

5220.0510 PLAN AMENDMENT AND CLOSURE.

Subpart 1. **Reasons for amendment.** Whenever circumstances indicate that the rehabilitation plan objectives are not likely to be achieved, proposals for plan amendment may be considered by the parties. A rehabilitation plan may be amended 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 is not participating effectively in the implementation of the plan;

C. a need to change the vocational goal of the rehabilitation plan;

D. the projected rehabilitation cost or duration, as stated in the rehabilitation plan, will be exceeded; or

E. the employee feels ill-suited for the type of work for which rehabilitation is being provided.

Subp. 2. **Procedure and responsibilities.** The assigned qualified rehabilitation consultant shall recommend a plan amendment when reasons for amendment are present. Parties other than the assigned qualified rehabilitation consultant may propose amendments. It is the responsibility of the assigned qualified rehabilitation consultant to facilitate discussion of proposed amendments.

Subp. 2a. **Process.** Upon preparation of the proposed plan amendment the assigned qualified rehabilitation consultant shall provide a copy to the employee, the insurer, and any attorneys representing the employee or insurer. The qualified rehabilitation consultant shall also provide a copy to the date of injury employer if the goal of the rehabilitation plan is to return the employee to work with that employer.

Subp. 2b. **Party's response.** Upon receipt of the proposed rehabilitation plan amendment, the employee, insurer, and qualified rehabilitation consultant must, within 15 days, either:

A. sign the plan amendment signifying agreement and return it to the assigned qualified rehabilitation consultant; or

B. promptly notify the assigned qualified rehabilitation consultant of any objection to the plan amendment and work with the assigned qualified rehabilitation consultant to resolve the objection by agreement.

However, if the objection is not resolved, the objecting party must file a rehabilitation request for assistance with the commissioner within 15 days of receipt of the proposed amendment. These disputes will be resolved according to part 5220.0950.

If no rehabilitation request for assistance objecting to the plan amendment is filed within 15 days of the party's receipt, the approval process will occur as provided in subpart 2d.

Subp. 2c. **Filing.** The assigned qualified rehabilitation consultant shall file a copy of the rehabilitation plan amendment with the commissioner within 15 days of circulation to the parties.

Subp. 2d. **Approval.** A rehabilitation plan amendment that all parties have signed is deemed approved by the commissioner upon filing.

If a party fails to sign the plan amendment or fails to file a rehabilitation request for assistance objecting to the proposed plan within the 15 days specified in subpart 2b, it shall be presumed that the party is in substantial agreement with the plan amendment's vocational objective and the services that are proposed. In this event the assigned qualified rehabilitation consultant shall file the plan amendment with the commissioner along with evidence of the date the plan amendment was sent to each party and, upon receipt, the plan amendment will be deemed approved. The insurer is liable for reasonable fees for a rehabilitation plan that is deemed approved under this subpart until a further plan amendment is filed or ordered by the commissioner or compensation judge. A party's failure to sign a plan amendment shall not constitute a waiver of any right to subsequently dispute it or to dispute whether the rehabilitation fees relative to it are reasonable.

Subp. 3. **Requirements.** The rehabilitation plan amendment shall be filed on the form prescribed by the commissioner. The prescribed form shall contain substantially the following:

A. identifying information on the employee, employer, insurer, the assigned qualified rehabilitation consultant, and any change of qualified rehabilitation consultant;

B. the proposed amendment;

C. a rationale for the amendment;

D. if the amendment adds rehabilitation services, an itemization of each additional rehabilitation service to be provided including any rehabilitation vendor names, dates of initiation and completion, and estimated costs of each service;

E. if the amendment will result in a change in the projected plan completion date, the new completion date;

F. if the amendment will result in a change in the projected plan cost, the new estimated cost;

G. employee comments, if any; and

H. the dated signatures of the employee, insurer, and assigned qualified rehabilitation consultant.

Subp. 3a. **Reporting a change of qualified rehabilitation consultant.**

A. When the employee has the right to change qualified rehabilitation consultants without approval under part 5220.0710, subpart 1, the plan amendment form is not required to be circulated to the parties for signature under subparts 2b, 2c, and 2d, but the new qualified rehabilitation consultant shall notify the department of the change by filing a plan amendment form with the commissioner. The plan amendment shall be filed with the commissioner within 15 calendar days of receipt of information transferred by the former qualified rehabilitation consultant as required by part 5220.1802, subpart 4a. The new qualified rehabilitation consultant shall also send a copy of the form to the parties as specified in subpart 2a when it is sent to the commissioner for filing.

B. If approval of a change of qualified rehabilitation consultants is required under part 5220.0710 and the insurer has approved the change, the new qualified rehabilitation consultant shall reflect the change on the plan amendment form, circulate the form for signatures, and file the form with the commissioner within 15 calendar days of obtaining the signatures. The former qualified rehabilitation consultant shall transfer information to the new qualified rehabilitation consultant as required by part 5220.1802, subpart 4a. If approval is required and the insurer has not agreed to the change, the employee shall proceed according to part 5220.0710, subpart 3.

C. If a qualified rehabilitation consultant elects to withdraw as the assigned qualified rehabilitation consultant under subpart 7a, item C, the consultant shall document the withdrawal on the plan amendment form. The qualified rehabilitation consultant shall file the plan amendment form with the commissioner and send a copy to the parties as specified in subpart 2a and the department's vocational rehabilitation unit when it is sent to the commissioner for filing.

Subp. 4. **Amendment by commissioner.** If a plan is modified for good cause pursuant to Minnesota Statutes, section 176.102, subdivision 8, or as a result of an administrative conference pursuant to Minnesota Statutes, section 176.106, the commissioner shall notify all interested parties of the modification and the reasons for the modification.

Subp. 5. **Request for closure before plan completion by filing request for assistance.** At any time, the insurer or employee may request the closure or suspension of rehabilitation services by filing a rehabilitation request for assistance with the commissioner. The commissioner or a compensation judge may close or suspend rehabilitation services 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 the employee is unlikely to successfully complete the plan;

C. the employee is not participating effectively in the implementation of the plan; or

D. the employee is not likely to benefit from further rehabilitation services.

Subp. 6. **Commissioner's authority to initiate closure.** If the commissioner initiates the termination of rehabilitation services pursuant to Minnesota Statutes, section 176.102, subdivision 6, or through an administrative conference pursuant to Minnesota Statutes, section 176.106, all interested parties shall be provided written notice of the proposed decision and an opportunity to be heard either in person or through the submission of written information.

Subp. 7. **Closure report by assigned qualified rehabilitation consultant.** The assigned qualified rehabilitation consultant shall file a rehabilitation plan closure report on a form prescribed by the commissioner within 30 calendar days of knowledge that:

A. the employee has been steadily working at suitable gainful employment for 30 days or more, or the time period provided for in the plan;

B. the employee's rehabilitation benefits have been closed out by an award on stipulation or award on mediation;

C. the employee and insurer have agreed to close the rehabilitation plan;

D. the qualified rehabilitation consultant has been unable to locate the employee following a good faith effort to do so;

E. the employee has died; or

F. the commissioner or a compensation judge has ordered that the rehabilitation plan be closed and there has been no timely appeal of that order.

The form reporting plan closure must be sent to the employee and the insurer when filed with the commissioner. The form shall contain substantially the following:

(1) identifying information on the employee, employer, insurer, and assigned qualified rehabilitation consultant;

(2) the reason for closure of the rehabilitation plan;

(3) if the employee is working, information identifying the employer with whom the employee returned to work, the job title, the return to work date, the weekly wage upon return to work, and whether the employee has continued working for 30 calendar days;

(4) a summary of the rehabilitation services provided and rehabilitation costs by all rehabilitation providers;

(5) the assigned qualified rehabilitation consultant's dated signature and a statement that the qualified rehabilitation consultant certifies that the form was served on the employee and insurer, any attorneys representing them, and the vocational rehabilitation unit, if applicable, on the date specified; and

(6) notice to the employee about how to contact the department with questions or concerns about the closure.

Subp. 7a. Plan closure report; insurer's denial of further liability.

A. The qualified rehabilitation consultant shall also file the plan closure report form specified in subpart 7 if the consultant decides to withdraw as the assigned qualified rehabilitation consultant after the insurer has provided written notice to the employee, the employee's attorney, the commissioner, and the qualified rehabilitation consultant that the insurer is denying further liability for the injury for which rehabilitation services are being provided. The qualified rehabilitation consultant shall attach a copy of the insurer's notice to the plan closure form and shall provide a copy of the form and notice to the employee, any attorney for the employee, and the vocational rehabilitation unit established under Minnesota Statutes, section 176.104.

B. The qualified rehabilitation consultant shall continue to provide services according to the approved plan until the plan closure report form is filed and provided to the parties and the vocational rehabilitation unit as specified in item A.

C. This subpart does not apply if a claim petition, objection to discontinuance, request for an administrative conference, or other document initiating litigation has been filed on the liability issue. Where any of these litigation documents have been filed and the qualified rehabilitation consultant decides to withdraw as the assigned qualified rehabilitation consultant, the consultant shall document the withdrawal on the rehabilitation plan amendment form according to subpart 3a, item C.

Subp. 8. **Disputes.** In the case of a dispute about a plan amendment or closure, any party may file a rehabilitation request for assistance according to Minnesota Statutes, chapter 176, and part 5220.0950.

Statutory Authority: *MS s 176.102; 176.83*

History: *16 SR 2520; 17 SR 3361; 29 SR 1480; 49 SR 1383*

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