

CHAPTER 5220
DEPARTMENT OF LABOR AND INDUSTRY
COMPENSATION AND REHABILITATION

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WORKERS' COMPENSATION REHABILITATION SERVICES

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. **Commissioner.** "Commissioner" means commissioner of the Department of Labor and Industry.

Subp. 3. **Employer.** "Employer" means the employer of qualified employees and includes the insurer providing workers' compensation insurance required by Minnesota Statutes, chapter 176 to this employer.

Subp. 4. **Qualified employee.** "Qualified employee" means an employee who, because of the effects of a work-related injury or disease, whether or not combined with the effects of a prior injury or disability:

A. is permanently precluded or is likely to be precluded from engaging in the usual and customary occupation or position in which the individual was engaged at the time of injury; and

B. can reasonably be expected to benefit from rehabilitation services which could significantly reduce or eliminate the decrease in employability.

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 for the claims being handled by the entity with which the consultant is affiliated.

Subp. 7. **Qualified rehabilitation consultant/independent.** "Qualified rehabilitation consultant/independent" means a consultant neither affiliated with an employer, insurer, or adjusting company, nor with a facility or agency engaged in the provision of comprehensive rehabilitation services to qualified employees, and who is approved by the commissioner to develop and monitor rehabilitation plans.

Subp. 8. **Rehabilitation consultation.** "Rehabilitation consultation" means an evaluation by a qualified rehabilitation consultant of the likelihood that rehabilitation services will significantly reduce or eliminate the decrease in employability.

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. **Rehabilitation plan.** "Rehabilitation plan" means a written document completed by a qualified rehabilitation consultant and which describes the manner and means by which it is proposed that a qualified employee may be returned to suitable, gainful employment through the use of rehabilitation service. The plan shall take into consideration the qualified employee's unique disabilities and assets.

Subp. 9a. **Rehabilitation provider.** "Rehabilitation provider" means the following four categories of rehabilitation professionals: qualified rehabilitation consultants; qualified rehabilitation consultant interns; qualified rehabilitation consultant firms; and registered rehabilitation vendors.

Subp. 10. **Rehabilitation service.** "Rehabilitation service" means service required to determine an employee's eligibility as a qualified employee, and service designed to return an individual to suitable, gainful employment by returning the individual to a job with the former employer or to a job related to the individual's former employment, or by placing the individual in a job in another work field, or by placing the individual in a job with higher economic status than would have occurred without the disability if it can be demonstrated that this is necessary to increase the likelihood of reemployment. The service may include, but is not limited to, medical evaluation, medically prescribed physical rehabilitation, work evaluation, counseling, job analysis, job modification, job placement, on-the-job training, or retraining.

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

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subpart shall not employ or otherwise engage the services of qualified rehabilitation consultants.

Subp. 12. **Review panel.** "Review panel" means the panel created by Minnesota Statutes, section 176.102, subdivision 3.

Subp. 13. **Suitable gainful employment.** "Suitable gainful employment" means employment which is reasonably attainable and which offers an opportunity to restore the injured employee as soon as possible and as nearly as possible to employment which produces an economic status as close as possible to that which the employee would have enjoyed without disability. Consideration shall be given to the employee's former employment and the employee's qualifications, including, but not limited to, the employee's age, education, previous work history, interests, and skills.

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.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183 subds 2,14*

History: *8 SR 1777; 9 SR 1478*

5220.0200 [Repealed, 9 SR 1478]

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.

Statutory Authority: *MS s 176.83 subds 2,14*

History: *9 SR 1478*

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.

Statutory Authority: *MS s 176.83 subds 2,14*

History: *9 SR 1478*

5220.0400 REHABILITATION PLAN.

Subpart 1. **Submission of plan.** If the qualified rehabilitation consultant determines that rehabilitation would significantly reduce or eliminate the decrease in employability, the rehabilitation consultant shall develop and the employer shall submit a specific rehabilitation plan together with all related medical and vocational reports to the commissioner on forms prescribed for that purpose. The plan shall be signed by all interested parties. A labor market analysis is required in all plans which propose a change in the employee's occupation, unless the requirement for such a plan is waived by the commissioner.

Subp. 2. **Approval or rejection of plan.** Within 30 days of submission of a properly documented plan, the commissioner shall approve or reject the plan. The commissioner may request additional information, confer with the parties, recommend modifications, and otherwise seek agreement concerning terms and conditions of the plan. If the vocational objective has not been determined, approval or rejection of the vocational objective may be deferred until 30 days

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following receipt by the commissioner of a plan progress report containing that objective and supporting rationale. Such a progress report shall be served on all interested parties and if no formal objection is received within ten days from the date of service, it shall be assumed that all parties are in agreement with the vocational objective and rationale.

If the commissioner does not approve or reject the plan within 30 days following its submission, a properly documented plan shall be deemed approved; provided, however, that the commissioner may extend the review period for an additional 30 days for good cause.

Implementation of the plan shall begin as soon as the qualified employee is capable of participating. Implementation may begin upon approval by the commissioner or on the date specified in the plan, whichever date is earlier. A plan shall be submitted to the commissioner before the implementation date. Commencement of a plan without objection from the commissioner shall not be deemed approval of the plan, nor shall it operate as a waiver or an estoppel of the commissioner's power over the plan.

Statutory Authority: *MS s 176.83 subds 2,14*

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.

Statutory Authority: *MS s 176.83 subds 2,14*

History: *9 SR 1478*

5220.0600 COMPLETION OF PLAN.

The employer and qualified rehabilitation consultant shall report to the commissioner immediately upon the employee's completion of the rehabilitation plan, indicating the results and other pertinent information which the commissioner may require.

Statutory Authority: *MS s 176.83 subds 2,14*

5220.0700 CHANGE OF CONSULTANT OR VENDOR.

Any requests for change of a consultant or vendor shall be directed to the commissioner. The commissioner may schedule an administrative conference and may order a change of consultation or service if such is in the best interests of the parties. If the commissioner determines the consultant's work to be unsatisfactory or the consultant withdraws from the case, the commissioner shall make a referral to another consultant.

Statutory Authority: *MS s 176.83 subds 2,14*

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5220.0800 DISPUTES.

Where questions exist concerning an employee's entitlement to rehabilitation services, or where a rehabilitation plan is not acceptable to the employee or to the employer, or in case of any other dispute involving rehabilitation, the commissioner, either on his own motion or upon request of the employer or employee, may schedule a conference to resolve the issues in dispute. The commissioner may require the parties to meet and confer informally prior to such a conference. The commissioner may order necessary and reasonable medical examinations and rehabilitation evaluations at the expense of the employer in preparation for such a conference. After allowing the parties an opportunity to be heard, the commissioner shall make a determination on the issues and serve copies on the parties. No determinations will be made with respect to rehabilitation entitlement until primary liability for the claim has been admitted or established.

Statutory Authority: *MS s 176.83 subds 2,14*

5220.0900 APPEAL TO REHABILITATION REVIEW PANEL.

Any person aggrieved by a decision of the commissioner may appeal the decision to the review panel within 30 days of the filing of and service of the decision on the interested parties. The appeal shall specify the grounds upon which the appeal is taken. The panel may approve or reject the commissioner's decision and may formulate its own rehabilitation plan.

Statutory Authority: *MS s 176.83 subds 2,14*

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.

Statutory Authority: *MS s 176.83 subds 2,14*

History: *9 SR 1478*

5220.1100 LEGAL REPRESENTATION.

When an employee or employer is represented by an attorney in rehabilitation matters before the commissioner, the commissioner shall, at the earliest possible date, be notified in writing of the name, address, and telephone number of said representative. Any representative who has so advised the commissioner will be notified of any meetings, and will receive any reports.

Statutory Authority: *MS s 176.83 subds 2,14*

5220.1200 MANDATORY REHABILITATION SERVICES; SETTLEMENT AGREEMENTS.

Rehabilitation services pursuant to an approved rehabilitation plan are mandatory for qualified employees. A qualified employee's right to rehabilitation services shall not be subject to compromise and shall not be convertible into cash or other benefits by settlement and release agreement or otherwise. When a good faith dispute exists as to qualified employee status, however, the possible right to rehabilitation services may be converted into cash by settlement agreement. Any settlement agreement purporting to limit or compromise access to rehabilitation services must be approved by the commissioner. The value of rehabilitation services shall not be used in calculation of attorneys' fees. The legal fees shall be calculated in the same manner as in other types of cases.

Statutory Authority: *MS s 176.83 subds 2,14*

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5220.1300 QUALIFIED REHABILITATION CONSULTANT AND REGISTERED REHABILITATION VENDOR.

Subpart 1. **Provision of services.** Rehabilitation services shall be provided each injured employee to the extent appropriate and which in the judgment of the commissioner will return the employee to suitable, gainful employment.

Subp. 2. **Delivery of services.** Policies and procedures as developed by the commissioner are the basic references for the delivery of rehabilitation services under the law. Adherence thereto shall be a criterion for continued registration as a qualified rehabilitation consultant or rehabilitation vendor.

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. **Dispute over charges.** If a dispute arises with respect to charges for services performed by rehabilitation consultants or vendors, the commissioner shall make determinations as to the reasonable value of charges and the necessity for the services. All qualified rehabilitation consultants and registered rehabilitation vendors shall be bound by any such determination or shall seek recourse through the appellate procedure provided by Minnesota Statutes, chapter 176.

Subp. 5. **Reports.** The qualified rehabilitation consultant shall file all required reports with the commissioner and employer as they are received or created by the consultant. Reports shall also be furnished to the employee's attorney, if any, if he so requests.

The vendor shall make the required reports on a regular basis to the qualified rehabilitation consultant.

Subp. 6. **Following the plan.** The services provided by the registered rehabilitation vendor shall be in accordance with the rehabilitation plan developed for the qualified employee by the qualified rehabilitation consultant. All services provided shall be in accord with the approved plan and no deviation shall be made from the plan without approval by the commissioner of an amendment to the plan. Time and cost estimates shall be adhered to.

Subp. 7. **Monitoring vendor performance.** Vendor performance shall be monitored by the qualified rehabilitation consultant.

Subp. 8. **Employee moves to other state.** Minnesota qualified employees who move to another state shall be serviced by that state's workers' compensation rehabilitation mechanism in coordination with a Minnesota qualified rehabilitation consultant.

Statutory Authority: *MS s 176.83 subds 2,14*

History: *9 SR 1478*

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5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT.

Subpart 1. **Requirement.** The following eligibility criteria and procedures in subparts 2 to 5 shall be used by the commissioner in determining who is qualified for registration as a qualified rehabilitation consultant.

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, 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, 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, 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, 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. **Rehabilitation consultant intern.** An individual who meets the minimum educational requirements but does not meet the minimum experience requirements may be registered as a consultant intern. When the intern is registered, the intern's employer shall provide the commissioner with the name of the qualified rehabilitation consultant under whose direct supervision the intern will work. The supervisor shall be considered to be directly responsible for the rehabilitation work on any case. The supervisor shall co-sign all work being done by the intern. So that all parties are aware of the intern's status, he shall be designated as an "intern." The intern may make application for "qualified" status when the minimum requirements in subpart 2, item A or B have been met.

Substantiated complaints about professional behavior or services, or failure to comply with laws, rules, or decisions and orders are grounds for denial of registration as a qualified rehabilitation consultant. The intern may appeal the denial as provided in part 5220.1500, subpart 2.

In cases where an intern has been supervised by a qualified rehabilitation consultant/affiliated who leaves the organization with which he has been affiliated and no other qualified rehabilitation consultant is available to supervise the intern, the intern may, with the approval of the commissioner, temporarily sign all required documents in the capacity of a qualified rehabilitation consultant. Past performance and overall experience will be taken into consideration for this approval.

Subp. 4. **Experience criteria.** The burden of proof of experience shall be on the applicant. This shall include documentation of a history of employment in a position of physical rehabilitation or vocational rehabilitation. The experience requirements of subpart 2 for qualified rehabilitation consultants can be met only by full-time paid employment. School internship and volunteer activities are not acceptable as employment experience.

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Supporting documents shall consist of signed statements by present and previous employers and insurers specifying the services, caseload, and amount of time spent in rehabilitation of work-related injuries and diseases.

Subp. 5. **General criteria.** All persons who are qualified rehabilitation consultants shall be exclusively self-employed or exclusively employed by a single organization that is approved for the employment of qualified rehabilitation consultants or an employer/insurer.

All persons who are qualified rehabilitation consultants shall be residents of Minnesota. An organization authorized for the employment of qualified rehabilitation consultants may request an exception for a consultant who lives contiguous to a Minnesota catchment area if the organization and any such consultant agrees, as a condition to approval, to appear at any hearing when requested, in the same manner as if they had been subpoenaed. Failure to do so shall result in automatic revocation of the individual consultant's approval.

A qualified rehabilitation consultant operating on the effective date of this amendment who is registered is deemed to meet the standards of this part. Qualified rehabilitation consultant interns operating on the effective date of this amendment who are registered must meet the minimum requirements of this rule in order to make application for qualified rehabilitation consultant registration.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183 subds 2,14*

History: *8 SR 1777; 9 SR 1478*

5220.1500 PROCEDURE FOR QUALIFYING AS REHABILITATION CONSULTANT.

Subpart 1. **Application.** An individual desiring to receive approval and registration as a qualified rehabilitation consultant shall submit to the commissioner, a complete application consisting of the following:

- A. completed and signed application form which is notarized;
- B. copy of current license or certification;
- C. supporting experience documentation;
- D. transcripts of all schools attended beyond high school;
- E. list of pertinent continuing education by title, location, and date;
- F. list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees; and
- G. the annual registration fee, which shall consist of \$100 for qualified rehabilitation consultant firms and \$50 for each qualified rehabilitation consultant or qualified rehabilitation consultant intern.

The commissioner shall issue a notice of acceptance or rejection to the applicant within 60 days of receipt of the completed application. Acceptance will be provisional until the completion of an introductory training session.

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. **Registration.** The commissioner shall assign a registration number to each qualified rehabilitation consultant. The registration number shall be on all reports submitted by the consultant.

To retain registration, the consultant must submit satisfactory evidence of approved continuing education pertinent to the workers' compensation rehabilitation field equivalent to 15 contact hours each year at the time registration is renewed.

Subp. 4. **Renewal.** Registration shall be renewed annually. If an interval of one year occurs without providing direct case service or without providing supervision to qualified rehabilitation consultants or qualified rehabilitation consultant interns who provide direct case service to workers' compensation recipients, the registration and approval is automatically suspended. A qualified rehabilitation consultant or intern may apply for reinstatement by providing verification to rehabilitation services of his attendance at the annual update sessions and fulfillment of continuing education requirements as provided by parts 5220.0100 to 5220.1900. The applicant must complete an introductory training session before approval is final. The suspension may be appealed to the rehabilitation review panel in accordance with subpart 5, item B.

Services and fee schedules shall be submitted to the commissioner whenever there is a change or no less than once each calendar year. This filing shall not constitute an approval or disapproval of the services or fees.

No later than 60 days prior to expiration of registration, the consultant shall request registration renewal on a form prescribed by the commissioner.

Subp. 5. **Revocation.** The commissioner may review the activities of registered qualified rehabilitation consultants and vendors to determine if they are in compliance with all rehabilitation services' rules.

A. When the commissioner becomes aware of an alleged violation concerning a qualified rehabilitation consultant or vendor he shall notify in writing the qualified rehabilitation consultant or vendor. The qualified rehabilitation consultant or vendor may then respond by letter or by requesting an administrative conference. If the qualified rehabilitation consultant or vendor does not request an administrative conference, the commissioner shall order that a conference occur unless the complaint is found to be frivolous or without merit. After the administrative conference, the commissioner shall determine if he should discipline the individual or firm based upon applicable rules and statutes and all evidence gathered by the conference. Regardless of the commissioner's decision, he shall issue an order setting forth the reasons for his actions. If discipline is decided on by the commissioner, it shall consist of one or more of the following:

(1) a written reprimand requesting the individual or firm to cease actions which resulted in the lack of compliance with rehabilitation services' rules;

(2) a full restitution of improperly charged fees and services by the individual or firm to the insurance carrier;

(3) an extension of intern status for up to six months beyond part 5220.1400 requirements for application;

(4) a restriction or prohibition on accepting new cases for up to six months.

If the commissioner imposes discipline twice in five years upon an individual or firm, the next alleged violation shall be referred to the rehabilitation review panel for review. An individual's discipline shall not be attributed to his employing firm unless the violation for which discipline is imposed also constitutes a violation by the firm and results in discipline to the firm.

B. An individual or firm may appeal the commissioner's disciplinary action to the rehabilitation review panel by requesting a hearing in writing to the director of rehabilitation services within 30 calendar days of the commissioner's determination.

C. Upon the commissioner's referral of a third alleged violation, the firm or individual shall be given written notice of the referral and grounds for the review.

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D. The rehabilitation review panel shall follow the hearing procedures set forth in Minnesota Statutes, section 176.102, subdivision 3a. The panel shall take one or more of the following actions in reviewing rehabilitation providers alleged violations such as:

- (1) absolving the individual or firm of any alleged rehabilitation rule violation;
- (2) written reprimand;
- (3) demotion of a qualified rehabilitation consultant to qualified rehabilitation consultant intern status;
- (4) probation of a qualified rehabilitation consultant, qualified rehabilitation consultant intern, or vendor;
- (5) revocation of qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor status.

E. Procedures to appeal the determination of the review panel shall be as follows:

(1) The panel's written decision and order shall act as a final order for purposes of implementing discipline. The decision is appealable to the Workers' Compensation Court of Appeals and must be filed in accordance with its rules; and

(2) Unless otherwise ordered by the panel, an individual or firm whose registration has been revoked must wait at least one year from the effective date of revocation to reapply for a registered status.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183, subds 2,14*

History: *8 SR 1777; 9 SR 1478*

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. a completed and signed application (notarized); and
- B. any data or information attached to support application; and
- C. documentation of intent to provide opportunities for continuing education to meet requirements for registration renewal of rehabilitation consultants; and

D. list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees.

Subp. 3. **Appeal process.** The appeal process herein shall be conducted the same as that provided in part 5220.1500, subpart 2.

Subp. 4. **Renewal.** The renewal process herein shall be conducted the same as that provided in part 5220.1500, subpart 4.

Subp. 5. **Revocation.** The revocation process herein shall be conducted the same as that provided in part 5220.1500, subpart 5.

Statutory Authority: *MS s 176.83 subds 2,14*

History: *9 SR 1478*

5220.1700 PROCEDURE FOR APPROVAL AS REGISTERED REHABILITATION VENDOR.

Subpart 1. **Application.** A private or public entity desiring to be approved as a registered rehabilitation vendor shall submit to the commissioner a complete application consisting of all of the following:

- A. A completed and signed application.
- B. Any data or information attached to support an application.
- C. A list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees.
- D. The annual registration fee of \$100 for each registered vendor.

Subp. 2. **Appeal process.** The appeal process herein shall be conducted the same as that provided in part 5220.1500, subpart 2.

Subp. 3. **Renewal.** The renewal process herein shall be conducted the same as that provided in part 5220.1500, subpart 4.

Subp. 4. **Revocation.** The revocation process herein shall be conducted the same as that provided in part 5220.1500, subpart 5.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183, subds 2,14*

History: *8 SR 1777*

5220.1800 STANDARDS OF PERFORMANCE.

The standards of conduct described in parts 5220.1801 to 5220.1805 establish minimum standards concerning the professional activities of qualified rehabilitation consultants and rehabilitation vendors in Minnesota. The performance evaluations by rehabilitation services of qualified rehabilitation consultants and vendors will be based upon these standards, as well as on the adherence to Minnesota Statutes, section 176.102 and rules adopted to administer it.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183 subds 2,14*

History: *8 SR 1777*

5220.1801 PROFESSIONAL CONDUCT.

Subpart 1. **Services provided under the plan.** In accord with part 5220.0100, subpart 9, the qualified rehabilitation consultant or vendor shall provide rehabilitation services under a rehabilitation plan. The qualified rehabilitation consultant or vendor shall implement only those rehabilitation plans with which the employee, the employer/insurer, and the qualified rehabilitation consultant agree.

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. **Approved change of consultant.** A qualified rehabilitation consultant shall not provide services to any parties after there has been an approved change of qualified rehabilitation consultant except as provided in subparts 4 and 5.

Subp. 4. **Transfer of information.** A qualified rehabilitation consultant shall cooperate in transferring to a newly approved qualified rehabilitation consultant all data, reports, and relevant information within 15 days from the

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receipt of rehabilitation services letter approving the new qualified rehabilitation consultant.

Subp. 5. **Evaluation of employee.** If a hearing has been scheduled before a judge or a judicial body, a qualified rehabilitation consultant who is not the approved qualified rehabilitation consultant may perform an evaluation of the employee at the request of one of the parties. Rehabilitation services shall be notified in writing of the qualified rehabilitation consultant requested to do the evaluation. A copy of the evaluation report, if developed, shall be sent to rehabilitation services.

Subp. 6. **Consultant as witness.** A qualified rehabilitation consultant who has testified as an expert witness for any party in a judicial hearing may not function as the ongoing qualified rehabilitation consultant on the case unless agreed to by the employee.

Subp. 7. **Referrals.** A qualified rehabilitation consultant or vendor may make recommendations for referrals to appropriate resources.

Subp. 8. **Separate roles and functions.** The roles and functions of a claims agent and a qualified rehabilitation consultant or vendor are separate. A qualified rehabilitation consultant or vendor, or an agent of a rehabilitation provider, shall engage only in those activities designated in Minnesota Statutes, section 176.102, and its rules. Claims adjustment and claims investigation activities such as unilaterally providing for an adverse medical, vocational, or rehabilitation examination except as provided for in subpart 5, aiding insurers in determining monetary workers' compensation benefits, or determining the reasonableness of medical or rehabilitation service are prohibited for a rehabilitation provider. This subpart shall not prohibit a qualified rehabilitation consultant acting on behalf of the reinsurance association from consulting with the primary qualified rehabilitation consultant regarding the rehabilitation plan.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183 subds 2,14*

History: *8 SR 1777; 9 SR 1478*

5220.1802 COMMUNICATIONS.

Subpart 1. **Legibility and content of reports.** All reports submitted by a qualified rehabilitation consultant or vendor shall be legible and show the employee's name, social security number, date of injury, street address, county, zip code of residence, and legal representative, if any.

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. **Copies to employer.** The employer shall be provided with copies of all reporting forms.

Subp. 4. **Submission by vendor.** Vendors are to submit all reports directly to the qualified rehabilitation consultant.

Subp. 5. **Data privacy.** A qualified rehabilitation consultant or vendor must comply with all applicable data privacy acts.

Subp. 6. **Contact with physicians.** A qualified rehabilitation consultant or vendor shall not engage in communications with a physician concerning an employee without a release of information form from the employee.

Subp. 7. **Retirement.** A qualified rehabilitation consultant or vendor shall not make recommendations concerning an intent to or date of retirement but may assist an employee in contacting resources concerning a choice of retirement or return to work.

Subp. 8. **Settlements.** A qualified rehabilitation consultant or vendor shall not recommend entering into settlement agreements.

Subp. 9. **Limited requests for information.** A qualified rehabilitation consultant or vendor shall request only that information and data which will assist the parties in developing and carrying out the rehabilitation plan.

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. **Access to medical and rehabilitation reports.** A qualified rehabilitation consultant shall provide a vendor access to all appropriate medical and rehabilitation reports relating to a case.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183 subds 2,14*

History: *8 SR 1777; 9 SR 1478*

5220.1803 RESPONSIBILITIES.

Subpart 1. **Instruction by consultant.** A qualified rehabilitation consultant is to instruct the employee of his rights and responsibilities by reviewing with him the purpose of rehabilitation services and the rights and responsibilities of the injured workers.

Subp. 2. **Knowledge of laws and rules.** A qualified rehabilitation consultant or vendor shall be knowledgeable and informed regarding portions of the workers' compensation law and rules that directly relate to the provision of rehabilitation services. If a qualified rehabilitation consultant or vendor communicates inaccurate information regarding workers' compensation not directly related to rehabilitation services, the rehabilitation provider is subject to discipline.

Subp. 3. **Clarification of issues.** A qualified rehabilitation consultant or vendor may contact rehabilitation services to clarify any rehabilitation issues or problems.

Subp. 4. **Disciplinary action.** A qualified rehabilitation consultant or vendor's registration is subject to disciplinary action up to and including revocation based on substantiated complaints about professional behavior, or services which show noncompliance with established laws, rules, decisions, or orders.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183 subds 2,14*

History: *8 SR 1777*

5220.1804 CONTINUING EDUCATION AND COMPETENCIES.

Subpart 1. **Training sessions.** A qualified rehabilitation consultant or vendor shall attend at least one introductory training session provided by rehabilitation services within six months of being registered.

Subp. 2. **Update sessions.** Rehabilitation services annual update sessions are mandatory for all qualified rehabilitation consultants, qualified rehabilitation consultant interns, and all registered vendors.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183 subds 2,14*

History: *8 SR 1777*

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. Rehabilitation providers shall adhere to all applicable federal, state, and local laws regulating business practices.

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B. Rehabilitation providers shall not misrepresent themselves, their duties, or credentials. A rehabilitation provider must not promise or offer services or results he cannot deliver or has reason to believe he cannot provide. Competitive advertising must be factually accurate and must avoid exaggerating claims as to costs, results, and endorsements by other parties.

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. A provider shall not solicit referrals directly or indirectly by offering money or gifts. De minimis gifts are not considered the offering of money or gifts. De minimis gifts are those that have a fair market value of less than \$25.

E. A rehabilitation provider shall advise the referral source and payer of its fee structure in advance of rendering any services and shall also furnish upon request, detailed and accurate time records regarding any bills in question.

F. Any fee arrangement which prevents individual assessment and services for each employee shall subject the providers to discipline. Any fee arrangement which provides employees with standardized services whether or not the services are necessary shall also subject the rehabilitation providers to discipline.

G. A rehabilitation provider shall not incur profit, split fees, or have an ownership interest with another rehabilitation provider outside of his or her own firm.

H. Qualified rehabilitation consultants shall not incur profit, split fees, or have an ownership interest with health care providers. "Health care providers" means those defined in Minnesota Statutes, section 176.011, subdivision 24.

I. The prohibitions of items F, G, and H shall not be construed to prevent married couples or family members from engaging simultaneously in rehabilitation or health care.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183 subds 2,14*

History: *8 SR 1777; 9 SR 1478*

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

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determined by the commissioner. The commissioner's review must include all the following factors:

A. the employee's unique disabilities and assets in relation to the goals, objectives, and timetable of the rehabilitation plan;

B. the type of rehabilitation services provided and the actual amount of time and expense incurred in providing the service;

C. the rehabilitation providers' fee schedules on file with rehabilitation services and other fee schedules of providers on file with rehabilitation services;

D. an evaluation of whether services provided were unnecessary, duplicated other services, available at no charge to public, or were excessively sophisticated for the actual needs of the employee;

E. an evaluation of whether services rendered were expressly authorized by either the employer, insurer, or rehabilitation services;

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.

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Subp. 5. **Invoices.** Invoices are to be attached to all plan completion forms.

Subp. 6. **Consent of employer/insurer; exceptions.** A qualified rehabilitation consultant or vendor shall obtain the express consent of the employer/insurer before providing the following services, however, the presence or the absence of express consent shall not preclude rehabilitation services from determining the reasonable value or necessity of these services:

A. when not directed to plan objectives, costs for physician visits, phone calls to physicians, accompanying employee to appointments or examinations;

B. follow-up activity with employers during job placement services to verify employee applications not arranged by qualified rehabilitation consultant or vendor;

C. phone calls to rehabilitation services regarding general procedures on questions or rehabilitation direction, not related to a specific rehabilitation plan;

D. unanswered attempted phone calls;

E. time spent for report writing not requested by a party beyond items indicated in the reporting guidelines of subpart 3;

F. qualified rehabilitation consultant billings during vendor activity periods beyond required reporting or specific problem solving activity;

G. time for attendance at an administrative conference by the supervisor of the qualified rehabilitation consultant who is providing services to the employee;

H. any services rendered prior to the acceptance of eligibility for rehabilitation by an insurer or determination or eligibility by rehabilitation services;

I. time spent reviewing the file and initial contact to establish rapport with interested parties by a qualified rehabilitation consultant or vendor when a case has been transferred from another qualified rehabilitation consultant or vendor within the same rehabilitation firm;

J. time spent by a supervisor, another qualified rehabilitation consultant, or support staff in addition to the qualified rehabilitation consultant of record except as provided for in part 5220.1801, subpart 2;

K. job placement activities beyond 90 days from the start of the job placement effort without a plan review;

L. wait time for a visit without a prearranged meeting or early arrival for a prearranged appointment;

M. time spent by a qualified rehabilitation consultant selected by the employee before approval of a qualified rehabilitation consultant change has been issued by rehabilitation services;

N. services that are not needed or repeat services already done;

O. charges beyond the hourly fee for testimony at a judicial hearing when the qualified rehabilitation consultant or vendor has provided rehabilitation service under the plan;

P. travel costs beyond those needed to develop or complete a plan; or

Q. any disputed services and fees in regard to rehabilitation provided.

Statutory Authority: *MS s 176.102 subds 2,10; 176.183 subds 2,14*

History: *8 SR 1777; 9 SR 1478*

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 is authorized to withdraw approval if the claims handler does not meet the requirements of subpart 1.

Statutory Authority: *MS s 176.83 subds 2,14*

History: *9 SR 1478*

WORKERS' COMPENSATION RULES

5220.2500 PAYMENT OF COMPENSATION.

Payment of compensation and reimbursement of reasonable medical or treatment expenses shall be made directly to the employee or dependent at his home address unless the employee or dependent, in writing, authorizes payment to be sent elsewhere. If the employee or dependent desires payments to be sent to a bank, savings and loan association, or other financial institution, the employee shall provide the employer or insurer with the name and address of such institution and any pertinent account number. The employer and insurer shall comply with such request upon receipt, without any necessity of a specific order from the Workers' Compensation Division; however, the employer and insurer shall file a copy of such request with the division. Upon request, the employer and insurer shall furnish proof of payment of past-due benefits and treatment expenses awarded pursuant to any determination or decision of the Workers' Compensation Division or Court of Appeals to the attorney representing the employee or dependent therein.

Statutory Authority: *MS s 175.17*

5220.2600 DISCONTINUANCE OF COMPENSATION PAYMENTS.

Subpart 1. **Notice.** In any case arising under Minnesota Statutes, section 176.241, notice of proposed discontinuance of compensation shall be given to the division on a form prescribed by the division. Such notice shall specifically set forth the periods and amounts of payments of temporary total, temporary partial, retraining, rehabilitation, permanent partial, permanent total, supplementary, or dependency benefits, and attorney fees paid or withheld, together with the applicable compensation rate or rates. The notice shall be accompanied by a statement of facts and medical reports in support of the discontinuance of compensation payments. If the basis for the discontinuance of compensation is not medical, the specific basis shall be stated. If the notice of discontinuance is filed without the appropriate and necessary information the division shall request the employer or insurer to file such required information within ten days of notice of the defect. Sufficient copies of the notice of discontinuance; the

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statement of facts; and the medical report, if applicable; shall be filed with the division so that service can be made upon the employee or dependent and his attorney, if any.

Subp. 2. **Burden of proof.** Whenever an employee or dependent files an objection to discontinuance of compensation, or a claim petition designated as an objection to discontinuance, because the employer or insurer has discontinued compensation payments without complying with the division's requirements, and a hearing is held thereon, the burden of establishing the right to discontinue payments on the date of last payment shall be on the party discontinuing, and proof shall be offered in the usual order by the one charged with sustaining the burden of proof.

Statutory Authority: *MS s 175.17*

5220.2700 NOTICE OF PAYMENTS TO DIVISION.

Subpart 1. **Times when notice is required.** The employer and insurer shall keep the division advised of all payments of compensation by the filing of interim status reports or the annual claim for reimbursement for supplementary benefits as required by the division. Where payments have been discontinued pursuant to the filing of a final receipt or notice of discontinuance of compensation, the employer or insurer shall immediately notify the division of any reinstatement of payments, and the date upon which additional payments commenced.

In all cases of payment of permanent partial disability, the employer and insurer shall immediately notify the Workers' Compensation Division and the employee of the amount of money being paid, the date of payment, and the rating of disability upon which such payment is based, and shall furnish the division with a copy of the medical report or reports upon which such payment is based.

Subp. 2. **Forms.** Employers and insurers shall use forms which conform in wording, size, design, and color to those prescribed by the Workers' Compensation Division for all purposes for which the division has prescribed forms. Such forms must be fully filled out, and the details required thereon must be furnished.

Statutory Authority: *MS s 175.17*

5220.2800 DENIAL OF LIABILITY.

A denial of liability shall be set forth on a form prescribed by the division, and shall specifically state the factual basis upon which the denial is made.

Statutory Authority: *MS s 175.17*

5220.2900 CLAIM FOR REFUNDS FROM EMPLOYEES OR DEPENDENTS.

All requests for refunds or reimbursements by an employer or insurer for payments made under a mistake of fact, which were allegedly not received by an employee or dependent in good faith, shall be made in writing to the employee with a copy immediately mailed to the attorney representing the employee or dependent, if any, and to the Workers' Compensation Division. All such requests shall clearly indicate the basis for believing said payments were not received in good faith, and shall set forth the following information:

- A. amount of alleged overpayment;
- B. what the original payment was made for;
- C. the date on which the payment was made;
- D. the mistake of fact or law which forms the basis for the claimed overpayment; and

E. a statement informing the employee that, if he has any questions regarding his legal obligations to repay any such claims for overpayment, he should contact either his private attorney or an attorney at the Workers'

Compensation Division.

Statutory Authority: *MS s 175.17*

5220.3000 MEDICAL REPORTS TO BE FILED WITH DIVISION.

Employees, employers, or their insurers shall promptly file or cause to be filed in the Saint Paul office of the Workers' Compensation Division all reports of doctors attending or examining injured employees that facilitate the statutory obligation of the division to keep itself fully informed as to the nature and extent of any injury to any employee arising under the Workers' Compensation Act.

Statutory Authority: *MS s 175.17*

5220.3100 [Repealed, 9 SR 333]

5220.3200 CHANGE OF DOCTORS.

When an injured employee or his employer or insurer desires a change of doctors for the treatment of employee's injuries, the proponent may make application to the division for an order for a change of doctors. Such application shall be made on forms prescribed by the division, and shall state the reasons for the change, and shall name a doctor by whom the treatment is desired. Sufficient copies of the application shall be filed with the division at the Saint Paul office so that service can be made by the division upon the other parties. The division may grant such request ex parte, or may set the matter for hearing.

Statutory Authority: *MS s 175.17*

5220.3300 [Repealed, 9 SR 333]

5220.3400 [Repealed, 9 SR 333]

5220.3500 [Repealed, 9 SR 333]

5220.3600 THIRD-PARTY RECOVERY.

Any employer or insurer, learning of a third-party recovery or settlement arising out of a personal injury for which such employer or insurer is or may be liable, shall inform the division of such possible, pending, or completed third-party action, indicating:

- A. name of the employee;
- B. employee's social security number, or division file number if known;
- C. name of employer;
- D. date of injury;
- E. name and address of the attorney, if any, representing the employee in the third-party action; and
- F. if the employee is not represented by an attorney in the third-party action, or if the name of the attorney is not known, the name and address of the insurer for the third party, together with the name of their insured, and any identifying file or claim numbers.

The parties shall furnish the division with the information necessary to issue its order determining the subrogation rights of the employer and insurer, and any credit to which the employer and insurer may be entitled against compensation liability.

Statutory Authority: *MS s 175.17*

5220.3700 [Repealed, 9 SR 333]

5220.3800 [Repealed, 9 SR 333]

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5220.3900 [Repealed, 9 SR 333]

5220.4000 [Repealed, 9 SR 333]

5220.4100 [Repealed, 9 SR 333]

5220.4200 [Repealed, 9 SR 333]

5220.4300 [Repealed, 9 SR 333]

5220.4301 [Repealed, 9 SR 333]

5220.4302 [Repealed, 9 SR 333]

5220.4303 [Repealed, 9 SR 333]

5220.4304 [Repealed, 9 SR 333]

5220.4305 [Repealed, 9 SR 333]

5220.4800 [Repealed, 9 SR 333]

5220.4900 [Repealed, 9 SR 333]

5220.5000 SECOND INJURY LAW.

Subpart 1. **Application form.** Application for registration of physically impaired employees shall be on forms prescribed by the Workers' Compensation Division and submitted in duplicate.

Subp. 2. **Impairments.** In addition to those impairments set forth in Minnesota Statutes, section 176.131, subdivision 8, the following additional impairments shall be registerable: brain tumors, Pott's disease, seizures, cancer of the bone, and leukemia.

Subp. 3. **Medical evidence.** Medical evidence of the physical impairment shall be contained on the application or attached to the application. Such evidence shall show the date of the last examination, the nature of the impairment, the doctor's signature, and the date of his signature. If not contained on the application, it shall be legible and suitable for microfilming.

Subp. 4. **Prima facie evidence and burden of proof.** The application for registration with satisfactory medical evidence when accepted by the division shall be prima facie evidence of the existence of the named physical impairment shown on the application, but shall not be determinative thereof, and the burden of proof upon this issue, if contested at any time prior to the subsequent injury, shall be upon the party asserting its existence.

Subp. 5. **Petition for hearing on rejected application.** Should the division deem the application unacceptable prior to the subsequent injury, the applicant may, within 60 days following the receipt of notice of rejection, petition the division in writing for a hearing upon said application. A copy of said petition shall be served by the applicant upon the state treasurer, custodian of the special compensation fund, and upon the attorney general. Upon receipt of said petition, the division shall set the matter for hearing, which shall be conducted as provided by Minnesota Statutes, section 176.411, with right of appeal.

Subp. 6. **Notice of intention to claim reimbursement.** Notice of intention to claim reimbursement under Minnesota Statutes, section 176.131, subdivision 6, shall be on forms prescribed by the Workers' Compensation Division. In a claim under Minnesota Statutes, section 176.131, subdivision 1, such forms shall be filed within one year after the payment of sufficient weekly benefits and/or medical expenses to make claim against the special compensation fund. In a claim under Minnesota Statutes, section 176.131, subdivision 2, such forms shall be filed within one year from the first payment of weekly benefits or medical expense.

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Subp. 7. **Application for reimbursement.** Reimbursement shall be made by an order of the division or Court of Appeals from the special compensation fund on a yearly basis upon application for reimbursement on forms prescribed by the division. The employer shall file the original and one copy with the division. Such application shall be verified, set out in detail expenditures made and expenditures for which reimbursement is claimed, and shall be supported by medical reports, showing the nature and extent of disability and relationship to the injury and physical impairment for which reimbursement is claimed. The employer shall file the original and one copy of notice of intention to claim reimbursement and claim for reimbursement with the Workers' Compensation Division.

Statutory Authority: *MS s 175.17*

5220.5100 [Repealed, 9 SR 333]

5220.5200 [Repealed, 9 SR 333]

5220.5300 [Repealed, 9 SR 333]

5220.5400 [Repealed, 9 SR 333]

5220.5500 [Repealed, 9 SR 333]

5220.5600 [Repealed, 9 SR 333]

5220.5700 [Repealed, 9 SR 333]

5220.6500 [Repealed, 9 SR 333]

5220.6600 [Repealed, 9 SR 333]

5220.6700 [Repealed, 9 SR 333]

5220.6800 [Repealed, 9 SR 333]

5220.6900 [Repealed, 9 SR 333]

5220.7000 [Repealed, 9 SR 333]

5220.7100 [Repealed, 9 SR 333]

5220.7200 [Repealed, 9 SR 333]