

Rehabilitation consultation and ethics

Rehabilitation Consultation Report (RCR) rehabilitation practice

Eligibility scenarios for:

- Babs
- Jose
- Julie
- John
- Chan
- Paul
- Isabella

Babs

Babs works on an assembly line where her job requires almost constant standing. She twisted her ankle at work and the insurer admitted liability. Babs went to her regular doctor for treatment and was diagnosed as having a sprained ankle. The doctor recommended Babs avoid work activity for a few weeks and then return for a follow-up visit if she continues to have symptoms. About a month later, Babs called you requesting a rehabilitation consultation because you had previously worked with her brother. When you met with Babs, you asked her whether she had any other health problems. She said she has been treated for lupus for many years. Babs then mentions that when she returned to see the doctor a few weeks after the work injury, the doctor told her the ankle sprain was resolved. The doctor said her current symptoms are due to the effects of lupus. He recommended she avoid standing more than a couple of hours a day. The doctor provided Babs with a Report of Work Ability form, laying out her work restrictions, and she gave you a copy. Babs said she disagreed with the doctor about the problem being related to lupus. She thinks she is still suffering from the work injury because the symptoms are nothing like what she has experienced with lupus.

Questions

Is Babs a qualified employee? Why or why not?

Jose

Jose worked at a plant near his home, beak-trimming chicks. The work was light duty and required him to stand most of the day. Jose had worked there for five years and was well liked by coworkers and the management staff. Unfortunately, another employee clipped Jose's left leg with a forklift as he was passing by, causing torn leg muscles and a fractured fibula. Jose's supervisor immediately drove him to the hospital, where surgery was performed. Jose was off work for several weeks due to the accident. Upon receiving the referral for a rehabilitation consultation, the insurer informed you Jose had been terminated after a light-duty job offer. Apparently, the job had been offered to Jose contingent upon his proving he was a U.S. citizen or otherwise able to legally work in the U.S. The insurer noted that since Jose cannot work in the U.S., the rehabilitation consultation should be straightforward in finding Jose "not qualified." She requested the consultation report and invoice be faxed to her at your earliest convenience. Because the insurer has provided several referrals to you in the past, you agreed to rearrange your schedule to see Jose this week.

Questions

Is Jose a qualified employee for rehabilitation services? Why or why not?

Julie

Julie fell off scaffolding while working as a commercial painter. This resulted in a broken right ankle and right hip fracture with sedentary limitations. Three-quarters of the employees have been seasonally laid off (including Julie) and the employer thought he might have a light-duty job for her when business picked up in three months. Julie was not surprised by the layoff, noting the time off would allow her get caught up on house projects. Also, since she has put on some weight, she felt it would be a good time for her to hit the gym and exercise.

Questions

Is Julie a qualified employee? Why or why not?

John

As a pharmaceutical salesman, John's job required extensive travel by car and the abilities to lift samples in and out of his car, to promote new products and to close sales deals. John was recognized by his peers as being very good at what he did and averaged a weekly wage of \$1,730.76. On his way to Frostbite Falls Medical Clinic, John hit a patch of black ice, causing his car to spin out of control and flip several times. John was unconscious when the ambulance brought him to the hospital. Two months have passed since the accident and John still has not awakened. It is clear John will be off work for more than 13 weeks. The family would like medical management assistance to help with this difficult situation. The family is willing to sign any necessary forms and have you in the room when the doctor updates the family. Due to your past medical experience with coma patients, the insurer requested you do a consultation and then provide rehabilitation services right away.

Question

Is John a qualified employee? Why or why not?

Chan

The open road was one of the things Chan really enjoyed about his heavy-duty job as a petroleum truck driver, which required an average of 60 hours a week. At age 58, with a high school diploma, there was not another job where he would earn \$1,018.37 a week. On March 23, 2022, when pulling a hose, Chan tore his right rotator cuff and ruptured his biceps tendon. Several weeks after surgery, Chan was referred for physical therapy two times a week and then, after a couple of months, was able to progress to three times a week. Unfortunately, significant pain persisted and Chan was not able to progress his physical limitations past a two-pound, right-hand lift, carrying objects close to his body and performing no overhead reaching. Discouraged, Chan applied for and was awarded Social Security Disability Insurance (SSDI) benefits of \$491 a month. Through the county, Chan obtained a job working as a personal care attendant for his four-year-old disabled grandson. In this job he earned \$800 a month. The job was approved by SSDI, but Chan was unclear if it is through the “Ticket to Work” program.

Questions

Based on the consultation, is Chan a qualified employee? Why or why not?

Paul

On Aug. 17, 2020, while working as a full-time sheet metal fabricator, Paul was using a clench machine to flatten metal parts. Unfortunately, the machine malfunctioned, coming down and automatically retracting, leaving Paul's right little finger crushed. Following emergency room care, Paul returned to work to complete mandatory drug screening, which he passed. After two weeks, a hand surgeon placed a pin into the broken finger. At the end of two weeks of recovery, Paul returned to one-handed duty work. Paul continued one-handed work for a month-and-a-half and was then released for unrestricted work. However, pain and swelling persisted.

Paul met with his doctor for a follow-up appointment and was advised there was nothing more that could be done surgically. In February 2021, Paul was reassigned to the third shift to do parts handling. This required frequent to continuous hand movement, which increased his hand pain. Furthermore, the right little finger developed a hypersensitivity to the point that Paul was missing work. He saw the doctor, who prescribed Lyrica and hand therapy for the pain.

At an appointment in June 2021, the doctor noted possible complex regional pain syndrome (CRPS), but did not order any tests. She prescribed Lyrica, continued hand therapy (including ultrasound), recommended avoiding use of vibrating tools and recommended lifting no more than 25 pounds with his right hand.

Paul (continued)

Paul's employer continues to provide light-duty work, but has informed him his department will eventually be eliminated. The only other work is on the assembly line. Paul is concerned he won't be able to handle assembly work.

Questions

Based on today's consultation, is Paul a qualified employee? Why or why not?

Isabella

While in Minnesota on a visa, Isabella obtained a stand-up assembly position at Jim's Electric Motor Company. Her job involved placing components into an electric motor frame and attaching an end bracket. She next placed the 20-pound unit into a crate located on a manual cart. After the crate had 50 motors, Isabella pulled the cart to the shipping room, where she off-loaded the crate using an electric hoist. Isabella earned an average weekly wage of \$520 and her supervisor hinted she would get a 15 cent raise after the next pay period. Because Isabella lived with relatives, her expenses were minimal, which allowed her to send money to her ailing mother in Mexico. An hour before the end of her shift, the hoist failed, causing the crate to dump its load onto Isabella's left foot. Isabella was taken to the hospital, where she was diagnosed with a compound full-foot fracture. The doctor prescribed pain medication, took her off work and recommended frequent dressing changes.

At eight weeks post-injury, Isabella still had not returned to work. Three weeks later, Isabella received notice her visa was due to expire. So, frustrated and unable to work, she returned to Mexico. Upon receiving the referral, you called the employer, who stated the only available work was the pre-injury job and indicated Isabella was a great worker. You then called Isabella, explained the consultation process and your conversation with the employer.

Isabella (continued)

When you asked for a current street or email address, Isabella declined to provide them. However, as the phone conversation progressed, Isabella confided she thought doctors in Mexico were not very good, so she was not seeing one. Isabella reported being eligible for a U.S. visa again, but because she had no money to pay for it, she was unsure about returning to Minnesota. The call was interrupted by Isabella's mom calling for her assistance. Isabella consented to a follow-up call, but subsequent phone calls have gone straight to a full voicemail inbox, so you have been unable to leave a message. The clock is ticking to get the rehabilitation consultation filed with the department and parties.

Questions

Is Isabella a qualified employee for rehabilitation services? Why or why not?

Is it unethical if ...

1. You don't talk about ethics (for example, general denial)?
2. You don't know a law, ethical principle or professional standard that prohibits the behavior in question?
3. You can name at least five other individuals doing it?
4. None of your clients ever complained about it?
5. Your client wanted you to do it?
6. Your client's condition or behavior made them difficult to treat, troublesome or risky to be around, so you elicited whatever you did?

Is it unethical if ... (continued)

7. You were not really feeling well that day, so you could not be expected to perform up to your usual level of quality?
8. A friend or colleague of yours knew someone who said an ethics committee somewhere once issued an opinion that it is OK?
9. People who sit on ethics committees do not understand the hard realities of practice?
10. The behavior results in a higher income or more prestige?
11. It is expedient and convenient?
12. No one else finds out?

Is it unethical if ... (continued)

- 13. There is no intent to harm?
- 14. There is no empirical evidence that proves it was harmful?
- 15. You do not intend to do it more than once?
- 16. No one can prove you did it?
- 17. You are an important person?
- 18. You are too busy?

Bonus brain teaser round

- Tony
- Lynne
- Cheryl

- Debra
- Marsha
- Lisa

Tony

During the past several months, Tony is missing more and more work due to a fractured L4-5 disc. His job requires frequent bending and Tony's physician knew that missing work was causing a financial hardship. Due to this, the physician suggested qualified rehabilitation consultant (QRC) services might help Tony if he was OK with his contacting her.

You received a call from the physician, who reviewed Tony's situation and indicated he was expecting your call. Upon reaching out to Tony, he agreed to meet you at his home after work. You then contacted the insurer who was fine with a consultation.

During the rehabilitation consultation, you learned Tony retained an attorney who was supposed to be very good. After your meeting, you then reached out to the employer about available work and learned that if Tony could not do his current job, as is, then he would have to find work elsewhere.

Following that conversation, you reached out to Tony's attorney to introduce yourself and discuss your finding that Tony was a qualified employee. Agitated, the attorney informed you he filed a request for assistance more than a month ago, naming the QRC firm of his choice and to stop what you are doing.

Tony (continued)

Questions

What do you do in this situation and why?

Lynne

Lynne is a sparkler when it comes to outside sales, bringing in \$2 million to \$3 million annually in contracts to her company. Lynne has lived in St. Paul, Minnesota, for many years and loves working for The Joyful Brownie Company, which is located across the river in Wisconsin. The job allows Lynne to sell in Iowa, Minnesota and Wisconsin, with her largest primary accounts in Minnesota.

Crossing the river into Minnesota one morning, she and several cars hit the same ice patch, causing the cars to slide out of control. The multiple car pile-up made the news. Lynne's head ended up hitting the steering wheel and her left shoulder was thrown violently against the driver's door. That same door was then struck by another vehicle, compounding the injury.

The insurer requested you do a consultation right away because it appeared it would be some time before Lynne was back driving and doing her outside sales job. Based on the physician's diagnosis and projections, you determined Lynne to be eligible for rehabilitation services and filed the consultation report accordingly.

Lynne (continued)

Approximately one week later, the insurer contacted you instructing you to close your rehabilitation file because they had now decided this to be a Wisconsin workers' compensation claim.

Questions

What do you do in this situation and why?

Cheryl

There was an administrative conference to discuss a change of QRC based on Cheryl's complaint that her QRC was never available, that she still had symptoms and that she needed medical management assistance. The insurer's rehabilitation response was that Cheryl had been back to work for two months and that all rehabilitation services should be terminated.

Through the conference there was evidence the QRC had failed to maintain service activity without informing the parties about why. Furthermore, the attorneys agreed Cheryl could continue to receive medical management services through a change of QRC to yourself. A decision and order was sent to the parties and previous QRC.

After meeting with Cheryl and signing all the necessary forms, you attempted to file the authorization release form in Work Comp Campus to facilitate the R-3 Rehabilitation Plan Amendment change of QRC to yourself. A day later, you were informed by the Department of Labor and Industry (DLI) the "Rehab Transaction (RT)" rehabilitation file could not be found in Campus.

Cheryl (continued)

Upon following up with DLI, you learned the previous QRC had filed an R-8 Notice of Rehabilitation Plan Closure form, which closed the rehabilitation file. Due to the QRC's actions, you were now required to do a rehabilitation consultation to re-open rehabilitation services. However, in doing the consultation, you determined the employee was back to work successfully and not a qualified employee.

Knowing the parties had previously agreed to continued rehabilitation services, you contacted the parties to confirm their agreement that you should provide rehabilitation services. You requested they respond one way or the other about the agreement, before you would proceed. The employee's attorney stated there was already agreement for continued services, as noted in the decision and order, so Cheryl should be listed as a "qualified employee based on agreement of the parties." The insurer and their counsel have not responded and its now day 14 since you conducted the consultation. Your sense is the insurer and/or defense attorney have no plan to respond to you.

Questions

What do you do in this situation and why?

Debra

Debra, a machine operator at the local candy factory, injured both wrists when the machine malfunctioned, causing a crush injury. Bilateral surgery was performed right away to fix the ulna and radius bones in her wrists. The emergency department surgeon indicated the numbness and tingling in her hands was likely due to nerve damage and recommended she see a neurosurgeon for that part of her injury. The insurer, knowing Debra might be off work for more than 90 days, assigned you to do a rehabilitation consultation.

Upon contacting Debra, you noted she was reluctant to talk with you, even after you explained your role and purpose. Debra eventually agreed to meet with you at a local restaurant for the consultation. Debra was already waiting for you when you arrived and politely listened as you discussed her rights and responsibilities and the disclosure form. She declined to sign the rights form, saying she wanted to take a copy home to review further. As to signing a medical release of information form, Debra declined stating you could attend her medical appointments, but she would not be signing any forms that allowed access to her medical records. Due to this, you discussed with Debra that not having access to her medical records would make it difficult to do your job, which is to help facilitate her recovery and return to work.

Debra (continued)

After the consultation, you contacted the employer and insurer confirming Debra would benefit from rehabilitation services. You also discussed her reluctance to allow you access to her medical information. With that, the insurer said it's clear Debra does not want rehabilitation services, as exhibited by her noncooperative behavior to sign the medical release form. Therefore, she is not qualified to receive rehabilitation services until she decides to work with the system. And, when she does, Debra can always request another rehabilitation consultation.

Questions

What do you do in this situation and why?

Marsha

Marsha, a window washer by trade, is fearless when it comes to working on taller buildings in Minneapolis. One afternoon, while descending a smaller five-story building, a strong wind caused her to slip backward and fall out of her harness. Hitting the ground caused a broken collarbone and damage to internal organs.

An attorney for the family asked you to conduct a rehabilitation consultation so medical management services might be initiated right away. In conducting the consultation, a review of the orthopedic medical notes indicated that, with time, Marsha would eventually return to work. The RCR form was filed, finding Marsha qualified to receive rehabilitation services. Unfortunately, not more than a week later, Marsha's injuries were such that she died.

Questions

What do you do in this situation and why?

Lisa

Lisa, a commercial painter, missed a step when coming down a ladder for more paint. Falling backward, she landed on her right, dominant shoulder, causing a massive rotator cuff tear. An orthopedic surgeon performed surgery a week later and recommended no right arm use and to stay off ladders.

The insurer, knowing Lisa would be off work for an extended period of time, requested you conduct a rehabilitation consultation. When telephoning Lisa to get together for the consultation, she sounded a little confused, but you said you would answer all her questions at the meeting.

Upon meeting with Lisa on Tuesday, you noted she was actively hallucinating and appeared to be listening to an invisible friend. With that, you inquired what medications she was taking. Lisa emphatically said she takes no medications because she does not trust doctors. Upon further inquiry, you learned Lisa had seen a psychiatrist and taken medications in the past, but felt the doctor had not done anything for her, so stopped everything.

Questions

What do you do in this situation and why?

Thank you