

**State of Washington  
Joint Legislative Audit and Review Committee (JLARC)**



**Performance and Outcome  
Measure Review:  
Vocational Rehabilitation  
Services to Injured Workers**

**Report 03-11**

**October 22, 2003**

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in alternative formats for persons with disabilities.*

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**JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

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JLARC staff, under the direction of the Committee and the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other policy and fiscal studies. These studies assess the efficiency and effectiveness of agency operations, impacts and outcomes of state programs, and levels of compliance with legislative direction and intent. The Committee makes recommendations to improve state government performance and to correct problems it identifies. The Committee also follows up on these recommendations to determine how they have been implemented. JLARC has, in recent years, received national recognition for a number of its major studies.

**PERFORMANCE AND  
OUTCOME MEASURE REVIEW:  
VOCATIONAL  
REHABILITATION SERVICES TO  
INJURED WORKERS**

**REPORT 03-11**



OCTOBER 22, 2003

STATE OF WASHINGTON

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## OVERVIEW

The Department of Labor and Industries (L&I) manages the state's workers' compensation system, which provides coverage for medical costs and lost wages for workers who are injured on the job. One of the services available to injured workers is vocational rehabilitation. Vocational rehabilitation services identify and resolve problems that may prevent injured workers from returning to work. L&I contracts out most of the vocational rehabilitation services it provides to private providers. Since 1985, L&I has been required by law to make referrals to vocational rehabilitation providers on the basis of quality and effectiveness. This study reviews how L&I measures the quality and effectiveness of its vocational rehabilitation providers, and how these performance measures are used to make referrals to providers.

## OVERALL FINDING

JLARC finds that L&I is not in compliance with the statutory requirement to make referrals to vocational rehabilitation providers on the basis of quality and effectiveness. The factors that L&I uses to measure provider performance are better measures of efficiency than quality and effectiveness, and the performance scoring methodology may actually create a disincentive for quality and effectiveness. Additionally, JLARC finds that different types of vocational rehabilitation referrals may have widely varying goals. These varying goals are not adequately recognized in the single formula L&I uses to measure performance. Also, the performance scores L&I calculates are not required to be used by L&I staff in making referrals to providers.



# I. BACKGROUND

Virtually all employers in Washington State are required to provide workers' compensation insurance to their employees. Workers' compensation insurance provides coverage for medical costs and lost wages for workers who are injured on the job. Employers can provide this coverage in one of two ways:

- (1) Through the state-run system, which is managed by the Department of Labor and Industries (L&I), or
- (2) They can self-insure under the regulation of L&I.

About 70 percent of all employees in Washington work for employers covered by the state system.

Workers injured on the job can receive vocational rehabilitation services to identify and resolve problems that may prevent an injured worker from returning to work. About 28 percent of injured workers covered by the state system receive vocational rehabilitation services. The state spends about \$44 million per year on these services.

There are four basic types of vocational rehabilitation referrals:

Type of Referral	Examples of Vocational Rehabilitation Services	Percent of Total Referrals
<b>1. Early Intervention</b>	<ul style="list-style-type: none"><li>▪ Discuss early return-to-work options with employer, worker, physician;</li><li>▪ Identify return-to-work goal or barriers;</li><li>▪ Identify job modifications needed.</li></ul>	42%
<b>2. Ability to Work Assessment</b>	<ul style="list-style-type: none"><li>▪ Perform job analyses;</li><li>▪ Assess transferable skills;</li><li>▪ Evaluate the ability of the injured person to work at the job of injury or any other job.</li></ul>	40%
<b>3. Plan Development</b>	<ul style="list-style-type: none"><li>▪ Conduct vocational counseling and occupational exploration;</li><li>▪ Identify job goal, training needs, resources and expenses.</li></ul>	13%
<b>4. Plan Implementation</b>	<ul style="list-style-type: none"><li>▪ Maintain contact with injured worker to ensure he/she successfully enters and progresses in the vocational rehabilitation plan;</li><li>▪ Confirm that the injured worker receives all necessary equipment and supplies.</li></ul>	5%

L&I contracts with private-sector providers for most vocational rehabilitation services. Since 1985, state law (RCW 51.32.095) has required L&I to monitor the quality and effectiveness of the vocational rehabilitative services from its providers and make referrals to providers based on these performance criteria. Some previous outside reviews have found that L&I was not in compliance with this law.

Therefore, in conjunction with JLARC's follow-up of its 1998 Workers' Compensation System Performance Audit, we also conducted this Performance and Outcome Measure Review of L&I's performance-based referral system for vocational rehabilitation. This review is more tightly focused than JLARC's recent Performance and Outcome Measure Review of the Department of Ecology. That review considered performance measurement across the entire department. This review, however, is limited to the performance measures L&I uses to monitor the quality and effectiveness of vocational rehabilitation providers, and how L&I uses those measures.

## II. L&I VOCATIONAL REHABILITATION: STATUTORY FRAMEWORK

RCW 51.32.095 (1) provides that one of the primary purposes of workers' compensation is to "enable the injured worker to become **employable** at gainful employment." L&I is authorized to provide vocational rehabilitation services if it determines that vocational rehabilitation "is necessary and likely to make the worker employable at gainful employment." The term "employable" is significant because if L&I can find that an injured worker is able to work (employable) at any job paying the federal minimum wage, it can close the worker's case and end payments for lost wages (time-loss payments). Therefore, this section may be interpreted to encourage L&I to conclude that a worker is employable, so that the case can be concluded and time-loss payments ended.

RCW 51.32.095 (2) appears to direct the department to make it a top priority to provide services that enable an injured person to **return to work**. It identifies nine priorities for vocational rehabilitation services. All of these priorities are aimed at returning the injured worker to work. The priorities for vocational rehabilitation established by RCW 51.32.095 are:

- (1) Return to the previous job with the same employer;
- (2) Modification of the previous job with the same employer including transitional return to work;
- (3) A new job with the same employer in keeping with any limitations or restrictions;
- (4) Modification of a new job with the same employer including transitional return to work;
- (5) Modification of the previous job with a new employer;
- (6) A new job with a new employer or self-employment involving on-the-job training;
- (7) Modifications of a new job with a new employer;
- (8) A new job with a new employer or self-employment involving on-the-job training; and
- (9) Short-term retraining and job placement.

One section of RCW 51.32.095 appears to encourage L&I to close cases. The second appears to encourage the department to keep them open as long as necessary to achieve a return-to-work outcome. The contrasting statutory language creates ambiguity for L&I regarding the purpose of vocational rehabilitation services. If “return to work” is the primary goal, the focus of vocational rehabilitation services is to assist injured workers to become employed or retain employment. If “employability at gainful employment” is the primary goal, the purpose of vocational rehabilitation services may be to facilitate a finding that an injured worker is able to work (employable), thereby allowing L&I to close a case and end time-loss payments.

RCW 51.32.095 (5) requires L&I to “establish criteria to monitor the **quality and effectiveness** of rehabilitation services” and to “**make referrals for vocational rehabilitation services based on these performance criteria.**” This statutory requirement is the focus of this review.

### III. HISTORY OF L&I’S EFFORTS TO ESTABLISH A PERFORMANCE-BASED REFERRAL SYSTEM

**1992:** A Legislative Budget Committee (JLARC’s predecessor) study of the vocational rehabilitation program found L&I had no formal mechanism in place to make referrals to providers based on performance criteria. Following the LBC report, there was some effort by L&I to implement performance-based referrals via its contracting process with providers. However, this effort was the subject of a lawsuit and the result was that L&I ceased its efforts, at that time, toward performance-based referrals.

**1997:** The State Auditor found L&I to be out of compliance with the statutory requirement for performance-based referrals.

**1998:** The JLARC Workers’ Compensation System Performance Audit found that L&I was in the process of implementing a performance-based referral system.

**September 1998: L&I implemented a performance-based referral system statewide.** The system calculated a single performance score for each provider firm using a formula that considered the cost of each referral, the length of time the referral was open (duration), the outcome of the referral, and a measure of the complexity of the case. Vocational provider firms were given a ranking based on their scores from individual referrals, and new referrals were directed toward more highly ranked firms.

**February 1999:** Some regional rehabilitation providers objected to the new system and filed a lawsuit in Thurston County Superior Court. The lawsuit alleged that the formula did not measure quality and effectiveness (as required by statute) and requested the court to require L&I to cease and desist using the performance scores in making referrals.

**August 1999:** L&I settled the lawsuit with the plaintiffs. The terms of this settlement prohibited L&I from using performance scores to make referrals. The settlement did, however, allow L&I to use the performance score to identify a minimum threshold above which providers could receive referrals unconditionally.

Since 1999, L&I has changed the scoring formula and the way that it procures vocational rehabilitation services from providers:

- L&I no longer contracts with provider firms, but issues individual referrals to firms and individual vocational rehabilitation counselors, and pays an hourly rate (up to a cap) for the services provided.
- L&I calculates performance scores for each individual vocational rehabilitation counselor, as well as for provider firms. Both may now be placed on conditional status, but still receive referrals.

#### IV. DESCRIPTION OF THE CURRENT PERFORMANCE SCORING METHODOLOGY

L&I uses a formula to calculate a performance score for each referral. The following factors are the components of the formula.

- **Duration:** The length of time the referral is open.
- **Cost:** The cost of the referral.
- **Outcome** of the referral: A return-to-work outcome significantly improves the score. If the cost of the referral reaches a fee cap, a poorer score is received. No other potential outcomes affect the score.
- **Complexity:** The complexity of the referral is measured. This factor is only considered if a particular referral results in a score that is more than one standard deviation worse than the average score statewide. If so, the score may be moderated if certain indicators of case complexity are present.

L&I averages the individual referral scores for each provider to calculate that provider's performance score. The department then compares the score for each provider with the average score for all providers within a service area. If a provider's score is significantly worse than average for that service area,<sup>1</sup> the provider is put on "conditional" status. If a provider is on conditional status, he or she can still receive referrals. The L&I claims manager, however, must justify the referral using one of eight possible reasons:

- (1) Special expertise with a particular type of injury;
- (2) Special expertise in a particular industry;
- (3) Proximity to the injured worker;
- (4) English as a Second Language or foreign language capacity;
- (5) Non-availability of another provider to accept the referral;

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<sup>1</sup>The threshold for a provider to receive conditional status is set at approximately two standard errors from the mean performance score for a service location, although the actual threshold varies based on the number of referrals a provider has closed. Providers with a higher number of referrals have a higher threshold than providers with a lower number of referrals.



- (6) Ability to ensure continuity of service;
- (7) Request from the employer;
- (8) Other exceptions may be submitted for approval to the vocational services supervisor at L&I.

## V. JLARC FINDINGS REGARDING THE SCORING METHODOLOGY AND ITS USE

### 1. L&I is not in compliance with the statutory mandate to make referrals based on performance criteria.

While L&I encourages its claims managers to use the performance score in making referrals to vocational rehabilitation providers, there is no requirement that they do so. Since 1999, L&I has not used the performance score for each provider to make referrals, but rather to identify a minimum threshold for providers who can receive referrals unconditionally. The threshold for receiving unconditional referrals is so far from the average that few providers are negatively affected. Even providers with conditional status can and do receive referrals. Thus, there is no requirement for claims managers to use performance scores for making referrals to vocational rehabilitation providers. At least some L&I claims managers said that they do not use the scores in making referrals.

### 2. Key performance indicators measure efficiency, rather than quality and effectiveness.

L&I's performance scoring methodology calculates a single score for a referral, regardless of the type or goal of the referral. The biggest driver of a performance score for most referrals is "duration": the length of time a vocational rehabilitation referral is open. The longer a case is open, the lower its score. The cost of the case is another major driver of the score. Quality and effectiveness, as measured by whether the injured worker returns to work, is considered in the score for some referrals. If a return-to-work outcome is achieved for a referral, the provider's score for the case is substantially improved. However, return-to-work outcomes are achieved infrequently; about 13 percent of the cases referred for vocational rehabilitation achieve a return-to-work outcome. So the primary drivers of the score for the majority of referrals are duration and cost, which primarily measure efficiency, not quality and effectiveness.

### 3. Performance scoring methodology may discourage quality and effectiveness.

Given the significance of duration and cost in the performance scoring methodology, L&I may inadvertently be creating a disincentive for achieving quality and effectiveness. A provider knows that if a case is closed quickly and at a low cost, a good performance score will be received. Whether or not the referral results in a return-to-work outcome is of less significance, given the rarity of this outcome. Additionally, a case closed quickly at low cost with no return-to-work outcome may result in a better performance score than a referral that is open longer, has a higher cost, but achieves a return-to-work outcome.

Therefore, the performance scoring methodology itself may create a disincentive for providers to keep cases open longer in an attempt to return a person work. In addition, job placement is not a recognized vocational rehabilitation service. Vocational rehabilitation providers may not be paid for their time trying to place a client into a job.

#### **4. Conflicting statutory direction results in confusion about program purpose.**

If an injured worker can be found to be “employable at gainful employment” via a vocational rehabilitation referral, the case can be closed and payments for lost wages to that worker ended. The worker does not have to actually be employed in order to be considered “employable.” Rather, the worker simply has to be found to be able to work at any job paying the federal minimum wage. Only about 13 percent of all referrals for vocational rehabilitation result in return-to-work outcomes. This low outcome, plus the incentives of the performance scoring process to close claims quickly, suggests that vocational rehabilitation referrals are often used by L&I claims managers as a tool for getting cases closed.

This observation is supported by findings of the 1998 JLARC performance audit. In that audit, a survey of L&I staff managing contracts with vocational rehabilitation providers found that only 14 percent of these managers thought the primary emphasis of vocational rehabilitation was “return to work.” Thirty-nine percent thought the primary purpose was “claim closure,” and another 39 percent thought the primary purpose was “employability.” Similarly, only 14 percent of vocational rehabilitation providers thought the primary emphasis was return to work, while 27 percent thought the primary purpose was claim closure, and 59 percent thought the primary purpose was employability.

We note that in June 2003, the assistant director of Labor and Industries sent letters to L&I claims staff and vocational rehabilitation providers stating that return to work is the department’s priority for vocational rehabilitation services. Claims managers are encouraged to select providers based on their success in achieving return-to-work outcomes, and providers are informed that the department is placing an increased focus on return-to-work outcomes. However, such a policy statement still does not require that referrals be made on the basis of quality and effectiveness; nor does it counteract the potential disincentives of the performance scoring formula for achieving return-to-work outcomes.

#### **5. Single methodology inadequate to calculate performance of all referral types.**

Measuring the quality and effectiveness of human services such as vocational rehabilitation is difficult because the quality and effectiveness of such services can be largely a subjective matter. It is even more difficult to measure quality and effectiveness if the goal for the service (e.g., employability vs. return to work) is not clear. L&I uses one methodology to calculate the performance score for all types of referrals. Different types of vocational rehabilitation referrals may have different purposes, thus creating difficulties in measuring results or outcomes using a single methodology.

For example, the primary goal of an early intervention referral may be to attempt to facilitate accommodations that allow for a quick return to work for an injured worker with his or her employer of injury. An appropriate measure of quality and effectiveness for such a referral might be a quick return to work with no complications for the injured worker. Alternatively, the primary purpose of an Ability to Work Assessment referral may be to facilitate a finding that the injured worker is employable, which would then allow L&I to close the claim and end time-loss payments to the worker. An appropriate measure of quality and effectiveness for such a referral might be whether there is a successful protest of the finding of employability. Therefore, the measure of quality and effectiveness of referrals with such widely different purposes is likely to be substantially different. But L&I's performance scoring methodology applies the same measure to all referrals, regardless of their purpose.

## VI. CONCLUSIONS AND RECOMMENDATION

The statutory requirements for a performance-based referral system have been in place since 1985. While L&I has made substantial efforts to comply with this statute, our conclusion is that L&I has never been fully in compliance. Performance scores largely do not measure quality and effectiveness, and L&I claims managers are not required to use the calculated performance scores to make referrals. When L&I came closest to being in full compliance with the statute for a short period of time, by actually requiring the use of the performance scores to make referrals, its providers took legal action to stop the process.

We understand that L&I staff are reviewing the current formula which might result in changes placing greater weight on return-to-work and other potential outcomes. We believe this could be a positive step. However, placing a greater weight on return to work may have little effect on the overall incentives created by the formula, because most referrals do **not** achieve a return-to-work outcome. Additionally, if a single formula continues to be used to measure quality and effectiveness, such a single formula would neither reflect the varying goals of different types of referrals nor their varying measures of quality and effectiveness.

The purpose of the statutory mandate for a performance-based referral system is to promote greater accountability over how vocational rehabilitation resources are allocated to providers. There are other options for doing so than using a single formula to measure quality and effectiveness.

The Division of Vocational Rehabilitation (DVR) of the Department of Social and Health Services is implementing a new system of paying its providers for outcomes. DVR provides services to clients with disabilities for reasons other than on-the-job injuries. DVR's outcome payment system identifies the product it is purchasing for various types of referrals and pays its providers a flat rate for the successful provision of that product.

For example, one of DVR's referral types is called a Brief Vocational Assessment. The purpose of such a referral is for the provider to conduct brief tests of a client's job skills and interests. Under the proposed outcome payment system, DVR pays its providers a

flat rate for the completion of a report, with a potential bonus payment if the report is completed within five business days.

Another category of referral is called Job Placement/Retention. The purpose of such a referral is to place an individual in a specific job, provide training of essential job functions, and help the client keep the job for a minimum of 90 days. For this type of referral, under the proposed system, DVR will make incremental payments to the provider upon reaching successive milestones. For example, DVR will pay 5 percent of the flat fee when a plan is completed. DVR will pay another 10 percent when the client is successfully placed in a job, and further increments will be paid after the client retains the job for longer periods of time.

DVR's proposed payment system would recognize that there are different goals for different types of referrals, and would then make payments to providers upon the successful achievement of each goal. This contrasts with L&I's performance-based referral system, which uses a single formula to measure the quality and effectiveness of any referral, regardless of its purpose.

DVR's proposed approach could promote accountability because the agency proposes to pay only if a contractor achieves the goal for a particular referral. Such an approach also could be beneficial to L&I because it would require the department to identify the goal of individual referral categories and base payments on successful achievement of those goals.

Another alternative would be to modify L&I's existing performance scoring and referral process to include different measures of quality and effectiveness for different types of referrals. For example, as suggested above, the measure of quality and effectiveness for return-to-work referrals could focus on successful job placement and retention. The measure for a referral for a finding of employability could be linked to whether the finding is successfully upheld. Under such an approach, quality and effectiveness would be measured differently for different types of referrals, in recognition of the varying goals for different types of referrals.

Such an approach could more accurately measure quality and effectiveness than L&I's current approach of applying the same performance criteria to referrals with widely varying goals. However, in order to fully comply with statute, L&I would have to actually require the use of the scores in making referrals.

## Recommendation 1

**L&I should consider additional methods of promoting accountability over the allocation of resources to vocational rehabilitation providers.** This could range from a significant enhancement of the current performance-based referral system to include different measures of quality and effectiveness for different categories of referrals, to the development of an outcome-based payment system. L&I should seek statutory changes, if these are deemed necessary, to improve accountability over the allocation of vocational resources to providers.

Legislation Required:  
Fiscal Impact:  
Reporting Date:

Potentially  
None  
December 2004

## AGENCY RESPONSES

We have shared the report with the Department of Labor and Industries (L&I) and the Office of Financial Management (OFM), and provided them an opportunity to submit written comments. Their responses are attached as Appendix 1.

## ACKNOWLEDGEMENTS

We appreciate the assistance provided by the Department of Labor and Industries staff in conducting this review.

Thomas M. Sykes  
Legislative Auditor

On October 22, 2003, this report was approved for Distribution by the Joint Legislative Audit and Review Committee.

Senator Jim Horn  
Chair



# APPENDIX 1 – AGENCY RESPONSES

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- Department of Labor and Industries
- Office of Financial Management



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES  
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October 7, 2003

Mr. Thomas M. Sykes  
Joint Legislative Audit and Review Committee  
506 - 16th Avenue SE  
Olympia, WA 98501-2323

Dear Mr. Sykes:

The Department of Labor and Industries appreciates the opportunity to review your preliminary report on the Performance and Outcome Measure Review: Vocational Rehabilitation Services to Injured Workers. Our position on the recommendation is as follows:

Recommendation	Agency Position	Comments
<b>Recommendation 1:</b> L&I should consider additional methods of promoting accountability over the allocation of resources to vocational rehabilitation providers.	<b>Concur</b>	In concurring with the recommendations, the department believes it should have the flexibility to consider a wide range of options that address the different types of vocational rehabilitation referrals.

I have attached a more detailed response, which addresses the main findings contained in your preliminary report. We appreciate the opportunity to provide these comments and look forward to meeting with the committee on October 22.

If you have any questions, please contact Roy Plaeger-Brockway, Manager for Health Services Analysis, at 360-902-6699.

Sincerely,

Paul Trause  
Director

cc: Judy Schurke, Deputy Director  
Robert Malooly, Assistant Director for Insurance Services  
Roy Plaeger-Brockway, Manager for Health Services Analysis





## **Washington State Department of Labor & Industries**

### **Department Comments on JLARC Audit Report**

#### **Performance and Outcome Measure Review: Vocational Rehabilitation Services to Injured Workers**

##### **Background**

In July and August of 2003, the Joint Legislative Audit Review Committee (JLARC) conducted a performance measurement review of the Department of Labor and Industries' vocational performance measurement system. The review was conducted in conjunction with a follow-up study that JLARC performed on its 1998 audit of the department's workers' compensation programs. At the time of the 1998 audit, the department was in the process of implementing its performance measures for vocational rehabilitation providers.

##### **JLARC Recommendation**

The purpose of JLARC's recent review was to assess L&I's progress in implementing the statutory mandate of developing quality and effectiveness criteria and in making referrals to vocational providers based on those criteria. In its report, JLARC made the following recommendation:

**Recommendation 1: L&I should consider additional methods of promoting accountability over the allocation of resources to vocational rehabilitation providers.** This could range from a significant enhancement of the current performance-based referral system to include different measures of quality and effectiveness for different categories of referrals, to the development of an outcome-based payment system. L&I should seek statutory changes, if these are deemed necessary, to improve accountability over the allocation of vocational resources to providers.

##### **L&I Response to Audit Recommendation**

The Department of Labor and Industries concurs with this recommendation. L&I will be implementing changes to its performance rating system in November 2003 that provide additional incentives for providers to deliver services consistent with the agency's goals. L&I will also explore ways to measure referral outcomes by type of referral. The department will also develop an outcome based payment system on a pilot basis. Depending on the degree of success, L&I will expand the outcome based payment system beyond a pilot. The agency is also seeking statutory changes to make the system more effective.

## **Discussion of Main Findings**

### **Finding # 1: L&I is not in compliance with the statutory mandate to make referrals based on performance criteria.**

The department agrees there are opportunities to make better use of performance measures when making referrals to vocational counselors. L&I continuously emphasizes the importance of using the vocational performance ratings with its 250 claims managers. This is done through a variety of mechanisms, such as memos from management, training, and more recently coaching by L&I's vocational consultants. As part of formal claims training, L&I instructs staff on the method used to calculate the performance rating and trains them to make referrals to providers with the best results. The department's vocational consultants actively assist claim managers with vocational issues and explain how to use the performance rating system for making referrals to private sector counselors.

The department has instructed staff to make referrals to eligible, rather than conditional providers, unless there are compelling reasons to use a conditional provider. L&I's experience is that many claim managers have incorporated the performance measures into their referral decisions. The department plans to reinforce this training. The department has also made changes to its information system, which makes it difficult to bypass the performance ratings when claim managers make referrals. The department plans to develop an internal monitoring system to ensure referrals are being made to the appropriate providers. We remain committed to a high level of compliance in using the performance measures.

### **Finding # 2: Key performance indicators measure efficiency, rather than quality and effectiveness.**

Vocational counselor performance measurement is a new and developing management practice. The department implemented its first version of the performance measurement system in 1998 and had few prototypes to draw upon. Since that time, the agency has made numerous revisions to the system based upon provider and consultant feedback. Most recently, the department contracted with Thomas Wickizer, PhD, a research scientist at the University of Washington, who conducted an independent review of L&I's system. Concurrently, L&I assembled an internal team to evaluate possible ways to improve the measurement system. The agency's goal was to find ways to improve the balance between effectiveness and efficiency measures.

On the basis of the University of Washington study and the department team's evaluation, L&I is changing the measurement system to place greater weight on return to work outcomes, which are a measure of quality and effectiveness. The changes will be reflected in the department's November 2003 performance report. The changes will place substantially more weight on return to work, which we expect will increase the percentage of return to work outcomes. At the same time, the department believes that efficiency measures, such as the time to provide vocational services, are important to track in its performance rating system. Efficiency measures, such as duration of service, encourage counselors to provide prompt services that can help reduce the chances of long term disability.

**Finding # 3: Performance scoring methodology may discourage quality and effectiveness.**

L&I agrees that its measurement system should not discourage quality and effectiveness. This is why the department is changing its scoring method to place substantially more weight on measures of quality and effectiveness. This will discourage providers from closing referrals quickly to achieve better scores based on shortening the duration of services. Instead, the scoring method will provide greater incentives for counselors to work with injured workers to help them return to work. Under the new scoring formula, the benefit of achieving a return to work outcome will have the effect of reducing the weighting of the cost and duration of the counselor's referral by two-thirds. We are making this change in November 2003.

**Finding # 4: Conflicting statutory direction results in confusion about program purpose.**

The statutes governing workers' compensation refer to employability as the primary goal of the program; however, the laws governing vocational rehabilitation refer to return to work. The law states that the department's minimum obligation is to find injured workers employable at gainful employment. While our legal obligation is employability, as an agency, L&I strives to go beyond this by promoting return to work. In November 2003, the agency will double the weighting of return to work outcomes to encourage counselors to help injured workers return to employment.

The department has also undertaken numerous initiatives in the past year with the specific goals of increasing return to work outcomes. One such initiative is targeted at improving early intervention services to increase the number of workers who return to work with their employer of injury. Assistant Director Robert Malooly has provided L&I claim managers clear communication about the importance of selecting vocational counselors based on their return to work outcomes. Finally, the department has sought legislative changes to improve how vocational services are provided and will propose changes during the upcoming legislative session.

**Finding # 5: Single methodology inadequate to calculate performance of all referral types.**

The department uses a single score to calculate the key indicator used to measure vocational counselor performance. This score measures cost-effectiveness based on the following four factors: (a) length of time to provide services; (b) cost of services; (c) outcome of the services; and (d) complexity of the injured worker's case. Vocational providers receive additional credit for a return to work outcome, which improves their score considerably. L&I claim managers use the score to select vocational counselors based on their performance. Although a single score has limitations, it offers claim managers a simple measure for choosing a provider.

Conceptually, the idea of developing separate performance measures for each of the four referral types makes sense, since they have different outcomes. The department plans to explore this, but recognizes disaggregating performance measures will reduce the sample size for each counselor and will produce more information for claim managers to consider when choosing a counselor. As with any other changes to the measures, an important consideration must be to balance between the gains of more precise measurement versus greater administrative complexity for providers and claim managers.

The department wishes to clarify for JLARC that an ability to work assessment is used to determine if an injured worker should receive vocational rehabilitation plan development services, which may include further services in the form of re-training. One result of the ability to work assessment may be a determination that a worker is able to work without additional vocational services; however, this is not the only outcome of this referral type.

The department recently began evaluating the concept of using outcome-based payment. L&I has examined systems in other states and at the federal level. The department is planning a pilot in order to test whether such a payment approach would work effectively in the workers' compensation system. It should be noted that the design of an effective outcome-based payment system has proven very challenging for organizations that have attempted it. In Oklahoma, establishing an outcome-based payment method for its DVR system took five years. The Ticket to Work Program, an outcome-based payment method developed recently by the Social Security Administration, has suffered from a lack of provider participation due to poor incentives.

### **Conclusions**

In conclusion, the department concurs with JLARC's recommendation to consider additional methods of promoting accountability over the allocation of resources to vocational rehabilitation providers. These changes will include a significant enhancement of the current performance-based referral system as well as a pilot to test the impacts of an outcome-based payment system. The department is also seeking legislative changes to improve how vocational services are provided to injured workers.



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September 29, 2003

Mr. Thomas M. Sykes  
Legislative Auditor  
Joint Legislative Audit and Review Committee  
506 - 16<sup>th</sup> Avenue SE  
Olympia, WA 98501-2323

Dear <sup>Tom</sup>~~Mr. Sykes~~:

The Office of Financial Management appreciates the opportunity to review the preliminary report on the Performance and Outcome Measure Review: Vocational Rehabilitation Services to Injured Workers. Our position on the recommendation in the preliminary report is as follows:

RECOMMENDATION	AGENCY POSITION	COMMENTS
<p><b>Recommendation 1:</b> Consider additional methods of promoting accountability over the allocation of resources to vocational rehabilitation providers.</p>	<p><b>Concur</b></p>	<p>In concurring with the recommendation, OFM believes that L&amp;I should have the flexibility to consider a wide range of options that address the different types of vocational rehabilitation referrals. The options must be consistent with the department's goals for the rest of the workers' compensation program.</p>

If you have any questions, please contact Jamila Thomas-Roberts at (360) 902-0577.

Sincerely,

  
Marty Brown  
Director



