

GUIDE FOR PREPARING REEMPLOYMENT BENEFITS
ELIGIBILITY EVALUATIONS
REVISED 12/17/2019

PLEASE NOTE THIS GUIDE HAS BEEN UPDATED CONSISTENT WITH REGULATORY CHANGES THAT BECAME EFFECTIVE THROUGH THE DATE OF THIS REVISION

INTRODUCTION

The Reemployment Benefits Administrator (RBA) and staff are sending you this guide to assist you in preparing your reemployment benefits eligibility evaluation report. **Please review this guide carefully before beginning any work on the file that has been assigned to you.** Thereafter, the guide may prove a handy reference for completing your assignment. It is the expectation of this office that eligibility evaluation reports will be complete and will meet the statutory requirements of the Workers' Compensation Act (Act) and related regulations as described in this guide. If you have questions about procedures or the evaluation process, please call the Reemployment Benefits Section (Section) at **(907) 269-4985**.

While workers' compensation claims may, by nature, be adversarial, we are asking you to conduct a professional, objective evaluation to assist this office in determining if the assigned employee is eligible for reemployment benefits. You are conducting the evaluation for this office. Although it is the insurer/adjuster paying your fees as required, you should not take direction from them. Likewise, while you may have ethical considerations regarding the employee, you also are ethically bound to work within the statutory requirements of the Act. You are reminded that in the evaluation stage of the reemployment process the employee is not your client.

The determination of eligibility for reemployment benefits that arises from this process is exactly that and only that. The eligibility evaluation process is not the time for vocational exploration with the employee about potential reemployment benefit plan goals. That service is part of the benefits an employee receives if they are found eligible for, and elect to receive, reemployment benefits.

Evaluation Deadlines:

There are stringent deadlines for completing eligibility evaluations. The Act mandates that the eligibility evaluation report be filed within 30 days regardless of your ability to make a recommendation at that time; therefore, you must give immediate attention to the assignment. If you are unable to do this, contact the Section and we will reassign the evaluation to another rehabilitation specialist. If you are going to be unavailable for a period of time for vacation or personal matters, advise this office in writing so we do not make assignments you cannot timely complete.

Extension Requests:

Eligibility evaluation reports "shall" be completed within 30 days. One 30-day extension may be approved if there are **unusual and extenuating circumstances** that prevent you from completing the

evaluation within 30 days. You must submit a letter explaining the circumstances and request a 30-day extension **on or before the 30th day**. This letter must document the employee, employer and the employee's physician were contacted within the first 30 days and you are awaiting a response from one or more of the contacts. The administrator will decide whether a 30-day extension can be granted. If an extension is granted, you will be allowed an additional 30 days in which to complete the evaluation (60 days total from date of referral). If you are still lacking any essential information at the 60-day point, you must submit a thorough report addressing all the eligibility criteria, documenting all the information that you have gathered, noting what information you lack to complete the evaluation and identifying what actions you will undertake to move the evaluation forward. **DO NOT** simply submit another extension request or a status report. If you fail to submit a thorough report in this 60-day period, the evaluation may be reassigned to another rehabilitation specialist. If you show repeated failure to file timely reports, you may be removed from the list of rehabilitation specialists.

THE EVALUATION PROCESS

Remember that eligibility evaluation assignments are made to specific rehabilitation specialists, not to rehabilitation firms. There are a number of tasks you may not delegate to other persons.

According to regulation, as the assigned rehabilitation specialist, you are required to personally:

1. be the primary contact for the employee and employer/insurer;
2. conduct the interviews with the employee and employer;
3. select the appropriate DOT titles;
4. determine whether SVP has been met and which titles are submitted to a physician;
5. meet with the physician, if necessary;
6. evaluate physician responses;
7. evaluate an employer's offer of alternate employment;
8. evaluate previous rehabilitation and dislocation benefits in prior claims;
9. make a recommendation regarding the employee's eligibility and
10. prepare, review and sign all reports and accompanying forms.

In order to complete the evaluation process in a timely manner, you must do the following after receiving the assignment letter.

1. Carefully read this guide. The guide is based on current statutes and regulations. We recommend you obtain the current Alaska Workers' Compensation Laws and Regulations Annotated at www.lexisnexis.com/bookstore for reference.
2. Contact the insurer to obtain records. Regulations require the employer at the time of injury or their adjuster to provide you a copy of the employee's resume, job application, and a job description or summary of the employee's job duties, if available. The employer/adjuster is required to provide you a copy of the report of injury and all medical reports, compensation reports and controversions. The employer/adjuster has 10 working days after receiving our letter of referral to provide these records to you, the injured worker and the Section. Contact the Section to report any difficulty in obtaining records. If you do not receive records, you will still need to proceed with the evaluation based on the information you are able to gather in the process.

3. Contact the employee to arrange an in-person interview. A telephonic interview is only acceptable when geographic distance between you and the employee precludes reasonable travel to meet in person. Document in your report why an in-person interview could not be conducted. If you are unable to contact the employee, or the employee does not return your phone call within a day or two, contact the Section immediately.
4. Contact the employer to arrange an in-person interview. A telephonic interview is only acceptable when geographic distance between you and the employer precludes reasonable travel to meet in person. Document in your report why an in-person interview could not be conducted. If you are unable to contact the employer, or the employer does not return your call within a day or two, contact the adjuster for assistance.
5. Contact the doctor to determine whether a written request or an in-person appointment will result in the timeliest response. If an in-person meeting with the physician is necessary to expedite the process, notify the adjuster and schedule the appointment. Under 8 AAC 45.525(i) the employer/adjuster is required to pay the costs associated with the physician's review of the documents you submit requesting predictions for PPI and permanent physical capacities to perform work as described in SCODRDOT job descriptions.

Interview with the Employee:

Review the section on report writing on pages 11 - 16 prior to your interview with the employee to ensure you obtain all the necessary information.

AS 23.30.041(e)(1) and 8 AAC 45.525(a)(1) require you to interview the employee to obtain a description of tasks and duties of the employee's job at time of injury. After you obtain this information, you must select a job title or titles from the Dictionary of Occupational Titles Revised 4th Edition (1991)¹ (DOT) that best describe(s) the majority of the employee's tasks/duties in the job at time of injury. Do not rely on the employee's position title in selecting the appropriate SCODRDOT job title or titles, it is the actual tasks and duties performed that determine the correct SCODRDOT(s). Educational, vocational, and/or physical – strength classification requirements may be considered when selecting the most appropriate SCODRDOT job title or titles. (*Vandenberg v. State of Alaska*, 371 P.3d 602 (Alaska 2016)). Do not rely on the employee's "selection(s)" as you have the ultimate responsibility to use your professional judgment to choose the most appropriate title or titles.

One job title is usually sufficient. There are instances where more than one job title (a combination) is necessary. Your description of job duties and tasks must support the DOT job titles selected. If more than one DOT job title is needed to describe the job, apportion the time spent on each job title. (For example, a commercial pilot for a very small airline may be required to spend 75% of his time flying the plane and 25% of his time loading and unloading baggage and cargo). Be cognizant there are situations where an individual holds different positions at different times with the same employer. These should be evaluated separately, not treated as combinations jobs.

¹ The act and regulations only reference the "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles" (SCODRDOT). This guide document acknowledges that descriptions are actually found in the Dictionary of Occupational Titles (DOT) and the complete physical demands are found in SCODRDOT.

All identified title(s) used to represent the job at time of injury are submitted for physician review; specific vocational preparation (SVP) does not have to be met for these title(s). Also, if there is conflict among the rehabilitation specialist, the employee and/or the employer on the DOT title(s), dates, etc. you should document these, list each opinion, and send all DOT options to the physician.

AS 23.30.041(e)(2) and 8 AAC 45.525(b) require you to interview the employee and obtain descriptions of the tasks and duties for all other jobs the employee has held or received training in the 10 years before the date of injury, and any jobs held after the injury including light duty assignments with the employer at the time of injury.² Ask about all gaps in the work history. If someone has been incarcerated, it is possible they performed jobs in the facility; these will need to be included in the evaluation as well. You must select DOT titles for every job that best describe the majority of the employee's tasks/duties for that particular job. If more than one DOT title is needed to describe a particular job, apportion the time spent on each job title.

To complete an evaluation you must obtain details regarding any education or training the employee received in the applicable time frame. It may be necessary to evaluate a transcript (request one immediately: you can go online with the employee in the University of Alaska system as applicable) or other appropriate education/training records to identify an appropriate DOT title or titles for which the education/training may have prepared the employee.

Regulation 8 AAC 45.525(b)(1) requires that you "exercise due diligence to verify the employee's jobs" in the work history. While contacting past employers to verify employment dates and job duties may be helpful, it is not required and it is not a reason to delay submitting an otherwise completed report. The expectation is you will consider all records before you in determining the work history. These may include résumés, job applications, depositions, social security earnings summaries and any other documents reflecting the employee's work history.

You must also compare the time the employee worked at each job, and/or time spent in training/education, with the SVP requirement according to the SVP codes as described in the SCODRDOT for that particular DOT title (8 AAC 45.525(b)(3)). You must document whether the employee's work experience and/or education/training has met the SVP codes³. When evaluating whether SVP is met, consider the entire time from ten years prior to the injury to the present. Employment held by the injured worker before reaching the age of majority (18) is not considered in the eligibility work history, even if it is within the ten year timeframe. The employee may have met the SVP for a DOT title over the course of employment with multiple employers and/or in combination with education/training. They also may have met the SVP for a higher level job by progression through lower level jobs in the same industry. If, in apportioning the time spent when utilizing multiple titles to describe a job, you documented that the employee spent 25% of their time

² We do not use transferable skills in evaluating eligibility for reemployment benefits. A transfer of skills analysis should not be performed when completing an evaluation.

³ Per *The Revised Handbook for Analyzing Jobs*: In calculating SVP... count the average four-year college curriculum as equivalent to two years of specific vocational preparation, and count each year of graduate school as a year of specific vocational preparation. At the secondary level of vocational education, count two classroom hours as an hour of SVP. However, at the post-secondary level of vocational education, count each classroom hour as an hour of SVP.

in one title, then only count 25% of the time in that job toward that title's SVP. It is possible that a particular job or education/training activity straddles the work history and the period prior to the work history. Only count the segment that occurred within the work history. DO NOT consider any time in jobs or education/training that occurred outside the applicable evaluation period.

When you interview the employee, you will need to obtain information to help you evaluate if he/she has been previously rehabilitated, or previously waived reemployment benefits, and returned to work in the same or similar occupation in terms of physical demand. The definition of previously rehabilitated that applies will be determined by statute and regulation in place at the time. This aspect of the evaluation is discussed in more detail later in this guide.

If the employee was injured while employed by the State of Alaska, provide him/her with the attached statute and regulation. He/she may be eligible for rehire rights with the State of Alaska upon medical release if/when terminated from employment with the State due to the inability to perform the essential duties of the job of injury. Direct the injured worker to the State of Alaska Division of Personnel, Recruitment Services at (907) 465-4789 to assist with questions regarding their Section 39.25.158 Reemployment rights for state workers and corresponding regulation 2 AAC 07.228 Preferential rights of injured state employees.

Interview with the Employer:

You are required to interview the employer⁴ (8 AAC 45.525(a)) to determine the employee's job title and the employee's tasks and duties. The employer/adjuster may have sent a written job description; if not, ask the employer if they have one that was in place at the time of the injury. This description must be considered in selecting the DOT title(s) that most accurately describes the job duties. Advise the employer of the DOT title(s) under consideration for the job of injury for their input; again, you make the ultimate determination. You will need to reconcile any disputes between the employee's and employer's representations of the job at the time of injury.

Ask if there is alternative employment the employer can offer the employee. A valid offer of alternative employment is rare. Please note, this must be a direct offer of permanent employment to the employee. An open position the employee would compete for or a temporary light duty position worked during recovery do not qualify. This aspect of the evaluation is discussed in more detail later in this guide. You are encouraged to call the Section if you have questions.

If the employee was injured while working for the State of Alaska you should contact the Division of Personnel, Recruitment Services, 465-4789, to obtain information concerning an offer of alternative employment.

Eligibility evaluations are mandatory. Therefore, you are expected to move forward with the evaluation to the best of your ability regardless of the participation of either party. Use all resources at your disposal (the Section, medical records, resume, job descriptions, etc.) to move the evaluation forward in the event you are not able to obtain the participation of a party.

⁴ Please remember that the "employer" may be an entity larger than just the local shop/store/office/business unit.

Physician Contact:

Once your interviews with the employee and employer have been completed, and you have identified and prepared the appropriate SCODRDOT job description(s), you will need to submit, with copies to the employee, insurer/adjuster and the Section, the SCODRDOT job description(s) for the job at time of injury, and for those in the applicable work history for which SVP was met, to the employee's attending physician for review (8 AAC 45.525(b)(4)).⁵ You are required to submit the actual DOT (use primary "occupational title", not alternate titles) descriptions with the physical demands of these jobs per SCODRDOT to the physician for review. If there is any conflict among the rehabilitation specialist, the employee and/or the employer on the DOT titles you should send all of those DOT options that meet SVP to the physician. Only the SCODRDOT job descriptions should be sent to the physician. Employer/Employee job descriptions, while helpful in identifying the appropriate DOT titles, should not accompany the SCODRDOT job descriptions [eDOT physical demands and O*NET information should be omitted from SCODRDOT job descriptions]. DO NOT combine DOT descriptions and physical demands for multiple job titles into one document, there should be a separate SCODRDOT job description for each DOT title selected.

An in-person interview of the physician is preferred. This task may be accomplished through correspondence if an in-person interview is not possible or would result in unreasonable costs. In the absence of an in-person interview with the physician, ensure that your cover letter clearly explains that you are not asking if the injured worker currently has the physical capacities to return to any of the jobs for review. Rather that you are requesting a prediction of the injured worker's permanent physical capacities, after all treatment is completed and medical stability has been reached. The physician must review the correct SCODRDOT job descriptions and on each respond to one question: "As a result of this injury, do you **predict** that [Employee] will have the permanent physical capacities to perform the physical demands of [insert DOT title] as it is described in the job description? Yes__ No__".⁶ DO NOT add content to the SCODRDOT document. DO NOT insert a "comments" section for the physician, ask for a release date, ask if the position is one the employee will be able to perform with modifications or use language such as "approved". Do not allow the employee or employer to ratify the SCODRDOT job description on the form itself or amend the job descriptions or physical demands in any way.

A Physical Capacities Evaluation (PCE), a Functional Capacities Evaluation (FCE), a physician's work release, or a physician's prediction of permanent physical capacities is not acceptable in lieu of a review of SCODRDOT job descriptions.

If the employer is proposing an alternative offer of employment that meets the wage requirement (see pages 9 and 10), submit an on-site job analysis (8 AAC 45.525(c)(1)) to the physician for review and

⁵ Attending physician refers to the physician treating or coordinating care for this injury. There may be situations where it is necessary to contact more than one medical provider; for example, when one provider is treating a knee and another is treating a shoulder. In these cases, you should identify the body part you are asking the physician to address in your paperwork.

⁶ Where a psychological and/or cognitive component is an accepted part of the claim, such as head injury, it may be necessary to use "permanent psychological/cognitive capacities" and "psychological/cognitive demands" instead of, or in conjunction with, "permanent physical capacities" and "physical demands". Use the long version of the SCODRDOT job description when asking about psychological/cognitive capacities.

approval asking one question: “Do you predict that, [Employee] will have the permanent physical capacities to perform the physical demands of [job title] as it is described in the attached job analysis? Yes__ No__” If the employer is seeking medical guidance in considering an offer of alternative employment, you may ask the physician to provide that information on a form you can supply or in any format of their choosing.

If you do not see documentation in the records provided to you of a permanent partial impairment rating for the employee under this claim, or a prediction of a rating greater than zero according to the American Medical Association’s *Guides to the Evaluation of Permanent Impairment*, ask the employee’s physician the following question: “Do you predict that [Employee] will have a permanent partial impairment rating greater than zero as a result of the work injury according to the American Medical Association’s *Guides to the Evaluation of Permanent Impairment, Sixth Edition?* Yes__ No__” (If the employee received a permanent partial impairment rating before 03/31/08, the fifth edition should be referenced. Contact this office on claims where medical stability occurred before 04/28/01.)

REMEMBER: SCODRDOT job description review, permanent impairment and review of the appropriate documents for an offer of alternative employment are the only topics necessary to address with the physician. Medical stability and proposed treatment are not topics for an eligibility evaluation.

Evaluating Physician Approved Job Titles from the Employee’s Applicable Work, Training and Education History Using Labor Market Information:

Please Note: If the physician has predicted the employee will have the permanent physical capacity to perform the DOT title(s) used to describe the job at the time of the injury and/or the physician has predicted the employee will not have a permanent impairment greater than zero as a result of the work injury, the employee is not eligible for reemployment benefits and you **DO NOT** perform labor market research on other jobs in the ten-year work history.

If the physician has predicted the employee will not have the permanent physical capacity to perform the DOT title(s) used to describe the job at the time of the injury and the physician has predicted the employee will have a permanent impairment greater than zero as a result of the work injury, you will have to perform labor market research for a DOT title the physician has predicted the employee will have the permanent physical capacities to perform. While there may be occasions where labor market research is required for additional titles, generally a demonstrated labor market for one physician approved DOT title is sufficient. **Please note the labor market research standards used are dependent on the employee’s date of injury; you must follow the appropriate instructions below.**

If the employee was injured BEFORE July 9, 2011, your task, per the statute, is to document the existence of jobs; the regulation requires that you document a reasonable number of job vacancies exist for the jobs in a labor market. You should not consider the actual physical demands or job requirements of vacancies; and wage is not a consideration in the evaluation.

Two or more openings within thirty days of the date of your research (document that date) in any one locale would suggest that reasonable vacancies exist and you need not conduct further research. You can search for such a locale at the level of the area of the employee's residence, followed by the area of last employment, the state of Alaska and other states. Showing scattered openings across the nation without more than one in any given locale will not suffice to show reasonable vacancies. Part-time openings are only acceptable if the employee was similarly performing part-time work in the job at time of injury. Seasonal openings are only acceptable if the employee was similarly seasonally employed in the job at the time of injury.

You may use current published data from credible state or federal sources so long as the data is specific to the particular occupation under consideration, preferably to the DOT number. It is not acceptable to use broad categories, such as clerks, first line supervisors, salespersons, etc. The data source needs to show that reasonable vacancies occur in the specific occupation.

You may post internet listings from openings listed within thirty days of your report using sources such as Job Central, Simply Listed and Indeed among others. You must display the actual listing including narrative that is not just applicable to the specific occupation in terms of title, but also in terms of duties as referenced in the DOT. Remember that we are not considering transferable skills occupations when conducting an eligibility evaluation.

If you cannot find published data or credible Internet documentation of reasonable vacancies, you need not conduct a telephonic survey.

OR

If the employee was injured ON OR AFTER July 9, 2011, your task, per the statute, is to document the existence of jobs in the labor market. You should not consider the actual physical demands or job requirements and wage is not a consideration in the evaluation or research.

You should search for the existence of jobs at the level of the area of the employee's residence, followed by the area of last employment, the state of Alaska and other states. Part-time occupations are only acceptable if the employee was similarly performing part-time work in the job at time of injury. Seasonal occupations are only acceptable if the employee was similarly seasonally employed in the job at the time of injury.

You may use current published data from credible state or federal sources showing the number of people employed in the occupation in the labor market if the data includes the particular occupation under consideration, preferably to the DOT number. It is not acceptable, for example, to use broad categories such as "clerks" for "accounting clerk" and "salespersons" for "automobile salesperson".

While it is not required that you document vacancies, that would be an acceptable way to show the job(s) exist. You may submit internet listings from openings listed within thirty days of your report using sources such as JobCentral, Simply Hired and Indeed. You must display the actual listing including narrative that is not just applicable to the specific

occupation in terms of title, but also in terms of duties as referenced in the DOT. Remember that we are not considering transferable skills occupations when conducting an eligibility evaluation.

If you cannot find published data or credible Internet documentation of a job's existence, but have reason to believe it exists, you may conduct a telephonic survey.

It is your responsibility to provide the appropriate documentation to support your labor market research; sending multiple irrelevant listings does not suffice. You are encouraged to call the Section if you have questions about completing this part of the evaluation.

Evaluating the Offer of Alternative Employment:

As noted earlier, a valid offer of alternative employment is rare. It is important that the Employer understands this must be a direct offer of permanent employment to the employee. An open position the employee would compete for or a temporary light duty position worked during recovery does not qualify. The process will be streamlined by providing the Employer an upfront explanation of a qualifying offer of alternative employment. Your eligibility assignment packet includes a copy of the Offer of Alternative Employment Form. If the employer at the time of injury wants to make an offer of alternative employment, they must make the offer of employment in writing on that form, noting the job title, start date, gross hourly wage and job location. They also must check box 15 attesting, "This offer of alternative employment is made in good faith because the job will prepare the employee to be employable in other jobs that exist in the labor market at a comparable wage and physical demands."

The evaluation of an offer of alternative employment is a source of confusion in many evaluations, therefore we have detailed the process below. When an employer makes an offer of alternative employment, you must perform four steps to evaluate whether it meets the criteria of a valid offer.

First, it is important to document exactly what the injured worker will be paid in the alternative position and what the injured worker's gross hourly wage was at the time of injury. The offered wage must be equivalent to at least the state minimum wage or 75% of the gross hourly wage⁷ at the time of injury, whichever is greater, per AS 23.30.041(f)(1). Additionally, the level of employment offered needs to be equivalent to the job of injury (i.e. offers of part time or seasonal work are not acceptable if the injured worker was in a full time, year round position at the time of injury). Once you have the employer's completed portion of the form and have **verified** that the alternative job will pay 75% of the employee's gross hourly wage at the time of injury or minimum wage, whichever is greater, proceed to step two.

Second, contact the employer and arrange to meet with an employer representative to conduct an on-site job analysis. Include a description of the job duties and physical requirements of the alternative job being offered. After you complete the job analysis and put it in a final format, send it to the employer to verify its accuracy.

⁷ Gross hourly wages are defined in 8 AAC 45.490(1-4)

Third, forward the completed job analysis to the treating physician. Explain in your cover letter that the employer has offered the injured worker an alternative job and that you have attached your analysis of the duties and physical demands of the offered position. Ask the physician to answer the following question: “Do you predict that [Employee] will have the permanent physical capacities to perform the physical demands of [insert job title] as it is described in the attached job analysis? Yes__ No__.” If the doctor responds yes to your question, proceed to step four.

Fourth, there are specific requirements for completing a labor market survey when an offer of an alternative job is involved. You will need to submit your research documenting that the alternative job prepares the employee for the job as it exists with other employers in the labor market as described in your job analysis. To be considered a valid offer of alternative employment the labor market research must demonstrate the physical demands of the job as it exists in the labor market are within the injured worker’s post injury permanent physical capacities and with earnings of at least the state minimum wage or 75% of the injured worker’s gross hourly wages at the time of injury, whichever is greater. Remember that labor market research should be performed in the following order of priority: area of residence; area of last employment; the state; and other states.

After you perform the required work, meet with the injured worker to go over the information you obtained and complete your portion of the Offer of Alternative Employment form (sections #20 - #24). Submit the Offer of Alternative Employment form, the Job Analysis, the doctor’s prediction on the job analysis and the labor market survey results with your report.

You are encouraged to call the Section if you have questions about completing this part of the evaluation.

Evaluating Prior Election of Dislocation Benefit and/or Previous Rehabilitation in a Former Workers’ Compensation Claim

Evaluation of previous job dislocation elections and previously rehabilitated is a source of confusion in many evaluations. Additionally, there have been recent changes in regulation and in the business practice of the Section affecting this part of the evaluation. Therefore we have detailed the process below. Please review this section carefully. You are encouraged to call the Section if you have questions about completing this part of the evaluation.

To evaluate a prior election of a job dislocation benefit, first ask the employee if he/she has ever received a job dislocation benefit in lieu of reemployment benefits in a previous Alaska workers’ compensation claim. If the employee answers affirmatively it is your responsibility to compare the SCODRDOT job description(s) for the job at the time of the previous injury with the SCODRDOT job descriptions that describe subsequent employment. If the physical demands of any of the subsequent jobs the employee has held are the same, similar to, or greater than the physical demands of the job at the time of the previous injury, the employee is ineligible. Document this consideration in your report.

If the employee has been previously rehabilitated in a former workers’ compensation claim, you will need to determine if he/she is precluded from eligibility. The definition of previously rehabilitated to apply is determined by the date of the prior injury and the date of any previous settlement. This is a

two part analysis. You must first determine if the employee has been previously rehabilitated. If the employee has been previously rehabilitated you must next compare the SCODRDOT job description(s) for the job at the time of that injury with the SCODRDOT job descriptions used to describe subsequent employment. If the physical demands of any of the subsequent jobs the employee has held are the same, similar to, or greater than the physical demands of the job at the time of the previous injury, the employee is ineligible. Document this consideration in your report.

Definitions of Previously Rehabilitated

If the prior injury was on or before December 22, 2011, previously rehabilitated means having:

- completed a reemployment plan in a previous workers' compensation claim in Alaska or another jurisdiction.

If the prior injury was after December 22, 2011 and before July 27, 2017, previously rehabilitated means having:

- completed a reemployment plan in a previous workers' compensation claim in Alaska or another jurisdiction; **or**
- completed a waiver of reemployment benefits form under AS 23.30.041(q); **or**
- waived reemployment benefits in a settlement signed after December 22, 2011 in Alaska or another jurisdiction in a previous workers' compensation claim.

If the prior injury was on or after July 27, 2017, previously rehabilitated means having:

- completed a reemployment plan in a previous workers' compensation claim in Alaska or another jurisdiction with similar law;
or done both of the following:
- The parties stipulated to an employee's eligibility for reemployment benefits, an eligibility request was approved, or an eligibility evaluation was ordered under AS 23.30.041(c);
and
- Waived reemployment benefits by completing a waiver form under AS 23.30.041(q); or waived reemployment benefits in a settlement agreement under AS 23.30.012 or under a substantially similar law in another jurisdiction.

As you can see, determination of whether an employee would be precluded from reemployment benefits based on the definition of previously rehabilitated is dependent upon when certain events occurred. You are encouraged to contact the Section if you need assistance.

REPORT WRITING

Complete your report and recommend whether the employee should be found eligible or ineligible for reemployment benefits. If you lack the information necessary to make a recommendation, submit a complete evaluation report noting what information is lacking and what actions you will undertake to resolve these issues. Identify specifically who performed the tasks on which you are reporting; do not simply state, for example, "ACME Rehabilitation contacted the employer..." You should state, "I (or This specialist (or your name)) contacted the employer" "Jane Doe, rehabilitation assistant, copied and served the report", etc.

The following are the essential elements of a complete eligibility evaluation report; this is required content.

- I. Work History (limited to ten years prior to the date of the work injury or when the employee reached age 18, whichever is more recent, to present, including all post injury employment);

For each job held provide:

- A. Dates of employment (Document dates of employment as specifically as possible. Some injured workers are poor historians but, given that we are charged with determining whether SVP is met, it is important to try to get month/day/year or at least the month and year for the start and end dates) Please note work status (full time, part time, seasonal);
- B. Employer Name;
- C. Employer Address (at least city and state);
- D. Job Title (actual job, not DOT title);
- E. DOT Title(s)-use primary “occupational title”, not an alternate title; match up the DOT title with the work history here, not just in a table elsewhere in the report;
- F. DOT Number(s)-match up the DOT number with the work history here, not just in a table elsewhere in the report;
- G. Brief narrative of duties so others can understand how you selected the DOT title(s);
- H. Percentages when multiple titles are being used (refer to page 3 where apportionment is discussed under the interview with the employee for more information); and
- I. Provide SVP as noted in the job description, your calculation toward SVP from the work history, and whether SVP is met for the selected titles.

Identify which job in the work history is the job at time of injury.

Document all gaps in employment (volunteer work, unemployed, stay at home parent, etc.).

Include employment while incarcerated.

- II. Education/Training History (limited to ten years prior to injury or when the employee reached age 18, whichever is more recent, to present);

For each educational or training endeavor provide:

- A. Dates (as specific as possible);
- B. School Name;
- C. School Address;
- D. School Program/Major;
- E. DOT Title(s) of occupations for which the program prepares a student;
- F. DOT Number(s) of occupations for which the program prepares a student;
- G. Brief description of program pursued and if completed, report what the records (e.g. transcripts) show;
- H. Whether SVP is met for selected titles (recall the special considerations footnoted on page 4)

- III. Employer Contact

Note the date of actual contact, or efforts to achieve this, with the employer and the name of the person contacted and their title. You should address any input they provided regarding the job at time of injury, whether alternate employment can be offered and what steps you took to evaluate that.

IV. Medical Information

Include the injured worker's statement of the injury. Do not write a complete medical summary; a reiteration of the medical records is unnecessary. Your narrative should be limited to medical information pertinent to completing the evaluation. Document that you are aware of the accepted conditions for the claim, current medical status, the current medical provider(s) as designated by both the employee and the employer (if known), the input previously documented and/or received regarding permanent partial impairment and the review of SCODRDOT job descriptions. If you do not yet have the necessary medical input, indicate the efforts made to obtain this information and next steps to move the evaluation forward.

V. Previous Rehabilitation or Dislocation Benefit Received

Include the employee's responses to each of your questions about previous rehabilitation or previous election to receive a dislocation benefit in a prior claim. If the answer is positive to either or both queries, please follow the procedure described on pages 10 - 11 to evaluate if he/she is precluded from eligibility.

VI. Eligibility Determination Criteria

Your report is complete when you have addressed each criteria under subsections (e)(1-2) and (f)(1-4) The following format should be utilized:

A. AS 23.30.041(e)(1): An employee shall be eligible for benefits under this section upon the employee's written request and by having a physician predict that the employee will have permanent physical capacities that are less than the physical demands of the employee's job as described in the 1993 edition of the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles" for the employee's job at the time of injury

Identify here all available physicians' predictions regarding the SCODRDOT job description or descriptions representing the job at time of injury. The employee is ineligible under this criterion if the employee is predicted to have the permanent physical capacities to perform all the titles. If necessary, document any information you lack that prevents you from determining eligibility under this criterion, identifying fully your efforts to acquire this information.

B. AS 23.30.041(e)(2): An employee shall be eligible for benefits under this section upon the employee's written request and by having a physician predict that the

employee will have permanent physical capacities that are less than the physical demands of the employee's job as described in the 1993 edition of the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles" for other jobs that exist in the labor market that the employee has held or received training for within 10 years before the injury or that the employee has held following the injury for a period long enough to obtain the skills to compete in the labor market, according to specific vocational preparation codes as described in the 1993 edition of the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles".

Summarize here the DOT titles of jobs (other than the job at time of injury) for which the employee met SVP through the applicable work history and/or education/training and report the physicians' predictions for those titles. Document your labor market research results regarding titles for which the physician predicted the employee will have the permanent physical capacity.

The employee is ineligible under this criterion if the employee is predicted to have the permanent physical capacities to perform the physical demands of at least one DOT title that exists per the labor market research guidelines outlined above. Document your labor market research findings, if any, here, elsewhere in the report, or as an attachment.

If necessary, document any information you lack that prevents you from determining eligibility under this criterion, identifying fully your efforts to acquire this information.

C. AS 23.30.041(f)(1): "An employee is not eligible for reemployment benefits if the employer offers employment within the employee's predicted post-injury physical capacities 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, and the employment prepares the employee to be employable in other jobs that exist in the labor market."

Document here your discussions with the employer regarding an offer of alternative employment. If you conclude that the employer has made a valid offer of alternative employment, the employee is ineligible under this criterion, whether or not they choose to accept the offer.

If necessary, document any information you lack that prevents you from determining eligibility under this criterion, identifying fully your efforts to acquire this information.

D. AS 23.30.041(f)(2): An employee is not eligible for reemployment benefits if the employee previously declined the development of a reemployment benefits plan under (g) of this section, received a job dislocation benefit under (g)(2) of this section, and returned to work in the same or similar occupation in terms of physical demands required of the employee at the time of the previous injury.

For injuries after 11/07/05 indicate if the employee previously received a job dislocation benefit. Identify whether they returned to work in the same or similar occupation in terms of physical demands at any point since the previous claim. They are ineligible under this criterion if you determine they have done so.

If necessary, document any information you lack that prevents you from determining eligibility under this criterion, identifying fully your efforts to acquire this information.

E. AS 23.30.041(f)(3): An employee is not eligible for reemployment benefits if the employee has been previously rehabilitated in a former workers' compensation claim and returned to work in the same or similar occupation in terms of physical demands required of the employee at the time of the previous injury.

For all injury dates, indicate if the employee has been previously rehabilitated, in a former workers' compensation claim, recalling the applicable definition of previously rehabilitated from your analysis on pages 10 - 11. Identify whether they had returned to work in the same or similar occupation in terms of physical demands at any point since the previous claim. They are ineligible under this criterion if you determine they have done so.

If necessary, document any information you lack that prevents you from determining eligibility under this criterion identifying fully your efforts to acquire this information.

F. AS 23.30.041(f)(4): An employee is not eligible for reemployment benefits if at the time of medical stability, no permanent impairment is identified or expected.

Document here whether a physician has predicted that the employee will have a permanent partial impairment rating greater than zero for this claim. If the doctor predicts the injured worker will not incur a PPI rating greater than zero, the employee is ineligible under this criterion. If necessary, document any information you lack that prevents you from determining eligibility under this criterion identifying fully your efforts to acquire this information.

VII. Eligibility Recommendation

After completion of the above, provide your recommendation on the employee's eligibility for reemployment benefits. The employee must meet each of the eligibility criteria to be eligible. If necessary, document any information you lack that prevents you from determining eligibility.

Finally, notify the parties (employee and employer) that, within ten days of the filing of your report, they must submit to this office and copy the other party and you with any additional information that should be considered in our determination of eligibility.

VIII. Eligibility Determination

Your report will be reviewed by the RBA or designee and you will be notified by letter of the eligibility decision. If your evaluation report is incomplete, not in accord with 8 AAC 45.525 or the file does not support your recommendation, we may issue a letter suspending the evaluation determination. This letter will also outline what additional information is needed, who must submit the information, and the date by which the information must be submitted. If we determine insufficient efforts have been undertaken to complete the evaluation we may assign the evaluation to another rehabilitation specialist for completion.

To help you determine whether or not you have addressed all the requirements of the Alaska statute, we have enclosed a Checklist for your use. You are required by regulation to complete this checklist and attach it to your evaluation report. This includes your initial report and subsequent reports where a recommendation is made. For interim status reports, it is sufficient to show service. Reports that do not include a completed checklist and/or service to the parties (to include the address/email address of service) may be returned to you.

EVALUATION REPORT DISTRIBUTION AND COSTS

Your evaluation report, all attachments listed below and the Checklist must be copied to the employer/adjuster, employee, Reemployment Benefits Section, and any attorneys who have filed entries of appearance. Please do not fax your documents. Also, we do not need two copies of your reports and attachments. In order to verify that you have copied all of the parties, the Checklist form includes a Proof of Service.

Required attachments include:

- The employer's written job description of the employee's job at the time of the injury, if one was received
- Documentation of employee's education and/or training, if any was received
- Copies of all predictions by any physician on SCODRDOT job descriptions
- The completed offer of alternate employment form, if employment has been offered, and the physician's prediction on a job analysis, if applicable
- Labor market research, if necessary, and if not embedded in the report
- Documentation of previous rehabilitation or job dislocation benefit
- All physicians' ratings or statements regarding permanent impairment
- The Eligibility Evaluation Checklist

Your original billing statement should be attached to the copies sent to the insurer who pays the fees for your services. By regulation, the 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 the activity. Regulation further requires that you send a copy of your billing statement to the employee. You may redact your Social Security number or Employer Identification Number from the employee's copy.

INJURED STATE OF ALASKA EMPLOYEES

A State of Alaska classified employee may be entitled to benefits not available to employees working in the private sector. These benefits grant rehire preferences described in AS 39.25.158 of the Alaska

Personnel Act. If you have been assigned a case that involves an injured State of Alaska employee, a copy of the statute and the regulation (2 AAC 07.228) will be attached to assist you in completing your evaluation.

PERFORMANCE OF REHABILITATION SPECIALISTS

You are expected to perform the evaluation in a timely manner and to submit an evaluation report in compliance with the statute and regulations that govern reemployment benefits. If you are repeatedly late in completing assignments, fail to timely address concerns noted in suspension letters, or fail to adhere to statutory/regulatory requirements you may be sent a notice of proposed disqualification from the list of Rehabilitation Specialists. Regulation 8 AAC 45.440 states failure to provide suitable rehabilitation skills, failure to timely file two or more eligibility evaluations or plan reports during a three month period, and failure to adhere to statute and regulation among the reasons for removal from our list. This applies not only to the filing of an initial evaluation report but to all subsequent reports/status reports when the RBADs have issued a suspension letter noting concerns or identifying additional work needed to support a determination.

Form 07-6161 (Rev 12/2019)