

1 Department of Labor and Industry

2

3 Adopted Permanent Rules Relating to Workers' Compensation;

4 Rehabilitation Services

5

6 Rules as Adopted

7 5220.0100 DEFINITIONS.

8 Subpart 1. Scope. For the purposes of parts 5220.0100 to
9 5220.1900, the following terms have the meanings given them.

10 Subp. 2. [See repealer.]

11 Subp. 3. Assigned qualified rehabilitation consultant.

12 "Assigned qualified rehabilitation consultant" means the
13 qualified rehabilitation consultant responsible for
14 consultation, development, and implementation of the
15 rehabilitation plan, whether the qualified rehabilitation
16 consultant is:

17 A. selected by the insurer if the employee does not
18 choose;

19 B. chosen by the employee if the employee exercises a
20 choice provided by statute;

21 C. determined by a documented agreement of the
22 parties or by the commissioner or a compensation judge in the
23 event of a dispute; or

24 D. assigned by the commissioner under Minnesota
25 Statutes, section 176.102, subdivision 4, paragraph (f).

26 [For text of subps 4 and 5, see M.R.]

27 Subp. 9. Employer. "Employer" means the employer at the
28 time of injury of the employee, unless the context clearly
29 indicates otherwise.

30 [For text of subps 10 to 21, see M.R.]

31 Subp. 22. Qualified employee. "Qualified employee" means
32 an employee who, because of the effects of a work-related injury
33 or disease, whether or not combined with the effects of a prior
34 injury or disability:

35 A. is permanently precluded or is likely to be

1 permanently precluded from engaging in the employee's usual and
2 customary occupation or from engaging in the job the employee
3 held at the time of injury;

4 B. cannot reasonably be expected to return to
5 suitable gainful employment with the date-of-injury employer;
6 and

7 C. can reasonably be expected to return to suitable
8 gainful employment through the provision of rehabilitation
9 services, considering the treating physician's opinion of the
10 employee's work ability.

11 Subp. 23. **Qualified rehabilitation consultant.** "Qualified
12 rehabilitation consultant" means a person who is professionally
13 trained and experienced and who is registered by the
14 commissioner to provide a rehabilitation consultation and to
15 develop and implement an appropriate plan of rehabilitation
16 services for an employee entitled to rehabilitation benefits
17 under Minnesota Statutes, section 176.102.

18 [For text of subps 24 and 25, see M.R.]

19 Subp. 26. **Rehabilitation consultation.** "Rehabilitation
20 consultation" means a meeting of the employee and assigned
21 qualified rehabilitation consultant to determine whether the
22 employee is a qualified employee, as defined in subpart 22 to
23 receive rehabilitation services, as defined in subpart 29,
24 considering the treating physician's opinion of the employee's
25 work ability.

26 [For text of subps 27 and 28, see M.R.]

27 Subp. 29. **Rehabilitation services.** "Rehabilitation
28 services" means a program of vocational rehabilitation,
29 including medical management, designed to return an individual
30 to work consistent with Minnesota Statutes, section 176.102,
31 subdivision 1, paragraph (b). The program begins with the first
32 in-person visit of the employee by the assigned qualified
33 rehabilitation consultant, including a visit for purposes of a
34 rehabilitation consultation. The program consists of the
35 sequential delivery and coordination of services by
36 rehabilitation providers under an individualized rehabilitation

1 plan. Specific services under this program may include, but are
2 not limited to, vocational evaluation, counseling, job analysis,
3 job modification, job development, job placement, labor market
4 survey, vocational testing, transferable skills analysis, work
5 adjustment, job seeking skills training, on-the-job training,
6 and retraining.

7 [For text of subp 30, see M.R.]

8 Subp. 31. **Required rehabilitation report.** "Required
9 rehabilitation report" means the rehabilitation consultation
10 report, the plan progress report, and any other report that must
11 be submitted to the commissioner whenever a rehabilitation plan
12 is initiated, proposed to be amended, suspended or closed, or
13 when a change of assigned qualified rehabilitation consultant
14 occurs on a case.

15 [For text of subps 32 to 35, see M.R.]

16 Subp. 36. **Vocational evaluation.** "Vocational evaluation"
17 means the comprehensive assessment of vocational aptitudes and
18 potential, using information about a qualified employee's past
19 history, medical and psychological status, and information from
20 appropriate vocational testing, which may use paper and pencil
21 instruments, work samples, simulated work stations, or
22 assessment in a real work environment.

23 [For text of subps 37 to 40, see M.R.]

24 5220.0105 INCORPORATION BY REFERENCE.

25 The following documents are incorporated by reference only
26 to the extent specifically referenced in parts 5220.0100 to
27 5220.1900. The documents in items A and B are not subject to
28 frequent change, although new editions may occasionally be
29 published. The documents in item C are revised annually. All
30 documents are available through the Minitex interlibrary loan
31 system.

32 A. The Dictionary of Occupational Titles, fourth
33 edition, revised 1991, United States Department of Labor, is
34 available for purchase through the Superintendent of Documents,
35 United States Government Printing Office, Washington, DC 20402.

1 [For text of item B, see M.R.]

2 C. The Commission on Accreditation of Rehabilitation
3 Facilities (CARF) Directory of Accredited Organizations Serving
4 People With Disabilities and its Standards Manual for
5 Organizations Serving People With Disabilities, 1992, are
6 available for purchase at 101 North Wilmot Road, Suite 500,
7 Tucson, Arizona 85711.

8 5220.0110 REHABILITATION REQUEST; DISABILITY STATUS REPORT.

9 Subpart 1. [See repealer.]

10 Subp. 2. [See repealer.]

11 Subp. 3. [See repealer.]

12 Subp. 4. [See repealer.]

13 Subp. 5. Rehabilitation consultation request. The
14 rehabilitation consultation may be requested by the employee,
15 employer, or commissioner. A disability status report is used
16 by the insurer to report rehabilitation consultation referral
17 status.

18 Subp. 6. Employee request for consultation. The employee
19 may request a rehabilitation consultation by giving written
20 notice to the insurer requesting a rehabilitation consultation.
21 Notification of the request shall be filed with the commissioner.

22 Subp. 7. Disability status report. The insurer shall file
23 a disability status report to notify the commissioner of a
24 referral for rehabilitation or to request a waiver of
25 rehabilitation services.

26 A. When an employee has not returned to work
27 following a workplace injury, the insurer shall complete a
28 disability status report and, file it with the commissioner, and
29 serve a copy on the employee:

30 (1) within 14 calendar days after it becomes
31 known that the disability will extend beyond 13 weeks from the
32 date of injury;

33 (2) within 90 days of the date of injury; or

34 (3) within 14 calendar days after receiving a
35 request for rehabilitation consultation, whichever is earlier.

1 Another disability status report shall be filed by the
2 insurer 180 days after the injury if no party has requested a
3 rehabilitation consultation and the employee has not returned to
4 work. A disability status report is also required following
5 each request for rehabilitation consultation.

6 B. The disability status report shall contain the
7 following:

8 (1) identifying information on the employee,
9 employer, and insurer;

10 (2) information about the duration of disability
11 and the likelihood that the disability will extend beyond 13
12 weeks;

13 (3) the current work status of the employee;

14 (4) an indication of whether the employer will
15 return the employee to work;

16 (5) information about accommodations or services
17 being provided to the employee to assist in the return to the
18 preinjury employer;

19 (6) an indication of whether a rehabilitation
20 consultation is occurring or a request for a waiver of
21 consultation is being made;

22 (7) if rehabilitation consultation is indicated,
23 the name of the qualified rehabilitation consultant who will
24 conduct the rehabilitation consultation; and

25 (8) a current treating physician's work ability
26 report must be attached to the form.

27 C. The employee may object to the insurer's
28 recommendation by filing a rehabilitation request for assistance
29 with the commissioner.

30 Subp. 8. **Commissioner's authority.** If a disability status
31 report is not filed according to this part, the commissioner may
32 ~~refer-the-employee-for~~ order a rehabilitation consultation by a
33 qualified rehabilitation consultant at the insurer's expense,
34 according to Minnesota Statutes, section 176.102, subdivision 4,
35 paragraphs (b) and (f).

1 5220.0120 WAIVER OF CONSULTATION AND REHABILITATION SERVICES.

2 Subpart 1. Purpose. A rehabilitation waiver is used to
3 defer the initiation of rehabilitation services including the
4 consultation.

5 Subp. 2. Criteria. A rehabilitation waiver is granted
6 when the employer documents that the otherwise qualified
7 employee will return to suitable gainful employment with the
8 date-of-injury employer within 180 days after the injury. The
9 waiver shall not be effective more than 180 days following the
10 injury unless a renewal is granted under subpart 4.

11 Subp. 3. Procedure and documentation. A request for a
12 rehabilitation waiver shall be documented on the disability
13 status report form provided for in part 5220.0110, subpart 7.

14 Subp. 4. Renewal of waiver. If a waiver is in effect but
15 the employee does not return to work within 180 days after the
16 injury, the insurer may request a renewal of the waiver by
17 filing another disability status report. A copy of the request
18 for renewal shall be served on the employee who may object to
19 the renewal by filing a rehabilitation request as provided in
20 part 5220.0950. The renewal of a waiver ~~requires~~ will be
21 granted only upon additional documentation that convinces the
22 commissioner that a consultation is not necessary because the
23 otherwise qualified ~~employee-will~~ employee's return to suitable
24 gainful employment with the date-of-injury employer is imminent.

25 Subp. 5. ~~Referral~~ Commissioner's order. If 180 days have
26 passed since the date of injury and the employee has not
27 returned to work, no rehabilitation consultation has taken
28 place, and no waiver of rehabilitation services has been
29 granted, the commissioner shall ~~refer-the-employee-for~~ order a
30 rehabilitation consultation at the insurer's expense under
31 Minnesota Statutes, section 176.102, subdivision 4, paragraph
32 (f), to be provided by the vocational rehabilitation unit of the
33 department.

34 5220.0130 REHABILITATION CONSULTATION.

35 Subpart 1. Purpose. A rehabilitation consultation is used

1 to determine whether an employee is a qualified employee for
2 rehabilitation services. An employee must be a qualified
3 employee as defined in part 5220.0100, subpart 22, before a
4 rehabilitation plan is implemented.

5 Subp. 2. Criteria. If the employer requests a
6 rehabilitation consultation or receives a request for a
7 rehabilitation consultation from the commissioner, the insurer
8 shall arrange for a rehabilitation consultation by a qualified
9 rehabilitation consultant to take place within ~~14~~ 15 calendar
10 days of the receipt of the request.

11 If the insurer receives a request for a rehabilitation
12 consultation from an employee and does not request a waiver of
13 rehabilitation services, the insurer shall arrange for a
14 rehabilitation consultation by a qualified rehabilitation
15 consultant to take place within ~~14~~ 15 days of the receipt of the
16 rehabilitation consultation request.

17 If the insurer ~~receives requests~~ receives a request-for-a waiver of
18 rehabilitation consultation services, and no waiver of
19 rehabilitation services ~~has-been~~ is granted under part
20 5220.0120, the insurer shall arrange for a rehabilitation
21 consultation by a qualified rehabilitation consultant to take
22 place within ~~14~~ 15 days of the notification that the waiver
23 request has not been granted.

24 The rehabilitation consultation shall be held at a location
25 not more than 50 miles from the employee's residence.

26 Subp. 3. Consultation. The procedure and documentation
27 for a rehabilitation consultation are contained in items A to E.

28 A. Preconsultation actions. A copy of the first
29 report of injury, the disability status report, and the
30 accompanying current treating physician's work ability report
31 shall be sent by the insurer to the assigned qualified
32 rehabilitation consultant prior to the rehabilitation
33 consultation.

34 B. Actions. During the first in-person meeting with
35 the employee for purposes of conducting a rehabilitation
36 consultation, the assigned qualified rehabilitation consultant

1 shall:

2 (1) meet with the employee and, including those
3 items in part 5220.1803, subparts 1 and 1a, explain the
4 employee's rights and responsibilities regarding rehabilitation,
5 including the employee's right to choose a qualified
6 rehabilitation consultant; and

7 (2) gather information which will permit a
8 determination of the employee's eligibility for rehabilitation.

9 C. Contents of report. The rehabilitation
10 consultation shall be documented by the assigned qualified
11 rehabilitation consultant on a rehabilitation consultation
12 report form prescribed by the commissioner containing
13 substantially the following:

14 (1) identifying information of the employee,
15 employer, insurer, and qualified rehabilitation consultant;

16 (2) the rehabilitation consultation date;

17 (3) an indication of the likelihood that the
18 employee will return to the preinjury employer or preinjury
19 occupation; and

20 (4) ~~the identification of barriers to successful~~
21 ~~completion of the rehabilitation plan and measures to be taken~~
22 ~~to overcome those barriers, and~~ an assessment of whether or not
23 the employee is a qualified employee for rehabilitation services.

24 D. Time for filing. A rehabilitation consultation
25 report shall be completed by the assigned qualified
26 rehabilitation consultant in all cases. The assigned qualified
27 rehabilitation consultant shall file the rehabilitation
28 consultation report within ~~±5~~ seven days of the first in-person
29 meeting with the employee and concurrently mail a copy to the
30 employer, the employee, and the insurer.

31 E. Employee's objection. The employee may object to
32 the qualified rehabilitation consultant's assessment by filing a
33 rehabilitation request for assistance with the commissioner.

34 5220.0410 REHABILITATION PLAN.

35 Subpart 1. Purpose. The purpose of the rehabilitation

1 plan is to communicate to all interested parties the vocational
2 goal, the rehabilitation services, and the projected amounts of
3 time and money that will be needed to achieve the vocational
4 goal.

5 Authoritative references for describing a vocational
6 history and a vocational goal in the plan and for analyzing jobs
7 are the Dictionary of Occupational Titles and the Guide to Job
8 Analysis. These documents are incorporated by reference in part
9 5220.0105.

10 Subp. 2. Requirements. If a rehabilitation consultation
11 results in a determination that an employee is a qualified
12 employee for rehabilitation services, the assigned qualified
13 rehabilitation consultant shall, in consultation with the
14 parties, develop, record, and file a rehabilitation plan on the
15 form prescribed by the commissioner containing substantially the
16 following:

17 [For text of item A, see M.R.]

18 B. the employee's occupation at time of injury; the
19 Dictionary of Occupational Titles, which is incorporated by
20 reference in part 5220.0105, code for that occupation; and the
21 vocational goal of the rehabilitation plan;

22 C. itemization of the rehabilitation services to be
23 provided including any vendor names, anticipated service
24 completion dates, estimated service costs, and projected total
25 plan cost and plan completion date;

26 D. the dated signatures of the employee, insurer, and
27 assigned qualified rehabilitation consultant if the parties are
28 in agreement with the plan;

29 E. employee comments, if any; and

30 F. instructions to the parties that if they disagree
31 with the plan they have 15 days from their receipt of the
32 proposed plan to resolve the disagreement or object to the
33 proposed plan, and that an objection must be filed with the
34 commissioner.

35 Subp. 3. Process. Upon preparation of the proposed plan,
36 and within 30 days of the first in-person contact between the

1 assigned qualified rehabilitation consultant and the employee,
2 the assigned qualified rehabilitation consultant shall provide
3 to all parties a copy of the proposed rehabilitation plan.

4 Subp. 4. Party's response. Upon receipt of the proposed
5 rehabilitation plan, each party must, within 15 days, either:

6 [For text of items A and B, see M.R.]

7 However, if the objection is not resolved, the objecting
8 party must file a rehabilitation request for assistance with the
9 commissioner within 15 days of receipt of the proposed plan.

10 These disputes will be resolved according to part 5220.0950.

11 If no rehabilitation request for assistance objecting to
12 the plan is filed within 15 days of the party's receipt, the
13 plan approval process will occur as provided in subpart 6.

14 Subp. 5. Filing the plan. The assigned qualified
15 rehabilitation consultant shall file the rehabilitation plan
16 with the commissioner within 45 days of the first in-person
17 contact between the qualified rehabilitation consultant and the
18 employee or within 15 days of circulation to the parties,
19 whichever is earlier.

20 Subp. 6. Plan approval. A rehabilitation plan that all
21 parties have signed is deemed approved by the commissioner upon
22 filing.

23 If a party fails to sign the plan or fails to file a
24 rehabilitation request for assistance objecting to the proposed
25 plan within the 15 days specified in subpart 4, item B, it shall
26 be presumed that the party is in substantial agreement with the
27 plan's vocational objective and the services that are proposed.
28 In this event the assigned qualified rehabilitation consultant
29 shall file the plan with the commissioner along with evidence of
30 the date the plan was sent to each party and, upon receipt, the
31 plan will be deemed approved. A party's failure to sign a plan
32 shall not constitute a waiver of any right to subsequently
33 dispute the plan or to dispute payment of rehabilitation fees
34 relative to the plan.

35 In reviewing rehabilitation plans pursuant to Minnesota
36 Statutes, section 176.102, subdivision 6, the commissioner shall

1 notify all interested parties of the nature of any additional
2 information necessary for the review, any recommended
3 modifications to the plan, and any decision approving,
4 modifying, or rejecting a plan.

5 If the commissioner refers issues relating to a plan to a
6 compensation judge or an administrative conference pursuant to
7 Minnesota Statutes, section 176.106, all parties shall be
8 notified of that action and of all applicable related procedures.

9 Commencement of a plan without objection from the
10 commissioner shall not constitute a waiver or an estoppel of the
11 commissioner's or compensation judge's authority over the plan.

12 Subp. 7. **Communication with treating doctor.** Upon filing
13 the rehabilitation plan with the commissioner, the assigned
14 qualified rehabilitation consultant shall, within the
15 limitations of part 5220.1802, subpart 5, send a copy of the
16 employee's rehabilitation plan to the employee's treating doctor.

17 [For text of subp 8, see M.R.]

18 Subp. 9. **Administration of plan.** All rehabilitation
19 services shall be provided to an employee pursuant to Minnesota
20 Statutes, section 176.102, as stated in the rehabilitation plan
21 and any subsequent amendments, and shall be administered
22 exclusively by a person or business entity registered and
23 approved by the commissioner as a qualified rehabilitation
24 consultant or a qualified rehabilitation consultant firm.

25 The assigned qualified rehabilitation consultant shall
26 monitor registered rehabilitation vendor compliance with the
27 rehabilitation plan.

28 Job development and job placement services shall be
29 provided either by rehabilitation providers registered by the
30 commissioner or by a facility accredited by the National
31 Commission on Accreditation of Rehabilitation Facilities (CARF),
32 Tucson, Arizona. The CARF Directory of Accredited Organizations
33 Serving People with Disabilities and its Standards Manual for
34 Organizations Serving People with Disabilities are incorporated
35 by reference in part 5220.0105. The insurer may select the
36 vendor of job development or job placement services.

1 Subp. 10. Disputes. In the case of a dispute about a
2 rehabilitation plan or any rehabilitation services provided, any
3 party may file a rehabilitation request for assistance according
4 to Minnesota Statutes, chapter 176, or part 5220.0950.

5 5220.0450 PLAN PROGRESS REPORT.

6 Subpart 1. Purpose. The purpose of a plan progress report
7 is to inform parties of the current status of the rehabilitation
8 plan and provide a current estimate of plan cost and duration to
9 completion.

10 Subp. 2. Requirements. Three months after the assigned
11 qualified rehabilitation consultant has filed an approved
12 rehabilitation plan with the commissioner, three months
13 thereafter, and every six months thereafter, the assigned
14 qualified rehabilitation consultant shall complete a plan
15 progress report on the form prescribed by the commissioner that
16 contains the following:

17 A. information identifying the employee, employer,
18 insurer, and assigned qualified rehabilitation consultant;

19 B. the employee's current medical status and work
20 status;

21 C. the costs to date for rehabilitation services by
22 all rehabilitation providers and the estimated costs to plan
23 completion; and

24 D. the duration of the rehabilitation plan to date
25 and the estimated duration to plan completion; and

26 E. the identification of barriers to successful
27 completion of the rehabilitation plan and measures to be taken
28 to overcome those barriers.

29 Subp. 3. Filing. The assigned qualified rehabilitation
30 consultant shall file the six-month plan progress report with
31 the commissioner, and provide copies to the employee, employer,
32 and insurer within 15 days after six months have passed from the
33 date of the filing of the rehabilitation plan. The three-month
34 plan progress report shall be sent to the insurer only.
35 Subsequent plan progress reports are to be filed with the

1 commissioner within 15 days after every six month anniversary of
2 the plan filing, with copies sent to the employee, employer, and
3 insurer.

4 Subp. 4. Commissioner's actions. Based on the information
5 contained in the current plan progress report and in other
6 reports available to the commissioner, the commissioner may
7 decide to initiate further activities if the review indicates
8 that the plan is inadequate to carry out the objectives of
9 rehabilitation under Minnesota Statutes, section 176.102,
10 subdivision 1, paragraph (b). These activities may include, but
11 are not limited to the following:

12 A. requesting additional information from the
13 assigned qualified rehabilitation consultant, the qualified
14 rehabilitation consultant firm, and the registered
15 rehabilitation vendor;

16 B. conducting an on-site inspection during normal
17 business hours of the assigned qualified rehabilitation
18 consultant's records for documentation of service provision
19 according to the rehabilitation plan; and

20 C. other actions pursuant to Minnesota Statutes,
21 section 176.102, subdivision 6, paragraph (b), and parts
22 5220.1800 to 5220.1806.

23 5220.0510 PLAN AMENDMENT AND CLOSURE.

24 [For text of subpart 1, see M.R.]

25 Subp. 2. Procedure and responsibilities. The assigned
26 qualified rehabilitation consultant may recommend a plan
27 amendment when reasons for amendment are present. Parties other
28 than the assigned qualified rehabilitation consultant may
29 propose amendments. It is the responsibility of the assigned
30 qualified rehabilitation consultant to facilitate discussion of
31 proposed amendments.

32 Subp. 2a. Process. Upon preparation of the proposed plan
33 amendment the assigned qualified rehabilitation consultant shall
34 provide a copy to all parties.

35 Subp. 2b. Party's response. Upon receipt of the proposed

1 rehabilitation plan amendment, each party must, within 15 days,
2 either:

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

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

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

14 If no rehabilitation request for assistance objecting to
15 the plan amendment is filed within 15 days of the party's
16 receipt, the approval process will occur as provided in subpart
17 2d.

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

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

24 If a party fails to sign the plan amendment or fails to
25 file a rehabilitation request for assistance objecting to the
26 proposed plan within the 15 days specified in subpart 2b, it
27 shall be presumed that the party is in substantial agreement
28 with the plan amendment's vocational objective and the services
29 that are proposed. In this event the assigned qualified
30 rehabilitation consultant shall file the plan amendment with the
31 commissioner along with evidence of the date the plan amendment
32 was sent to each party and, upon receipt, the plan amendment
33 will be deemed approved. A party's failure to sign a plan
34 amendment shall not constitute a waiver of any right to
35 subsequently dispute it or to dispute payment of rehabilitation
36 fees relative to it.

1 [For text of subps 3 and 4, see M.R.]

2 Subp. 5. Request for closure before plan completion. At
3 any time, the insurer or employee may request the closure of
4 rehabilitation services by filing a rehabilitation request for
5 assistance with the commissioner. The commissioner or a
6 compensation judge may close rehabilitation services for good
7 cause, including, but not limited to:

8 [For text of items A and B, see M.R.]

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

11 [For text of item D, see M.R.]

12 [For text of subp 6, see M.R.]

13 Subp. 7. Closure report by assigned qualified
14 rehabilitation consultant. When an employee's rehabilitation
15 plan is completed and closure of rehabilitation services is not
16 disputed, the assigned qualified rehabilitation consultant shall
17 file a report on a form prescribed by the commissioner. When
18 the reason for the closure is a return to work, the qualified
19 rehabilitation consultant shall not complete and file the
20 closure report until the employee has continued working for at
21 least 30 calendar days following the return to work. The form
22 reporting plan closure must be sent to the employee and the
23 insurer when filed with the commissioner. The form shall
24 contain substantially the following:

25 [For text of items A and B, see M.R.]

26 C. the employee's employment status:

27 (1) if the employee is working, information
28 identifying the employer with whom the employee returned to
29 work, the job title and job code from the Dictionary of
30 Occupational Titles described in part 5220.0105, the return to
31 work date, the weekly wage upon return to work, and whether the
32 employee has continued working for 30 calendar days; or

33 [For text of subitem (2), see M.R.]

34 D. a summary of the rehabilitation services provided
35 and rehabilitation costs by all rehabilitation providers; and

36 [For text of item E, see M.R.]

1 [For text of subp 8, see M.R.]

2 5220.0710 EMPLOYEE CHOICE OF QUALIFIED REHABILITATION
3 CONSULTANT; CHANGE OF QUALIFIED REHABILITATION CONSULTANT.

4 Subpart 1. Employee right to choose. Pursuant to
5 Minnesota Statutes, section 176.102, subdivision 4, the
6 qualified employee has a right to choose a qualified
7 rehabilitation consultant as defined in part 5220.0100, subpart
8 23, once:

9 A. during the period commencing before a referral by
10 the insurer or commissioner to a qualified rehabilitation
11 consultant, or before a first in-person visit between a
12 qualified rehabilitation consultant and the employee; ~~or~~

13 ~~B. when the employee selects a qualified~~
14 ~~rehabilitation consultant within~~ and continuing until 60 days
15 after filing of the rehabilitation plan ~~to replace.~~ If the
16 employee chooses a qualified rehabilitation consultant ~~selected~~
17 ~~by the insurer, in which case~~ under this part, the employee
18 shall notify the insurer in writing of the name, address, and
19 telephone number of the qualified rehabilitation consultant
20 chosen.

21 Subp. 2. Documentation. When a change of qualified
22 rehabilitation consultant occurs, the new assigned qualified
23 rehabilitation consultant shall promptly inform the commissioner
24 of the change in assigned qualified rehabilitation consultant by
25 filing the prescribed form with the commissioner. The
26 prescribed form shall contain identifying information on the
27 employee, employer, insurer, the new assigned qualified
28 rehabilitation consultant, and the former assigned qualified
29 rehabilitation consultant.

30 Subp. 3. Dispute resolution. After exhaustion of the
31 employee's choices in subpart 1, any party may propose a change
32 of assigned qualified rehabilitation consultant. The parties
33 may at any time agree to a change and select a new qualified
34 rehabilitation consultant. If a dispute about change or
35 selection arises, and the parties are not able to resolve that

1 dispute, the dispute shall be resolved by a determination of the
2 commissioner or a compensation judge as provided in Minnesota
3 Statutes, chapter 176, and part 5220.0950. If the employee's
4 choice has not been exhausted, the determination shall be made
5 according to the employee's choice. If the employee's choice
6 has been exhausted, the determination shall be made according to
7 the best interest of the parties. The best interest of the
8 parties shall be determined based on the goals of rehabilitation
9 as provided in Minnesota Statutes, section 176.102, subdivision
10 1, paragraph (b). If the commissioner or compensation judge
11 determines the qualified rehabilitation consultant's work to be
12 unsatisfactory or the qualified rehabilitation consultant
13 withdraws from the case, and the parties are unable to agree on
14 the selection of a qualified rehabilitation consultant, the
15 commissioner or compensation judge shall assign a new qualified
16 rehabilitation consultant.

17 [For text of subps 4 and 5, see M.R.]

18 5220.0850 ON-THE-JOB TRAINING.

19 Subpart 1. Objective of on-the-job training. The primary
20 objective of on-the-job training as defined in part 5220.0100,
21 subpart 21, is suitable gainful employment with the on-the-job
22 training employer that is likely to restore the employee as
23 close as possible to preinjury economic status. A proposed
24 on-the-job training plan may be rejected by the commissioner or
25 compensation judge if the plan is unlikely to achieve this
26 primary objective. However, documentation that the training
27 will increase employability with other employers may be a basis
28 for approval.

29 Subp. 2. Plan submission. A proposed on-the-job training
30 plan shall be filed on a form prescribed by the commissioner and
31 must contain the following:

32 [For text of items A to G, see M.R.]

33 H. the intervals at which the progress of the
34 on-the-job training plan will be assessed;

35 [For text of items I to N, see M.R.]

1 [For text of subps 3 to 5, see M.R.]

2 5220.1100 LEGAL REPRESENTATION.

3 When an employee or insurer is represented by an attorney
4 and if a notice of representation has not already been filed,
5 the attorney shall notify the commissioner as provided in part
6 1415.0800. The attorney will receive notices as provided in
7 part 1415.0700. The value of rehabilitation services shall not
8 be used in the calculation of attorney's fees. The legal fees
9 shall be calculated in the manner provided by law. An attorney
10 who has so advised the commissioner will be notified of any
11 proceedings, and will receive rehabilitation reports as provided
12 by part 5220.1802, subpart 3.

13 5220.1250 ROLES OF REGISTERED REHABILITATION PROVIDERS.

14 An entity may be approved to provide rehabilitation
15 services either as a registered rehabilitation vendor or as a
16 qualified rehabilitation consultant firm. An individual may be
17 approved to provide rehabilitation services as a qualified
18 rehabilitation consultant intern or, in cases of completion of
19 internship and registration renewal, as a qualified
20 rehabilitation consultant.

21 A qualified rehabilitation consultant and a qualified
22 rehabilitation consultant intern are approved for the purpose of
23 developing, administering, and implementing a rehabilitation
24 plan, including the provision of rehabilitation services, in
25 accordance with Minnesota Statutes, chapter 176 and the rules
26 adopted to administer it.

27 A qualified rehabilitation consultant firm is approved for
28 the purpose of employing qualified rehabilitation consultants,
29 qualified rehabilitation consultant interns, and other
30 professional staff as provided in part 5220.1600.

31 A registered rehabilitation vendor is approved for the
32 purpose of providing the workers' compensation rehabilitation
33 services of job development and job placement under an approved
34 rehabilitation plan.

35 The roles of vendor and consultant are distinct and,

1 therefore, a registered rehabilitation vendor or its employee
2 may not be, or function as, a qualified rehabilitation
3 consultant firm, a qualified rehabilitation consultant, or a
4 qualified rehabilitation consultant intern. Nor may a qualified
5 rehabilitation consultant firm, qualified rehabilitation
6 consultant, or qualified rehabilitation consultant intern be or
7 function as a registered rehabilitation vendor or as the agent
8 of a vendor.

9 The distinction of roles between registered rehabilitation
10 vendor and qualified rehabilitation consultant means the
11 following: A registered rehabilitation vendor and its employees
12 may provide job development and job placement services under an
13 approved rehabilitation plan for any qualified employee; a
14 qualified rehabilitation consultant firm and its employees may
15 provide job development and job placement services only in cases
16 for which a qualified rehabilitation consultant or qualified
17 rehabilitation consultant intern employed by that firm is the
18 assigned qualified rehabilitation consultant.

19 There shall be no ownership or financial relationships of
20 any kind between any registered rehabilitation vendor and
21 qualified rehabilitation consultant firm, qualified
22 rehabilitation consultant, or qualified rehabilitation
23 consultant intern.

24 5220.1400 QUALIFYING CRITERIA FOR REHABILITATION CONSULTANT.

25 [For text of subpart 1, see M.R.]

26 Subp. 2. Certification and education. A qualified
27 rehabilitation consultant shall possess at least one of the
28 following credentials:

29 A. a baccalaureate degree, together with
30 certification by the Board of Rehabilitation Certification as a
31 certified rehabilitation counselor or a certified insurance
32 rehabilitation specialist;

33 B. a baccalaureate degree together with certification
34 by the Association of Rehabilitation Nurses as a certified
35 rehabilitation registered nurse; or

1 C. a baccalaureate degree together with certification
2 by the American Occupational Therapy Certification Board as a
3 registered occupational therapist. Certification by the
4 American Occupational Therapy Certification Board shall have
5 been held for five years prior to application.

6 Persons who were qualified rehabilitation consultants on
7 June 15, 1987, must have obtained the certification described in
8 item A or B by June 15, 1989. If a qualified rehabilitation
9 consultant lacks two years or more of the experience required to
10 meet the certifying body's minimum experience or internship
11 requirement, the time for becoming certified shall equal the
12 time remaining for completion of the certifying body's minimum
13 experience or internship requirement. If a qualified
14 rehabilitation consultant must also obtain a baccalaureate
15 degree to meet the certifying body's minimum education
16 requirements, the qualified rehabilitation consultant shall have
17 an additional four years to become certified. If an examination
18 is required for certification, the time allowed for
19 certification under this part must include two scheduled
20 examinations which the applicant is eligible to take.

21 Subp. 3. **Qualified rehabilitation consultant intern.** The
22 purpose of internship is to provide a supportive, structured
23 period of professional supervision and case review following
24 registration. An individual who meets the requirements of
25 subpart 2, item A, B, or C, may be registered as a qualified
26 rehabilitation consultant intern. If an individual meets the
27 requirements of subpart 2, item A or B, except for obtaining
28 certification, that individual may be registered as a qualified
29 rehabilitation consultant intern by documenting how the
30 certification will be obtained within three years from the date
31 of registration. A qualified rehabilitation consultant intern
32 must complete an introductory training session sponsored by the
33 department within six months of approval of registration. A
34 qualified rehabilitation consultant intern shall not be a solo
35 practitioner.

36 The failure to comply with the standards of performance and

1 professional conduct contained in parts 5220.1800 and 5220.1801
2 or the violation of any of the provisions of Minnesota Statutes,
3 chapter 176, parts 5220.0100 to 5220.1900, or orders issued
4 under the statutes or rules constitute grounds for denial of
5 registration as a qualified rehabilitation consultant or
6 qualified rehabilitation consultant intern under Minnesota
7 Statutes, section 176.102, subdivision 3, discipline under
8 Minnesota Statutes, section 176.102, subdivision 3a, or delay of
9 completion of internship. The intern may appeal the decision of
10 the commissioner denying registration as provided in part
11 5220.1500, subpart 2.

12 In cases where an intern has been supervised by a qualified
13 rehabilitation consultant who leaves the organization with which
14 the intern has been employed and no other qualified
15 rehabilitation consultant is available to supervise the intern,
16 the intern may, with the prior written approval of the
17 commissioner, sign all required documents in the capacity of a
18 qualified rehabilitation consultant for a period of time deemed
19 appropriate by the commissioner. Past performance and overall
20 experience shall be taken into consideration for this approval.

21 Subp. 3a. Commissioner's approval for supervised
22 internship. When the intern is registered, the intern's
23 employer shall provide the commissioner with the name of the
24 qualified rehabilitation consultant under whose direct
25 supervision the intern will work, and shall submit a plan of
26 supervision addressing the following items: the evaluation
27 methods used; frequency of supervisory reviews and
28 communication; procedures for dealing with administrative
29 conferences or hearings and file reviews; procedures for review
30 of the rules of practice; and procedures for review of progress
31 toward obtaining certification, including the date the intern
32 will be eligible to take the certification examination. "Direct
33 supervision" means that the supervisor is directly responsible
34 for the rehabilitation work on any case, and for monitoring
35 progress toward the certification required by subpart 2. The
36 intern supervisor need not maintain an office at the same

1 location as the intern. The supervisor shall cosign all written
2 work being done by the intern. There shall be no billing by the
3 supervisor for these supervisory duties. The supervisor shall
4 attend all administrative conferences with the intern and shall
5 arrange for training as required by the commissioner. The
6 intern shall be designated as an "intern" on all documents
7 bearing the name of the intern.

8 Subp. 4. Completion of internship. The burden of proof of
9 experience shall be on the applicant. The intern must work at
10 least one year full time as an intern in the rehabilitation of
11 injured workers under Minnesota Statutes, section 176.102.
12 Evidence of experience shall include documentation of a history
13 of employment in a position of vocational rehabilitation. For
14 purposes of this subpart, "full-time employment" is consistent
15 with the employment experience requirement of the certifying
16 body chosen by the qualified rehabilitation consultant intern.
17 Where there is no definition of full-time employment by the
18 certifying body chosen by the qualified rehabilitation
19 consultant intern, full-time employment means a minimum of 37
20 hours per week during a 52-week period. Any part-time
21 employment will be prorated based on this definition. The
22 intern may make application for completion of internship when
23 the minimum requirements in subparts 2 to 5 have been met.

24 The commissioner's action on the intern's application for
25 completion of internship shall be based in part on the report of
26 the qualified rehabilitation consultant intern supervisor about
27 the competence of the intern to practice independently. The
28 commissioner shall also consider information about the intern's
29 professional competence including that obtained in the course of
30 any investigation about professional conduct, and on any
31 substantiated complaints regarding professional conduct.
32 "Substantiated complaints" for purposes of denial of completion
33 of internship means there has been a stipulation or order of
34 discipline.

35 Subp. 5. General criteria. All persons who are qualified
36 rehabilitation consultants shall be self-employed or employed by

1 a single organization that is approved for the employment of
2 qualified rehabilitation consultants as a qualified
3 rehabilitation consultant firm or an employer or insurer.
4 Qualified rehabilitation consultants must be available to
5 clients, and for administrative conferences or hearings during
6 normal business hours. A qualified rehabilitation consultant
7 employed by an employer or insurer that is not registered as a
8 qualified rehabilitation consultant firm is permitted to provide
9 rehabilitation consultation and services only for the claims
10 being handled by the entity by whom the consultant is employed.
11 A qualified rehabilitation consultant shall notify the
12 department immediately upon changing employment. Notification
13 shall include the name of the former place of employment, the
14 name, address, and telephone number of the new place of
15 employment and the effective date of new employment.

16 Effective January 1, 1995, both registration and renewal of
17 registration shall require current membership in a professional
18 rehabilitation organization which provides in its constitution
19 or bylaws for a process of review by peers of its members'
20 professional conduct and services.

21 Registration shall require Minnesota residency. The
22 commissioner may grant an exception for persons who reside no
23 more than 100 miles by road from the Minnesota border. Any such
24 qualified rehabilitation consultant agrees, as an additional
25 condition of registration, to appear at any administrative
26 conference or hearing when requested, in the same manner as if
27 subpoenaed. A qualified rehabilitation consultant shall notify
28 the department immediately upon any change in residency to or
29 from Minnesota.

30 5220.1500 PROCEDURE FOR REGISTRATION AS QUALIFIED REHABILITATION
31 CONSULTANT.

32 Subpart 1. Application to become a qualified
33 rehabilitation consultant intern. An individual desiring to
34 receive approval and registration as a qualified rehabilitation
35 consultant intern shall submit to the commissioner, a complete

1 application consisting of the following:

2 [For text of items A to F, see M.R.]

3 G. a plan of supervision as required by part
4 5220.1400, subpart 3a.

5 Qualified rehabilitation consultant applicants employed by
6 the vocational rehabilitation unit of the Department of Labor
7 and Industry are exempt from payment under this subpart.

8 [For text of subps 1a and 2, see M.R.]

9 Subp. 3. Registration number and renewal. The
10 commissioner shall assign a registration number to each
11 registered rehabilitation provider.

12 Registration must be renewed annually. A rehabilitation
13 provider shall request renewal on a form prescribed by the
14 commissioner. Application for renewal is due 60 days before
15 expiration of registration, accompanied by the appropriate
16 registration fee. Registration renewal applications that are
17 not complete, are not accompanied by the registration renewal
18 fee, or are not accompanied by documentation of certification or
19 satisfactory documentation of continuing education will be
20 returned to the applicant for completion. Completed
21 registration renewal applications received later than the due
22 date shall be assessed a \$25 late fee. Registration renewal
23 applications received more than 30 days after the due date shall
24 be assessed an additional \$10 per day late fee for each day
25 after the request is 30 days late. No late fee in excess of
26 \$125 may be assessed.

27 Qualified rehabilitation consultant's employed by the
28 vocational rehabilitation unit of the Department of Labor and
29 Industry are exempt from payment under this subpart.

30 Failure to meet the standards of performance and
31 professional conduct contained in parts 5220.1800 and 5220.1801,
32 or the violation of any provisions of Minnesota Statutes,
33 chapter 176, parts 5220.0100 to 5220.1900, or orders issued
34 under the statutes or rules, constitute grounds for denial of
35 registration renewal as a qualified rehabilitation consultant or
36 qualified rehabilitation consultant intern under Minnesota

1 Statutes, section 176.102, subdivision 3, discipline under
2 Minnesota Statutes, section 176.102, subdivision 3a, or delay of
3 completion of internship. The decision of the commissioner may
4 be appealed as provided in subpart 2.

5 Service and fee schedules shall be filed with the
6 commissioner whenever there is a change and no less than once
7 each calendar year at the time of renewal of registration. This
8 filing shall not constitute an approval or disapproval of the
9 services and fees.

10 Subp. 3a. Continuing education. To retain registration, a
11 qualified rehabilitation consultant or qualified rehabilitation
12 consultant intern shall submit satisfactory documentation of
13 current certification required by part 5220.1400, subpart 2. A
14 qualified rehabilitation consultant or qualified rehabilitation
15 consultant intern who is not yet certified shall submit
16 satisfactory documentation of continuing education pertinent to
17 the workers' compensation rehabilitation field equivalent to 20
18 contact hours each year at the time registration is renewed.
19 Continuing education includes, but is not limited to, the
20 following:

21 A. postsecondary course work in rehabilitation
22 related fields, including vocational rehabilitation, medical
23 rehabilitation, psychology of disability, and occupational
24 safety;

25 B. publicly or privately sponsored training in
26 rehabilitation related fields, including vocational
27 rehabilitation, medical rehabilitation, psychology of
28 disability, and occupational safety;

29 C. continuing legal education courses about workers'
30 compensation law; and

31 D. rehabilitation related training sponsored and
32 approved by the commissioner.

33 Satisfactory documentation shall include legible
34 certificates of attendance bearing the name of the participant
35 that are signed and dated by the sponsoring institution or
36 organization. Receipts for tuition are not acceptable as

1 satisfactory documentation of attendance.
 2 Continuing education units must be obtained in the 12-month
 3 period immediately preceding the date on which registration
 4 renewal forms are due.

5 The department of labor and industry's ~~annual~~
 6 rehabilitation provider update sessions when held are mandatory
 7 for all rehabilitation providers.

8 Nonattendance at the mandatory orientation or update
 9 sessions is prohibited conduct for rehabilitation providers, but
 10 may be allowed only for emergency situations and must be
 11 reported to the commissioner.

12 [For text of subp 4, see M.R.]

13 Subp. 5. **Monitoring.** The commissioner shall review the
 14 professional activities and services of rehabilitation providers
 15 to determine if they are reasonable and comply with the
 16 standards of performance and professional conduct contained in
 17 parts 5220.1800 and 5220.1801, the provisions of Minnesota
 18 Statutes, chapter 176, parts 5220.0100 to 5220.1900, and orders
 19 issued under the statutes or rules.

20 [For text of subp 6, see M.R.]

21 5220.1600 PROCEDURE FOR APPROVAL AS QUALIFIED REHABILITATION
 22 CONSULTANT FIRM.

23 Subpart 1. **Criteria.** The qualified rehabilitation
 24 consultant firm shall be licensed to do business in Minnesota
 25 and shall maintain an administrative office within the state.
 26 Each office of the qualified rehabilitation consultant firm that
 27 provides services to injured employees under Minnesota Statutes,
 28 chapter 176, shall be listed on the application described in
 29 subpart 2 and shall employ on the premises at least one
 30 qualified rehabilitation consultant or qualified rehabilitation
 31 consultant intern.

32 The management staff shall consist of at least one employee
 33 who is registered as a qualified rehabilitation consultant.

34 At least 60 percent of qualified rehabilitation consultant
 35 firm employees providing rehabilitation services to qualified

1 employees shall be qualified rehabilitation consultants or
2 qualified rehabilitation consultant interns.

3 Any firm employing four or fewer full-time qualified
4 rehabilitation consultants or qualified rehabilitation
5 consultant interns may employ up to two employees who are not
6 qualified rehabilitation consultants or qualified rehabilitation
7 interns who may, under the direct supervision of the assigned
8 qualified rehabilitation consultant or qualified rehabilitation
9 consultant intern, provide the services of job analysis, job
10 seeking skills training, job development, and job placement.
11 However, as restricted by part 5220.1250, employees who are not
12 qualified rehabilitation consultants or qualified rehabilitation
13 consultant interns may provide these prescribed services only in
14 cases for which a qualified rehabilitation consultant or
15 qualified rehabilitation consultant intern employed by the same
16 firm is the assigned qualified rehabilitation consultant. Any
17 branch office openings or closings shall be reported to the
18 department within two weeks of the occurrence. Any change of
19 staff who provide direct services to injured workers under a
20 rehabilitation plan or of staff who directly supervise those
21 persons shall be reported to the department within two weeks of
22 the change.

23 Subp. 2. **Application.** A private or public entity desiring
24 to be approved as a qualified rehabilitation consultant firm
25 shall submit to the commissioner a complete application
26 consisting of the following:

27 [For text of items A to C, see M.R.]

28 D. the annual registration application fee of \$200
29 per firm.

30 The vocational rehabilitation unit of the Department of
31 Labor and Industry is exempt from payment under this subpart.

32 [For text of subps 3 to 5, see M.R.]

33 5220.1800 STANDARDS OF PERFORMANCE.

34 Monitoring and supervision of rehabilitation providers by
35 the commissioner shall include an assessment of rehabilitation

1 provider professional competence and effectiveness of service
2 rehabilitation services based upon substantial noncompliance
3 with prevailing norms of the profession to be established by
4 rule from data collected by the department regarding duration of
5 service, cost of service, and case outcomes.

6 In addition, the standards of conduct described in parts
7 5220.1801 to 5220.1806 which establish minimum standards
8 concerning the professional activities and services of
9 rehabilitation providers shall be taken into account.

10 The administration of rehabilitation provider discipline
11 under Minnesota Statutes, section 176.102, subdivision 3a, will
12 also be based upon the standards in parts 5220.1801 to
13 5220.1806, as well as on adherence to Minnesota Statutes,
14 chapter 176, rules adopted to administer it, and orders of the
15 commissioner or a compensation judge.

16 5220.1801 PROFESSIONAL CONDUCT.

17 [For text of subpart 1, see M.R.]

18 Subp. 2. **Assigned qualified rehabilitation consultant.**

19 Only the assigned qualified rehabilitation consultant, or a
20 qualified rehabilitation consultant designated by the assigned
21 qualified rehabilitation consultant to function in an advisory
22 capacity to the assigned consultant, shall be involved at any
23 given time in the employee's rehabilitation plan, except as
24 stated in subparts 5~~7~~-6~~7~~ and 7. The assigned qualified
25 rehabilitation consultant shall advise the insurer before
26 involving or requesting advisory services from any other
27 qualified rehabilitation consultant. No qualified
28 rehabilitation consultant or qualified rehabilitation consultant
29 firm shall provide rehabilitation services to a case that has an
30 assigned qualified rehabilitation consultant employed by another
31 qualified rehabilitation consultant firm. This subpart shall
32 not apply to a qualified rehabilitation consultant acting on
33 behalf of the reinsurance association in a monitoring or
34 advisory capacity on a reinsurance claim file.

35 [For text of subp 4a, see M.R.]

1 Subp. 5. Evaluation of employee by other than assigned
2 qualified rehabilitation consultant. Except as provided in
3 subpart 7, where retraining has been recommended, or in
4 Minnesota Statutes, section 176.102, subdivision 13 as ordered,
5 a rehabilitation provider is prohibited from performing an
6 independent evaluation of an employee at any time unless
7 litigation pursuant to part 1415.0100, is pending. If that
8 litigation is pending, a qualified rehabilitation consultant who
9 is not the assigned qualified rehabilitation consultant may
10 perform an evaluation of the employee at the request of one of
11 the parties solely for the purpose of the proceeding.

12 Subp. 6. [See repealer.]

13 [For text of subps 7 to 10, see M.R.]

14 Subp. 11. Impaired objectivity. A rehabilitation provider
15 shall not use alcoholic beverages, medication, or controlled
16 substances in a manner that impairs the provider's ability to
17 perform the rehabilitation services.

18 Rehabilitation providers shall not use a professional
19 relationship to further personal, religious, political, or
20 financial interests, although adherence to ethical norms shall
21 not be construed as personal or religious interest.

22 A rehabilitation provider must not undertake or continue a
23 professional relationship in which the objectivity of the
24 provider is or would be impaired due to a familial, social,
25 emotional, economic, supervisory, or political interpersonal
26 relationship.

27 The rehabilitation provider shall disclose any potential
28 conflicts of interest to the parties to the case and their
29 attorneys.

30 Adjudication of a rehabilitation provider as mentally
31 incompetent, mentally ill, chemically dependent, or dangerous to
32 the public by a court in any state is grounds for suspension or
33 revocation of registration.

34 5220.1802 COMMUNICATIONS.

35 [For text of subps 1 and 2, see M.R.]

1 Subp. 3. Copies of reports and records. The assigned
2 qualified rehabilitation consultant shall file all required
3 rehabilitation reports with the commissioner, and provide copies
4 to all parties and their attorneys as the reports are created by
5 the consultant. The qualified rehabilitation consultant shall
6 also provide a copy of required progress records to any party
7 and their attorney upon that party's request. The qualified
8 rehabilitation consultant may not charge for the initial copy or
9 photocopy of required rehabilitation reports or required
10 progress records. If additional copies are requested by any
11 party, the qualified rehabilitation consultant is entitled to
12 reasonable compensation for cost from the requesting party. A
13 dispute about cost is not a basis for a provider to withhold
14 required reports or records when requested.

15 The requesting party shall pay for reasonable costs
16 incurred by a rehabilitation provider in creating a report not
17 required by rule or requested by the commissioner or
18 compensation judge.

19 [For text of subp 4, see M.R.]

20 Subp. 4a. Transfer of information. Whenever there is a
21 change of assigned qualified rehabilitation consultants or
22 consultant firms, the former qualified rehabilitation consultant
23 firm shall cooperate in transferring to the new assigned
24 qualified rehabilitation consultant or qualified rehabilitation
25 consultant firm all data, required rehabilitation reports,
26 required progress records, and incurred rehabilitation cost
27 information along with other relevant information within 15 days
28 from the receipt of notice that a new consultant is assigned
29 under part 5220.0710 and Minnesota Statutes, section 176.102.
30 The former qualified rehabilitation consultant firm may not
31 charge a party for the transfer of information to the new
32 assigned qualified rehabilitation consultant or qualified
33 consultant firm.

34 [For text of subps 5 to 11, see M.R.]

35 5220.1803 RESPONSIBILITIES.

1 [For text of subps 1 to 2, see M.R.]

2 Subp. 5. Reporting requirements. The assigned qualified
3 rehabilitation consultant shall file with the commissioner, by
4 attaching to all rehabilitation plans, an initial evaluation
5 narrative report about the employee that includes the following
6 information in summary fashion: medical status, vocational
7 history, educational history, social history, relevant economic
8 factors, transferable skills, employment barriers, and
9 recommendations. The qualified rehabilitation consultant shall
10 file additional progress summaries, if requested by the
11 commissioner.

12 The assigned qualified rehabilitation consultant shall
13 periodically report progress and case activity in writing to the
14 parties at reasonable intervals or as requested by the parties.

15 The rehabilitation provider registration number assigned by
16 the commissioner shall be on all reports submitted by the
17 rehabilitation provider.

18 The assigned qualified rehabilitation consultant shall
19 maintain individual employee files containing required
20 rehabilitation reports and required progress records about an
21 employee's case and shall provide copies to the commissioner, a
22 compensation judge, or the parties at their request or as
23 required by rule. For the purpose of Minnesota Statutes,
24 chapter 176, and parts 5220.0100 to 5220.1900, individual
25 employee files containing all required rehabilitation reports
26 and required progress records must be maintained by the
27 qualified rehabilitation consultant firm for five years after
28 the date of file closure. This requirement is in addition to
29 and does not otherwise change or alter any other data retention
30 time period required by law.

31 The assigned qualified rehabilitation consultant must
32 provide the commissioner with any other requested pertinent
33 information about a qualified employee's rehabilitation for
34 purposes of rehabilitation monitoring by the department.

35 5220.1805 BUSINESS PRACTICES.

1 All rehabilitation providers shall abide by the following
2 rules concerning a provider's business practices:

3 A. Rehabilitation providers shall adhere to all
4 federal, state, and local laws.

5 [For text of items B to H, see M.R.]

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

9 5220.1806 DISCIPLINARY ACTION.

10 Subpart 1. Discipline. A rehabilitation provider is
11 subject to disciplinary action, including a fine as provided by
12 statute, suspension, and revocation of registration. Failure to
13 comply with the standards of performance and professional
14 conduct contained in parts 5220.1800 and 5220.1801 or the
15 violation of any of the provisions of Minnesota Statutes,
16 chapter 176, parts 5220.0100 to 5220.1900, or orders issued
17 under the statutes or rules constitute grounds for discipline.

18 Subp. 2. Complaints. The commissioner shall review the
19 activities of rehabilitation providers. Complaints about
20 activities or services of rehabilitation providers relating to
21 noncompliance with laws, rules, or orders shall be made in
22 writing to the commissioner. A complaint may be submitted by
23 any party who becomes aware of a violation, including designees
24 of the commissioner, administrative law judges, and presiding
25 officials at judicial proceedings.

26 If a rehabilitation provider fails to comply with the
27 standards of performance and professional conduct contained in
28 parts 5220.1800 and 5220.1801 or any of the provisions of
29 Minnesota Statutes, chapter 176, parts 5220.0100 to 5220.1900,
30 or orders issued under the statutes or rules, a rehabilitation
31 provider having knowledge of the violation must so advise the
32 commissioner.

33 Subp. 3. Review and investigation. The commissioner shall
34 investigate all complaints to determine whether there has been a
35 violation of the standards of performance and professional

1 conduct contained in parts 5220.1800 and 5220.1801 or any of the
2 provisions of Minnesota Statutes, chapter 176, parts 5220.0100
3 to 5220.1900, or orders issued under the statutes or rules. If
4 the matter is outside the jurisdiction of the commissioner, the
5 commissioner may refer the matter to a forum or agency that has
6 jurisdiction.

7 If an investigation indicates that discipline is warranted,
8 the commissioner shall begin a contested case for disciplinary
9 action under Minnesota Statutes, section 176.102, subdivision
10 3a, and the Minnesota Administrative Procedure Act. The report
11 of the administrative law judge shall be made to the
12 rehabilitation review panel which shall make the determination
13 on disciplinary action.

14 If the commissioner determines that discipline is not
15 warranted, but if the facts and issues involved warrant
16 instruction of the provider, the commissioner shall issue the
17 instruction in writing. The commissioner shall notify the
18 complaining party of the disposition of the case.

19 [For text of subps 4 to 6, see M.R.]

20 5220.1900 REHABILITATION SERVICE FEES AND COSTS.

21 [For text of subpart 1, see M.R.]

22 Subp. 1a. **Billing.** All rehabilitation provider billings
23 shall be on the vocational rehabilitation invoice prescribed by
24 the commissioner containing substantially the following:

25 A. identifying information on the insurer,
26 rehabilitation providers, employee and employer, including the
27 insurer file number;

28 B. information about the cost and duration of the
29 rehabilitation plan, including the date the plan was filed and
30 cost-to-date amounts billed by the qualified rehabilitation
31 consultant firm, job placement vendor, and previous qualified
32 rehabilitation consultant firms and job placement vendors;

33 C. a listing of the services billed, including date
34 of service, service description, service category code, time
35 units, mileage, and expenses. Service category codes are

1 available from the department upon request; and

2 D. a summary of the charges billed, including a total
3 of the professional services provided, the professional hourly
4 rate, a total of the nonprofessional services provided, the
5 nonprofessional hourly rate, the number of miles driven, the
6 mileage rate, and the total expenses.

7 Sample vocational rehabilitation invoice forms are
8 available from the department upon request. Billing information
9 on job placement costs shall be provided to the qualified
10 rehabilitation consultant who shall report those costs on a
11 monthly basis on the vocational rehabilitation invoice. The job
12 placement vendor shall bill the insurer directly.

13 Subp. 1b. Fees. Fees for rehabilitation services for the
14 period from the effective date of this part to September 30,
15 1993, shall not be increased beyond the level of the hourly
16 rates on file with the commissioner as of July 15, 1992. Fees
17 may be increased annually beginning October 1, 1993, but any
18 annual increase is limited by the annual adjustment under
19 Minnesota Statutes, section 176.645.

20 Subp. 1c. Consultants. When billing on an hourly basis
21 for the services of qualified rehabilitation consultants, a
22 qualified rehabilitation consultant or qualified rehabilitation
23 consultant firms-that-bill firm shall bill at an hourly rate not
24 to exceed \$65 per hour as adjusted under subpart 1b. A
25 rehabilitation provider shall bill one-half of the hourly rate
26 for travel and wait time. Travel time shall be prorated as
27 outlined in part 5220.1805, item E.

28 Subp. 1d. Interns. When billing on an hourly basis, the
29 upper billing limit for qualified rehabilitation consultant
30 interns shall be \$10 per hour less than the hourly rate charged
31 for services provided by qualified rehabilitation consultants
32 employed by that qualified rehabilitation consultant firm.

33 Subp. 1e. Job development and placement services. Whether
34 provided by registered rehabilitation vendors or qualified
35 rehabilitation consultant firms, job development and job
36 placement services, when billed on an hourly basis, shall be

1 billed at an hourly rate not to exceed \$50 per hour as adjusted
2 under subpart 1b.

3 Subp. 1f. **Fee reduction.** Billing for services by the
4 qualified rehabilitation consultant or qualified rehabilitation
5 consultant intern based upon an hourly rate shall be reduced by
6 \$10 per hour when:

7 A. the duration of the rehabilitation case exceeds 39
8 weeks from the date of the first in-person visit between an
9 assigned qualified rehabilitation consultant and the employee;
10 or

11 B. the costs of rehabilitation services billed by the
12 qualified rehabilitation consultant have exceeded \$3,500,
13 whichever comes first. Payment exceeding that permitted by this
14 rule is prohibited.

15 Subp. 1g. **Payment.** As soon as reasonably possible, and no
16 later than 30 calendar days after receiving the rehabilitation
17 provider's bill for rehabilitation services, the employer or
18 insurer shall pay the charge or any portion of the charge that
19 is not denied, deny all or a part of the charge stating the
20 specific service charge and the reason it is excessive or
21 unreasonable, or specify the additional data needed, with
22 written notification to the rehabilitation provider.

23 [For text of subp 2, see M.R.]

24 Subp. 6a. **Billing limits on qualified rehabilitation**
25 **consultant services.** When a rehabilitation provider other than
26 a qualified rehabilitation consultant is providing and billing
27 for job development or job placement services pursuant to an
28 approved rehabilitation plan, the qualified rehabilitation
29 consultant shall limit the qualified rehabilitation consultant's
30 billing to no more than two hours in any 30-calendar day
31 period. Billing beyond this limit will require specific
32 approval of the parties or a determination by the department or
33 a compensation judge.

34 Subp. 6b. **Plans; exceptions.** The qualified rehabilitation
35 consultant shall bill no more than eight hours for a
36 rehabilitation consultation as described in Minnesota Statutes,

1 section 176.102, subdivision 4, and parts 5220.0100, subpart 26,
 2 and the development, preparation, and filing of a rehabilitation
 3 plan as described in Minnesota Statutes, section 176.102,
 4 subdivision 4, and part 5220.0410. If conditions exist that
 5 necessitate traveling over 50 miles to visit the employee,
 6 employer, or health care provider, or an unusually difficult
 7 medical situation is documentable, billing beyond this limit is
 8 allowed upon the express consent of the parties or a
 9 determination by the department or compensation judge.

10 Subp. 7. Case activities requiring insurer consent for
 11 payment. The rehabilitation provider must obtain the consent of
 12 the insurer before billing for the following case activities,
 13 however, the presence or absence of consent shall not preclude
 14 the commissioner or a compensation judge from determining the
 15 reasonable value or necessity of these case activities:

16 [For text of items A to G, see M.R.]

17 H. before a determination of eligibility, services
 18 rendered when a rehabilitation waiver has been requested and was
 19 not denied or when the ~~employer-or~~ insurer disputes the
 20 employee's eligibility for rehabilitation services;

21 [For text of items I to P, see M.R.]

22 Subp. 8. Disputes. In the event of a dispute about the
 23 reasonableness and necessity or cost of a rehabilitation
 24 service, the insurer or a rehabilitation provider may make a
 25 request for a determination by the commissioner or a
 26 compensation judge of reasonable costs and necessity of
 27 services. Such a request may be made by filing a request for
 28 assistance according to Minnesota Statutes, chapter 176 or part
 29 5220.0950.

30 [For text of subp 9, see M.R.]

31 5220.2510 SCOPE AND PURPOSE.

32 Parts 5220.2510 to 5220.2950 together with parts 5220.0100
 33 to 5220.1900 govern all workers' compensation matters before the
 34 commissioner of the Department of Labor and Industry except
 35 matters which are governed by the joint rules of practice of the

1 Workers' Compensation Division and the Office of Administrative
2 Hearings in parts 1415.0100 to 1415.3600.

3 5220.2660 REHABILITATION CONFERENCES.

4 Subpart 1. **Governing rules.** Administrative conferences
5 under Minnesota Statutes, section 176.102, are governed by parts
6 5220.0100 to 5220.1900, 5220.2610, and this part.

7 [For text of subps 2 to 5, see M.R.]

8 5220.2780 FAILURE TO PAY UNDER ORDER OR PROVIDE REHABILITATION;
9 PENALTY.

10 Subpart 1. **Basis.** Where payment of compensation is not
11 made within 14 days following an order as required by Minnesota
12 Statutes, section 176.221, subdivisions 6a and 8, the division
13 may assess the penalties provided in Minnesota Statutes, section
14 176.221, subdivisions 3 and 3a. Where rehabilitation services
15 are not provided as required by Minnesota Statutes, sections
16 176.102, 176.221, subdivision 6a, and part 5220.0410, subpart 2,
17 the division may assess the penalty provided in Minnesota
18 Statutes, section 176.221, subdivision 3a.

19 [For text of subp 2, see M.R.]

20 Subp. 3. **Payable to.** The penalty is payable to the
21 assigned risk safety account.

22

23 REPEALER. Minnesota Rules, parts 5220.0100, subpart 2;
24 5220.0110, subparts 1, 2, 3, and 4; ~~5220.0710~~ 5220.0750,
25 subpart 4; 5220.1801, subpart 6; and 5220.1910, are repealed.