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**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 seriously injured employees and the certification of rehabilitation facilities. As provided by the statute, only those seriously injured workers receiving physical rehabilitation in facilities certified by the division are entitled to benefits from the Second Injury Fund under section 287.141.3, RSMo. This does not mean that workers cannot be rehabilitated in other facilities, but it does mean, if they are, that they cannot receive the Second Injury Fund benefits provided in section 287.141.3, RSMo.*

(1) Section 287.141, RSMo provides for physical rehabilitation of a seriously injured person, for the division to administer the benefits to the injured worker as provided, and for the division to investigate and certify rehabilitation facilities.

(2) Words and phrases used in these rules are declared to mean:

(A) Director—Director of the Division of Workers' Compensation;

(B) Division—Division of Workers' Compensation;

(C) Employee—seriously injured worker who is offered and accepts physical rehabilitation or who is ordered by the division to be qualified to receive physical rehabilitation;

(D) Employer—as defined by and used in the Workers' Compensation Law of Missouri;

(E) Facility or rehabilitation facility—an institution or facility that provides medical, surgical, hospital or physical restoration services;

(F) Insurer—as defined by and used in the Workers' Compensation Law of Missouri; and

(G) 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, physical and occupational therapy provided on an inpatient or outpatient basis. The term shall exclude vocational rehabilitation as defined by section 287.143 through section 287.148, RSMo.

(3) Certification of Rehabilitation Facilities.

(A) The division 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 division may investigate a rehabilitation facility for the purpose of certification or renewal of certification. A report of the investigation shall be made available to the facility requesting certification. Each report 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 certification. The information obtained by the division in the certification process shall be confidential.

(B) In order to qualify as a rehabilitation facility, the facility must meet the specifications as to function, personnel, equipment and direction set forth in section 287.141.2, RSMo. If the facility currently maintains either Commission on Accreditation of Rehabilitation Facilities (CARF) or Joint Commission on Accreditation of Hospital Organizations (JCAHO) certification, the facility will be certified for purposes of this rule. For facilities not certified by CARF or JCAHO the division will supply the standards for certification to the facility upon their application.

(C) Upon investigation, the division will grant or deny certification of the facility.

(D) The division shall issue a certificate of qualification to a facility it finds meets the requirements of subsection (3)(B) of this rule. The division shall continuously maintain a complete roster by name and address of certified facilities in good standing.

(E) The original certification of a facility is not a guarantee of its continued certification. The division may revoke a facility's certification if a facility fails to continuously maintain the standards set forth in subsection (3)(B) of this rule.

(F) The division will notify the facility of the grounds for denial or revocation of the certification or renewal of certification, in writing. The facility may within thirty (30) days of the date of written denial or revocation, request a hearing before the director. The director or the director's designee shall review the matter, including the discretion to take evidence, if necessary, in the review. Any review by the director or the director's designee that involves the taking of evidence shall be conducted as a hearing according to the provisions of 8 CSR 50-2.010. Any order of the director or the director's designee shall be subject to review according to the provisions of sections 287.470 and 287.480, RSMo.

(4) Eligibility of Second Injury Fund Benefits.

(A) The division shall determine whether the injury is a serious injury as set forth in subsection (4)(B) of this rule and whether the facility is a certified facility pursuant to subsection (3)(B) of this rule. The division may rely on the opinion of the treating physician in its determination of the injury as being serious. It is the seriousness of the injury rather than the type of treatment that determines the employee's eligibility of the benefit.

(B) The division considers the following injuries as serious: quadriplegia, paraplegia; amputations of the hand, arm, foot or leg; atrophy due to nerve injury or nonuse; back injuries not amenable alone to recognized medical and surgical procedures; crushing injuries; severe burn injuries; and other injuries in the division's discretion that may constitute a significant impairment.

(C) If the division determines payment of the benefit is owing, the division thereupon shall enter its approval, advise the parties of its action and requisition weekly payments out of the Second Injury Fund, to be paid the employee. The division itself may identify cases appropriate for payment of the Second Injury Fund benefit, in such cases the division shall requisition weekly payments and shall notify the parties to the case of its action.

(D) 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. The division shall continue to requisition the amount provided by section 287.141.3, RSMo, out of the Second Injury Fund to the injured employee while he or she is being rehabilitated.

(E) In the gravest of injuries, the division may consider interruptions of physical rehabilitation for medical reasons in determining benefits.

(F) A facility shall inform the division in such a manner as determined by the division, the period during which an employee is actually being rehabilitated and submit a complete progress report when requested by the division.

(5) Any dispute arising under sections 287.141.2 and 287.141.5, RSMo, or a denial of payment of the Second Injury Fund benefit under section 287.141.3, RSMo, shall be governed by the provisions of this section.

(A) If the parties disagree as to the provisions or acceptance of physical rehabilitation or the division has denied payment of the



Second Injury Fund benefit provided in section 287.141.3, RSMo, the employee or the employer or the insurer may file a request for a hearing with the division.

(B) Hearing on a request filed under subsection (A) shall be held at a place and time to be set by the division and shall be informal in all respects. The rules of evidence in civil proceedings shall not apply. Such hearing may be held by the director or by the director's designee.

(C) Resetting the hearing date for evidence shall only be granted under unusual circumstances.

(D) Requests for continuances must be in writing and will not be granted except under extraordinary circumstances.

(E) The hearing will be recorded. A transcription of the hearing will be made upon request and shall be available to the parties in like manner and for the same fees as provided in 8 CSR 50-2.020.

(F) 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 or the Second Injury Fund benefit. A copy of the order shall be sent to all parties. When the order grants physical rehabilitation or the Second Injury Fund benefit, it shall include an order to requisition payment of the amount provided by section 287.141.3, RSMo, from the Second Injury Fund to the injured employee during such time as the employee is receiving physical rehabilitation.

(G) All parties must comply with an order of the division within thirty (30) days from the date of said order, unless the order itself specifically provides otherwise.

(H) A request for a review of an order of the division issued pursuant to section 287.141.5, RSMo and section 287.141.3, RSMo is governed by the provisions of section 287.480, RSMo and section 287.495, RSMo.

*AUTHORITY: section 287.141, RSMo 1994.\* 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. Rescinded and readopted: Filed Jan. 21, 2000, effective Sept. 30, 2000.*

*\*Original authority: 287.141, RSMo 1951, amended 1969, 1971, 1974, 1975, 1978, 1979, 1980, 1983.*

*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.*