

# NSRP Labor Market Evidence and Vocational Rehabilitation

Utilization of Labor Market  
Evidence Under the Longshore  
and Harbor Workers'  
Compensation Act

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Mr. Galarraga is certified by the DOL OWCP/FECA Compensation Programs which provides vocational services to Longshore workers, United States postal employees and Defense Base Act. He also provides vocational expert witness testimony for the Social Security Office of Disability and Adjudication Review.

# Burden of Proof

- Claimant's burden: prove inability to perform usual employment
- Employer's burden: prove availability of suitable alternative employment
- Claimant's burden: prove inability to find work despite diligent effort

# Suitable Alternative Employment

- Demonstrate availability of realistic job opportunities
- Geographic area where Claimant resides
- Appropriate by virtue of Claimant's age, education, work experience and restrictions
- Specific job opening available when Claimant is medically able to work

# Job Opportunities Must Be Available

- Actual, not theoretical, job opportunities
- Job opportunities must be available
- Job opportunities must be specific
- Define precise range of pay

# Job Opportunities Must be Realistic

- Job opportunities for which Claimant can realistically compete
- Precise terms of job opportunities must be defined
- Jobs within reasonable proximity in relevant market

# Job Opportunities Must be Appropriate

- Job consistent with Claimant's physical and any psychological limitations, including medications
- Job consistent with any pre-existing limitations including:
  - age
  - education
  - history
  - deficiency in basic skills

# Vocational Evidence

- Qualifications
- Necessity to know Claimant's age, education, vocational background, physical and mental limitations
- Familiarity with local job market
- Establish specific job opening available at time Claimant is medically able to work

# Necessity to Know Specifics of Jobs

- Personal contacts and review of prospective jobs
- Inadequacy of utilization of statewide statistics
- Inadequacy of utilization of classified ads
- Job Description must address Claimant's limitations in function

# Duty of Claimant to Reasonably Cooperate

- Claimant uncooperativeness may be an excuse for lack of specificity
- Right to conduct vocational interview of Claimant

# Vocational Rehabilitation

- Enrollment in full time DOL sponsored rehab program may render Claimant “unavailable”
- “Unavailable” equals entitlement to total incapacity benefits