

**Nebraska Workers' Compensation Court  
Policy Statement – Plan Justification & Requests for Information  
Revised November 16, 2006**

[Note: The following was extracted from the “outcomes” memorandum for the **February 20, 2004** counselor/specialist meeting, revised to incorporate changes to the Courts' Rules of Procedure effective November 16, 2006.]

1. Judge High and Glenn Morton have become increasingly concerned that vocational rehabilitation plans are being held up because of disputes between a counselor and court specialist as to what is or is not pertinent or reasonable information for the specialist to request in reviewing a plan. This cannot be allowed to continue and a way must be found to resolve these disputes outside the context of an individual case.

The specialists are operating under standing instructions from Judge High and Glenn that they are to use their professional judgment in deciding whether to approve or disapprove a plan, and that they are to ask for whatever information they feel is necessary in order to make an informed decision.

Rule 39,D,3 also provides that a counselor's certification may be denied, revoked, or placed in a probationary status for deliberately withholding pertinent information. It is Judge High and Glenn's position that the decision as to what is pertinent information relating to the specialist's approval or disapproval of a plan rests with the specialist, rather than the counselor, and that it is not appropriate for a counselor to refuse to respond or make a response contingent on the specialist's justifying or explaining the reason for the request.

Therefore, in the future all counselors will be expected to respond promptly and appropriately to any request for additional information from a specialist in an individual case. Failure to do so may be considered a violation of Rule 39,D,3. If a counselor questions the purpose or reasonableness of a request the first step is for the counselor to promptly contact the specialist by telephone and discuss the matter informally. It is expected and required that any such conversation will be conducted in a professional and respectful manner by all parties.

If that conversation does not successfully resolve the question to the counselor's satisfaction he or she must nevertheless respond promptly and appropriately to the request by providing the information requested. However, in addition to providing the information to the court's specialist, the counselor may also bring the issue to the attention of Kris Peterson or Glenn. They will then conduct a policy review of the matter and respond to the counselor. The nature of the review will necessarily vary, but in most cases will include an identification of the basis for the request, any policy or procedure underlying the request, and whether a change in policy or procedure should be considered. If a policy or procedure change should be considered this will be brought to the attention of the counselor/specialist group for further discussion. Of course, the counselor is also free to bring any issue to the attention of that group as well.