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EVOLUTION IN WORKERS' COMPENSATION REHABILITATION: A COMPARATIVE STUDY OF PROFESSIONAL ATTITUDES

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The Joint Task Force on Injured Workers' Rehabilitation was established in 1985 by the Chesapeake Association of Rehabilitation Professionals in the private sector and the Maryland Rehabilitation Association. The organization's goals are to create a forum for professional organizations which provide services or benefits to injured workers, to promote communication and cooperation among these service providers, to recommend and advocate improvements in the delivery of vocational rehabilitation services to injured workers, and to promote development of professional skill and knowledge through educational programs.

The Joint Task Force conducted an attitude survey in 1986 in order to identify professional concerns and educational and training needs.[1] The survey identified the following concerns: lack of understanding of the Workers' Compensation law; lack of clear criteria for referral for vocational rehabilitation services; injured workers frequently not returned to suitable employment; disincentives for injured workers to work under the law; lack of cooperation between state and private vocational rehabilitation counselors; temporary total benefits frequently not paid during the vocational evaluation process; pre-injury wages not always considered in rehabilitation plans; and lack of a practice manual for professionals in workers' compensation.

The result framed the content of Task Force work in the years following the survey. This work included the publication of the "Good Practices Manual for the Rehabilitation of Injured Workers," testimony before the Governor's Commission on Workers' Compensation Reform in 1987, revision of the vocational rehabilitation portions of the Workers' Compensation Statute in 1988, and the Annual Task Force Educational Conference.

The Task Force conducted a second Needs and Attitudes Assessment Questionnaire in 1993 to assess progress and changes resulting from these efforts, and to identify current issues of concern. In 1986, respondents felt strongly that all parties involved in workers' compensation cases should work cooperatively in providing vocational rehabilitation services. A team approach to caring for the injured worker assures continuity in an overall higher quality of care and secures a successful vocational rehabilitation outcome. The team approach allows for a pooling of knowledge, skills, resources, and shared responsibility among team members.

Rehabilitation specialists who hold professional certification are bound by a code of ethics which requires that they ensure a mutual understanding of the service plan by all parties involved. They must develop integrated and individualized plans which offer reasonable promise of success consistent with the circumstances of the injured worker. The 1993 survey was designed to gauge the opinions of workers' compensation professionals as to whether the ability to work in a collaborative effort has improved.

METHODOLOGY

This Needs and Attitudes Assessment Questionnaire was developed by a subcommittee of the Task Force comprised of individuals representing the Department of Rehabilitation Services, private vocational rehabilitation, the Maryland Workers' Compensation Commission's Rehabilitation Department, and registered nursing and insurance claims management. The draft was distributed to all members of the Task Force and subsequently revised. Comments were received by the subcommittee and a final seventy item questionnaire was developed and disseminated to over 1000 professionals working or interested in the Maryland Workers' Compensation system.

ANALYSIS

Two hundred and fifty-seven questionnaires were returned. The Division of Rehabilitation Services computer analyzed the questionnaire with the following results:

The respondents by discipline were as follows: 48 claims representatives, 30 defense attorneys, 3 employers, 29 registered nurses, 4 occupational therapists, 4 physical therapists, 58 plaintiff attorneys, 35 private vocational rehabilitation counselors, 17 public rehabilitation counselors, 7 rehabilitation administrators, and 8 respondents in the "other" category.[2]

Those statements which had five of the six identified disciplines concurring were judged to be in agreement or disagreement, while four of six disciplines concurring were rated as being in substantial agreement or substantial disagreement.

Significant issues identified were as follows:

Private Rehabilitation

There was agreement that direct job placement should occur when the injured worker has transferable skills. There was agreement that private sector vocational rehabilitation providers should be certified by the State of Maryland, and that there was a need for a Standards Compliance Review Board.

There was substantial agreement that private vocational rehabilitation understands the needs of injured workers in accordance with the Workers' Compensation Act, although plaintiff attorneys did not concur with this statement.

There was disagreement with the statement that payment for vocational rehabilitation services by an insurance company causes a conflict between good practice and economic considerations by claims representatives, defense attorneys, RNs, and private rehabilitation. Plaintiff attorneys and public vocational rehabilitation specialists, however, expressed agreement with the statement.

DORS-State Vocational Rehabilitation

There was agreement that State vocational rehabilitation providers should be certified by the State of Maryland. There were no responses consistently disagreeing or strongly disagreeing. Interestingly, we found that DORS counseling staff disagreed with the statement that state vocational rehabilitation personnel have adequate knowledge of the Workers' Compensation Law. This suggests that state vocational rehabilitation counselors feel the need for more information about the Workers' Compensation Law.

Injured Workers

There was substantial agreement that there are disincentives for an injured worker to return to work. There was substantial disagreement with the statement that injured workers generally have a positive perception of private vocational rehabilitation practitioners.

Attorneys

There was agreement that defense attorney involvement protects the interest of insurance companies, and that there should be an informal conference procedure to resolve vocational rehabilitation disputes.

Allied Medical

There was agreement that a functional capacity evaluation is an objective means of assisting in the safe return to work; a formal assessment of physical capacity benefits the vocational rehabilitation process and improves the return to work process; work hardening assists the rehabilitation process; effective medical management facilitates the vocational rehabilitation process and decreases costs; and direct contact between rehabilitation professionals and treating medical professionals is helpful. There was substantial agreement that work hardening assists the rehabilitation process.

On the issue of psychiatric services, all disciplines except claims representatives, agreed that psychiatric referrals were not provided in a timely manner.

Insurance Carriers

There was agreement that insurance carriers are kept well-informed of progress in vocational rehabilitation by private vocational rehabilitation providers, and that early referral for medical management improves the chance that an injured worker will receive effective medical care. There was substantial disagreement with the idea that insurance carriers should be required to present a panel of three vocational rehabilitation providers to the injured worker; however, plaintiff attorneys strongly agreed with this suggestion.

Process

There was agreement that direct communication

between vocational rehabilitation providers and the injured worker improves the vocational rehabilitation outcome, and that the law should be modified to define time frames for job searches. There was also agreement that there should be standards for vocational testing, and that injured workers should be informed of their rights and obligations when referred for vocational rehabilitation services. There was substantial agreement that vocational rehabilitation costs have increased since the 1988 technical law changes, and that injured workers expressed vocational interests should be the determining factor in selecting a primary vocational rehabilitation goal, assuming they are qualified to achieve the goal. There was disagreement with the statement that there is a clear understanding of the injured workers responsibility in the process by all parties, and that the criteria for non-cooperation with vocational rehabilitation services were clear.

WCC Rehabilitation

There was agreement that the Workers' Compensation vocational rehabilitation office should be authorized to make referrals to private vocational rehabilitation. There was substantial agreement with the statement that the Workers' Compensation vocational rehabilitation office would benefit by having a nursing component. There was substantial disagreement with the statement that the function of the Workers' Compensation vocational rehabilitation office is clearly understood.

Nursing

There was agreement that injured workers benefit from medical case coordination by a rehabilitation nurse, and that formal rehabilitation plans covering the provision of medical case coordination would assist in timely provision of vocational rehabilitation services. There was also substantial agreement that confusion exists about the role of registered nurse case managers in rehabilitation.

Summary

Many of the concerns identified in the 1986 survey have been substantially resolved:

- The Joint Task Force developed and disseminated a "Good Practices Manual" (recently revised) in order to ameliorate the confusion about the Maryland Workers' Compensation Law and what good practice in vocational rehabilitation entails.
- The Workers' Compensation Commission established Form R-33 highlighting factors important to the decision to initiate vocational rehabilitation services, such as occupation at time of injury, ability to return to employer, medical status, and anticipated need for services to return to work.
- The 1988 technical amendments to the Maryland Workers' Compensation Law included a definition for suitable gainful employment and criteria to be considered in determining suitability.
- The 1988 amendments require that temporary total benefits be paid during the vocational evaluation process by specifically defining vocational assessment and vocational evaluation, either during or after medical treatment, as vocational rehabilitation services.
- The 1988 amendments require that pre-disability earnings and qualifications be considered when developing a vocational rehabilitation plan.

The 1993 survey identified the following issues for the Task Force to address:

-Disincentives for injured workers to return to work (e.g. lower post injury earning potential vs. perceived security of temporary total benefits)

-Consider counselor registration and standards of practice

-Identify methods of conducting a cost benefit study of vocational rehabilitation provided under workers' compensation

-Need for a nursing component in the WCC Rehabilitation Office

-Educate practitioners about the function of the WCC Rehabilitation Office, including informal conference availability

-Criteria for noncooperation with VR services

-Feasibility of the use of a formal rehabilitation plan for medical management cases by a registered nurse

ENDNOTES:

[1] Smolkin, et al., *Workers' Compensation Rehabilitation in Maryland: An Attitude Survey*, 17.2 U. Balt. L.F. 34 (1987).

[2] It was deemed appropriate to discard the responses of a frequency of fewer than ten respondents.

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