

POLICY 6.70

Section: Vocational Rehabilitation Management **Effective:**

Title: Policy 6.70 - Authorizing Job Modifications **Cancels:** Policy 6.70 dated 1-15-00

See Also: RCW 51.08.070 (definition of employer)
RCW 51.08.185 (definition of employee)
RCW 51.32.095 (4) (pre-job accommodation)
RCW 51.32.250 (payment of job modification costs)
WAC 296-19A-010 (9) (definition of job modification)
WAC 296-19A-180 (authorizing job modification)
WAC 296-19A-190 (job modification assistance)
WAC 296-19A-200 (employer application for job modification assistance)
WAC 296-20-100 through 296-20-1102 (personal appliances or personal items)
Policy 6.71 (authorizing pre-job accommodations)

Approved by: _____
Cheri Ward, Program Manager for Claims Administration

This policy applies when an adjudicator receives a request for a job modification.

1. The job modification benefit is available when certain criteria are met.

Job modification funds are available **only** when:

- An employer-employee relationship exists; **and**
- The claim is open or in statutory pension status; **and**
- The worker has temporary or permanent restrictions resulting from the accepted condition (light/modified duty, limited physical capacities); **and**
- The modification is needed to return the worker to the job of injury or a new job; **and**
- One of the following applies:
 - The worker is or was off work and paid time-loss compensation; **or**
 - The worker is or was paid full wages (kept on salary, KOS) by the employer; **or**
 - The worker is or was receiving loss of earning power benefits.

2. Department determines whether an employer-employee relationship exists.

An employer-employee relationship exists in the following situations:

- The worker is currently employed; and
 - Receiving a wage paid by an employer; or
 - Will be returning to work for the employer of injury.
- The worker has received a written offer of employment with a specified start date.
- The worker has received approval for an on-the-job training (OJT) plan that includes a written intent to hire (even if there is no specific start date) and the employer pays the worker a wage.
- The worker is self-employed and has the required business license for their jurisdiction.

Note: See Policy 6.71 if no employer-employee relationship exists.

3. Employers are encouraged to participate in job modifications. (See RCW 51.32.250.)

Employer participation may include but is not limited to:

- All or part of the expenses of the job modification.
- Interruption of work (production down time).
- Use of staff time to implement the job modification.
- Supplying materials for the job modification.

4. Job modifications are paid from the Second Injury Fund.

The state fund pays for job modifications from the appropriate account within the Second Injury Fund.

Self-insured employers are eligible for reimbursement of job modification expenses. Reimbursement is paid from the Self-Insurance Second Injury Fund. The self-insured employer cannot be paid or reimbursed for the cost of the consultation services.

5. Job modification consultations and equipment require prior authorization.

If modifications are completed prior to approval, requests for reimbursement will be reviewed on a case by case basis.

6. **Consultations may be provided by an occupational or physical therapist, ergonomic specialist, or vocational rehabilitation provider.**

7. **Department may authorize a job modification only for restrictions resulting from an industrial condition.**

The purpose of a job modification is to adjust or alter the way a job is performed so the worker may still do the work even though there are restrictions imposed by the industrial condition. The department may authorize job modification funds **only** for this purpose.

The department may **NOT** authorize job modification funds for unrelated conditions that are retarding or may retard recovery from the accepted industrial condition.

8. **Job modification funds can not be used in place of retraining funds.**

Job modification funds may be authorized if the worker is participating in an approved retraining plan and there is an employer-employee relationship.

9. **Job modifications may occur in a variety of ways.**

Job modifications may be:

- An adjustment to the work-site.
- A restructuring of the job tasks.
- Tools and equipment.

10. **Personal appliances or personal items may be approved as a job modification when certain criteria are met.**

The department generally **does not** authorize the purchase of personal appliances or personal items under a claim (see WAC 296-20-100 through 296-20-1102.)

However, items that might otherwise be considered personal appliances or personal items may be purchased as a job modification if **both** of the following criteria apply:

- The purchase and use of the job modification enhances the worker's employability; that is, without it the worker may not be able to work; **and**
- The job modification is something the employer is not already supplying to his or her employees.

11. Modifications to a home or vehicle may be approved as a job modification when certain criteria are met.

Job modifications generally **do not** include modifications of a worker's home or vehicle.

Home modification may be approved if:

- A worker will be working at home; **and**
- Special equipment or a structural change **solely** needed for the work related activity may be considered as a job modification.

Vehicle modification that alters the way a worker operates a vehicle may be approved if:

- The modification is **solely** related to work activity; **and**
- Operating the vehicle is part of the worker's duties.

12. Payment for job modifications can not exceed \$5,000 per job or job site.

The \$5,000 **does NOT include** the cost of professional consultative services.

A job modification may be authorized for more than one job or employer. **Each** job or work location is considered a separate modification and is eligible for the maximum allowable of \$5,000 if:

- The worker has two or more distinct jobs or job locations with one or more employers; **and**
- The job modification is not portable; **or**
- The work demands are distinctly different at each job or job station.

13. Combined payment for job modification and pre-job accommodation must not exceed \$5,000 for same job or return-to-work goal.

14. Department verifies that the bid process was followed.

The adjudicator must verify the application includes a bid from 2 vendors for each proposed item costing \$2,500.00 or more. The cost of the item includes fitting, set up, training, tax, delivery and warranties.

Exception:

- 14a.** Two bids are not required if the item is unique or is only available from one vendor.

15. The department will select the vendor.

For identical items, the department will select the vendor with the lowest bid.

Exception:

15a. For state fund claims, the claim manager may select the higher bid on a case by case basis. This may be related to available training offered or if the vendor is geographically closer to provide service and repair.

Example: Two vendors provide bids for voice activated software and training. One vendor offers 1 on 1 training at the retraining site and the other offers online training. The claim manager may accept the bid from the vendor who best matches the needs of the worker.

16. Vendors who provide a job modification consultation may supply the equipment for that modification when certain criteria are met.

The vendor may be allowed to provide a job modification consultation and be the supplier of equipment if:

- Custom design and fabrication of unique equipment or tool modification is required; **and**
- The vendor has obtained **prior** authorization from the adjudicator; **and**
- The vendor has provided proper justification and cost estimates.

17. Vendors should set up equipment and provide training.

As part of the vendor's equipment charge, the vendor should set up the equipment and train the worker on how to use it. The bid should document that the vendor includes set up, training, and warranties in the purchase price.

18. Applications for job modifications must include a signed ownership agreement.

The adjudicator must verify a signed ownership agreement is submitted with the application.

The worker and employer of injury must agree who owns the equipment and note it on the agreement.

When the worker is the owner:

L&I is considered the owner until the worker has successfully returned to work.

When the employer is the owner:

If the employer is listed as the owner at the time of purchase, they will continue to own the equipment regardless of the outcome of the return-to-work activity when at least one of the following applies:

- The employer contributed to the cost of the modification.
- The equipment is affixed to the work site.

19. Tools, equipment, and appliances are returned to the department if the worker fails to return to work or does not use an item.

The department will advise the worker they must return the equipment to the nearest service location.

Exception:

19a. If the employer paid for part of the modification or if the equipment is affixed to the worksite, the employer may retain the equipment regardless if the worker returns to work successfully. Portable non-affixed items must be returned.

20. Department may approve the cost of moving the equipment when certain criteria are met.

Claim is still open; and

- The equipment was purchased as part of the modification or accommodation; and
- There is still money remaining from the \$5,000 benefit.

21. The owner is responsible for maintenance and repair of equipment not covered under a warranty.

When the department is the owner, the adjudicator may authorize maintenance or repair if funds remain from the \$5,000 benefit.

22. Department may authorize alteration or replacement of equipment.

The department may consider authorizing alteration or replacement of job modification equipment **only if:**

- The claim is open or in statutory pension status; and
- Funds remain from the initial job modification; and

- **At least one** of the following applies:
 - The worker's condition has changed; **or**
 - The job duties of the job that was modified have changed; **or**
 - The initial job modification requires enhancement to meet the worker's restrictions imposed by the accepted industrial condition.

If more economical, the department may replace rather than alter or repair the job modification equipment.

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