

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION**

**NOTICE OF MODIFICATIONS TO TEXT OF
PROPOSED REGULATION**

VOCATIONAL REHABILITATION

TITLE 8, CALIFORNIA CODE OF REGULATIONS, SECTION 10124.1.

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in him by Labor Code Sections 133, 138.4, 139.5 and 5307.3, proposes to adopt a regulation contained in Title 8, California Code of Regulations, Section 10124.1.

The regulation concerns the provision of vocational rehabilitation services. Proposed Section 10124.1 addresses the determination of vocational feasibility by the Qualified Rehabilitation Representative pursuant to Labor Code Section 4637(a).

**PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR
SUBMISSION OF WRITTEN COMMENTS**

Members of the public are invited to present written comments regarding these proposed modifications to:

Ms. Guia Carreon,
Regulations Coordinator
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The telephone number of the Regulations Coordinator is (415) 703-4600.

All written comments must be received by the above agency contact person, no later than 5:00 PM on March 28, 2001. Those persons wishing to submit written comments by facsimile transmission (FAX) should utilize the following FAX number: (415) 703-4720. The address for submission of comments by electronic mail (e-mail) is: **DWCRules@hq.dir.ca.gov.**

AVAILABILITY OF TEXT OF REGULATION

Copies of the original text and modified text with modifications clearly indicated are available for public review between the hours of 8:00 AM to 5:00 PM, Monday through Friday, at the Division of Workers' Compensation office located at 455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102. Copies of the regulation and any supplemental information contained in the rulemaking file may be requested in writing from Ms. Guia Carreon, Regulations Coordinator, at the address noted on Page 1. In addition, the above cited materials may be accessed on the Division's internet homepage at: www.dir.ca.gov.

Dated: _____

RICHARD P. GANNON
Administrative Director

Title 8, California Code of Regulations
Chapter 4.5
Subchapter 1.5
Injuries On Or After January 1, 1990
Article 7
Vocational Rehabilitation

Note: The regulatory text as initially proposed in January 2001 is shown in underlined type.

Changes currently proposed are illustrated as follows: Additions to the regulatory text are double underlined. Deletions from the regulatory text are shown in ~~strikeout type~~.

§ 10124.1. Identification of Vocational Feasibility

(a) The Qualified Rehabilitation Representative (QRR) selected pursuant to Labor Code section 4637(a)(5) shall determine the employee's "vocational feasibility" as defined in Labor Code section 4635(a)(2). The QRR's determination of vocational feasibility may include the following steps:

- (1) an initial evaluation meeting;
- (2) an assessment of existing employment skills;
- (3) ~~an evaluation~~ consideration of the current physical limitations and work restrictions contained in the medical record ~~to ascertain functional capacities~~;
- (4) an assessment of the injured employee's perception of his or her physical capacities;
- (5) an identification of vocational strengths;
- (6) an identification of factors that may prevent or enhance participation in vocational rehabilitation services; and
- (7) ~~a consideration~~ the use of ~~vocational/work~~ vocational testing and/or work evaluation services when appropriate.

(b) The QRR shall prepare an initial report using DWC Form RU-120 addressing the employee's vocational feasibility prior to completing the "Vocational Rehabilitation Plan", DWC Form RU 102. The QRR shall thereafter continue to address the employee's vocational feasibility using DWC Form RU-121. For employees injured on or after 1/1/94, where all of the events contained in Section 10125 have occurred, the fees for reports required by this section shall be attributable to the maximum aggregate fees provided for in Sections 10132 and 10125.

(c) The QRR's report of vocational non-feasibility shall identify the specific factor(s) preventing the employee from benefiting from the provision of vocational rehabilitation services. The report shall further identify any recommended action the employee should pursue in order to attain vocational feasibility.

(d) Where the QRR determines an employee lacks vocational feasibility, the claims administrator may, after notice to the employee pursuant to Sections 9812(d) or 9813(a)(3), discontinue vocational rehabilitation services and vocational rehabilitation temporary disability or maintenance allowance payments.

(e) The employee may dispute the claims administrator's discontinuance of benefits under subdivision (d) by filing a "Request for Dispute Resolution", DWC Form RU-103, pursuant to Section 10127(c) or (d). Notwithstanding Section 10127(e), the Rehabilitation Unit shall consider the dispute on an expedited basis, and shall issue a determination within ten (10) days of receipt of the RU-103.

Note: Authority cited: Sections 133, 138.4, 139.5, 5307.3, Labor Code.
Reference: Sections 4635, 4637, Labor Code.