HB 1711-FN - AS INTRODUCED

2018 SESSION

18-2343
01/04

HOUSE BILL ***1711-FN***

AN ACT relative to rehabilitation under the workers' compensation law.

SPONSORS: Rep. Richardson, Coos 4; Rep. Hinch, Hills. 21; Rep. Fothergill, Coos 1; Rep. Fields, Belk. 4; Sen. Woodburn, Dist 1; Sen. Carson, Dist 14

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill authorizes addiction rehabilitation treatment in certain circumstances under the workers' compensation law.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

18-2343
01/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to rehabilitation under the workers' compensation law.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Workers' Compensation; Vocational Rehabilitation. Amend RSA 281-A:25 to read as follows:

281-A:25 [~~Vocational~~] Rehabilitation.

I. If, as a result of an injury covered by this chapter, an employee is unable to perform work for which he or she has previous training or experience, ***or an employee has become addicted to any medication used during the treatment of an injury that was incurred in the course of work duties that would require rehabilitation for a full recovery,*** the employee shall be entitled to such vocational ***or addiction*** rehabilitation services, including ***time in an approved treatment center,*** retraining and job placement, as may be reasonably necessary to restore such employee to suitable employment. If such services are not voluntarily offered by the employer or the carrier and accepted by the employee, the commissioner, if necessary through informal hearing affording all parties an opportunity to be heard on the question, may refer the employee to a qualified physician or appropriate facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render the employee fit for a remunerative occupation.

II. Upon receipt of such findings and after affording all parties an opportunity to be heard thereon, the commissioner may order that the services and treatment recommended or such other rehabilitation treatment or service the commissioner may deem necessary be provided at the expense of the employer or its insurance carrier.

III. ***Except for drug addiction rehabilitation, rehabilitation and*** vocational rehabilitation training, treatment or service shall not extend for a period of more than one year, except that in unusual cases by special order of the commissioner, after informal hearing, the period may be extended as is deemed to be reasonable and necessary to accomplish a successful result.

IV. If ***drug addiction rehabilitation and*** vocational rehabilitation requires residence at or near a facility or institution which is away from the employee's customary residence, the employer shall pay the reasonable cost of the employee's board, lodging, or travel, or any combination of these. In addition, the employer, or its insurance carrier, shall pay the reasonable cost for books, tools or other basic materials required in such rehabilitation process.

V. If an employee refuses to accept ***drug addiction rehabilitation or*** vocational rehabilitation ordered by the commissioner, the employee may lose compensation for each week of the refusal if the commissioner so directs.

VI. To carry out the provisions of this section, there is hereby created within the workers'

compensation division a staff of vocational and physical rehabilitation personnel ***and drug rehabilitation specialist*** whose positions shall be classified under RSA 21-I:42 et seq.

VII. A rehabilitation provider shall prepare an individualized written rehabilitation plan on all compensable workers' compensation claims which require 2 or more counseling sessions, vocational evaluations, training, work evaluation, work hardening, or placement. ***A drug rehabilitation provider shall prepare an individualized written rehabilitation plan on all compensable workers' compensation claims which require 2 or more counseling sessions in accordance with department of labor criteria.*** Prior to implementation of [~~the~~] ***a*** plan, the plan shall be signed by the employer and employee and filed with the commissioner. The commissioner may, within 14 days of the filing of such plan, disallow any plan for rehabilitation that does not appear to be in the best interest of the employee or designed to return the employee back to work.

VIII. Each rehabilitation provider shall disclose in writing at the first meeting or written communication with the employee, any ownership, interest, or affiliation between the firm which employs the rehabilitation provider and the employer, insurance company, or claims adjusting company, including the nature and extent of the affiliation or interest. Each rehabilitation provider shall also disclose in writing to all parties any affiliation, business referral or other arrangement between the provider and any other party, including any attorney, any physician, or any chiropractor.

2 Workers' Compensation; Lump Sum Payments. Amend RSA 281-A:37, II to read as follows:

II. In no event shall the medical provisions of this chapter be lump summed. The costs of ***drug addiction rehabilitation and*** vocational rehabilitation services as provided in RSA 281-A:25 may be lump summed provided the lump sum agreement specifically sets forth the portion of the lump sum amount attributable to vocational rehabilitation services. Such sum shall be held in escrow by the employer or insurance carrier and shall be paid to the provider of the [~~vocational~~] rehabilitation services for services incurred by the claimant. Any lump sum agreement which proposes to include the costs of ***drug addiction rehabilitation and*** vocational rehabilitation services shall also specify the nature of the [~~vocational~~] rehabilitation services to be provided to the claimant and shall require the claimant to commence such [~~vocational~~] rehabilitation services within 6 months of the approval of the agreement. The employer and the insurance carrier shall not be liable for [~~vocational~~] rehabilitation services incurred if the claimant fails to commence use of [~~vocational~~] rehabilitation services within 6 months after approval of the lump sum agreement, unless the period is extended by the commissioner for good cause.

3 Workers' Compensation; Hearings and Awards. Amend RSA 281-A:43, II to read as follows:

II. A decision of the commissioner, the commissioner's authorized representative, or the board shall take effect and shall become final, in the absence of an appeal from it, 30 days from the date of the decision. Payment of weekly compensation and entitlement to medical and vocational benefits, if necessary and so ordered by the commissioner or the board, shall begin or continue as

soon as possible, but no later than 5 working days after the decision's effective date, and shall not be terminated except in accordance with the terms of the decision or of a final court determination. If the commissioner determines that the employer or carrier has failed to comply with any order, then the commissioner may assess a penalty not to exceed $100 for each day of noncompliance, beginning on the date of notification of its assessment. Upon continued failure to comply with an order to make payment of the compensation or medical benefits, or to institute ***drug addiction rehabilitation or*** vocational rehabilitation, or to pay the penalty, or any combination thereof, the commissioner shall petition the superior court for an injunction to comply. The commissioner shall deposit into the department of labor restricted fund established in RSA 273:1-b any penalty collected under this section.

4 Workers' Compensation; Rulemaking. Amend RSA 281-A:60, I(z) to read as follows:

(z) [~~Vocational~~] Rehabilitation under RSA 281-A:25.

5 Effective Date. This act shall take effect January 1, 2019.

LBAO
18-2343
11/15/17

HB 1711-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to rehabilitation under the workers' compensation law.

FISCAL IMPACT: [X] State [X] County [X] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Appropriation	$0	$0	$0	$0
Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General [ ] Education [X] Highway [X] Other - Various Governmental Funds including the Workers' Compensation Assessment			

COUNTY:

Revenue	$0	$0	$0	$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	$0	$0	$0	$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill would require workers' compensation to provide addiction rehabilitation treatment services for employees who have become addicted to medication in certain circumstances.

The Department of Administrative Services states this bill would require the carrier to pay for drug addiction services until full recovery for an employee who has become addicted to any medication used during the treatment of a work-related injury. The Department administers the workers' compensation program for state employees. The Department indicates the cost of rehabilitation varies by location and the Department has previously received quotes for 4 to 5 week programs that ranges from $15,000 to $65,750. The Department indicates drug addiction rehabilitation services are considered in on about one claim per year. Whether the injured worker is addicted to drugs is a question of medical fact that may be disputed by the worker and the offer for rehabilitation services is not always accepted. The provision to provide services until full recovery may increase costs since it could extend beyond the 4 to 5 week period

considered in the past, and the possibility for an employer to cease wage replacement benefits for employees who don't comply with rehabilitation requirements could reduce costs. For these reasons the Department states the impact on expenditures is indeterminable.

The Department of Labor assumes it would need to hire one full-time drug rehabilitation specialist, labor grade 18, at a cost of $63,000 in FY 2019, $66,000 in FY 2020, $69,000 in FY 2021 and $73,000 in FY 2022 for salary and benefits. The additional expenditures would be paid from the Worker's compensation assessment. In addition, the Department indicates county and local workers' compensation expenditures for drug rehabilitation services would increase. The number of injured workers who would require drug addiction rehabilitation cannot be predicted so any increase in county and local expenditures is indeterminable.

The New Hampshire Municipal Association indicates this bill may lead to an increase in municipal expenditures for workers' compensation premiums. The Association has no basis for estimating the amount of any such increase. There would be no impact on municipal revenues.

The New Hampshire Association of Counties, Human Resources Affiliate determined there could be an increase in county workers' compensation expenditures.

AGENCIES CONTACTED:

Departments of Administrative Services and Labor, New Hampshire Municipal Association, and New Hampshire Association of Counties