

ASSEMBLY BILL NO. 338—ASSEMBLYMAN BACHE

MARCH 13, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning workers' compensation. (BDR 53-711)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

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:

- 1   **Secs. 1-3.** (Deleted by amendment.)  
2   **Sec. 4.** NRS 616B.527 is hereby amended to read as follows:  
3   616B.527   ***1.*** A self-insured employer, an association of self-insured  
4   public or private employers or a private carrier may:  
5   ~~***1-1***~~ ***(a)*** Enter into a contract or contracts with one or more  
6   organizations for managed care to provide comprehensive medical and  
7   health care services to employees for injuries and diseases that are  
8   compensable pursuant to chapters 616A to 617, inclusive, of NRS.  
9   ~~***1-2***~~ ***(b)*** Enter into a contract or contracts with providers of health care,  
10   including, without limitation, physicians who provide primary care,  
11   specialists, pharmacies, physical therapists, radiologists, nurses, diagnostic  
12   facilities, laboratories, hospitals and facilities that provide treatment to  
13   outpatients, to provide medical and health care services to employees for



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1 injuries and diseases that are compensable pursuant to chapters 616A to  
2 617, inclusive, of NRS.

3 ~~13-1~~ (c) Require employees to obtain medical and health care services  
4 for their industrial injuries from those organizations and persons with  
5 whom the self-insured employer, association or private carrier has  
6 contracted pursuant to ~~subsections 1 and 2,~~ paragraphs (a) and (b), or as  
7 the self-insured employer, association or private carrier otherwise  
8 prescribes.

9 ~~14-1 Require~~

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

16 ~~15-1~~ 2. An organization for managed care with whom a self-insured  
17 employer, association of self-insured public or private employers or a  
18 private carrier has contracted pursuant to this section shall comply with the  
19 provisions of NRS 616B.528, 616B.5285 and 616B.529.

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

22 **If:**

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

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

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

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

48 616C.050 1. An insurer shall provide to each claimant:



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

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

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

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

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

11 (4) File a complaint with the administrator;

12 (5) When applicable, receive compensation for:

13 (I) Permanent total disability;

14 (II) Temporary total disability;

15 (III) Permanent partial disability;

16 (IV) Temporary partial disability; or

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

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

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

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

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

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

31 616C.090 1. The administrator shall establish a panel of physicians  
32 and chiropractors who have demonstrated special competence and interest  
33 in industrial health to treat injured employees under chapters 616A to  
34 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has  
35 not entered into a contract with an organization for managed care or with  
36 providers of health care services pursuant to NRS 616B.527 shall maintain  
37 a list of those physicians and chiropractors on the panel who are reasonably  
38 accessible to his employees.

39 2. An injured employee whose employer's insurer has not entered into  
40 a contract with an organization for managed care or with providers of  
41 health care services pursuant to NRS 616B.527 may choose his treating  
42 physician or chiropractor from the panel of physicians and chiropractors. If  
43 the injured employee is not satisfied with the first physician or chiropractor  
44 he so chooses, he may make an alternative choice of physician or  
45 chiropractor from the panel if the choice is made within 90 days after his  
46 injury. The insurer shall notify the first physician or chiropractor in  
47 writing. The notice must be postmarked within 3 working days after the  
48 insurer receives knowledge of the change. The first physician or  
49 chiropractor must be reimbursed only for the services he rendered to the



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1 injured employee up to and including the date of notification. ~~Any~~ *Except*  
2 *as otherwise provided in this subsection, any* further change is subject to  
3 the approval of the insurer, which must be granted or denied within 10 days  
4 after a written request for such a change is received from the injured  
5 employee. If no action is taken on the request within 10 days, the request  
6 shall be deemed granted. Any request for a change of physician or  
7 chiropractor must include the name of the new physician or chiropractor  
8 chosen by the injured employee. *If the treating physician or chiropractor*  
9 *refers the injured employee to a specialist for treatment, the treating*  
10 *physician or chiropractor shall provide to the injured employee a list that*  
11 *includes the name of each physician or chiropractor with that*  
12 *specialization who is on the panel. After receiving the list, the injured*  
13 *employee shall, at the time the referral is made, select a physician or*  
14 *chiropractor from the list.*

15 3. An injured employee whose employer's insurer has entered into a  
16 contract with an organization for managed care or with providers of health  
17 care services pursuant to NRS 616B.527 must choose his treating physician  
18 or chiropractor pursuant to the terms of that contract. If the injured  
19 employee is not satisfied with the first physician or chiropractor he so  
20 chooses, he may make an alternative choice of physician or chiropractor  
21 pursuant to the terms of the contract if the choice is made within 90 days  
22 after his injury. If the injured employee, after choosing his treating  
23 physician or chiropractor, moves to a county which is not served by the  
24 organization for managed care or providers of health care services named  
25 in the contract and the insurer determines that it is impractical for the  
26 injured employee to continue treatment with the physician or chiropractor,  
27 the injured employee must choose a treating physician or chiropractor who  
28 has agreed to the terms of that contract unless the insurer authorizes the  
29 injured employee to choose another physician or chiropractor. *If the*  
30 *treating physician or chiropractor refers the injured employee to a*  
31 *specialist for treatment, the treating physician or chiropractor shall*  
32 *provide to the injured employee a list that includes the name of each*  
33 *physician or chiropractor with that specialization who is available*  
34 *pursuant to the terms of the contract with the organization for managed*  
35 *care or with providers of health care services pursuant to NRS 616B.527,*  
36 *as appropriate. After receiving the list, the injured employee shall, at the*  
37 *time the referral is made, select a physician or chiropractor from the list.*  
38 *If the employee fails to select a physician or chiropractor, the insurer*  
39 *may select a physician or chiropractor with that specialization. If a*  
40 *physician or chiropractor with that specialization is not available*  
41 *pursuant to the terms of the contract, the organization for managed care*  
42 *or the provider of health care services may select a physician or*  
43 *chiropractor with that specialization.*

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



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1 attributable to improper treatments by such physician, chiropractor or other  
2 person.

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

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

9 *7. The administrator shall design a form that notifies injured*  
10 *employees of their right pursuant to subsections 2 and 3 to select an*  
11 *alternative treating physician or chiropractor and make the form*  
12 *available to insurers for distribution pursuant to subsection 2 of NRS*  
13 *616C.050.*

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

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

16 616C.135 1. A provider of health care who accepts a patient as a  
17 referral for the treatment of an industrial injury or an occupational disease  
18 may not charge the patient for any treatment related to the industrial injury  
19 or occupational disease, but must charge the insurer. The provider of health  
20 care may charge the patient for any other unrelated services which are  
21 requested in writing by the patient.

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

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

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

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

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

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

38 616C.330 1. The hearing officer shall:

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

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

43 (c) Conduct hearings expeditiously and informally.

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

47 3. If necessary to resolve a medical question concerning an injured  
48 employee's condition or to determine the necessity of treatment for which  
49 authorization for payment has been denied, the hearing officer may refer



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1 the employee to a physician or chiropractor of his choice who has  
2 demonstrated special competence to treat the particular medical condition  
3 of the employee. If the medical question concerns the rating of a permanent  
4 disability, the hearing officer may refer the employee to a rating physician  
5 or chiropractor. The rating physician or chiropractor must be selected in  
6 rotation from the list of qualified physicians and chiropractors maintained  
7 by the administrator pursuant to subsection 2 of NRS 616C.490, unless the  
8 insurer and injured employee otherwise agree to a rating physician or  
9 chiropractor. The insurer shall pay the costs of any medical examination  
10 requested by the hearing officer.

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

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

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

26 ~~16-1~~ 7. The hearing officer shall render his decision within 15 days  
27 after:

- 28 (a) The hearing; or  
29 (b) He receives a copy of the report from the medical examination he  
30 requested.

31 ~~17-1~~ 8. The hearing officer shall render his decision in the most  
32 efficient format developed by the chief of the hearings division of the  
33 department of administration.

34 ~~18-1~~ 9. The hearing officer shall give notice of his decision to each  
35 party by mail. He shall include with the notice of his decision the necessary  
36 forms for appealing from the decision.

37 ~~19-1~~ 10. Except as otherwise provided in NRS 616C.380, the decision  
38 of the hearing officer is not stayed if an appeal from that decision is taken  
39 unless an application for a stay is submitted by a party. If such an  
40 application is submitted, the decision is automatically stayed until a  
41 determination is made on the application. A determination on the  
42 application must be made within 30 days after the filing of the application.  
43 If, after reviewing the application, a stay is not granted by the hearing  
44 officer or an appeals officer, the decision must be complied with within 10  
45 days after the refusal to grant a stay.

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

47 616C.360 1. A stenographic or electronic record must be kept of the  
48 hearing before the appeals officer and the rules of evidence applicable to  
49 contested cases under chapter 233B of NRS apply to the hearing.



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

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

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

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

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

33 ~~6-1~~ 7. The appeals officer shall render his decision:

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

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

38 ~~7-1~~ 8. The appeals officer may affirm, modify or reverse any decision  
39 made by the hearing officer and issue any necessary and proper order to  
40 give effect to his decision.

41 **Sec. 13.** (Deleted by amendment.)

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

43 616C.475 1. Except as otherwise provided in this section, NRS  
44 616C.175 and 616C.390, every employee in the employ of an employer,  
45 within the provisions of chapters 616A to 616D, inclusive, of NRS, who is  
46 injured by accident arising out of and in the course of employment, or his  
47 dependents, is entitled to receive for the period of temporary total  
48 disability, 66 2/3 percent of the average monthly wage.





- 1     2. Except as otherwise provided in NRS 616B.028 and 616B.029, an  
2 injured employee or his dependents are not entitled to accrue or be paid  
3 any benefits for a temporary total disability during the time the injured  
4 employee is incarcerated. The injured employee or his dependents are  
5 entitled to receive such benefits when the injured employee is released  
6 from incarceration if he is certified as temporarily totally disabled by a  
7 physician or chiropractor.
- 8     3. If a claim for the period of temporary total disability is allowed, the  
9 first payment pursuant to this section must be issued by the insurer within  
10 14 working days after receipt of the initial certification of disability and  
11 regularly thereafter.
- 12     4. Any increase in compensation and benefits effected by the  
13 amendment of subsection 1 is not retroactive.
- 14     5. Payments for a temporary total disability must cease when:
- 15       (a) A physician or chiropractor determines that the employee is  
16 physically capable of any gainful employment for which the employee is  
17 suited, after giving consideration to the employee's education, training and  
18 experience;
- 19       (b) The employer offers the employee light-duty employment or  
20 employment that is modified according to the limitations or restrictions  
21 imposed by a physician or chiropractor pursuant to subsection 7; or
- 22       (c) Except as otherwise provided in NRS 616B.028 and 616B.029, the  
23 employee is incarcerated.
- 24     6. Each insurer may, with each check that it issues to an injured  
25 employee for a temporary total disability, include a form approved by the  
26 division for the injured employee to request continued compensation for  
27 the temporary total disability.
- 28     7. A certification of disability issued by a physician or chiropractor  
29 must:
- 30       (a) Include the period of disability and a description of any physical  
31 limitations or restrictions imposed upon the work of the employee;
- 32       (b) Specify whether the limitations or restrictions are permanent or  
33 temporary; and
- 34       (c) Be signed by the treating physician or chiropractor authorized  
35 pursuant to NRS 616B.527 ~~H~~ *or appropriately chosen pursuant to*  
36 *subsection 3 of NRS 616C.090.*
- 37     8. If the certification of disability specifies that the physical limitations  
38 or restrictions are temporary, the employer of the employee at the time of  
39 his accident is not required to comply with NRS 616C.545 to 616C.575,  
40 inclusive, and 616C.590 or the regulations adopted by the division  
41 governing vocational rehabilitation services if the employer offers the  
42 employee *temporary, light-duty employment. Any offer of temporary,*  
43 *light-duty employment made by the employer must specify* a position that:
- 44       (a) Is substantially similar to the employee's position at the time of his  
45 injury in relation to the location of the employment and the hours he is  
46 required to work; and
- 47       (b) Provides a gross wage that is:
- 48           (1) If the position is in the same classification of employment, equal  
49 to the gross wage the employee was earning at the time of his injury; or



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

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

5 616C.490 1. Except as otherwise provided in NRS 616C.175, every  
6 employee, in the employ of an employer within the provisions of chapters  
7 616A to 616D, inclusive, of NRS, who is injured by an accident arising out  
8 of and in the course of employment is entitled to receive the compensation  
9 provided for permanent partial disability. As used in this section,  
10 "disability" and "impairment of the whole man" are equivalent terms.

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

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

24 (b) Rating physicians and chiropractors must be selected in rotation  
25 from the list of qualified physicians and chiropractors designated by the  
26 administrator, according to their area of specialization and the order in  
27 which their names appear on the list ~~+~~ *unless the next physician or*  
28 *chiropractor is currently an employee of the insurer making the*  
29 *selection, in which case the insurer must select the physician or*  
30 *chiropractor who is next on the list and who is not currently an employee*  
31 *of the insurer.*

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

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

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

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

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



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1 ~~14-1~~ 5. Unless the regulations adopted pursuant to NRS 616C.110  
2 provide otherwise, a rating evaluation must include an evaluation of the  
3 loss of motion, sensation and strength of an injured employee if the injury  
4 is of a type that might have caused such a loss. No factors other than the  
5 degree of physical impairment of the whole man may be considered in  
6 calculating the entitlement to compensation for a permanent partial  
7 disability.  
8 ~~15-1~~ 6. The rating physician or chiropractor shall provide the insurer  
9 with his evaluation of the injured employee. After receiving the evaluation,  
10 the insurer shall, within 14 days, provide the employee with a copy of the  
11 evaluation and notify the employee:  
12 (a) Of the compensation to which he is entitled pursuant to this  
13 section; or  
14 (b) That he is not entitled to benefits for permanent partial disability.  
15 ~~16-1~~ 7. Each 1 percent of impairment of the whole man must be  
16 compensated by a monthly payment:  
17 (a) Of 0.5 percent of the claimant's average monthly wage for injuries  
18 sustained before July 1, 1981;  
19 (b) Of 0.6 percent of the claimant's average monthly wage for injuries  
20 sustained on or after July 1, 1981, and before June 18, 1993;  
21 (c) Of 0.54 percent of the claimant's average monthly wage for injuries  
22 sustained on or after June 18, 1993, and before January 1, 2000; and  
23 (d) Of 0.6 percent of the claimant's average monthly wage for injuries  
24 sustained on or after January 1, 2000.  
25 Compensation must commence on the date of the injury or the day  
26 following the termination of temporary disability compensation, if any,  
27 whichever is later, and must continue on a monthly basis for 5 years or  
28 until the claimant is 70 years of age, whichever is later.  
29 ~~17-1~~ 8. Compensation benefits may be paid annually to claimants who  
30 will be receiving less than \$100 a month.  
31 ~~18-1~~ 9. Where there is a previous disability, as the loss of one eye, one  
32 hand, one foot, or any other previous permanent disability, the percentage  
33 of disability for a subsequent injury must be determined by computing the  
34 percentage of the entire disability and deducting therefrom the percentage  
35 of the previous disability as it existed at the time of the subsequent injury.  
36 ~~19-1~~ 10. The division may adopt schedules for rating permanent  
37 disabilities resulting from injuries sustained before July 1, 1973, and  
38 reasonable regulations to carry out the provisions of this section.  
39 ~~110-1~~ 11. The increase in compensation and benefits effected by the  
40 amendment of this section is not retroactive for accidents which occurred  
41 before July 1, 1973.  
42 ~~111-1~~ 12. This section does not entitle any person to double payments  
43 for the death of an employee and a continuation of payments for a  
44 permanent partial disability, or to a greater sum in the aggregate than if the  
45 injury had been fatal.  
46 **Sec. 16.** NRS 616C.495 is hereby amended to read as follows:  
47 616C.495 1. Except as otherwise provided in NRS 616C.380, an  
48 award for a permanent partial disability may be paid in a lump sum under  
49 the following conditions:



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1 (a) A claimant injured on or after July 1, 1973, and before July 1, 1981,  
2 who incurs a disability that does not exceed 12 percent may elect to receive  
3 his compensation in a lump sum. A claimant injured on or after July 1,  
4 1981, and before July 1, 1995, who incurs a disability that does not exceed  
5 25 percent may elect to receive his compensation in a lump sum.

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

11 (c) Any claimant injured on or after July 1, 1981, and before July 1,  
12 1995, who incurs a disability that exceeds 25 percent may elect to receive  
13 his compensation in a lump sum equal to the present value of an award for  
14 a disability of 25 percent. If the claimant elects to receive compensation  
15 pursuant to this paragraph, the insurer shall pay in installments to the  
16 claimant that portion of the claimant's disability in excess of 25 percent.

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

27 2. If the claimant elects to receive his payment for a permanent partial  
28 disability in a lump sum pursuant to subsection 1, all of his benefits for  
29 compensation terminate. His acceptance of that payment constitutes a final  
30 settlement of all factual and legal issues in the case. By so accepting he  
31 waives all of his rights regarding the claim, including the right to appeal  
32 from the closure of the case or the percentage of his disability, except:

33 (a) His right to reopen his claim according to the provisions of NRS  
34 616C.390; and

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

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

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

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



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1 a lump sum, the lump-sum payment must be calculated for the remaining  
2 payment of compensation.

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

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

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

13 616C.555 1. A vocational rehabilitation counselor shall develop a  
14 plan for a program of vocational rehabilitation for each injured employee  
15 who is eligible for vocational rehabilitation services pursuant to NRS  
16 616C.590. The counselor shall work with the insurer and the injured  
17 employee to develop a program that is compatible with the injured  
18 employee's age, sex and physical condition.

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

- 28 (a) He was physically capable of returning to work; or  
29 (b) It was determined that he had existing marketable skills.

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

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

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

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

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

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



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

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

10    ~~16-1~~ 7. If, based upon the opinion of a treating or an examining  
11 physician or chiropractor, the counselor determines that an injured  
12 employee is not eligible for vocational rehabilitation services, the  
13 counselor shall provide a copy of the opinion to the injured employee, the  
14 injured employee's employer and the insurer.

15    ~~17-1~~ 8. A plan for a program of vocational rehabilitation must be  
16 signed by a certified vocational rehabilitation counselor.

17    ~~18-1~~ 9. If an initial program of vocational rehabilitation pursuant to this  
18 section is unsuccessful, an injured employee may submit a written request  
19 for the development of a second program of vocational rehabilitation which  
20 relates to the same injury. An insurer shall authorize a second program for  
21 an injured employee upon good cause shown.

22    ~~19-1~~ 10. If a second program of vocational rehabilitation pursuant to  
23 subsection ~~18-1~~ 9 is unsuccessful, an injured employee may submit a written  
24 request for the development of a third program of vocational rehabilitation  
25 which relates to the same injury. The insurer, with the approval of the  
26 employer who was the injured employee's employer at the time of his  
27 injury, may authorize a third program for the injured employee. If such an  
28 employer has terminated operations, his approval is not required for  
29 authorization of a third program. An insurer's determination to authorize or  
30 deny a third program of vocational rehabilitation may not be appealed.

31    ~~110-1~~ 11. The division shall adopt regulations to carry out the  
32 provisions of this section. The regulations must specify the contents of a  
33 plan for a program of vocational rehabilitation.

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

35    616C.580 1. Except as otherwise provided in this section, vocational  
36 rehabilitation services must not be provided outside of this state. An  
37 injured employee who:

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

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

46    2. An injured employee, who:

47    (a) Is eligible for vocational rehabilitation services pursuant to NRS  
48 616C.590; and



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

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

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

13 (a) This state; or

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

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

17 616C.590 1. Except as otherwise provided in this section, an injured  
18 employee is not eligible for vocational rehabilitation services, unless:

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

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

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

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

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

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

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

39 (b) A detailed description of the restrictions.

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

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

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



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

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

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

13     8. If an insurer cannot locate an injured employee for whom it has  
14 ordered vocational rehabilitation services, the insurer may close his claim  
15 21 days after the insurer determines that the employee cannot be located.  
16 The insurer shall make a reasonable effort to locate the employee.

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

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

