SAMPLE**

All claims containing initial and aggravation claim closures (Form 1644) issued from July 2005 through December 2006, "...where the claim shows compensable PPD and the Form 1503 shows no return to any kind of permanent work with the employer at injury or aggravation, and no determination of vocational eligibility as of 6/5/07. Administrative closures that meet these criteria are included." (From the Information Management Division's list of those claims.)

Those criteria produce a sample of 578 claims (annualized, about 1.6% of the disabling claims accepted per year). Of those claims, 566 are distributed among approximately 60 insurance companies and 59 self-insured companies. The remaining twelve claims involve non-complying employers. The claims are located in 41 different claims processing offices.

Notably, this is a targeted sample of claims identified as problematic and reviewed to address a specific situation. Extrapolating the findings to reflect industry or insurers' performance beyond these claims is inappropriate. For example, one finding in this report is that insurers had reported workers' return- and release-to-work information accurately in 85.0% of the claims reviewed. However, current compliance audit data shows that insurers report that information accurately in 99.3% of claims overall.

## **TEST METHOD**

The sample criteria indicates that insurers should have determined eligibility for vocational assistance, under Oregon Administrative Rule 436-120-0320, for each claim in the sample. At the time of sampling, WCD had not been notified, as is required, of an eligibility decision.

Auditors reviewed each claim to answer the following questions:

1. Was a vocational eligibility evaluation completed?
2. Was the worker found eligible or ineligible for vocational services if an evaluation was completed?
3. Was the proper appeal language included in the notice to the workers found ineligible?
4. Was the worker's return- and release-to-work information on the Form 1503 accurately reported to WCD?

## **FINDINGS SUMMARY**

Auditors reviewed 532 of the 578 claims. Some of the claims were not reviewed for various reasons: insurers could not locate some claims in time for review, some claims were not processed at the location indicated by data reported to WCD, etc.

The findings, in answer to the questions posed above, follow:

1. Claims with eligibility evaluations completed – **13.5%** (72 claims)  
Claims with eligibility evaluations not completed – **85.7%** (456 claims)

In three additional claims, an evaluation was in progress. In one additional claim, the auditor could not determine if an evaluation had been done.

2. Workers found eligible for vocational services – **33.3%** (21 decisions)  
Workers found ineligible for vocational services – **66.7%** (42 decisions)

In nine additional claims, the auditor noted that an eligibility evaluation had been done, but the auditor did not find an eligibility decision.

3. Ineligible workers properly notified of appeal rights – **81.0%** (34 notices)  
Ineligible workers improperly notified of appeal rights – **14.3%** (6 notices)

In two additional claims, the auditor did not find a copy of a notification letter to the worker. (Notification letters found to be “improper” above had incorrect or missing appeal language.)

4. Return- and release-to-work info. accurately reported – **85.0%** (447 Forms 1503)  
Return- and release-to-work info. inaccurately reported – **13.3%** (70 Forms 1503)

In nine additional claims the auditor could not determine, based on information in the claim file, whether or not the form 1503 was accurate.

## **OTHER FINDINGS**

### Industry Awareness

Many claims processors are unaware of the requirement for evaluating vocational eligibility when a worker has been released to regular work, but has not returned to the job at injury. OAR 436-120-0320(2) requires an evaluation under those circumstances, even when the worker has no work restrictions.

That lack of awareness is evident from the following:

- Claims processors expressed believing that a release to regular work eliminates the responsibility to evaluate vocational eligibility.
- Insurers reported on the Form 1503 a release to regular work in more than half (55.6%) of the claims in the sample but had not done an eligibility evaluation.
- The claims were processed in forty-one different claims offices – about 75-80% of

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offices that process Oregon claims.

- The claims were covered by 119 different insurers and self-insured employers.
- Audit findings were reasonably consistent from processor to processor and from insurer to insurer; no processor or insurer stood out as exceptional.

The volume of claims, insurers, and processing offices involved suggests this is an industry-wide issue.

### Claim Circumstances

Following the first few reviews, auditors noticed that the claims involve a vast array of circumstances surrounding vocational eligibility. Unfortunately, the variety, volume, and complexity of situations make them difficult to summarize statistically. However, some highlights follow:

- Workers had retired, had moved out of state, or had been terminated for cause.
- Workers had voluntarily quit employment with the employer-at-injury, often to work elsewhere.
- Workers had refused bona fide job offers from the employer-at-injury.
- Workers had settled their claim via Claims Disposition Agreement, releasing their right to vocational services. (Claim closures often trigger settlement negotiations.)
- Workers had an award of permanent impairment (one of the triggers for requiring eligibility evaluations) for only a surgical or other value that did not reflect a disability – the workers had fully recovered from the injury and had no resulting physical or vocational impairment.
- “Regular duty” work releases from attending physicians are often not specific to a job – the doctor is releasing the worker unconditionally to all types of work.
- Insurers were forced to report, on the Form 1503, inaccurate information due to a lack of options available on the form, or due to a lack of information available at closure. For example, many workers had abandoned their jobs at injury and disappeared, forcing the insurer to report return-to-work status as “no job” and “not employed”, but that is not necessarily known or true.
- Claims were often poorly documented with return-to-work information: the box checked on the Form 1503 was the only indication in the claim file of the workers’ return-to-work status. There was no documentation from the employer at injury or a new employer showing to what, if any, work the worker had returned.