

Assembly Bill No. 338—Assemblyman Bache

CHAPTER.....

AN ACT relating to workers' compensation; requiring a hearing officer or appeals officer to order an insurer, organization for managed care, third-party administrator or employer to pay for treatment or other services provided to an employee by a provider of health care under certain circumstances; requiring an insurer to include in certain statements a notice setting forth the right of an injured employee to select an alternative treating physician or chiropractor; authorizing an injured employee to select an alternative treating physician or chiropractor under certain circumstances; requiring the administrator of the division of industrial relations of the department of business and industry to design a form notifying an injured employee of his right to select an alternative treating physician or chiropractor; requiring an insurer to deliver to a treating physician or chiropractor certain provisions relating to the evaluation of a permanent impairment under certain circumstances; revising the provisions governing eligibility for and duration of vocational rehabilitation services; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Sections. 1-3. (Deleted by amendment.)

Sec. 4. NRS 616B.527 is hereby amended to read as follows:

616B.527 **1.** A self-insured employer, an association of self-insured public or private employers or a private carrier may:

~~1-1~~ **(a)** Enter into a contract or contracts with one or more organizations for managed care to provide comprehensive medical and health care services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

~~1-2~~ **(b)** Enter into a contract or contracts with providers of health care, including, without limitation, physicians who provide primary care, specialists, pharmacies, physical therapists, radiologists, nurses, diagnostic facilities, laboratories, hospitals and facilities that provide treatment to outpatients, to provide medical and health care services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

~~1-3~~ **(c)** Require employees to obtain medical and health care services for their industrial injuries from those organizations and persons with whom the self-insured employer, association or private carrier has contracted pursuant to ~~subsections 1 and 2,~~ **paragraphs (a) and (b),** or as the self-insured employer, association or private carrier otherwise prescribes.

~~1-4. Require~~

(d) Except as otherwise provided in subsection 3 of NRS 616C.090, require employees to obtain the approval of the self-insured employer, association or private carrier before obtaining medical and health care services for their industrial injuries from a provider of health care who has not been previously approved by the self-insured employer, association or private carrier.

~~1-5~~ **2.** An organization for managed care with whom a self-insured employer, association of self-insured public or private employers or a private carrier has contracted pursuant to this section shall comply with the provisions of NRS 616B.528, 616B.5285 and 616B.529.

Sec. 5. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

If:

1. An insurer, an organization for managed care, a third-party administrator or an employer who provides accident benefits for injured employees pursuant to NRS 616C.265 denies authorization or responsibility for payment for treatment or other services provided by a provider of health care that the injured employee alleges are related to an industrial injury or occupational disease;

2. The injured employee pays in protest for the treatment or other services; and

3. A hearing officer or appeals officer ultimately determines that the treatment or other services should have been covered, or the insurer, organization for managed care, third-party administrator or employer who provides accident benefits subsequently accepts responsibility for payment, the hearing officer or appeals officer shall order the insurer, organization for managed care, third-party administrator or employer who provides accident benefits to pay to the provider of health care the amount which is allowed for the treatment or other services set forth in the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract. Within 30 days after receiving the payment, the provider of health care shall reimburse the injured employee for the amount paid in protest by him.

Sec. 6. NRS 616C.050 is hereby amended to read as follows:

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning his injury or illness.

(b) A statement which contains information concerning the claimant's right to:

(1) Receive the information and forms necessary to file a claim;

(2) Select a treating physician or chiropractor *and an alternative treating physician or chiropractor* in accordance with the provisions of NRS 616C.090;

(3) Request the appointment of the Nevada attorney for injured workers to represent him before the appeals officer;

(4) File a complaint with the administrator;

(5) When applicable, receive compensation for:

(I) Permanent total disability;

(II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability; or

(V) All medical costs related to his injury or disease;

(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. *The insurer's statement must include a copy of the form designed by the administrator pursuant to subsection 7 of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor.* The administrator shall adopt regulations for the manner of compliance by an insurer with the *other* provisions of subsection 1.

Sec. 7. NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The administrator shall establish a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his employees.

2. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 may choose his treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services he rendered to the injured employee up to and including the date of notification. ~~Any~~ *Except as otherwise provided in this subsection, any* further change is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. *If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list.*

3. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 must choose his treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor pursuant to the terms of the contract if the choice is made within 90 days after his injury. If the injured employee, after choosing his treating

physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care services named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. *If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care services pursuant to NRS 616B.527, as appropriate. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care services may select a physician or chiropractor with that specialization.*

4. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.

5. The administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown.

6. An injured employee may receive treatment by more than one physician or chiropractor if the insurer provides written authorization for such treatment.

7. The administrator shall design a form that notifies injured employees of their right pursuant to subsections 2 and 3 to select an alternative treating physician or chiropractor and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

Secs. 8 and 9. (Deleted by amendment.)

Sec. 10. NRS 616C.135 is hereby amended to read as follows:

616C.135 1. A provider of health care who accepts a patient as a referral for the treatment of an industrial injury or an occupational disease may not charge the patient for any treatment related to the industrial injury or occupational disease, but must charge the insurer. The provider of health care may charge the patient for any other unrelated services which are requested in writing by the patient.

2. The insurer is liable for the charges for approved services if the charges do not exceed:

(a) The fees established in accordance with NRS 616C.260 or the usual fee charged by that person or institution, whichever is less; and

(b) The charges provided for by the contract between the provider of health care and the insurer or the contract between the provider of health care and the organization for managed care.

3. *A provider of health care may accept payment from an injured employee who is paying in protest pursuant to section 5 of this act for treatment or other services that the injured employee alleges are related to the industrial injury or occupational disease.*

4. If a provider of health care, an organization for managed care, an insurer or an employer violates the provisions of this section, the administrator shall impose an administrative fine of not more than \$250 for each violation.

Sec. 11. NRS 616C.330 is hereby amended to read as follows:

616C.330 1. The hearing officer shall:

(a) Within 5 days after receiving a request for a hearing, set the hearing for a date and time within 30 days after his receipt of the request;

(b) Give notice by mail or by personal service to all interested parties to the hearing at least 15 days before the date and time scheduled; and

(c) Conduct hearings expeditiously and informally.

2. The notice must include a statement that the injured employee may be represented by a private attorney or seek assistance and advice from the Nevada attorney for injured workers.

3. If necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied, the hearing officer may refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee. If the medical question concerns the rating of a permanent disability, the hearing officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians and chiropractors maintained by the administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any medical examination requested by the hearing officer.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the hearing officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. *The hearing officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay the charges of a provider of health care if the conditions of section 5 of this act are satisfied.*

6. The hearing officer may allow or forbid the presence of a court reporter and the use of a tape recorder in a hearing.

~~16-1~~ 7. The hearing officer shall render his decision within 15 days after:

(a) The hearing; or

(b) He receives a copy of the report from the medical examination he requested.

~~17-1~~ 8. The hearing officer shall render his decision in the most efficient format developed by the chief of the hearings division of the department of administration.

~~18-1~~ 9. The hearing officer shall give notice of his decision to each party by mail. He shall include with the notice of his decision the necessary forms for appealing from the decision.

~~19-1~~ 10. Except as otherwise provided in NRS 616C.380, the decision of the hearing officer is not stayed if an appeal from that decision is taken unless an application for a stay is submitted by a party. If such an application is submitted, the decision is automatically stayed until a determination is made on the application. A determination on the application must be made within 30 days after the filing of the application. If, after reviewing the application, a stay is not granted by the hearing officer or an appeals officer, the decision must be complied with within 10 days after the refusal to grant a stay.

Sec. 12. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied, the appeals officer may refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. *The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay the charges of a provider of health care if the conditions of section 5 of this act are satisfied.*

6. Any party to the appeal or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

~~16-1~~ 7. The appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

~~17-1~~ 8. The appeals officer may affirm, modify or reverse any decision made by the hearing officer and issue any necessary and proper order to give effect to his decision.

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 616C.475 is hereby amended to read as follows:

616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.

2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his dependents are entitled to receive such benefits when the injured employee is released from incarceration if he is certified as temporarily totally disabled by a physician or chiropractor.

3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within 14 working days after receipt of the initial certification of disability and regularly thereafter.

4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.

5. Payments for a temporary total disability must cease when:

(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;

(b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or

(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.

6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the

division for the injured employee to request continued compensation for the temporary total disability.

7. A certification of disability issued by a physician or chiropractor must:

(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;

(b) Specify whether the limitations or restrictions are permanent or temporary; and

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 ~~or~~ *or appropriately chosen pursuant to subsection 3 of NRS 616C.090.*

8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident is not required to comply with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the division governing vocational rehabilitation services if the employer offers the employee *temporary, light-duty employment. Any offer of temporary, light-duty employment made by the employer must specify* a position that:

(a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work; and

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury.

Sec. 15. NRS 616C.490 is hereby amended to read as follows:

616C.490 1. Except as otherwise provided in NRS 616C.175, every employee, in the employ of an employer within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability. As used in this section, "disability" and "impairment of the whole man" are equivalent terms.

2. Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee's disability. Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:

(a) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the administrator, to determine the percentage of disability in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the division pursuant to NRS 616C.110.

(b) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the administrator, according to their area of specialization and the order in

which their names appear on the list ~~H~~ *unless the next physician or chiropractor is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.*

3. *If an insurer contacts the treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability, the insurer shall deliver to the treating physician or chiropractor that portion or a summary of that portion of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the division pursuant to NRS 616C.110 that is relevant to the type of injury incurred by the employee.*

4. At the request of the insurer, the injured employee shall, before an evaluation by a rating physician or chiropractor is performed, notify the insurer of:

(a) Any previous evaluations performed to determine the extent of any of the employee's disabilities; and

(b) Any previous injury, disease or condition sustained by the employee which is relevant to the evaluation performed pursuant to this section.

The notice must be on a form approved by the administrator and provided to the injured employee by the insurer at the time of the insurer's request.

~~14-1~~ 5. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss. No factors other than the degree of physical impairment of the whole man may be considered in calculating the entitlement to compensation for a permanent partial disability.

~~15-1~~ 6. The rating physician or chiropractor shall provide the insurer with his evaluation of the injured employee. After receiving the evaluation, the insurer shall, within 14 days, provide the employee with a copy of the evaluation and notify the employee:

(a) Of the compensation to which he is entitled pursuant to this section; or

(b) That he is not entitled to benefits for permanent partial disability.

~~16-1~~ 7. Each 1 percent of impairment of the whole man must be compensated by a monthly payment:

(a) Of 0.5 percent of the claimant's average monthly wage for injuries sustained before July 1, 1981;

(b) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after July 1, 1981, and before June 18, 1993;

(c) Of 0.54 percent of the claimant's average monthly wage for injuries sustained on or after June 18, 1993, and before January 1, 2000; and

(d) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after January 1, 2000.

Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any, whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later.

~~17-1~~ 8. Compensation benefits may be paid annually to claimants who will be receiving less than \$100 a month.

~~18-1~~ 9. Where there is a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury must be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

~~19-1~~ 10. The division may adopt schedules for rating permanent disabilities resulting from injuries sustained before July 1, 1973, and reasonable regulations to carry out the provisions of this section.

~~110-1~~ 11. The increase in compensation and benefits effected by the amendment of this section is not retroactive for accidents which occurred before July 1, 1973.

~~111-1~~ 12. This section does not entitle any person to double payments for the death of an employee and a continuation of payments for a permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal.

Sec. 16. NRS 616C.495 is hereby amended to read as follows:

616C.495 1. Except as otherwise provided in NRS 616C.380, an award for a permanent partial disability may be paid in a lump sum under the following conditions:

(a) A claimant injured on or after July 1, 1973, and before July 1, 1981, who incurs a disability that does not exceed 12 percent may elect to receive his compensation in a lump sum. A claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that does not exceed 25 percent may elect to receive his compensation in a lump sum.

(b) The spouse, or in the absence of a spouse, any dependent child of a deceased claimant injured on or after July 1, 1973, who is not entitled to compensation in accordance with NRS 616C.505, is entitled to a lump sum equal to the present value of the deceased claimant's undisbursed award for a permanent partial disability.

(c) Any claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that exceeds 25 percent may elect to receive his compensation in a lump sum equal to the present value of an award for a disability of 25 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 25 percent.

(d) Any claimant injured on or after July 1, 1995, may elect to receive his compensation in a lump sum in accordance with regulations adopted by the administrator and approved by the governor. The administrator shall adopt regulations for determining the eligibility of such a claimant to receive all or any portion of his compensation in a lump sum. Such regulations may include the manner in which an award for a permanent partial disability may be paid to such a claimant in installments. Notwithstanding the provisions of NRS 233B.070, any regulation adopted pursuant to this paragraph does not become effective unless it is first approved by the governor.

2. If the claimant elects to receive his payment for a permanent partial disability in a lump sum pursuant to subsection 1, all of his benefits for compensation terminate. His acceptance of that payment constitutes a final

settlement of all factual and legal issues in the case. By so accepting he waives all of his rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his disability, except:

(a) His right to reopen his claim according to the provisions of NRS 616C.390; and

(b) Any counseling, training or other rehabilitative services provided by the insurer.

The claimant must be advised in writing of the provisions of this subsection when he demands his payment in a lump sum, and has 20 days after the mailing or personal delivery of this notice within which to retract or reaffirm his demand, before payment may be made and his election becomes final.

3. Any lump-sum payment which has been paid on a claim incurred on or after July 1, 1973, must be supplemented if necessary to conform to the provisions of this section.

4. Except as otherwise provided in this subsection, the total lump-sum payment for disablement must not be less than one-half the product of the average monthly wage multiplied by the percentage of disability. If the claimant received compensation in installment payments for his permanent partial disability before electing to receive his payment for that disability in a lump sum, the lump-sum payment must be calculated for the remaining payment of compensation.

5. The lump sum payable must be equal to the present value of the compensation awarded, less any advance payment or lump sum previously paid. The present value must be calculated using monthly payments in the amounts prescribed in subsection ~~6~~ 7 of NRS 616C.490 and actuarial annuity tables adopted by the division. The tables must be reviewed annually by a consulting actuary.

6. If a claimant would receive more money by electing to receive compensation in a lump sum than he would if he receives installment payments, he may elect to receive the lump-sum payment.

Sec. 17. NRS 616C.555 is hereby amended to read as follows:

616C.555 1. A vocational rehabilitation counselor shall develop a plan for a program of vocational rehabilitation for each injured employee who is eligible for vocational rehabilitation services pursuant to NRS 616C.590. The counselor shall work with the insurer and the injured employee to develop a program that is compatible with the injured employee's age, sex and physical condition.

2. If the counselor determined in the written assessment developed pursuant to NRS 616C.550 that the injured employee has existing marketable skills, the plan must consist of job placement assistance only. When practicable, the goal of job placement assistance must be to aid the employee in finding a position which pays a gross wage that is equal to or greater than 80 percent of the gross wage that he was earning at the time of his injury. An injured employee must not receive job placement assistance for more than 6 months after the date on which he was notified that he is eligible only for job placement assistance because:

(a) He was physically capable of returning to work; or

(b) It was determined that he had existing marketable skills.

3. If the counselor determined in the written assessment developed pursuant to NRS 616C.550 that the injured employee does not have existing marketable skills, the plan must consist of a program which trains or educates the injured employee and provides job placement assistance. Except as otherwise provided in NRS 616C.560, such a program must not exceed:

(a) If the injured employee has incurred *a permanent disability as a result of which permanent restrictions on his ability to work have been imposed but no permanent physical impairment rating has been issued, or a permanent disability with* a permanent physical impairment of *1 percent or more but* less than 6 percent, 9 months.

(b) If the injured employee has incurred a permanent physical impairment of 6 percent or more, but less than 11 percent, 1 year.

(c) If the injured employee has incurred a permanent physical impairment of 11 percent or more, 18 months.

The percentage of the injured employee's permanent physical impairment must be determined pursuant to NRS 616C.490.

4. A plan for a program of vocational rehabilitation must comply with the requirements set forth in NRS 616C.585.

5. *A plan created pursuant to subsection 2 or 3 must assist the employee in finding a job or train or educate the employee and assist him in finding a job that is a part of an employer's regular business operations and from which the employee will gain skills that would generally be transferable to a job with another employer.*

6. A program of vocational rehabilitation must not commence before the treating physician or chiropractor, or an examining physician or chiropractor determines that the injured employee is capable of safely participating in the program.

~~16-1~~ 7. If, based upon the opinion of a treating or an examining physician or chiropractor, the counselor determines that an injured employee is not eligible for vocational rehabilitation services, the counselor shall provide a copy of the opinion to the injured employee, the injured employee's employer and the insurer.

~~17-1~~ 8. A plan for a program of vocational rehabilitation must be signed by a certified vocational rehabilitation counselor.

~~18-1~~ 9. If an initial program of vocational rehabilitation pursuant to this section is unsuccessful, an injured employee may submit a written request for the development of a second program of vocational rehabilitation which relates to the same injury. An insurer shall authorize a second program for an injured employee upon good cause shown.

~~19-1~~ 10. If a second program of vocational rehabilitation pursuant to subsection ~~18-1~~ 9 is unsuccessful, an injured employee may submit a written request for the development of a third program of vocational rehabilitation which relates to the same injury. The insurer, with the approval of the employer who was the injured employee's employer at the time of his injury, may authorize a third program for the injured employee. If such an employer has terminated operations, his approval is not required for authorization of a third program. An insurer's determination to authorize or deny a third program of vocational rehabilitation may not be appealed.

~~110.1~~ **11.** The division shall adopt regulations to carry out the provisions of this section. The regulations must specify the contents of a plan for a program of vocational rehabilitation.

Sec. 18. NRS 616C.580 is hereby amended to read as follows:

616C.580 1. Except as otherwise provided in this section, vocational rehabilitation services must not be provided outside of this state. An injured employee who:

(a) Lives within 50 miles from any border of this state on the date of injury; or

(b) Was injured while temporarily employed in this state by an employer subject to the provisions of chapters 616A to 617, inclusive, of NRS who can demonstrate that, on the date of injury, his permanent residence was outside of this state, may receive vocational rehabilitation services at a location within 50 miles from his residence if such services are available at such location.

2. An injured employee, who:

(a) Is eligible for vocational rehabilitation services pursuant to NRS 616C.590; and

(b) Resides outside of this state but does not qualify to receive vocational rehabilitation services outside of this state pursuant to subsection 1,

may execute a written agreement with the insurer which provides for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services pursuant to NRS 616C.595. The amount of the lump sum must not exceed ~~15,000~~ **20,000**.

3. An injured employee who resides outside of this state but does not qualify to receive vocational rehabilitation services outside of this state pursuant to subsection 1 may receive the vocational rehabilitation services to which he is entitled pursuant to NRS 616C.545 to 616C.575, inclusive, and 616C.590 if he relocates to:

(a) This state; or

(b) A location within 50 miles from any border of this state, at his own expense, if such services are available at such location.

Sec. 19. NRS 616C.590 is hereby amended to read as follows:

616C.590 1. Except as otherwise provided in this section, an injured employee is not eligible for vocational rehabilitation services, unless:

(a) The treating physician or chiropractor approves the return of the injured employee to work but imposes permanent restrictions that prevent the injured employee from returning to the position that he held at the time of his injury;

(b) The injured employee's employer does not offer employment that ~~that~~ :

(1) The employee is eligible for considering the restrictions imposed pursuant to paragraph (a); and

(2) Provides a gross wage that is equal to or greater than 80 percent of the gross wage that the employee was earning at the time of his injury; and

(c) The injured employee is unable to return to gainful employment *with any other employer* at a gross wage that is equal to or greater than 80 percent of the gross wage that ~~the~~ *the employee* was earning at the time of his injury.

2. If the treating physician or chiropractor imposes permanent restrictions on the injured employee for the purposes of paragraph (a) of subsection 1, he shall specify in writing:

(a) The medically objective findings upon which his determination is based; and

(b) A detailed description of the restrictions.

The treating physician or chiropractor shall deliver a copy of the findings and the description of the restrictions to the insurer.

3. If there is a question as to whether the restrictions imposed upon the injured employee are permanent, the employee may receive vocational rehabilitation services until a final determination concerning the duration of the restrictions is made.

4. Vocational rehabilitation services must cease as soon as the injured employee is no longer eligible for the services pursuant to subsection 1.

5. An injured employee is not entitled to vocational rehabilitation services solely because the position that he held at the time of his injury is no longer available.

6. An injured employee or his dependents are not entitled to accrue or be paid any money for vocational rehabilitation services during the time the injured employee is incarcerated.

7. Any injured employee eligible for compensation other than accident benefits may not be paid those benefits if he refuses counseling, training or other vocational rehabilitation services offered by the insurer. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee shall be deemed to have refused counseling, training and other vocational rehabilitation services while he is incarcerated.

8. If an insurer cannot locate an injured employee for whom it has ordered vocational rehabilitation services, the insurer may close his claim 21 days after the insurer determines that the employee cannot be located. The insurer shall make a reasonable effort to locate the employee.

9. The reappearance of the injured employee after his claim has been closed does not automatically reinstate his eligibility for vocational rehabilitation benefits. If the employee wishes to reestablish his eligibility for such benefits, he must file a written application with the insurer to reinstate his claim. The insurer shall reinstate the employee's claim if good cause is shown for the employee's absence.

Sec. 20. This act becomes effective on July 1, 2002.