

Office of the WorkCover Ombudsman

South Australia

Presentation: Launch of SA Unions' Return to Work Fund Project -
"Retraining Injured Workers for Employment"

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Introduction

I am delighted to have been asked to speak at this launch of SA Union's project which aims to "embed retraining within rehabilitation and return to work systems and so achieve improved employment outcomes for injured workers". The aim is obviously commendable and one I enthusiastically support. The project also adopts a thoroughly inclusive approach which I heartily endorse.

It is widely acknowledged that the effective rehabilitation and return to work of injured workers is not only vital to the economic and social well being of injured workers and their families, but fundamental to the economic soundness of a workers compensation scheme. Up until recently the performance of South Australia's scheme has been inferior to other state schemes in this key area of rehabilitation and return to work. It is hardly surprising that the scheme has suffered from economic poor health: it is the symptom of underperformance in the management of injured workers' rehabilitation and return to work.

I have been in the role of WorkCover Ombudsman for nearly 2 years now and one of my main functions is to investigate complaints about the way the scheme in South Australia is operating and to provide assistance to people as they come into contact with the scheme. Many people who contact my office, whether to lodge a formal complaint or make a less formal enquiry, raise concerns about the management of their rehabilitation and return to work.

I do not doubt that many case managers and rehabilitation consultants are doing some fine work in assisting injured workers to return to meaningful work. However, the level of concern that I have encountered demonstrates to me that rehabilitation and the return to work process are of critical importance to those dependent on the scheme and that in many instances the system is failing them.

What I have encountered first hand as WorkCover Ombudsman is actually old news to those who have been involved in the workers compensation industry for any length of time. Partly in recognition of the problem, WorkCoverSA put \$15 million towards a Return to Work Fund which is there to provide a source of funding of projects that are designed to assist with improving the return to work performance of the scheme. While SA Unions has at times been an

outspoken critic of WorkCoverSA I find it encouraging that SA Unions has remained engaged in the scheme as evidenced by it putting forward the proposal for this project. It is equally encouraging that WorkCoverSA approved funding for it from the Return to Work Fund.

Project Overview

The project will seek the participation of up to 50 workers in the Health and Community Services and Manufacturing industries with a view to examining how best to return injured workers to meaningful employment through the provision of relevant training as part of the rehabilitation process.

Participants will be employees who have suffered a work related injury and are unable to return to work with their pre-injury employer or unable to return to their pre-injury duties. They will each undergo an assessment of their skills. Assessments will also be made of job opportunities either with the pre-injury employer or with a new employer. Where a skills gap exists between the injured employee and the job opportunity, specific training to close that gap will be identified and offered to the employee.

This process of identifying and offering relevant training to injured employees requires there to be effective links between case managers, rehabilitation providers and the training industry. The establishment of these links is a key focus of the project.

Why is a Project like this needed?

Some people may say, "But aren't those links already in place and isn't having awareness of both the training options and the pathways to tapping into those options part of a rehabilitation consultant's expertise? So why do we need a project like this?"

My answer to that question has 2 parts to it. The first is that while there are some very competent rehabilitation consultants who achieve good results and are quick to tap into and negotiate retraining options for injured workers when needed, there are others that struggle to do this. If the contact I have with injured workers is anything to go by, rehabilitation is still a rather "hit or miss" experience. A project like this has the potential to set up practices for utilising retraining options and to make the resources for retraining more obvious and accessible so that even those rehab consultants who do struggle in this area will find it easier.

The second part to my answer is that even though many rehabilitation consultants do have the expertise to identify and access retraining options, that expertise is often not used to good effect. Sometimes the reason for this is that they know that particular case managers are reluctant to agree to the provision of retraining to injured workers and I think some rehab consultants either do not see it as their role to persuade case managers to overcome their reluctance or they are just not prepared to put the time and energy into doing it.

Let me give an example of the different approaches to be found amongst rehab consultants. Just last week I was contacted by someone who had worked with the one employer for 15 years but had suffered a work injury that meant she could not continue in that employment. This person was quite realistic about her inability to return to her pre-injury employment and had begun looking at other employment options. Having been in the one line of work for so long she felt that she did not have any transferrable skills. She completed a short course in a different field altogether and decided that she liked it enough to take it up as a new career. She has a contact in the industry who has offered her a job if she completes an advance course in the subject. It will cost several thousand dollars and will take 6 months. The rehabilitation consultant she first discussed this with was very supportive and said she should put in a request with the case manager for the cost to be approved. However, before she did this, she was contacted by another consultant who advised her that there was no point. Because she had sufficient capacity to participate in a work trial as a sales assistant, that is the direction her rehabilitation would take and, in the rehab consultant's view, the case manager would not even consider paying for the massage course. So, 2 rehab consultants with very different attitudes. What should she do? I encouraged her to still put in a request to the case manager to approve the course of study. I have not heard what has happened since then. I imagine that in this situation, the case manager will have a dilemma. Does he/she approve the course costing several thousand dollars but with good prospects of a job at the end of it or does he/she insist that the worker participate in a work trial which can start straight away and cost the scheme very little and hope that the worker will eventually get a job out of it?

I have come across quite a number of similar stories and it seems to me that the less costly option is the one usually adopted by the case manager even though it may only provide a short term return to work solution and leave the injured worker despondent and dissatisfied.

There was a time when as a solicitor in the Crown Solicitor's Office I would have advised a case manager to be wary of spending too much on retraining. After all, we each had a duty to protect the public purse! What was important is that the injured worker is found a job as quickly as possible and it didn't matter whether the work was meaningful or of interest to the injured worker.

However, the legal landscape has changed since then (and, perhaps, I have changed a bit since then too!). It is now a very real possibility that after 130 weeks of entitlements an injured worker who has some capacity for work but no job may lose their entitlement to weekly payments and have to rely on Centrelink for their income. I suggest that this type of limitation on entitlements will only be tolerable and justifiable if adequate support is given to help injured workers to not only recover from their injuries but be enabled to find meaningful employment. In this environment I believe there needs to be an adjustment to the way retraining is viewed by case managers so that it is utilized more often and earlier than it currently is. While the costs of retraining will always be a consideration, I believe that the benefit of obtaining long term employment in a career of the worker's preference has to be given more

weight. In other words, for injured workers who cannot get back to their pre-injury employment the bias needs to be tilted in favour of offering retraining.

I believe that this project will highlight the advantages of retraining in the management of a worker's rehabilitation as well as identify the retraining resources that are the most cost effective (value for dollar). In doing this I am hopeful that it will contribute to the creation of a "pro-retraining bias" amongst case managers such that rehab consultants will be more motivated to use their expertise to find the retraining relevant to individual injured workers because they are not having to come up against a wall of reluctance from case managers.

The Project's Aims

If we consider the stated objectives of the project, you will see why I have this hope. The project has 5 proposed outcomes, all of which are significant. The first and most obvious one is that a group of 50 injured workers will have their vocational skills increased so that they are ready to be employed in suitable duties either with their current employer or a new employer.

The project aims to improve information and support for employers to better meet their obligation to provide suitable employment to injured workers through the provision of retraining.

A third aim is to increase the understanding by case managers of the training system with improved embedding of training activities as part of the rehabilitation and return to work process. There is a similar aim for the rehabilitation industry to acquire an improved understanding of the training system and to incorporate more effective training opportunities within the rehabilitation process. I add that if these 2 aims are achieved, the project has the potential to produce a very significant and beneficial change to the scheme.

Finally, the project aims to improve understanding within the training industry of the workers compensation, rehabilitation and return to work systems and improve access to people in those systems to opportunities and information in the training sector.

So if successful, the project will have a 2 fold impact. It will provide a direct benefit to a group of injured workers needing to find new jobs right now. It will also benefit the scheme more generally by improving the practices and knowledge base of employers, case managers, rehabilitation consultants and training providers and this, I expect, will benefit other workers over time.

For me, one of the really pleasing aspects of the project is that it will involve a range of key stakeholders. The project proposal has identified the need for their involvement for the best chance of achieving its aims. Their involvement will come in the form of a Reference Group which will provide strategic oversight and have a role in monitoring and evaluating the project as well as assisting with the brokering of training and employment opportunities. The membership of this Group will come from unions, employers, rehabilitation

providers, EML, DFEEST, industry skills boards and WorkCover. The Reference Group will also have responsibility for identifying ways in which the achievements of the project may be used to inform and change existing practices. I think this collaboration of representatives from the various stakeholders is an exciting prospect.

Final Comments

To improve the scheme in the area of rehabilitation and return to work requires a collaborative approach like this. No one interest group will be able to make significant headway in return to work rates on their own. For this reason, I believe the project that SA Unions is launching today has the right focus and the right approach and will bring about an improvement to return to work outcomes. I sincerely wish all the participants the very best in achieving the aims of the project and I look forward with keen interest to hearing about the results when it is completed.