

### **342.710 Rehabilitation rights, duties, and procedures -- Acceleration of benefits.**

- (1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.
- (2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.
- (3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he or she is unable to perform work for which he or she has previous training or experience, he or she shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him or her to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his or her own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him or her fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or its insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.
- (4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his or her board, lodging, or travel shall be paid for by the employer or its insurance carrier.
- (5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.
- (6) The commissioner shall cooperate on a reciprocal basis with the Office of Vocational Rehabilitation and the Office of Employment and Training of the Education and Workforce Development Cabinet. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Office of Vocational Rehabilitation or Office of Employment and Training following the refusal by the employer or its insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such

treatment or services by the employer or its insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

- (7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1840, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 11, sec. 82, effective June 25, 2009. -- Amended 2006 Ky. Acts ch. 211, sec. 159, effective July 12, 2006. -- Amended 2000 Ky. Acts ch. 514, sec. 28, effective July 14, 2000. -- Amended 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 66, effective December 12, 1996. -- Amended 1996 Ky. Acts ch. 271, sec. 26, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 181, Part 5, sec. 22, effective April 4, 1994. -- Amended 1990 Ky. Acts ch. 18, sec. 1, effective July 13, 1990; and Ky. Acts ch. 355, sec. 1, effective July 13, 1990. -- Amended 1987 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 54, effective October 16, 1987. -- Amended 1984 Ky. Acts ch. 250, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 426, sec. 3, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 104, sec. 14, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(14). -- Created 1972 Ky. Acts ch. 78, sec. 11.