

Kansas Administrative Regulations

Department of Labor—Division of Workers Compensation

Article 24.—Rehabilitation

51-24-9. Procedure for reviewing and processing complaints of violations of standards of conduct.

(a) Individuals and firms approved by the director as qualified vocational rehabilitation professionals and vendors under K.A.R. 51-24-1 et seq., shall be subject to disciplinary action for violation of the standards of conduct set forth in K.A.R. 51-24-8.

(b) Oral or unsigned complaints of violations of the standards of conduct shall be considered as informal complaints and shall be handled by the director or administrator as deemed appropriate.

(c) Complaints of standards of conduct violations that are in writing and signed by the complaining party shall be considered formal complaints.

(d) The following procedure shall be used to address formal complaints of standards of conduct violations: (1) Each formal complaint of standards of conduct violations shall be in writing, signed by the complaining party and directed to the administrator. The complaint shall identify the vendor or professional complained of (hereinafter referred to as respondent), the nature of the violation and a statement of the facts constituting the violation.

(2) A copy of the complaint shall be sent by the administrator to each respondent by certified mail, return receipt requested. The complaining party shall be notified by the administrator of receipt of the complaint.

(3) Each respondent shall have 30 days from the date of the certified receipt to deliver to the administrator a factual written response to each particular of the complaint. If requested in writing by respondent before the expiration of the 30-day response time, one 30-day extension of time to file a response may be granted by the administrator. Failure to provide a timely written response to the administrator shall result in immediate suspension of the qualification of the respondent. This suspension

shall remain in effect until the response is received or until appropriate hearing processes are completed.

(4) Each respondent shall cooperate fully with attempts at resolving the complaint. Cooperation shall include: (A) responding fully and promptly to the administrator, administrative law judge or hearing officer concerning any questions on the subject of the complaint;

(B) providing copies of pertinent records, reports, logs, data or cost information; and

(C) attending meetings or hearings held by the administrator, administrative law judge or hearing officer on the subject of the complaint.

(5) Meetings with the complaining party and the respondent, individually or jointly, may be scheduled by the administrator prior to the appointment of an administrative law judge or hearing officer for: (A) clarification;

(B) explanation;

(C) settlement of issues;

(D) obtaining information;

(E) instructing parties to the complaint; or

(F) to address the issues.

(6) Upon receipt of a response, the complaint and response shall be reviewed by the administrator and, within 30 days, a conclusion shall be reached by the administrator as to whether there is sufficient indication that respondent may have violated the standards of conduct.

(7) If the administrator concludes that there is not substantial indication that respondent violated the standards of conduct, the complaint shall be dismissed by the administrator. The complaining party and the respondent shall be notified by the administrator of the actions of the administrator and the reasons for the conclusions reached.

(8) If the administrator concludes that there is a substantial indication that respondent may have violated the standards of conduct, an administrative law judge or hearing officer shall be appointed by the director to hear the complaint. The administrative law judge or hearing officer shall conduct a hearing or hearings and make

recommendations as to whether disciplinary action should be taken, and if so, recommend the degree and type of discipline warranted.

(9) Any evidentiary hearing conducted by the administrative law judge or hearing officer regarding the complaint shall be recorded verbatim by a certified shorthand reporter. If there is a decision not to discipline the respondent, the verbatim notes of the reporter shall not be transcribed. However, such notes shall be retained as part of the records of the division of workers compensation. If there is a decision to discipline the respondent, the recording of the hearing shall be transcribed and retained as part of the records of the division of workers compensation. Costs of the shorthand reporter shall be assessed to respondent if it is found discipline is warranted.

(10) If within 10 days the complaining party, respondent or administrator request a review of the recommendations of the administrative law judge or hearing officer, a review, de novo, shall be conducted by the director on the record of the hearing or hearings and the recommendations of the administrative law judge or hearing officer.

(11) Within 20 days after completion of the review, a decision shall be entered by the director which may either affirm, modify or reverse the decision of the administrative law judge or hearing officer. The director's determination shall be in writing, with copies sent to the: (A) administrative law judge or hearing officer;

(B) administrator;

(C) complaining party; and

(D) respondent.

(12) Any action of the director shall be subject to judicial review in accordance with the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 et seq. and amendments thereto.

(e) If disciplinary measures are imposed on a professional at the final level of hearing or appeal, and the disciplinary measures taken prevent the professional from completing all or part of the rehabilitation process on a case or cases assigned to the professional, the vendor for whom the disciplined professional was performing services shall effect the reassignment of the case to another professional.

(f) If disciplinary measures are imposed on a vendor at the final level of hearing or appeal, and the disciplinary measures taken prevent the vendor from completing all or

part of the rehabilitation process on a case or cases assigned to the vendor, the administrator shall effect the reassignment of the case to another vendor.

(Authorized by K.S.A. 1990 Supp. 44-573; implementing K.S.A. 44-510g, as amended by 1991 HB 2457, Sec. 4; effective March 30, 1992.)

***** Authenticated Kansas Administrative Regulation *****