



Law & Regulations for Vocational Rehabilitation

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KANSAS DEPARTMENT OF LABOR WORKERS COMPENSATION
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This publication contains a compilation of those sections and provisions of the *Kansas Statutes Annotated* and *Kansas Administrative Regulations* which pertain to workers compensation vocational rehabilitation. The Kansas Department of Labor, Workers Compensation, publishes this information for the convenience of our customers.

For the official text of Kansas statutes, please consult the *Kansas Statutes Annotated* found online at http://kslegislature.org/li/b2013_14/statute/ and the Kansas Administrative Regulations found at http://www.kssos.org/Pubs/pubs_kar.aspx.

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Kansas Statute dealing with Vocational Rehabilitation

44-510g. Vocational rehabilitation, agreement of employer or insurance carrier; vocational rehabilitation administrator and assistants; qualified service providers, referrals. (a) A primary purpose of the workers compensation act shall be to restore the injured employee to work at a comparable wage. To this end, the director shall appoint, subject to the approval of the secretary, a specialist in vocational rehabilitation, who shall be referred to as the vocational rehabilitation administrator. No vocational assessment, evaluation, services or training shall be provided or made available under the workers compensation act unless specifically agreed to by the employer or insurance carrier providing or making available such assessment, evaluation, services or training. Upon such agreement, the vocational rehabilitation administrator may make recommendations for and supervise such assessment, evaluation, services or training on behalf of the employee and such assessment, evaluation, services or training shall not be arbitrarily terminated by the employer or insurance carrier once such agreement is entered into by the employer or insurance carrier. Nothing in this section shall prohibit the employee from obtaining such assessment, evaluation, services or training at the employee's expense from any provider or through any other public or private funding or agency. The director may appoint, subject to the approval of the secretary, assistant vocational rehabilitation administrators. The vocational rehabilitation administrator and the assistant vocational rehabilitation administrators shall be in the classified service under the Kansas civil service act. The vocational rehabilitation administrator and the assistant vocational rehabilitation administrators, subject to the direction of the vocational rehabilitation administrator, shall: (1) Continuously study the problems of vocational rehabilitation; (2) investigate and maintain a directory of all vocational rehabilitation facilities, public or private, in this state, and, where the vocational rehabilitation administrator determines necessary, in any other state; and (3) be fully knowledgeable regarding the eligibility requirements of all state, federal and other public vocational rehabilitation facilities and benefits.

(b) The director shall approve as qualified such individuals, facilities, institutions, agencies and employer programs as the director finds are capable of rendering competent vocational rehabilitation services and which are referred to in this section as "providers." The director shall continuously monitor the quality and timeliness of the services of providers found qualified by the director to provide vocational rehabilitation services. No such provider shall be approved as qualified unless the provider is equipped with such physical facilities as the director deems necessary and is staffed with personnel specifically trained and qualified, as the director deems necessary, to provide vocational rehabilitation services.

If the employer or the employer's insurance carrier do not agree to provide vocational rehabilitation services, the employee may request the vocational rehabilitation administrator to refer the employee to an appropriate provider for vocational rehabilitation services to be provided at the employee's expense. Referrals for vocational rehabilitation services shall not be made to a provider in which the employer, the employer's insurance carrier or the claims adjusting company handling the claim has a demonstrable financial interest, unless a full, written disclosure of the demonstrable financial interest has been submitted in writing by the provider to the employer, the employer's insurance carrier, any claims adjusting company handling the claim, the employee and the vocational rehabilitation administrator. Medical management or medical monitoring services shall not be considered to be providing vocational rehabilitation services and the costs thereof shall not be considered as the payment of workers compensation benefits nor medical benefits.

Kansas Regulations dealing with Vocational Rehabilitation

Article 19.—APPLICATION FOR REVIEW AND MODIFICATION PURSUANT TO K.S.A. 44-528

51-19-1. Review and modification. (a) When there has been an application for review or appeal upon an award and the same is either affirmed or modified, application for review and modification pursuant to K.S.A. 44-528 may still be made to the division. Initial hearings on such applications shall be conducted by an administrative law judge.

(b) Application for review and modification pursuant to K.S.A. 44-528 shall set forth at least one of the reasons contained therein.

(c) Review and modification applications should not be made more than once during any six-month interval except in highly unusual situations. However, upon the completion of vocational rehabilitation, as provided for under this act, the worker, employer, or insurance carrier shall have the right to seek a review and modification of the award rendered, granting any compensation to the employee for any disability. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g, 44-528, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 22, 1998.)

Article 24.--REHABILITATION

51-24-1. Vocational rehabilitation. (a) Each insurance carrier and employer shall furnish to the selected vocational rehabilitation vendor, or at the administrator's request, to the rehabilitation administrator, any medical reports that may be necessary to make an effective vocational rehabilitation determination.

(b) The rehabilitation administrator shall be the coordinator between the parties seeking a vocational assessment and the state or federal vocational rehabilitation agency or a qualified private agency. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g; effective May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended March 30, 1992; amended May 22, 1998; amended June 21, 2002.)

51-24-3. Definitions. As used in K.A.R. 51-24-1 through 51-24-10, the following definitions shall apply: (a) "Director" means the director of the Kansas division of workers compensation.

(b) "Job placement specialist" means a person who has provided the director with the necessary proof of eligibility for qualification under K.A.R. 51-24-5(c) and who has received a certification of qualification from the director.

(c) "Office" means a place in which business, professional, or clerical activities are conducted. An office may be part of a home if both of the following conditions are met:

(1) A portion of the home is regularly and exclusively used only for business.

(2) The home is the principal place for the administrative or management activities of the business or is the principal place for the vendor to meet or deal with patients, clients, or customers in the normal course of business.

(d) "Training facility" means a private agency, facility, or employer rehabilitation service program that has filed with the director the necessary evidence for the director to deem that agency, facility, or employer rehabilitation service program qualified to perform rehabilitation education or training.

(e) "Vendor" means a vocational rehabilitation facility, institution, agency, or employer program pursuant to K.S.A. 44-510g and amendments thereto.

(f) "Vocational rehabilitation counselor" and "counselor" mean a person who has provided the director with the necessary proof of eligibility for qualification under K.A.R. 51-24-5(a)

and who has received a certification of qualification from the director.

(g) "Vocational rehabilitation evaluator" and "evaluator" mean a person who has provided the director with the necessary proof of eligibility for qualification under K.A.R. 51-24-5(b) and who has received a certification of qualification from the director. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g; effective, T-88-20, July 1, 1987; effective May 1, 1988; amended June 21, 2002.)

51-24-4. Qualifications and duties of a vendor. For vocational rehabilitation cases under the Kansas workers compensation act, each person, firm, or corporation proposing to qualify as a vendor shall file an application with the director. The application shall be updated if changes occur that could affect the standing of the applicant to become or remain qualified. Each application shall include the following:

(a) A statement that the person, firm, or corporation will maintain an office in the state of Kansas or in the metropolitan Kansas City area capable of responding to written or telephone inquiries regarding cases referred to that vendor;

(b) the addresses and telephone numbers of the offices within and without the state of Kansas from which vocational rehabilitation services will be performed for cases under the Kansas workers compensation act;

(c) a listing of each person employed to perform services as a medical manager, counselor, evaluator, or job placement specialist for cases referred to that vendor and an indication of each person's discipline;

(d) a statement that the person, firm, or corporation will employ or contract with one or more persons qualified to perform work as a medical manager, counselor, evaluator, or job placement specialist as necessary to carry out the purpose of the referral;

(e) a statement that the person, firm, or corporation will be responsible for the appropriateness and timeliness of service delivery by each medical manager, counselor, evaluator, and job placement specialist employed or under contract to carry out the purpose of the referral;

(f) a statement indicating whether the person, firm, or corporation wants to be included in the list of vendors qualified and requesting to receive referrals from employers or the director;

(g) a statement that the person, firm, or corporation will report, in a form prescribed by the director, to the vocational rehabilitation administrator each referral received from an employer or insurance carrier and the date of the referral;

(h) a statement that the person, firm, or corporation will report upon the status of each evaluation 30 days after the referral and report upon the status of the evaluation and plan on each occasion upon which changes occur that affect the evaluation or plan. These reports shall be in a form prescribed by the director;

(i) a statement that the person, firm, or corporation will provide copies of all vocational assessments, plans, and progress reports to all parties involved, including attorneys for the claimant and respondent if it is a litigated case;

(j) a statement that the person, firm, or corporation will provide objective and impartial assessments of the injured worker's need for rehabilitation services;

(k) a statement that the person, firm, or corporation acknowledges that the authorization by the director to provide vocational rehabilitation services pursuant to the Kansas workers compensation act and regulations may be suspended or revoked for failure to comply with regulations adopted by the director; and

(l) a statement that the person, firm, or corporation will adhere to the fee schedule pursuant to K.S.A. 44-510i, and amendments thereto. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g; effective, T-88-20, July 1, 1987; effective May 1, 1988; amended Nov. 27, 1989; amended March 30, 1992; amended June 21, 2002.)

51-24-5. Qualifications for counselor, evaluator, and job placement specialist. (a) Each person seeking to qualify as a vocational rehabilitation counselor for cases under the Kansas workers compensation act shall:

(1) furnish proof to the director that the person has:

(A) a masters degree from a nationally accredited program in rehabilitation counselor education; or

(B)(i) a masters degree in counseling, guidance and counseling, clinical psychology, counseling psychology, clinical social work or any related field which includes nine hours of graduate course work in counseling; and

(ii) one year of experience as a vocational rehabilitation counselor or completion of a nationally accredited rehabilitation counselor internship program from a college or university; or

(C) 32 graduate hours from an accredited rehabilitation counseling program, including coursework from at least nine of the following graduate courses:

(i) Medical aspects of disability;

(ii) counseling theories;

(iii) individual and group appraisal;

(iv) career information service;

(v) evaluation techniques in rehabilitation;

(vi) placement process in rehabilitation;

(vii) psychological aspects of disability;

(viii) case management in rehabilitation;

(ix) utilization of community resources;

(x) survey of rehabilitation;

(xi) supervised practicum in rehabilitation; or

(D) a bachelors degree in rehabilitation services and three years of experience as a vocational rehabilitation counselor;

(2) furnish the director with the addresses and telephone numbers of that person's offices and the names of the vendors with whom that person is affiliated;

(3) acknowledge that the person's qualification may be suspended or revoked if the person performs work in a rehabilitation discipline other than a discipline in which that person has been found to be qualified by the director; and

(4) acknowledge that the person's qualification may be suspended or revoked if the person repeatedly fails to file reports with the director in a timely manner or fails to comply with the regulations adopted by the director.

(b) Each person seeking to qualify as a vocational rehabilitation evaluator shall:

(1) furnish proof to the director that the person has:

(A) a masters or doctoral degree in vocational evaluation, rehabilitation counseling or work adjustment, and one year of experience as a vocational evaluator; or

(B) a masters degree in counseling, psychology, adult education or any related field which includes at least nine graduate hours in testing, evaluation and assessment and one year of experience as a vocational evaluator; or

(C) one year of experience as a vocational evaluator and 32 graduate hours from an accredited rehabilitation counseling program, including coursework from at least nine of the following graduate courses:

- (i) Medical aspects of disability;
- (ii) counseling theories;
- (iii) individual and group appraisal;
- (iv) career information service;
- (v) evaluation techniques in rehabilitation;
- (vi) placement process in rehabilitation;
- (vii) psychological aspects in disability;
- (viii) case management in rehabilitation;
- (ix) utilization of community resources;
- (x) survey of rehabilitation; and
- (xi) supervised practicum in rehabilitation; or

(D) a bachelors degree in vocational rehabilitation evaluation, psychology, special education or rehabilitation services and three years of experience as a vocational evaluator under the supervision of a masters degree vocational evaluator;

(2) furnish the director with the addresses and telephone numbers of that person's offices and the names of the vendors with whom that person is affiliated; and

(3) acknowledge that the person's qualification may be suspended or revoked if the person performs work in a rehabilitation discipline other than a discipline in which that person has been found to be qualified by the director; and

(4) acknowledge that the person's qualification may be suspended or revoked if the person repeatedly fails to file reports with the director in a timely manner or fails to comply with the regulations adopted by the director.

(c) Each person seeking to qualify as a vocational rehabilitation job placement specialist shall:

(1) furnish proof to the director that the person has:

(A) a masters or bachelors degree in vocational rehabilitation counseling, vocational counseling, rehabilitation services or job placement; or

(B) a bachelors degree in counseling, sociology, psychology or any related field and one year of experience as a job placement specialist for disabled individuals; or

(C) at least two years of college level education and three years of experience as a job placement specialist for disabled individuals; or

(D) qualified as a vocational rehabilitation counselor under K.A.R. 51-24-5;

(2) furnish the director with the addresses and telephone numbers of the person's offices and the names of the vendors with whom that person is affiliated;

(3) acknowledge that the person's qualification may be suspended or revoked if the person performs work in a rehabilitation discipline other than a discipline in which that person has been found to be qualified by the director; and (4) acknowledge that the person's qualification may be suspended or revoked if the person fails to file reports with the director in a timely manner or fails to comply with the regulations adopted by the director.

(d) Each person employed by or working under contract as a counselor, evaluator or job placement specialist for the Kansas department of rehabilitation services or other state or federal vocational rehabilitation agency shall be considered qualified in that person's discipline while working for that agency. (Authorized by K.S.A. 1988 Supp. 44-573; implementing K.S.A. 1988 Supp. 44-510g, as amended by 1989 SB 354, Sec. 1; effective, T-88-20, July 1, 1987; effective May 1, 1988; amended Nov. 27, 1989.)

51-24-6. Qualification of private training facility. Before a private training facility begins providing vocational rehabilitation training or education to persons under the Kansas workers' compensation act, the vendor formulating the training plan shall file with the vocational rehabilitation administrator a sufficient description of the course work and qualifications of the individuals performing the training or education to satisfy the vocational rehabilitation administrator that the training is adequate and appropriate to fulfill the goal of the plan. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g, as amended by 1987 HB 2573, Sec. 1; effective, T-88-20, July 1, 1987; effective May 1, 1988.)

51-24-8. Standards of conduct for vocational rehabilitation vendors and vocational rehabilitation professionals. Each vocational rehabilitation vendor (vendor) and vocational rehabilitation professional (professional) who has been authorized by the director to provide vocational rehabilitation services pursuant to the Kansas workers compensation act and regulations: (a) shall adhere to all applicable federal, state and local laws establishing and regulating business practices;

- (b) shall adhere to the Kansas workers compensation law and regulations;
- (c) shall report any known violation of these standards of conduct using the complaint procedures established in K.A.R. 51-24-9;
- (d) shall not circumvent a standard of conduct through the actions of another;
- (e) shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (f) shall not engage in any conduct that adversely affects the vendor's or professional's fitness to perform assessments, evaluations, plans or any other act to be performed under the Kansas workers compensation act and regulations;
- (g) shall not conceal or knowingly fail to disclose that which the vendor or professional is required by law to reveal;
- (h) shall not knowingly use perjured testimony or false evidence;
- (i) shall not knowingly make false statements of law or fact;
- (j) shall not participate in the creation or preservation of evidence which the vendor or professional knows, or should reasonably know, is false;
- (k) shall not counsel or assist in conduct that the vendor or professional knows to be illegal or fraudulent;
- (l) shall not misrepresent himself or herself, the job duties or credentials of the vendor or professional nor promise results or offer services the vendor or professional has not been approved by the director to provide;
- (m) shall not solicit referrals either directly or indirectly by offering to any one person or firm money or gifts, excluding food and beverages, that have a fair market value of more than \$50 per annum;
- (n) shall not accept or continue employment or other contractual relationships if the exercise of professional judgement by the vendor or professional will be affected by financial, business, property, or personal interests of the vendor or professional;
- (o) shall not accept a referral of a person who may unduly influence the vendor's or professional's actions;
- (p) shall not provide any services in investigation of claims or negotiating for, or attempting to effect the settlement of a claim;
- (q) shall not request a medical provider to change restrictions or ratings issued by that medical provider. The furnishing of occupational and medical information to a medical provider so that the medical provider has adequate information on which to base a medical decision shall not be considered as a request that a medical provider change a restriction or rating;
- (r) shall not accompany the injured worker during medical treatment or medical consultations if either the injured worker or the medical provider objects to the presence of the vendor or professional;

(s) shall not attempt to interpret the workers compensation act or regulations for a party but shall, at the first interview with an injured worker, furnish to the injured worker information prepared by the director for such purpose and maintain in the case file acknowledgement from the injured worker that such information was furnished;

(t) shall not communicate as to the merits of a litigated case or request specific case direction from the administrative law judge or hearing officer before whom the case is pending nor the rehabilitation administrator assigned except:

- (1) in the course of the official proceedings in the case;
- (2) in writing, if a copy is promptly furnished to each party or each party's attorney; or
- (3) as otherwise authorized by law; and

(u) shall establish a bookkeeping system which insures that all charges made by the vendor or professional are for actual services rendered and that reports to the director regarding such charges are accurate and reflect entirely the consideration asked and given for services in each case. (Authorized by K.S.A. 1991 Supp. 44-573; implementing K.S.A. 1991 Supp. 44-510g; effective March 30, 1992.)

51-24-9. Procedure for reviewing and processing complaints of violations of standards of conduct. (a) Individuals and firms approved by the director as qualified vocational rehabilitation professionals and vendors under K.A.R. 51-24-1 et seq., shall be subject to disciplinary action for violation of the standards of conduct set forth in K.A.R. 51-24-8.

(b) Oral or unsigned complaints of violations of the standards of conduct shall be considered as informal complaints and shall be handled by the director or administrator as deemed appropriate.

(c) Complaints of standards of conduct violations that are in writing and signed by the complaining party shall be considered formal complaints.

(d) The following procedure shall be used to address formal complaints of standards of conduct violations: (1) Each formal complaint of standards of conduct violations shall be in writing, signed by the complaining party and directed to the administrator. The complaint shall identify the vendor or professional complained of (hereinafter referred to as respondent), the nature of the violation and a statement of the facts constituting the violation.

(2) A copy of the complaint shall be sent by the administrator to each respondent by certified mail, return receipt requested. The complaining party shall be notified by the administrator of receipt of the complaint.

(3) Each respondent shall have 30 days from the date of the certified receipt to deliver to the administrator a factual written response to each particular of the complaint. If requested in writing by respondent before the expiration of the 30-day response time, one 30-day extension of time to file a response may be granted by the administrator. Failure to provide a timely written response to the administrator shall result in immediate suspension of the qualification of the respondent. This suspension shall remain in effect until the response is received or until appropriate hearing processes are completed.

(4) Each respondent shall cooperate fully with attempts at resolving the complaint. Cooperation shall include:

(A) responding fully and promptly to the administrator, administrative law judge or hearing officer concerning any questions on the subject of the complaint;

(B) providing copies of pertinent records, reports, logs, data or cost information; and

(C) attending meetings or hearings held by the administrator, administrative law judge or hearing officer on the subject of the complaint.

(5) Meetings with the complaining party and the respondent, individually or jointly, may be scheduled by the administrator prior to the appointment of an administrative law judge or hearing officer for: (A) clarification;

(B) explanation;

(C) settlement of issues;

(D) obtaining information;

(E) instructing parties to the complaint; or

(F) to address the issues.

(6) Upon receipt of a response, the complaint and response shall be reviewed by the administrator and, within 30 days, a conclusion shall be reached by the administrator as to whether there is sufficient indication that respondent may have violated the standards of conduct.

(7) If the administrator concludes that there is not substantial indication that respondent violated the standards of conduct, the complaint shall be dismissed by the administrator. The complaining party and the respondent shall be notified by the administrator of the actions of the administrator and the reasons for the conclusions reached.

(8) If the administrator concludes that there is a substantial indication that respondent may have violated the standards of conduct, an administrative law judge or hearing officer shall be appointed by the director to hear the complaint. The administrative law judge or hearing officer shall conduct a hearing or hearings and make recommendations as to whether disciplinary action should be taken, and if so, recommend the degree and type of discipline warranted.

(9) Any evidentiary hearing conducted by the administrative law judge or hearing officer regarding the complaint shall be recorded verbatim by a certified shorthand reporter. If there is a decision not to discipline the respondent, the verbatim notes of the reporter shall not be transcribed. However, such notes shall be retained as part of the records of the division of workers compensation. If there is a decision to discipline the respondent, the recording of the hearing shall be transcribed and retained as part of the records of the division of workers compensation. Costs of the shorthand reporter shall be assessed to respondent if it is found discipline is warranted.

(10) If within 10 days the complaining party, respondent or administrator request a review of the recommendations of the administrative law judge or hearing officer, a review, de novo, shall be conducted by the director on the record of the hearing or hearings and the recommendations of the administrative law judge or hearing officer.

(11) Within 20 days after completion of the review, a decision shall be entered by the director which may either affirm, modify or reverse the decision of the administrative law judge or hearing officer. The director's determination shall be in writing, with copies sent to the:

(A) administrative law judge or hearing officer;

- (B) administrator;
- (C) complaining party; and
- (D) respondent.

(12) Any action of the director shall be subject to judicial review in accordance with the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 et seq. and amendments thereto.

(e) If disciplinary measures are imposed on a professional at the final level of hearing or appeal, and the disciplinary measures taken prevent the professional from completing all or part of the rehabilitation process on a case or cases assigned to the professional, the vendor for whom the disciplined professional was performing services shall effect the reassignment of the case to another professional.

(f) If disciplinary measures are imposed on a vendor at the final level of hearing or appeal, and the disciplinary measures taken prevent the vendor from completing all or part of the rehabilitation process on a case or cases assigned to the vendor, the administrator shall effect the reassignment of the case to another vendor. (Authorized by K.S.A. 1990 Supp. 44-573; implementing K.S.A. 44-510g, as amended by 1991 HB 2457, Sec. 4; effective March 30, 1992.)

51-24-10. Penalties for violations of standards of conduct. If a person or firm qualified by the director pursuant to K.A.R. 51-24-4 or K.A.R. 51-24-5 is found, following the procedure in K.A.R. 51-24-9, to have violated the standards of conduct set out in K.A.R. 51-24-8, any combination of the following disciplinary measures may be imposed:

- (a) the respondent may be issued a letter of censure by the director;
- (b) the respondent may be required to create and implement a written corrective action plan acceptable to the director;
- (c) the respondent may be prohibited from undertaking work on any new cases for a stated period of time;
- (d) the respondent may be prohibited from working on the respondent's existing caseload for a stated period of time;
- (e) the respondent may be permanently or temporarily prohibited from accepting cases from specific referral sources;
- (f) the respondent's qualification may be revoked for a stated period of time; or
- (g) the respondent's qualification may be revoked permanently. (Authorized by K.S.A. 1990 Supp. 44-573; implementing K.S.A. 44-510g, as amended by 1991 HB 2457, Sec. 4; effective March 30, 1992.)