

§18512. Rehabilitation

Upon agreement of the chief executive officer and the person, rehabilitation services may be provided to any person who is the recipient of a disability retirement benefit under this article as a means to the person being able to return to substantially gainful activity. As a condition of entering into an agreement to provide rehabilitation services, the chief executive officer must determine that rehabilitation is feasible, that rehabilitation is consistent with the purposes of this article, that the recipient is suitable for rehabilitation services and that rehabilitation services are likely to lead to substantially gainful activity. Services must be provided by private and public rehabilitation counselors, government agencies and others approved by the chief executive officer as qualified to provide rehabilitation services. The chief executive officer shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified. This section does not affect the ongoing requirement that a person remain disabled in order to continue to receive disability benefits. [PL 2021, c. 277, §33 (AMD); PL 2021, c. 548, §45 (REV).]

For the purposes of this section, "person" means any person who is the recipient of a disability retirement benefit. [PL 2003, c. 387, §10 (NEW).]

1. Rehabilitation plan. If the chief executive officer makes the determinations necessary to provide rehabilitation services under this section and rehabilitation agreed to by the parties, the retirement system shall designate a rehabilitation provider to evaluate the person and develop a rehabilitation plan.

[PL 2003, c. 387, §10 (NEW); PL 2021, c. 548, §45 (REV).]

2. Costs. The chief executive officer may contract with rehabilitation providers to develop and carry out approved rehabilitation plans.

A. Except as provided in paragraph B, the chief executive officer shall pay these providers from funds accumulated in the Retirement Allowance Fund, established under section 17251. [PL 2003, c. 387, §10 (NEW); PL 2021, c. 548, §45 (REV).]

B. If the person is entitled to other benefits to meet the cost of rehabilitation services, that person must first apply for and use those benefits to the extent available to pay for the goods and services provided. [PL 2003, c. 387, §10 (NEW).]

[PL 2003, c. 387, §10 (NEW); PL 2021, c. 548, §45 (REV).]

3. Approval of rehabilitation plan. The chief executive officer and the person shall approve any rehabilitation plan developed under subsection 1 and shall indicate in writing their approval of and agreement to the rehabilitation plan. The person shall approve the plan within 30 days or, within that time period, submit to the chief executive officer the name of an alternate provider for the chief executive officer's consideration. If the rehabilitation plan includes return to employment with the employer for whom the person worked before becoming disabled, the employer also shall indicate in writing approval of the plan.

[PL 2003, c. 387, §10 (NEW); PL 2021, c. 548, §45 (REV).]

4. Monitoring of rehabilitation plan. Each rehabilitation plan approved by the chief executive officer must contain a provision for periodic review of progress being made by the person toward achieving the goal of the plan and substantially gainful activity. The provision relating to review must include authority for the chief executive officer to terminate the plan or to amend the plan with the same provider or with a change of provider, based upon results of the review or at the request of the person or the provider. Subsections 1, 2 and 3 apply to any amended plans under this subsection. A person is entitled to a single rehabilitation plan during the course of the person's incapacity except when the person demonstrates that a termination of the plan was reasonable and for good cause. Any entitlement

to amend a rehabilitation plan or establish a new plan ends with a determination by the chief executive officer that the person is no longer disabled.

[PL 2003, c. 387, §10 (NEW); PL 2021, c. 548, §45 (REV).]

5. Return to service. If the rehabilitation plan includes return to employment with the person's former employer, that person must be reemployed in accordance with the plan. The chief executive officer shall notify the former employer, in writing, that the person has completed the rehabilitation plan and is ready to return to employment. The former employer shall reemploy the person in the first available position for which that person is qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan.

[PL 2003, c. 387, §10 (NEW); PL 2021, c. 548, §45 (REV).]

6. Employment exception. A person is not required to accept employment that reasonably necessitates relocation or for which the person is not qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan. The disability retirement benefit may not be discontinued except as provided by section 17929 or until the person is reemployed consistent with this section.

[PL 2003, c. 387, §10 (NEW).]

SECTION HISTORY

PL 2003, c. 387, §10 (NEW). PL 2021, c. 277, §33 (AMD). PL 2021, c. 548, §45 (REV).

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