

1 Department of Labor and Industry

2

3 Adopted Rules Relating to Workers' Compensation; Rehabilitation  
4 Claims Handling

5

6 Rules as Adopted

7 5220.0100 DEFINITIONS.

8 Subpart 1. Scope. For the purposes of parts 5220.0100 to  
9 5220.1910, the following terms have the meanings given them.

10 Subp. 1a. Accredited. "Accredited" institution in part  
11 5220.1400 means that the institution is accredited by a  
12 recognized national accrediting body, and that, where  
13 accreditation for those degrees listed in part 5220.1400,  
14 subpart 2 is available, the degree program is accredited by a  
15 recognized national accrediting body.

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

19 Subp. 2. to 4. [Unchanged.]

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

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

1 consultant is affiliated.

2 Subp. 7. and 8. [Unchanged.]

3 Subp. 8a. Qualified rehabilitation consultant firm or firm.

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

11 Subp. 9. to 10. [Unchanged.]

12 Subp. 10a. Rehabilitation Services or Rehabilitation and  
13 Medical Services. "Rehabilitation Services" or "Rehabilitation  
14 and Medical Services" means the Rehabilitation and Medical  
15 Services Section in the Department of Labor and Industry.

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

24 Subp. 12. and 13. [Unchanged.]

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

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

1 rehabilitation.

2 5220.0210 WORK STATUS REPORT.

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

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

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

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

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

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

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

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

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

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

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

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

10 5220.0300 INITIATION OF REHABILITATION SERVICE.

11 Subpart 1. Employer's duty. For the purpose of Minnesota  
12 Statutes, section 176.102, subdivision 4, the employer shall, in  
13 consultation with the employee, refer the employee to a  
14 qualified rehabilitation consultant, unless a rehabilitation  
15 indicators form is filed as required by part 5220.0210, subpart  
16 2, item B. This shall be done within five days after an  
17 employer has medical information that an employee is unable to  
18 return to the job the employee held at the time of the injury,  
19 has 60 days of lost work time due to a personal injury other  
20 than a back injury, or 30 days of lost work time due to a back  
21 injury.

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

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

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

4 5220.0500 PLAN MODIFICATION.

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

- 9 A. a new or continuing physical limitation that  
10 significantly interferes with the implementation of the plan;  
11 B. the employee's performance indicates that he or  
12 she is unlikely to complete the plan successfully;  
13 C. the employee is not cooperating with the plan; or  
14 D. the plan or its administration is substantially  
15 inadequate to achieve the rehabilitation plan objectives.

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

25 5220.1000 RETRAINING.

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

31 5220.1300 QUALIFIED REHABILITATION CONSULTANT AND REGISTERED  
32 REHABILITATION VENDOR.

33 Subpart 1. and 2. [Unchanged.]

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

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

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

20 Subp. 4. to 8. [Unchanged.]

21 5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION  
22 CONSULTANT.

23 Subpart 1. [Unchanged.]

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

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

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

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

17 Subp. 3. to 5. [Unchanged.]

18 5220.1500 PROCEDURE FOR QUALIFYING AS REHABILITATION CONSULTANT.

19 Subpart 1. [Unchanged.]

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

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

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

30 Subp. 3. to 5. [Unchanged.]

31 5220.1600 PROCEDURE FOR APPROVAL AS A FIRM.

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

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

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

12 A. to D. [Unchanged.]

13 Subp. 3. to 5. [Unchanged.]

14 5220.1801 PROFESSIONAL CONDUCT.

15 Subpart 1. [Unchanged.]

16 Subp. 2. Assigned qualified rehabilitation consultant.

17 Only the assigned qualified rehabilitation consultant, or a  
18 qualified rehabilitation consultant designated by the assigned  
19 qualified rehabilitation consultant, shall be involved at any  
20 given time in the employee's rehabilitation effort, except as  
21 stated in subparts 4 and 5. The assigned qualified  
22 rehabilitation consultant must submit the rehabilitation plan to  
23 rehabilitation services and to the employer within 30 days of  
24 referral. The assigned qualified rehabilitation consultant must  
25 submit records or reports to the employer or employee as  
26 requested by the employer or employee. This subpart shall not  
27 apply to a qualified rehabilitation consultant acting on behalf  
28 of the reinsurance association in a monitoring or advisory  
29 capacity on a reinsurance claim file.

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

31 5220.1802 COMMUNICATIONS.

32 Subpart 1. [Unchanged.]

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



1 Minnesota Statutes, section 176.83, clause (j).

2 Subp. 3. to 9. [Unchanged.]

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

11 Subp. 11. [Unchanged.]

12 5220.1805 BUSINESS PRACTICES.

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

17 A. and B. [Unchanged.]

18 C. If a fellow rehabilitation provider violates parts  
19 5220.0100 to 5220.1910, a rehabilitation provider having actual  
20 personal knowledge about the violation must direct the  
21 information to rehabilitation services.

22 D. to I. [Unchanged.]

23 5220.1900 REHABILITATION SERVICES AND FEES.

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

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

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

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

18 A. to E. [Unchanged.]

19 F. an evaluation of whether Minnesota Statutes,  
20 chapter 176, and rehabilitation services' parts 5220.0100 to  
21 5220.1910 have been followed by the provider.

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

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

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

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

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

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

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

32 Subp. 5. and 6. [Unchanged.]

33 5220.1910 APPROVED CLAIMS HANDLER.

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

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

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

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

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

19

20 REPEALER. Minnesota Rules, part 5220.0200 is repealed.