

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1111

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 11-21-84
DATE FOR REVIEW 11-30-84
DATE DUE 12-5-84

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 12-5-84 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 12-6-84 Revisor approved 11/27/84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed See SR '

✓ Order Adopting 11.21.84 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 11.28.83

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
10.4.84 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
10.8.84 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: MARTY J. CASSERLY
Special Assistant
Attorney General

DATE: 11/21/84

FROM: LESLIE M. ALTMAN LMA
Special Assistant
Attorney General

PHONE: 297-2972

SUBJECT: Amendments to Rules Governing Rehabilitation Providers

The Department of Labor and Industry has adopted the above-captioned Amendments pursuant to its authority under Minn. Stat. § 176.83 (c) (Supp. 1983). Having received no requests for a public hearing, the Department has proceeded under the noncontroversial rulemaking provisions, Minn. Stat. §§ 14.21-14.28 (as amended by Minn. Laws 1984, ch. 640, §§ 12-15). The Department is now submitting the amendments to the Attorney General for approval pursuant to Minn. Stat. § 14.26.

As the following documents demonstrate, the Department has fully complied with all requirements imposed by law or rule:

1. A Notice of Intent to Solicit Outside Opinion soliciting data and views from interested persons or groups was published in the State Register at 8 S.R. 1271 on November 28, 1983.

2. An Order for Notice of Intent to Adopt Amendments Without a Public Hearing and for Publication was issued by the commissioner on September 21, 1984. It directed the publication of the Notice in the State Register and the mailing of the Notice to all persons on the list maintained by the agency.

3. A Certificate verifying the accuracy and completeness of the agency's mailing list of persons and groups requesting notice of proposed adoption of amendments was prepared on October 4, 1984.

4. An Affidavit of Mailing the Notice of Intent to Adopt Amendments without a Public Hearing on October 4, 1984 to persons and groups on the certified list described in #3 was executed.

5. The Notice of Intent to Adopt Amendments Without a Public Hearing was published in the State Register at 9 S.R. 728 on October 8, 1984, together with the amendments as proposed. The Notice contained all of the elements required by Minn. Rules, part 2000.0400,

subp. 2.

6. A Statement of Need and Reasonableness describing the reasons, arguments, and evidence supporting a finding of need for and reasonableness of each proposed amendment was drafted and made available to the public by October 8, 1984.

7. No requests for hearing were received by the Department during the 30 days ending on November 7, 1984. Two comment letters, which are enclosed, were received in that time. The Department reviewed the comments and incorporated them as described in the Findings of Fact in #8.

8. Findings of Fact were issued on November 21, 1984 by the Commissioner. These findings explain the need for and reasonableness of the amendments as modified. The modifications are not substantial changes because they merely clarify the intent of the amendments as originally proposed without affecting the rights of any parties.

9. An Order Adopting the Amendments was issued by the Commissioner on November 21, 1984. It states that proper notice of the proposed rulemaking was effected, fewer than 25 requests for public hearing were received, and that the amendments are needed and reasonable.

10. The proposed amendments as modified were approved as to form by the revisor of statutes on November 21, 1984.

11. A certificate verifying that no persons or groups requested to be notified of the submission of these amendments to the Attorney General was completed on November 21, 1984.

12. A Certificate of Compliance with Rulemaking Procedures was signed on November 21, 1984, by Leslie M. Altman, Special Assistant Attorney General.

In all respects, then, the Department of Labor and Industry has have complied with the requirements for noncontroversial rulemaking contained in Minn. Stat. §§ 14.21-14.28 (Supp. 1983) and in Minn. Rules, part 2000.0400 (1983).

LMA:sms

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: Steve Keefe, Commissioner
Department of Labor & Industry

DATE: December 6, 1984

ATTN: Leslie Altman

FROM: Special Assistant Attorney General

Martha J. Casserly MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Rehabilitation Providers

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

MJC:slz
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

Department of Labor and Industry

Adopted Rules Relating to Workers' Compensation; Rehabilitation Claims Handling

Rules as Adopted

5220.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5220.0100 to 5220.1910, the following terms have the meanings given them.

Subp. 1a. **Accredited.** "Accredited" institution in part 5220.1400 means that the institution is accredited by a recognized national accrediting body, and that, where accreditation for those degrees listed in part 5220.1400, subpart 2 is available, the degree program is accredited by a recognized national accrediting body.

Subp. 1b. **Approved claims handler.** "Approved claims handler" means a claims handler who meets the requirements of part 5220.1910.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Qualified rehabilitation consultant.** "Qualified rehabilitation consultant" means a person who is professionally trained and experienced and who is approved by the commissioner to develop and monitor an appropriate plan for evaluation and provision of physical and vocational rehabilitation services for an employee entitled to rehabilitation benefits under Minnesota Statutes, section 176.102. A qualified rehabilitation consultant must be either affiliated as defined in subpart 6 or independent as defined in subpart 7.

Subp. 6. **Qualified rehabilitation consultant/affiliated.** "Qualified rehabilitation consultant/affiliated" means a consultant who is affiliated with an employer, insurer, or adjusting company; and who is approved by the commissioner to develop and monitor rehabilitation plans. A qualified rehabilitation consultant/affiliated as defined in this subpart is permitted to provide rehabilitation consultation only ~~on~~ for the claims ~~of~~ being handled by the entity with which the

consultant is affiliated.

Subp. 7. and 8. [Unchanged.]

Subp. 8a. **Qualified rehabilitation consultant firm or firm.** "Qualified rehabilitation consultant firm" or "firm" means a public or private business, whether organized as a sole proprietorship, partnership, association, corporation, or other form, which is held out to the public as a business entity engaged in rehabilitation consultation. Only a qualified rehabilitation consultant independent shall be associated with or employed by a firm as defined in this subpart.

Subp. 9. to 10. [Unchanged.]

Subp. 10a. **Rehabilitation Services or Rehabilitation and Medical Services.** "Rehabilitation Services" or "Rehabilitation and Medical Services" means the Rehabilitation and Medical Services Section in the Department of Labor and Industry.

Subp. 11. **Registered rehabilitation vendor.** "Registered rehabilitation vendor" means a public or private entity existing wholly or in part for the provision of rehabilitation services to the qualified employee and which has been registered to provide specific rehabilitation services in accord with a rehabilitation plan authorized by the commissioner. Vendors as defined in this subpart shall not employ or otherwise engage the services of qualified rehabilitation consultants.

Subp. 12. and 13. [Unchanged.]

Subp. 14. **Required rehabilitation report.** "Required rehabilitation report" means a report which must be submitted to rehabilitation services whenever a rehabilitation plan is initiated or proposed to be altered, suspended, or terminated.

Subp. 15. **Required progress record.** "Required progress record" means a record maintained by the qualified rehabilitation consultant which documents rehabilitation provider services and the employee's rehabilitation progress. The record shall include, among other things, case notes and all written reports (whether or not submitted to rehabilitation services) and correspondence received or prepared by the qualified rehabilitation consultant regarding an employee's

rehabilitation.

5220.0210 WORK STATUS REPORT.

Subpart 1. **Time for filing.** The employer shall file with the commissioner a work status report, to which current medical reports are attached, in conformity with the following deadlines:

A. within 15 days of receipt of an employee's request for rehabilitation services;

B. within ten days of referral to a qualified rehabilitation consultant to develop and monitor an appropriate plan for evaluation and provision of physical and vocational rehabilitation services;

C. within five days after the employee has 30 days of lost work time due to a back injury or within five days after the employee has 60 days of lost work time due to a personal injury other than a back injury; or

D. within five days after an employer receives medical information prior to the times specified in items A to C that the employee will be unable to return to the job the employee held at the time of injury.

Subp. 2. **Contents.** The work status report shall either:

A. refer the employee to a qualified rehabilitation consultant for rehabilitation consultation; or

B. include a completed rehabilitation indicators form as prescribed by the commissioner which indicates that the employee has returned or will return to work in the near future or that rehabilitation consultation will not be useful in returning the employee to work.

Subp. 3. **Waiver of rehabilitation consultation.** A rehabilitation indicators form must be submitted where the employer requests a waiver of rehabilitation services on the work status report.

If the commissioner denies the request, notice of the denial shall be mailed to the employer within 15 days of the commissioner's receipt of the request. Within 15 days of the date of denial, the employer shall appoint a qualified rehabilitation consultant, or the commissioner shall appoint a

qualified rehabilitation consultant to provide the consultation at the expense of the employer.

If the commissioner grants the request, no notice to the employer is required. The waiver, if granted, shall be effective for 60 days from the date of the commissioner's receipt of the request. If the employee does not return to work during this 60-day period, the employer shall at the expiration of the 60 days and every 60 days thereafter file another work status report as required by this part.

5220.0300 INITIATION OF REHABILITATION SERVICE.

Subpart 1. **Employer's duty.** For the purpose of Minnesota Statutes, section 176.102, subdivision 4, the employer shall, in consultation with the employee, refer the employee to a qualified rehabilitation consultant, unless a rehabilitation indicators form is filed as required by part 5220.0210, subpart 2, item B. This shall be done within five days after an employer has medical information that an employee is unable to return to the job the employee held at the time of the injury, has 60 days of lost work time due to a personal injury other than a back injury, or 30 days of lost work time due to a back injury.

Subp. 2. **Employee's objection.** If the employer has made a selection of a qualified rehabilitation consultant, the employee may object to the employer's selection and shall make his or her own selection and notify the commissioner and the employer in writing. The employee has the final decision on which rehabilitation consultant is to be utilized. Upon receipt of the notice, the commissioner may schedule an administrative conference to discuss a requested change of qualified rehabilitation consultant.

Subp. 3. **Delay by employer.** When the commissioner receives information that the employee is qualified for rehabilitation benefits and the employer has not provided rehabilitation consultation within five days after receipt of similar information, the commissioner shall notify the employer that rehabilitation consultation shall be provided by the

employer within 15 days of the notice or a qualified rehabilitation consultant shall be authorized by the commissioner to provide that consultation.

5220.0500 PLAN MODIFICATION.

Upon request of the employer, employee, or commissioner, the commissioner may suspend, terminate, or alter a rehabilitation plan for good cause, including, but not limited to:

A. a new or continuing physical limitation that significantly interferes with the implementation of the plan;

B. the employee's performance indicates that he or she is unlikely to complete the plan successfully;

C. the employee is not cooperating with the plan; or

D. the plan or its administration is substantially inadequate to achieve the rehabilitation plan objectives.

The commissioner may alter a plan on the request of an employee if the employee believes that the occupation for which he or she is being trained is not suited to him or her, provided that the employee's request shall be made within 90 days from the plan's implementation date and that no more than one change shall be permitted for this reason. Any decision of the commissioner regarding a change in a plan may be appealed to the review panel within 30 days of the filing of and service of the decision on the interested parties.

5220.1000 RETRAINING.

When the employee is entitled to additional compensation for retraining, or to after-tax compensation for on-the-job training, the compensation shall commence on the day the employee begins an approved retraining or on-the-job training program.

5220.1300 QUALIFIED REHABILITATION CONSULTANT AND REGISTERED REHABILITATION VENDOR.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Approval as a vendor or consultant.** An entity may be approved either to provide rehabilitation services as a

vendor or to develop and monitor rehabilitation plans as a qualified rehabilitation consultant. These roles are distinct therefore a single entity shall not qualify for both functions. There shall be no ownership or financial relationships of any kind whatsoever between any vendor and consultant or between any vendor and firm. The rehabilitation vendor shall provide all physical rehabilitation and work evaluation and work adjustment services if they are included in a rehabilitation plan. Any number of vendors may provide services for a single rehabilitation plan.

With the written approval of the commissioner, an employer who would qualify as a vendor may hire a qualified rehabilitation consultant/affiliated to develop and monitor rehabilitation plans for their own employees. In such cases, the consultant shall certify that the employee has been advised of his or her right to object to the affiliated rehabilitation consultant. It is expected that the rehabilitation consultant/affiliated shall use outside vendor services if the employer cannot provide them.

Subp. 4. to 8. [Unchanged.]

5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT.

Subpart 1. [Unchanged.]

Subp. 2. **Educational background.** A qualified rehabilitation consultant/affiliated/independent shall possess the following credentials as applicable:

A. Holder of a masters or doctorate degree in vocational rehabilitation ~~or related fields of~~, counseling and guidance, counseling (including family counseling, community counseling, or other counseling degree with a similar designated specialization), psychology (including counseling psychology, educational psychology, or other psychology degree with a similar designated specialization), social work, ~~or physical rehabilitation~~ (occupational therapy, physical therapy, or nursing) from an accredited institution, plus a current license as appropriate, plus one year of experience in vocational

rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

B. Holder of a baccalaureate degree in vocational rehabilitation ~~or related fields of~~, counseling and guidance, counseling (including family counseling, community counseling, or other counseling degree with a similar designated specialization), psychology (including counseling psychology, educational psychology, or other psychology degree with a similar designated specialization), social work, ~~or physical rehabilitation (~~occupational therapy, physical therapy, or nursing~~)~~, from an accredited institution, plus a current license as appropriate, plus two years of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

Subp. 3. to 5. [Unchanged.]

5220.1500 PROCEDURE FOR QUALIFYING AS REHABILITATION CONSULTANT.

Subpart 1. [Unchanged.]

Subp. 2. **Appeal process.** The appeal process provides a mechanism for applicants to request reconsideration of a rejected application for registration, renewal, and reinstatement.

A written notice of appeal shall be filed with the commissioner within 30 days of mailing of notice of disapproval.

The decision shall be reviewed by the review panel. The applicant shall be advised of the date, time, and place of the review at least ten days prior to the hearing date, and is encouraged to be present.

Subp. 3. to 5. [Unchanged.]

5220.1600 PROCEDURE FOR APPROVAL AS A FIRM.

Subpart 1. **Criteria.** The firm shall be licensed to do business in Minnesota and shall maintain an administrative office within the state. The management staff shall consist of at least one member who meets the qualifications of a

rehabilitation consultant. Eighty percent of the nonclerical staff shall be eligible, qualified rehabilitation consultants or consultant interns. Management shall provide ongoing continuing education opportunities in workers' compensation rehabilitation for approval by the commissioner and to meet the criteria for registration renewal of rehabilitation consultants. The firm shall not provide the services designated only as rehabilitation vendor services.

Subp. 2. **Application.** A private or public entity desiring to be approved as a firm shall submit to the commissioner a complete application consisting of the following:

A. to D. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

5220.1801 PROFESSIONAL CONDUCT.

Subpart 1. [Unchanged.]

Subp. 2. **Assigned qualified rehabilitation consultant.** Only the assigned qualified rehabilitation consultant, or a qualified rehabilitation consultant designated by the assigned qualified rehabilitation consultant, shall be involved at any given time in the employee's rehabilitation effort, except as stated in subparts 4 and 5. The assigned qualified rehabilitation consultant must submit the rehabilitation plan to rehabilitation services and to the employer within 30 days of referral. The assigned qualified rehabilitation consultant must submit records or reports to the employer or employee as requested by the employer or employee. This subpart shall not apply to a qualified rehabilitation consultant acting on behalf of the reinsurance association in a monitoring or advisory capacity on a reinsurance claim file.

Subp. 3. to 8. [Unchanged.]

5220.1802 COMMUNICATIONS.

Subpart 1. [Unchanged.]

Subp. 2. **Submission of reports.** All required rehabilitation reports shall be submitted in accordance with department forms as prescribed by the commissioner under

Minnesota Statutes, section 176.83, clause (j).

Subp. 3. to 9. [Unchanged.]

Subp. 10. **Providing records.** The qualified rehabilitation consultant or vendor assigned to a case shall maintain all required progress records regarding a case and shall make these records available or provide copies to rehabilitation services upon request by the commissioner. This subpart shall not apply to the reinsurance association, unless the reinsurance association has assumed primary responsibility for the claim pursuant to Minnesota Statutes, section 79.35, clause (g).

Subp. 11. [Unchanged.]

5220.1805 BUSINESS PRACTICES.

All registered qualified rehabilitation consultants, qualified rehabilitation consultant interns, and vendors shall abide by the following rules concerning a provider's business practices:

A. and B. [Unchanged.]

C. If a fellow rehabilitation provider violates parts 5220.0100 to 5220.1910, a rehabilitation provider having actual personal knowledge about the violation must direct the information to rehabilitation services.

D. to I. [Unchanged.]

5220.1900 REHABILITATION SERVICES AND FEES.

Subpart 1. **Fee monitoring.** Rehabilitation services has the responsibility and jurisdiction under Minnesota Statutes, section 176.102, subdivisions 2 and 9 to monitor and determine reasonable rehabilitation costs, the necessity of services provided, and to resolve any disputes that may arise between the parties according to part 5220.1300.

The employer/insurer has the primary responsibility for monitoring and paying the cost of necessary rehabilitation services provided. Either the employer/insurer or a rehabilitation provider may request rehabilitation services to make a determination of reasonable costs and necessity of services.

Rehabilitation services shall conduct periodic audits of costs, services, and compliance with reporting and recordkeeping requirements. The employer/insurer and the rehabilitation provider shall provide rehabilitation services with itemized services and costs upon request. Rehabilitation services must contact the parties to discuss costs and services deemed questionable by rehabilitation services or one of the parties. Rehabilitation services may order an administrative conference to discuss services and fee disputes, whether initiated by one of the parties or by rehabilitation services.

Subp. 2. **Reasonable and necessary services.** A qualified rehabilitation consultant or vendor shall bill for only those necessary and reasonable services which are rendered in accordance with rehabilitation services rules during completion of a plan. Reasonable and necessary services and fees shall be determined by the commissioner. The commissioner's review must include all the following factors:

A. to E. [Unchanged.]

F. an evaluation of whether Minnesota Statutes, chapter 176, and rehabilitation services' parts 5220.0100 to 5220.1910 have been followed by the provider.

No registered qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor shall attempt to collect reimbursement for an unnecessary or unreasonable procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.

Subp. 3. **Reporting requirements.** The qualified rehabilitation consultant assigned to an employee must provide rehabilitation services with the following information regarding an employee's case for purposes of rehabilitation services' monitoring of services and overall record keeping requirements. This subpart shall not apply to the reinsurance association, unless the reinsurance association has assumed primary responsibility for the claim pursuant to Minnesota Statutes, section 79.35, clause (g).

The qualified rehabilitation consultant shall provide rehabilitation services with an initial evaluation narrative report concerning the employee which will include the following information in summary fashion: medical status, vocational history, educational history, social and economic status, transferable skills, employment barriers, and recommendations.

Thereafter, the qualified rehabilitation consultant shall provide additional narrative progress summaries, if requested by the commissioner, of up to one page.

The qualified rehabilitation consultant shall send, attached to the narrative progress summaries, completed copies of all vendor reports, medical, psychological, and vocational reports regarding an employee's case.

The requesting party shall pay for all costs incurred by a rehabilitation provider in creating a report not required or requested by rehabilitation services.

Subp. 4. **Estimated goal dates and costs.** When developing the rehabilitation plan and when submitting required rehabilitation reports, required progress records, or other documents, the qualified rehabilitation consultant must make a professional judgment regarding any projected goal date and estimated costs. This shall include projected goal date and estimated costs submitted by any vendor. When the date or cost has been exceeded, the qualified rehabilitation consultant and any rehabilitation vendor must submit to rehabilitation services an itemized billing and no more than a one page rationale regarding continued provision of rehabilitation services. The rehabilitation provider is to submit the rationale to the employer/insurer. If the parties are unable to agree about continued rehabilitation services, any party may request a review by rehabilitation services.

Subp. 5. and 6. [Unchanged.]

5220.1910 APPROVED CLAIMS HANDLER.

Subpart 1. **Qualifications.** A person meeting all the requirements of this subpart is eligible for certification as an approved claims handler.

A. at least one year of experience handling Minnesota workers' compensation claims and making decisions on acceptance or denial of Minnesota workers' compensation claims; and

B. completion of a training session conducted by the commissioner; and

C. the person is not a rehabilitation provider as defined in part 5220.0100, subpart 9a.

Subp. 2. **Procedure for obtaining approval.** The employer, insurer, or adjusting company shall certify to the commissioner that the claims handler meets the requirements of this part. Approval is effective upon the commissioner's receipt of the certification. The approval remains in effect until the claims handler leaves the employ of the certifying entity, or the certification is withdrawn by the certifying entity. At the request of the commissioner, the certifying entity must consult with the commissioner regarding withdrawal of certification. The commissioner ~~may~~ is authorized to withdraw approval if the claims handler does not meet the requirements of subpart 1.

REPEALER. Minnesota Rules, part 5220.0200 is repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 6 1984

10:30 AM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 6 1984
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
December 5 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

AG copy

Department of Labor and Industry

Adopted Rules Relating to Workers' Compensation; Rehabilitation Claims Handling

Rules as Adopted

5220.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5220.0100 to 5220.1910, the following terms have the meanings given them.

Subp. 1a. **Accredited.** "Accredited" institution in part 5220.1400 means that the institution is accredited by a recognized national accrediting body, and that, where accreditation for those degrees listed in part 5220.1400, subpart 2 is available, the degree program is accredited by a recognized national accrediting body. FF 2a

Subp. 1b. **Approved claims handler.** "Approved claims handler" means a claims handler who meets the requirements of part 5220.1910.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Qualified rehabilitation consultant.** "Qualified rehabilitation consultant" means a person who is professionally trained and experienced and who is approved by the commissioner to develop and monitor an appropriate plan for evaluation and provision of physical and vocational rehabilitation services for an employee entitled to rehabilitation benefits under Minnesota Statutes, section 176.102. A qualified rehabilitation consultant must be either affiliated as defined in subpart 6 or independent as defined in subpart 7.

Subp. 6. **Qualified rehabilitation consultant/affiliated.** "Qualified rehabilitation consultant/affiliated" means a consultant who is affiliated with an employer, insurer, or adjusting company; and who is approved by the commissioner to develop and monitor rehabilitation plans. A qualified rehabilitation consultant/affiliated as defined in this subpart is permitted to provide rehabilitation consultation only ~~on~~ for the claims ~~of~~ being handled by the entity with which the FF 2b

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

consultant is affiliated.

Subp. 7. and 8. [Unchanged.]

Subp. 8a. **Qualified rehabilitation consultant firm or firm.** "Qualified rehabilitation consultant firm" or "firm" means a public or private business, whether organized as a sole proprietorship, partnership, association, corporation, or other form, which is held out to the public as a business entity engaged in rehabilitation consultation. Only a qualified rehabilitation consultant independent shall be associated with or employed by a firm as defined in this subpart.

Subp. 9. to 10. [Unchanged.]

Subp. 10a. **Rehabilitation Services or Rehabilitation and Medical Services.** "Rehabilitation Services" or "Rehabilitation and Medical Services" means the Rehabilitation and Medical Services Section in the Department of Labor and Industry.

Subp. 11. **Registered rehabilitation vendor.** "Registered rehabilitation vendor" means a public or private entity existing wholly or in part for the provision of rehabilitation services to the qualified employee and which has been registered to provide specific rehabilitation services in accord with a rehabilitation plan authorized by the commissioner. Vendors as defined in this subpart shall not employ or otherwise engage the services of qualified rehabilitation consultants.

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Subp. 14. **Required rehabilitation report.** "Required rehabilitation report" means a report which must be submitted to rehabilitation services whenever a rehabilitation plan is initiated or proposed to be altered, suspended, or terminated.

Subp. 15. **Required progress record.** "Required progress record" means a record maintained by the qualified rehabilitation consultant which documents rehabilitation provider services and the employee's rehabilitation progress. The record shall include, among other things, case notes and all written reports (whether or not submitted to rehabilitation services) and correspondence received or prepared by the qualified rehabilitation consultant regarding an employee's

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

rehabilitation.

5220.0210 WORK STATUS REPORT.

Subpart 1. **Time for filing.** The employer shall file with the commissioner a work status report, to which current medical reports are attached, in conformity with the following deadlines:

A. within 15 days of receipt of an employee's request for rehabilitation services;

B. within ten days of referral to a qualified rehabilitation consultant to develop and monitor an appropriate plan for evaluation and provision of physical and vocational rehabilitation services;

C. within five days after the employee has 30 days of lost work time due to a back injury or within five days after the employee has 60 days of lost work time due to a personal injury other than a back injury; or

D. within five days after an employer receives medical information prior to the times specified in items A to C that the employee will be unable to return to the job the employee held at the time of injury.

Subp. 2. **Contents.** The work status report shall either:

A. refer the employee to a qualified rehabilitation consultant for rehabilitation consultation; or

B. include a completed rehabilitation indicators form as prescribed by the commissioner which indicates that the employee has returned or will return to work in the near future or that rehabilitation consultation will not be useful in returning the employee to work.

Subp. 3. **Waiver of rehabilitation consultation.** A rehabilitation indicators form must be submitted where the employer requests a waiver of rehabilitation services on the work status report.

If the commissioner denies the request, notice of the denial shall be mailed to the employer within 15 days of the commissioner's receipt of the request. Within 15 days of the date of denial, the employer shall appoint a qualified rehabilitation consultant, or the commissioner shall appoint a

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

qualified rehabilitation consultant to provide the consultation at the expense of the employer.

If the commissioner grants the request, no notice to the employer is required. The waiver, if granted, shall be effective for 60 days from the date of the commissioner's receipt of the request. If the employee does not return to work during this 60-day period, the employer shall at the expiration of the 60 days and every 60 days thereafter file another work status report as required by this part.

5220.0300 INITIATION OF REHABILITATION SERVICE.

Subpart 1. **Employer's duty.** For the purpose of Minnesota Statutes, section 176.102, subdivision 4, the employer shall, in consultation with the employee, refer the employee to a qualified rehabilitation consultant, unless a rehabilitation indicators form is filed as required by part 5220.0210, subpart 2, item B. This shall be done within five days after an employer has medical information that an employee is unable to return to the job the employee held at the time of the injury, has 60 days of lost work time due to a personal injury other than a back injury, or 30 days of lost work time due to a back injury.

FF 2c

Subp. 2. **Employee's objection.** If the employer has made a selection of a qualified rehabilitation consultant, the employee may object to the employer's selection and shall make his or her own selection and notify the commissioner and the employer in writing. The employee has the final decision on which rehabilitation consultant is to be utilized. Upon receipt of the notice, the commissioner may schedule an administrative conference to discuss a requested change of qualified rehabilitation consultant.

Subp. 3. **Delay by employer.** When the commissioner receives information that the employee is qualified for rehabilitation benefits and the employer has not provided rehabilitation consultation within five days after receipt of similar information, the commissioner shall notify the employer that rehabilitation consultation shall be provided by the

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

employer within 15 days of the notice or a qualified rehabilitation consultant shall be authorized by the commissioner to provide that consultation.

5220.0500 PLAN MODIFICATION.

Upon request of the employer, employee, or commissioner, the commissioner may suspend, terminate, or alter a rehabilitation plan for good cause, including, but not limited existing language to:

A. a new or continuing physical limitation that significantly interferes with the implementation of the plan;

B. the employee's performance indicates that he or she is unlikely to complete the plan successfully;

C. the employee is not cooperating with the plan; or

D. the plan or its administration is substantially inadequate to achieve the rehabilitation plan objectives.

existing language - not subject to our review

The commissioner may alter a plan on the request of an employee if the employee believes that the occupation for which he or she is being trained is not suited to him or her, provided that the employee's request shall be made within 90 days from the plan's implementation date and that no more than one change shall be permitted for this reason. Any decision of the commissioner regarding a change in a plan may be appealed to the review panel within 30 days of the filing of and service of the decision on the interested parties.

5220.1000 RETRAINING.

When the employee is entitled to additional compensation for retraining, or to after-tax compensation for on-the-job training, the compensation shall commence on the day the employee begins an approved retraining or on-the-job training program.

5220.1300 QUALIFIED REHABILITATION CONSULTANT AND REGISTERED REHABILITATION VENDOR.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Approval as a vendor or consultant.** An entity may be approved either to provide rehabilitation services as a

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vendor or to develop and monitor rehabilitation plans as a qualified rehabilitation consultant. These roles are distinct therefore a single entity shall not qualify for both functions. There shall be no ownership or financial relationships of any kind whatsoever between any vendor and consultant or between any vendor and firm. The rehabilitation vendor shall provide all physical rehabilitation and work evaluation and work adjustment services if they are included in a rehabilitation plan. Any number of vendors may provide services for a single rehabilitation plan.

With the written approval of the commissioner, an employer who would qualify as a vendor may hire a qualified rehabilitation consultant/affiliated to develop and monitor rehabilitation plans for their own employees. In such cases, the consultant shall certify that the employee has been advised of his or her right to object to the affiliated rehabilitation consultant. It is expected that the rehabilitation consultant/affiliated shall use outside vendor services if the employer cannot provide them.

Subp. 4. to 8. [Unchanged.]

5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT.

Subpart 1. [Unchanged.]

Subp. 2. **Educational background.** A qualified rehabilitation consultant/affiliated/independent shall possess the following credentials as applicable:

A. Holder of a masters or doctorate degree in vocational rehabilitation ~~or related fields of~~, counseling and guidance, counseling (including family counseling, community counseling, or other counseling degree with a similar designated specialization), psychology (including counseling psychology, educational psychology, or other psychology degree with a similar designated specialization), social work, ~~or physical rehabilitation~~ (occupational therapy, physical therapy, or nursing) from an accredited institution, plus a current license as appropriate, plus one year of experience in vocational

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rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

B. Holder of a baccalaureate degree in vocational rehabilitation ~~or related fields of~~, counseling and guidance, counseling (including family counseling, community counseling, or other counseling degree with a similar designated specialization), psychology (including counseling psychology, educational psychology, or other psychology degree with a similar designated specialization), social work, ~~or physical rehabilitation (~~occupational therapy, physical therapy, or nursing~~)~~, from an accredited institution, plus a current license as appropriate, plus two years of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

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Subp. 3. to 5. [Unchanged.]

5220.1500 PROCEDURE FOR QUALIFYING AS REHABILITATION CONSULTANT.

Subpart 1. [Unchanged.]

Subp. 2. **Appeal process.** The appeal process provides a mechanism for applicants to request reconsideration of a rejected application for registration, renewal, and reinstatement.

A written notice of appeal shall be filed with the commissioner within 30 days of mailing of notice of disapproval.

The decision shall be reviewed by the review panel. The applicant shall be advised of the date, time, and place of the review at least ten days prior to the hearing date, and is encouraged to be present.

Subp. 3. to 5. [Unchanged.]

5220.1600 PROCEDURE FOR APPROVAL AS A FIRM.

Subpart 1. **Criteria.** The firm shall be licensed to do business in Minnesota and shall maintain an administrative office within the state. The management staff shall consist of at least one member who meets the qualifications of a

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rehabilitation consultant. Eighty percent of the nonclerical staff shall be eligible, qualified rehabilitation consultants or consultant interns. Management shall provide ongoing continuing education opportunities in workers' compensation rehabilitation for approval by the commissioner and to meet the criteria for registration renewal of rehabilitation consultants. The firm shall not provide the services designated only as rehabilitation vendor services.

Subp. 2. **Application.** A private or public entity desiring to be approved as a firm shall submit to the commissioner a complete application consisting of the following:

A. to D. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

5220.1801 PROFESSIONAL CONDUCT.

Subpart 1. [Unchanged.]

Subp. 2. **Assigned qualified rehabilitation consultant.** Only the assigned qualified rehabilitation consultant, or a qualified rehabilitation consultant designated by the assigned qualified rehabilitation consultant, shall be involved at any given time in the employee's rehabilitation effort, except as stated in subparts 4 and 5. The assigned qualified rehabilitation consultant must submit the rehabilitation plan to rehabilitation services and to the employer within 30 days of referral. The assigned qualified rehabilitation consultant must submit records or reports to the employer or employee as requested by the employer or employee. This subpart shall not apply to a qualified rehabilitation consultant acting on behalf of the reinsurance association in a monitoring or advisory capacity on a reinsurance claim file.

Subp. 3. to 8. [Unchanged.]

5220.1802 COMMUNICATIONS.

Subpart 1. [Unchanged.]

Subp. 2. **Submission of reports.** All required rehabilitation reports shall be submitted in accordance with department forms as prescribed by the commissioner under

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Minnesota Statutes, section 176.83, clause (j).

Subp. 3. to 9. [Unchanged.]

Subp. 10. **Providing records.** The qualified rehabilitation consultant or vendor assigned to a case shall maintain all required progress records regarding a case and shall make these records available or provide copies to rehabilitation services upon request by the commissioner. This subpart shall not apply to the reinsurance association, unless the reinsurance association has assumed primary responsibility for the claim pursuant to Minnesota Statutes, section 79.35, clause (g).

Subp. 11. [Unchanged.]

5220.1805 BUSINESS PRACTICES.

All registered qualified rehabilitation consultants, qualified rehabilitation consultant interns, and vendors shall abide by the following rules concerning a provider's business practices:

A. and B. [Unchanged.]

C. If a fellow rehabilitation provider violates parts 5220.0100 to 5220.1910, a rehabilitation provider having actual personal knowledge about the violation must direct the information to rehabilitation services.

D. to I. [Unchanged.]

5220.1900 REHABILITATION SERVICES AND FEES.

Subpart 1. **Fee monitoring.** Rehabilitation services has the responsibility and jurisdiction under Minnesota Statutes, section 176.102, subdivisions 2 and 9 to monitor and determine reasonable rehabilitation costs, the necessity of services provided, and to resolve any disputes that may arise between the parties according to part 5220.1300.

The employer/insurer has the primary responsibility for monitoring and paying the cost of necessary rehabilitation services provided. Either the employer/insurer or a rehabilitation provider may request rehabilitation services to make a determination of reasonable costs and necessity of services.

Rehabilitation services shall conduct periodic audits of costs, services, and compliance with reporting and recordkeeping requirements. The employer/insurer and the rehabilitation provider shall provide rehabilitation services with itemized services and costs upon request. Rehabilitation services must contact the parties to discuss costs and services deemed questionable by rehabilitation services or one of the parties. Rehabilitation services may order an administrative conference to discuss services and fee disputes, whether initiated by one of the parties or by rehabilitation services.

Subp. 2. **Reasonable and necessary services.** A qualified rehabilitation consultant or vendor shall bill for only those necessary and reasonable services which are rendered in accordance with rehabilitation services rules during completion of a plan. Reasonable and necessary services and fees shall be determined by the commissioner. The commissioner's review must include all the following factors:

A. to E. [Unchanged.]

F. an evaluation of whether Minnesota Statutes, chapter 176, and rehabilitation services' parts 5220.0100 to 5220.1910 have been followed by the provider.

No registered qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor shall attempt to collect reimbursement for an unnecessary or unreasonable procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.

Subp. 3. **Reporting requirements.** The qualified rehabilitation consultant assigned to an employee must provide rehabilitation services with the following information regarding an employee's case for purposes of rehabilitation services' monitoring of services and overall record keeping requirements. This subpart shall not apply to the reinsurance association, unless the reinsurance association has assumed primary responsibility for the claim pursuant to Minnesota Statutes, section 79.35, clause (g).

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OFFICE BY:

The qualified rehabilitation consultant shall provide rehabilitation services with an initial evaluation narrative report concerning the employee which will include the following information in summary fashion: medical status, vocational history, educational history, social and economic status, transferable skills, employment barriers, and recommendations.

Thereafter, the qualified rehabilitation consultant shall provide additional narrative progress summaries, if requested by the commissioner, of up to one page.

The qualified rehabilitation consultant shall send, attached to the narrative progress summaries, completed copies of all vendor reports, medical, psychological, and vocational reports regarding an employee's case.

The requesting party shall pay for all costs incurred by a rehabilitation provider in creating a report not required or requested by rehabilitation services.

Subp. 4. **Estimated goal dates and costs.** When developing the rehabilitation plan and when submitting required rehabilitation reports, required progress records, or other documents, the qualified rehabilitation consultant must make a professional judgment regarding any projected goal date and estimated costs. This shall include projected goal date and estimated costs submitted by any vendor. When the date or cost has been exceeded, the qualified rehabilitation consultant and any rehabilitation vendor must submit to rehabilitation services an itemized billing and no more than a one page rationale regarding continued provision of rehabilitation services. The rehabilitation provider is to submit the rationale to the employer/insurer. If the parties are unable to agree about continued rehabilitation services, any party may request a review by rehabilitation services.

Subp. 5. and 6. [Unchanged.]

5220.1910 APPROVED CLAIMS HANDLER.

Subpart 1. **Qualifications.** A person meeting all the requirements of this subpart is eligible for certification as an approved claims handler.

OFFICE OF STATUTES OFFICE BY:

A. at least one year of experience handling Minnesota workers' compensation claims and making decisions on acceptance or denial of Minnesota workers' compensation claims; and

B. completion of a training session conducted by the commissioner; and

C. the person is not a rehabilitation provider as defined in part 5220.0100, subpart 9a.

Subp. 2. **Procedure for obtaining approval.** The employer, insurer, or adjusting company shall certify to the commissioner that the claims handler meets the requirements of this part. Approval is effective upon the commissioner's receipt of the certification. The approval remains in effect until the claims handler leaves the employ of the certifying entity, or the certification is withdrawn by the certifying entity. At the request of the commissioner, the certifying entity must consult with the commissioner regarding withdrawal of certification. The commissioner may withdraw approval if the claims handler does not meet the requirements of subpart 1.

REPEALER. Minnesota Rules, part 5220.0200 is repealed.

Any person, firm, or corporation that intends to construct or install power piping systems must file an application for a permit with the Department of Labor and Industry or with a municipality that is authorized by law to issue that type of permit. The department's fees for a permit to construct or install power piping systems are:

A. filing fee (application for permit), $25; and

B. inspection fee, 0.005 percent of the first $1,000,000, plus one-half mill of the amount over $1,000,000 of the cost of bids awarded for the construction or installation of the power piping systems as defined under part 5230.0260.

Department of Labor and Industry

Proposed Rules Relating to Workers' Compensation; Rehabilitation Claims Handling

Notice of Intent to Adopt Amendments without a Public Hearing

Notice is hereby given that the Department of Labor and Industry, Workers' Compensation Division, proposes to adopt the above-captioned amendments to Minn. Rules, parts 5220.0100-5220.1900 without a public hearing. The Department has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21-14.28 (1982) (as amended by Minn. Laws 1984, ch. 640, §§ 12-15).

Persons or groups interested in these amendments shall have 30 days to submit comments on the proposed amendments. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. If a public hearing is required, the Department will proceed according to the provisions of Minn. Stat. §§ 14.131-14.20 (1982) (as amended by Minn. Laws 1984, ch. 640, §§ 7-11). Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed.

Comments or written requests for a public hearing should be submitted to:

Steve Keefe
Commissioner, Department of Labor and Industry
5th Floor, Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-2342

Authority for the adoption of these amendments is contained in Minn. Stat. § 176.83(c) (Supp. 1983). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments, identifies the data and information relied upon to support the proposed amendments and assesses the impact of the proposed amendments on small business and on local public bodies has been prepared and is available from the Commissioner upon request at the above address.

Upon adoption of the final amendments without a public hearing, all jurisdictional documents, the Statement of Need and Reasonableness, all written comments and requests for hearing received, and the final amendments as adopted, will be delivered to the Attorney General. The amendments will then be reviewed by the Attorney General as to legality and form as it relates to legality, including the issues of substantial change, the agency's authority to adopt the amendments and the existence of a rational basis for the need for and reasonableness of the proposed amendments. Persons who wish to be notified of the submission of this material, including modifications to the amendments as originally proposed, to the Attorney General, or who wish to receive a free copy of the final amendments as adopted, should submit a written request to the Commissioner at the above address.

The text of the proposed amendments follows this notice in the *State Register*. The amendments modify reporting requirements for rehabilitation providers and establish a procedure for approval of claims handlers. The amendments also incorporate new deadlines for initiation of rehabilitation services to reflect recent revisions to Minn. Stat. § 176.102, subd. 4.

One free copy of the proposed amendments may be obtained by contacting the Commissioner at the above address or by calling (612) 297-4792.

September 21, 1984

Steve Keefe
Commissioner, Department of
Labor and Industry

Rules as Proposed

5220.0100 Definitions.

Subpart 1. Scope. For the purposes of parts 5220.0100 to ~~5220.1900~~ 5220.1910, the following terms have the meanings given them.

Subp. 1a. Approved claims handler. "Approved claims handler" means a claims handler who meets the requirements of part 5220.1910.

Subp. 2 to 4. [Unchanged.]

Subp. 5. Qualified rehabilitation consultant. "Qualified rehabilitation consultant" means a person who is professionally trained and experienced and who is approved by the commissioner to develop and monitor an appropriate plan for evaluation and provision of physical and vocational rehabilitation services for an employee entitled to rehabilitation benefits under Minnesota Statutes, section 176.102. A qualified rehabilitation consultant must be either affiliated as defined in subpart 6 or independent as defined in subpart 7.

Subp. 6. Qualified rehabilitation consultant/affiliated. "Qualified rehabilitation consultant/affiliated" means a consultant who is affiliated with an employer, insurer, or adjusting company,~~;~~ and who is approved by the commissioner to develop and monitor rehabilitation plans. A qualified rehabilitation consultant/affiliated as defined in this subpart is permitted to provide rehabilitation consultation only on the claims of the entity with which the consultant is affiliated.

Subp. 7. and 8. [Unchanged.]

Subp. 8a. Qualified rehabilitation consultant firm or firm. "Qualified rehabilitation consultant firm" or "firm" means a public or private business, whether organized as a sole proprietorship, partnership, association, corporation, or other form, which is held out to the public as a business entity engaged in rehabilitation consultation. Only a qualified rehabilitation consultant independent shall be associated with or employed by a firm as defined in this subpart.

Subp. 9. to 10. [Unchanged.]

Subp. 10a. Rehabilitation Services or Rehabilitation and Medical Services. "Rehabilitation Services" or "Rehabilitation and Medical Services" means the ~~Division of~~ Rehabilitation and Medical Services ~~of~~ Section in the Department of Labor and Industry.

Subp. 11. Registered rehabilitation vendor. "Registered rehabilitation vendor" means a public or private entity existing wholly or in part for the provision of rehabilitation services to the qualified employee and which has been registered to provide specific rehabilitation services in accord with a rehabilitation plan authorized by the commissioner. Vendors as defined in this subpart shall not employ or otherwise engage the services of qualified rehabilitation consultants.

Subp. 12. and 13. [Unchanged.]

Subp. 14. Required rehabilitation report. "Required rehabilitation report" means a report which must be submitted to rehabilitation services whenever a rehabilitation plan is initiated or proposed to be altered, suspended, or terminated.

Subp. 15. Required progress record. "Required progress record" means a record maintained by the qualified rehabilitation consultant which documents rehabilitation provider services and the employee's rehabilitation progress. The record shall include, among other things, case notes and all written reports (whether or not submitted to rehabilitation services) and correspondence received or prepared by the qualified rehabilitation consultant regarding an employee's rehabilitation.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

5220.0210 WORK STATUS REPORT.

Subpart 1. Time for filing. The employer shall file with the commissioner a work status report, to which current medical reports are attached, in conformity with the following deadlines:

A. within 15 days of receipt of an employee's request for rehabilitation services;

B. within ten days of referral to a qualified rehabilitation consultant to develop and monitor an appropriate plan for evaluation and provision of physical and vocational rehabilitation services;

C. within five days after the employee has 30 days of lost work time due to a back injury or within five days after the employee has 60 days of lost work time due to a personal injury other than a back injury; or

D. Within five days after an employer receives medical information prior to the times specified in items A to C that the employee will be unable to turn to the job the employee held at the time of injury.

Subp. 2. Contents. The work status report shall either:

A. refer the employee to a qualified rehabilitation consultant for rehabilitation consultation; or

B. include a completed rehabilitation indicators form as prescribed by the commissioner which indicates that the employee has returned or will return to work in the near future or that rehabilitation consultation will not be useful in returning the employee to work.

Subp. 3. Waiver of rehabilitation consultation. A rehabilitation indicators form must be submitted where the employer requests a waiver of rehabilitation services on the work status report.

If the commissioner denies the request, notice of the denial shall be mailed to the employer within 15 days of the commissioner's receipt of the request. Within 15 days of the date of denial, the employer shall appoint a qualified rehabilitation consultant, or the commissioner shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer.

If the commissioner grants the request, no notice to the employer is required. The waiver, if granted, shall be effective for 60 days from the date of the commissioner's receipt of the request. If the employee does not return to work during this 60-day period, the employer shall at the expiration of the 60 days and every 60 days thereafter file another work status report as required by this part.

5220.0300 INITIATION OF REHABILITATION SERVICES.

Subpart 1. Employer's duty. For the purpose of Minnesota Statutes, section 176.102, subdivision 4, the employer shall, in consultation with the employee, refer the employee to a qualified rehabilitation consultant. This shall be done within ~~30~~ five days after an employer has medical information that an employee ~~is unable, due to personal injury or occupational disease, to return to his preinjury occupation~~ is unable to return to the job the employee held at the time of the injury, has 60 days of lost work time due to a personal injury other than a back injury, or 30 days of lost work time due to a back injury.

Subp. 2. Employee's objection. If the employer has made a selection of a qualified rehabilitation consultant, the employee may object to the employer's selection and shall make his or her own selection and notify the commissioner and the employer in writing. The employee has the final decision on which rehabilitation consultant is to be utilized. Upon receipt of the notice, the commissioner may schedule an administrative conference to discuss a requested change of qualified rehabilitation consultant.

Subp. 3. Delay by employer. When the commissioner receives information that the employee is qualified for rehabilitation benefits and the employer has not provided rehabilitation consultation within ~~30~~ five days after receipt of similar information, the commissioner shall notify the employer that rehabilitation consultation shall be provided by the employer within 15 days of the notice or a qualified rehabilitation consultant ~~within the division of vocational rehabilitation~~ shall be authorized by the commissioner to provide that consultation.

5220.0500 PLAN MODIFICATION.

Upon request of the employer ~~or~~, employee, or commissioner, the commissioner may suspend, terminate, or alter a rehabilitation plan for good cause, including, but not limited to:

A. a new or continuing physical limitation that significantly interferes with the implementation of the plan;

B. the employee's performance indicates that he or she is unlikely to complete the plan successfully; ~~or~~

C. the employee is not cooperating with the plan; or

D. the plan or its administration is substantially inadequate to achieve the rehabilitation plan objectives.

The commissioner may alter a plan on the request of an employee if the employee believes that the occupation for which he or she is being trained is not suited to him or her, provided that the employee's request shall be made within 90 days from the plan's implementation date and that no more than one change shall be permitted for this reason. Any decision of the commissioner regarding a change in a plan may be appealed to the review panel within ~~15~~ 30 days of the filing of and service of the decision on the interested parties.

5220.1000 ~~COMPENSATION DURING REHABILITATION~~ RETRAINING.

~~Payment of rehabilitation~~ When the employee is entitled to additional compensation ~~pursuant to Minnesota Statutes, section 176.102, subdivision 11, or, if the rehabilitation involves~~ for retraining, or to after-tax compensation for on-the-job training, ~~pursuant to Minnesota Statutes, section 176.102, subdivision 5,~~ the compensation shall commence on the day the employee begins ~~the vocational rehabilitation phase of the rehabilitation plan designed to prepare the employee for suitable, gainful employment~~ an approved retraining or on-the-job training program.

5220.1300 QUALIFIED REHABILITATION CONSULTANT AND REGISTERED REHABILITATION VENDOR.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Approval as a vendor or consultant. An entity may be approved either to provide rehabilitation services as a vendor or to develop and monitor rehabilitation plans as a qualified rehabilitation consultant. These roles are distinct therefore a single entity shall not qualify for both functions. There shall be no ownership or financial relationships of any kind whatsoever between any vendor and consultant or ~~organization approved for the employment of consultants~~ between any vendor and firm. The rehabilitation vendor shall provide all physical rehabilitation and work evaluation and work adjustment services if they are included in a rehabilitation plan. Any number of vendors may provide services for a single rehabilitation plan.

With the written approval of the commissioner, an employer who would qualify as a vendor may hire a qualified rehabilitation consultant/affiliated to develop and monitor rehabilitation plans for their own employees. In such cases, the consultant shall certify that the employee has been advised of his or her right to object to the affiliated rehabilitation consultant. It is expected that the rehabilitation consultant/affiliated shall use outside vendor services if the employer cannot provide them.

Subp. 4. to 8. [Unchanged.]

5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT.

Subpart 1. [Unchanged.]

Subp. 2. Educational background. A qualified rehabilitation consultant/affiliated/independent shall possess the following credentials as applicable:

A. Holder of a masters or doctorate degree in vocational rehabilitation or related fields of counseling and guidance, counseling (including family counseling, community counseling, or other counseling degree with a similar designated specialization), psychology (including counseling psychology, educational psychology, or other psychology degree with a similar designated specialization), social work, or physical rehabilitation (occupational therapy, physical therapy, nursing) from an accredited institution, plus a current license as appropriate, plus one year of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

B. Holder of a baccalaureate degree in vocational rehabilitation or related fields of counseling and guidance, counseling (including family counseling, community counseling, or other counseling degree with a similar designated specialization), psychology (including counseling psychology, educational psychology, or other psychology degree with a similar designated specialization), social work, or physical rehabilitation (occupational therapy, physical therapy, nursing), from an accredited

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institution, plus a current license as appropriate, plus two years of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

Subp. 3. to 5. [Unchanged.]

5220.1500 PROCEDURE FOR QUALIFYING AS REHABILITATION CONSULTANT.

Subpart 1. [Unchanged.]

Subp. 2. Appeal process. The appeal process provides a mechanism for applicants to request reconsideration of a rejected application for registration, renewal, and reinstatement.

A written notice of appeal shall be filed with the commissioner within ~~15~~ 30 days of mailing of notice of disapproval.

The decision shall be reviewed by the review panel. The applicant shall be advised of the date, time, and place of the review at least ten days prior to the hearing date, and is encouraged to be present.

Subp. 3. to 5. [Unchanged.]

5220.1600 PROCEDURE FOR APPROVAL AS ~~ORGANIZATION REGISTERED FOR EMPLOYMENT OF QUALIFIED REHABILITATION CONSULTANTS/INDEPENDENT~~ A FIRM.

Subpart 1. Criteria. The ~~organization~~ firm shall be licensed to do business in ~~the state of~~ Minnesota and shall maintain an administrative office within the state. The management staff shall consist of at least one member who meets the qualifications of a rehabilitation consultant. Eighty percent of the nonclerical staff shall be eligible, qualified rehabilitation consultants or consultant interns. Management shall provide ongoing continuing education opportunities in workers' compensation rehabilitation for approval by the commissioner and to meet the criteria for registration renewal of rehabilitation consultants. The ~~organization~~ firm shall not provide the services designated only as rehabilitation vendor services.

Subp. 2. Application. A private or public entity desiring to be approved as ~~an organization registered for the employment of qualified rehabilitation consultants~~ a firm shall submit to the commissioner a complete application consisting of the following:

A. to D. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

5220.1801 PROFESSIONAL CONDUCT.

Subpart 1. [Unchanged.]

Subp. 2. Assigned qualified rehabilitation consultant. Only the assigned qualified rehabilitation consultant, or a qualified rehabilitation consultant designated by the assigned qualified rehabilitation consultant, shall be involved at any given time in the employee's rehabilitation effort, except as stated in subparts 4 and 5. The assigned qualified rehabilitation consultant must submit the rehabilitation plan to rehabilitation services and to the employer within 30 days of referral ~~and must submit subsequent rehabilitation progress reports every 30 days to the office of rehabilitation services and the other parties~~. The assigned qualified rehabilitation consultant must submit records or reports to the employer or employee as requested by the employer or employee. This ~~part~~ subpart shall not apply to a qualified rehabilitation consultant acting on behalf of the reinsurance association in a monitoring or advisory capacity on a reinsurance claim file.

Subp. 3. to 8. .[Unchanged.]

5220.1802 COMMUNICATIONS.

Subpart 1. [Unchanged.]

Subp. 2. Submission of reports. All required rehabilitation reports shall be submitted in accordance with ~~rehabilitation services'~~ department forms as prescribed by the commissioner under Minnesota Statutes, section ~~176.165~~ 176.83, clause (j).

Subp. 3. to 9. [Unchanged.]

Subp. 10. Providing reports records. The qualified rehabilitation consultant or vendor assigned to a case shall ~~provide~~ maintain all ~~reports written by all parties~~ required progress records regarding a case ~~to rehabilitation services~~ and shall make these records available or provide copies to rehabilitation services upon request by the commissioner. This subpart shall not apply to the reinsurance association, unless the reinsurance association has assumed primary responsibility for the claim pursuant to Minnesota Statutes, section 79.35, clause (g).

Subp. 11. [Unchanged.]

5220.1805 BUSINESS PRACTICES.

All registered qualified rehabilitation consultants, qualified rehabilitation consultant interns, and vendors shall abide by the following rules concerning a provider's business practices:

A. and B. [Unchanged.]

C. If a fellow rehabilitation provider violates parts 5220.0100 to ~~5220.1900~~ 5220.1910, a rehabilitation provider having actual personal knowledge about the violation must direct the information to rehabilitation services.

D. to I. [Unchanged.]

5220.1900 REHABILITATION SERVICES AND FEES.

Subpart 1. Fee monitoring. Rehabilitation services has the responsibility and jurisdiction under Minnesota Statutes, section 176.102, subdivisions 2 and 9 to monitor and determine reasonable rehabilitation costs, the necessity of services provided, and to resolve any disputes that may arise between the parties according to part 5220.1300.

The employer/insurer has the primary responsibility for monitoring and paying the cost of necessary rehabilitation services provided. Either the employer/insurer or a rehabilitation provider may request rehabilitation services to make a determination of reasonable costs and necessity of services.

Rehabilitation services shall conduct periodic audits of costs ~~and~~, services, and compliance with reporting and recordkeeping requirements. The employer/insurer and the rehabilitation provider shall provide rehabilitation services with itemized services and costs upon request. Rehabilitation services must contact the parties to discuss costs and services deemed questionable by rehabilitation services or one of the parties. Rehabilitation services may order an administrative conference to discuss services and fee disputes, whether initiated by one of the parties or by rehabilitation services.

Subp. 2. Reasonable and necessary services. A qualified rehabilitation consultant or vendor shall bill for only those necessary and reasonable services which are rendered in accordance with rehabilitation services rules during completion of a plan. Reasonable and necessary services and fees shall be determined by the commissioner. The commissioner's review must include all the following factors:

A. to E. [Unchanged.]

F. an evaluation of whether Minnesota Statutes, chapter 176, and rehabilitation services' parts 5220.0100 to ~~5220.1900~~ 5220.1910 have been followed by the provider.

No registered qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor shall attempt to collect reimbursement for an unnecessary or unreasonable procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.

Subp. 3. Reporting requirements. The qualified rehabilitation consultant assigned to an employee must provide rehabilitation services with the following information regarding an employee's case for purposes of rehabilitation services' monitoring of services and overall record keeping requirements. This subpart shall not apply to the reinsurance association, unless the reinsurance association has assumed primary responsibility for the claim pursuant to Minnesota Statutes, section 79.35, clause (g).

The qualified rehabilitation consultant shall provide rehabilitation services with an initial evaluation narrative report concerning the employee which will include the following information in summary fashion: medical status, vocational history, educational history, social and economic status, transferable skills, employment barriers, and recommendations.

Thereafter, the qualified rehabilitation consultant shall provide additional narrative progress ~~reports~~ summaries, if ~~needed~~ requested by the commissioner, of up to one page.

The qualified rehabilitation consultant shall send, attached to the narrative progress ~~reports~~ summaries, completed copies of all vendor reports, medical, psychological, and vocational reports regarding an employee's case.

~~The qualified rehabilitation consultant shall also forward to rehabilitation services copies of completed reports prepared for other parties by him or her.~~

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The requesting party shall pay for all costs incurred by a rehabilitation provider in creating a report not required or requested by rehabilitation services.

Subp. 4. Estimated goal dates and costs. When developing the rehabilitation plan and ~~progress reports~~ when submitting required rehabilitation reports, required progress records, or other documents, the qualified rehabilitation consultant must make a professional judgment regarding any projected goal date and estimated costs. This shall include projected goal date and estimated costs submitted by any vendor. When the date or cost has been exceeded, the qualified rehabilitation consultant and any rehabilitation vendor must submit to rehabilitation services an itemized billing and no more than a one page rationale regarding continued provision of rehabilitation services. The rehabilitation provider is to submit the rationale to the employer/insurer. If the parties are unable to agree about continued rehabilitation services, any party may request a review by rehabilitation services.

Subp. 5. and 6. [Unchanged.]

5220.1910 APPROVED CLAIMS HANDLER.

Subpart 1. Qualifications. A person meeting all the requirements of this subpart is eligible for certification as an approved claims handler.

A. at least one year of experience handling Minnesota workers' compensation claims and making decisions on acceptance or denial of Minnesota workers' compensation claims; and

B. completion of a training session conducted by the commissioner; and

C. the person is not a rehabilitation provider as defined in part 5220.0100, subpart 9a.

Subp. 2. Procedure for obtaining approval. The employer, insurer, or adjusting company shall certify to the commissioner that the claims handler meets the requirements of this part. Approval is effective upon the commissioner's receipt of the certification. The approval remains in effect until the claims handler leaves the employ of the certifying entity, or the certification is withdrawn by the certifying entity. At the request of the commisisoner, the certifying entity must consult with the commissioner regarding withdrawal of certification. The commissioner may withdraw approval if the claims handler does not meet the requirements of subpart 1.

REPEALER. Minnesota Rules, part 5220.0200 is repealed.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Commerce

Adopted Rules Regulating Self-Insurers Under the Minnesota No-Fault Automobile Insurance Act

The rules proposed and published at *State Register*, Volume 8, Number 44, pages 2331-2334, April 30, 1984 (8 S.R. 2331) are adopted as proposed.

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Rehabilitation Providers

ORDER ADOPTING AMENDMENTS WITHOUT A PUBLIC HEARING

Notice of intent to adopt the above-captioned amendments without a public hearing was published in the State Register on October 8, 1984, and was sent by United States mail to all persons and groups on the list maintained by the Department of Labor and Industry, Workers' Compensation Division, pursuant to Minn. Stat. § 14.22 (1982) (as amended by Minn. Laws 1984, ch. 640, § 12) on October 4, 1984. After affording interested persons and groups an opportunity to submit comments and requests for a hearing for 30 days after notice, receiving fewer than 25 written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned amendments.

NOW, THEREFORE, IT IS ORDERED that the Amendments to Rules Governing Rehabilitation Providers are adopted pursuant to the authority vested in me by Minn. Stat. § 176.83(c).

STATE OF MINNESOTA

Steve Keefe
Commissioner
Department of Labor and Industry

Dated: November 21, 1984

Department of Labor and Industry Workers' Compensation Rehabilitation and Medical Services Division

Outside Opinion Sought on Rehabilitation Assessment

Notice is hereby given that the State Department of Labor and Industry, Workers' Compensation Rehabilitation and Medical Services, is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing rehabilitation assessment and other rules under M.S. 176.102 to implement the changes necessitated by 1983 law. The promulgation of these rules is authorized by Minnesota Statutes 176.83, which requires the agency to promulgate rules relating to rehabilitation assessment and permits the agency to promulgate rehabilitation rules under Chapter 176.

The State Department of Labor and Industry, Workers' Compensation Rehabilitation and Medical Services, requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Steve Keefe, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-2342 and in person at the above address.

All statements of information and comment shall be accepted until January 1, 1984. Any written material received by the State Department of Labor and Industry, Workers' Compensation Rehabilitation and Medical Services, shall become part of the record in the event that the rules are promulgated.

Steve Keefe
Commissioner of Labor and Industry

Department of Labor and Industry Workers' Compensation Division

Outside Opinion Sought Regarding Proposed Rules Establishing the Method for Determination of the Special Compensation Fund Assessment Base

Notice is hereby given that the State Department of Labor and Industry is seeking information or opinions from sources outside the agency in preparing to promulgate new rules establishing the method for determination of the special compensation fund assessment base. The promulgation of these rules is authorized by Laws of Minnesota 1983, Chapter 290, section 93, codified at Minn. Stat. § 176.129, subd. 5(a). This statute requires the department to establish by rule a method for determining the assessment base of the special compensation fund.

The State Department of Labor and Industry requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Steve Keefe, Commissioner
Department of Labor and Industry
444 Lafayette Road, 5th Floor
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at 612-296-2342 and in person at the above address.

All statements of information and comment shall be accepted until December 30, 1983. Any written material received by the State Department of Labor and Industry shall become part of the record in the event that the rules are promulgated.

Steve Keefe
Commissioner
Department of Labor and Industry

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments Governing Rehabilitation Providers.

ORDER FOR NOTICE OF INTENT TO ADOPT AMENDMENTS WITHOUT A PUBLIC HEARING AND FOR PUBLICATION

IT IS ORDERED this 21st day of September, 1984, that a Notice of Intent to Adopt Rules Without a Public Hearing in the above-captioned matter be published in the State Register and be given to all persons and groups who have requested that their names be placed on the list maintained by the Minnesota Department of Labor and Industry, Workers' Compensation Division, for that purpose pursuant to Minn. Stat. § 14.22 (1982), and be published in the State Register.

STATE OF MINNESOTA

Steve Keefe

Steve Keefe, Commissioner
Department of Labor and Industry

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments Governing Rehabilitation Providers

NOTICE OF INTENT TO ADOPT AMENDMENTS WITHOUT A PUBLIC HEARING

Notice is hereby given that the Department of Labor and Industry, Workers' Compensation Division, proposes to adopt the above-captioned amendments to Minn. Rules, parts 5220.0100 - 5220.1900 without a public hearing. The Department has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21 - 14.28 (1982) (as amended by Minn. Laws 1984, ch. 640, §§ 12-15).

Persons or groups interested in these amendments shall have 30 days to submit comments on the proposed amendments. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. If a public hearing is required, the Department will proceed according to the provisions of Minn. Stat. §§ 14.131 - 14.20 (1982) (as amended by Minn. Laws 1984, ch. 640, §§ 7 -11). Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed.

Comments or written requests for a public hearing should be submitted to:

Steve Keefe
Commissioner, Department of Labor and Industry
5th Floor, Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-2342

Authority for the adoption of these amendments is contained in Minn. Stat. § 176.83(c) (Supp. 1983). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments, identifies the data and information relied upon to support the proposed amendments and assesses the impact of the proposed amendments on small business and on local public bodies has been prepared and is available from the Commissioner upon request at the above address.

Upon adoption of the final amendments without a public hearing, all jurisdictional documents, the Statement of Need and Reasonableness, all written comments and requests for hearing received, and the final amendments as adopted, will be delivered to the Attorney General. The amendments will then be reviewed by the Attorney General as to legality and form as it relates to legality, including the issues of substantial change, the agency's authority to adopt the amendments and the existence of a rational basis for the need for and reasonableness of the proposed amendments. Persons who wish to be notified of the submission of this material, including modifications to the amendments as originally proposed, to the Attorney General, or who wish to receive a free copy of the final amendments as adopted, should submit a written request to the Commissioner at the above address.

The text of the proposed amendments follows this notice in the State Register. The amendments modify reporting requirements for rehabilitation providers and establish a procedure for approval of claims handlers. The amendments also incorporate new deadlines for initiation of rehabilitation services to reflect recent revisions to Minn. Stat. § 176.102, subd. 4.

One free copy of the proposed amendments may be obtained by contacting the Commissioner at the above address or by calling (612) 297-4792.

STATE OF MINNESOTA

Steve Keefe

Steve Keefe
Commissioner, Department of
Labor and Industry

Dated: September 21, 1984.

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments Governing Rehabilitation Providers

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) §§
COUNTY OF RAMSEY)

Nancy A. Olson, being first duly sworn, deposes and says:

That on the 4 day of October, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served a copy of the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing properly enveloped, with postage prepaid, on all persons and groups who have requested that their names be placed on the list maintained by the Minnesota Department of Labor and Industry, Workers' Compensation Division for the purpose of receiving notice of the proposed adoption of amendments by this agency.

Nancy A. Olson

Nancy A. Olson

Subscribed and sworn to before me
this 4th day of October, 1984.

A. Colette M. Poxson

A. COLETTE M. POXSON
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JUNE 21, 1991

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption
by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments Governing Rehabilitation Providers

CERTIFICATE

STATE OF MINNESOTA)
) §§
COUNTY OF RAMSEY)

I hereby certify that the list of interested persons and groups who have requested, pursuant to Minn. Stat. § 1414, Subd. 1 (as amended by Minn. Laws 1984, ch. 640 § 8) that their names be placed on the list maintained by the Minnesota Department of Labor and Industry for the puspose of receiving notice of the proposed adoption of amendments by this agency is accurate and complete as of 10/4/84, this 4 day of October, 1984.

Nancy Olson

Nancy Olson

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Rehabilitation Providers

FINDINGS OF FACT AND CONCLUSIONS

The above-captioned amendments were published in the State Register, together with a Notice of Intent to Adopt Amendments without a Public Hearing, on the 8th day of October, 1984. Proper notice was served upon all interested persons and groups registered for that purpose with the Department of Labor and Industry, Workers' Compensation Division, as required by Minn. Stat. § 14.22 (as amended by Minn. Laws 1984, ch. 640, § 12).

After affording interested persons and groups an opportunity to present written and oral data, statements and arguments, and having considered all of the evidence adduced upon the records, files and proceedings herein, I make the following:

FINDINGS OF FACT

1. During the 30-day comment period following publication of the proposed amendments, comments were received which are the basis for most of the changes to the proposed amendments described at finding 2 a. through c. below.

2. The rationale for the changes to the proposed amendments, all of which are nonsubstantial, is as follows:

a. Part 5220.0100, subp. 1a. - Definitions.

Accredited. "Accredited" institution in part 5220.1400 means that the institution is accredited by a recognized national accrediting body, and that, where accreditation for those degrees listed in part 5220.1400, subpart 2 is available, the degree program is accredited by a recognized national accrediting body.

This definition is added at the suggestion of the Minnesota Nurses Association. In its comment letter dated November 7, 1984, the Nurses Association noted that part 5220.1400 presently requires QRC applicants to be graduates of an "accredited institution," but no definition of an accredited institution is contained in the rules. The definition is added to eliminate the resulting ambiguity in the requirements for QRC registration.

As prescribed by Minn. Rules, part 5221.1400, QRC applicants must hold a degree in one of the fields listed. Additionally, the degree must be from an accredited institution as defined in this part. Accreditation of the listed degree program is required only if accreditation for the degree program is available. The rule requires accreditation only by nationally recognized bodies to ensure credible, reputable accrediting programs. An example of a recognized national accrediting body of institutions is the North Central Association of Colleges and Schools. Recognized national accrediting bodies of degree programs are those listed by the U.S. Department of Education or the Council on Post-Secondary Accreditation.

The definition is needed to clarify a term presently undefined in the rules and is not a substantial change.

Subpart 1 a. of the proposed amendments is changed to Subpart 1 b.

b. Part 5220.0100, subp. 6 - Definitions.

Qualified rehabilitation consultant/affiliated. "Qualified rehabilitation consultant/affiliated" means a consultant who is affiliated with an employer, insurer or adjusting company, and who is approved by the Commissioner to develop and monitor rehabilitation plans. A qualified rehabilitation consultant affiliated as defined in this subpart is permitted to provide rehabilitation consultation only ~~or~~ <u>for</u> the claims ~~of~~ <u>being handled by</u> the entity with which the consultant is affiliated.

P-1

This change was proposed by the Insurance Federation of Minnesota in its October 26 comment letter. The language as originally proposed could be misinterpreted to mean that affiliated QRCs could only handle claims of injured employees of the affiliated entity. As indicated in the Statement of Need and Reasonableness, the intent of the provision is to permit affiliated QRCs to service all cases of the parent entity, not only employees of the parent entity. The proposed changes preserve this intended meaning and at the same time avoid an incorrect construction of the provision. As a clarification, the change is not substantial.

c. Part 5220.0300, subp. 1 - Initiation of Rehabilitation Services.

> For the purpose of Minn. Stat. § 176.102, subd. 4, the employer shall, in consultation with the employee, refer the employee to a qualified rehabilitation consultant, unless a rehabilitation indicators form is filed as required by part 5220.0210, subpart 2, item B. This shall be done within five days after an employer has medical information that an employee is unable to return to the job the employee held at the time of injury, has 60 days of lost work time due to a personal injury other than a back injury, or 30 days of lost work time due to a back injury.

p.4

This change was suggested by the Insurance Federation of Minnesota in its October 26 comment letter. The added clause is necessitated by the new work status rule, 5220.0210. The employer's duty under part 5220.0210, subp. 1.C. and subp. 2.B.is to either file a rehabilitation indicators form waiving rehabilitation or refer the employee for rehabilitation. As a waiver means that no referral is required, it would be logically inconsistent to require a referral where there is a waiver. The added language clarifies that no referral is required where there is a waiver of rehabilitation, and is thus not a substantial change.

d. Part 5220.1400 subp. 2 - Qualifying Eligibility Criteria for a QRC.

> Educational background. A qualified rehabilitation consultant/affiliated/independent shall possess the following credentials as applicable:
>
> A. Holder of a masters or doctorate degree in vocational rehabilitation, ~~or related fields of~~ counseling and guidance, counseling (including family counseling, community counseling, or other counseling degree with a similar designated specialization), psychology (including counseling psychology, educational psychology, or other psychology degree with a similar designated specialization), social work, ~~or physical rehabilitation~~ (occupational therapy, physical therapy, or nursing) from an accredited institution, plus a current license as appropriate, plus one year of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

p.6

B. Holder of a baccalaureate degree in vocational rehabilitation, ~~or related fields of~~ counseling and guidance, counseling (including family counseling, community counseling, or other counseling degree with a similar designated specialization), psychology (including counseling psychology, educational psychology, or other psychology degree with a similar designated specialization), social work, ~~or physical rehabilitation~~ (occupational therapy, physical therapy, or nursing), from an accredited institution, plus a current license as appropriate, plus two years of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

This change is based on the Commissioner's experience in administering the rule. The rule has been misinterpreted by some applicants to mean that degrees which are related to those listed in the rule qualify an applicant for registration as a QRC. The reference in the rule to the relatedness of the listed degrees to vocational rehabilitation has been a source of unnecessary confusion and litigation. In fact, the rule has been applied so that only listed degrees qualify. See Statement of Need and Reasonableness for these rules, and Manty v. Director of Rehabilitation and Medical Services, decision of the Rehabilitation Review Panel dated November 15, 1984. This change clarifies the intended meaning of the rules and facilitates use of the rules. It thus is not a substantial change.

Similarly, the rule is intended to apply only to degrees in occupational therapy, physical therapy and nursing. As there is no degree given in physical rehabilitation, the parentheses are intended to specify those degrees in the physical rehabilitation field which qualify an applicant for registration. Removal of the parentheses and the reference to physical rehabilitation makes the format of the rule consistent throughout. As an editorial clarification, this change is not substantial.

Based upon these Findings of Fact, I make the following:

CONCLUSIONS

1. That the Department gave proper notice of the proposed amendments to all interested persons and groups.

2. That the Department has fully complied with all procedural requirements of law or rule in adopting the proposed amendments.

3. That the Department has acted within its statutory authority in adopting these proposed amendments.

4. That the proposed amendments as modified are needed and reasonable and fully comply with substantive requirements imposed by law or rule.

STATE OF MINNESOTA

Steve Keefe
Commissioner
Department of Labor and Industry

Dated: November 21, 1984

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments Governing Rehabilitation Providers

STATEMENT OF NEED AND REASONABLENESS for Proposed Amendments to Minnesota Rules, Parts 5220.0100 - 5220.1900

Introduction

These amendments accomplish two purposes. Most are required to make the rules consistent with recent legislative and case law developments. Others institute an event-based reporting system which eliminates the monthly reporting requirements for rehabilitation cases. Because the volume of rehabilitation cases and the responsibilities of Rehabilitation Services have increased significantly, it is no longer feasible to review and monitor monthly reports for every rehabilitation case. Further, the increased professionalism of qualified rehabilitation consultants (QRC) makes it appropriate for the commissioner to shift a greater burden for monitoring onto QRCs. The event-based reporting system is necessary and reasonable to enable Rehabilitation Services to more efficiently monitor rehabilitation progress and to concentrate resources at those points in the process which are most likely to require intervention.

5220.0100 DEFINITIONS.

Subp. 1b. The addition of the term "approved claims handler" is necessary for the implementation of the new procedure for waiving rehabilitation consultation as mandated by Minn. Stat. § 176.102, subd. 4 (d) (Supp. 1983). See part 5220.1910. Approved claims handlers are claims personnel of insurers, employers, or adjusting companies who may complete the rehabilitation indicators form described in part 5220.0210, subp. 3. The relative simplicity of the form, the availability of necessary information to claims personnel, and the minimal independent judgment required to complete the rehabilitation indicators form make it reasonable to permit approved claims handlers to complete it. QRCs may continue to complete this form without becoming approved claims handlers.

Subp. 5. The added sentence to this subpart codifies the current practice of classifying all qualified rehabilitation consultants as either independent or affiliated.

Subp. 6. The added language to the definition of "Qualified rehabilitation consultant/affiliated" is necessary to make this definition consistent with a recent decision of the Rehabilitation Review Panel. In Young v. DeChene Corp., File No. 476-56-4359 (served and filed March 12, 1984), the panel interpreted this definition to exclude from its scope a qualified rehabilitation consultant who provided rehabilitation consultation to entities other than the affiliated parent entity. This amendment thus incorporates the requirement that an affiliated consultant provide service only to the parent entity.

Subp. 8a. The definition of a "firm" is necessary to the implementation of the commissioner's licensing responsibilities under Minn. Stat. § 176.83 (a) (Supp. 1983). Pursuant to this statutory authority, Minn. Rules, part 5220.1500, subp. 1. G. was adopted in February of 1984. In administering this new rule, the commissioner has received inquiries as to whether particular business arrangements constitute a firm. This rule establishes that all rehabilitation firms are subject to the requirements of part 5220.1600, subp. 1, regardless of the form of the entity.

Under this definition, only independent QRCs may be associated with rehabilitation firms, not affiliated QRCs. This is consistent with the intent of part 5220.1600 that firms encompass only independent QRCs, and with the requirement in part 5220.0100, subp. 6 that affiliated QRCs serve only employers, insurers, or adjusting companies.

This requirement regarding the employment of QRCs also helps distinguish firms from rehabilitation vendors as defined by subp. 11. Firms employ only independent QRCs. However, vendors are prohibited from engaging any QRCs at all. Confusion surrounding the distinction between firms and vendors has precipitated litigation concerning the employment of QRCs by vendors. In clarifying the description of firms, this amendment should reduce litigation.

Subp. 10a. This amendment is necessary to recognize the addition of medical services to the jurisdiction of the rehabilitation services section under Minn. Stat. § 176.103, subd. 2 (Supp. 1983). As a result of these added responsibilities, the name has been changed to the Rehabilitation and Medical Services Section.

Subp. 11. Consistent with Minn. Stat. § 176.102, subd. 10 (Supp. 1983) and Minn. Rules part 5220.1300, subp. 5, vendors are prohibited from employing QRCs. This is intended to preserve the professional independence between QRCs, who prescribe and supervise the plan, and vendors, who provide services under the plan.

Subp. 14. The new definition of a required rehabilitation report is necessary to the event-based reporting system. Reports are required upon the initiation, alteration, suspension, or termination of rehabilitation plans pursuant to parts 5220.0400, 5220.0500, and 5220.0600. Because these events represent critical stages in the rehabilitation plan, these reports are necessary and reasonable to effectively monitor rehabilitation progress.

Under the amended definition, monthly reports which are currently filed as R-3 progress reports under part 5220.1801, subp. 2 will no longer be required. These reports, which cover routine rehabilitation progress, are not necessary for monitoring the employee's rehabilitation. Their exclusion from the definition is thus necessary and reasonable in a reporting system which concentrates on the critical stages of rehabilitation. As prescribed by Minn. Stat. § 176.102, subd. 7 (Supp. 1983), additional reports are required if they are requested by the commissioner or parties.

Subp. 15. The addition of a definition of required progress record is integral to the event-based reporting system. Previously, all documents regarding a case were submitted to Rehabilitation Services and became part of the employee's rehabilitation file. While submission of all documents is not required in the event-based reporting system, the documents must nonetheless be prepared and maintained by the QRC. Retaining all documents as part of the required progress record is necessary to ensure a complete file on the case, to maintain accountability to the QRC's employer, to permit an audit by the commissioner, and to permit prompt responses to information requests.

5220.0210 WORK STATUS REPORT

This proposed rule replaces the current rule on work status reports, part 5220.0200, which was made obsolete by changes in Minn. Stat. § 176.102, subd. 4 (Supp. 1983). Work status reports are needed to enable the commissioner to monitor compliance with the statutory requirements regarding delivery of rehabilitation services.

Subpart 1. This section specifies the conditions which require filing of the work status report. Work status reports are needed as specified in A-D in order for the commissioner to determine rehabilitation eligibility under Minn. Stat. § 176.102, subd. 6 (a) (Supp. 1983) and the appropriateness of a waiver of rehabilitation consultation under Minn. Stat. § 176.102, subd. 4 (d) (Supp. 1983).

The time deadlines in A. and B. are relatively short in recognition of the necessity for early intervention for successful rehabilitation. Sufficient time is provided, however, for preparation of the report. The time deadlines in C. and D. are mandated by Minn. Stat. § 176.102, subd. 4 (a) (Supp. 1983).

Subp. 2. This subpart describes the contents of the work status report and the documentation which must be submitted with the report. A rehabilitation indicators form must be attached to the work status report where rehabilitation is waived. This form is necessary as part of the commissioner's monitoring responsibilities to ensure that the waiver is substantiated by available information. Under part 5220.0200, subp. 2, the work status report is currently used to indicate eligibility for rehabilitation services. The new rules thus continue present practices, except that the rehabilitation indicators form must be submitted where a waiver is requested.

Subp. 3. This subpart describes the requirements for obtaining a waiver of rehabilitation consultation. In general, this procedure will be used where it is highly likely that the employee will return to work within a relatively short time. The submission of a work status report, accompanied by a completed rehabilitation indicators form, results in a waiver of rehabilitation consultation. Because the employer completes and submits the form, notice to the employer of the granting of the waiver is unnecessary. Where the request for a waiver is denied, Minn. Stat. § 176.102, subd. 4 (b) (Supp. 1983) requires the provision of rehabilitation services and the appointment of a QRC. In these cases, notice to the employer is required to permit the assignment of a QRC.

Waivers are granted for 60 days to allow the commissioner to periodically review the employee's eligibility for rehabilitation. This time period reflects the commissioner's experience and judgment that most employees for whom rehabilitation is waived will have returned to work within 60 days. Rehabilitation consultation will likely be required where the employee does not return to work within 60 days. Upon expiration of this period, another work status report must be filed. This procedure is similar to the present practice of submitting 60 day supplemental work status reports under part 5220.0200, subp. 2.

5220.0300 INITIATION OF REHABILITATION SERVICE.

Subp. 1. This subpart is amended to reflect legislative changes in Minn. Stat. § 176.102, subd. 4 (a) (Supp. 1983). The deadlines for initiating rehabilitation services are adjusted consistent with amendments to the statute.

Subp. 2. This amendment clarifies that the commissioner has the authority to schedule administrative conferences where there are disputes regarding a change of QRC. Because of frequent inquiries regarding the availability of conferences for this purpose, the legislature explicitly conferred the necessary authority under Minn. Stat. § 176.102, subd. 4(a) (Supp. 1983). The clarification is included in the rule for completeness.

Subp. 3. Pursuant to amendments to Minn. Stat. § 176.102, subd. 4 (a) (Supp. 1983), rehabilitation must be provided within 5 days of receiving information that the employee is qualified for rehabilitation services. The rule previously provided for initiation of rehabilitation within 30 days, as required by the statute then in effect. The commissioner is authorized by Minn. Stat. § 176.102, subd. 4 (b) (Supp. 1983) to appoint a QRC at the employer's expense if the employer fails to do so within the specified time period.

5220.0500 PLAN MODIFICATION.

The added language in this rule reflects legislative additions made in 1983. The amendments are necessary to make the rule consistent with Minn. Stat. § 176.102, subd. 8 (Supp. 1983).

5220.1000 RETRAINING

The legislature revised Minn. Stat. § 176.102, subd. 11 (Supp. 1983) to eliminate the confusion noted by the Supreme Court in Rippentrop v. Imperial Chemicals Co., 315 N.W.2d 514, 33 W.C.D. 453 (1982) regarding the payment of retraining benefits. Consistent with the 1983 revisions, the amended rule provides that compensation during retraining begins at the commencement of the training program. The amount of retraining benefits is governed by the law in effect at the time of the injury.

The amended rule also provides that on-the-job training and compensation for training begin simultaneously. Because on-the-job training benefits were repealed in 1983, an employee is entitled to those benefits only if the right to them vested before the repeal of the law. The amendments are thus necessary to accurately reflect statutory and case law developments.

As part of its 1983 revisions to Minn. Stat. § 176.102, subd. 11, the heading was changed from "Compensation During Rehabilitation" to "Retraining". The heading of this subpart is also changed accordingly.

5220.1300 QUALIFIED REHABILITATION CONSULTANT AND REGISTERED REHABILITATION VENDOR.

Consistent with Parts 5220.0100 subp. 8a and 5220.1600 "organization" is changed to "firm". This editorial change does not affect the meaning of the rule.

5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT.

The specification of educational degrees for QRC licensure eligibility is expanded to include counseling degrees and additional psychology degrees. The added degrees require coursework that is essentially identical to that required for the psychology and counseling and guidance degrees listed in the present rule. Since eligibility is determined by degree title and not by curriculum evaluation, the present rule has required the denial of licensure to applicants whose coursework is similar to the coursework of applicants who receive licenses. The amendments are intended to correct this inequity.

5220.1500 PROCEDURE FOR QUALIFYING AS REHABILITATION CONSULTANT.

The change from a 15 to a 30 day appeal period makes the appeal period consistent with the other appeal periods under Minn. Stat. § 176.102, subds. 6 and 8. As no appeal period is specified in the QRC licensing provisions of Minn. Stat. §§ 176.102 subd. 10 and 176.83 subd. 2, it is reasonable to adopt the same appeal period that is applied to other matters before the Rehabilitation Review Panel.

5220.1600 PROCEDURE FOR APPROVAL AS ORGANIZATION REGISTERED FOR EMPLOYMENT OF QUALIFIED REHABILITATION CONSULTANTS/INDEPENDENT.

"Firm", a term defined in Part 5220.0100 subp. 8a, is substituted for the undefined term "organization." This editorial change has no material effect on the meaning of the rule.

5220.1801 PROFESSIONAL CONDUCT.

Subp. 2. The amendment requiring the submission of plans to Rehabilitation Services and to the employer represents no substantial change from the existing rules. The significant change to this rule is the elimination of the monthly reporting requirement.

Monthly reports are currently filed with Rehabilitation Services on R-3 progress report forms and were initially intended to permit the monitoring of rehabilitation. The Section's increased responsibilities, together with the growing professionalism and experience of QRCs, have made it unnecessary and inefficient to monitor rehabilitation by reviewing monthly reports. The proposed amendments thus reflect the changes in the Section's monitoring responsibilities and in the private rehabilitation consulting profession. Reports must still be submitted upon request to the employer, insurer, commissioner or employee.

5220.1802 COMMUNICATIONS.

Subp. 2. These amendments are necessary to achieve conformity with the other amendments regarding the change to an event-based reporting system. The change in the statutory citation is necessary to reflect the commissioner's specific authority over rehabilitation forms under Minn. Stat. § 176.83 (j) (Supp. 1983).

Subp. 10. The amendments to this subpart are necessary to implement the event-based reporting system. The commissioner will monitor rehabilitation progress by reviewing reports required at critical stages and by periodic audits. These amendments thus eliminate the requirement in the present rule that all reports must be submitted to rehabilitation services. Under Minn. Stat. § 176.102, subd. 7 (Supp. 1983), the QRC is required to provide the commissioner with any requested records. This subpart, which addresses only the submission of reports to the commissioner, is not intended to restrict the statutory rights of the employee, employer or insurer to information maintained by the QRC.

5220.1805 BUSINESS PRACTICES.

The citation correction is an editorial amendment necessitated by the addition of part 5220.1910 to these rules.

5220.1900 REHABILITATION SERVICES AND FEES.

Subp. 1. Under Minn. Stat. § 176.102 Rehabilitation Services is required to monitor the delivery of rehabilitation to injured workers. As noted throughout these amendments, supervision of reporting and recordkeeping by QRCs is basic to this responsibility.

Subp. 3. The amendments regarding the submission of reports are intended to permit the commissioner to decide when to require the filing of reports. These changes are necessary to the proper functioning of the event-based reporting system. Presently the QRC files all documents generated on a case with Rehabilitation Services. In effect, duplicate files on the employee are created by Rehabilitation Services and the QRC. Under the new system, the commissioner simply requests reports from the QRC as necessary without creating an entire file. Rehabilitation progress can be monitored more efficiently under the event-based reporting system.

Subp. 4. The amendments to this subpart are necessary to make the rule consistent with other amendments regarding event-based reporting. Information on rehabilitation costs is required to fulfill the commissioner's responsibility to study rehabilitation services and delivery (Minn. Stat. §176.102, subd. 3), to make determinations regarding QRC fees (Minn. Stat. § 176.102, subd. 2), and to establish standards for determining whether rehabilitation costs are excessive (Minn. Stat. § 176.83 (d) (Supp. 1983). Cost estimates were previously submitted on the monthly progress reports. Sufficient information can be obtained from the reports required in the event-based reporting system.

5220.2000 APPROVED CLAIMS HANDLER.

This new rule sets forth the procedure for approving claims handlers to complete and submit rehabilitation indicators forms. Minn. Stat. § 176.83 (a) (Supp. 1983) authorizes the establishment of these procedures for conducting an initial rehabilitation consultation. The requirements for qualification as an approved claims handler in subpart 1 are reasonable and necessary to ensure a basic working knowledge of the workers' compensation system and familiarity with the rehabilitation process.

The approval procedure in subpart 2 places the primary burden of screening qualifications on the employer, insurer or adjusting company rather than on the commissioner. The limited functions to be performed by approved claims handlers do not justify a licensing procedure or a significant commitment of Section resources. Certification by the employer is thus an adequate basis for approving a claims handler. Because of the importance of the employer certification in obtaining approval, approval automatically is withdrawn when the employment relationship ends. The commissioner may also advise the employer about decertification of claims handlers. Finally, the commissioner must be authorized to withdraw approval where the employer has not properly screened candidates.

IMPACT ON SMALL BUSINESS.

The Commissioner has considered the potential impact of these rules on small businesses to the extent required by Minn. Stat. § 14.115 (Supp. 1983) and determined that the statute has no application to these rules. Minn. Stat. § 14.115 (Supp. 1983) does not apply to rehabilitation providers because they are service businesses regulated by the Commissioner for standards and costs. Minn. Stat. § 14.115, subd. 7 (c) (Supp. 1983). Self-insured employers and insurers who may be affected by the rules are not small businesses within the meaning of Minn. Stat. § 14.115, subd. 1 (Supp. 1983).

Although not required, the Commissioner has nonetheless considered the impact of these rules on small business. The amendments establish less stringent compliance and reporting requirements in that monthly rehabilitation reports are no longer required. The event-based reporting system established by these amendments simplifies compliance and reporting requirements for rehabilitation providers. No design or operational standards for rehabilitation providers are established by these amendments. The paramount needs for protection of injured workers and the delivery of quality rehabilitation services require that all rehabilitation providers be subject to the provisions of these rules.

FISCAL IMPACT ON LOCAL PUBLIC BODIES.

The Commissioner has considered the fiscal impact of these rules on local public bodies pursuant to Minn. Stat. § 14.11, subd. 1 (1982) and has found none. No additional financial burdens are placed on local public bodies, as the adoption of these amendments will not require the expenditure of public moneys by local public bodies.

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Rehabilitation Providers

CERTIFICATE OF COMPLIANCE WITH RULEMAKING PROCEDURES

I hereby certify that I have examined the amendments and all related documents and that, based on my examination and my personal familiarity with the applicable procedures; the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed.

Leslie M. Altman

LESLIE M. ALTMAN
Special Assistant
Attorney General

Dated: November 21, 1984.

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Rehabilitation Providers

CERTIFICATE

I hereby certify that no persons or groups have requested to be informed that materials in the above-captioned matter have been submitted to the Attorney General pursuant to Minn. Stat. § 14.26 (Supp. 1983).

Joan Volz
Chief Counsel
Department of Labor & Industry

Dated: November 21, 1984