

## **Rickey, Chancy**

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### **VOCATIONAL REHABILITATION**

#### Return-to-work offer

RCW 51.32.096(2)(c) requires that the employment offered as a return-to-work offer be consistent with the worker's documented physical and mental restrictions as provided by the worker's health care provider. This means that a person hired for purposes of performing an independent medical examination or physical capacities evaluation is not the worker's health care provider, and decisions involving validity of a return-to-work offer cannot be made in reliance on them. ....*In re Chancy Rickey*, BIIA Dec., 18 13570 (2019)

Scroll down for order.

**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS  
STATE OF WASHINGTON**

**IN RE: CHANCY T. RICKEY** ) **DOCKET NOS. 18 13570 & 18 15264**  
 )  
**CLAIM NO. BA-08508** ) **DECISION AND ORDER**

In 2016, Chancy Rickey injured his back while working as a technician for Mechanical and Control Services (MCS). He had previously been diagnosed with mental health conditions that were in remission at the time of the injury, but treatment for his industrial injury aggravated the mental health conditions. The Department had accepted responsibility for those conditions under the claim. MCS offered a light-duty position that took into account Mr. Rickey's physical limitations but did not address psychiatric restrictions. On February 6, 2018, the Department of Labor and Industries (Department) issued a payment order affirming denial of time-loss compensation for the period after October 24, 2017. On April 20, 2018, the Department closed Mr. Rickey's claim with a Category 2 dorso-lumbar/lumbosacral permanent partial disability award. Mr. Rickey requested the Board of Industrial Insurance Appeals find he was temporarily totally disabled from October 25, 2017, through April 19, 2018, and permanently totally disabled as of April 20, 2018, or in the alternative, provide an increased permanent partial disability award. At the hearing, Mr. Rickey withdrew the issue regarding whether he required further treatment. The Department and MCS supported the orders on appeal. Our industrial appeals judge concluded Mr. Rickey's condition is fixed and stable, and he is not entitled to further medical treatment. The judge found the light-duty job MCS offered to Mr. Rickey was valid and he was able to perform the job. In reaching the decision regarding Mr. Rickey's mental health condition, the judge relied entirely on the psychiatric opinion of independent medical examiner Dr. Schneider. Mr. Rickey contends such reliance was incorrect. We agree. We hold that without vocational retraining, Mr. Rickey is unemployable given his physical and mental limitations, and lack of transferable skills. The February 6, 2018, and April 20, 2018 Department orders are **REVERSED AND REMANDED.**

**DISCUSSION**

On January 14, 2016, while working as an HVAC technician for Mechanical & Control Services (MCS), Chancy Rickey injured his low back. Weeks after his injury, on February 1, 2016, Mr. Rickey returned to MCS to perform part-time light-duty work. The work ended on approximately May 25, 2016.

In 2010, Mr. Rickey suffered a mental health breakdown and was diagnosed with bipolar disorder, type 1 (bipolar), and Post-Traumatic Stress Disorder (PTSD). His condition was severe and

1 prevented him from working for a number of years. He sought treatment in 2010, successfully  
2 recovered, and required no medication or treatment after 2014.  
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4 In April 2016, Mr. Rickey underwent a steroid injection to treat his injury symptoms. The  
5 steroid injection aggravated his preexisting bipolar disorder, anxiety disorder, and PTSD, and caused  
6 him to enter a manic state. In a separate Proposed Decision and Order, one of our hearings judges  
7 affirmed the February 16, 2017 Department order accepting responsibility for Mr. Rickey's bipolar  
8 disorder as aggravated by the industrial injury.<sup>1</sup> Despite undergoing psychiatric treatment following  
9 the injection, Mr. Rickey reports ongoing bipolar symptoms. He and his father testified his mental  
10 health condition is severe and he requires significant help to care for his children and his home.  
11

12 On September 10, 2016, Mr. Rickey underwent an independent medical examination (IME)  
13 with psychiatrist, Richard L. Schneider, M.D. Dr. Schneider concluded Mr. Rickey's pre-injury bipolar  
14 disorder was temporarily aggravated by the steroid, and the aggravation was concluded, so he had  
15 no remaining mental restrictions.  
16

17 On September 19, 2016, Mr. Rickey was referred for consultation with Paul S. Darby, M.D.,  
18 an occupational and environmental medicine physician. Dr. Darby detailed Mr. Rickey's physical  
19 restrictions, including 30 minutes of sitting up to four hours a day, 30 minutes of standing up to two  
20 hours a day, 20 minutes of walking up to two hours a day, and sitting, standing, or walking,  
21 alternatively, for up to eight hours a day. Standing or walking was restricted to 40 minutes at a time,  
22 up to four hours a day. For sitting, he required an ergonomic chair with lumbar support. He could  
23 work on ladders, climb ladders, and climb stairs, up to 10 percent of the workday. He could twist at  
24 the trunk, bend, stoop, kneel, squat, and crawl up to 20 feet for one to three hours a day, up to  
25 13 percent of the workday. His ability to reach forward with both arms was unrestricted. He could  
26 reach from waist to shoulder, and work above the shoulders, up to six hours for a workday. He could  
27 constantly use a keyboard, bend his wrists, grasp forcefully, handle or grasp materials, and  
28 manipulate his fingers or hands. He could operate the foot controls on his left side up to three hours  
29 a day, on the right side up to six hours a day. Low impact vibration was unrestricted for his  
30 extremities. He could lift floor to waist: 30 pounds occasionally, 15 pounds frequently; waist to  
31 shoulder: 25 pounds occasionally, 12 pounds frequently; knee to waist: 30 pounds occasionally, and  
32 15 pounds frequently. He could carry a 20 pound object a distance of 50 feet occasionally; push a  
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46 <sup>1</sup> Docket No. 17 12562. After the parties reached a settlement during the superior court appeal, the May 14, 2018 Board  
47 order denying PFR is final and binding.

1 30 pound object a distance of 50 feet occasionally; and pull a 35 pound object a distance of 50 feet  
2 occasionally. Dr. Darby confirmed, at the time of claim closure, Mr. Rickey's physical condition was  
3 at maximum medical improvement (MMI). Dr. Darby reviewed job assessments to potentially return  
4 Mr. Rickey to work, and approved the job of dispatcher with ergonomic and sit/stand options.  
5 Dr. Darby's return to work conclusions did not include consideration of Mr. Rickey's mental health  
6 condition.  
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10 On December 6, 2017, Mr. Rickey underwent an IME with psychiatrist Jeff Hart, M.D. Dr. Hart  
11 diagnosed Mr. Rickey with bipolar disorder, generalized anxiety disorder, PTSD, panic disorder  
12 without agoraphobia, and ADHD, all preexisting and aggravated by the industrial injury. Dr. Hart  
13 concluded Mr. Rickey was ready for vocational training, but to return to work with MCS would cause  
14 his mental condition to deteriorate. If Mr. Rickey accepted the job offer, his anxiety level would  
15 increase and further diminish his ability to function at work. Dr. Hart concluded Mr. Rickey's mental  
16 condition was consistent with Category 3 permanent impairment under WAC 296-20-340.  
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20 Mr. Rickey was primarily treated by Michael Johnson, M.D., a family and sports medicine  
21 physician. Dr. Johnson testified to Mr. Rickey's physical condition, which Mr. Rickey does not  
22 dispute. Dr. Johnson concluded returning to work at MCS, consistent with the job offer, was not  
23 medically appropriate for Mr. Rickey in light of his mental health issues. The job offer was  
24 inconsistent with Mr. Rickey's emotional condition, and Dr. Johnson agreed with Dr. Hart's  
25 conclusions as to Mr. Rickey's mental condition.  
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29 Following his March 21, 2017 laminectomy, Mr. Rickey experienced improved physical  
30 symptoms, concluded treatment, and met with a vocational counselor in an effort to return to work.  
31 He underwent a Functional Capacity Evaluation.  
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34 On September 29, 2017, the Department found Mr. Rickey eligible for vocational plan  
35 development services. The vocational counselor determined Mr. Rickey was not employable, and  
36 needed retraining. On October 11, 2017, MCS offered Mr. Rickey a permanent light-duty job. The  
37 Department found the job offer valid, and closed Mr. Rickey's claim with a Category 2 dorso-lumbar  
38 permanent partial disability.  
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41 The job offer did not include information regarding mental requirements. As such, Mr. Rickey  
42 contends the job offer is invalid under RCW 51.32.099(2)(c), which allows an employer to pre-empt  
43 a worker's entry into vocational retraining by providing the worker with a valid light-duty job offer. "To  
44 be valid, the offer must be for bona fide employment with the employer of injury, consistent with the  
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1 worker's documented physical and mental restrictions as provided by the worker's health care  
2 provider."<sup>2</sup> Mr. Rickey contends his mental restrictions preclude the MCS job offer, and as such the  
3 offer is invalid.  
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5 While a number of elements are required for a job offer to be valid, this case focuses on  
6 Mr. Rickey's mental restrictions. We have addressed this issue in previous cases, including  
7 *In re Steven M. Laing*, in which we specified:  
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10 RCW 51.32.099(2) does not require that a physician sign off on the job; it requires that  
11 the employment be "consistent with the worker's documented physical and mental  
12 restrictions as provided by the worker's health care provider." **This means that a  
13 person hired for purposes of performing an independent medical examination or  
14 physical capacities evaluation, for that matter, is not the worker's health care  
15 provider, and decisions involving validity of a return-to-work offer cannot be  
16 made in reliance on them.**<sup>3</sup>  
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18 Here, Dr. Hart and Dr. Schneider are both IME physicians. They provided no care to Mr. Rickey.  
19 According to RCW 51.32.099(2)(c), and the current version of the statute, RCW 51.32.096(2)(c), their  
20 opinions cannot be the basis for finding the MCS job offer valid. Dr. Darby and Dr. Johnson are the  
21 only testifying care providers, and Dr. Johnson is the only testifying care provider who testified as to  
22 the validity of the job offer taking into consideration Mr. Rickey's mental condition. We find his  
23 conclusions are the most persuasive.  
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26 Dr. Johnson concluded the MCS job offer was not medically appropriate for Mr. Rickey in light  
27 of his mental health issues. The only mental restrictions discernable from the available record are  
28 those identified by Dr. Hart in his explanation of why Mr. Rickey's mental condition is consistent with  
29 a Category 3 permanent impairment, including moments of morbid apprehension, loss of interest in  
30 usual daily activities, fear motivated behavior causing mild interference with daily life, and periodic  
31 lack of appropriate mental control—all while at his best level of functioning. These are incorporated  
32 into Dr. Johnson's testimony as he stated he concurred with Dr. Hart's conclusions. Based on this,  
33 the MCS job offer was invalid per RCW 51.32.096(2)(c).  
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39 On finding the job offer valid, the Department closed Mr. Rickey's claim. While the record  
40 confirms Mr. Rickey is ready to participate in vocational retraining to return him to work, he is now  
41 entitled to total disability compensation. As we have repeatedly held, "the Department runs a risk  
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46 <sup>2</sup> RCW 51.32.096(2)(c).

47 <sup>3</sup> Dckt. No. 08 12843 (May 20, 2009), (Emphasis added.)

1 when closing a claim," when it determines a worker can return to work.<sup>4</sup> After the Department has  
2 determined the worker is not totally disabled and the determination has been appealed to the Board,  
3 the worker's occupational retraining prognosis is no longer a factor in determining whether the worker  
4 is totally disabled.<sup>5</sup> This result is unfortunate particularly given the Industrial Insurance Act's goal of  
5 returning injured workers to work. The result, however, hinges on the evolution of Mr. Rickey's claim.  
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9 Mr. Rickey's physical and mental condition gradually improved and his claim progressed to  
10 implementation of vocational services. His benefit entitlement changed from temporarily total  
11 disability benefits, under RCW 51.32.090, to benefits during the vocational rehabilitation process,  
12 under RCW 51.32.095. Prior to vocational rehabilitation, when an injured worker receives temporary  
13 total disability, and an employer offers a light-duty job offer of disputed validity, the Department "shall  
14 make a final determination pursuant to an order" as to such validity.<sup>6</sup> However, Mr. Rickey's claim  
15 was long past the light-duty job offer. On September 29, 2017, the Department found Mr. Rickey  
16 eligible for vocational plan development. At the commencement of vocational rehabilitation services,  
17 RCW 51.32.096 (previously RCW 51.32.099) governs benefit entitlement. The provisions of  
18 RCW 51.32.096 are similar to those of RCW 51.32.090, but are not identical and do not require the  
19 Department to issue an appealable order, separate from a closing order, as was done here with the  
20 April 20, 2018 order on appeal. The facts and chronology here are consistent with our previous  
21 decisions and Mr. Rickey is unemployable based on the vocational conclusion and decision at  
22 vocational development. Therefore, Mr. Rickey is entitled to total disability compensation.  
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30 **Permanent/Temporary Aggravation:**

31 The parties dispute whether the steroid injection permanently or temporarily aggravated  
32 Mr. Rickey's bipolar condition. We have encountered cases where an industrial injury only  
33 temporarily aggravates a preexisting condition.<sup>7</sup> In those cases, however, the condition is only  
34 deemed aggravated when the condition has returned to the baseline, for example, pre-industrial injury  
35 condition. Here, Mr. Rickey had previously been diagnosed with bipolar disorder; however, his  
36 mental condition was stable at the time of the industrial injury without ongoing treatment or  
37 medication, and he was able to complete full-time school and then work full-time without any evidence  
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44 <sup>4</sup> *In re Ruben Cuellar*, BIIA Dec., 12 13134 (2013); *In re Tesfai G. Ukbagergis*, Dckt. No. 09 20737 (April 21, 2011); *In re*  
45 *Madison A. Curup*, Dckt. No. 16 11021 (Feb. 6, 2017).

46 <sup>5</sup> *In re Tesfai G. Ukbagergis*, Dckt. No. 09 20737 (April 21, 2011).

47 <sup>6</sup> RCW 51.32.090(4)(l).

<sup>7</sup> See, for example., *In re Willetta A. Cody*, Dckt. No. 00 12190 (April 22, 2002).

1 of mental disruption. And, as of claim closure, Dr. Hart, Dr. Johnson, Mr. Rickey, and Mr. Rickey's  
2 father all testified as to his ongoing bipolar symptoms and difficulties.  
3

4 We have previously held an industrial injury may cause a preexisting condition to become  
5 symptomatic, but the effects on the preexisting condition may be only temporary and not contribute  
6 to a further deterioration of the body part involved. Factually, it is proper to inquire whether the  
7 industrial injury continues to be a cause of a future need for treatment or a cause of further disability.  
8 It may be that the preexisting condition has progressed on its own, unrelated to the industrial injury.  
9 If that is the case, then the Department isn't responsible for the worsening.<sup>8</sup> Because Mr. Rickey's  
10 condition has not returned to his pre-industrial injury condition, the evidence is insufficient to conclude  
11 the industrially related aggravation of Mr. Rickey's preexisting bipolar disorder is only temporary.  
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### 16 **DECISION**

- 17  
18 1. In Docket No. 18 13570, the claimant, Chancy T. Rickey, filed a protest with the Department of  
19 Labor and Industries on April 3, 2018. The Department forwarded it to the Board of Industrial  
20 Insurance Appeals as an appeal. Mr. Rickey appeals a February 6, 2018 Department order. In  
21 this order, the Department affirmed an October 25, 2017 order ending time-loss compensation as  
22 paid from October 11, 2017, through October 24, 2017. The order is reversed and remanded to  
23 the Department to pay time-loss compensation from October 25, 2017, through April 19, 2018.  
24
- 25 2. In Docket No. 18 15264, Mr. Rickey filed a protest with the Department of Labor and Industries  
26 on May 24, 2018. The Department forwarded it to the Board of Industrial Insurance Appeals as  
27 an appeal. The claimant appeals an April 20, 2018 Department order. In this order, the  
28 Department affirmed its February 22, 2018 order that closed the claim with a permanent partial  
29 disability award consistent with Category 2 dorso-lumbar or lumbosacral impairments under  
30 WAC 296-20-280. The order is incorrect and is reversed and remanded to the Department with  
31 direction to find as of April 20, 2018, Mr. Rickey is a permanently totally disabled worker.  
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### 37 **FINDINGS OF FACT**

- 38 1. On June 21, 2018, an industrial appeals judge certified that the parties  
39 agreed to include the Jurisdictional History in the Board record solely for  
40 jurisdictional purposes.  
41
- 42 2. On January 14, 2016, Chancy T. Rickey sustained an industrial injury  
43 while working for as a technician for Mechanical and Control Services  
44 when he slipped and fell onto his back. Mr. Rickey suffered an  
45 impingement of the S1 nerve root and S1 radiculopathy, a disc osteophyte  
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47 <sup>8</sup> *In re Tae-Hee Kang*, Dckt No. 11 18176 (November 15, 2012); *In re Arlen Long*, BIIA Dec., 94 2539 (1996).

1 complex, consisting of a herniated disc at L5, and a bone spur. His  
2 diagnosis included the aggravation of mental health conditions: bipolar  
3 disorder, generalized anxiety disorder without agoraphobia, post-  
4 traumatic stress disorder, panic disorder, and attention deficit hyperactive  
5 disorder.

- 6  
7 3. Mr. Rickey's conditions proximately caused by the January 14, 2016  
8 industrial injury were fixed and stable as of April 20, 2018.
- 9  
10 4. Mr. Rickey was born on March 16, 2017, and was 42 years old at the time  
11 of his hearing. He is married with two children. He graduated from high  
12 school, and obtained an Associate's degree and HVAC certificate. He  
13 has a varied employment history, including a pre-school teaching  
14 assistant, deli clerk, restaurant server, dishwasher, retail sales associate,  
15 pizza delivery driver, and HVAC technician.
- 16  
17 5. Mr. Rickey's physical restrictions proximately caused by the industrial  
18 injury and its residuals included: 30 minutes of sitting up to four hours a  
19 day, 30 minutes of standing up to two hours a day, 20 minutes of walking  
20 up to two hours a day, and sitting, standing, or walking, alternatively, for  
21 up to eight hours a day. Standing or walking was restricted to 40 minutes  
22 at a time, up to four hours a day. For sitting, he required an ergonomic  
23 chair with lumbar support. He could work on ladders, climb ladders, and  
24 climb stairs, up to 10 percent of the workday. He could twist at the trunk,  
25 bend, stoop, kneel, squat, and crawl up to 20 feet for one to three hours  
26 a day, up to 13 percent of the workday. His ability to reach forward with  
27 both arms was unrestricted. He could reach from waist to shoulder, and  
28 work above the shoulders, up to six hours for a workday. He could  
29 constantly use a keyboard, bend his wrists, grasp forcefully, handle or  
30 grasp materials, and manipulate his fingers or hands. He could operate  
31 the foot controls on his left side up to three hours a day, on the right side  
32 up to six hours a day. Low impact vibration was unrestricted for his  
33 extremities. He could lift floor to waist: 30 pounds occasionally, 15  
34 pounds frequently; waist to shoulder: 25 pounds occasionally, 12 pounds  
35 frequently; knee to waist: 30 pounds occasionally, and 15 pounds  
36 frequently. He could carry a 20 pound object a distance of 50 feet  
37 occasionally; push a 30 pound object a distance of 50 feet occasionally;  
38 and pull a 35 pound object a distance of 50 feet occasionally.
- 39  
40 6. Mr. Rickey was temporarily totally disabled and unable to perform or  
41 obtain gainful employment on a reasonably continuous basis from  
42 October 25, 2017, through April 19, 2018.
- 43  
44 7. Mr. Rickey's condition diagnosed as Bipolar Disorder Type 1 was  
45 permanently aggravated by the industrial injury, following a steroid  
46 injection in April 2016.
- 47  
48 8. As of April 20, 2018, Mr. Rickey had a permanent partial disability  
49 proximately caused by the industrial injury equal to Category 2 for dorso



1 lumbar/lumbosacral impairments under WAC 296-20-280 and Category 3  
2 for mental health conditions under WAC 296-20-340.

- 3  
4 9. Mr. Rickey was unable to perform or obtain gainful employment on a  
5 reasonably continuous basis from October 25, 2017, through April 19,  
6 2018, and as of April 20, 2018, due to the residuals of the industrial injury  
7 and taking into account his age, education, work history, and preexisting  
8 conditions.

9 **CONCLUSIONS OF LAW**

- 10 1. The Board of Industrial Insurance Appeals has jurisdiction over the parties  
11 and subject matter in these appeals.  
12  
13 2. Mr. Rickey's industrially related conditions were fixed and stable as of  
14 April 20, 2018.  
15  
16 3. Chancy T. Rickey was a temporarily totally disabled worker within the  
17 meaning of RCW 51.32.090 from October 25, 2017, through  
18 April 19, 2018.  
19  
20 4. Mr. Rickey was a permanently totally disabled worker within the meaning  
21 of RCW 51.08.160, as of April 20, 2018.  
22  
23 5. The Department orders dated February 6, 2018, and April 20, 2018, are  
24 incorrect and reversed. This matter is remanded to the Department to pay  
25 time-loss compensation benefits from October 25, 2017, through April 19,  
26 2018, and to find Chancy T. Rickey permanently totally disabled as of  
27 April 20, 2018.

28 Dated: December 27, 2019.

29 BOARD OF INDUSTRIAL INSURANCE APPEALS

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31 LINDA L. WILLIAMS, Chairperson

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33 ISABEL A. M. COLE, Member  
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39 **DISSENT**

40 I disagree with the majority's decision to award a pension in a case where the Department has  
41 not yet issued a final vocational order. Because the majority's decision departs from the purpose and  
42 goals of the vocational rehabilitation statutes, I dissent. The issue that the majority should address  
43 is the procedural obligations of the Department when it halts vocational retraining and temporary total  
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1 disability benefits based on the incorrect assumption that a valid job was offered to a worker. The  
2 matter should be remanded to the Department to consider the dispute and issue an appealable order.  
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4 The majority notes that the statute regarding vocational rehabilitation, RCW 51.32.096, does  
5 not require the same procedure after a finding of an invalid job offer as does RCW 51.32.090. The  
6 latter requires the Department make a determination and issue an order regarding the validity of the  
7 job offer. What is overlooked is that the vocational rehabilitation statute is completely silent as to  
8 what follows a worker's assertion that the job offer is not valid. Should the Department make a  
9 separate determination of the validity of the job offer as required by RCW 51.32.090 or may the  
10 Department remove the propriety of vocational retraining for consideration by simply closing the  
11 claim? I would determine that once the workers asserts the job offer is not valid, the Department  
12 must issue an order as contemplated not only by RCW 51.32.090, but also by application of RCW  
13 51.52.050 and its responsibility to resolve the issue with an appealable order<sup>9</sup>.  
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19 By not insisting the Department use this procedure, as the majority concludes, continued  
20 vocational retraining is removed from consideration and employability must be determined without  
21 the benefit of retraining. Because RCW 51.32.096 is silent on the procedure to be used in such a  
22 dispute we should rely on and require it to invoke the procedure created for similar situations under  
23 RCW 51.32.090. The goal of returning injured workers to employability is usurped by allowing the  
24 Department to close the claim without resolving the issue using required administrative and appellate  
25 procedures.  
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30 Unfortunately that was not done here, and rather than rely on the stale proposition that we  
31 cannot reverse a closing order for vocational purposes, we should anticipate what would have  
32 happened at the Department level if the Department had complied with the requirements of RCW  
33 51.32.090. I doubt that the Department would determine that it could not reinstate vocational  
34 retraining. Yet that is exactly the result here. The majority, although concluding the job offer was not  
35 valid, declines to either remand for the Department to consider what should be done if the job offer  
36 is invalid or to reinstate vocational retraining.  
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40 At the time the employer offered Mr. Rickey a light-duty job, his disability was temporary. RCW  
41 51.32.090 governs a temporarily totally disabled worker's return to available work. The statute details  
42 the Legislature's preference towards facilitating an injured worker's return to, or remain at, work  
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46 <sup>9</sup> See *In re Ryan Lowry*, BIIA Dec., 91 C061 (1991) (When a dispute arises during the administration of the claim, the  
47 Department should issue an appealable order.)

1 following their injury. Per the statute governing temporary total disability and return to work offers,  
2  
3 RCW 51.32.090(4)(l):

4 In the event of any dispute as to the validity of the work offered or as to the worker's  
5 ability to perform the available work offered by the employer, the department shall make  
6 the final determination pursuant to an order that contains the notice required by RCW  
7 51.52.060 and that is subject to appeal subject to RCW 51.52.050.

8  
9 The appealable order requirement is essential as it avoids the unfortunate result arrived at by  
10 the majority. It is also consistent with our holding in *In re Albina M. Pascual*,<sup>10</sup> in which we remanded  
11 the closing order for required further litigation regarding vocational services.

12  
13 The majority relies on a line of decisions that indicate that the Department runs the risk of  
14 closing the claim if there are unresolved vocational issues. These cases are not relevant to the  
15 situation here where vocational retraining was authorized at the exercise of the Director's discretion,  
16 but terminated on a factually incorrect basis. The statute allows retraining to be cancelled after a  
17 valid job offer; it does not provide cancellation if the job offer is determined to be invalid. By  
18 concluding the Department should have issued a separate order on the validity of the job offer, we  
19 would not be overstepping the Director's discretion to determine if vocational services are warranted.  
20 That determination had already been made when services were terminated based on what was  
21 subsequently concluded an invalid job offer.

22  
23 One of the primary purposes of the Industrial Insurance Act is to lessen disability and return  
24 the injured worker to employment. In the circumstance when a determination is made that a job offer  
25 is invalid, as the majority determined here, the appropriate resolution of the claim, consistent with the  
26 purpose and goals of our workers' compensation system, requires remand to the Department to  
27 adjudicate Mr. Rickey's entitlement to vocational services prior to a final decision being made on  
28 employability.

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36 December 27, 2019.

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38 BOARD OF INDUSTRIAL INSURANCE APPEALS

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JACK S. ENG, Member

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**Addendum to Decision and Order  
In re Chancy T. Rickey  
Docket Nos. 18 13570 & 18 15264  
Claim No. BA-08508**

**Appearances**

Claimant, Chancy T. Rickey, by Davies Pearson, P.C., per Benjamin R. Sligar  
Employer, Mechanical & Control Services, by Law Office of Robert M. Arim PLLC, per Robert M. Arim  
Retrospective Rating Group, Associated Builders & Contractors #00237 (did not appear)  
Department of Labor and Industries, by Office of the Attorney General, per Lynette Weatherby-Teague

**Petition for Review**

As provided by RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review and decision. The claimant filed a timely Petition for Review of a Proposed Decision and Order issued on July 2, 2019, in which the industrial appeals judge affirmed the Department order dated February 6, 2018, and reversed and remanded the Department order dated April 20, 2018.

**Evidentiary Rulings**

The Board has reviewed the evidentiary rulings in the record of proceedings and finds that no prejudicial error was committed. The rulings are affirmed. The Proposed Decision and Order lists Exhibit No. 4 as rejected and Exhibit Nos. 5 through 10 as not offered. However, Exhibit Nos. 4 through 10 are duplicates of the admitted exhibits and as such are removed from the record.