Safety, Rehabilitation and Compensation Act 1988
Section 34D

VARIATION OF CRITERIA FOR APPROVAL OR RENEWAL OF APPROVAL AS A WORKPLACE REHABILITATION PROVIDER (REHABILITATION PROGRAM PROVIDER)

Comcare, pursuant to section 34D of the Safety, Rehabilitation and Compensation Act 1988 (the SRC Act), with effect on and from 1 January 2013:

1. revokes the determination dated 30 October 2009 (variation of Criteria for Approval or Renewal of Approval as a Rehabilitation Program Provider) registered as instrument F2009L04152 on the Federal Register of Legislative Instruments; and

2. determines the attached Criteria for Approval or Renewal of Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider).

Dated: 17 October 2012

The seal of Comcare was affixed in the presence of:

Steve Kibble
Deputy Chief Executive Officer

Attachment: Criteria for Approval or Renewal of Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) - 11 pages.
CRITERIA FOR APPROVAL OR RENEWAL OF APPROVAL AS A WORKPLACE REHABILITATION PROVIDER (REHABILITATION PROGRAM PROVIDER)

INTRODUCTION

A. The Criteria for Approval or Renewal of approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) have been determined under section 34D of the Safety, Rehabilitation and Compensation Act 1988 (the SRC Act). The criteria set out the approval framework by which an application for initial approval and for renewal will be assessed.

Notes:
1. These criteria are a disallowable legislative instrument under the Legislative Instruments Act 2003.
2. Decisions to give or refuse an initial approval, renew or refuse renewal of an approval or to impose conditions on an approval or renewal of approval are made by Comcare under sections 34F, 34L and 34P of the SRC Act. Under section 34R of the SRC Act an applicant may apply to the Administrative Appeals Tribunal for merits review of a refusal of approval, refusal of renewal of approval or imposition of a condition to an approval or renewal of approval.
3. A Rehabilitation Authority may engage a Workplace Rehabilitation Provider to conduct an assessment under section 36 or provide a rehabilitation program under section 37 or of the SRC Act. The Relevant Authority will be obliged to pay the provider for the provision of either of these services.

B. The Criteria for Approval or Renewal of Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) includes adherence to National Conditions of Approval and Principles of Workplace Rehabilitation which a provider is required to meet in order to become approved, and to maintain approval (through the renewal process).

C. The National Conditions of Approval and Principles of Workplace Rehabilitation were developed in conjunction with all Workers’ Compensation Authorities (including Comcare) and have been endorsed by the Heads of Workers’ Compensation Authorities (HWCA) as part of a nationally consistent approval framework for Workplace Rehabilitation Providers. Comcare implemented the national framework from 1 July 2010.

D. In these criteria:

‘Code of Conduct’ means the HWCA endorsed Code of Conduct for Workplace Rehabilitation Providers in Appendix 4 of the Guide, as at 1 July 2012

‘Conditions of Approval’ means any section 34P SRC Act conditions of approval imposed on an approved Workplace Rehabilitation Provider. These conditions include, as standard, the National Conditions of Approval
‘Criteria for Approval’ and ‘Approval Criteria’ mean the Criteria for the Approval or Renewal of Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) from time to time in force under section 34D of the SRC Act.


‘HWCA’ means the Heads of Workers’ Compensation Authorities.

‘National Conditions of Approval’ means the HWCA endorsed National Conditions of Approval as contained in the Criteria for Approval.

‘Operational Standards’ means the Operational Standards for Workplace Rehabilitation Providers (Rehabilitation Program Providers) from time to time in force under section 34E of the SRC Act.

‘Principles of Workplace Rehabilitation’ are the principles set out in Appendix 1 of this instrument and are the HWCA endorsed Principles of Workplace Rehabilitation.

‘Provider’ means a person (including a partnership or company) that is approved as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) under the SRC Act, and includes any principal of the provider.

‘Rehabilitation Authority’ has the same meaning as in Section 4 of the SRC Act.

‘Rehabilitation Program Provider’, ‘Provider’, ‘Workplace Rehabilitation Provider’, and ‘WRP’ have the same meaning.

‘Relevant Authority’ has the same meaning as in Section 4 of the SRC Act.


‘Workers’ Compensation Authority’ means the body responsible for the administration of Worker’s Compensation Legislation in any jurisdiction. Comcare is the Workers’ Compensation Authority for the federal jurisdiction.

‘Workplace rehabilitation’ is a managed process involving timely intervention with appropriate and adequate services based on assessed need, and which is aimed at maintaining injured or ill workers in, or returning them to suitable employment. (NOHSC: 3021 (1995), Guidance notes for Best Practice Rehabilitation Management of Occupational Injuries and Diseases, April 1995).

‘Workplace Rehabilitation Model’ is a service delivery model for workplace rehabilitation:

(a) aimed at an early and safe return to work for injured employees
(b) involving a designated provider responsible and accountable for coordinating services designed to achieve a cost-effective, safe and durable return to work for the injured employee
(c) where services are delivered on a continuum of assessment of need, planning, active implementation, review and evaluation
(d) requiring effective communication, decision making, financial accountability and informed purchasing of services and resources.
Note: An authentic copy of the Operational Standards is published on the Federal Register of Legislative Instruments at www.comlaw.gov.au. It is a disallowable legislative instrument within the meaning of the Legislative Instruments Act 2003.
THE APPROVAL PROCESS

In order to be approved by Comcare, the applicant is required to submit an application on the approved form to Comcare (for either initial approval or renewal of their approval) and pay the prescribed application fee.

The initial and renewal applications require the provider to outline how they will meet and maintain the National Conditions of Approval including complying with the Principles of Workplace Rehabilitation. The applicant must also satisfy the other criteria contained in the Criteria for Approval.

An application submitted to Comcare must be accompanied by a signed statement of commitment to the Conditions of Approval, a statement of commitment to the Code of Conduct and a signed Comcare Agreement and Authorisation.

Notes:

1. The approved form is the form approved by Comcare under section 34S of the SRC Act. There are separate approved forms for applications for initial approval and applications for renewal of approval. The forms are available from Comcare and can be downloaded from the Comcare website at www.comcare.gov.au.

2. The prescribed fee is the fee prescribed by the Safety, Rehabilitation and Compensation Regulations 2002, which can be accessed on the Federal Register of Legislative Instruments at www.comlaw.gov.au. There are separate fees for application for initial approval and applications for renewal of approval. The fees are also published on the Comcare website at www.comcare.gov.au.

Comcare will approve an initial application where it is satisfied that the Workplace Rehabilitation Provider:

a. meets the Criteria for Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) in force under s34D

b. is likely to be able to comply with the Operational Standards presently in force

c. if the applicant is making an application within 6 months of the next renewal date- is also likely to be able to comply with the operational standards that will be in force with effect from that renewal date.

Comcare will approve an application for renewal if it is satisfied that the applicant:

a. meets the Criteria established and in force under section 34D

b. has demonstrated compliance with the Operational Standards in force under section 34E since the applicant was initially approved or last renewed

c. is likely to be able to meet the Operational Standards in force under section 34E with effect from the renewal date.

If the initial or renewal application is successful, the WRP will be issued by Comcare with an instrument of approval which enables them to undertake SRC Act work within the three-year approval period.

RENEWAL OF APPROVAL

If the provider seeks to renew their approval they are required to submit a renewal application to Comcare by 31 December (which is six months prior to the end of the approval period ending on 30 June of the third year).
Criterion 1: NATIONAL CONDITIONS OF APPROVAL

The National Conditions of Approval were developed by Comcare and other State & Territory Workers’ Compensation Authorities as part of the nationally consistent approval framework. They are the overarching requirements to operate as a Workplace Rehabilitation Provider (WRP), and apply to approvals issued by Comcare under sections 34F and 34L.

Criterion 1 requires the applicant to demonstrate how they will meet and maintain the National Conditions of Approval.

Condition 1

The workplace rehabilitation provider (WRP) must comply with the Principles of Workplace Rehabilitation.

Note: The Principles of Workplace Rehabilitation are set out in Appendix 1 to this instrument.

Condition 2

The WRP must ensure that all services are delivered in accordance with the Workplace Rehabilitation Model by persons who hold the minimum qualifications as defined in the Principles of Workplace Rehabilitation and in accordance with service descriptions appropriate to the Workers’ Compensation Authority where the approval is being sought.

Condition 3

The WRP’s management structure must include at least one person who holds a rehabilitation consultant qualification outlined in the Principles of Workplace Rehabilitation and who is able to demonstrate 5 years’ relevant workplace rehabilitation experience.

Condition 4

The WRP must participate in annual self-evaluations and in independent evaluations as required by the Workers’ Compensation Authority to demonstrate compliance with the Conditions of Approval.

Condition 5

The WRP must demonstrate management of 12 cases of workplace rehabilitation within any Workers’ Compensation jurisdiction in the preceding 12 months. (Due consideration will be given to providers servicing rural and remote areas).

Note: This condition does not have to be satisfied in the initial application for approval as a workplace rehabilitation provider.

Condition 6

The WRP must maintain the minimum return to work rate as set by the Workers’ Compensation Authority.

Note: The minimum return to work rate is set out in the Operational Standards.

Condition 7

The WRP must provide data to the Workers’ Compensation Authority consistent with the Conditions of Approval.

Condition 8

The WRP must deliver services in compliance with the Code of Conduct for Approved Workplace Rehabilitation Providers.

Condition 9

The WRP’s facilities at all locations where services are delivered must provide a safe, accessible and appropriate environment for workers, staff and visitors.
**Condition 10**

The WRP must remain financially solvent.

**Condition 11**

The WRP must notify the Workers’ Compensation Authority in advance, or as soon as practical, if any of the following situations arise and accept that the Workers’ Compensation Authority will review the status of approval and determine whether the proposed arrangements conform with the Conditions of Approval:

i. the business is sold or the controlling interest in the business is taken over by a new shareholder(s), owner(s) or director(s)

ii. the business changes its trading name or location of premises

iii. the business supplies or has connections with other suppliers of services within the workers’ compensation industry

iv. a new chief executive officer or director or principal head is appointed

v. there is a major change in the service delivery model and/or staff which may impact on the delivery of the workplace rehabilitation services

vi. there is any other change that affects, or may affect, the provider’s service quality and procedures

vii. the provider has entered into voluntary financial administration, becomes insolvent or is the subject of bankruptcy proceedings

viii. there is any professional misconduct proceedings being taken against the provider or any individuals employed or engaged by the provider.

**Condition 12**

The WRP must accept that the Workers’ Compensation Authority may:

i. initiate an evaluation at any time during the period of the approval which may involve an evaluation of conformance to the Conditions of Approval, and/or

ii. consult with the relevant professional or industry associations in determining what are reasonable expectations regarding performance, and/or

iii. impose additional requirements, and/or

iv. exchange information with other jurisdictions on provider performance, and/or

v. cancel their approval status if the above conditions are not met.
Criterion 2: PROBITY

2.1 The WRP must demonstrate a capacity and commitment to achieve and maintain the Operational Standards in the delivery of rehabilitation services during the approval period.

2.2 The WRP must accept that Comcare may revoke the approval if Comcare is satisfied that the provider has failed to comply with the conditions to which the provider’s approval is subject under section 34P of the SRC Act.

Note: This includes any failure to continue to satisfy the Criteria for Approval.

Criterion 3: FINANCIAL

3.1 The WRP must demonstrate financial solvency by providing Comcare with a reference from an independent qualified person, such as a professional accountant or bank manager, which attests to the financial viability of the applicant, or with a copy of the audited financial statement for the preceding financial year.

Note: When seeking a renewal of approval the workplace rehabilitation provider may not be required to provide a reference.

Criterion 4: RENEWAL OF APPROVAL ONLY

4.1 Where a WRP is seeking renewal of approval by Comcare, the applicant must demonstrate:

a. that they have provided five (5) services as a Workplace Rehabilitation Provider under the SRC Act in the 12 months immediately prior to the date of the application for renewal.

b. that they have met the Operational Standards during the period starting on the date of their initial approval under s34F or the date of their most recent renewal (whichever is the later) and ending on the date of the current application for renewal. Comcare may excuse the provider from meeting this requirement if it is satisfied that the provider had a reasonable explanation for not meeting the Operational Standards.
APPENDIX 1

PRINCIPLES OF WORKPLACE REHABILITATION

The Principles of Workplace Rehabilitation are the foundation elements of the organisation’s model of workplace rehabilitation and define workplace rehabilitation service provision, organisational and administrative infrastructure, staffing arrangements and quality framework. There are four Principles of Workplace Rehabilitation with sub-elements.

In their application for approval (and to maintain approval), the Workplace Rehabilitation Provider (WRP) must demonstrate how they will conform to these Principles initially and throughout the three year approval period.

PRINCIPLE 1

1. Service Provision Principles

Providers deliver services to workers and employers in a cost effective, timely and proactive manner to achieve a safe and durable return to work.

1.1 A focus on return to work

a. Expectations that a return to work goal and the services required are established with relevant parties at the commencement and throughout service provision (relevant parties include worker, employer, insurer, other service providers)

b. Appropriate services are identified and delivered to maximise return to work

c. Services focus initially on return to work in the worker’s pre-injury employment or, if that is not possible, with another employer.

1.2 The right services provided at the right time

a. Workers receive prompt attention and intervention appropriate to their needs

b. Barriers, risks and strengths are identified and strategies promptly implemented

c. Services are actively coordinated and integrated with other injury management and return to work activities.

1.3 Effective service provision at an appropriate cost

a. Needs of the worker and employer are identified by means of adequate and appropriate assessment

b. Service levels match the worker and employer needs

c. Service costs match the range and extent of service provision.

1.4 Effective communication with all relevant parties

a. Respectful, open and effective working relationships established and maintained with and between workers and employers and other the relevant parties

b. The provider acts as the link between treatment providers and the workplace to translate functional gains into meaningful work activity

b. Progress towards the return to work goal is communicated to interested parties throughout service provision

d. Durability of employment is confirmed at 13 weeks after placement.

Note: For 1.4d refer to the Comcare Operational Standard- Outcome Standard.

1.5 Evidence based decisions

a. Assessments demonstrate need for service
b. The type of service selected is the most appropriate and cost effective of those available to achieve the return to work goal.

c. An equitable and consistently applied approach to recommending commencement and cessation of service delivery.

d. Consideration given to workplace industrial relations and human resource matters that may affect the worker’s return to work.

PRINCIPLE 2

2. Organisational and Administrative Principles

Business, governance and administrative arrangements provide an appropriate infrastructure for reliable and consistent service provision to workers, employers, insurers and other relevant parties.

2.1 Comprehensive and robust corporate governance infrastructure

a. Systems of probity that avoid conflict of interest as well as prevent, manage and report malpractice/fraud.

b. Appropriate financial administration including accurate accounting.

c. Maintenance of appropriate and adequate insurances, including professional indemnity, public liability and workers’ compensation.

d. Data collection, analysis and reporting of provider performance including return to work and durable return to work rates.

Note: This refers to the Comcare Operational Standards- Outcome Standards 1 & 2, and Service Standard 3.

2.2 A records management system meeting State and Commonwealth legislation requirements

a. Comprehensive, accurate and accessible records pertaining to all clients, staff and business operations.

b. Security of storage of records in accordance with legislative requirements.

2.3 Privacy and confidentiality practices meeting relevant privacy legislation requirements

a. Systems that incorporate privacy and confidentiality requirements within all aspects of the organisational and administrative arrangements.

2.4 Safe work practices as well as return to work and injury management policies

a. Systems that comply with relevant injury management and workers’ compensation legislation.

b. Systems that comply with local workplace health and safety legislation.

2.5 Organisational management structure requirements

a. At least one person in the management structure with a qualification recognised as being sufficient to satisfy the requirements of a Workplace Rehabilitation Consultant (see Principle 4.1), and who is able to demonstrate at least five year’s relevant workplace rehabilitation experience.
3. Quality Assurance and Continuous Improvement Principles

3.1 Quality Model
   a. Quality systems that ensure customer focused service delivery, and collect, analyse and monitor qualitative and quantitative data to identify areas of strength and opportunities for systems and service improvement.

3.2 Quality Assurance
   a. Implementation of appropriate review mechanisms (e.g. self evaluations and peer reviews) to assure compliance with the Conditions of Approval
   b. Implementation and documentation of corrective and preventative actions and monitoring and review of their effectiveness.

3.3 Customer focus
   a. System to collect, review, analyse and action solicited and unsolicited feedback from customers
   b. Implementation of an effective complaints management system.

3.4 Continuous improvement.
   a. Systems for analysing information and data to identify opportunities for improvement
   b. Planning, piloting, refining and implementing improvement strategies
   c. Monitoring and reviewing the effectiveness of any improvement strategies.

4. Staff Management Principles

4.1 Qualifications, knowledge and experience
   a. Systems for ensuring that Workplace Rehabilitation Consultants have the minimum qualifications (as outlined below) and the qualifications are verified.
      i. Workplace Rehabilitation Providers (including those consultants employed or engaged by them) will have a qualification that is recognised, accredited or registered by one of the following associations or Australian Health Practitioner Regulation Agency registration boards (however described):
         a. Rehabilitation Counsellor- Australian Society of Rehabilitation Counsellors (recognised), or Rehabilitation Counselling Association of Australia (recognised)
         b. Occupational Therapists Board (registered)
         c. Physiotherapist (registered)
         d. Exercise Physiologist- Exercise & Sports Science Australia (accredited as Exercise Physiologist)
         e. Psychologist (registered)
         f. Speech Pathologist- Speech Pathology Australia (recognised)
         g. Social Worker- Australian Association of Social Workers (recognised)
         h. Medical Practitioner (registered)
i. Nurse (registered), or
j. Any other professional group assessed as meeting the HWCA national approval requirements.

and has 12 months or more experience delivering workplace rehabilitation services.

ii. Where a WRP has less than 12 months experience delivering workplace rehabilitation services, a comprehensive induction program will be completed and professional supervision provided for at least 12 months.

Notes:

1. Some workplace rehabilitation services can only be delivered by designated professional groups. The minimum qualifications to deliver these services are included in the description of the workplace rehabilitation services as specified by each jurisdiction.

2. A workplace rehabilitation provider consultant will be taken to satisfy 4.1 if they will be eligible for full membership on completion of a current period of required supervised professional practice (as determined by the relevant Professional Association or Registration Board).

b. has appropriate skills, knowledge and experience to deliver workplace rehabilitation services, and
c. has knowledge of injury management principles and Workers’ Compensation legislation, policy and procedures, and
d. all workplace rehabilitation providers and other staff interfacing with injured employees and their employers and workplaces have appropriate and required checks and clearances, such as child protection, occupational health and safety, police and security.

Note: An applicant (including a principal or workplace rehabilitation provider) that can demonstrate approval by Comcare under former Competency Criterion in place under section 34 D of the SRC Act, and has maintained approval, is taken to satisfy 4.1.

4.2 Induction, ongoing learning and development

a. A robust induction and continuous learning and development program to support the acquisition and maintenance of staff skills and knowledge
b. Staff have access to and understand all current policies and procedures relevant to their work
c. Staff have appropriate supervision and support and participate in peer review processes
d. Staff members are compliant with the professional code of conduct relevant to their particular qualification.

4.3 Adequate staff resourcing

a. Caseload management systems that efficiently allocate cases to staff with the experience and skill level to match the worker’s injury, needs and potential case complexity
b. Handover practices where cases are reviewed and all relevant parties informed to maintain continuity of care for the worker.