

2.31. APPROVAL OF REHABILITATION PROGRAM. -- (A) Any party may file a petition with the court to approve a rehabilitation program pursuant to G.L. 1956 § 28-33-41(b). The petition shall set forth all the pertinent facts regarding the program including, but not limited to, the exact date and nature of the employee's injury, the length of the employee's incapacity, the name and address of all health care providers who have treated the employee, and the exact nature of the proposed rehabilitation program including, but not limited to, the location of the program, a proposed start date, a proposed completion date, the goal or objective of the program, the expected cost to complete the program, and the employee's expected earning capacity upon the successful completion of the program.

(B) The petitioner shall attach the following documents to the petition:

(1) A legible copy of the original document(s) establishing liability and any subsequent documents modifying the description of the injury, the periods of incapacity, or the employee's average weekly wage.

(2) A legible copy of all medical records pertaining to the diagnosis and treatment of the employee's work injury, in chronological order and appropriately tabbed.

(3) A legible copy of the most recent Functional Capacity Evaluation.

(4) A legible copy of the rehabilitation provider's report detailing the precise medical restorative services, vocational restorative services, or re-employment services recommended for the injured employee, including the program location, the program start date, the expected program completion date, the expected cost, and the expected goal of the program.

(5) If the injured employee is the petitioner, an affidavit signed by the employee attesting that s/he is desirous of pursuing the proposed rehabilitation plan and acknowledging that her/his failure to cooperate with a plan approved by the court may jeopardize her/his receipt of future compensation benefits.

The court shall not accept for filing any petition seeking approval of a rehabilitation program unless it is accompanied by all of the necessary documents set forth above.

(C) The court shall refer all such petitions to a judge of the court who shall conduct a mandatory pretrial conference as provided for in G.L. 1956 § 28-35-20. At the pretrial conference, the trial judge may refer the petition to the Medical Advisory Board with instructions to have the employee evaluated as the trial judge may direct. Such evaluation may be performed by an individual to be selected by the trial judge or by an independent health care review team whose composition will be determined by the trial judge. At the pretrial conference, the trial judge may request the petitioner to provide copies of the records set forth in subsections (B)(2), (B)(3), and (B)(4) above in the event that the employee is to be evaluated by more than one (1) expert.

Reporter's Notes. W.C.C. – R.P. 2.31 was revised in September 2000 to establish a procedure to support the amendment to G.L. 1956 § 28-33-41(b). The Workers'

Compensation Court assumed original jurisdiction over disputes arising under this section of the Act pursuant to P.L. 2000, Ch. 491, § 4. Prior to the passage of this amendment, disputes relating to the provision of rehabilitative services were initially heard at the Department of Labor and Training and any party dissatisfied with the Department's ruling was given the opportunity to appeal the matter to the Workers' Compensation Court.

The rule requires the petitioner to submit the necessary records in support of the proposed rehabilitation plan. The procedure allows the court to review requests for approval of rehabilitation programs and protect all parties from abuse of the statute.

This rule was amended in 2013 to provide for more specific and detailed information to be included in petitions for approval of rehabilitation plans proposed under G.L. 1956 § 28-33-41(b). The rule was also amended with regard to the number of copies of the proposed rehabilitation plan and supporting documentation that need to be initially filed with the court. The rule provides that only when appropriate, as determined by the trial judge, shall additional copies be provided to the court by the petitioner.