

# Vocational Recovery: Changes, Updates, and Future Opportunities

*WA IARP Spring Conference 2020*



# Objectives

- Introduction & Return to Work Culture
- New Rules: WAC 296-19A-050, 296-19A-060, 296-19A-065
- Updates: Insurance Services Data Dashboard
- Future Opportunities
- Resources
- Key Takeaways

# Return to Work Culture: Mission & Goals



**Our Mission**  
**Keep Washington safe and working**



Washington State Department of  
**Labor & Industries**

PUBLICATION F101-082-000 (03-2014)

**Goal 1 Make workplaces safe.**

- Reduce injury rate of workplaces visited by L&I.
- Foster a culture of safety at as many workplaces as possible.

**Goal 2 Help injured workers heal and return to work.**

- Create a culture of return to work.
- Reduce unnecessary disability.
- Reduce system delays and improve our customers' experience.

**Goal 3 Make it easy to do business with L&I.**

- Provide info and materials that our customers can easily understand.
- Decrease time and costs for customers.
- Improve specific processes based on customer needs/expectations.

**Goal 4 Help honest workers and businesses by cracking down on the dishonest ones.**

- Improve identification of bad actions.
- Improve public perception that we are targeting bad actions.
- Decrease the number of bad actions.

**Goal 5 Ensure L&I is an employer of choice.**

- Encourage and promote safety and wellness.
- Promote a culture of trust.
- Increase opportunities for staff to learn and grow.

# Return to Work Culture: Vision

## Vocational Recovery Project

Create a culture focused on vocational recovery that engages all parties in preventing work disability while improving return-to-work outcomes.

# Vocational Services, Return to Work Priorities & Practices

## RCW 51.32.095

(1) One of the primary purposes of this title is to enable the injured worker to become employable at gainful employment. To this end, the department or self-insurers must utilize the services of individuals and organizations, public or private, whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation as may be reasonable to make the worker employable consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals or organizations and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor or supervisor's designee, whether or not medical treatment has been concluded, vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment

# Vocational Services, Return to Work Priorities & Practices

## RCW 51.32.095

(2) Vocational rehabilitation services may be provided to an injured worker when in the sole discretion of the supervisor or the supervisor's designee vocational rehabilitation is **both necessary and likely to make the worker employable at gainful employment**. In determining whether to provide vocational services **and at what level**, the following list must be used, in order of priority with **the highest priority given to returning a worker to employment**:

- (a) Return to the previous job with the same employer;
- (b) Modification of the previous job with the same employer including transitional return to work;
- (c) A new job with the same employer in keeping with any limitations or restrictions;
- (d) Modification of a new job with the same employer including transitional return to work;
- (e) Modification of the previous job with a new employer;
- (f) A new job with a new employer or self-employment based upon transferable skills;
- (g) Modification of a new job with a new employer;
- (h) A new job with a new employer or self-employment involving on-the-job training;
- (i) Short-term retraining.

# Vocational Services, Return to Work Priorities & Practices

## RCW 51.32.095

(4) To encourage the employment of individuals who have suffered an injury or occupational disease resulting in permanent disability which may be a substantial obstacle to employment, the supervisor or supervisor's designee, **in his or her sole discretion, may provide assistance including job placement services for eligible injured workers who are receiving vocational services under the return-to-work priorities listed in subsection (2)(b) through (i) of this section**, except for self-employment, and to employers that employ them.

# Building the Case for new Vocational Recovery rules: JLARC Audit Recommendation

## Implement RTW standard practices:

“Some vocational service practices need to be tailored to be more effectively utilized in appropriate claims. For example, **the AWA is being used as an “adjudicative” tool, but the adjudicative approach is not an effective RTW tool. New practices and interventions need to be defined and put into use,** which can become part of a standard RTW practice used to manage claims towards desired outcomes....”

# Building the Case for Vocational Recovery

The most significant method of keeping time-loss benefits from growing to lengthy levels is through the vocational rehabilitation program.

Early and aggressive intervention by skilled VR professionals has great potential to reduce time-loss and improve return to work for injured workers.

Washington State Pension System Review, W.E. Upjohn Institute, 2008

# Vocational Services, Return to Work Priorities & Practices

## New Rules:

### 296-19A-050 What are vocational recovery services?

(1) Vocational recovery services **are intended to ensure appropriate support is provided to an industrially injured or ill worker so that they return to work, continue to work, or are enabled to become employable at gainful employment consistent with the priorities listed in RCW [51.32.095](#) (2)(a) through (g) with the highest priority given to returning a worker to employment:**

- (a) Return to the previous job with the same employer;
- (b) Modification of the previous job with the same employer including transitional return to work;
- (c) A new job with the same employer in keeping with any limitations or restrictions;
- (d) Modification of a new job with the same employer including transitional return to work;
- (e) Modification of the previous job with a new employer;
- (f) A new job with a new employer or self-employment based upon transferable skills; and
- (g) Modification of a new job with a new employer.

# Vocational Services, Return to Work Priorities & Practices

## New Rules:

### 296-19A-050 What are vocational recovery services?

(2) In each case referred to a vocational provider, the vocational recovery **services include work disability prevention best practices** identified by the department and periodically published through policy bulletins available from the department and recorded with the office of the code reviser. These best practice services include, but are not limited to, the following **which must be addressed by the vocational provider** prior to consideration of when and which of the priorities listed in subsection (1) of this section may be most appropriate for the worker:

- (a) Identify and, as appropriate, **use their skills and professional judgment** along with accessing **available community resources** that do not impose a cost on the department or injured worker to **proactively address barriers** that may interfere with or prevent the worker from returning to any work, including transitional or modified work;
- (b) **Assist the worker in identifying return to work goals and steps necessary to achieve those goals; and**
- (c) **Assess the worker's potential preferred worker status, educating the worker and employer(s)** on transitional and permanently modified work, the **Washington Stay at Work program**, and the preferred worker benefits, if appropriate.

# Vocational Services, Return to Work Priorities & Practices

New Rules:

296-19A-050 What are vocational recovery services?

(4) To ensure appropriate assistance **has been provided or offered to the worker** so that they return to work, continue to work, or are enabled to become employable as outlined in subsections (2) and (3) of this section **the vocational provider must document their efforts to provide the services** outlined in subsection (3)(a)(i) through (viii) and (b)(i) through (ix) of this section, including offers of employment and the worker's response(s), **prior to requesting a referral for an ability to work assessment** as described in WAC [296-19A-065](#).

# Vocational Services, Return to Work Priorities & Practices

## New Rules:296-19A-060: What reports does the department require when vocational recovery services are provided at its request?

- (1) The vocational provider **must engage the worker to develop a vocational recovery plan**. The vocational recovery plan should include the needs and goals of the worker and steps or strategies to address these. The plan may change as appropriate for the worker's needs and goals. A copy or copies of the vocational recovery plan **must be provided to the worker and to the department**. Every thirty days, the vocational provider **must provide to the department and to the worker** a brief summary of steps taken since the last update to address the worker's needs and goal(s). Examples include, but are not limited to, progress in resolving the worker's concerns and barriers to returning to work such as meetings with an employer or employers, meetings with the worker's attending provider, helping the worker understand the claim and vocational processes, and engaging the worker in community resources and/or WorkSource.
- (2) Closing reports. The vocational provider must submit a vocational recovery closing report at the conclusion of services unless advised otherwise by the department. In the report the provider must include or address:
  - (a) Whether a return to work outcome was achieved and, if so, whether the return to work is considered temporary, permanent, modified, or transitional;
  - (b) **If a return to work outcome was not achieved, an outline of the vocational provider's efforts as required in WAC [296-19A-050\(4\)](#).**
- (3) The provider must notify the department orally and in writing within two working days after learning of an unsuccessful return to work by the injured worker.
- (4) The provider must notify the department orally and in writing within two working days after learning of a return to work by the injured worker.

# Vocational Recovery during Ability to Work Assessment

## Newly Modified Rules:

### 296-19A-065 What is an ability to work assessment?

(1) Workers may be referred to a vocational provider for **assessment activities** at the discretion of the department or self-insured employer **to determine if a worker is eligible to receive vocational rehabilitation plan development services. Assessment activities will generally occur after all of the following:**

- (a) The vocational provider has applied the services outlined in WAC [296-19A-050](#) **What are vocational recovery services?;**
- (b) The services did not result in a return to work or a valid job offer or offers; and
- (c) The vocational provider has documented such efforts.

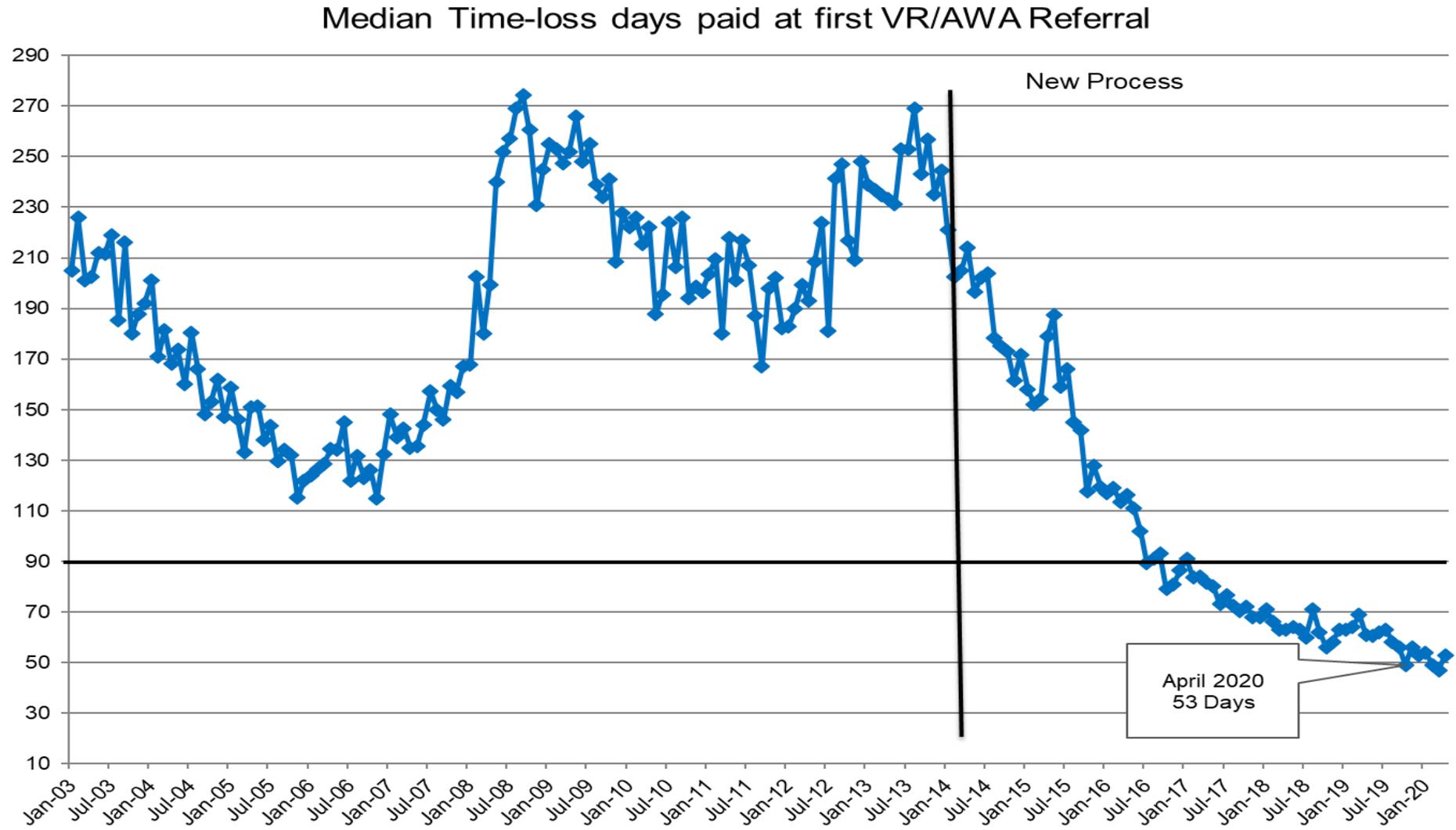
# Vocational Recovery during Ability to Work Assessment

## Newly Modified Rules

### 296-19A-065 What is an ability to work assessment?

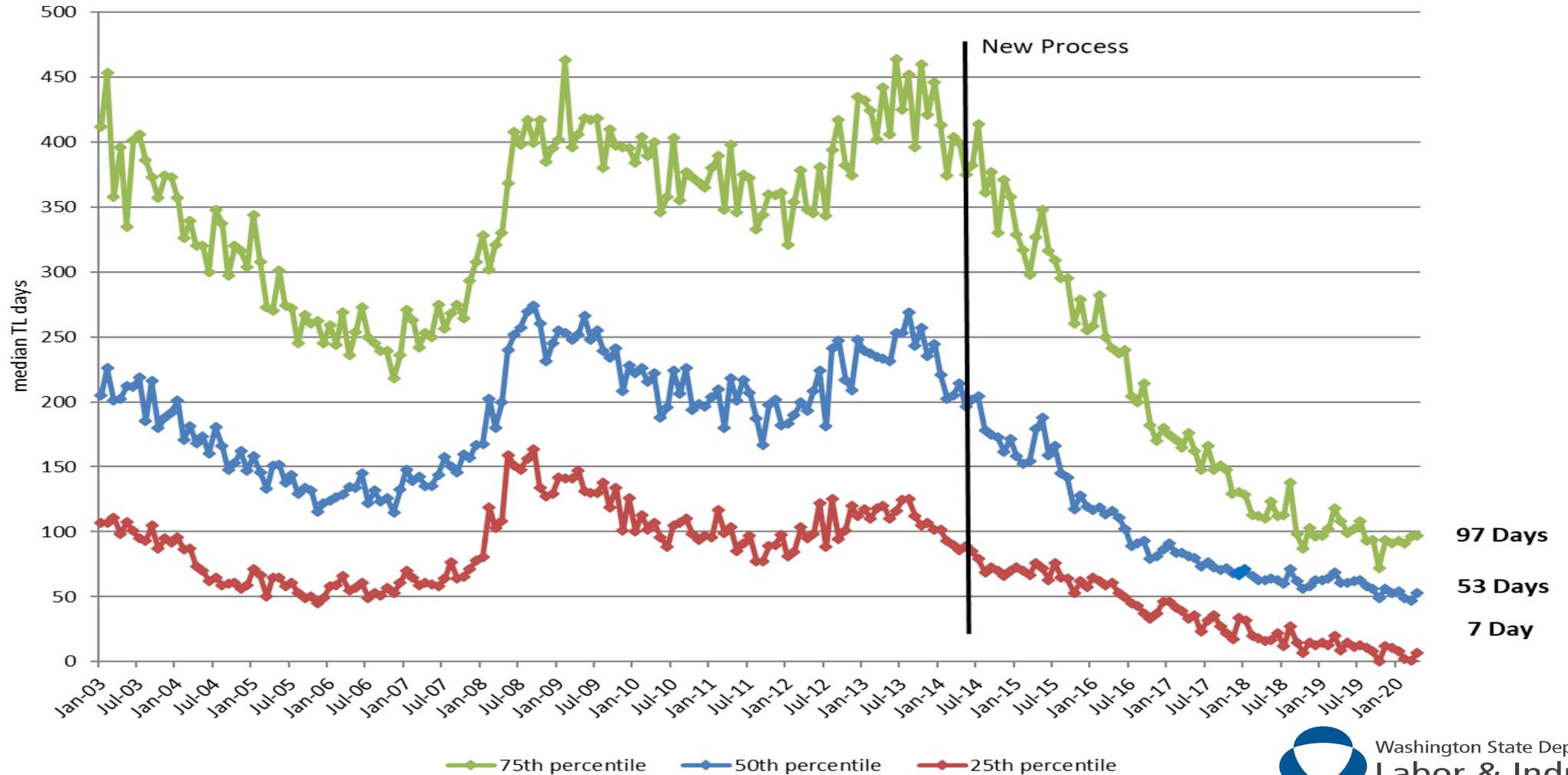
(2) During an ability to work assessment, the vocational provider will maintain regular communication with the worker, addressing the worker's concerns, assisting to resolve barriers, as appropriate, and updating them on assessment activities to include information requested and/or collected.

# Preventing Work Disability



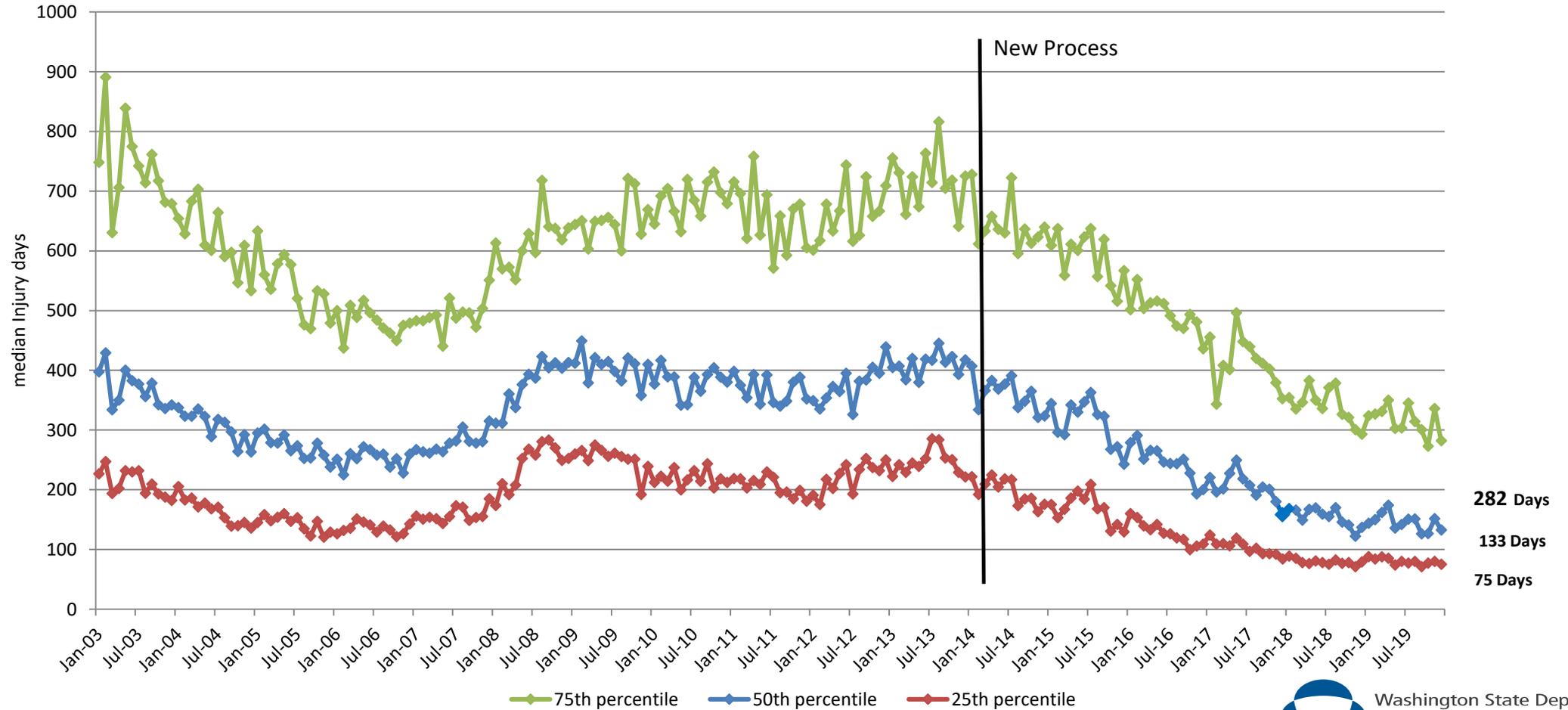
# Preventing Work Disability

TL Days paid at first VR/AWA  
25th, 50th, 75th percentiles



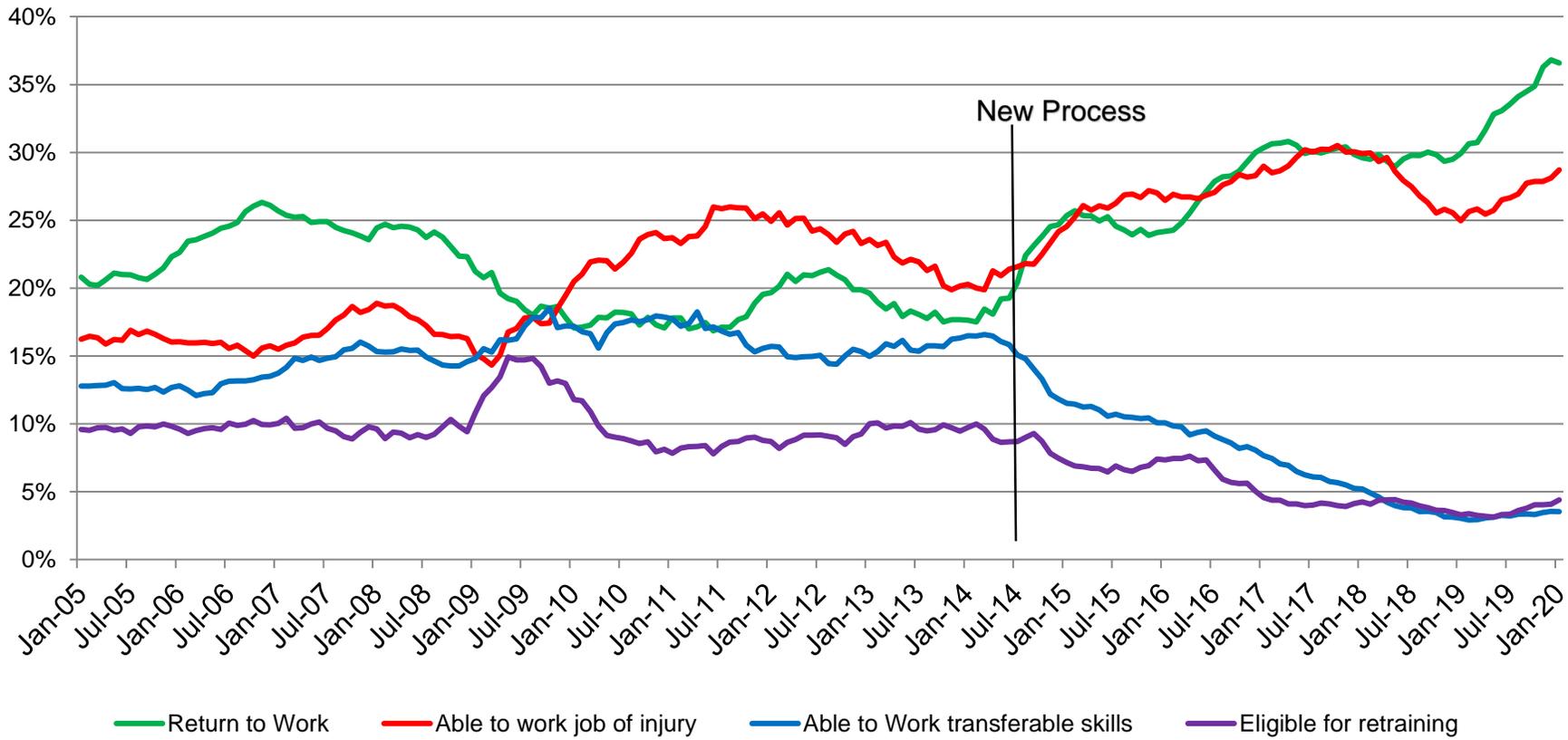
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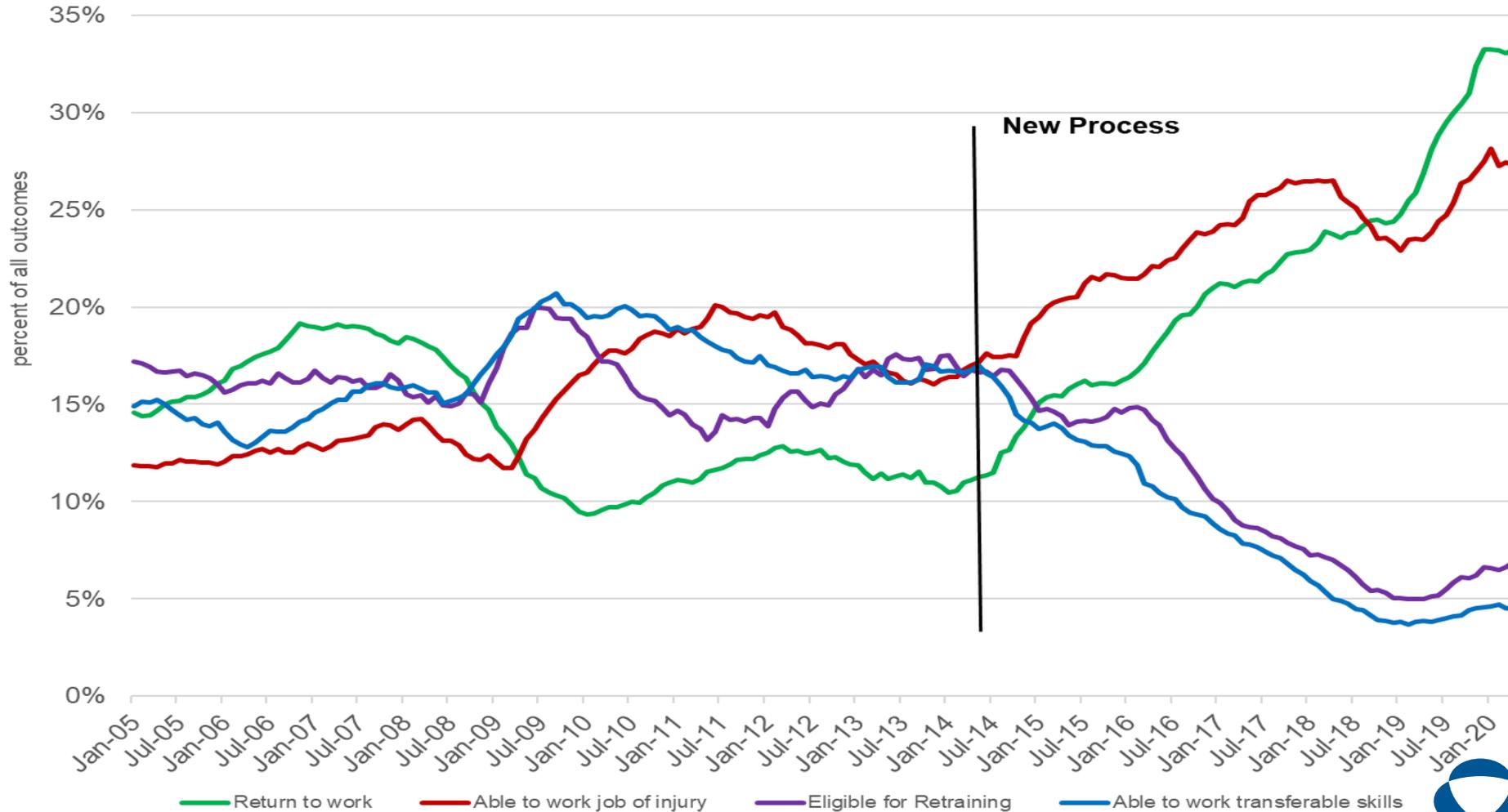
# Preventing Work Disability

Outcome distribution when first VR/AWA referral made with **less** than 90 days of time-loss (12 month moving average)



# Preventing Work Disability

Outcomes for All First VRs/AWAs  
12-month moving averages



# Future Opportunities

Quality Assurance

Referral Process Changes

Education & Awareness

Partnerships with private sector to promote skill enhancement

# Online Vocational Recovery Resources

<https://lni.wa.gov/claims/for-vocational-providers/vocational-services/>

- 2020 Vocational Firm Best Practices Agreement
- WAC 296.19A
- Vocational Recovery Reference Manual
- Vocational Recovery Plan and Instructions

Google:

- RCW 51.32.095

**Thank You**