

307 (ii) Factors considered in determining gainful employment include an injured worker's:

308 (A) education;

309 (B) experience; and

310 (C) physical and mental impairment and condition.

311 (b) "Initial written report" means a report ~~H~~→ [required under] described in ~~H~~←H

311a Subsection (5).

312 (c) "Injured worker" means an employee who sustains an industrial injury or

313 occupational disease for which benefits are provided under this chapter or Chapter 3, Utah

314 Occupational Disease Act.

315 (d) "Injured worker with a disability" means an injured worker who:

316 (i) because of the injury or disease that is the basis of the employee being an injured  
317 worker:

318 (A) is or will be unable to return to work in the injured worker's usual and customary  
319 occupation; or

320 (B) is unable to perform work for which the injured worker has previous training and  
321 experience; and

322 (ii) reasonably can be expected to attain gainful employment after an evaluation  
323 provided for in accordance with this section.

324 (e) "Parties" means:

325 (i) an injured worker with a disability;

326 (ii) the employer of the injured worker with a disability;

327 (iii) the employer's workers' compensation insurance carrier; and

328 (iv) a rehabilitation or reemployment professional for the employer or the employer's  
329 workers' compensation insurance carrier.

330 (f) "Reemployment plan" means a written:

331 (i) description or rationale for the manner and means by which it is proposed an injured  
332 worker with a disability may return to gainful employment; and

333 (ii) definition of the voluntary responsibilities of:

334 (A) the injured worker with a disability;

335 (B) the employer; and

336 (C) one or more other parties involved with the implementation of the reemployment  
337 plan.

338           (2) ~~It~~ **→** (a) ~~It~~ **←** This section applies only to an industrial injury or occupational  
 338a disease that occurs  
 339 on or after July 1, 1990.

339a           **It** **→** (b) **This section is intended to promote and monitor the state's and the employer's**  
 339b **capacity to assist the injured worker in returning to the workforce by evaluating the**  
 339c **effectiveness of the voluntary efforts of employers under this section.** ~~It~~ **←**

340           (3) This section does not affect the duties of the Utah State Office of Rehabilitation.

341           (4) The commission may provide for the administration of this section by rule in  
 342 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

343           (5) An employer or the employer's workers' compensation insurance carrier

343a **It** **→** ~~shall~~ **may** voluntarily ~~It~~ **←**

344 prepare an initial written report assessing an injured worker's need or lack of need for  
 345 vocational assistance in reemployment if:

346           (a) it appears that the injured worker is or will be an injured worker with a disability; or

347           (b) the period of the injured worker's temporary total disability compensation period  
 348 exceeds 90 days.

349           (6) (a) Subject to Subsection (6)(b), an employer or the employer's workers'

350 compensation insurance carrier **It** **→** ~~shall~~ **may** ~~It~~ **←** serve the initial written report **It** **→** , if one  
 350a **has been prepared,** ~~It~~ **←** on the injured worker.

351           (b) **It** **→** ~~Am~~ **If an employer or the employer's workers' compensation insurance carrier**  
 351a **serves an initial written report on an injured worker, the** ~~It~~ **←** employer or the employer's  
 351b workers' compensation insurance carrier shall

352 comply with Subsection (6)(a) by no later than 30 days after the earlier of the day on which:

353           (i) it appears that the injured worker is or will be an injured worker with a disability; or

354           (ii) the 90-day period described in Subsection (5)(b) ends.

355           (7) With the initial written report, **It** **→** **if one is prepared and used in the determination**  
 355a **process,** ~~It~~ **←** an employer or the employer's workers'

356 compensation insurance carrier shall provide an injured worker information regarding  
 357 reemployment.

358           (8) Subject to the other provisions of this section, if an injured worker is an injured  
 359 worker with a disability, the employer or the employer's workers' compensation insurance

360 carrier **It** **→** ~~shall~~ **may** ~~It~~ **←** , within 10 days after the day on which the employer or workers'  
 360a compensation

361 insurance carrier serves the initial written report on the injured worker, refer the injured worker