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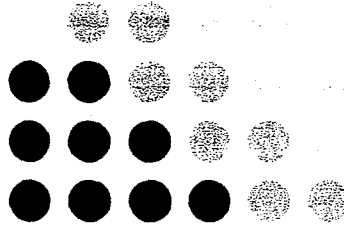
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**PAES 862**

**Case Management in Private Sector Rehabilitation**

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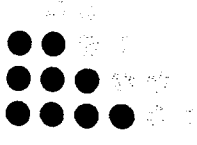
## **Course Objectives of PAES 862**

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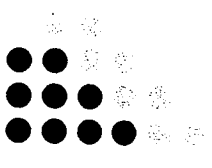
- To introduce the student to the different disability insurance systems, such as worker's compensation and social security.
- To acquaint the student with the differences and similarities between the public and private systems of rehabilitation.
- To provide the student with an overview of the injury compensation system, the principles and concepts of workers' compensation and social security, and issues of long term disability.
- To familiarize the student with issues of case management, assessment of vocational potential, forensic rehabilitation, and ethics in the private sector rehabilitation.

# Section I: Introduction and Overview of Proprietary Rehabilitation (PR)

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- What does proprietary rehabilitation mean?
- Comparison and contrast of public-sector and private-sector rehabilitation
- Venues in which PR is practiced and by whom
- Natural growth and development of PR, as with most fields/disciplines

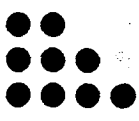


# Proprietary Rehabilitation

- What is it?
- How is it defined?

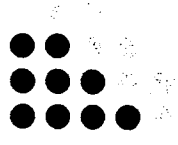


# Role of the Rehabilitation Expert in WC/SSA/Civil Law



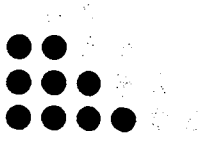
	WC	SSA	Civil Law
<b>Qualifications</b>	CRC, CIRS CVE	Ed/Exp./ Licensure	Qualified by the court
<b>Type of expert</b>	Consultant Some expert	Expert or Consultant	Expert or Consultant
<b>Areas addressed</b>	Damages	Damages	Damages
<b>Role</b>	Assess employability	Same- age/ed./ Work exp.	Future medical care/LOEC

# Role of the Rehabilitation Expert in WC/SSA/Civil Law



	WC	SSA	Civil Law
<b>Proceedings</b>	Adminstrative hearing Court	Admin. Hearing	State/Fed. court
<b>Presided by</b>	Adjudicator Judge	Admin. Law Judge	Judge/Jury
<b>Variations</b>	Each state is different	Same – National Standards	Each jurisdiction is different

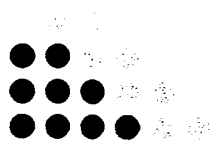
# Historical Foundations and Background of PR



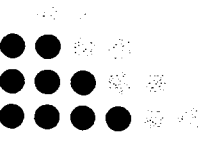
- Compare/contrast with history and development of Public Sector Rehab

# Historical Foundations and Background of PR

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- Use of PR in Indemnity Systems, such as Workers' Compensation, SSA & STD/LTD
- Use of PR in Forensic Systems, such as personal injury, marital discord, and employment discrimination



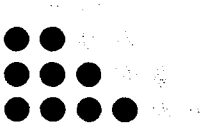
# Historical Foundations and Background of PR

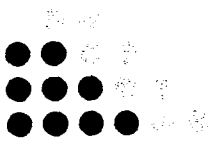
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- Hierarchy of RTW (employability)
  - Same job/same employer
  - Different job/same employer
  - Same job/different employer
  - Different job/different employer
  - Self-employment/retraining
- Determining loss wages, and lifetime support/needs

# Workers' Compensation Terminology

- Injured worker/POR
- PPD
- PTD
- TTD
- PTD
- RTW
- Loss wages/LOEC

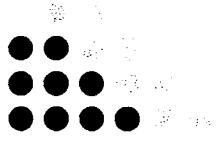




# Insurance Terminology

- Indemnification
  - ✦ To make reparations or to “make whole”
- Premiums/Reserves
  - ✦ Actuaries calculate premiums based on category factors and experience
  - ✦ Reserves are set aside by insurance company
  - ✦ % of premiums must be set aside to cover potential claims
- Allowed condition
  - ✦ Any medical condition that is involved with the accident of record
  - ✦ Psychological conditions only allowed as a sequelae to physical condition in most states

# The Workers' Compensation System



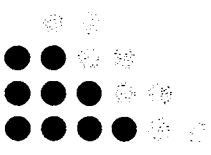
- What is Workers' Compensation?
- An insurance program for individuals who are injured on the job "in and out" of the course of employment.
- Types of Workers' Compensation Coverage
- **State-fund**- usually insurance of last resort (high risk category)
- **Self-insured**- provides coverage through company-specific policy - Must apply for exemption from WC coverage by state fund
- **Private insurance** – private insurance cos. – not allowed by law in Ohio – only one of six states with this provision





# Early History of Workers' Compensation

- **Turn of the century** – injured workers had only one recourse when injured on the job...civil courts.
- **Legal system**
  - **Tort process** – sue the employer to establish fault (liability) through the courts
  - **Issues for the legal system**
    - number of cases in the system due to increase in number of injuries (Industrial Revolution)
  - **Issues for the injured worker**
    - length of time for the remedy
    - increased length of time out of work – no income/no medical expenses paid



# Early History of WC continued


## • Issues for the employer

Perception – big corporation vs. the “little guy”

Concern- prospect of large settlements that could bankrupt the employer

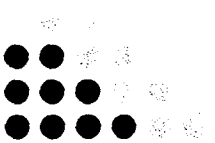
## •Change in WC Laws - 1911

- Federally mandated – coverage in all states
- Concept of “exclusive remedy” for work-related injuries
- Fault was set aside/quid pro quo
- IW waived the right to sue in court
  - Exception: intentional tort (negligence of employer)
- Determined by where injured, not where living
- Case law developed re: “in and out” of course of employment
- Disadvantage: varies from state to state



# **Two Types of Workers' Compensation Claims**

- **Medical only**
  - for medical coverage/costs of medical treatment
  - Less than seven days (each state is different)
- **Lost time claim**
  - Lost work time – lost work days
  - Compensation for wages
  - Coverage of medical costs
  - > 7 days out of work



# How Workers' Compensation Premiums Are Calculated

- Based on two primary factors
  - Incidence/experience rating

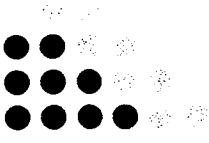
## # of injuries

## Cost of injuries

- Industry rating

- Basics of insurance coverage

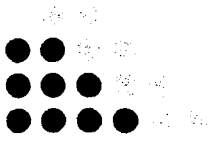
- Insurance is a shared risk (“minimize the exposure”)
- Premium is paid to insurer (“cost of doing business”)
- Claims are paid on basis of wages/medical expenses/return to work (“exposure/experience”)
- WC is within property/casualty side of insurance company



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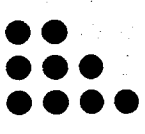
# **The Role of Vocational Rehabilitation in Workers' Compensation**

- **Goal – return to work**
- **Case management**
- **Determination of permanent total disability**
- **The team approach to case management**
- **Establishing ERTW/on-site rehab programs**



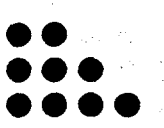
## **Case Management Process in Workers' Compensation continued**

- Job placement assistance
  - JSS – job seeking skills training
  - Job Development
  - Labor market research
- RTW Issues
  - Reasonable accommodations
  - Unions



# Short Term/Long Term Disability Terminology

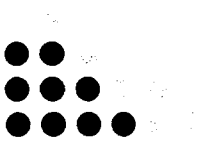
- STD
- LTD
- Own “occ”
- Any “occ”
- RFC
- Period of eligibility



# The Role of VR in Short Term and Long Term Disability

- Goal is eventual return to work
- Similar to Workers' Compensation case management
- Part of rehabilitation team – may include insurance carrier/physician and employer





# **Case Management Process in WC/STD/LTD**

## **Record review**

### **Gathering/clarification of data**

Background information

Medical factors

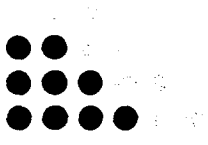
Vocational/employment history

### **Physical Capacity Issues**

Clarify current medical status

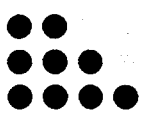
Contact treating physician(s), as needed

Sometimes arrange for FCE



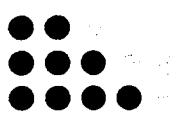
# **Case Management Process in WC/STD/LTD continued**

- **Identify past work history and TSA**
  - Clarify work performed**
  - Identify job titles**
  - Determine RFC**
  - Conduct a VDARE**
- **Career Counseling ⇒ Job Placement**
  - Assistance with RTW options –based on hierarchy of vocational rehabilitation**
  - LTD – determine status of own occupation or any occupation**



# Case Management Process in WC/STD/LTD continued

- **Career Counseling ⇒ Retraining**
  - Assistance with alternative career options
  - Labor Market Research
  - Identification of training programs
  - Coordination of training needs
    - Interagency co-ordination with State VR agency or non-profit funding source
  - Job placement assistance upon graduation
  - Typically not an option in LTD
- **Case Study -**

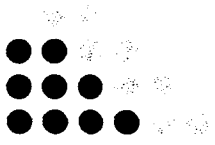


# History/Background of Social Security

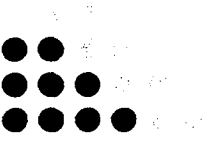
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- Established in 1930's during FDR's administration
- Prompted by the Great Depression and elderly who had few resources
- Forced retirement age for all workers
- Social Security is a national program administered by the federal government
- It is an indemnity system operated by the government

# History of Social Security continued



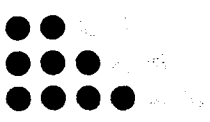
- 1950's program expanded beyond retirement to include people with disabilities
- 1966 amendments added Social Security Disability Income (SSDI) program
- Bifurcated system- covered by the Trust Fund
  - Retirement
  - Disability



# History of Social Security

## continued

- Two major issues debated in this legislation
  - Role of government-the ultimate safety net
  - Procedural – how to administer the program/define disability
- Other concerns
  - Privatization
  - Increase in the number of people who are disabled
- Disability is more difficult to define and prove
- Begins with disability determination by DDS



# Social Security Definitions

- Social Security Disability Income (SSDI) -

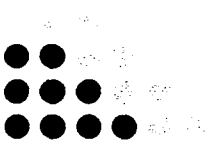
## Title II

Work history required

Must have worked 40 quarters within last 10 yrs.

9 month trial work period (as of 2/02)

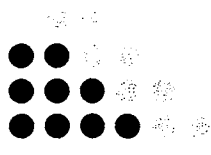
Eligible for Medicare – federal medical program  
after 2 yr. waiting period (as of 2/02)



# SSA Definitions continued

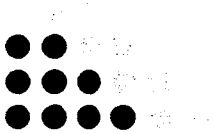
- Supplemental Social Security Income (SSI) –
- Title 16
  - Paid through general revenue taxes
  - “Welfare for the disabled”
  - No work requirements, but need to meet income/resource eligibility requirements
  - Eligible for Medicaid – state managed program
  - Recipients can be children, as well as adults with no work history





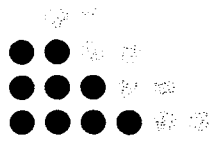
# SSA Facts

- SSDI roles – approx. 52% of beneficiaries
- SSI role – approx. 48% of beneficiaries
- 1.2 M PWD have both coverages
- Other sources of income offset SS for people on SSDI or SSI
- SSA Trust Fund overall
  - 82% is retirement fund
  - 18% is disability - \$62B/year in 1999



# Social Security Terminology

- SGA - Substantial Gainful Activity
- PRW – two criteria
  - Recency – last 15 years
  - Duration – at least 3 months
- Medical impairment
- Disability Determination Process
- The “Listings”
- RFC

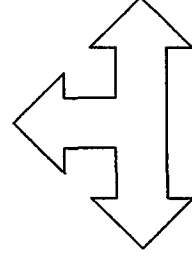


# SSA Disability Determination Process

- 5 Step Sequential Process
  - Based on regulations §§494.1520 and 416.920

Step 1 – Is the individual engaged in SGA?

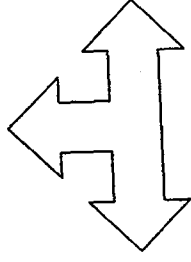
**Yes – Is SGA**  
**Ruling: not**  
**disabled**



**No – is not SGA**  
**Proceed to Step 2**

**Step 2 – Does the individual have an impairment or combination of impairments that are severe?**

**Yes**



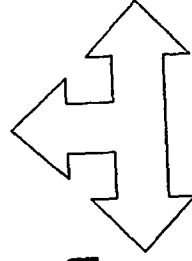
**No**

**Ruling: Proceed to Step 3**

**Ruling: not disabled**

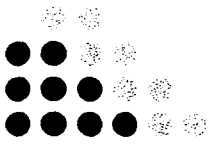
**Step 3 – Does the individual's impairment(s) meet or equal to severity of an impairment listed in the regulations?**

**Yes & meets duration requirements  
Ruling: disabled**



**No**

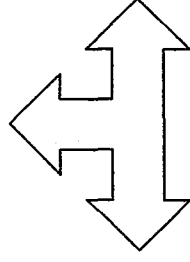
**Ruling: Proceed to Step 4**



**Step 4 – Does the individual’s impairment(s) prevent him or her from performing his/her past relevant work, considering his/her residual functional capacity?**

**Yes**

**Ruling: Proceed to Step 5**

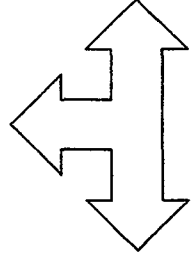


**No**

**Ruling: not disabled**

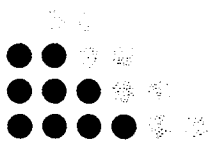
**Step 5 – Does the individual’s impairment(s) prevent him from performing other work that exists in the national economy, considering his RFC together with age, education and work experience?**

**Yes & meets duration requirement  
Ruling: disabled**



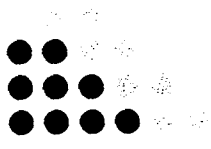
**No**

**Ruling: not disabled**



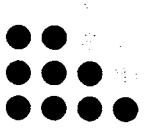
# The Role of Vocational Rehabilitation in Social Security

- Primary role is to determine employability/SGA based on transferability of work skills
- Based on past relevant work (PRW)
  - Recency - the prior 15 years
  - Duration - length of time in job(s)-> 3 months
- PRW is defined according to exertion (“brawn”) and skill level (“brain”)
- Not case management as in WC system



# Case Management Process in SSA

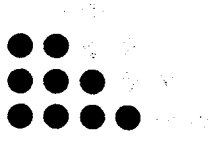
- Record review
- Gathering/clarification of data
  - General understanding of medical factors
  - Vocational/employment history
- Identify past work history and TSA
  - Provide expert opinion to judge regarding past relevant work, alternative occupations and TSA.
  - Identify alternative job titles and numbers in economy
  - Respond to hypothetical situations as presented by judge



# Civil Law Terminology

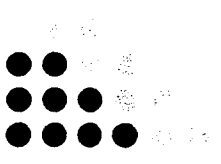
- LOEC – Lost wages x # of yr. (work life expectancy)
- Work Life Expectancy – the joint probability of life expectancy and employment rate at different ages.
- Plaintiff – party who files the lawsuit
- Defense – party who defends against the lawsuit
- Tortfeasor- British term – “done wrong to”
- Handicap- Old English – “cap in hand”
- Settlement – based on value of the case
- Negligence – determined by each state – varying degrees of contributory negligence





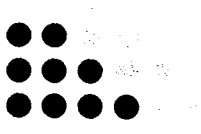
# **Critical Issues in Civil Law Case Management**

- Not case management per se
- Labor market access
- Residual functional capacity
- Determining future wage loss
- Employability versus placeability
- Working with the economist
- Deposition/trial preparation



# The Role of VR in Personal Injury Cases

- Goal - determination of damages
  - lost earning capacity
  - lost wages
  - future medical expenses
- Determination of transferability of work skills



# **Case Management in Civil Law Suits**

- **Case Analysis**

**Record review**

**Gathering/clarification of data**

**Background information**

**Medical factors**

**Vocational/employment history**

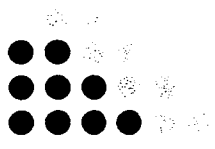
- **Physical Capacity Issues**

**Clarify current medical status**

**Contact treating physician(s), as needed**

**Arrange for FCE as needed and approved**

# **Case Management in Civil Law Suits continued**



- **Identify past work history and TSA**
  - **Clarify work performed**
  - **Identify job titles**
  - **Determine RFC**
  - **Conduct a TSA**
- **Evaluation of Residual Employability/ Loss of Earning Capacity**
  - **Based on TSA**
  - **Research BLS web-site for loss of earning capacity (LEC)**
  - **Use computerized data base if possible to provide appropriate data**



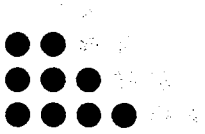
# Case Management in Civil Law Suits continued

- **Determination of spousal earning capacity**

- Final step for divorce cases
- Based on TSA and BLS data

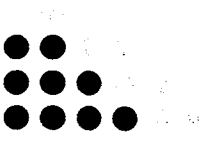
- **Deposition preparation**

- Organization of records
- Preparation for testimony



# Life Care Planning Terminology

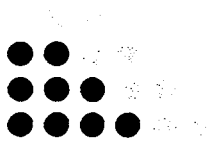
- Life care plan
- Medical case management
- Functional capacity evaluations
- Catastrophic injury
- Rehabilitation Assessment Summary



# Purpose of Life Care Plans (LCP)

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- Address quality of life issues
- Long-term comprehensive needs for client and family
- Address complications of the conditions and non-medical issues
- Address need for assistive technology or personal assistant to facilitate independence in living, learning and working environments



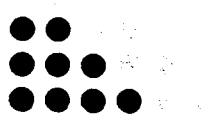
# The Role of the Vocational Expert in Life Care Planning

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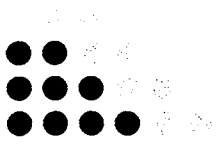
- **Goals**
  - reduce complications of disease/injury
  - Improve independent functioning re: all life roles
- **Useful for people with catastrophic injury or other chronic health care needs**
- **Core of catastrophic injury case management**
- **Organized and concise plan for current and future needs with associated costs**
- **Identifies both short-term and long-term needs of an individual with a severe disability**



# Case Management Process in Life Care Planning

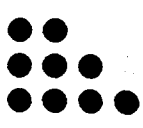


- Medical record review
- Establish functional capacities
- Establish need for assistive technologies
- Research options for assistance and cost structures for living/learning and working environments



# Case Management Process in Life Care Planning

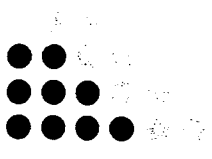
- Identify needed treatments and supplies
  - Therapeutic, nutritional, educational
- Identify aids for independent living
  - Prosthetics, orthotics
- Identify future/projected needs/costs
  - Medical, therapeutic, evaluations



# Critical Practice Areas for LCP

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- Knowledge of medical aspects of disabilities
- Sound methodology
- Solid medical data analysis
- Comprehensive research of technology options
- Ability to be part of an interdisciplinary rehabilitation team



# **Ethical Areas of Concern in Forensic Case Management**

- Professional Expertise
- Who is the client?
- Informed Consent
- Confidentiality