

ALERT! ALERT! ALERT!

June 1, 2011

TO: All Carriers, Self-Insurers, Third Party Administrators, Qualified Rehabilitation Providers and Other Interested Parties

FROM: Reginald L. Watkins, Chief
Bureau of Rehabilitation and Reemployment Services

RE: Rehabilitation and Reemployment Services Bulletin

The following are changes necessitated by Senate Bill 2150 and the fiscal year 2011-2012 state budget.

I. ELIMINATION OF QUALIFIED REHABILITATION PROVIDER CERTIFICATION

Providers of rehabilitation in workers' compensation cases no longer need to be certified by the state or listed in a provider directory. The Bureau will no longer certify rehabilitation providers. Under the revised statute, a rehabilitation provider must be a Certified Rehabilitation Registered Nurse, a Certified Rehabilitation Counselor, a Certified Case Manager, a Certified Disability Management Specialist, a Certified Vocational Evaluator, or a Certified Occupational Health Nurse.

Therefore, there is no longer a Directory or a \$25 biennial fee paid to the state. Rules to be repealed by the statutory change are 6A-22.001(9), 6A-22.001 (10), 6A-22.001 (13), 6A-22.001 (14), 6A-22.002, and 6A-22.0031. The DWC-96 form is eliminated.

The Bureau has no regulatory authority to determine who is or is not a rehabilitation provider. Neither does the Bureau have any regulatory authority over improper practices performed by rehabilitation providers who are hired by a carrier or an injured employee.

The requirement that expert testimony on rehabilitation in workers' compensation cases can only be given by a qualified rehabilitation provider was stricken from the statute.

The administrative rules will need to be revised in due course to remove references to "qualified rehabilitation providers."

II. REEMPLOYMENT STATUS REVIEWS AND REPORTS

With some revision, reemployment status review reports continue to be required from the carrier and must still be given to the injured employee and the Bureau. Under the statutory revision, the report will need to include an identification of the carrier and the injured employee, the carrier claim number, and the Office of the Judge of Compensation Claims case number, if there is such a case.

Under the statutory revisions, there is no rule making authority for the Bureau to mandate the format of the report. Therefore, rule 6A-22.003 is to be repealed and the form DWC-22 is eliminated. The electronic DWC-22 will be removed from the Bureau's web portal, although the web portal will remain capable of collecting scanned reemployment status review reports that are not electronic forms.

III. REEMPLOYMENT ASSESSMENTS

The rehabilitation provider will no longer send reemployment assessments to the Bureau. If the carrier refers a case to the Bureau, the carrier shall provide to the Bureau a copy of any reemployment assessment it possesses.

IV. CARRIER MONITORING BY THE BUREAU

The Bureau will no longer regulate carrier rehabilitation activities. The DWC-21 is automatically eliminated and will be removed from the Bureau web portal. There will be no bureau policing of carrier rehabilitation practices and no penalties for a carrier not observing the statutory mandates regarding rehabilitation. The Bureau will not perform carrier audits or otherwise collect data from carriers, other than the case status review reports, reemployment assessments, or reemployment plans in connection with carrier referrals of cases to the Bureau. The programming for the web portal is a matter of public record. Anyone may request a copy of the programming as a matter of public records request.

The following rules are to be repealed by the statutory revisions: 6A-22.010 (1), (3), (6), (9), (10), (11), (12), (13).

V. NOTIFICATION OF INJURED EMPLOYEE BY CARRIER OF BENEFITS AVAILABLE FROM THE BUREAU

The rule making authority for the Bureau to mandate the letter sent by the carrier to the injured employee informing the injured employee of the Bureau's services is to be repealed. This is to repeal rule 6A-22.004. The carrier must still notify the injured employee of the availability of training and education benefits. The timing and format of that notification is left to the carrier's discretion.

VI. VOCATIONAL EVALUATIONS

The definition of vocational evaluation remains in the statute. That definition does not define who may do a vocational evaluation. The Bureau no longer has rule-making authority to define a vocational evaluation. The Bureau is given rulemaking authority to establish training and education standards pertaining to eligibility, course curricula and duration, and associated costs. Until this is done, the Bureau operates only under the definition of vocational evaluation in the statute.

VII. RE-TRAINING AND OTHER VOCATIONAL SERVICES PROVIDED BY THE BUREAU

Injured employee entitlement to re-training or other vocational services from the Bureau remains the same. The Bureau's web portal will continue to collect documents associated with this process. The Bureau will screen all cases for which a DWC-23 is received, and, if enough information is available, will perform an assessment on the case under the administrative rule.

The budget for re-training, other vocational services, and evaluations (otherwise known as "purchased client services") was cut by 2/3 in the fiscal year 2011-2012 budget. Funds for the fiscal year 2010-2011 budget have been (or are expected to be) fully expended, which means that there will need to be absolute cut backs in purchased client services of 2/3 in the coming fiscal year. The Bureau will provide re-training, other vocational services, and evaluations in the coming fiscal year, as possible. When funding is not available, the Bureau will refer cases to other appropriate agencies for the provision of services.

VIII. RULE REVISIONS

The Bureau will first do a rule revision to make the administrative rules conform to the revised statute and repeal rules as required. After that is done, the Bureau will look at further rule revisions necessary to otherwise operate under the revised statute and budget.