



# Solutions for vocational rehabilitation providers at the Workers' Compensation Division

Compliance, Records, and Training Unit

# Purpose

- To help the vocational rehabilitation community understand services and procedures at the Workers' Compensation Division for resolution of bills and options for compliance action
- Agenda
  - Inquiries to the Workers' Compensation Help Desk
  - Resolution of issues with the Alternative Dispute Resolution (ADR) unit
  - Billing requirements, procedures and penalty options with the Compliance, Records and Training (CRT) unit

# The Workers' Compensation Help Desk

- The role of the Workers' Compensation Help Desk is to provide a prompt resource to give assistance about any workers' compensation matters.
- The help desk is staffed from 8 a.m. to 4:30 p.m., Monday through Friday.
- Help desk staff members will refer callers to specialists in the appropriate unit (such as ADR and CRT) if needed.
- Contact information for the Workers' Compensation HelpDesk
  - [helpdesk.dli@state.mn.us](mailto:helpdesk.dli@state.mn.us)
  - 651-284-5005 (press 3)
  - 800-342-5354 (press 3)



## Alternative Dispute Resolution unit

Brian Mak, director

# The ADR unit

- The role of ADR is to help parties resolve disputes about workers' compensation benefits quickly and cooperatively, before or after a formal dispute has been filed. These efforts take place through four primary methods, all of which can be used by vocational rehabilitation providers.
  1. Early and informal dispute prevention and resolution
  2. Dispute certification
  3. Administrative conferences
  4. Mediation

# Functions and services of ADR

**Early and informal dispute prevention and resolution** – provide expert legal education about the workers' compensation system and laws to anyone needing assistance. Inquiries are received by referrals from the help desk or direct contact to ADR. ADR staff members can help resolve questions about bills through informal contact with the insurer and attorneys.

**Dispute certification** – by law, a fee may not be charged by an attorney unless ADR has reviewed the reported dispute, contacted the parties to attempt to resolve it and certified there is a genuine dispute. A vocational rehabilitation firm considering legal representation can seek ADR intervention in the certification process.

# Functions and services of ADR, continued

**Administrative conferences** – when a Request for Assistance – conference is filed, ADR staff members will determine if the dispute can be resolved. If not, the dispute will be certified and an arbitrator holds an informal conference with the parties to hear the positions of each side and issue a written decision. Settlement efforts will often take place before or during the conference.

**Mediation** – at any stage of a workers' compensation claim, any party can request mediation. If the parties agree to conduct mediation, an ADR mediator will meet with each side and help the parties attempt an agreement.

# Informal facilitation by ADR

The specific procedures for dispute resolution do not preclude informal efforts to facilitate resolution.

- **Payment not made after agreement to pay without litigation:** Qualified rehabilitation consultants (QRCs) can call the help desk or ADR for follow-up discussion.
- **Payment not made after agreement to pay during dispute certification process:** A dispute can be reopened, contact can be resumed with the insurer, the matter can be certified and the matter can be set for conference promptly.
- **Payment not made after Decision and Order issued with Order to pay:** ADR can initiate contact with the insurer to ask about the status of the payment.



# Mediations and settlements with ADR

- Mediations are always voluntary and are conducted at the request of any party if there is mutual agreement.
- There is no charge to any party for mediations by ADR.
- Mediations are conducted either in person or by phone.
- Mediators are neutral and do not provide legal advice to any party.
- Negotiations are *typically* conducted by attorneys for the parties, but parties are not required to have an attorney.

# Mediations and settlements with ADR, continued

- Intervenor interests are addressed during mediation.
- Settlement agreements are typically prepared by attorneys and reviewed and approved by a compensation judge at the Office of Administrative Hearings.

# The ADR team

- **Management:** Brian Mak, director; Donna Olson, supervisor; Melissa Parish, supervisor
- **Arbitrators/mediators:** Christie Ahern, Walter Bowser, Rena Cummings, Aaron Frederickson, Steve Gilmore, Deb Heisick, Frances Li, Keith Maurer, Steve Moe, Patti Provencher, Chris Raymond, Steve Sullivan and Nancy Wallrich
- **Support staff:** Angela Douglas, Lori Herzog, Brenda Niemann, Angela Sandstrom and Tami Swerdfiger
- Contact Information for ADR
  - 651-284-5032



## Compliance, Records and Training unit

Denise Holmes, supervisor

# CRT functions and services

- Maintains workers' compensation claim files
  - CRT ensures compliance with benefit provisions of workers' compensation law by auditing workers' compensation claims, penalizing parties for noncompliance with statutes and rules, and providing educational outreach
- Registers qualified rehabilitation consultants and provides analysis of medical and rehabilitation issues
- Upon request, mails the state's required workplace posters without charge

# CRT team breakdown

- Front end – handles copy file review requests, prints and mails workplace posters, processes the claim shell queue to ensure a claim is received and reviews ICD coding is correct for the Research and Data Analytics unit
- Compliance team 1 – handles training and development, and medical policy and rehabilitation policy support for the division and workers' compensation community
- Compliance team 2 – handles claims management audits and penalty assessments

# Eligible plan expenses and costs under Minnesota Statutes 176.102, subdivision 9(a)

**Employer responsibilities:** Employers must cover various rehabilitation expenses, including:

- the cost of a rehabilitation evaluation and preparation of a plan;
- all rehabilitation services and supplies necessary for implementation of the plan; and
- any other expenses agreed to be paid.

# Eligible plan expenses and costs under Minn. Stat. 176.102, subd. 9(b)

## Billing procedures

- QRCs or vendors must submit their bills on a specific form provided by the state. Payments won't be made until bills are submitted correctly.
- Expenses must be consistent with the rehabilitation plan.



# Eligible plan expenses and costs under Minn. Stat. 176.102, subd. 9(c)

## Payment restrictions

- QRCs and vendors must submit bills within 45 days of the provision of services. Employers are generally not liable for bills received beyond 45 days. However, exceptions can be made if the delay was beyond the consultant's control.
- QRCs cannot charge the employee for services the employer is not liable to pay for due to billing issues.

# Payment for fees and costs under Minnesota Rules 5220.1900, subpart 1(g)

## Payment requirements

- **Timely payment:** Employers or insurers must pay a rehabilitation provider's bill as soon as possible, but no later than 30 days after receiving it.
- **Options upon receiving a bill:**
  - pay the full charge or any portion of the charge that is not disputed;
  - deny the entire charge or part of it, clearly stating which specific services are being denied and why they are considered excessive or unreasonable; or
  - request, in writing, what additional information is needed to process the payment.

# Late payment of rehabilitation penalties under Minn. R. 5220.1900, subp. 1g

This applies to insurers or self-insurers, and outlines penalties for violations for:

- failure to pay the full amount or any part that is not disputed within 30 days of receipt; and
- failure to deny without clearly stating which specific services are being denied and why they are considered excessive or unreasonable.

## **Enforcement**

- Penalties can be assessed for late payment of rehabilitation charges, in addition to any other applicable penalties.

# Prohibited practice penalties under Minn. Stat. 176.194, subd. 1

This applies to various parties involved in workers' compensation, including insurers, self-insurers and third-party administrators. It establishes specific prohibited actions and outlines penalties for violations.

## Enforcement

- Penalties may be issued under different provisions of the law, depending upon the prohibited conduct.
- Parties may object to penalties and request a formal hearing under Minn. Stat. 176.85.

# Penalty grid

Violations	Formula and penalty amount
<b>Prohibited practices</b> <b>Paid to: Assigned Risk Safety Account</b> Statute violated: 176.194, subd. 3 Applicable rule: N/A Assessment statute: 176.194, subd. 4 Assessed against: Insurer, self-insured, employer, third-party administrator or adjuster	Based upon the number of violations in the past 12 months <ul style="list-style-type: none"> <li>One to five violations: Subdivision 3 (1-6), warning; subd. 3 (7-11), \$3,000</li> <li>Six to 10 violations: Subdivision 3 (1-6), \$3,000; subd. 3 (7-11), \$6,000</li> <li>Eleven or more violations: Subdivision 3 (1-11), \$6,000</li> <li>Thirty-one or more violations: Matter may be referred to the Department of Commerce for license review</li> </ul>
Violations	Formula and penalty amount
<b>Late payment of rehabilitation</b> <b>Paid to: Assigned Risk Safety Account</b> Statutes violated: 176.102, subds. 9, 11; 176.221, subd. 6a Applicable rule: 5220.1900, subp. 1g Assessment statute: 176.221, subd. 3 Assessed against: Insurer or self-insured employer	Based upon the number of days payment is late and percent of amount due, subject to maximums <ul style="list-style-type: none"> <li>One to 15 days late: 30% of amount due; maximum is \$500</li> <li>Sixteen to 30 days late: 55% of amount due; maximum is \$1,500</li> <li>Thirty-one to 60 days late: 80% of amount due; maximum is \$3,500</li> <li>Sixty-one or more days late: 105% of amount due; maximum is \$5,000</li> </ul>

# Penalty request

To request a penalty:

- complete a [Penalty request for failure to pay or deny rehabilitation invoice](#) form on the Department of Labor and Industry's (DLI's) website; or
- contact the CRT penalty team by email at [penalty.crt.dli@state.mn.us](mailto:penalty.crt.dli@state.mn.us).

# Penalty request form, front and back pages

## Penalty Request for Failure to Pay or Deny Rehabilitation Invoice

Submit a separate penalty request form for each instance where services were not timely paid or denied.

Employee:		Claim no:	
WID no:		Insurer and TPA:	
DOI:		Adjuster:	

I request that a penalty be assessed under Minnesota Statutes, section 176.221, subdivision 6a, for the insurer's failure to comply with Minnesota Rules 5220.1900, subpart 1g, by failing to (check one or both):

- ☐ pay or deny payment of rehabilitation services in writing within 30 days after receipt of the invoice.
- ☐ identify in writing the specific charges and services for which payment was denied and reasons for the denial.

I have attached a copy of the following documentation (check all that apply)

- ☐ **Required 1:** The invoice submitted to the insurer (including self-insured employer or third-party administrator).
- ☐ **Required 2:** Email, fax confirmation sheet or other correspondence documentation of the date or dates the invoice was submitted to the insurer.
- ☐ If applicable, the insurer's response to the invoice and the date the insurer's response was received by the rehabilitation provider.
- ☐ I have not yet received any response to the invoice submitted to the insurer.
- ☐ If applicable, a copy of the Rehabilitation Request or Rehabilitation Response form filed with the Department of Labor and Industry related to payment of services on the invoice.
- ☐ If applicable, correspondence from the Department of Labor and Industry about payment for the rehabilitation services on the invoice, such as certification or noncertification of a dispute or a Decision and Order.
- ☐ If applicable, documentation of communication with the insurer about failure to timely pay or deny payment of the invoice, such as copies of email messages, a phone log of calls or the provider's notice to the parties, letters, a progress report or an R-3 Plan Amendment form under Minn. R. 5220.1801, subp. 9 (O), about a reduction in services.

Comments:

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Person making request (print name)	Phone number	Email address
Registered rehabilitation provider firm name	Firm registration number	

Before submitting this form, complete the release of information agreement on page two.

## Permission to release information regarding penalty request about the employer/insurer

(Check one of the boxes below, sign and date.)

- ☐ I **authorize** the Department of Labor and Industry to release my name as the complainant to the employer or insurer, or their representative, named above. I also authorize the Department of Labor and Industry to release to the employer or insurer, or their representative, whatever facts the department deems necessary to describe the complaint in the course of the investigation.
- ☐ I **do not authorize** the Department of Labor and Industry to release my name as the complainant to the employer or insurer, or their representative, named above. I understand this will limit the department's ability to investigate the complaint.

Signature

Date

Return all pages and any supporting documentation to:

**By Mail:**  
Personal and confidential  
CSO Rehab Policy Specialist  
Department of Labor and Industry  
443 Lafayette Road N.  
St. Paul, MN 55155

Or

**By Email:**  
penalty.crt.dli@state.mn.us

Resource	Web address
Minnesota Office of the Revisor of Statutes	<a href="http://revisor.mn.gov">revisor.mn.gov</a>
Rehabilitation Minn. Stat. 176.102	<a href="http://revisor.mn.gov/statutes/cite/176.102">revisor.mn.gov/statutes/cite/176.102</a>
Payment of compensation and treatment charges Minn. Stat. 176.221	<a href="http://revisor.mn.gov/statutes/cite/176.221">revisor.mn.gov/statutes/cite/176.221</a>
Rehabilitation service fees and costs Minn. R. 5220.1900	<a href="http://revisor.mn.gov/rules/5220.1900/">revisor.mn.gov/rules/5220.1900/</a>
Prohibited practices (penalties) Minn. Stat. 176.194	<a href="http://revisor.mn.gov/statutes/cite/176.194">revisor.mn.gov/statutes/cite/176.194</a>
DLI's workers' compensation forms	<a href="http://dli.mn.gov/business/workers-compensation/work-comp-forms">dli.mn.gov/business/workers-compensation/work-comp-forms</a>
DLI's Workers' Compensation Help Desk	<a href="http://dli.mn.gov/business/workers-compensation/work-comp-contacts-hotline-resources">dli.mn.gov/business/workers-compensation/work-comp-contacts-hotline-resources</a>



# Thank you

Denise Holmes | Compliance, Records and Training

Brian Mak | Alternative Dispute Resolution