

Meeting minutes: Rehabilitation Review Panel

Date: Jan. 4, 2024

Minutes prepared by: Katrina Namad

Location: Hybrid – Minnesota Room at DLI, 443 Lafayette Road N., St. Paul, MN and via Webex

Members present

- Carl Crimmins
- David Dubovich (remotely)
- Frank Samlaska
- Matthew Schmidt
- Megan Schueller (remotely)
- Mike Anderson
- Monica Cronin
- Richard Hills (remotely)
- Rob Otos
- Russell Gelfman
- Sarah Hunter (remotely)
- Steven Patton (remotely)

Members absent

- David Frary
- Kate Daly
- Paul Osterbauer
- Richard Zeman

DLI staff members present

- April DelCastillo
- Bretta Hines
- Brian Zaidman (remotely)
- Carey Wagner
- Chris Leifeld
- Ethan Landy
- Felicia Lee
- Jeanne Vogel (remotely)
- Katrina Namad
- Mike Hill
- Nichole Sorenson (remotely)

Visitors present

- Adam TeBrake (remotely)
- Aerika Tori (remotely)
- Ames Gascoigne (remotely)
- Amy Hunter (remotely)
- Ashley Scully
- Danny Gillis (remotely)
- Kaylene Kickhafer
- Laura Hokeness
- Michele Sward (remotely)
- Mike Otos (remotely)
- Sandy Stoddard
- Sarah Kacer (remotely)
- Stacie Goodrich (remotely)

Agenda items

1. **Call to order** – Chair Carl Crimmins called the meeting to order at 1:03 p.m. A roll call was taken and a quorum was met.
2. **Approval of agenda** – a motion to approve the agenda was made by Matthew Schmidt and seconded by Rob Otos. A roll call vote was taken and the motion carried.

3. Approval previous meeting minutes –

- July 6, 2023, draft minutes – a motion to approve the minutes was made by Sarah Hunter and seconded by Mike Anderson. A roll call vote was taken and the motion carried.
- Oct. 5, 2023, draft minutes – a motion to approve the minutes was made by Russell Gelfman and seconded by Anderson. A roll call vote was taken and the motion carried.

4. DLI updates – Chris Leifeld presented on behalf of Assistant Commissioner Kate Daly.

- DLI staff updates: New agency staff members were introduced, including: Katrina Namad, office administrative service, senior, who will be supporting the Workers' Compensation Insurers' Task Force (WCITF), Medical Services Review Board (MSRB) and the Rehabilitation Review Panel (RRP); April DelCastillo, Compliance, Records and Training (CRT) front-end supervisor; and Denise Holmes, CRT compliance supervisor. Carey Wagner was thanked for her Webex support of RRP during the administration transition.
- Legislation updates: Ethan Landy advised the panel of changes to Minnesota Statutes 176.135, subdivision 7, effective Aug. 1, 2023, regarding charges for copies of electronic medical records. Providers cannot require prepayment of electronic medical records. They can charge a fee of up to \$10 for looking up records and determining they are not available. The new fee schedule was reviewed in detail with discussion. Landy clarified the revised statute applies to electronic records and charges for paper copies were not impacted by the legislative change.
- IRS mileage reimbursement update: Leifeld said the mileage reimbursement rate increased to 67 cents a mile Jan. 1, 2024.

Member appointment and reappointment updates: Leifeld said Gelfman had been reappointed as the health care provider representative and described the new alternate appointments of Otos, chiropractor/health care provider/rehabilitation provider, and Schmidt, employer/insurer representative. Otos and Schmidt introduced themselves and summarized their respective backgrounds.

5. Education – Chris Leifeld

- Leifeld reminded everyone that orientation training for qualified rehabilitation consultant (QRC) interns, QRC intern supervisors, vendors and QRCs is scheduled for Feb. 9, at the Department of Labor and Industry, in the Minnesota Room.

6. Rulemaking update – Ethan Landy

- Landy provided a brief update about the status of the rehabilitation registration update. He noted that Minnesota Rules part 5220.0105 needed to be tweaked due to nonsubstantive changes. The next step in the process will be sending a notice of intent to adopt the rules, which is required for the rules to be published in the *State Register*. Afterward, it will go to the Office of Administrative Hearings for review. All interested parties, including panel members, will receive a GovDelivery email message that includes a link to the *State Register* and other pertinent information for rule changes. Landy expects the notice to go out soon.

7. MASPPR and MARP informational presentation – Laura Hokeness and Kaylene Kickhafer

- **Introductions:** Laura Hokeness, Minnesota Association of Service Providers in Private Rehabilitation (MASPPR), introduced herself and provided some background about the organization. MASPPR is a chapter of the National Association of Service Providers in Private Rehabilitation and a division of the National Rehabilitation Association. It focuses on vocational training to allow for higher quality QRC services. MASPPR rules do not permit the hiring of a lobbyist, but members are involved through their chapter in providing feedback on rehabilitation issues.

Kaylene Kickhafer is the President-elect of the Minnesota Association of Rehabilitation Providers (MARP). It is a professional organization of QRCs and others who provide services to injured

workers in Minnesota. They have about 100 members, mostly QRCs and placement vendors. MARP sponsors one to two conferences a year to update people about what is happening legislatively, help enhance their skills in different aspects and encourage camaraderie because they are an isolated industry. MARP rules permit the hiring of a lobbyist.

Hokeness and Kickhafer said both groups are working together to make things better for injured workers in Minnesota through the vocational rehabilitation process.

- **Discussion items:** Hokeness said many QRCs believe injured workers are not returning to suitable employment due to an increase in the number of settlements. After settlements occur, it has been observed that the employees are no longer working and/or return to jobs at a lesser wage. David Dubovich wondered if there was any feedback from attorneys regarding the cases they are settling; Kickhafer said it does happen occasionally, but it is still hard to know why an employee settles a case, beyond economics. Anderson indicated that after settlement, employees are left to apply for Social Security services, workforce services, with risk transferred from the insurer to the public sector. The panel discussed different mechanisms to obtain information from employees (such as whether efforts should be led by DLI, MARP and MASPPR and/or QRCs) regarding the employee's post-settlement employment, wages and observations about the process.

Hokeness requested DLI look into developing modular training in the areas of transferable skills analysis (TSA), vocational testing and labor market surveys (LMS) for rehabilitation providers; St. Cloud State University and the University of Wisconsin – Stout, the two local universities that have master's degree programs in vocational rehabilitation, are willing to work with DLI about the trainings.

Dubovich asked about the Minnesota Retaining Employment and Talent After Injury/illness Network (RETAIN) program and whether participants are former workers' compensation clients who settled their case or never had a QRC.

Questions arose regarding the goals of the current rulemaking. Landy clarified the goals of the rulemaking are to make it easier for the vocational rehabilitation community, at large, to understand the rule requirements and to standardize the process regarding registration.

- **Interpreter service payments:** Kickhafer said there was also a recent decision from the Workers' Compensation Court of Appeals regarding payments for interpreter services. QRCs have been instructed to include those costs on their rehabilitation plan. Kickhafer asked if the rehabilitation plan forms could be updated to list interpreter costs separately and mentioned the R-2 Rehabilitation Plan form has a checkbox if the client needs an interpreter, but the R-3 Rehabilitation Plan Amendment does not. MARP and MASPPR would be willing to work with DLI to update R-forms related to interpreter costs.

The panel discussed interpreting services at a medical appointment versus those used during placement meetings. Hokeness described that if a QRC is at a medical appointment with a client, the interpreter is provided by the medical provider for only the appointment.

Otos said listing interpreter expenses appears to artificially inflate the cost of the rehabilitation plan.

Hokeness said QRCs use interpreter services for: vocational counseling meetings; rehabilitation consultation and job-placement meeting; vocational testing; and any other service provided to a client. The panel discussed where on the R-form to list interpreter services. Kickhafer said she puts it under whatever category she needs interpreter services for, but said they don't even get the bills for the interpreters; those bills generally go to insurers. QRCs arrange the interpreters and use whomever the insurers want them to use or will find someone with their approval. QRCs give billing information to interpreter companies, the same as for physical therapy, so they can bill the insurer directly.

8. Future agenda items –

- Crimmins wondered if the R-8 Notice of Rehabilitation Plan Closure form needs to be updated, generally. He also wants to see a study done by the department to see how the settlements are going and how the employees are doing, if possible.
- Dubovich requested an update about the Minnesota RETAIN program. Megan Schueller will reach out to Dr. Laura Breeher and Samantha Westphal to see if they will present about the RETAIN program.
- Anderson asked about standardization of QRC training going forward and going from a QRC internship program to an apprenticeship program.
- Monica Cronin suggested having a mediator talk with RRP about case resolutions and settlements. She didn't know who might present, someone private or with the Department of Labor and Industry.

9. Next meeting – Thursday, April 4, 2024, at 1 p.m.

Adjournment

A motion was made by Otos to adjourn the meeting, which was seconded by Anderson. A roll call vote was taken and the motion carried. The meeting was adjourned at 2:35 p.m.