

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 1300

By: Settle of the House

and

Henry of the Senate

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10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to workers' compensation; amending 85
12 O.S. 1991, Sections 3.5 and 16, as last amended by
13 Section 7, Chapter 361, O.S.L. 1997 (85 O.S. Supp.
14 1998, Section 16), which relate to workers'
15 compensation hearings and to rehabilitation and job
16 placement services; modifying procedure for selecting
17 hearing locations; authorizing benefits for certain
18 employees participating in a retraining or job
19 placement program; and providing an effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 85 O.S. 1991, Section 3.5, is
22 amended to read as follows:

23 Section 3.5 The claimant at the time of filing ~~his~~ a notice of
24 injury shall elect where necessary hearings by the Court shall be
25 held; ~~provided, that if the claimant is a legal resident of the~~
26 ~~State of Oklahoma, he shall be required to elect either the judicial~~
27 ~~district of the county of his legal residence at the time he~~
28 ~~sustained his injury, the judicial district of the county where the~~
29 ~~injury occurred or the judicial district of the county of the~~
30 ~~principal place of business of the employer. In the event that the~~
31 ~~claimant is not a legal resident of the State of Oklahoma, the~~
32 ~~necessary hearings shall be held in the judicial district of the~~
~~county of the principal place of business of the employer; provided,~~

1 ~~that if the injury occurred within the state, the hearings shall be~~
2 ~~held in the judicial district of the county where the injury~~
3 ~~occurred. In the event the claimant is not a legal resident of the~~
4 ~~State of Oklahoma and the accident resulting in injury occurred~~
5 ~~outside the territorial limits of the state, then the hearings shall~~
6 ~~be held in the judicial district of the county in this state wherein~~
7 ~~the contract of employment was entered into. The claimant may elect~~
8 ~~either Oklahoma City or Tulsa. An employer may object to the~~
9 ~~location selected by the claimant and request a transfer if the~~
10 ~~employer will have at least two live witnesses at the hearing and~~
11 ~~the judge determines that good cause has been shown to transfer the~~
12 ~~hearing. After the election has been made ~~as provided above~~, all~~
13 ~~future hearings by the Court affecting the claimant's case shall be~~
14 ~~held ~~in the judicial district so designated~~ at the location~~
15 ~~determined as provided for in this section unless the Court, upon~~
16 ~~agreement by the claimant and the employer, ~~shall transfer~~ transfers~~
17 ~~such cause for hearing to ~~any other judicial district agreed upon~~~~
18 ~~another location. ~~In addition, hearings may be held in any~~~~
19 ~~~~jurisdiction if the Judge determines that good cause has been shown.~~~~

20 SECTION 2. AMENDATORY 85 O.S. 1991, Section 16, as last
21 amended by Section 7, Chapter 361, O.S.L. 1997 (85 O.S. Supp. 1998,
22 Section 16), is amended to read as follows:

23 Section 16. A. An employee who has suffered an accidental
24 injury or occupational disease covered by the Workers' Compensation
25 Act shall be entitled to prompt and reasonable physical
26 rehabilitation services. When, as a result of the injury, the
27 employee is unable to perform the same occupational duties he was
28 performing prior to the injury, he shall be entitled to such
29 vocational rehabilitation services provided by an area vocational-
30 technical school, a public vocational skills center or public
31 secondary school offering vocational-technical education courses, or
32 a member institution of The Oklahoma State System of Higher

1 Education, which shall include retraining and job placement so as to
2 restore him to gainful employment. No person shall be adjudicated
3 to be permanently and totally disabled unless first having been
4 evaluated as to the practicability of restoration to gainful
5 employment through vocational rehabilitation services or training.
6 If an employee claiming permanent total disability status
7 unreasonably refuses to be evaluated or to accept vocational
8 rehabilitation services or training, permanent total disability
9 benefits shall not be awarded during the period of such refusal, and
10 the employee shall be limited to permanent partial disability
11 benefits only. The Administrator shall promulgate rules governing
12 notice to an injured employee of the right to receive vocational
13 rehabilitation. If rehabilitation services are not voluntarily
14 offered by the employer and accepted by the employee, the judge of
15 the Court may on his own motion, or if requested by a party may,
16 after affording all parties an opportunity to be heard, refer the
17 employee to a qualified physician or facility for evaluation of the
18 practicability of, need for and kind of rehabilitation services or
19 training necessary and appropriate in order to restore the employee
20 to gainful employment. The cost of the evaluation shall be paid by
21 the employer. Following the evaluation, if the employee refuses the
22 services or training ordered by the court, or fails to complete in
23 good faith the vocational rehabilitation training ordered by the
24 court, then the cost of the evaluation and services or training
25 rendered may, in the discretion of the court, be deducted from any
26 award of benefits to the employee which remains unpaid by the
27 employer. Upon receipt of such report, and after affording all
28 parties an opportunity to be heard, the Court shall order that any
29 rehabilitation services or training, recommended in the report, or
30 such other rehabilitation services or training as the Court may deem
31 necessary, provided the employee elects to receive such services,
32 shall be provided at the expense of the employer. Except as

1 otherwise provided in this subsection, refusal to accept
2 rehabilitation services by the employee shall in no way diminish any
3 benefits allowable to an employee.

4 B. Vocational rehabilitation services or training shall not
5 extend for a period of more than fifty-two (52) weeks. This period
6 may be extended for an additional fifty-two (52) weeks or portion
7 thereof by special order of the Court, after affording the
8 interested parties an opportunity to be heard. A request for
9 vocational rehabilitation services or training may be filed with the
10 Administrator by an interested party at any time after the date of
11 injury but not later than sixty (60) days from the date of the final
12 determination that permanent partial disability benefits are payable
13 to the employee.

14 C. Where rehabilitation requires residence at or near the
15 facility or institution which is away from the employee's customary
16 residence, reasonable cost of his board, lodging, travel, tuition,
17 books and necessary equipment in training shall be paid for by the
18 insurer in addition to weekly compensation benefits to which the
19 employee is otherwise entitled under the Workers' Compensation Act.

20 D. 1. During the period when an employee is actively
21 participating in a retraining or job placement program for purposes
22 of evaluating permanent total disability status, the employee shall
23 be entitled to receive benefits at the same rate as the employee's
24 temporary total disability benefits computed pursuant to Section 22
25 of this title.

26 2. An employee determined to be permanently and partially
27 disabled or who is eligible for permanent partial disability
28 benefits shall be entitled to receive benefits at the same rate as
29 the employee's temporary total disability benefits computed pursuant
30 to Section 22 of this title during the period when the employee is
31 actively participating in a retraining or job placement program
32 authorized by the court or the employer. No compensation for

1 permanent partial disability shall be payable during the pendency of
2 the active participation of the employee in such retraining or job
3 placement program. The period within which vocational
4 rehabilitation services or training may be requested is governed by
5 subsection B of this section.

6 3. No attorney fees shall be awarded or deducted from such
7 benefits received during this period. All tuition related to
8 vocational rehabilitation services shall be paid by the employer or
9 the ~~employer's~~ insurer of the employer on a periodic basis directly
10 to the facility providing the vocational rehabilitation services or
11 training to the employee.

12 SECTION 3. This act shall become effective November 1, 1999.

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