

ALASKA WORKERS' COMPENSATION BOARD MEETING



May 12-13, 2022

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TAB 1

ALASKA WORKERS' COMPENSATION BOARD MEETING AGENDA

May 12-13, 2022

**ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKERS' COMPENSATION**

Zoom Video Conference: <https://us02web.zoom.us/j/89888125969>

To participate telephonically: 888-788-0099, Webinar ID: 898 8812 5969

Thursday, May 12, 2022

- 9:00am** Call to order
Roll call establishment of quorum
Introduction of Senior Staff
- 9:10am** AWCB Ethics Training – AAG Kevin Higgins
- 10:00am** Break
- 10:15am** Public Comment Period
- Public comments
- 11:15am** Director's Report
- Board Open Forum
 - Approval of Board Designees
- 11:45am** Budget & Staffing Update – Alexis Hildebrand, Admin Officer
- 12:00pm** Lunch Break
- 1:30pm** Annual Report from Rehabilitation and Reemployment (Stacy Niwa)
- 2:00pm** Old Business
- Regulations
 - 8 AAC 45.420, 8 AAC 45.440, 8 AAC 45.500
 - A motion for adoption
 - Proposed changes from staff for RBA
- 3:00pm** Break
- 3:15pm** Old Business (continued)
- 4:15pm** New Business
- Proposed
- 5:00pm** Adjournment

Friday, May 13, 2022 (if Needed)

- 9:00am** Call to order
Roll call establishment of quorum
- 10:30am** Break
- 12:00pm** Lunch Break
- 1:30pm** Continued Business (if needed)
- 3:30pm** Break
- 3:45pm** Continued Business (if needed)
- 5:00pm** Adjournment Approval of Agenda

TAB 2

Workers' Compensation Board
Meeting Minutes

January 13-14, 2022

Thursday, January 13, 2022

I. Call to Order

Workers' Compensation Director Charles Collins called the Board to order at 9:09 am on Thursday, January 13, 2022. The meeting was held in Anchorage, Alaska and by video conference.

II. Roll call

Director Collins conducted roll call. The following Board members were present:

Bradley Austin	Randy Beltz	Pamela Cline	Christopher Dean
Micheal Dennis	Sara Faulkner	Christina Gilbert	Anthony Ladd
Jason Motyka	Nancy Shaw	Robert Weel	Lake Williams

Members Bob Doyle, Bronson Frye and Sarah Lefebvre were excused. Quorum was established. Director Collins introduced senior staff present.

III. Agenda Approval

A motion to approve the agenda was made by member Beltz and seconded by member Weel. The agenda was approved by unanimous vote.

IV. Approval of Meeting Minutes

A motion to adopt the minutes from the October 14, 2021 regular Board Meeting was made by member Beltz and seconded by member Austin. The minutes were adopted without objection.

V. Director's Report

Director Collins discussed upcoming board member term expirations and seat vacancies, upcoming legislation, and provided an update on the Anchorage hearing room upgrades.

Director Collins reviewed the list of Board Designees. Member Austin motioned to accept the board designees and member Weel seconded. The motion passed unanimously.

Administrative Officer Alexis Hildebrand provided an overview of Division staffing, and the FY22 budget performance year-to-date.

VI. Public Comment Period 10:15am- 11:15am

No public comment was made.

VII. Old Business

The Board discussed the motion to review the reemployment benefits regulations, which was made and tabled at the October 2021 meeting. Member Austin motioned to remove the motion from the table and member Beltz seconded.

Break 9:55am-10:12am

Stacy Niwa and Grace Lee presented draft regulations regarding reemployment benefits. The board discussed the regulations and provided feedback for improvements.

Member Weel motioned to break for lunch early to allow Ms. Niwa and Ms. Lee to incorporate the suggestions into the draft regulations. Member Beltz seconded, and the motion passed unanimously.

Lunch Break 11:30am-1:36pm

Grace Lee presented the redrafted proposed regulations.

VIII. Old Business

Member Austin motioned to withdraw his earlier motion to remove the motion to review the rehabilitation regulations that was made at the October 2021 Board Meeting.

Approve 8 AAC 45.420 (b) and (d), to clarify the reasons a rehabilitation specialist may be removed, and to create a probationary rotation period for new rehabilitation specialists. Member Shaw moved to approve the amendment of 8 AAC 45.420 (b) and (d). Member Beltz seconded the motion. The motion passed unanimously.

Approve 8 AAC 45.440(e), to clarify the procedures for removing a rehabilitation specialist. Member Shaw moved to approve the amendment of 8 AAC 45.440(e). Member Beltz seconded the motion. The motion passed unanimously.

Approve 8 AAC 45.440(g), to create a probationary rotation period for rehabilitation specialists who are under review. Member Cline moved to approve the amendment of 8 AAC 45.440(g). Member Weel seconded the motion. The motion passed unanimously.

Approve 8 AAC 45.440(h), to clarify the procedures for removing a rehabilitation specialist. Member Dean moved to approve the amendment of 8 AAC 45.440(h). Member Weel seconded the motion. The motion passed unanimously.

Approve 8 AAC 45.500(b), to add the administrator as a recipient of billing statements. Member Cline moved to approve the amendment of 8 AAC 45.500(b). Member Beltz seconded the motion. The motion passed unanimously.

IX. New Business

Approve 8 AAC 45.410, to create a probationary rotation period for new rehabilitation specialists. Member Cline moved to approve the amendment of 8 AAC 45.410(d). Member Weel seconded the motion. The motion passed unanimously.

Approve 8 AAC 45.435, to establish procedures for reviewing rehabilitation specialists. Member Beltz moved to approve the amendment of 8 AAC 45.410(d). Member Weel seconded the motion. The Board discussed the language and made amendments. Members Beltz and Weel reaffirmed their motion with the revised language. The motion passed unanimously.

X. Old Business, continued

The board discussed the letter to Boards and Commissions that was discussed at the October 2021 meeting. Director Collins stated that the letter had not been drafted as planned, and stated he has met with Boards and Commissions and there have been no applications received, including prior member Jacob Howdeshell. With this new information, the board decided it would not be beneficial to send the letter. Member Beltz motioned to table the discussion and letter, and member Weel seconded. The motion passed unanimously.

XI. New Business, continued

Member Shaw requested additional board training at future board meetings, either by staff or by guest expert, and other board members stated their agreement.

Motion to adjourn was made by Member Austin and seconded by member Weel. The motion passed unanimously.

Meeting Adjourned 5:00 pm

Friday, January 14, 2022

I. Call to Order

Director Collins resumed the Alaska Workers’ Compensation Board meeting at 9:25 am on Friday, January 14, 2022. The meeting was held in Anchorage, Alaska and by video conference. The following Board members were present.

Bradley Austin	Randy Beltz	Pamela Cline	Christopher Dean
Sara Faulkner	Christina Gilbert	Anthony Ladd	Jason Motyka
Nancy Shaw	Robert Weel	Lake Williams	

Members Bob Doyle, Bronson Frye, and Sarah Lefebvre were excused. Member Michael Dennis was absent. Quorum was established.

II. Board Training

Acting Chief of Adjudications and Director Collins provided training to the Board regarding decorum, hearing scenarios, C&R review and social media common sense.

Break 11:15am-11:26am

Acting Chief of Adjudications and Director Collins continued to provide training to the Board.

Grace Lee brought forth an issue regarding the Fee Schedule regulations project for 8 AAC 45.083, that was adopted by the Board at the October 2021 meeting. This project was submitted to Dept of Law with a special effective date of January 1, 2022, however that date cannot be less than the minimum of 30 days after filing. The Dept of Law advised that “{effective date of regulations}” should be used in lieu of the special effective date, which identifies a placeholder for the lieutenant governor’s office. Once the regulations are filed and the effective date is known, that office will insert the actual date: “MMMM DD, 2022”. Member Beltz motioned to approve changes and effective date as written, and member Weel seconded. The motion passed unanimously.

Director Collins reminded the Board members the next regular board meeting is May 12-13, 2022.

Motion to adjourn was made by Member Weel and seconded by Member Dean. The motion passed unanimously.

Meeting Adjourned 12:08pm

TAB 3

ALASKA WORKERS' COMPENSATION BOARD

Chair, Commissioner Dr. Tamika L. Ledbetter
Alaska Department of Labor and Workforce Development

Name	Seat	District	Affiliation
Charles Collins	Commissioner's Designee		
Brad Austin	Labor	1 st Judicial District	Plumbers and Pipe Fitters Local 262
Christina Gilbert	Industry	1 st Judicial District	Industry
Randy Beltz	Industry	3 rd Judicial District	Industry
Pamela Cline	Labor	3 rd Judicial District	Intl. Brotherhood of Electrical Workers LU 1547
Micheal Dennis	Industry	3 rd Judicial District	Industry
Bob Doyle	Industry	3 rd Judicial District	Industry
Sara Faulkner	Industry	3 rd Judicial District	Industry
Bronson Frye	Labor	3 rd Judicial District	Painters and Allied Trades Local 1959
Anthony Ladd	Labor	3 rd Judicial District	Labor
Jason Motyka	Industry	3 rd Judicial District	Industry
Nancy Shaw	Labor	3 rd Judicial District	Labor
Vacant	Industry	3 rd Judicial District	Industry
Christopher Dean	Industry	4 th Judicial District	Industry
Sarah Lefebvre	Industry	4 th Judicial District	Colaska dba Exclusive Paving / University Redi-Mix
Lake Williams	Labor	4 th Judicial District	Operating Engineers Local 302
Vacant	Labor	4 th Judicial District	Labor
Matthew Barth	Labor	At Large	Labor
Bob Weel	Industry	At Large	Industry

TAB 4



BOARD DESIGNEES – May 2022

The following staff members are appointed as Board designees to act on the Board's behalf in accordance with the Alaska Workers' Compensation Act and Regulations. (For example, the Board designee may conduct prehearing conferences, take action in connection with Board-ordered second independent medical examinations, and decide whether to continue or cancel scheduled Board hearings.)

<u>NAME</u>	<u>LOCATION</u>	<u>POSITION TITLE</u>
Charles Collins	Juneau	Director
William Soule	Anchorage	Acting Chief of Adjudications
Judy DeMarsh	Anchorage	WC Hearing Officer II
William Soule	Anchorage	WC Hearing Officer II
Janel Wright	Anchorage	WC Hearing Officer II
Vacant	Anchorage	WC Hearing Officer II
Vacant	Anchorage	WC Hearing Officer II
Kathryn Setzer	Juneau	WC Hearing Officer II
Robert Vollmer	Fairbanks	WC Hearing Officer II
Vacant	Fairbanks	WC Hearing Officer II
Grace Morfield	Anchorage	WC Officer II
Elizabeth Pleitez	Anchorage	WC Officer II
Harvey Pullen	Anchorage	WC Officer II
Mike Sargent	Anchorage	WC Officer II
Dani Byers	Juneau	WC Officer II
Melody Kokrine	Fairbanks	WC Officer II
Carla Gage	Anchorage	WC Officer I
Vacant	Anchorage	WC Officer I

TAB 5

2023 WORKERS' COMPENSATION HEARING CALENDAR

	JUNEAU	FAIRBANKS	ANCHORAGE			
	TUE	TH	TUE	W	TH	FRI
JANUARY	10	5		4		
	24	19	10	18	12	13
			24	25	26	
			31			
FEBRUARY		2		1	2	
	14	16	14	8 15	16	
	28		28	22		
MARCH		2		1	2	
	7	16	7	8 15	9	
	21	30	21	22 29	23 30	
APRIL	4	6	4	5	6	
	18	20	18	12 19	20	
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MAY		4		3		
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JUNE					1	
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JULY					6	
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AUGUST						
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SEPTEMBER				6		
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OCTOBER		5	3	4	5	
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NOVEMBER		2		1	2	
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DECEMBER			5	6	7	
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NOTES: Hearings may be held twice in Ketchikan during 2023, as needed.
 Jan. 12-13, May 18-19 and Oct. 12-13 are AWCB public board meetings, not hearing dates.

Additional hearing days and/or board meetings will be added as necessary.



ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT

WORKERS' COMPENSATION 2023 CALENDAR

ANCHORAGE

JANUARY

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Holiday

Board Meeting

MSRC Meeting

Hearing Day

State Holidays

Date	Holiday
01/01/23	New Year's Day (observed 01/02/2023)
01/16/23	MLK Jr.'s Birthday
02/20/23	Presidents' Day
03/27/23	Seward's Day
05/29/23	Memorial Day
07/04/23	Independence Day

State Holidays

Date	Holiday
09/04/23	Labor Day
10/18/23	Alaska Day
11/11/23	Veterans' Day (observed 11/10/2023)
11/30/23	Thanksgiving Day
12/25/23	Christmas Day



ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT

WORKERS' COMPENSATION 2023 CALENDAR

JUNEAU

JANUARY

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 Holiday
 Board Meeting
 MSRC Meeting
 Hearing Day

State Holidays

Date	Holiday
01/01/23	New Year's Day (observed 01/02/2023)
01/16/23	MLK Jr.'s Birthday
02/20/23	Presidents' Day
03/27/23	Seward's Day
05/29/23	Memorial Day
07/04/23	Independence Day

State Holidays

Date	Holiday
09/04/23	Labor Day
10/18/23	Alaska Day
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11/30/23	Thanksgiving Day
12/25/23	Christmas Day



ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT

WORKERS' COMPENSATION 2023 CALENDAR

FAIRBANKS

JANUARY

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MARCH

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AUGUST

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SEPTEMBER

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OCTOBER

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NOVEMBER

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DECEMBER

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	20	21	22	23	24	25
	26	27	28	29	30	31

Holiday

Board Meeting

MSRC Meeting

Hearing Day

State Holidays

Date	Holiday
01/01/23	New Year's Day (observed 01/02/2023)
01/16/23	MLK Jr.'s Birthday
02/20/23	Presidents' Day
03/27/23	Seward's Day
05/29/23	Memorial Day
07/04/23	Independence Day

State Holidays

Date	Holiday
09/04/23	Labor Day
10/18/23	Alaska Day
11/11/23	Veterans' Day (observed 11/10/2023)
11/30/23	Thanksgiving Day
12/25/23	Christmas Day

TAB 6

Charles Collins
Director
PCN 07-3001
JNU XE

Alexis Hildebrand
Admin Officer II
Rg 19 PCN 07-3026
JNU SU

Stacy Niwa
RBA
Rg 22 PCN 07-3047
ANC XE

Rhonda Gerharz
Investigator IV
Rg 20 PCN 07-4557
ANC SU

William Soule
Acting Chief of Adj
Rg 25 PCN 07-3005
ANC XE

Velma Thomas
Program Coordinator
Rg 18 PCN 07-1026
JNU SU

Michael Christenson
 Project Assistant
 Rg 16 PCN 07-5527
 JNU GG

Morgan Fletcher
 WC Officer II
 Rg 18 PCN 07-3007
 ANC GG

Julie Milazzo
 Investigator II
 Rg 16 PCN 07-3064
 ANC GG

Mike Sargent
WC Officer II
Rg 18 PCN 07-3058
ANC SU

Kathryn Setzer
 WC Hearing Off II
 Rg 22 PCN 07-3061
 JNU GG

William Soule
 WC Hearing Off II
 Rg 22 PCN 07-3060
 ANC GG

Nanette Ferrer
 WC Tech - FF
 Rg 12 PCN 07-3028
 JNU GG

Rachel Michaud
Admin Assistant II
Rg 14 PCN 07-3055
JNU SU

Penny Helgeson
 WC Officer II
 Rg 18 PCN 07-3012
 ANC GG

Christine Christensen
 Investigator III
 Rg 18 PCN 07-3070
 ANC GG

Kim Weaver
 Office Asst II
 Rg 10 PCN 07-3037
 ANC GG

VACANT
 WC Hearing Off II
 Rg 22 PCN 07-3042
 FBKS GG

Janel Wright
 WC Hearing Off II
 Rg 22 PCN 07-3059
 ANC GG

VACANT
 WC Tech - FF
 Rg 12 PCN 07-1027
 JNU GG

VACANT
 Office Asst I
 Rg 8 PCN 07-3003
 JNU GG

Darlene Charles
 WC Tech
 Rg 12 PCN 07-3030
 ANC GG

Michelle Wall-Rood
 Investigator III
 Rg 18 PCN 07-3072
 ANC GG

Rachel Story
 Office Asst I
 Rg 8 PCN 07-3052
 ANC GG

Robert Vollmer
 WC Hearing Off II
 Rg 22 PCN 07-3044
 FBKS GG

VACANT
 WC Hearing Off II
 Rg 22 PCN 07-3043
 ANC GG

020

Ted Burkhart
 WC Officer I
 Rg 16 PCN 07-3046
 JNU GG

Marcus Schaufele
 Office Asst II
 Rg 10 PCN 07-3014
 JNU GG

Mary Corpuz
 Office Asst I
 Rg 8 PCN 07-3071
 ANC GG

Wayne Harger
 Investigator III
 Rg 18 PCN 07-3069
 FBKS GG

Konstance Miller
 Office Asst I
 Rg 8 PCN 07-3011
 ANC GG

VACANT
 WC Hearing Off II
 Rg 22 PCN 07-3013
 ANC GG

VACANT
 WC Hearing Off II
 Rg 22 PCN 07-3051
 ANC GG

Dawn Wilson
 Collections Officer
 Rg 16 PCN 21-3047
 JNU GG

Danielle Kalmakoff
 Office Asst I
 Rg 8 PCN 07-3010
 JNU GG

Grace Morfield
 WC Officer II
 Rg 18 PCN 07-3007
 ANC GG

David Price
 Investigator III
 Rg 18 PCN 07-3068
 JNU GG

Pamela Hardy
 WC Tech
 Rg 12 PCN 07-3025
 ANC GG

Dani Byers
WC Officer II
Rg 18 PCN 07-3009
JNU SU

Elizabeth Pleitez
 WC Officer II
 Rg 18 PCN 07-3040
 ANC GG

Deirdre Ford
Chair, WC Appeals
Commission
Rg 27 PCN 07-X001
ANC XE

Lorvin Uddipa
 WC Tech
 Rg 12 PCN 07-3004
 JNU GG

Harvey Pullen
 WC Officer II
 Rg 18 PCN 07-3027
 ANC GG

Melody Kokrine
WC Officer II
Rg 18 PCN 07-3024
FBKS SU

Ali Juan
 Student Intern I
 Rg 6 PCN 07IN1901
 JNU GG

VACANT
 Office Asst I
 Rg 8 PCN 07-1720
 JNU GG

Kathleen Morrison
 Law Office Assistant II
 Rg 13 PCN 07-3067
 ANC GG

Carla Gage
 WC Officer I
 Rg 16 PCN 07-3031
 ANC GG

VACANT
 WC Officer I
 Rg 16 PCN 07-3056
 ANC GG

Deeann Robinson
 WC Technician
 Rg 12 PCN 07-3063
 FBKS GG

Ron Heselton
 Office Asst II
 Rg 10 PCN 07-3036
 FBKS GG

VACANT
 Student Intern I
 Rg 6 PCN 07IN1902
 ANC GG

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

5/3/2022	Q4	FY2022
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Pay Periods processed	21
Pay Periods Remaining	5
Total	26

PPE: 4/17/2022

Summary:

Program	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/3/2022		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date
						Expend	Encumb						
Workers' Compensation	6,078,900	0	0	0	6,078,900	4,276,276	485,937	1,316,687	0	975,140	5,737,353	341,547	78.3%
WC Appeals Commission	440,500	0	0	0	440,500	274,410	4,982	161,108	0	71,492	350,883	89,617	63.4%
WC Benefits Guaranty Fund	785,100	0	0	0	785,100	137,841	119,685	527,575	0	205,946	463,471	321,629	32.8%
Second Injury Fund	2,864,900	0	0	0	2,864,900	1,642,562	2,548	1,219,790	0	567,131	2,212,242	652,658	57.4%
Fishermen's Fund	1,425,200	0	0	0	1,425,200	597,060	166,703	661,437	0	331,580	1,095,343	329,857	53.6%
Division Total	11,594,600	0	0	0	11,594,600	6,928,149	779,854	3,886,597	0	2,151,288	9,859,292	1,735,308	66.5%

Program Revenue	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget
Revenue Type Workers' Safety	6,519,400	0	0	0	6,519,400
Revenue Type Benefits Guaranty Fund	785,100	0	0	0	785,100
Revenue Type Second Injury Fund	2,864,900	0	0	0	2,864,900
Revenue Type Fishermen's Fund	1,425,200	0	0	0	1,425,200
General Funds					
Total Program Funding	11,594,600	0	0	0	11,594,600

Projection Assumptions:

- Personal services based on PCN by PCN projections for remainder of year; includes vacancies
- Travel is based on anticipated travel
- Services is based on most recent indirect rate, core services and lease costs
- Commodities is based on anticipated subscription and business supply costs
- Benefits are straight line projections

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

5/3/2022	Q4	FY2022
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Pay Periods processed	21
Pay Periods Remaining	5
Total	26

PPE: 4/17/2022

Workers' Compensation

AR Unit: 073100060

Program Expenditures	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/3/2022		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To Date
						Expend	Encumb						
Personal Services	4,770,200.00	-96,401.86	0.00	0.00	4,673,798.14	3,531,798.13	0.00	1,142,000.01	0.00	825,713.25	4,357,511.38	316,286.76	75.6%
Travel	63,100.00	0.00	0.00	0.00	63,100.00	14,115.55	1,889.70	47,094.75	0.00	28,484.45	44,489.70	18,610.30	25.4%
Services	1,146,700.00	0.00	0.00	0.00	1,146,700.00	580,210.07	461,998.72	104,491.21	0.00	104,205.98	1,146,414.77	285.23	90.9%
Commodities	80,900.00	96,401.86	0.00	0.00	177,301.86	139,478.74	21,086.45	16,736.67	0.00	16,736.00	177,301.19	0.67	90.6%
Equipment	6,000.00	0.00	0.00	0.00	6,000.00	0.00	0.00	6,000.00	0.00	0.00	0.00	6,000.00	0.0%
NPS Subtotal	1,296,700.00	96,401.86	0.00	0.00	1,393,101.86	733,804.36	484,974.87	174,322.63	0.00	149,426.43	1,368,205.66	24,896.20	87.5%
Grants	12,000.00	0.00	0.00	0.00	12,000.00	10,673.64	962.09	364.27	0.00	0.00	11,635.73	364.27	97.0%
Total Program Expenditures	6,078,900.00	0.00	0.00	0.00	6,078,900.00	4,276,276.13	485,936.96	1,316,686.91	0.00	975,139.68	5,737,352.77	341,547.23	78.3%

Program Revenue

	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Projected Revenue
GF Program Receipts					
Revenue Type Workers' Safety	6,078,900.00				6,078,900.00
Interagency Receipts					
General Funds					0.00
Total Program Funding	6,078,900.00	0.00	0.00	0.00	6,078,900.00

Program Notes

- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 Travel is based on anticipated travel.
- 3000 Services is based on most recent indirect rate, core services and lease costs.
- 4000 Commodities is based on anticipated subscription and business supply costs. Computer order included in
- 5000 No Capital Outlay anticipated.
- 7000 Benefits based on known case info.

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

5/3/2022	Q4	FY2022
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Pay Periods processed	21
Pay Periods Remaining	5
Total	26

PPE: 4/17/2022

WC Appeals Commission

AR Unit: 073200060

Program Expenditures

	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/3/2022		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date
						Expend	Encumb						
Personal Services	302,500.00	0.00	0.00	0.00	302,500.00	244,599.94	0.00	57,900.06	0.00	64,426.92	309,026.86	-6,526.85	80.9%
Travel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%
Services	133,000.00	0.00	0.00	0.00	133,000.00	22,378.54	4,981.71	105,639.75	0.00	7,064.68	34,424.93	98,575.07	20.6%
Commodities	5,000.00	0.00	0.00	0.00	5,000.00	7,431.62	0.00	-2,431.62	0.00	0.00	7,431.62	-2,431.62	148.6%
Equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%
NPS Subtotal	138,000.00	0.00	0.00	0.00	138,000.00	29,810.16	4,981.71	103,208.13	0.00	7,064.68	41,856.55	96,143.45	25.2%
Grants	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%
Total Program Expenditures	440,500.00	0.00	0.00	0.00	440,500.00	274,410.10	4,981.71	161,108.19	0.00	71,491.60	350,883.41	89,616.59	63.4%

Program Revenue

	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Projected Revenue
GF Program Receipts					
Revenue Type: Workers' Safety	440,500.00				440,500.00
Interagency Receipts					
General Funds					
Total Program Funding	440,500.00	0.00	0.00	0.00	440,500.00

Program Notes

- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 -
- 3000 Services is based on most recent indirect rate, core services and lease costs.
- 4000 Commodities is based on anticipated subscription and business supply costs.
- 5000 -
- 7000 -

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

6/17/2021	Q4	FY2022
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Pay Periods processed	21
Pay Periods Remaining	5
Total	26

PPE: 4/17/2022

Benefits Guaranty Fund

AR Unit: 073300061

Program Expenditures	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/3/2022		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date
						Expend	Encumb						
Personal Services	95,100.00	0.00	0.00	0.00	95,100.00	9,774.85	0.00	85,325.15	0.00	20,586.57	30,361.42	64,738.58	10.3%
Travel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%
Services	255,300.00	0.00	0.00	0.00	255,300.00	86,705.44	119,684.51	48,910.05	0.00	955.79	207,345.74	47,954.26	80.8%
Commodities	2,000.00	0.00	0.00	0.00	2,000.00	2,740.16	0.00	-740.16	0.00	500.00	3,240.16	-1,240.16	137.0%
Equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%
NPS Subtotal	257,300.00	0.00	0.00	0.00	257,300.00	89,445.60	119,684.51	48,169.89	0.00	1,455.79	210,585.90	46,714.10	81.3%
Grants	432,700.00	0.00	0.00	0.00	432,700.00	38,620.27	0.00	394,079.73	0.00	183,903.87	222,524.14	210,175.86	8.9%
Total Program Expenditures	785,100.00	0.00	0.00	0.00	785,100.00	137,840.72	119,684.51	527,574.77	0.00	205,946.24	463,471.47	321,628.53	32.8%

Program Revenue	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Projected Revenue
GF Program Receipts					
Revenue Type: Benefits Guaranty Fund	785,100.00	0.00			785,100.00
Interagency Receipts					
General Funds					
Total Program Funding	785,100.00	0.00	0.00	0.00	785,100.00

Program Notes

- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 -
- 3000 Services is based on most recent indirect rate, core services and lease costs.
- 4000 Commodities is based on anticipated subscription and business supply costs.
- 5000 -
- 7000 Straight Line projection.

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

6/17/2021	Q4	FY2022
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Pay Periods processed	21
Pay Periods Remaining	5
Total	26

PPE: 4/17/2022

Second Injury Fund

AR Unit: 073400062

Program Expenditures	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/3/2022		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date
						Expend	Encumb						
Personal Services	209,200.00	0.00	0.00	0.00	209,200.00	167,345.34	0.00	41,854.66	0.00	38,343.49	205,688.83	3,511.17	80.0%
Travel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%
Services	83,100.00	0.00	0.00	0.00	83,100.00	23,394.38	2,548.17	57,157.45	0.00	5,691.52	31,634.07	51,465.93	31.2%
Commodities	4,300.00	0.00	0.00	0.00	4,300.00	4,443.06	0.00	-143.06	0.00	0.00	4,443.06	-143.06	103.3%
Equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%
NPS Subtotal	87,400.00	0.00	0.00	0.00	87,400.00	27,837.44	2,548.17	57,014.39	0.00	5,691.52	36,077.13	51,322.87	34.8%
Grants	2,568,300.00	0.00	0.00	0.00	2,568,300.00	1,447,379.23	0.00	1,120,920.77	0.00	523,096.36	1,970,475.59	597,824.41	56.4%
Total Program Expenditures	2,864,900.00	0.00	0.00	0.00	2,864,900.00	1,642,562.01	2,548.17	1,219,789.82	0.00	567,131.36	2,212,241.54	652,658.46	57.4%

Program Revenue	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget
GF Program Receipts					
Revenue Type Second Injury Fund	2,864,900.00				2,864,900.00
Interagency Receipts					
General Funds					
Total Program Funding	2,864,900.00	0.00	0.00	0.00	2,864,900.00

Program Notes

- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 -
- 3000 Services is based on most recent indirect rate, core services and lease costs.
- 4000 Commodities is based on anticipated subscription and business supply costs.
- 5000 -
- 7000 Straight Line projection.

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

6/17/2021	Q4	FY2022
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Pay Periods processed	21
Pay Periods Remaining	5
Total	26

PPE: 4/17/2022

Fishermen's Fund

AR Unit: 073500063

Program Expenditures	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/3/2022		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date
						Expend	Encumb						
Personal Services	271,200.00	0.00	0.00	0.00	271,200.00	208,304.83	0.00	62,895.17	0.00	40,809.72	249,114.55	22,085.45	76.8%
Travel	46,000.00	0.00	0.00	0.00	46,000.00	7,768.83	3,901.29	34,329.88	0.00	9,329.88	21,000.00	25,000.00	25.4%
Services	182,200.00	0.00	0.00	0.00	182,200.00	43,183.19	162,801.70	-23,784.89	0.00	6,017.96	212,002.85	-29,802.85	113.1%
Commodities	9,700.00	0.00	0.00	0.00	9,700.00	7,607.51	0.00	2,092.49	0.00	2,000.00	9,607.51	92.49	78.4%
Equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%
NPS Subtotal	237,900.00	0.00	0.00	0.00	237,900.00	58,559.53	166,702.99	12,637.48	0.00	17,347.84	242,610.36	-4,710.36	94.7%
Grants	916,100.00	0.00	0.00	0.00	916,100.00	330,195.64	0.00	585,904.36	0.00	273,422.03	603,617.67	312,482.33	36.0%
Total Program Expenditures	1,425,200.00	0.00	0.00	0.00	1,425,200.00	597,060.00	166,702.99	661,437.01	0.00	331,579.59	1,095,342.58	329,857.42	53.6%

Program Revenue	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget
GF Program Receipts					
Revenue Type Fishermen's Fund	1,425,200.00				1,425,200.00
Interagency Receipts					
General Funds					
Total Program Funding	1,425,200.00	0.00	0.00	0.00	1,425,200.00

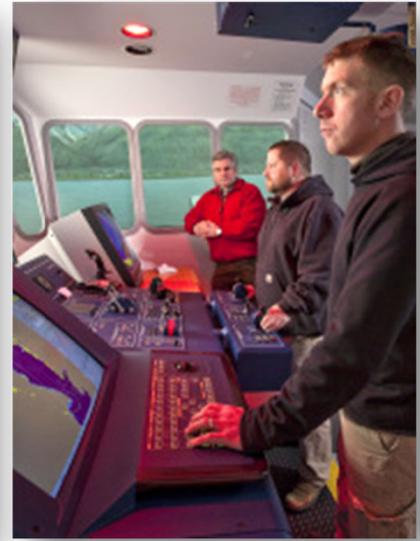
Program Notes

- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 -
- 3000 Services is based on most recent indirect rate, core services and lease costs. Unlikely to spend \$165,000
- 4000 Commodities is based on anticipated subscription and business supply costs.
- 5000 -
- 7000 Straight Line projection.

TAB 7

ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

DIVISION OF WORKERS' COMPENSATION REEMPLOYMENT BENEFITS ANNUAL REPORT CALENDAR YEAR 2021



028



ALASKA DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT
DR. TAMIKA L. LEDBETTER, COMMISSIONER



1

5/6/2022

Reemployment Benefits Section

- Provides information about reemployment benefits
- Notifies employees of their reemployment benefits rights
- Processes requests for, and stipulations to, eligibility evaluations
- Makes eligibility determinations after review of rehabilitation specialist recommendations
- Processes and serves employee elections of reemployment benefits or job dislocation benefits
- Processes assignment of eligible employees to rehabilitation specialists for plan development
- Reviews reemployment benefits plans upon request

029



2021 By the Numbers

- 438 injured workers were referred for evaluations for eligibility for reemployment benefits.
- 952 eligibility evaluation reports were reviewed.
- 146 suspension letters were issued.
- 341 eligibility determinations were made.
- 73 injured workers were found eligible for reemployment benefits.
- 30 injured workers elected to receive a job dislocation benefit.

030



2021 By the Numbers

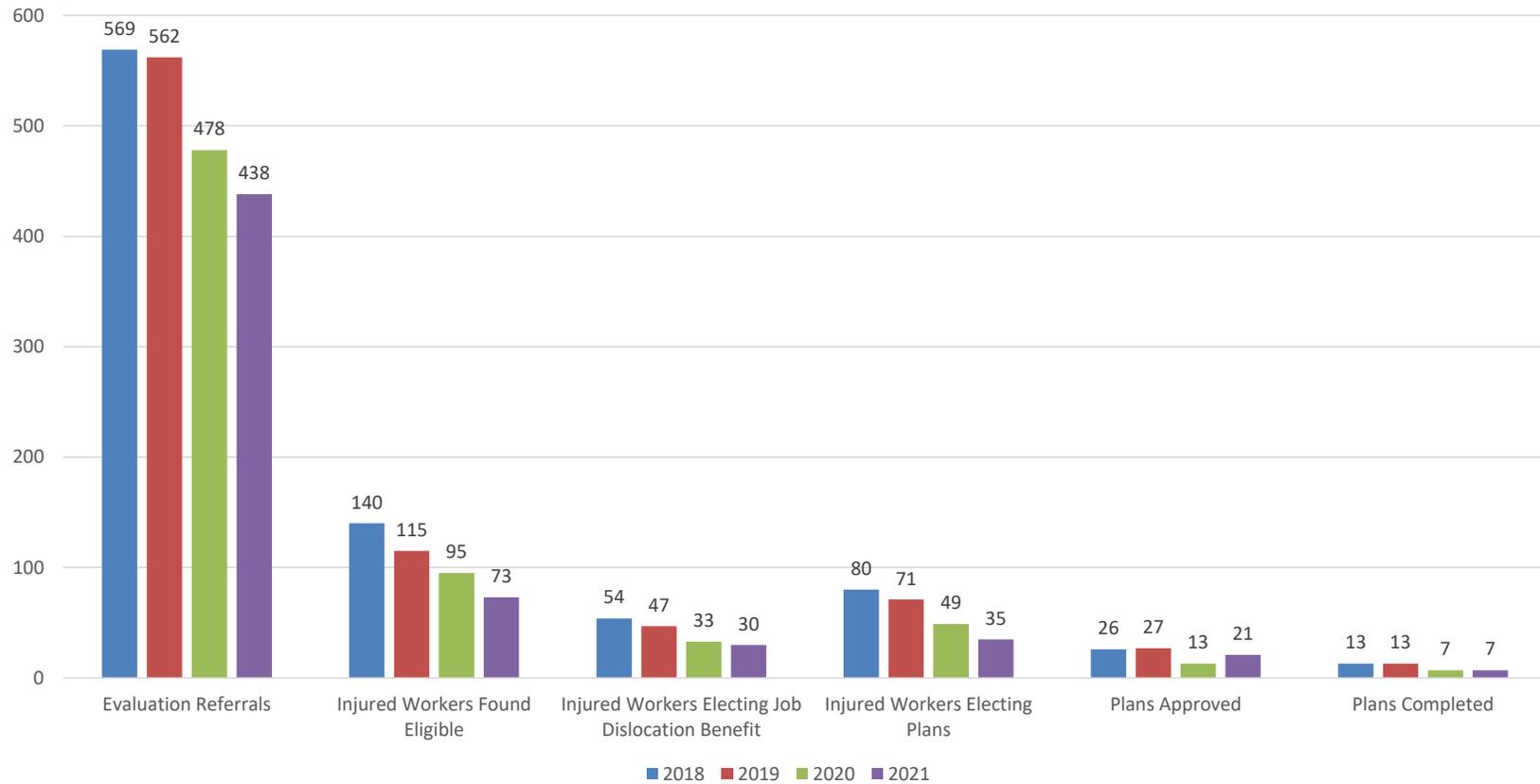
- 35 elected to pursue reemployment benefits.
- 39 reemployment plans were submitted.
- 21 plans were signed by all parties and moved forward as agreed upon plans.
- 4 plan reviews were completed.
- 4 informal rehabilitation conferences were held to assist the parties in moving forward with reemployment benefits.
- 7 injured workers completed reemployment plans.

031



Reemployment Trends

032



Reemployment Benefit Plans

- 95 injured workers were in the plan process at some point during 2021.
- 29 injured workers were referred for plan development in 2021.
- 34 injured workers exited the process through a Compromise and Release after plan referral and before plan completion.
- 21 injured workers were in an approved plan at year end.
- 26 injured workers were in plan development and 15 plans were pending approval at year end.
- 7 injured workers successfully completed plans with an average plan length of 21 months from plan approval to plan completion.

033



Reemployment Benefit Plans

- 55 plans were stalled or exited for various reasons.
 - 8 injured workers' plan process was medically suspended.
 - 30 injured workers exited through a Compromise and Release agreement.
 - 10 plans were controverted or a petition to terminate reemployment benefits was filed.
 - 1 plan was unable to be developed to meet statutory requirements.
 - 3 plan processes were halted because the injured worker was non-participatory.
 - 1 plan was unsuccessful because the time had expired.
 - 1 employee was deceased.
 - 1 employee returned to work in their job of injury.

034



Outcomes for Workers Completing Plans

- The Reemployment Benefits Section attempted to contact 28 injured workers that had completed plans between 2019 and 2021.
- 14 injured workers responded.
- 7 injured workers had returned to the workforce.
- 4 reported they were working in the plan goal or related.
- 7 injured workers reported they had not returned to work.
 - 2 reported they are undergoing medical treatment
 - 2 reported they are unemployed but did not provide a reason
 - 1 reported they are caring for family rather than working
 - 1 reported they are continuing their education
 - 1 injured worker is deceased



Reemployment Benefit Costs

	2019	2020	2021
Evaluation Costs	\$2,118,256	\$1,472,595	\$1,101,269
Reemployment Specialist Plan Fees	\$755,065	\$626,545	\$343,793
Plan Costs	\$617,835	\$503,629	\$352,348
Wage Benefits (AS 23.30.041(k))	\$2,635,051	\$2,135,148	\$2,025,185
Job Dislocation Benefits (AS 23.30.041(g))	\$1,601,142	\$2,961,687	TBD
TOTALS	\$7,745,962	\$7,727,349	TBD
% Change	-0.24%	-0.35%	TBD



Reemployment Benefits in Settlements

Impact of settlements on reemployment benefits in 2021

- 45 injured workers exited the reemployment benefits process through Compromise and Release agreements during the reemployment benefits process.
- 48 injured workers had funds designated for reemployment benefits included in settlements approved in 2021, increasing reemployment benefit costs.
 - 23 of these injured workers had never been determined eligible for reemployment benefits, many had never entered the reemployment process or had been found not eligible for reemployment benefits.
- 88 injured workers exited the reemployment process through a settlement after a determination of eligibility, significantly reducing the number of injured workers available for plan completion.

037



Rehabilitation Specialists

- 17 Alaska Rehabilitation Specialists accepted 357 referrals for eligibility evaluations; 81 evaluations were referred to 35 specialists out of state.
- 1 Alaska specialist retired and 1 Alaska specialist passed away in 2021.
- For Alaska Based Specialists:
 - 270 or 76% of the first reports were submitted within 60 days of the referral.
 - 151 or 42% of the evaluations were completed on the first report submission.
 - 237 or 66% of the evaluations were completed prior to a suspension letter from a Reemployment Benefits Administrator Designee.
 - 168 reports did not meet statutory/regulatory requirements.
- Continued improvements in our process are being made to ensure all work is in compliance with statutory and regulatory requirements through suspension letters, discussions, plans of correction and disqualification from providing services under AS 23.30.041.

038



Rehabilitation Specialist Performance

2021 Reemployment Benefit Eligibility Evaluations

Rehabilitation Specialist	# of Referrals recv'd	Average # days to 1 st report	Complete on 1 st report or w/o suspension letter	# of late 1 st reports	# 60 day gaps in reporting	# reports not meeting stat/reg	Median # days to determ
L. Cortis	17	62	8	3	2	6	71
J. Cranston	31	31	19	1	3	57	57
K. Davis	21	41	6	3	2	9	74
J. Doerner	36	30	33	2	0	2	33
P. Harmon	8	33	4	3	1	7	44
R. Hoover	38	30	24	4	1	5	44
T. Hutto	11	34	5	2	0	14	52
S. Krier	12	30	10	2	0	5	41

039



Rehabilitation Specialist Performance

2021 Reemployment Benefit Eligibility Evaluations

Rehabilitation Specialist	# of Referrals recv'd	Average # days to 1 st report	Complete on 1 st report or w/o suspension letter	# of late 1 st reports	# 60 day gaps in reporting	# reports not meeting stat/reg	Median # days to determ
D. LaBrosse	10	32	3	3	3	17	54
C. Robbins	36	35	34	6	0	9	34
B. Roberts	6	35	3	2	0	6	76
F. Sakata	15	45	6	3	1	17	47
J. Shipman	19	20	18	0	0	0	24
N. Silta	24	26	20	1	0	2	29
T. Torvie	2	28	1	0	0	0	28
P. Vargas	35	42	30	3	0	5	43



QUESTIONS?

041



ALASKA DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT
DR. TAMIKA L. LEDBETTER, COMMISSIONER



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5/6/2022

TAB 8

Register _____, _____ 2022 LABOR AND WORKFORCE DEV.

8 AAC 45.410 is amended by adding a new subsection to read:

(d) A person who is added to the rehabilitation specialists' list after July 1, 2022 shall be placed on probationary rotation as outlined in 8 AAC 45.420(d). During this probationary rotation, the probationary rehabilitation specialist shall undergo training with the administrator and their staff on the requirements of AS 23.30.041 and other related statutes and regulations. At any time during the probationary rotation, the administrator may decline to permanently add the rehabilitation specialist to the rehabilitation specialist list, for reasons under 8 AAC 45.440(b). (Eff. 7/1/88, Register 107; am 10/28/88, Register 108; am 7/20/97, Register 143; am 7/2/98, Register 146; am ___/___/___, Register ____)

Authority: AS 23.30.005 AS 23.30.041

8 AAC 45.420(b) is amended to read:

(b) Names will be added to the geographical listing in order of the receipt date of the completed application. If more than one completed application is received in a day, the names for that day will be placed on the list in alphabetical order. If a person's name is not added to the list, the administrator will notify the person and state in writing the reason for exclusion. Reasons for exclusion include an incomplete or illegible application or accompanying documents, misrepresentation, [OR] not meeting the requirements of AS 23.30.041(r)(6)[.], **or failure to demonstrate suitable rehabilitation skills under 8 AAC 45.440(b)(1).**

(Eff. 7/1/88, Register 107; am 7/20/97, Register 143; am 7/2/98, Register 146; am 4/16/2010, Register 194; am ___/___/___, Register ____)

Authority: AS 23.30.005 AS 23.30.041

8 AAC 45.420 is amended by adding a new subsection to read:

(d) A rehabilitation specialist on probationary rotation shall receive no more than two cases at a time for a six-month period.

(Eff. 7/1/88, Register 107; am 7/20/97, Register 143; am 7/2/98, Register 146; am 4/16/2010, Register 194; am ___/___/____, Register _____)

Authority: AS 23.30.005 AS 23.30.041

8 AAC 45 is amended by adding a new section to read:

8 AAC 45.435 Review of rehabilitation specialists.

(a) An administrator shall review the work of a rehabilitation specialist a minimum of once a year.

(b) If during the review, the administrator determines that the work completed by the rehabilitation specialist does not meet the standards of 8 AAC 45.440(b)(1)-(3), the administrator shall send the rehabilitation specialist a written letter identifying the deficiencies in their work and set a meeting to discuss the concerns in the letter.

(c) After the meeting, the administrator may

(1) put the rehabilitation specialist on a probationary rotation as described in 8 AAC 45.420(d);

(2) put the rehabilitation specialist on a plan of correction as described in 8 AAC 45.440(c), or;

(3) take no further action.

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(d) If the work of the rehabilitation specialist placed on probationary rotation has not improved after two cases or after ninety days, whichever comes first, the administrator shall propose disqualification under 8 AAC 45.440.

(Eff. ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.041

8 AAC 45.440(e) is amended to read:

(e) Before disqualifying a rehabilitation specialist, the administrator shall notify the rehabilitation specialist in writing, served [EITHER PERSONALLY OR] by certified mail, of the proposed disqualification. A rehabilitation specialist who has been notified of a proposed disqualification may, no more than 30 days after receipt of the notice, file a written request with the administrator [FOR AN OPPORTUNITY] to meet [WITH THE ADMINISTRATOR TO] **and** discuss the proposed disqualification. **Once requested, the meeting shall be set within 30 days of the written request unless otherwise agreed to by both the administrator and the rehabilitation specialist.**

(Eff. 7/1/88, Register 107; am 10/28/88, Register 108; am 4/16/2010, Register 194; am ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.041

8 AAC 45.440(g)(1) is amended to read:

(g) The administrator's written decision under (f) of this section must

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(1) require the rehabilitation specialist to change unsuitable behavior or upgrade skills [ACCORDING TO A PLAN DETERMINED BY THE ADMINISTRATOR] **by putting the rehabilitation specialist on a probationary rotation as described in 8 AAC 45.420(d);**

(Eff. 7/1/88, Register 107; am 10/28/88, Register 108; am 4/16/2010, Register 194; am ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.041

8 AAC 45.440(h) is amended to read:

(h) The administrator's decision must be served upon the rehabilitation specialist or the rehabilitation specialist's representative, [EITHER PERSONALLY OR] by certified mail. A copy must be sent to the employee or employer, if any, who requested that the administrator consider disqualifying **or removing** the rehabilitation specialist. A disqualification **or removal** decision is effective 10 days after the date of the decision. [UNLESS] **If** a written request for board review is filed with the board and is served in accordance with (i) of this section no more than 10 days after service of the administrator's decision[.], **the disqualified or removed rehabilitation specialist will keep any assigned cases but not be assigned new cases.**

(Eff. 7/1/88, Register 107; am 10/28/88, Register 108; am 4/16/2010, Register 194; am ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.041

8 AAC 45.500(b) is amended to read:

(b) An itemized billing statement must reflect, for each activity, the date of service, the activity performed, the name of the individual who performed the activity, and the fee charged for

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the activity. The original billing statement shall be submitted to the employer for payment and copied to the employee **and the administrator**. Billing statements not in compliance with this subsection will not be processed for payment. (Eff. 7/20/97, Register 143; am 4/16/2010, Register 194; am ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.041

TAB 9

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April 19, 2022

Department of Labor and Workforce Development Division
 of Workers' Compensation
 PO Box 115512
 Juneau, AK 99811

Re: Proposed Changes on Rehabilitation Specialists
 Our File No. 7768.01

Dear Department of Labor and Workforce Development, Division of Workers' Compensation:

I have an extensive, professional background of thirty-five years working with individuals with disabilities, to include Rehabilitation Counseling in the private practice setting, as well as contracted Vocational Rehabilitation work with the Workers' Compensation program, as a Rehabilitation Specialist. My knowledge and proficiency in rehabilitation casework is also demonstrated through my practice of rehabilitation work as a Certified Rehabilitation Counselor (CRC) in my own private business, DAL Enterprises, LLC. I have federal contracts with the Social Security Administration's Office of Disability Adjudication and Review, where I am obtained as an expert witness in forensic analysis. I also specialize in forensic rehabilitation work in the private sector for disability determinations and have worked with State Rehabilitation agencies and nonprofit organizations.

I wish to provide the following comments on your proposed regulatory changes.

8 AAC 45.410(d)

This amendment, while allowing the administrator to decline to add a rehabilitation specialist to the rehabilitation specialist list, does not provide a mechanism for an appeal of that decision. An applicant should not be left to the whim of the administrator, without a due process hearing or right of appeal, for a decision that would permanently deprive a rehabilitation specialist the opportunity to participate in the rehabilitation process. *Elkins v. Alaska Division of Workers Compensation*, AWCBC Case No. 70000331 (March 15, 2011) addressed this issue and established the right to a disqualification hearing as a matter of due process. If this section is added, an additional section should be added providing for a due process hearing and a right of appeal pursuant to the procedure set forth in 8 AAC 45.440(c) – (j).

8 AAC 45.420(b)

Without this amendment 8 AAC 45.420 limits the administrator's discretion to exclude an applicant to objective criteria. With the addition of a "failure by the applicant to demonstrate a suitable rehabilitation skill" as a basis of disqualification, significant subjective discretion is

given to the administrator. The addition of this subjective discretion highlights the necessity for a due process hearing and an appeal right relative to the administrator's decision.

8 AAC 45.420(d)

Allowing for the assignment of only two cases for a six-month period needlessly and unnecessarily delays the timeframe for the rehabilitation specialist to become economically viable. It is important to note that rehabilitation specialists already have to provide proof of their training and qualifications for the job. The assumption that the applicant is somehow incompetent or unqualified unless and until they receive a stamp of approval from the administrator is unwarranted and pompous. It is not in the interest of injured workers, employers or the Workers' Compensation Board to create conditions that are so economically onerous that it disincentivizes qualified applicants from becoming a rehabilitation specialist.

8 AAC 45.435

8 AAC 45.440 already provides a procedure for the administrator to address deficiencies with the rehabilitation specialist if and when a particular issue is brought to the attention of the administrator. Requiring the administrator to review all rehabilitation specialist on an annual basis subjects the rehabilitation specialist to undue supervision by the administrator when there is no indication that supervision is needed. Further, as has been the case throughout the years, the current administrator does not have the qualifications or experience to inject the administrator into the rehabilitation specialist's activities on an annual basis. Significantly, there is history of the administrator inappropriately directing activities conducted by the rehabilitation specialist, thereby biasing the rehabilitation process and leading to erroneous conclusions. See *Vandenberg v. State of Alaska Dept. of Health & Social Services*, 371 P.3d 602 (Alaska 2016). Annually injecting the administrator into the rehabilitation process is unnecessary and would further enable the administrator to abuse her authority and interfere with the rehabilitation process- as has occurred in the past.

8 AAC 45.435 also suffers from the same defect as 8 AAC 45.410(d) (as referenced above) in that it does not include a probationary decision within the appeal rights of the rehabilitation specialist. In addition, 8 AAC 45.435(d) and its two case limitation in the probationary period deprives the rehabilitation specialist of the ability to make a living during the probationary period.

8 AAC 45.440(h)

This amendment proposes to allow the administrator to deprive the rehabilitation specialist of the economic benefit of receiving ongoing work assignments even though the decision to disqualify or remove the rehabilitation specialist is still subject to review via appeal. This allows the administrator to inflict economic hardship upon the rehabilitation specialist, even if the Board subsequently reverses the administrator's decision. This decision will expose the administrator to civil liability for improper actions and render the Board ineffective to fully remedy erroneous decisions by the administrator. This is improper as a matter of public and due process.

8 AAC 45.500(b)

This section unnecessarily injects the administrator into every billing statement issued by a rehabilitation specialist and underscores the apparent intent of the proposed regulations -to make the rehabilitation specialist subject to control and direction by the administrator.

The administrator receives the "total cost" for the rehabilitation specialist's services upon submission of the plan or evaluation report and this information allows the administrator to fulfill her statistical compilation obligations. The rehabilitation specialist's bills are submitted to the adjuster, who has every incentive to notify the administrator (and provide the administrator the bills at issue) if there is any legitimate concern about the appropriateness of the bill.

Sincerely,

A handwritten signature in blue ink that reads "Dan LaBrosse". The signature is written in a cursive style with a large initial "D".

Daniel A. LaBrosse, M.A., CRC



Northern Country Services

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May 6, 2022

Department of Labor and Workforce Development
Division of Workers' Compensation -PO Box 115512 – Juneau, AK 99811-5512
workerscomp@alaska.gov and alexis.hildebrand@alaska.gov

Re: Proposed changes on Rehabilitation Specialists in the Regulations of the Alaska Department of Labor and Workforce Development and the Alaska Workers' Compensation Board

Dear Honorable Members:

It has come to my attention that the recent proposed regulatory changes, if approved, will cause a considerable negative impact to the services that our current Rehabilitation Specialists will be able to provide for both the present and future injured workers with Workers' Compensation claims --as well as-- to the Workers' Compensation Reemployment Benefits Division, as we know it today. Where there are times that regulations might need to be revised due to our ever-changing times, a singular dimensional perspective for a rather multidimensional series of subjects, without the inclusion of a fair and just checks and balances approach is just not well thought out. In other words, those checks and balances need to include a group of wiser and well-experienced contributors that can collectively improve on decision making processes. That would be a far more legal process addressing issues of concern than having only one inexperienced individual attempt to resolve subjective issues that she may not fully understand.

Back two years ago, during the AWCB annual meeting, it was quite disturbing to hear a brand newly hired Reemployment Benefits Administrator (RBA) , with zero experience in this particular industry, describe the Rehabilitation Specialists as being incompetent, that she was going to find a way to remove these specialists, my colleagues, replace them with State Vocational Rehabilitation Counselors, and make other changes to improve the current system. Last year, this same RBA, reported that most all of the Rehabilitation Specialists were repeatedly late in submitting their evaluation reports. Later, she was apparently forced to send out apology letters to the Rehabilitation Specialists for her mis-calculation of her "late-report" accusations. Granted, her ambition is noted, but her lack of experience in these proposed efforts, just as in her recent proposed regulation changes, is surely subject to grave legal consequences.

As for the current RBA in question, her educational achievements are to be applauded, as anyone should be, who has successfully attained higher education. It is my opinion that this current RBA should not be, at least, fully blamed for her attempts to resolve issues in the Reemployment Benefits Division that may or may not be issues or require resolution. Instead, it is my opinion that the actual hiring process for reviewing RBA job candidates needs to be far more discriminating. It is disturbing that a state employee's academic credentials seem to be the only criteria for being hired to oversee a program of which she has no experience. In other words, generic credentials do not equate to hands-on experience in the program that a job candidate is to fulfill, especially where there is no history of proper training received that will more fully prepare her for the very demanding --Alaska State Statute specific-- RBA job position.

p. 1

5/6/22 Letter by Josetta Cranston
Re: Proposed Regulation Changes involving Rehabilitation Specialists

Therefore, I am opposing all of the regulatory changes—as they are currently written, that the RBA has proposed. This includes:

- 1) 8 AAC 45.410
- 2) 8AAC 45.420(b)
- 3) 8 AAC 45.420
- 4) 8 AAC 45.435
- 5) 8 AAC 45.440(e)
- 6) 8 AAC 45.440(g)(1)
- 7) 8 AAC 45.440(h)
- 8) 8 AAC 45.500*

Each and every one of these proposals will require a far more wiser investigation before they are to be considered, and only then, fully developed. None of them seem to include due process, checks and balances, realistic expectations, or consideration of each of the Rehabilitation Specialists' vast years of expertise, education, career commitment to serving individuals who experience disabilities, as well as time-honored expert services provided to our State of Alaska Workers' Compensation program.

*** I am adamantly opposed to this regulation: 8 AAC 45.500 "is proposed to be amended to add the administrator as a recipient of billing statements."**

It has always been my understanding that it is the State of Alaska's Workers' Compensation's policy to not interfere with a company's business operations. One good example is that the RBA, as well as the RBA Designees can always request an insurance carrier to provide a claimant's medical records to all parties involved in the claim, which includes the Reemployment Benefits Division office, the Rehabilitation Specialists, and the claimant. But due to the long-standing policy of not interfering with a company's business operations, there is no actual process for enforcing the compliance of this request for medical records. Nor is there any policy or regulation revision proposal for requesting billing statements from other entities providing services for the claimants, such as attorneys, or other specialized services, etc. Therefore, it is questionable why Rehabilitation Specialists are singled out to provide their invoicing documents? When asked, the RBA answered that her collecting the billing statements will provide her with the leverage to remove a Rehabilitation Specialist from the list of referrals. This response, again, exemplifies the current RBA's lack of experience in both leadership and in this very complex reemployment benefits program.

There are many positive changes that the RBA can move towards that will greatly contribute to the welfare of our Alaskan injured workers, if she would be able to focus on the purpose of the Reemployment Benefits Division. Sadly, the "in the trenches" services that the Rehabilitation Specialists provide our injured workers is not even acknowledged –to include those unbillable hours that many of us provide.

Again, it is unfortunate that I am compelled to repeat, as stated at the end of my second paragraph on page one of this letter, the current proposed regulation changes, as they pertain to Rehabilitation Specialists, are greatly subject to potential legal ramifications. Rather than bogging down our current Workers' Compensation system with such repercussions, I appeal to your greater wisdom to please consider the information that I have provided you with in this letter. Thank you.

Respectfully submitted,



Josetta Cranston, M.Ed., CDMS, CWIC, CES