

**Chapter 45. Compensation, Medical Benefits, and Proceedings
Before the Alaska Workers' Compensation Board.**

8 AAC 45.065 is amended by adding a new subsection to read:

(h) Notwithstanding the provisions of 8 AAC 45.065(d), a party may appeal a discovery order entered by a board designee pursuant to AS 23.30.108 by filing with the board a petition in accordance with 8 AAC 45.050 setting forth the grounds for the appeal and an affidavit of readiness for hearing on the petition pursuant to AS 23.30.110(c). Unless a petition and an affidavit of readiness for hearing is filed under this subsection within 10 days after the date of service of the prehearing summary and discovery order from which the party appeals, the board designee’s discovery order is final. (Eff. 5/28/83, Register 86; am 7/20/97, Register 143; am 7/2/98; Register 146; am 2/3/2001, Register 157; am ____/____/_____, Register _____)

Authority: AS 23.30.001 AS 23.30.107 AS 23.30.110
 AS 23.30.005 AS 23.30.108 AS 23.30.135

8 AAC 45.074(b) is repealed and readopted to read:

(b) Continuances or cancellations are not favored by the board and will not be routinely granted. A hearing may be continued or cancelled only for good cause and in accordance with this section. For purposes of this subsection:

(1) Good cause exists only when

(A) a material witness is unavailable on the scheduled date and the taking of the deposition of the witness is not feasible;

(B) a party or representative of a party is unavailable because of an unintended and unavoidable court appearance;

(C) a party, a representative of a party, or a material witness, becomes ill or dies;

(D) a party, a representative of a party, or a material witness becomes unexpectedly absent from the hearing venue and cannot participate telephonically;

(E) the hearing was set under 8 AAC 45.160(d);

(F) a second independent medical evaluation is required under AS 23.30.095(k);

(G) the hearing was requested for a review of an administrator's decision under AS 23.30.041(d), the party requesting the hearing has not had adequate time to prepare for the hearing, and all parties waive the right to a hearing within 30 days;

(H) the board is not able to complete the hearing on the scheduled hearing date due to the length of time required to hear the case or other cases scheduled on that same day, the lack of a quorum of the board, or malfunctioning of equipment required for recording the hearing or taking evidence;

(I) the parties have agreed to and scheduled mediation;

(J) the board determines that despite a party's due diligence in completing discovery before requesting a hearing and despite a party's good faith belief that the party was fully prepared for the hearing, evidence was obtained by the opposing party after the request for hearing was filed which is or will be offered at the hearing, and due process required the party requesting the hearing be given an opportunity to obtain rebuttal evidence;

(K) the board determines at a scheduled hearing that, due to surprise, excusable neglect, or the board's inquiry at the hearing, additional evidence or arguments are necessary to complete the hearing;

(L) an agreed settlement has been reached by the parties less than 14 days before a scheduled hearing, the agreed settlement has not been put into writing, signed by the parties, and filed with the board in accordance with 8 AAC 45.070(d)(1), the proposed settlement resolves all disputed issues set to be heard, and the parties appear at the scheduled hearing to state the terms of the settlement on the record; or

(M) the board determines that despite a party's due diligence, irreparable harm may result from a failure to grant the requested continuance or cancel the hearing.

(2) In its discretion and in accordance with this section, a continuance or cancellation may be granted

(A) by the board or its designee for good cause under (1)(A) - (I) of this subsection without the parties appearing at a hearing;

(B) by the board for good cause under (b)(1)(J) - (M) of this subsection only after the parties appear at the scheduled hearing, make the request and, if required by the board, provide evidence or information to support the request; or

(C) without the parties appearing at the scheduled hearing, if the parties stipulate to the continuance for good cause as set forth in (b)(1)(A)-(I) of this subsection.

(Eff. 5/28/83, Register 86; am 7/1/88, Register 107; am 3/16/90; Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am ____/____/_____, Register _____)

Authority: AS 23.30.005 AS 23.30.110 AS 23.30.135

8 AAC 45.082 is repealed and readopted to read:

8 AAC 45.082. Medical Treatment. (a) The employer's obligation to furnish medical treatment under AS 23.30.095 extends only to medical and dental services furnished by providers, unless otherwise ordered by the board after a hearing or consented to by the employer. The board will not order the employer to pay expenses incurred by an employee without the approval required by this subsection.

(b) In this section "provider" means any person or facility as defined in AS 47.08.140 and licensed under AS 08 to furnish medical or dental services, and includes an out-of-state person or facility that meets the requirements of this section and is otherwise qualified to be licensed under AS 08.

(c) Physicians may be changed as follows:

(1) An employee injured before July 1, 1988, may change treating physicians at any time without board approval by notifying the employer and the board of the change. Notice must be given in writing within 14 days after the change of treating physicians. If, after a hearing, the board finds that the employee's repeated changes were frivolous or unreasonable, the board will, in its discretion, refuse to order payment by the employer.

(2) Except as otherwise provided in this subsection, an employee injured on or after July 1, 1988, designates an attending physician by getting treatment, advice, an opinion, or any type of service from a physician for the injury. If an employee gets service from a physician at a clinic, all the physicians in the same clinic who provide service to the employee are considered the employee's attending physician. An employee does not designate a physician as an attending physician if the employee gets service

(A) at a hospital or an emergency care facility;

(B) from a physician

(i) whose name was given to the employee by the employer and the employee does not designate that physician as the attending physician;

(ii) whom the employer directed the employee to see and the employee does not designate that physician as the attending physician; or

(iii) whose appointment was set, scheduled, or arranged by the employer, and the employee does not designate that physician as the attending physician.

(3) For an employee injured on or after July 1, 1988, an employer's choice of physician is made by having a physician or panel of physicians selected by the employer give an oral or written opinion and advice after examining the employee, the employee's medical records, or an oral or written summary of the employee's medical records. To constitute a panel, for purposes of this paragraph, the panel must complete its examination, but not necessarily the report, within five days after the first physician sees the employee. If more than five days pass between the time the first and last physicians see the employee, the physicians do not constitute a panel, but rather a change of physicians.

(4) Regardless of an employee's date of injury, the following is not a change of an attending physician:

(A) the employee moves a distance of 50 miles or more from the attending physician and the employee does not get services from the attending physician after moving; the first physician providing services to the employee after the employee moves is a substitution of physicians and not a change of attending physicians;

(B) the attending physician dies, moves the physician's practice 50 miles or more from the employee, or refuses to provide services to the employee; the first physician providing services to the employer thereafter is a substitution of physicians and not a change of attending physicians;

(C) the employer suggests, directs, or schedules an appointment with a physician other than the attending physician, the other physician provides services to the employee, and the employee does not designate in writing that physician as the attending physician;

(D) the employee requests in writing that the employer consent to a change of attending physicians, the employer does not give written consent or denial to the employee within 14 days after receiving the request, and thereafter the employee gets services from another physician.

(d) If, after a hearing, the board finds a party made an unlawful change of physician in violation of AS 23.30.095(a) or (e) or this section, the board will not consider the reports, opinions or testimony of the physician in any form, in any proceeding, or for any purpose. If, after a hearing, the board finds an employee made an unlawful change of physician, the board will, in its discretion, refuse to order payment by the employer.

(e) Medical bills for an employee's treatment are due and payable within 30 days after the date the employer received the medical provider's bill, a written justification of the medical necessity for dispensing a name-brand drug product if required for the filling of a prescription that was part of the treatment, and a completed report on form 07-6102. Unless the employer controverts the prescription charges or transportation expenses, an employer shall reimburse an employee's prescription charges or transportation expenses for medical treatment within 30 days

after the employer received the medical provider's completed report on form 07-6102, a written justification of the medical necessity for dispensing a name-brand drug product if required for the filling of a prescription that was part of the treatment, and an itemization of the prescription numbers or an itemization of the dates of travel, destination, and transportation expenses for each date of travel. If the employer controverts

(1) a medical bill or if the medical bill is not paid in full as billed, the employer shall notify the employee and medical provider in writing the reasons for not paying all or a part of the bill or the reason for delay in payment within 30 days after receipt of the bill, a written justification of the medical necessity for dispensing a name-brand drug product if required for the filling of a prescription that was part of the treatment, and completed report on form 07-6102;

(2) a prescription or transportation expense reimbursement request in full, the employer shall notify the employee in writing the reason for not paying all or a part of the request or the reason for delay within the time allowed in this section in which to make payment; if the employer makes a partial payment, the employer shall also itemize in writing the prescription or transportation expense requests not paid.

(f) A written treatment plan under AS 23.30.095 is required for payment of services provided on an outpatient basis for an injury that occurs on or after July 1, 1988. A written treatment plan is not required before providing services while the employee is hospitalized.

(g) If an injury occurs on or after July 1, 1988, and requires continuing and multiple treatments of a similar nature, the standards for payment for frequency of outpatient treatment for the injury will be as follows. Except as provided in (i) of this section, payment for a course of treatment for the injury may not exceed more than three treatments per week for the first month, two treatments per week for the second and third months, one treatment per week for the fourth

and fifth months, and one treatment per month for the sixth through twelfth months. For purposes of this subsection, a month is defined as four weeks and commences on the first day of treatment. Upon request, and in accordance with AS 23.30.095(c), the board will, in its discretion, approve payment for more frequent treatments.

(h) The board will, in its discretion, require the employer to pay for treatments that exceed the frequency standards in (g) of this section only if the board finds that

(1) the written treatment plan was given to the employer and employee within 14 days after treatments began;

(2) the treatments improved or are likely to improve the employee's conditions;
and

(3) a preponderance of the medical evidence supports a conclusion that the board's frequency standards are unreasonable considering the nature of the employee's injury.

(i) An employee or employer may choose to pay for a course of treatments that exceeds the frequency standards in (g) of this section even though payment is not required by the board or by AS 23.30.095.

(j) A fee or other charge for medical treatment or service provided on or after December 31, 2010, but before July 1, 2011, may not exceed the board's fees as of December 1, 2004, adjusted by the percentage change from 2004 to 2008 in the medical care component of the Consumer Price Index for all urban consumers compiled by the United States Department of Labor, Bureau of Labor Statistics.

(k) If the type of treatment or service the employee received is not included in the board's fee schedule described in (j) of this section, the amount charged may not exceed the usual,

customary, and reasonable fee based on the 90th percentile of the range of charges for similar services reported in the community in which services were rendered to the employee.

(l) If the type of treatment or service the employee received is not included in the board's fee schedule described in (j) of this section, and the employer has evidence that the charged fee exceeds the amount allowed under (k) of this section, the employer shall pay the physician based on the employer's evidence. In accordance with AS 23.30.110 and 8 AAC 45.070, the physician may request a hearing for a board determination of the usual, customary, and reasonable fee in the community for the treatment or service, and the board will determine and award the usual, customary, and reasonable fee. (Eff. 5/28/83, Register 86; am 12/14/86, Register 100; am 7/1/88, Register 107; am 10/28/88, Register 108; am 3/16/90, Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am 2/3/2001, Register 157; am 7/31/2010, Register 195; am 12/31/2010, Register 196; am ____/____/_____, Register _____)

Authority: AS 23.30.001 AS 23.30.030 AS 23.30.095
AS 23.30.005 AS 23.30.045 AS 23.30.097

8 AAC 45.182(d) is amended to read:

(d) After hearing a party's claim alleging an insurer or self-insured employer frivolously or unfairly controverted compensation due, the board will file a decision and order determining whether an insurer or self-insured employer frivolously or unfairly controverted compensation due. Under this subsection,

(1) if the board determines an insurer frivolously or unfairly controverted compensation due, the board will provide a copy of the decision and order at the time of filing to **the director** [THE DIVISION OF INSURANCE] for action under AS 23.30.155(o); or

(2) if the board determines a self-insured employer frivolously or unfairly controverted compensation due, the board will, at the time its decision and order are filed, provide a copy of the decision and order to the commissioner's designee [FOR THE SELF-INSURED EMPLOYER RECORDS] for consideration in **the self-insured employer's** [ITS] renewal application for self-insurance.

(Eff. 5/28/83, Register 100; am 3/16/90, Register 113; am 7/2/98, Register 146; am ___/___/_____, Register _____)

Authority: AS 23.30.005 AS 23.30.155

8 AAC 45.510 is repealed and readopted to read:

8 AAC 45.510. Request for reemployment benefits eligibility evaluation. (a) For injuries occurring on or after November 7, 2005, if the employee has been totally unable to return to the employee's employment at time of injury for 60-89 days as a result of injury, the employee or employer may request an eligibility evaluation. The requesting party must file with the administrator and serve all other parties with

- (1) a written request for the evaluation;
- (2) a physician's prediction the injury may permanently preclude the employee from returning to the employee's job at time of injury; and

(3) documentation the employee has been totally unable to return to the employee's employment at time of injury for 60 - 89 consecutive days, as a result of the injury.

(b) The administrator will consider a written request for an eligibility evaluation for reemployment benefits unless the employer controverts on grounds the employee's injury did not arise out of and in the course of employment, on grounds the employee's total inability to return to the employee's employment at the time of injury is not a result of the injury, or on grounds indentified under AS 23.30.022, 23.30.100, 23.30.105, or 23.30.250. If reemployment benefits have been controverted on any of these grounds, the administrator will forward the matter to the board to conduct a prehearing conference regarding the controversion within 30 days. If a claim is filed and if requested by the employee, the board shall conduct a hearing between 60 and 90 days of the prehearing in accordance with 8 AAC 45.060(e) and .070(b)(3), limited to the grounds set forth in this subsection.

(c) If the request for an evaluation for reemployment benefits is incomplete, within 5 working days of receipt of the request, the administrator will send a letter to

(1) the employee and the employer asking for additional medical documentation regarding the employee's total inability as a result of the injury to return to the employee's employment at time of injury; or

(2) the employee and the employer asking for documentation, within 10 working days, of the employee's total inability to return to the employee's employment at time of injury for 60 - 89 consecutive days. Upon expiration of the prescribed time period, the administrator will rely on the division's record, including any documents submitted by the parties, to determine

the employee's total inability to return to the employee's employment at time of injury for 60 – 89 days.

(d) Within 14 days of receiving a complete request for an evaluation for reemployment benefits under (a) of this subsection, the administrator will send a letter to the employee and the employer indicating whether the employee is entitled to an eligibility evaluation. If the employee is found to be entitled to an eligibility evaluation the administrator's letter will include the name and address of the rehabilitation specialist selected in accordance with AS 23.30.041(c) to evaluate the employee.

(e) If a firm or person who employs a rehabilitation specialist, or the rehabilitation specialist selected to complete an eligibility evaluation, is performing any other work on the same workers' compensation claim involving the injured employee, the rehabilitation specialist shall notify the administrator and the parties within 5 working days of receiving the referral letter. The administrator will select a different specialist in accordance with AS 23.30.041(c) to evaluate the employee.

(f) Within 10 working days of receipt of the administrator's letter selecting a rehabilitation specialist, the employer at the time of injury or its adjuster shall forward a copy of the employee's resume' and job application, and a job description or summary of the employee's job duties, if available, to the rehabilitation specialist, the employee and the administrator. The adjuster shall also forward a copy of the report of injury and all medical reports, compensation reports and controversions to the rehabilitation specialist, the employee and the administrator.

(g) If either party disputes the administrator's decision rendered under this section, they must petition the board for review of the administrator's decision within 10 days of the filing of that decision. (Eff. 7/2/98, Register 146; am ____/____/_____, Register _____)

Authority: AS 23.30.001 AS 23.30.010 AS 23.30.041
AS 23.30.005

8 AAC 45.520 is repealed:

8 AAC 45.520. Determination of unusual and extenuating circumstances.

Repealed. (Eff. 7/2/98, Register 146; repealed __/__/____, Register ____)

Editor's note: The former statute providing for unusual and extenuating circumstances was repealed effective November 7, 2005.

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

8 AAC 45.522. Ordering an eligibility evaluation without a request. (a) For injuries occurring on or after November 7, 2005, if an employee has been totally unable to return to the employee's employment at time of injury for 90 consecutive days as a result of the injury, the administrator shall refer the employee for an eligibility evaluation unless the injury has been controverted on grounds identified in 8 AAC 45.510(b). If the injury has been so controverted, the administrator will forward the matter to the board to conduct a prehearing conference and hold a hearing in accord with 8 AAC 45.510(b).

(b) If no controversion notice has been filed under (a) above, the administrator shall send a letter to the parties within 5 working days identifying the name and address of the rehabilitation specialist selected in accordance with AS 23.30.041(c) to evaluate the employee.

(c) If a firm or person who employs a rehabilitation specialist, or a rehabilitation specialist assigned to complete an eligibility evaluation, is performing any other work on the same workers' compensation claim involving the injured employee, the rehabilitation specialist shall notify the administrator and the parties within 5 working days of receiving the referral

letter. The administrator will select a different specialist in accordance with AS 23.30.041(c) to evaluate the employee.

(d) Within 10 working days of receipt of the administrator's letter selecting a rehabilitation specialist, the employer at the time of injury or its adjuster shall forward a copy of the employee's resume and job application, and a job description or summary of the employee's job duties, if available, to the rehabilitation specialist, the employee and the administrator. The adjuster shall also forward a copy of the report of injury and all medical reports, compensation reports and controversions to the rehabilitation specialist, the employee and the administrator.

(Eff. __/__/____, Register ____)

Authority: AS 23.30.001 AS 23.30.005 AS 23.30.041(c)

8 AAC 45.525 is repealed and readopted to read:

8 AAC 45.525. Reemployment benefit eligibility evaluations. (a) If an employee is found eligible for an eligibility evaluation for reemployment benefits under AS 23.30.041(c), the rehabilitation specialist whose name appears on the referral letter shall

(1) interview the employee and the employer and review all written job descriptions existing at the time of injury describing the employee's job at time of injury, to obtain a description of the tasks and duties of the employee's job at time of injury;

(2) review the appropriate volume from (A) or (B) below and choose the most appropriate job title or titles which describe the employee's job as defined in the employer's written job description(s) existing at the time of injury describing the employee's job at the time of injury. If at the time of injury no written job description existed, the rehabilitation specialist shall review the appropriate volume from (A) or (B) below and choose the most appropriate job

title or titles which describe the essential functions as defined in 29 CFR 1630.2(n) of the employee's job at the time of injury. If the employee's injury occurred

(A) on or after July 2, 1988 but before August 30, 1998, the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles" (1981) (SCODDOT) shall be used;

(B) on or after August 30, 1998, the effective date of the amendment of AS 23.30.041(e) by sec. 1, ch. 59, SLA 1998, the 1993 edition of the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles" (SCODRDOT) shall be used unless, under AS 23.30.041(p), the board has designated a later revision or version of that volume; and

(3) submit all DOT job titles identified under (2) of this subsection to the employee's physician, the employee, the employer and the administrator.

(b) When interviewing the employee the rehabilitation specialist whose name appears on the referral letter shall obtain descriptions of the tasks and duties for other jobs the employee held or for which the employee received training within 10 years before the injury, and any jobs held after the injury. The rehabilitation specialist shall

(1) exercise due diligence to verify employee's jobs in the 10 years prior to the injury and any held after the injury.

(2) review the appropriate volume from (A) or (B) below and choose the most appropriate job title or titles which describe the jobs held and training received. If the employee's injury occurred

(A) on or after July 2, 1988 but before August 30, 1998, the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles" (1981) (SCODDOT) shall be used;

(B) on or after August 30, 1998, the 1993 edition of the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles" (SCODRDOT) shall be used unless, under AS 23.30.041(p), the board has designated a later revision or version of that volume;

(3) identify all DOT titles selected under this subsection for which the employee meets the specific vocational preparation codes as described in the volume;

(4) submit all DOT job titles identified under (3) of this subsection to the employee's physician, the employee, the employer and the administrator.

(5) If the physician predicts the employee will have permanent physical capacities equal to or greater than the physical demands of a job or jobs submitted under (b)(4) of this subsection, conduct labor market research to determine whether the job(s) exists in the labor market as defined in AS 23.30.041(r)(3).

(c) The rehabilitation specialist whose name appears on the referral letter shall contact the employee's employer at time of injury about employment in accordance with AS 23.30.041(f)(1). If the employer offers employment, the rehabilitation specialist shall

(1) complete a job analysis, including a description of the job duties, tasks, and physical requirements, and submit the job analysis to the employee's physician, with a copy to the employee, the employer and the administrator, to predict whether the job's physical demands are within the employee's post-injury physical capacities;

(2) require the employer to complete an offer of employment on a form prescribed by the administrator, and document the job offered will pay the employee at least the state minimum wage under AS 23.10.065 or an amount at least equal to 75 percent of the employee's gross hourly wages at the time of injury, whichever is greater; and

(3) submit labor market research if the offer of employment meets the requirements of AS 23.30.041(f)(1); the research must document the offered employment prepares the employee to be employable in other jobs that exist in the labor market at a level consistent with employee's predicted post injury physical capacities and at a wage equivalent to at least the state minimum wage under AS 23.10.065 or 75 percent of the worker's gross hourly wages at the time of injury, whichever is greater.

(d) The rehabilitation specialist whose name appears on the referral letter shall determine whether the employee has previously declined reemployment benefits under AS 23.30.041(f)(2) or has been previously rehabilitated under AS 23.30.041(f)(3).

(e) If the employee has received a job dislocation benefit or has been previously rehabilitated in a former workers' compensation claim, the specialist shall obtain documentation of the previous job dislocation benefit or rehabilitation for purposes of AS 23.30.041(f)(2 – 3).

(f) The rehabilitation specialist whose name appears on the referral letter shall document whether a permanent impairment is identified or expected at the time of medical stability. This documentation may be either a physician's rating according to the appropriate edition of the *American Medical Association's Guides to the Evaluation of Permanent Impairment*, under AS 23.30.190 or a physician's statement an impairment rating is or is not expected.

(g) In accordance with 8 AAC 45.500 and within 30 days after being selected the rehabilitation specialist whose name appears on the referral letter shall submit to the administrator, with simultaneous copies to the employee and employer

(1) a report of findings, including a recommendation regarding eligibility for reemployment benefits, together with

(A) copies of all predictions by any physician along with job titles identified under (a)(3) and (b)(4) above and job analyses identified under (d)(1) and (2) above;

(B) the completed offer of employment form, if employment has been offered;

(C) labor market research, if necessary;

(D) documentation of previous job dislocation benefit or rehabilitation or evidence of efforts to obtain the information if not received;

(E) all physicians' ratings or statements regarding permanent impairment;
or

(2) a written request for a 30-day extension explaining the unusual and extenuating circumstances, in accordance with AS 23.30.041(d), that prevented the rehabilitation specialist from completing the evaluation within 30 days of selection, documenting the employee, employer, and the employee's physician were contacted within the first 30 days and the rehabilitation specialist is awaiting a response from one or more of the contacts. If the administrator grants an extension requested under this paragraph, the rehabilitation specialist shall prepare and submit a report of findings in accordance with (1) of this subsection within a total of 60 days from the date the rehabilitation specialist was selected.

(h) Any additional information for the administrator's consideration in the eligibility determination shall be filed with the administrator and served on all parties and the rehabilitation specialist within 10 days after the rehabilitation specialist's report is filed.

(i) The employer shall pay costs associated with the employee's physician's review of documents submitted under this section, in compliance with AS 23.30.097. (Eff. 7/2/98,

Register 146; am ___/___/_____, Register _____)

Authority: AS 23.30.005 AS 23.30.041(e) AS 23.30.041(p)

[AS 23.30.041] AS 23.30.041(f)

8 AAC 45.530(b) is amended to read:

(b) If the administrator determines the eligibility evaluation is not in accordance with 8 AAC 45.525, or the information in [ON] the board's case file is insufficient or does not support the eligibility recommendation, the administrator

(1) may not decide the employee's eligibility for reemployment benefits; and

(2) shall notify the employee, the employer, and the rehabilitation specialist of

the additional information needed and from whom the information should be submitted by

[TO SUBMIT ADDITIONAL INFORMATION WITHIN] a specified date so eligibility can be determined; or

(3) may reassign the employee to a new rehabilitation specialist in accordance with 8 AAC 45.430.

8 AAC 45.530(c) is amended to read:

(c) If the administrator determines the **employee** [EMPLOYER] is eligible for reemployment benefits, the administrator's notice must

(1) state [THAT] the employee shall **either elect reemployment benefits and select a rehabilitation specialist to assist in formulating a plan or the employee shall accept a job dislocation benefit. The employee's election must be made** within **30** [10] days after the employee receives the notice;

(2) be accompanied by **copies** [A COPY] of the **division's** [ADMINISTRATOR'S] **"Election To Either Receive Reemployment Benefits or Waive Reemployment Benefits and Receive A Job Dislocation Benefit Instead"** form and a list of rehabilitation specialists; under this paragraph, if the employee

(A) resides in the state, the administrator will send the **list** [LISTS] of rehabilitation specialists in Alaska as defined in 8 AAC 45.400(b)(1); or

(B) does not reside in the state, the administrator will send a list of rehabilitation specialists nearest the employee based on the geographic area, as defined in 8 AAC 45.400(b)(2); and

(3) inform the employee [ON] how **to notify** [THE EMPLOYEE SHALL TELL] the employer and administrator of **either the election of a job dislocation benefit or the name of the** [THE] rehabilitation specialist selected **to assist in the formulation of a plan.** (Eff. 7/20/97, Register 143; am 7/2/98, Register 146; am ____/____/_____, Register _____)

Authority: AS 23.30.005 **AS 23.30.041(d)** **AS 23.30.041(g)**
[AS 23.30.041)]

8 AAC 45.535 is repealed and readopted to read:

8 AAC 45.535. Election of either a job dislocation benefit or a rehabilitation

specialist. (a) Within 30 days after receipt of the administrator's notice under 8 AAC 45.530 of the employee's eligibility for benefits, the employee must file the completed election form with the administrator and serve a copy upon the employer that provides notice of

(1) the employee's election of a job dislocation benefit under

AS 23.30.041(g)(2); or

(2) the employee's selection of a rehabilitation specialist under

AS 23.30.041(g)(1).

(b) If the employer objects to the rehabilitation specialist selected by the employee, the employer must file written notice of that objection with the administrator within 10 days after receipt of the written notice of the rehabilitation specialist selected by the employee.

(c) If the employer objects in accordance with (b) of this section to the rehabilitation specialist the employee selected, the administrator shall assign a rehabilitation specialist in accordance with 8 AAC 45.430 and 8 AAC 45.540.

(d) If the employer does not object to the rehabilitation specialist selected by the employee, the administrator will, within 14 days after receipt of the employee's selection form, notify the rehabilitation specialist to begin plan development. (Eff. 7/20/97, Register 143; am 7/2/98, Register 146; am 2/3/2001, Register 157; am ____/____/_____, Register _____)

Authority: AS 23.30.005 [AS 23.30.041] **AS 23.30.041(g)**

8 AAC 45.542(a) is amended to read:

(a) If an employee has selected or been assigned a rehabilitation specialist **to perform an evaluation or** to develop a plan and, before the **evaluation is completed or the** plan is formulated, a change of residence by the employee or a change of business address by the rehabilitation specialist places the employee and rehabilitation specialist in different geographical locations, upon written notice that the worker or rehabilitation specialist has relocated, the administrator **may assign** [WILL DECIDE IF] another rehabilitation specialist [SHOULD BE ASSIGNED] to **complete the evaluation or** develop a plan.

(Eff. 7/20/97, Register 143; am ____/____/_____, Register _____)

Authority: AS 23.30.005 AS 23.30.041

The lead-in language of 8 AAC 45.550(a) is amended to read:

(a) If an employee is found eligible for development of a reemployment plan, the rehabilitation specialist **whose name appears on the referral letter** shall

...

8 AAC 45.550(a)(3) is amended to read:

(3) compute the employee's remunerative employability wage; the wage computed under this paragraph must meet the standards of compensation set out in the definition of "remunerative employability" under AS 23.30.041(~~r~~)(7) [(p)] and meet the requirements of "gross hourly wages at the time of injury" under 8 AAC 45.490;

8 AAC 45.550(a)(6) is repealed and readopted to read:

(6) submit research documenting

(A) the plan will provide the employee the occupational skills necessary to be employable within the plan's occupational goal;

(B) the occupational goal exists in the labor market, as defined by AS 23.30.041(r)(3)(A-D); and

(C) the plan ensures remunerative employability under AS 23.30.041(r)(7).

The lead-in language of 8 AAC 45.550(b) is amended to read:

(b) Within 90 days after the date of the employee's referral to the rehabilitation specialist for development of a reemployment plan, the rehabilitation specialist **whose name appears on the referral letter** shall submit

...

(Eff. 7/2/98, Register 146; am ____/____/_____, Register _____)

Authority: AS 23.30.005 **AS 23.30.041(h)** **AS 23.30.041(r)**
 [AS 23.30.041] **AS 23.30.041(i)**