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**RULE**

**DEPARTMENT OF LABOR  
OFFICE OF WORKERS' COMPENSATION**

**Title 40  
Labor and Employment  
Part I. Workers' Compensation Administration**

**Chapter 7. Rehabilitation Services**

§701. Purpose

A. The purpose of this section of administrative rule is to implement the provisions of Section 1226 of Subpart B of Chapter 10. Revised Statute 23 and establish guidelines for the rehabilitation of the occupationally disabled employee.

B. The purpose of the Rehabilitation Program is to coordinate and assure the most efficient and timely delivery of the multiple services often necessary to restore the occupationally disabled employee to employment as soon as possible after the injury.

C. There are two major overlapping and interrelated components of the rehabilitation process:

1. vocational restorative services; and
2. re-employment services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:307 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

**§703. Statutory Requirements**

A. §1226(A) requires that when an employee has suffered an injury covered by Chapter 10, R.S. 23 which precludes the employee from earning wages equal to wages earned prior to the injury, the employee shall be entitled to prompt rehabilitation services provided by the carrier/employer.

B. §1226(B) requires that in considering the goal of returning a disabled worker to work with a minimum of retraining, the first appropriate option listed therein is to be chosen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

#### §705. Definitions

For purposes of this Section the following definitions apply:

A. Rehabilitation - The restoration of an occupationally injured or diseased employee to employment as soon as possible after the injury.

B. Rehabilitation Services - Vocational and/or re-employment services necessary to restore an occupationally disabled employee, as nearly as possible, to his/her pre-injury status.

C. Vocational Restorative Services - Vocational services needed to restore the occupationally disabled employee to his/her pre-injury employment or if that is not possible to that which he/she enjoyed prior to the occupational injury or disease. Such services include but are not limited to, the following: psychological and vocational evaluations, counseling and training services.

D. Re-employment Services - Services used to re-employ the occupationally disabled employee in a suitable, gainful occupation as adjusted by his/her physical and vocational ability at that time.

E. Evaluation - Any testing, analysis or assessment of the occupationally disabled employee's physical and/or vocational capabilities used to determine the need for and practicability of rehabilitation services to restore the employee to gainful employment.

F. Suitable Employment - Suitable Employment is employment or self-employment, after rehabilitation which is reasonably attainable and which offers an opportunity to restore the individual as soon as practical and nearly as possible to his average earnings at the time of this injury including any sheltered employment, odd-lot or employment while working in pain.

G. State and Federal Agencies - Those agencies which provide vocational education paid for with tax money.

H. Private Agencies - Companies which provide vocational rehabilitation services for a fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training,

Office of Worker's Compensation Administration, LR 18:148 (February 1992).

#### **§707. Responsibility to Provide Service**

It is the responsibility of the carrier/employer to select a vocational counselor to evaluate and assist the employee in his job placement and/or vocational training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

#### **§709. Use of Resources**

The carrier/employer may utilize programs provided by state and federal agencies for rehabilitation services when conveniently available or may utilize any public or private agency cooperating with such state and federal agencies. In the absence of such programs, the carrier/employer shall provide rehabilitation services with available private agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

#### **§711. Claims**

A. A rehabilitation dispute or claim can be filed on form LDET-WC-1005 by the employee, employer or carrier when rehabilitation services are not voluntarily offered or accepted. The hearing officer may consider written vocational rehabilitation evaluations and plans prepared by a private or public rehabilitation provider or counselor and/or may refer the employee to a qualified physician and/or approved facility, individual, institution or organization for the evaluation of the practicality, advisability and necessity of rehabilitation services to restore the employee to suitable gainful employment. Any evaluation

ordered by the hearing officer shall be completed in 45 days from the receipt of the referral from the hearing officer, with the expense of such evaluation to be borne by the employer/carrier.

B. If rehabilitation services are deemed practical and advisable, they shall be ordered at the expense of the carrier/employer subject to the reimbursement schedule for rehabilitation services promulgated at the time of the filing of the claim or dispute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

### **§713. Adjudication by Hearing Officer**

Prior to the hearing officer finding that an occupationally disabled employee is permanently and totally disabled, the hearing officer shall determine whether there is reasonable probability that, with appropriate rehabilitation services which may include training and/or education, the occupationally disabled employee can achieve suitable gainful employment and whether it is in the best interest of such individual to undertake such rehabilitation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

### **§715. Duration**

When it appears that appropriate training and/or education is necessary and desirable to restore the occupationally disabled employee to suitable gainful employment, the employee shall be entitled to 26 weeks of training and/or education and an additional 26 weeks if deemed necessary and proper by the hearing officer. However, no carrier/employer shall be precluded from continuing such rehabilitation beyond such period on a voluntary basis. An occupationally disabled employee must request and begin rehabilitation within two years from the date of termination of temporary total disability as determined by the treating physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

#### **§717. Cost of Rehabilitation Services and Supplies**

When appropriate training and/or education is deemed necessary, the rehabilitation services provided shall include the cost of training, tuition, books, tools and/or equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

#### **§719. Location of Services**

If rehabilitation requires residence at or near the facility or institution away from the occupationally disabled employee's customary residence, reasonable costs of his/her board, lodging and travel shall be paid for by the employer/carrier. A retraining program shall be provided at facilities within the state when such facilities are available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

#### **§721. Penalty for Refusal**

A. Although an occupationally disabled employee is entitled to rehabilitation as a right or benefit, when he/she agrees to a rehabilitation program, dedication to the completion of that program is expected.

B. Demonstration of a lack of responsibility by the occupationally

disabled employee in following through with the rehabilitation plan or refusal to accept rehabilitation as deemed necessary by the hearing officer shall result in a 50 percent reduction in weekly compensation, including supplemental earnings benefits pursuant to R.S. 23:1221(3), for each documented week of the period of refusal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

### **§723. Payment of Temporary Disability**

Temporary disability benefits paid pursuant to R.S. 23:1221(1) shall include such period as may be reasonably required for training in the use of artificial members and appliances and shall include such period as the employee may be receiving training or education under a rehabilitation program approved by the hearing officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:308 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).

### **§725. Approved List of Rehabilitation Providers**

The Office of Worker's Compensation Administration will maintain a current listing of rehabilitation counselors licensed to practice rehabilitation services in the state of Louisiana. This listing will be available upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), repromulgated LR 13:309 (May 1987), repromulgated by the Department of Employment and Training, Office of Worker's Compensation Administration, LR 18:148 (February 1992).