

NEBRASKA WORKMEN'S COMPENSATION LAW: REHABILITATION—A HELPING PROCESS

H. J. W. KOESTER*

Dr. Alan Keith-Lucas, professor of social work at the University of North Carolina, in addressing a group including ministers, social workers, rehabilitation workers and others involved in helping people resolve problems, made the statement that helping people appears to be a simple matter, but actually it is one of the hardest things one can be called on to do.

When we help people, we offer them an opportunity to make a change necessitated by their circumstance. We are too often confronted with the temptation to decide what we think is best for the individual and offer our idea as the solution. The impaired worker is not necessarily interested in what we think is appropriate for him. He may seem to accept what we are offering because he is not prepared to offer a better plan at the moment. The apparent acceptance is not necessarily deep seated. Its roots may not strike fertile ground in his thinking when he finds time to think it over. You would object to having others make your decisions for you. So does he. He is entitled to make his own decisions and take the consequences resulting from the decision he makes. Where, then, does this leave us in the process of helping him?

He may momentarily be at a loss as to what to do. His problems may be too complex for him to make an adequate decision and arrive at a satisfactory conclusion without some help. Here is where we can enter the picture by providing him with necessary information and guidance to enable him to think through his problem and come to a decision that will lead to a satisfactory plan for dealing with his situation. We can refer him to resources where he can secure services he needs, such as testing, guidance, and if necessary, preparing necessary plans for training and selective placement to enable him to reenter the labor market. By taking a careful look at his strengths and weaknesses, his limitations and his potentials, he can arrive at a decision that will help him deal effectively with his problems. Since it is his decision, he is more likely to work at it than if we had offered it to him on a platter without his participation.

* Member of the Nebraska Rehabilitation Association. B.A., York College, Nebraska 1947.

Years ago in dealing with elderly people who needed help in planning, I found that if I could arrange it so that they seemed to convince me that the solution was their idea, it was not too difficult to get their cooperation.

This is not intended as a lecture on counseling. There are, however, certain facts and principles which are important in planning effectively with individuals who need to make a vocational adjustment. The individual must be personally involved in whatever the process of making the adjustment may be.

Recently I accompanied an experienced insurance adjuster to the home of a worker who had essentially lost the use of his right hand through the amputation of four fingers. Difficulty with the English language and a very limited educational background made his problem all the more difficult for him. The very thought of training for another type of job was frightening to him.

His strength lay in the fact that he had worked for the same employer for many years and apparently had a good work record. He preferred to return to his former employer, if at all possible. He seemed to be aware of a work area where he could fit in and handle the job. We encouraged him to follow through with the company personnel officer. He preferred to do this on his own initiative. There seemed to be no reason for us to intervene. Because of some apparent apprehension on his part about the use of a prosthesis, we encouraged him to follow the advice of his physician and to avail himself of the opportunity to receive training in the proper use of the prosthesis. The prosthesis and the training in its proper use would be of no cost to him.

The latest information that I have from the insurer is that the prospects of the claimant being rehired are favorable. This type of solution is not always possible for a variety of reasons. The types of jobs available in the employer's organization, the nature and extent of the worker's limitations, his past work history and other factors have a bearing. These are factors to be kept in mind in approaching the solution of the worker's problems.

In another case in which the medical report indicated permanent disability, we inquired of the insurer of the progress in the case and asked whether reassignment by the former employer to a more suitable type of job had been considered. We were advised by the insurer's rehabilitation nurse that she had taken the matter up with the employer and that the employer's attitude toward doing so was favorable.

The approach in both of these cases is practical for all con-

cerned and is in complete compliance with the mandate given us in section 48-162.01 where it is stated very clearly, "One of the primary purposes of this act shall be restoration of the injured employee to gainful employment." To the worker, particularly if he has a family, it is extremely important to get back to work as soon as he is sufficiently recovered to do so. Compensation benefits can never fully replace the weekly pay check, nor make up for the satisfaction of being back in the main stream of employment.

The Ontario Workmen's Compensation Agency in its vocational rehabilitation program, stresses placement as the first approach to rehabilitating the injured worker. North Dakota uses a similar approach. The worker is not simply told to go out and find a job on his own, however suitable or unsuitable it may be. He is given needed assistance in securing a job that is appropriate for him. Our law stipulates three areas of service to be made available to the injured worker. They are medical rehabilitation to restore his capability for working, vocational retraining if needed to equip him with the necessary skills to qualify for a suitable job if his residual limitations make a vocational readjustment necessary, and assistance with the process of securing a job that is adequate and appropriate for him. The insurance adjuster may need to add to his repertoire of skills to enable him to accomplish his job as it needs to be done. Our office is available to assist you and consult with you when you find it necessary to seek such help.

What I have just said is not intended to discourage retraining when that is the service needed to restore the worker to employment. It will be necessary in each case to determine what services are required to return the worker to the active labor market.

From time to time we receive inquiries from insurers as to what to do next to get the claimant back to work. To me this indicates progress in our program. It reflects understanding and acceptance on the part of the insurer of his responsibilities with reference to the vocational rehabilitation provisions of the law.

I am somewhat disappointed with the fact that we do not have more cases in training under the provisions of the law as amended in 1969. This does not necessarily mean that we are not making progress. It has come to my attention that in several cases, the counselor seemed to fail to understand that training could be provided under the provisions of the Workmen's Compensation Act and proceeded to have their agency provide the training. Apparently they have not taken careful note of the provisions in the cooperative agreement between our agencies. In the referrals now being

made, we are spelling out the details very specifically as to whether it is a referral requiring a detailed plan to be submitted to our office or it is a case not coming under the provisions of the workmen's compensation laws.

Our files show that rehabilitation services are being rendered. As of April 1, 39 cases referred by our office were receiving training through the rehabilitation agencies in Kansas, Nebraska, Iowa, North Dakota and South Dakota. There may be others which have not been reported. Securing feedback of information on cases referred requires persistent effort on our part. We have 12 outstanding requests for retraining plans to be prepared and submitted by rehabilitation counselors. In making such a referral, we request that the counselor assist the claimant in selecting an appropriate vocational goal based on aptitude and interest tests and the individual's expressed interest and employment background. Upon agreement on the selection of a suitable goal, the counselor will prepare and submit a detailed plan for retraining for the individual. Upon receipt of the plan, we review it and submit it to the carrier with necessary information and instructions to enable the carrier to properly authorize the required service.

As a result of referrals made to rehabilitation offices by our unit, we now have on file records of 58 cases in which the necessary rehabilitation services have been provided and the individual has been returned to productive work activity. To express it in the language of the rehabilitation counselor, these individuals have been rehabilitated.

On the basis of periodic reports received from the Department of Labor, we are collecting data regarding types and numbers of job openings which are listed from time to time. Since the beginning of January, we have found 47 different types of jobs listed and 128 openings. These are jobs requiring specific skills or qualifications for which a labor supply is not readily available. Among the jobs listed most frequently were social workers, instructors in nursing, child care attendants (usually couples), licensed practical nurses, key punch operators, certain types of specialized cooking, etc. Some of these jobs require extensive training and others do not.

Some rehabilitation counselors may find it difficult to adjust their thinking and planning to the time allotted for training under the provisions of 48-162.01 of the workmen's compensation laws. We are taking this into account by spelling out specifically what we need in the element of time in a training plan. We attempt to do this in non-technical language.

We find it important to have the training plan cleared through our office rather than to have the counselor submit it directly to the carrier. Rehabilitation counselors are accustomed to working under procedures which are quite different from ours. Errors and misunderstanding could easily occur resulting in delay and irritation. By having the plans cleared through our office, we will know whether the plans requested are being processed and forthcoming. Some counselors are prompt, others are not. It will apparently take some time to get them to understand what we need and why. They are oriented to federal regulations and in some instances prefer to do things in their own way.

If upon receipt of a training plan you have questions about the plan or details of procedure, feel free to contact our office. We will be glad to assist you in clearing up the questions you have.

The carrier's letter of authorization is to be addressed directly to the training facility with a copy submitted to our office. By having a copy of the authorization in our file, we will know that action has been taken and enable us to help the carrier clear up any misunderstanding that may occur.

The number of thirty-day medical reports being submitted voluntarily is increasing. This is good and is appreciated. Occasionally we receive a report which has little, if any reference, to the information we need. On one or two occasions the so called medical report was nothing more than a billing for services rendered. A study of our Form #46 will indicate the type of information we need to enable us to determine whether vocational retraining may be indicated.

We carefully study the reports you submit to determine whether the information we need can be discovered. We will appreciate it if you will give us the same consideration in securing and submitting the type of information we need. We are aware of how doctors feel about preparing reports of which they have great numbers particularly in the field of insurance. It is for this reason that we have attempted to make our form brief, simple and to the point.

The court's Rule XII requires that the report referred to above be submitted when the worker has been off the job for 30 days or more. We appreciate your compliance with this requirement. The number of alibies for not complying has been small. We are grateful for this.

Generally the cooperation we are receiving is good. In a few instances the carriers have gone beyond the call of duty or the

letter of the law in providing services to claimants. This is commendable. It is my observation that the level of cooperation by the carriers is progressively improving. If the weaknesses I have pointed out happen to hit a tender spot with someone, you can easily correct it by carefully reviewing what the law and the court's rules require.

It may be helpful at this point to briefly review the procedures so that we will all have them in mind and be able to follow through consistently. The following is a brief guide to be followed.

1. The first report (Form 1) must be properly completed and promptly submitted to the court. (48-144.01)
2. Necessary medical and hospital services to be promptly provided. (48-120)
3. A current medical report (Form 46) or equivalent narrative report by physician to be submitted when the worker has been off the job for 30 days or more. Supplemental reports may be required by the court.
4. When retraining is not required, but assistance with placement is needed, the carrier shall assist the worker in securing suitable employment. The cooperation of the State Division of Employment may be utilized.
5. When retraining is needed, the worker's commitment to cooperate will be secured. A detailed training plan will be developed with the cooperation of the state rehabilitation agency.
6. Upon receipt of the training plan from the court, the carrier will review the plan and issue a letter of authorization to the training facility with a copy to the court.
7. The training facility is required to submit a periodic progress report to the carrier. A copy of this report is to be submitted to the court.
8. Training facilities used must have the approval of the court.
9. When the worker needs to be away from his customary place of residence to receive necessary rehabilitation services, lodging and travel in addition to any other benefits payable under sections 48-101 to 48-151, including weekly compensation benefits for temporary disability. (48-162.01 (4))
10. Upon completion of training, the carrier will assist the worker in securing suitable employment.

Our office has previously supplied all carriers with a paper on

procedures in a more lengthy form. If you would like to have a copy of these procedures, let us know.

I want to take this opportunity to express to all of you my appreciation for your cooperation. We will still have problems to solve. If this were not true, we would not be needed. Cooperation will assure forward progress.