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ALERT! ALERT! ALERT! ALERT! ALERT! ALERT!

12 June 2010

TO: All Carriers, Self-Insurers, Third Party Administrators, Qualified Rehabilitation Providers and Other Interested Parties

FROM: Reginald L. Watkins, Chief
Bureau of Rehabilitation and Reemployment Services

RE: Rehabilitation and Reemployment Services Bulletin

The attached Bulletin contains information regarding Revisions to s.440.491, (6) (a), Florida Statutes (Training and Education); Administrative Rule Revisions Pursuant to Opinion of Small Business Regulatory Advisory Council; and the Electronic Data Submission under Rule 6A-22.003 (2), Florida Administrative Code.

Attachments

Bulletin No. RES – 4

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**REHABILITATION & REEMPLOYMENT SERVICES
BULLETIN NUMBER 4**

**Department of Education
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This Bulletin includes information on the following topics:

<u>ITEM</u>	<u>TOPIC</u>
A.	Revisions to s.440.491, (6) (a), Florida Statutes (Training and Education)
B.	Administrative Rule Revisions Pursuant to Opinion of Small Business Regulatory Advisory Council
C.	Electronic Submission of Reemployment Services Data under Rule 6A-22.003 (2), Florida Administrative Code

RES BULLETIN – 4

REVISIONS TO s.440.491 (6) (a), FLORIDA STATUTES

The Florida Legislature amended section 440.491(6) (a), Florida Statutes, in the 2010 Legislative session under H.B. 5201. That statutory section now reads:

“440.491 Reemployment of injured workers; rehabilitation.—

(6) TRAINING AND EDUCATION.—

(a) Upon referral of an injured employee by the carrier, or upon the request of an injured employee, the department shall conduct a training and education screening to determine whether it should refer the employee for a vocational evaluation and, if appropriate, approve training and education or other vocational services for the employee. The department may not approve formal training and education programs unless it determines, after consideration of the reemployment assessment, pertinent reemployment status reviews or reports, and such other relevant factors as it prescribes by rule that the reemployment plan is likely to result in return to suitable gainful employment. The department is authorized to expend moneys from the Workers' Compensation Administration Trust Fund, established by s. 440.50, to secure appropriate training and education at a Florida public community college as designated in s. 1000.21(3) or at a career center established under s. 1001.44, or to secure other vocational services when necessary to satisfy the recommendation of a vocational evaluator. As used in this paragraph, "appropriate training and education" includes securing a general education diploma (GED), if necessary. The department shall establish training and education standards pertaining to employee eligibility, course curricula and duration, and associated costs. For purposes of this subsection, training and education services may be secured from additional providers if:

1. The injured employee currently holds an associate degree and requests to earn a bachelor's degree not offered by a Florida public college located within 50 miles from his or her customary residence;
2. The injured employee's enrollment in an education or training program in a Florida public college or career center would be significantly delayed; or
3. The most appropriate training and education program is available only through a provider other than a Florida public college or career center or at a Florida public college or career center located more than 50 miles from the injured employee's customary residence.”

The effective date of this law revision is July 1, 2010. The bureau will be revising its administrative rules to bring the rules into compliance with the statutory revisions.

ADMINISTRATIVE RULE REVISIONS PURSUANT TO OPINION OF SMALL BUSINESS REGULATORY ADVISORY COUNCIL

On October 26, 2009, the Small Business Regulatory Advisory Council requested in a letter to the Bureau “that your agency delete any reference to reporting requirements of ‘providers’ of reemployment services, and work instead through carriers to obtain the information you require.” The reporting requirements in question were those stated in the quoted sentence relating to the

provision of reemployment services to injured employees by qualified rehabilitation providers as part of carrier provided reemployment services.

After the rule revisions process regarding training and education as cited above has been completed, the Bureau will begin a separate rule revisions process to implement the request of the Small Business Regulatory Advisory Council.

ELECTRONIC SUBMISSION OF REEMPLOYMENT SERVICES DATA

Effective November 7, 2010, the electronic submission of data from carriers to the Bureau will be mandatory. The Bureau will follow the recommendations of the Small Business Regulatory Advisory Council by working through the carriers to obtain Form DWC-21 in an electronic format. Any requirements imposed by insurances carriers to qualified rehabilitation providers' relative to the manner in how the carriers may want Form DWC-1 submitted to them is a contractual relationship issue between the carrier and qualified rehabilitation provider, and not the Bureau. However, the Bureau will continue to provide support to those qualified rehabilitation providers who elect to utilize the BRRS Web Portal for entering electronic DWC-21 forms. As noted above, the administrative rules will be revised in due course to reflect this policy.

All parties are advised of the statutory provisions relating to waivers or variances from administrative rule requirements under s.120.542, Florida Statutes. In compliance with s. 120.542, Florida Statutes, the Bureau will review any request for a waiver or variance on a case-by-case basis so that the mandatory electronic submission of data can be effectively implemented.