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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-FIFTH  
SESSION

**HOUSE FILE No. 2786**

February 12, 2008

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act  
1.2 relating to workers' compensation; modifying qualified rehabilitation consultant  
1.3 fees; amending Minnesota Statutes 2006, section 176.102, subdivisions 2, 4.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2006, section 176.102, subdivision 2, is amended to read:

1.6 Subd. 2. **Administrators.** The commissioner shall hire a director of rehabilitation  
1.7 services in the classified service. The commissioner shall monitor and supervise  
1.8 rehabilitation services, including, but not limited to, making determinations regarding the  
1.9 selection and delivery of rehabilitation services and the criteria used to approve qualified  
1.10 rehabilitation consultants and rehabilitation vendors. ~~The commissioner may also make~~  
1.11 ~~determinations regarding fees for rehabilitation services and shall by rule establish a~~  
1.12 ~~fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and~~  
1.13 ~~vendors.~~ Notwithstanding any law or rule to the contrary, the maximum hourly rate  
1.14 for fees charged by a qualified rehabilitation consultant must be adjusted annually  
1.15 each October 1 by the greater of two percent or the percentage adjustment determined  
1.16 under section 176.645, but without the cap on increases provided by that section. The  
1.17 commissioner shall annually ~~review the fees and~~ give notice of any the adjustment in the  
1.18 State Register. ~~By March 1, 1993, the commissioner shall report to the legislature on~~  
1.19 ~~the status of the commission's monitoring of rehabilitation services.~~ The commissioner  
1.20 may hire qualified personnel to assist in the commissioner's duties under this section and  
1.21 may delegate the duties and performance.

1.22 Sec. 2. Minnesota Statutes 2006, section 176.102, subdivision 4, is amended to read:

2.1 Subd. 4. **Rehabilitation plan; development.** (a) A rehabilitation consultation  
2.2 must be provided by the employer to an injured employee upon request of the employee,  
2.3 the employer, or the commissioner. When the commissioner has received notice or  
2.4 information that an employee has sustained an injury that may be compensable under  
2.5 this chapter, the commissioner must notify the injured employee of the right to request  
2.6 a rehabilitation consultation to assist in return to work. The notice may be included in  
2.7 other information the commissioner gives to the employee under section 176.235, and  
2.8 must be highlighted in a way to draw the employee's attention to it. If a rehabilitation  
2.9 consultation is requested, the employer shall provide a qualified rehabilitation consultant.  
2.10 If the injured employee objects to the employer's selection, the employee may select  
2.11 a qualified rehabilitation consultant of the employee's own choosing within 60 days  
2.12 following the filing of a copy of the employee's rehabilitation plan with the commissioner.  
2.13 If the consultation indicates that rehabilitation services are appropriate under subdivision  
2.14 1, the employer shall provide the services. If the consultation indicates that rehabilitation  
2.15 services are not appropriate under subdivision 1, the employer shall notify the employee  
2.16 of this determination within 14 days after the consultation.

2.17 (b) In order to assist the commissioner in determining whether or not to request  
2.18 rehabilitation consultation for an injured employee, an employer shall notify the  
2.19 commissioner whenever the employee's temporary total disability will likely exceed 13  
2.20 weeks. The notification must be made within 90 days from the date of the injury or when  
2.21 the likelihood of at least a 13-week disability can be determined, whichever is earlier, and  
2.22 must include a current physician's report.

2.23 (c) ~~The qualified rehabilitation consultant shall disclose in writing at the first~~  
2.24 ~~meeting or written communication with the employee~~ Any ownership interest or affiliation  
2.25 between the firm which employs the qualified rehabilitation consultant and the employer,  
2.26 insurer, adjusting or servicing company, ~~including the nature and extent of the affiliation~~  
2.27 ~~or interest is prohibited.~~

2.28 The qualified rehabilitation consultant shall also disclose to all parties any affiliation,  
2.29 business referral or other arrangement between the consultant or the firm employing the  
2.30 consultant and any other party, attorney, or health care provider involved in the case.

2.31 (d) After the initial provision or selection of a qualified rehabilitation consultant as  
2.32 provided under paragraph (a), the employee may request a different qualified rehabilitation  
2.33 consultant which shall be granted or denied by the commissioner or compensation judge  
2.34 according to the best interests of the parties.

2.35 (e) The employee and employer shall enter into a program if one is prescribed  
2.36 in a rehabilitation plan within 30 days of the rehabilitation consultation if the qualified

3.1 rehabilitation consultant determines that rehabilitation is appropriate. A copy of the plan,  
3.2 including a target date for return to work, shall be submitted to the commissioner within  
3.3 15 days after the plan has been developed.

3.4 (f) If the employer does not provide rehabilitation consultation requested under  
3.5 paragraph (a), the commissioner or compensation judge shall notify the employer that  
3.6 if the employer fails to provide a qualified rehabilitation consultant within 15 days to  
3.7 conduct a rehabilitation consultation, the commissioner or compensation judge shall  
3.8 appoint a qualified rehabilitation consultant to provide the consultation at the expense of  
3.9 the employer unless the commissioner or compensation judge determines the consultation  
3.10 is not required.

3.11 (g) In developing a rehabilitation plan consideration shall be given to the employee's  
3.12 qualifications, including but not limited to age, education, previous work history, interest,  
3.13 transferable skills, and present and future labor market conditions.

3.14 (h) The commissioner or compensation judge may waive rehabilitation services  
3.15 under this section if the commissioner or compensation judge is satisfied that the employee  
3.16 will return to work in the near future or that rehabilitation services will not be useful in  
3.17 returning an employee to work.