

## FECA'S Nurse Intervention and Vocational Rehabilitation Programs

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### OFFICE OF WORKERS' COMPENSATION PROGRAMS' FECA PROVISIONS

The Federal Employees' Compensation Act 5 U.S.C. 8101 et seq. provides a variety of benefits to employee's injured in performance of duty. FECA sets forth an employee's entitlement to medical benefits as well as that employee's responsibility to undertake vocational rehabilitation when so directed.

Section 8103 provides that an employee who is injured while in the performance of duty shall be furnished the services, appliances and supplies prescribed or recommended by a qualified physician, which OWCP considers likely to cure, give relief and reduce the degree of the period of any disability or aid in lessening the amount of any monthly compensation.

Section 8104 of the FECA provides that a permanently disabled individual may be directed to undergo vocational rehabilitation.

Section 8111 of the Act allows OWCP to pay an individual undergoing vocational rehabilitation additional compensation necessary for maintenance, not to exceed \$200 per month.

Section 8113 of the Act allows OWCP to prospectively reduce compensation in accordance with a claimant's wage-earning capacity if he or she refuses, without good cause, to undergo vocational rehabilitation

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### OFFICE OF WORKERS' COMPENSATION PROGRAMS

- OWCP's Division of Federal Employees' Compensation (DFEC) administers the Nurse Intervention Program to utilize nurse case managers to assist with the medical recovery and return to work efforts of the employee. Nurse intervention is an integral part of the overall disability management of a claim
- DFEC's Vocational Rehabilitation Program's primary goal is reemployment as soon as feasible, to a job consistent with physical and vocational abilities and with a salary as close as possible to the date of injury job, minimizing wage loss. The program utilizes contracted Rehabilitation Counselors to assist with the rehabilitation and return to work. This effort involves a collaborative process between the employee, counselor, DFEC Rehabilitation Specialist and Claims Examiner and may also include the DFEC Field Nurse, treating physician, medical and rehabilitation provider(s) and previous or new employers.

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### FIELD NURSE REGULATION

Regulatory Provision at 20 CFR § 10.310 What are the basic rules for obtaining medical care?

- (a) The employee is entitled to receive all medical services, appliances or supplies which a qualified physician prescribes or recommends and which OWCP considers necessary to treat the work-related injury. Billing for these services is described in subpart I of this part. The employee need not be disabled to receive such treatment. If there is any doubt as to whether a specific service, appliance or supply is necessary to treat the work-related injury, the employee should consult OWCP prior to obtaining it through the automated authorization process described in §10.800. **OWCP may also utilize the services of a field nurse to facilitate and coordinate medical care for the employee...**

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### VOC REHAB REGS 20 CFR § 10.518 DOES OWCP PROVIDE SERVICES TO HELP EMPLOYEES RETURN TO WORK?

OWCP may, in its discretion, provide vocational rehabilitation services as authorized by 5 U.S.C. 8104. Vocational rehabilitation services may include vocational evaluation, testing, training, and placement services with either the original employer or a new employer, when the injured employee cannot return to the job held at the time of injury. These services also include functional capacity evaluations, which help to tailor individual rehabilitation programs to employees' physical reconditioning and behavioral modification needs, and help employees to meet the demands of current or potential jobs.

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### 20 CFR § 10.519 WHAT ACTION WILL OWCP TAKE IF AN EMPLOYEE REFUSES TO UNDERGO VOCATIONAL REHABILITATION?

...If an employee without good cause fails or refuses to apply for, undergo, participate in, or continue to participate in a vocational rehabilitation effort when so directed, OWCP will act as follows:

- (a) Where a suitable job has been identified, OWCP will reduce the employee's future monetary compensation based on the amount which would likely have been his or her wage-earning capacity had he or she undergone vocational rehabilitation. OWCP will determine this amount in accordance with the job identified through the vocational rehabilitation planning process, which includes meetings with the OWCP nurse and the employer. The reduction will remain in effect until such time as the employee acts in good faith to comply with the direction of OWCP.
- (b) Where a suitable job has not been identified, because the failure or refusal occurred in the early but necessary stages of a vocational rehabilitation effort (that is, interviews, testing, counseling, functional capacity evaluations, and work evaluations), OWCP cannot determine what would have been the employee's wage-earning capacity.
- (c) Under the circumstances identified in paragraph (b) of this section, in the absence of evidence to the contrary, OWCP will assume that the vocational rehabilitation effort would have resulted in a return to work with no loss of wage-earning capacity, and OWCP will reduce the employee's monetary compensation accordingly (that is, to zero). This reduction will remain in effect until such time as the employee acts in good faith to comply with the direction of OWCP.

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**20 CFR § 10.520 HOW DOES OWCP DETERMINE COMPENSATION AFTER AN EMPLOYEE COMPLETES A VOCATIONAL REHABILITATION PROGRAM?**

- After completion of a vocational rehabilitation program, OWCP may adjust compensation to reflect the injured worker's wage-earning capacity. Actual earnings will be used if they fairly and reasonably reflect the earning capacity. The position determined to be the goal of a training plan is assumed to represent the employee's earning capacity if it is suitable and performed in sufficient numbers so as to be reasonably available, whether or not the employee is placed in such a position.

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**◦ Privacy Act and Conflict of Interest**

- FECA Case File Information is covered by the Privacy Act and must be handled carefully. The injured employee's request for case file information and related questions must be referred to OWCP as these are their records.
- A DFEC Contractor may not have a contract with another Federal Agency to perform case management services for their injured employees; nor may a RC, FN, or CN provide services in more than one task area at a time. For example, a RC may not provide FN or CN services even if otherwise qualified.

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**THE OWCP/DFEC NURSE INTERVENTION PROGRAM**

- Program Objectives:
  - Early, proactive nurse case management interventions which promote recovery and facilitate a safe return to the work force at the earliest feasible point post injury or illness.
    - Facilitating & coordinating medical care
    - Identifying work tolerance limitations
    - Assisting in return to work process
    - Recommending referrals

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### DFEC NURSE INTERVENTION ROLES

- NIP Participants:
  - National Office Nurse Consultant(resource)
  - District Office Staff Nurse—administrator, expert, liaison
  - District Office Claims Examiner (CE)\*- case actions and adjudications
  - Continuation of Pay Nurse - assigned to provide limited phone intervention in early stages of a work stoppage
  - Contract Field Nurse - Facilitate RTW and coordinate medical care during recovery period
  - Injured Employee
  - Employing Agency
  - Medical Providers

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### THE OWCP/DFEC NURSE INTERVENTION PROGRAM

- Communication
  - Direct
  - Telephonic
- Documentation
  - Formal written reports
  - Initial contact & interim case updates to CE and/or SN
    - Telephonic
    - Email
    - ECOMP

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### NURSES DURING COP

- Continuation of Pay Nurse (CN) makes 3 point phone contact with the IW, EA and the Attending Physician's (AP) office.
- (1) From employee, obtains a brief history of the injury, history of medical treatment and current work status, as well as AP contact information;
- (2) From the agency, confirms current work status and finds out whether light duty is available;
- (3) From the attending physician office, obtains a verbal history of medical treatment provided and the expected treatment plan and advises the physician's office regarding the availability of light duty accommodations based on the contact with the agency.
- Based upon the information obtained during the 3 point contact, the CN may recommend assignment of a Field Nurse upon case acceptance.
- Note: CN intervention will cease if the attending is recommending surgery or the employee's injuries are catastrophic in severity
- Benefits: Early flagging of injury severity and possible RTW obstacles; establishes early communication with claimant, physician and agency, obtaining valuable information for the CE.

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### THE OWCP/DFEC NURSE INTERVENTION PROGRAM

- **Accountability**
  - Timely submission of written reports and bills
  - Accuracy in report documentation and charges for services rendered
  - Adhering to authorization limits as established by the district office SN
    - case timeframes and expenditures
  - Adhering to the DFEC policies and protocols
  - Reporting any personnel, administrative, or private matters to the SN

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### WAYS A FIELD NURSE CAN ASSIST IN CASE MANAGEMENT

- Coordinate medical care of various medical providers.
- Obtain treatment plans from the attending physician and determine whether more active treatment/ participation by the employee in the recovery process may be needed.
- Arrange Functional Capacity Evaluations (FCE) and/or work hardening programs.
- Clarify work status and obtain work tolerance limitations and relay this information to CE and EA.
- Assist in work site evaluation following a return to work and monitor the claimant post return to work to ensure it is sustained.
- Recommend a second opinion examination or vocational rehabilitation services.
- Assist in “catastrophic cases” involving severe injury.

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### THE OWCP/DFEC NURSE INTERVENTION PROGRAM

- **Case Referral to DM:**
- Management of disability claims begins as soon as a new claim is received indicating that the claimant has lost time from work as a result of the injury or is disabled from his or her date of injury position.
  - **Criteria**
    - DFEC has accepted at least one work-related condition
    - DFEC has accepted and is compensating a period of on - going disability and/or wage loss
      - Partial temporary disability
      - Total temporary disability

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### THE OWCP/DFEC NURSE INTERVENTION PROGRAM

#### Assignments/Communications

Case is referred to the staff nurse for assignment considering:

- o Geographic location
- o Special considerations and/or needs of the IW/case
- o Recurring case and/or new injury

Communication & Documentation- Field nurse required to submit particular communications at specific times during case management period

NOTE: All case - related communications become part of the permanent case file record

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### THE OWCP/DFEC NURSE INTERVENTION PROGRAM

#### ■ ECOMP

- o DFEC secure web portal
- o Directly to the specified case file
- o Most case related forms, medical documents, and FN generated communications

#### ■ Email

- o Limited to FN and OWCP CE and/or SN within network
- o Case file number - only identifiable information; placed in the body of the text, not on subject line

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### THE OWCP/DFEC NURSE INTERVENTION PROGRAM

#### o **Formal Reports**

- Initial Evaluation
- Progress Report(s)
- Closure Report

#### o **Report Requirements**

- Type written, formatted, & professional font
- Dates of service
- New case information
- Submitted via a secure web portal with associated activity record and billing invoice

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### THE OWCP/DFEC NURSE INTERVENTION PROGRAM

- **The OWCP Central Bill Processing System**
  - Provides a secure web portal by which all FN authorizations, bills, and reports are submitted for processing.
  - FN will apply for and receive a “ provider ID” which is a unique identifier in the CBP system that is linked to each FN authorization and billing account associated with the OWCP/DFEC nurse program.

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### THE OWCP/DFEC NURSE INTERVENTION PROGRAM

- ⊙ **FN Expenditures**
  - Professional services
    - Contacts (i.e. face-to face, telephonic)
    - Nurse case management reports
  - Administrative services
    - Preparation/submission of FN reports and billing invoices
  - Travel
    - Mileage

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### EXAMPLE: CASE ACTIVITY REPORT

DATE	SERVICE	Professional minutes	Admin. minutes	Parking/fees	NITRA (MILEAGE)		
11/15/12	TC to IW LM	NC					
11/29/12	TC to IW	15					
11/29/12	TC to Dr. office	10					
11/29/12	TC to PT	15					
12/01/12	Rec/rev PT notes	15					
12/01/12	Rec/rev Dr. report	15					
12/08/12	Mtg @ Dr. office	15	60 (travel)		40		
12/08/12	TC to IW LM	NC					
12/08/12	TC to PT	10					
12/08/12	TC to EA	10					
12/08/12	TC from IW	10					
12/08/12	Progress (complex) Report	50	30				
	Total minutes	165	90				
	Professional time <sup>hr.</sup>	$165/60 = 2.75$					
	Admin. Time		$90/60 = 1.5$				
		NIP00	NIP01	Hrs.-NIA00	NIA01	NPART	Mile.
	Total Time per charge	45	2	30	1		40
	Cost:	X 1.25	X .75	X 0.63	X 38.00		X 0.445
		\$6.25	\$150.00	\$18.90	\$38.00		\$17.80

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### VOCATIONAL REHABILITATION-- PROGRAM MISSION AND GOALS

Mission: To assist claimants/injured workers (IWs) covered by the Federal Employees Compensation Act (FECA) to return to gainful employment.

Goals:

- To minimize the IW's lost time from work due to disability;
- To facilitate a return to gainful employment, assisting the IW to become productive and self-supporting; and
- To reduce costs by eliminating or reducing workers' compensation payments.

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### VR PROGRAM CHARACTERISTICS

- Cooperative team process
- Focus on early intervention- The probability of effective rehabilitation and RTW is increased when efforts begin as early as possible in the process.
- Referral/evaluation as early as possible, including "Dual Tracking" with Nurse intervention when appropriate
- Individualized service planning and flexibility to provide the widest range of services from private and public resources
- A preference for reemployment with the previous federal employer
- Job Placement of IWs where disability does not prevent them from competing with non-disabled employees
- Case management standards so that RTW plans are efficient & good quality.
- **Mandatory Participation**- Once it is determined by the MD and Claims Examiner (CE) that the IW is medically able to work, he/she is required to undergo vocational rehabilitation, if directed. An IW who refuses suitable employment within the meaning of FECA is not entitled to compensation, and one who refuses to undergo vocational rehabilitation may have benefits reduced or suspended.

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### VR PROGRAM STATISTICS

- The most common work-related disabilities of IWs in the VR program:
  - Musculoskeletal, including injuries of back /upper and lower extremities;
  - Other disabilities or injuries include, skin disorders, heart and lung disease, vision and hearing impairments, and diagnosed psychiatric conditions.
  - A small percentage of cases involve catastrophic injuries such as spinal cord and traumatic brain injuries.
- Total VR Participation: Average 2500 to 3000 IWs annually
- Return to Work: Average 20% annually (500); ¾ return to previous federal employer; ¼ to new employers
- Average duration of case: 8 months
- Average cost per case: \$5 - 6,000.00
- Assisted Reemployment Initiative: 20 to 30 cases per year

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## VR ROLES AND RESPONSIBILITIES

DFEC Rehabilitation Specialists are located in each DFEC District Office and manage the vocational rehabilitation program in that district's given geographical area. The RS serves:

- as a rehabilitation resource and liaison for District Office CEs, FNs, EAs, IWs and other stakeholders; and
- as the primary contact for the District's contractual RCs, administering policies and procedures of the rehabilitation program, coordinating referrals, supervising case management, monitoring RC performance and reviewing rehabilitation reports for completeness and timeliness prior to authorizing payment of bills.
- The RS role is essential to establishing a cooperative, team approach to the rehabilitation process.

Rehabilitation Counselors are professionals in the field of rehabilitation and "boots on the ground," contracted to work 1:1 with DFEC IWs in their communities to:

- Plan, coordinate and facilitate individualized rehabilitation services and reemployment;
- Serve as a direct contact, liaison and professional resource for IWs, District RSts, EAs, FNs (during dual tracking cases), and community rehabilitation, training and service providers and employers.
- Assist with determination of employee's wage earning capacity.

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## ROLES AND RESPONSIBILITIES

DFEC Claims Examiners maintain authority and responsibility over management of the claim and:

- Evaluate medical determinations and refer appropriate cases for rehabilitation;
- Request and review Job Offers from EAs;
- Review rehabilitation plans for medical suitability;
- Issue warning letters for non-cooperation with rehabilitation services/plans;
- Issue notices of proposed actions and formal decisions pertaining to claimant's entitlement to compensation;
- Communicate with EA, Medical Providers and Rehab staff to initiate and facilitate rehabilitation and RTW process.

Injured Workers are responsible for:

- Full compliance with and participation in the rehabilitation and RTW program once referred by the CE;
- Responsiveness to RC (returning calls, appearing at meetings, completing task assignments, participating in planning, etc);
- Following through and maintaining required standards (good participation, C average in training, provide proof of grades/certificates; maintain and provide job search logs, etc)

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## REFERRAL TO VR PROGRAM

Under the FECA, both medical and vocational rehabilitation services can be funded in the disability management and return to work process.

- Referral to the VR Program typically occurs when the IW has been medically approved to return to work with specific work restrictions, but may occur at earlier or later stages as well; or when a RTW is not possible, but the IW is in need of home or vehicle modifications or adaptive equipment to increase or maintain independence.

Traditional Criteria for referral:

- IW not able to return to FT/FD at DOI job
- Minimum 4 hour release to work
- Stable medical condition (does not have to be MMI)
- Stable and well-defined medical restrictions
- Capable of at least sedentary work as defined by DOT
- If a case does not meet all of the criteria above, rehab may still be possible. Rehab can assist with limited referrals to:
  - Assess possibility of RTW - e.g. by obtaining clarification of medical restrictions from treating physician (not SECOP or Referee); Occupational Rehabilitation Programs.
  - Explore the feasibility of part-time and sub-sedentary demand level work in private industry.

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### VR RETURN TO WORK HIERARCHY

When planning for an IWs return to work, DFEC encourages the following return to work hierarchy in order of priority.

- ⊗ Return to work with same employer/same job
- ⊗ Return to work with same employer/modified job
- ⊗ Return to work with same employer/different job
- ⊗ Return to work with new employer/similar job
- ⊗ Return to work with new employer/different job
- ⊗ Formal training or education (followed by a return to work with a same or new employer)

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### VR PROGRAM SERVICES

Vocational rehabilitation services include:

1. Vocational counseling and guidance.
2. Vocational assessments, i.e. vocational testing, work evaluations, situational assessments, etc.
3. Medical rehabilitation to include (but not limited to) scheduling functional capacity evaluations, work hardening and similar inpatient/outpatient programs.
4. Job and/or Transferrable Skills Analyses based on the needs of the assigned case.
5. Vocational exploration and labor market surveys.
6. Job Placement services, with the \*previous and/or new employer(s).

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### VR PROGRAM SERVICES

7. Plan development that may include: job readiness, job seeking skills training; direct job placement; identification of qualification for any special Federal hiring authorities; and on-the-job training or formal training (short-term, refresher, or retraining).
8. Specialized ergonomic, job, vehicle and/or home modification services.
9. Life care planning services in catastrophic cases.
10. Services related to specialized vocational rehabilitation needs and DFEC specialized or pilot projects.
11. Communicating promptly to the Government all case milestones/activities that require action (i.e. return to work, work stoppage, recurrence of symptoms, unrelated medical issues, instances of non-cooperation, etc.).

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### STAGES OF REHABILITATION

- ⊗ **Medical Rehabilitation**
  - FCE, Work Hardening, Home and Vehicle Modifications, Adaptive Technology, Substance Abuse Treatment
  - "Dual Tracking" with Nurse Program
- ⊗ **Placement Previous Employer (PPE)**
  - Seek and/or assist with Job Offer from federal employing agency
  - Assist with medical information, accommodations planning, assistive technology
  - Coordinate short-term training in preparation for alternate positions and tasks
  - Transition support and problem solving
- ⊗ **Plan Development**
  - Transferrable Skills Analysis; Vocational Testing; Vocational Exploration Research; Labor Market Survey; Identification of target positions; Plan of services and wage earning capacity information.
- ⊗ **Training (when necessary to ensure wage earning capacity)**
  - Shorter-term preferred; Identification, coordination and monitoring; Tuition, IW maintenance/supplies; Accommodations; Problem solving (e.g. transportation, family responsibilities); Internships/practicum.

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### STAGES OF REHABILITATION (CONTINUED)

- ⊗ **Placement New Employer (PNE)**
  - Assist IW to prepare for job search - resume, job search skills, interview practice
  - Communicating with potential employers and assistance with identifying job openings;
  - Use special hiring initiatives and placement tools: Assisted Reemployment, Labor for America
  - Monitor and support IW's participation in process (Job Logs)
- ⊗ **Employed Follow-up**
  - Monitor and support the IW's transition to work for 60 days
- ⊗ **Post Employment Services**
  - Services as needed/authorized to maintain position after 60 days and up to 3 years.

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### VR PROGRAM - COMMUNICATIONS

- ⊗ **Rehabilitation Specialist: OWCP 3 Forms**
  - Communicate status changes in the rehabilitation case to CE, IW, EA
- ⊗ **Rehabilitation Counselor:**
  - Monthly rehabilitation progress reports
  - OWCP-44 Forms - Alert RS and CE to problems or actions needed

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### ASSISTED REEMPLOYMENT

- Hiring Incentive/subsidy program to encourage non-federal employers to provide work opportunities
- Allows up to 3 years of partial reimbursement of IW's salary to employer (usually tiered)
- Rehab Specialist and Counselor coordinate the agreement with the Employer, Claims Examiner and claimant
- Wage subsidy plus any payment to the claimant shall never exceed the amount of compensation allowable (75% or 66 2/3%)
- Should compensation be terminated, wage subsidies to employer are discontinued
- Subsidy not transferrable from one employer to another

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### LABOR FOR AMERICA

- Free, web-based recruitment resource sponsored by DFEC where both private and public sector employers can search for candidates to fill job vacancies
- LFA database includes resume profiles of identified DFEC IWs who are in the placement process (without public exposure of personally identifying information)
- Voluntary job placement tool for increased exposure to potential employers; No sanctions for not participating in LFA.
- Marketing avenue for DFEC Assisted Reemployment incentive

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### POSSIBLE OUTCOMES OF VR

- Return to work with the Previous Employer
- Refusal of suitable work with the Previous Employer
  - Due Process (30 days)
  - Termination of Benefits
- Return to work with a new employer
- Complete placement (PNE) with no hire
  - Constructed WEC Recommendation/Decision
- "Other" closures - medical, obstruction, election of OPM/retirement

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### FAILURE TO COOPERATE IN VR

- If IW does not participate, or obstructs the rehab process:
  - RS/RC inform the CE
  - CE sends 30 day sanction warning letter
  - If good cause not found, CE's Final Decision reduces compensation until employee agrees to participate (8113(b); Comp. reinstated retroactively when/if IW reinitiates participation.
  - If obstruction occurs during placement, rehab case can be closed without full 90 days of placement support.

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Questions???

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