
**Rules of
Department of Labor and Industrial
Relations
Division 50—Division of Workers' Compensation
Chapter 4—Rehabilitation**

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**Title 8—DEPARTMENT OF
LABOR AND
INDUSTRIAL RELATIONS**
Division 50—Workers' Compensation
Chapter 4—Rehabilitation

8 CSR 50-4.010 Rules Governing Rehabilitation

PURPOSE: This rule is concerned with the physical rehabilitation of employees seriously injured. The creation of rehabilitation facilities, the acceptance of physical rehabilitation and a general statement of policy dealing with rehabilitation is included.

- (1) Section 287.141, RSMo provides for physical rehabilitation of the seriously injured and for the division to administer the benefits provided.
- (2) Words and phrases used in these rules are declared to mean—
(A) Division—Division of Workers' Compensation;
(B) Employee—seriously injured worker who seeks, or for whom is sought physical rehabilitation;
(C) Employer—as defined by and used by the Workers' Compensation Law of Missouri;
(D) Facility or rehabilitation facility—any physician or institution specializing in the field of physical rehabilitation;
(E) Insurer—as defined by and used by the Workers' Compensation Law of Missouri; and
(F) Physical rehabilitation—physical restoration of an injured worker as soon as possible and as nearly as possible to a condition of self-support and maintenance as an able-bodied worker. The term shall include medical, surgical and hospital treatment in the same respect as is required to be furnished under section 287.141-1, RSMo (1986).
- (3) The director shall employ such necessary technical and clerical personnel as may be required for the effective administration of the functions and duties provided in section 287.141, RSMo. The director, or other qualified person appointed by the director, may investigate a rehabilitation facility for the purpose of certification, or may conduct a hearing upon request for an order of rehabilitation, as is hereafter provided. But a certificate of qualification may be issued only by the director. The director will have the power, upon the investigation and findings, to grant or deny a certification. An order for physical rehabilitation may be issued only by the director or an administrative law judge.
- (4) In order to qualify as an institution to provide physical restoration treatment under the Workers' Compensation Law, Missouri, a rehabilitation facility, as a minimum, must meet the specifications as to function, personnel, equipment and direction set forth in section 287.141-2, RSMo. Quality, training and adequacy of a rehabilitation facility will also be considered by the director and when, after continuously studying the problems of physical rehabilitation, s/he finds that higher standards in these respects are indicated, a qualified institution may be required, upon due notice, to meet such standards in order to continue as a certified facility.
- (5) As other conditions of qualification, a facility shall pledge itself to inform the division, in such form and detail as may be required, the period during which an injured employee is actually being rehabilitated so that proper requisition out of the Second Injury Fund may be made as prescribed by subsections 3 and 4 of section 287.141, RSMo and, further to pledge itself to make progress reports on any seriously injured employee being rehabilitated upon specific request by the division.
- (6) Investigation of a facility for the purpose of qualification for physical rehabilitation shall be made by the supervisor, or an agent, upon the direction by the director. A full report of the investigation, together with his/her recommendation, shall be made available in writing to the director. A written report of each investigation, by an authorized individual, shall be made and among other things, shall include findings specifically as to the standards required by section 287.141-2, RSMo. The report shall be preserved as part of the division's record of the facility investigated.
- (7) A certification of qualification shall be issued by the Division of Workers' Compensation to a facility it finds meets the requirements for physical rehabilitation and the supervisor shall continuously maintain a complete roster by name and address of certified facilities in good standing of the information of employees, insurers and other interested parties.
- (8) A certificate of qualification may be revoked by the division if a facility fails to continue the minimum standards set by section 287.141-2, RSMo or fails to meet the additional standards that may be set under these rules or to comply with the condition set in section (5) or to comply with the conditions set in section (6).
- (9) Where the parties agree to provide and accept physical rehabilitation, the division shall be immediately notified which information shall include the name and address of the facility chosen. The division thereupon shall enter its approval, advise the parties of its action and requisition twenty-one dollar (\$21) weekly payments out of the Second Injury Fund to be paid the employee while s/he is actually being rehabilitated, a copy of the directive going to the state treasurer as his/her notification.
- (10) If the parties disagree as to the provisions or acceptance of physical rehabilitation, the employee or the employer or insurer may file a request for an order for physical rehabilitation with the division, which shall hear the parties within ten (10) days from receipt of such request.
- (11) Hearing on a request for an order for physical rehabilitation shall be held at a place and time to be set by the division and shall be informal in all respect. Such hearing may be held by the director or by an administrative law judge upon direction of the director.
- (12) The parties shall be prepared to introduce all of their evidence when the case is set for hearing, since a resetting for additional evidence will be granted only under unusual circumstances.
- (13) Since the statutes require a hearing within ten (10) days of receipt of the request, the parties are asked to have their case prepared for presentation at the time of filing the request. Continuances will not be granted except under extraordinary circumstances and never unless the request is in writing.
- (14) Hearing before the division shall be reported by a competent reporter and transcripts of the testimony and copies of papers and documents in physical rehabilitation cases shall be available to the parties in like manner and for the same fees as provided for in workers' compensation cases in section 287.660, RSMo (1986).
- (15) Within ten (10) days after the hearing and after considering all the evidence, the division shall issue an order either granting or denying the request for physical rehabilitation, copies of which order shall be sent to all parties. When the order grants physical rehabilitation, it shall include an order to requisition payment of twenty-one dollars (\$21) weekly from the Second Injury Fund to the injured employee during such time as the employee is actually receiving physical rehabilitation. A copy of the order shall also be sent to the state treasurer.



(16) The reasonable time required for compliance with an order of the division shall be a period of thirty (30) days from the date of the order, unless the order itself specifically otherwise shall provide or unless there be shown to the satisfaction of the division necessity for a time greater than thirty (30) days.

(17) A request for a review of an order of the division in rehabilitation cases is governed by the provisions of 287.480, RSMo (1986).

(18) In an unusual case, where the need for physical rehabilitation is shown to the satisfaction of the division to require a period greater than twenty (20) weeks, the division shall issue a special order for such additional period as may be authorized, which shall include an order to requisition twenty-one dollar (\$21) weekly payments out of the Second Injury Fund to the injured employee while s/he is actually being rehabilitated, a copy of such special order going also to the state treasurer.

(19) The division's supervision of physical rehabilitation cases is limited to those of workers who are seriously injured and its authorization of payments from the Second Injury Fund as additional benefits is similarly circumscribed.

(20) Serious injury cannot be too restrictively defined, but the usual meaning of serious as grave or viewed with apprehension should be given. Among others, the division considers the following are serious injuries: quadriplegia, paraplegia; amputations of hand, arm, foot or leg; atrophy due to nerve injury or nonuse; and back injuries not amenable alone to recognized medical and surgical procedures. In all cases considered by the division for physical rehabilitation, the recommendation of the attending physician will guide, unless there is a dispute, in which event the testimony of other physicians will be heard.

(21) As provided by the statute, only those seriously injured workers receiving physical rehabilitation in facilities certified by the division are entitled to extra benefits from the Second Injury Fund. This does not mean that workers cannot be rehabilitated in other facilities, but it does mean, if they are, that they cannot receive Second Injury Fund benefits.

(22) The division recognizes that a number of the techniques used in physical rehabilitation procedures have become normal procedures in medical treatment but wishes to emphasize that it is the seriousness of the injury rather than the type of treatment that determines its

jurisdiction to proceed. Further, the division recognizes that there is no absolute line of demarcation between medical treatment and physical rehabilitation; that the cure, relief and restoration of an injured worker may see a merging of both; that in such cases, the test must be the seriousness of the injury when questions of physical rehabilitation arise.

(23) In the gravest of injuries, all medical resources are employed and the division recognizes that during actual physical rehabilitation the skills of the diagnostician, the internist, the surgeon and those of other specialties are necessary and that they are in furtherance of rehabilitation treatment and to an interruption of it.

(24) In considering an application for certification as an approved facility, the division must keep in mind specifically the function of the facility with respect to the statute providing for the physical rehabilitation for those seriously injured and not generally its function in the community. The division, as required by statute, must determine if the applicant is adequately equipped, staffed and is supervised by a physician qualified to render physical rehabilitation service. The original certification of a facility is not a guarantee of its continued certification, for new accepted developments and techniques in the field of physical medicine must be adopted and followed in order for a facility to continue to be qualified and certified.

Auth: section 287.141, RSMo (1986). Original rule filed Aug. 14, 1956, effective Aug. 25, 1956. Amended: Filed May 1, 1973, effective May 12, 1973. Amended: Filed Aug. 26, 1975, effective Sept. 5, 1975.

Cole v. Morris 409 SW2d 668 (1966). The state treasurer, as custodian of the Second Injury Fund, can be subrogated to the rights of the employee against a third-party tort-feasor on the same logic as an employer's right of subrogation to tort claims in favor of his/her injured employee against third person, without statutory enactment to this effect.