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Executive Summary

Introduction
At L&I’s request, the 2015 legislature passed Substitute House Bill (SHB) 1496, codified in RCW 51.32.095, which made substantial enhancements to L&I’s Preferred Worker program rules to improve workers’ chances of returning to work. The goal of the legislation is to improve return to work outcomes for workers with permanent medical restrictions. The enhancements enacted in 2015:

- More closely align the Preferred Worker program with the agency’s popular Stay at Work program.
- Increase some incentives, especially for long-term employment.
- Expand program eligibility to the employer at the time of a worker’s injury (employer of injury).

SHB 1496 also directed L&I to conduct a study of injured workers whose employers participate in the incentives in order to determine the impact of the incentives on return-to-work outcomes, long-term disability, and claim costs. The agency is required to report the results of the study to appropriate committees of the legislature by December 1, 2018. L&I is pleased to provide this report on study results regarding the impacts of Preferred Worker program enhancements.

A worker with permanent medical restrictions that are a substantial barrier to employment may be certified as a “preferred worker.” This enables an employer to receive financial incentives when they hire the worker for a medically-approved, long-term job. In most cases, workers receiving benefits through the Department of Labor & Industries’ (L&I) Preferred Worker program have been found to have a permanent (although partial) disability, and their workers’ comp claims have been closed.

Studies show that the longer an individual is off work, the harder it is for them to get back to their original wages. Returning to work speeds an injured worker's recovery and reduces the financial impact of a workers' compensation claim on the worker, the employer, and the workers' compensation system. Although the Preferred Worker program greatly improves return to work outcomes for qualifying workers, low program use continued to prevent the program from helping as many workers as possible.

2016 - 2018 Progress
L&I successfully implemented the new Preferred Worker program enhancements by July 2016, and subsequently launched an outreach campaign to explain the changes to workers and employers.

By September 2018, almost 500 employers had filed applications to hire a certified preferred worker and receive reimbursements and other benefits, revealing broad interest in the program. Of these employers, over 400 received approval, and more than 100 have requested and received reimbursements as of the writing of this report.
This program is a very important tool in L&I’s efforts to help injured workers heal and return to work. As in other workers’ compensation systems, many Washington workers leave the system each year without employment, and are often unable to return to the occupation they held at injury. As a result, these displaced workers can find themselves out of work for long periods of time, may experience emotional and social distress, and may eventually depend on other social service programs.

While it is too soon to capture the full impact of the incentives on return-to-work outcomes, long-term disability, and claim costs, some results have already been shown:

- Within two years of the changes to the Preferred Worker program, more employers hired preferred workers than had done so in the previous five years.
- To date, 35 employers have submitted a Continuous Employment Incentive request, indicating a sustained employment relationship with the worker.
- Prior to the program enhancements, fewer than five percent of those eligible for the program took advantage of the benefits available to them. Since the implementation of the enhancements, the participation rate has begun to steadily increase, reaching 7.7 percent in Fiscal Year 2018.
- Of the 468 employers applying to hire a certified Preferred Worker, 287 were the employer of injury – something that was not possible before the law change.

**2019 Goals**

To increase awareness, acceptance, and use of the Preferred Worker program, L&I will continue to:

- Coordinate communication efforts with both workers and employers to reduce the stigma attached to being an injured worker in the labor market.
- Broadly promote the use of the program among employer groups.
- Help eligible workers connect with willing employers through partnerships such as the private sector vocational community and WorkSource.
- Align outreach for this program with other agency outreach efforts.
Introduction

The Preferred Worker program is dedicated to helping workers with permanent medical restrictions go back to work – either with their previous employer or with another employer. At the request of the Department of Labor & Industries (L&I), the 2015 legislature passed Substitute House Bill (SHB) 1496, codified in RCW 51.32.095, which substantially enhanced the Preferred Worker program and required a report on program effectiveness by December 1, 2018.

Between 1,300 and 2,000 workers are deemed eligible for the Preferred Worker program each year. All of these injured workers have sustained life-changing injuries or illness, and often incur costs that are not covered by the workers’ compensation system. They are at risk for loss in productivity, use of other social services programs, and re-injury. Studies show that the longer an individual is off work, the harder it is for them to get back to their original wages. Returning to work speeds an injured worker's recovery and reduces the financial impact of a workers' compensation claim on the worker, the employer, and the workers' compensation system.

This report provides an analysis of the impact of the enhancements to the Preferred Worker program on return-to-work outcomes, long-term disability, and workers’ compensation claim costs. It describes immediate benefits of and projects future participation in the program based on data from the last 21 months.
Progress & Achievements in 2018

BACKGROUND

A worker with permanent medical restrictions that are a substantial barrier to employment may be certified as a “preferred worker.” This enables an employer to receive financial incentives when they hire the worker for a medically-approved, long-term job.

Original program

The Department of Labor & Industries (L&I) initially implemented the Preferred Worker program in 1980. At that time, incentives for employees were:

- Three years of workers’ compensation premium relief for hours worked by the preferred worker.
- Three years of cost protection against subsequent injury claims for that worker.

These incentives were not available to the employer of injury, and the worker had to self-disclose their preferred worker status. This resulted in low program use. Prior to the statutory change in 2015, L&I received just 425 requests to hire a certified preferred worker over the entire period from 2011 through 2015.

Contributing factors to low participation were:

- The employer of injury was unable to receive benefits if they re-hired their injured employee.
- Workers perceived a stigma associated with being hired as an “injured worker.”
- Workers had to self-disclose their injury or medical limitations.
- There was a lack of clear partnerships between L&I and other agencies who also specialize in return-to-work services.

Enhancements

Studies show that the longer an individual is off work, the harder it is for them to get back to their original wages. Returning to work speeds an injured worker's recovery and reduces the financial impact of a workers' compensation claim on the worker, the employer, and the workers' compensation system. Although the Preferred Worker program greatly improves return to work outcomes for qualifying workers, low program use continued to prevent the program from helping as many workers as possible.

At the request of L&I, the 2015 legislature made enhancements to the Preferred Worker program as part of an effort to encourage higher participation and thus improve return to work outcomes. The enhancements updated the existing benefits to:

- Reimburse employers for 50 percent of a worker’s base wages for 66 days of work, up to $10,000.
• Provide $2,500 to reimburse for costs of equipment to facilitate a preferred worker’s return to work.
• Provide $400 to reimburse for costs of clothing for the preferred worker to facilitate return to work.
• Reimburse the employer a Continuous Employment Incentive of 10 percent of the preferred worker’s wages or $10,000, whichever is less, if the employment relationship continues for at least 12 consecutive months.

One of the most significant changes to the Preferred Worker program allows the employer of injury to participate if they re-hire the certified preferred worker. Previously, the worker had to find employment with a different employer.

Implementation of program enhancements

In 2016, L&I updated its payment processing system to include the ability to process payments for employer Preferred Worker reimbursements. Payments for preferred workers through this new system began in July 2016.

The first application to include the Continuous Employment Incentive was processed through the system in December 2017. For an employer to qualify for this incentive, the employer/employee relationship must be maintained for a year; the employer has a year from the end of the employment period to apply for the incentive. To date, 35 employers have submitted a Continuous Employment Incentive request, indicating a sustained employment relationship with the worker.

L&I promoted the Preferred Worker program to employers and injured workers through:

• Presentations by the existing Return to Work Partnership outreach team to:
  o Retrospective rating groups
  o Trade and other associations
  o Conferences
  o Employer meetings
• Distribution of Preferred Worker program brochures
• Coordination with other L&I outreach teams
• Education for Vocational Rehabilitation Counselors
• Establishment of co-located WorkSource Vocational Services Specialists

EARLY IMPLEMENTATION RESULTS

Implementation goals

A major goal of the Preferred Worker program enhancements is to help workers with permanent work restrictions go back to work. To achieve this, L&I needs to ensure that employers know about the benefits and see them as outweighing any potential costs of employing a worker with a permanent disability and/or participating in the program. In addition, eligible workers must be willing to self-identify as an injured worker to potential employers.
**Employer participation**

From January 2016 through September 2018, L&I received 468 applications from employers to hire a certified Preferred Worker. Within two years of the changes to the Preferred Worker program, more employers hired preferred workers than had done so in the previous five years.

L&I is encouraged by the number of employers who have begun to take advantage of the program and the ability to leverage other services, including vocational assistance tailored to the needs of injured workers. Claims involving vocational assistance may be partnered with local WorkSource resources and/or the Employment Security Department (ESD) to provide additional return to work options for the worker.

In addition to wage incentives, the Preferred Worker program can also reimburse employers for clothing and equipment to aid the employer in bringing an employee to work. In 2018, the program received 17 expense requests for clothing or equipment.

Because many eligible employers did not seek the Continuous Employment Incentive after a year had passed, L&I began targeted outreach to these employers. Starting in June 2018, the Return to Work Partnership outreach team now calls all employers who may be eligible for the Continuous Employment Incentive to remind them of this benefit. Many eligible employers also failed to request the Preferred Worker program wage reimbursement, so the outreach team provides additional guidance to these eligible employers.

It is important to note that employers have a year to file for any reimbursement incentive, and this may impact our statistics on program use at a later date.

**Injured worker participation**

Currently, injured workers must identify themselves as preferred workers and independently explain the program and its benefits to potential employers; however, workers perceive considerable workplace stigma associated with being injured and/or having medical or physical restrictions. This perceived or actual stigma must be addressed if we are to increase injured worker participation.

L&I’s efforts to reduce the stigma associated with being an injured worker include:

- Conducting a marketing campaign for the Preferred Worker program.
- Working directly with the vocational community to use their existing local partnerships to educate engaged local employers about the benefits of hiring a Preferred Worker.
- Providing new training for claim managers focused on reducing injured worker barriers to successful return to work.
- Holding one-on-one phone conversations with employers with a new claim to reinforce the importance of their active participation in getting injured workers back to work quickly and safely.
• Developing workshops for workers in partnership with regional WorkSource offices to:
  o Teach workers how to self-identify as preferred workers.
  o Direct employers to WorkSource to find qualifying preferred workers.

**ANALYSIS**

This section analyzes L&I’s success in implementing the enhancements to the Preferred Worker program.

**Impact of the enhancements**

The Preferred Worker program’s goal is to assist injured workers who have not returned to work, and who have been determined to have a permanent, although partial, disability that may be a substantial barrier to employment. Despite the program’s intent to help workers, historically, use of the program has been low. Since the Preferred Worker incentive is initiated by the worker, the lack of use has been attributed to lack of interest or understanding by workers eligible for the program. Workers often perceive a stigma in the labor market associated with being a previously injured worker. If this perceived stigma outweighs the perceived benefits of the program, workers will not use the program.

Between 1,300 and 2,000 workers are deemed eligible for the Preferred Worker program each year. Return to work rates for these workers are relatively low. Although we have not specifically calculated return to work rates for this group, many of these injured workers have most likely been out of work for extended periods of time prior to participating in the program. Two years post-injury, the chance of returning to work in the eighth quarter if not already working is less than one percent.\(^1\)

Prior to the program enhancements, fewer than five percent of those eligible for the program took advantage of the benefits available to them, as measured through employee participation. Since the implementation of the enhancements, the participation rate has begun to steadily increase, reaching 7.7 percent in Fiscal Year 2018. While this number is still relatively low, it is a substantial increase from a much lower participation rate in the years prior to the enhancements, as shown in Table 1 below.

\(^1\) The average days from injury to application for the Preferred Worker program was 893 days, or almost two and a half years.
This increase in participation rates indicates that the new program enhancements are having a positive impact. The department plans to continue to work with both eligible workers and employers to help them understand and use the benefits of this program.

**Job rejection rates**

If a job offer from an employer does not meet Preferred Worker program requirements, L&I can deny the employer’s request to hire a preferred worker. Denial of the intent to hire most commonly occurs for one of two reasons:

- The job offered is too similar to a worker’s job of injury and does not adequately address the worker’s limitations.
- The employer’s intent to hire application is incomplete, and L&I is unable to obtain needed information to support approval of the intent to hire.

A job offered to a preferred worker must be one that accommodates the worker’s physical restrictions. This requirement is sometimes confusing to the employer of injury who wants their previous employee to return to a job similar to the one they held when injured. (Until the enhancements to the Preferred Worker Program were enacted, the employer of injury was not able to participate in the incentive program.) From 2015 to 2018, of the 468 employers applying to hire a certified Preferred Worker, 287 were the employer of injury; the department approved 374 requests of these applications, denied 91 applications, and three applications were withdrawn by the employer. Providing more education to increase understanding of program requirements should reduce job rejections related to requirements over time.

Job rejection due to incomplete applications may present an opportunity for L&I to further streamline and clarify the application process.

Since implementation of the Preferred Worker program enhancements, L&I’s denial of employers’ intent to hire has declined dramatically, from almost 25 percent in the period prior to the legislative changes to about 16 percent as of the writing of this report.

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**Table 1: Historical use of preferred worker program**

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Workers eligible</th>
<th>Workers who participated</th>
<th>Participation rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>1,900</td>
<td>147</td>
<td>7.7%</td>
</tr>
<tr>
<td>2017 (implementation of enhancements)</td>
<td>1,593</td>
<td>95</td>
<td>6.0%</td>
</tr>
<tr>
<td>2016</td>
<td>1,305</td>
<td>60</td>
<td>4.6%</td>
</tr>
<tr>
<td>2015</td>
<td>1,504</td>
<td>72</td>
<td>4.8%</td>
</tr>
<tr>
<td>2010-2014 average</td>
<td>1,601</td>
<td>53</td>
<td>3.3%</td>
</tr>
</tbody>
</table>
Claim cost and employer impact

Most workers in the Preferred Worker program have closed claims, which minimizes cost impacts to the workers’ compensation system and to employers. However, since workers in the program have a permanent disability that is a significant barrier to employment, they may incur higher claim costs.\(^2\)

An estimate of cost savings due to claims that do not re-open or workers who do not re-injure themselves is not yet available. Several years of post-participation history are needed to track both re-opening and injury rates. Avoided costs, however, may be significant because many of these workers represent some of the most costly time-loss claims. In Fiscal Year 2018, the average cost for L&I claims lasting more than 12 months after injury was $328,000, compared to an average of $14,000 for claims lasting under one year. Given the wide gap, investing in efforts to help workers heal and return to work can be cost-effective – and L&I is getting results.

\(^2\) Fiscal Year 2016 data from L&I actuarial service estimates
Next Steps

L&I is committed to facilitating and promoting return to work strategies for injured workers throughout their healing process. In 2019, L&I will leverage existing initiatives and strategic partnerships to increase participation in the Preferred Worker program. These initiatives include:

- Launch coordinated outreach with employers for both the Stay at Work and the Preferred Worker programs. Identify a broader audience for outreach beyond the employer of injury to address the need for preferred workers to often engage with a new employer.
- Increase awareness coaching for injured workers on the importance of returning to work for personal well-being, and the array of supporting services that can help them safely return to work throughout the healing process.
- Continue to partner with other organizations such as WorkSource and the Employment Security Department to help injured workers who can’t go back to their employer of injury find new and appropriate jobs. Currently, L&I has co-located Vocational Services Specialists in each of the six regions across the state in the following counties:
  - Whatcom-Skagit
  - Pierce
  - Thurston
  - Benton-Franklin
  - Spokane
  - Auburn
Conclusion

Participation in the Preferred Worker program signifies a successful reintegration into the workforce at a job that is appropriate for the worker’s injury-related work restrictions.

Safe and successful return to work is the best outcome for injured workers, employers, and the workers’ compensation system. The Preferred Worker program is a great example of a program that contributes to the welfare of each of these groups. It gives employers incentives to provide appropriate jobs for injured workers, thereby building the strength of the system. And it gives permanently disabled workers new opportunities to return to work.

L&I has successfully implemented the enhancements to the Preferred Worker program, increased employer participation, and worked to increase injured worker willingness to use the program. In 2019, L&I will continue to leverage existing initiatives and strategic partnerships to increase participation in the Preferred Worker program.