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# VOCATIONAL REHABILITATION IN THE CALIFORNIA WORKERS' COMPENSATION SYSTEM: THE EMERGENCE AND LEGITIMATION OF A SOCIAL ROLE

by

# GREGG SMITH REYNOLDS

# **DISSERTATION**

Submitted in partial satisfaction of the requirements for the degree of

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Say Not, "I Have Found The Truth," But Rather,
"I Have Found A Truth." Gibran

## **ABSTRACT**

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In its most general form, the overall objective of dissertation research was to determine structural, organizational, and cultural factors of the Vocational Rehabilitation System affect the defining of the disabled worker's rehabilitation role. The research addressed an important problem area within the system: the determination of the feasibility of industrially iniured workers to benefit from rehabilitation services. The research also addressed an important and significant topical area which affects the lives of thousands of Californians today - namely, how the transition from non-producing, sick-role status to producing, worker status is accomplished by permanently partially disabled workers who vocational rehabilitation services from the California Workers' Compensation system. My research indicated that the meaning and value of the rehabilitation role, as a social object, is defined in terms of feasibility criteria, i.e., resource characteristics of the injured worker. Feasibility criteria in the rehabilitation system represent resources available for exchange in social interaction. The disabled worker is expected to exchange them for rehabilitation services and benefits. Consequent, the permanently partially disabled worker is held accountable by rehabilitation functionaries for all those criteria over which it is expected that he exercises control, though all criteria are usually considered in determining the disabled worker's feasibility benefiting vocational for from rehabilitation services. Therefore, feasibility criteria as resources are socially defined in the service delivery power domain which is to say that they attain socially shared meanings and accrue value through their exchange in the vocational rehabilitation process. The legitimacy of feasibility criteria being applied as role obligations is established through the dispute resolutions occurring in upper-level power domains, i.e., the bureaucratic and judicial.

Hung Dong

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#### CHAPTER ONE

#### WORKERS'COMPENSATION AND REHABILITATION

**Every** year in the United States approximately 85,000 disabilities, 2,000,000 lifetime temporary disabilities. and 5,000,000 to 6,000,000 minor disabilities occur as a result of work-related injuries (Cheit 1963). California has contributed ever-increasing number of cases to the rolls of the disabled. 1925, the California Department In Industrial Relations reported 92,202 disabling work By 1964, this number had increased to injuries. 182,173 (California DIR 1966); by 1974 to (California DIR 1974); and by 1979, to 360,453 disabling work injuries (California Statistical Abstract 1980).

## Workers' Compensation

In response to an ever-increasing number of injured workers and presumably also as part of the aftermath of industrialization in the first part of the 20th century (Berman 1978; Ross 1979; Rubin and Roessler 1978), states began to enact workers' compensation laws, a form of social insurance (Larson 1963). This movement, however, was probably just as much a result of the larger and larger civil judgements being awarded to injured workers by the courts (Barth 1980, Berman 1978; Larson 1963). Nevertheless, not until 1948 did all states adopt some form of workers' compensation law (Larson 1963; Rubin and Roessler 1978).

the Despite complexity of current worker's compensation systems, the original principle on which the systems are based is surprisingly simple. While the particulars of the models and systems upon which different jurisdictions are based vary considerably, these systems are designed, basically, to provide the injured worker with a stipulated benefit provided by the employer/insurer in return for that employee's giving up his right to sue the employer (Gulledge 1963). Therefore, workers' compensation systems tend to operate on a no-fault basis, with emphasis shifted from who is at fault for the injury to whether or not the injury is related to the workplace 1963; Barth 1980; cf., Goldsmith (Marcus Generally, then, the injured worker must prove 1) that he is an employee of the employer being obligated to provide the benefit and 2) that the injury arose out of and in the course of the employment (Ross 1979; Silberman 1980).

According to Nonet (1969), the early Workers' Compensation Law in California operated under a welfare This welfare philosophy stems from the philosophy. belief that employers, not government, should shoulder the social responsibility for caring for their injured workers. At the same time, however, the government, and not the employer, would determine the nature and extent of each employer's responsibility. He persuasively argues that the Industrial Accidents Commission (IAC) tended to view the liability of the employer as the basis for the provision of resources for administrative action: an employer's liability to provide benefits was limited only by the existing needs of the injured worker as determined by the IAC. Consequently, benefits were viewed as categories of needs to be satisfied with the available resources of the employer. Administrative action, then, took the form of adjusting available resources to existing needs when the employer failed to do this voluntarily.

of process legalization transformed pragmatic decision-making of the early IAC, guided by a philosophy, into a codified decision-making welfare process of а court of law, viz., the Compensation Appeals Board - WCAB (Nonet 1969). result, according to Nonet, was the establishment of liability parameters for employers/insurers. Here, I argue that these parameters place structural limits on the resources to be made available by employers/insurers irrespective of the needs of the injured workers. example, while no legal limit pertaining to the length a vocational rehabilitation training program specified, the average plan length is six months (CWCI 1982, Van de Bittner and Reynolds 1982). While the reason I often heard among rehabilitation functionaries explanation for this is that the disabled worker cannot sustain the motivation necessary successfully complete longer programs, practical incentive for shorter rehabilitation programs is that they cost less (CWCI 1982), and thus, limit the employer's liability. In addition, a California Workers' Compensation Institute study has reported that the most successful rehabilitation programs cost less However, "success" in this latter study (IAIABC 1981). was defined as completion of a rehabilitation program, rather than as a return to work - in my estimation, the more appropriate measure of success.

This change in philosophy is significant. The emphasis of the current workers' compensation system is focused on considering both the needs of the injured

worker and the liability of the employer in deciding the nature and extent of the benefits to be provided. The only remaining vestige of the early welfare philosophy is the liberal construction of its laws (California Labor Code, Section 3202; 1979). That is, when doubt exists as to whether an injured worker is entitled to benefits from the employer, administrative and judicial decisions are to give the benefit of the doubt to the injured worker. On January 1, 1983, however, this liberal construction section will be removed from the Labor Code; thereafter, when doubt exists concerning entitlement to benefits, decisions are to be made on the basis of the preponderance of the evidence.

#### Rehabilitation

Three main objectives of workers' compensation statutes have been cited by students of workers' compensation: injury prevention (Kessler 1963), provision of economic benefits to sustain the injured worker (Kessler 1963; Larson 1963), and provision of medical care (Kessler 1963). Conspicuous by its absence as a goal here is vocational rehabilitation (Rubin and Roessler 1978).

Kessler (1963) has suggested that provisions for physical rehabilitation as part of the medical care goal are often inadequate. He noted that in many workers' compensation systems, the medical care benefit is time limited. Consequently, though the immediate effects of the injury may be adequately addressed, the gradual physical recuperation from the debilitating affects of the injury are often never taken into account. In the California system, for example, medical benefits are

unlimited unless the injured worker relinquishes his right to future medical care as part of the settlement of the claim.

Ross (1979) notes that the provision of adequate medical care is often not enough to return the injured worker to the workplace, and must be supplemented, when necessary, with vocational rehabilitation. For those injuries resulting in permanent partial disability, the disabled worker may be unable to return to his former employment because of physical limitations. In such cases, vocational rehabilitation is indicated in order that the injured worker might return to physically suitable employment, rather than remaining unemployed.

The idea of vocational rehabilitation was ignored entirely by many of the privately owned workers' compensation systems founded in the United between 1910 and 1920 (Berman 1978). The system established in California was an exception. One component of the Boynton Act of 1914 was concerned with the restoration of an injured worker to a productive status within the community. Subsequently, a 1919 statute created a special fund for the vocational rehabilitation of the industrially injured.

In 1966, Section 139.5 was added to the California Labor Code. This section established a voluntary system of providing vocational rehabilitation. That is, the employer could decide whether to offer vocational rehabilitation services to the injured worker irrespective of whether the injured worker claimed a need for such services. An informant suggested that the voluntary provision of vocational rehabilitation services sufficed in meeting the needs of those disabled workers in need of such services. Implicit in his

statement is a recognition of the control which the employer/insurer held over determining who needed such services.

Subsequently, that control was altered, but not eliminated. The California Legislature determined that the voluntary provision of vocational rehabilitation was not sufficient and included vocational rehabilitation as a mandatory component of the Workers' Compensation Law in California in 1975 (California Labor Code 1979). It is interesting to note that no legislative record of committee discussions pertaining to the enactment of this law exists. The only references to the Law are the names of the committees which reviewed the statute and the dates these committees met. <sup>2</sup>

Once signed into law, the California vocational rehabilitation legislation provided for the mandatory vocational rehabilitation of those injured workers who were so disabled by their work-related injuries that they could not return to their usual and customary occupation, yet whose residual work capacity was such that they might be able to work in some employment which was consistent with their physical limitations. The purpose of this law was to return to the labor market those workers who could reasonably be expected to work, thereby to reduce the drain on public resources.

The mandatory aspect of the Law shifted the locus of social and financial responsibility for rehabilitating the industrially disabled from the state to private industry. Under the voluntary system, if an injured worker was denied vocational rehabilitation services by an employer/insurer, he could seek the provision of such services from the State Department of Rehabilitation. Consequently, the injured worker was

rehabilitated at the public's expense. With the mandatory provision, the employer/insurer could not decide unilaterally whether an injured worker was in need of vocational rehabilitation. At the very least, the employer/insurer had to provide for the evaluative services necessary to make a determination and the State would assess the adequacy of these services and all other vocational rehabilitation services which might be necessary.

Given the already-existing liberal construction of the laws and the costs of medical rehabilitation, at least some employers/insurers continue to view this additional liability with disdain. To these vocational rehabilitation employers/insurers, returning the disabled worker "as-is" to the labor The more education needed by the disabled worker in order to be returned to the labor market, the more this education in the form of vocational rehabilitation is viewed by employers/insurers as a potentially limitless liability which must be monitored and controlled within the parameters permitted by law.

The basis for this view, I believe, can be seen by examining the philosophical difference between the State Department of Rehabilitation's view of maximizing the disabled worker's potential the Workers' and Compensation view of restoring his work capacity at a level as close as possible to the level at date of injury (Ross 1979). The California State Department of Rehabilitation is a publicly funded government-operated system. The Workers' Compensation System on the other hand is operated by private industry. The Department of Rehabilitation views vocational rehabilitation in terms of the total development of the disabled worker which is limited only by his potential to benefit from rehabilitation. Workers' Compensation views it as a limited economic redevelopment of the disabled worker's wage-earning capacity.

In conjunction with the legislation of voluntary vocational rehabilitation in 1966, a Rehabilitation Unit established in the California Department Industrial Accidents. In 1975, this Unit, now the Rehabilitation Bureau, was delegated the responsibility oversee the administration of the mandatory provisions of Labor Code rehabilitation 139.5 employers/insurers (Silberman 1980). The administrative structure of the Rehabilitation Bureau was encapsulated within a judical system represented by the Workers' Compensation Appeals Board (WCAB). This board is a judicial entity specifically charged with adjudicating compensation claims. is an workers' Ιt appellate tribunal composed of seven commissioners (five of whom must be attorneys) and two deputy commissioners who are usually WCAB judges - attornies with at least five years of workers' compensation experience (Herlick 1979).

structural arrangement, coupled with Bureau's legislated mandate to oversee the provision of rehabilitation benefits and administratively resolve disputes involving these benefits, positioned the Bureau at an administrative-judical interface. Consequently, the administrative decision-making would always judicial review subject to and appeal; and tendencies by the Bureau toward a welfare philosophy (apart from the liberal construction of the law) would be, theoretically at least, tempered by the appeal process [see Sanchez et al. (1981) for descriptions of these legal cases: Vincent Ponce de Leon v. Glaser Bros. (1977), 42 CCC 962-67; Narod's East Restaurant v. WCAB (Johnson)(1978), 43 CCC 745-46; Ronald Reagan v. Raypak

Inc. (1978), 75 VE 12908; Vons Grocer Co. v. WCAB (Barker) (1975), 43 CCC 836.] In addition, this structural position has resulted in an increasing reliance on judicial procedure and language within the Bureau, particularly in terms of its rules, regulations, and proceedings (e.g., the Bureau case conferences).

According to Kessler (1963), workers' compensation administration was intended to be accomplished in an informal forum, i.e., the IAC, and as expeditiously as administrative possible through decision-making. However, the formal, judicial forum of the WCAB with its concern with due process, legal procedure, and judicial decision-making has supplanted the IAC. One result has been that often more attention is directed toward protection of the injured worker's legal rights than toward his timely rehabilitation. In addition, the conflicts of interest among rehabilitation functionaries (e.g., the applicant's attorney, the employer/insurer's attorney, the employer, the injured worker) increase the probability of litigation and often encourage disabled worker to protract the recuperation period and exaggerate the extent of the disability in an attempt to obtain a higher disability rating (i.e., the percent of lost work capacity as determined by a formula which account the injured worker's takes into age occupation at time of injury, and the nature and extent of the physical disability), and thus, increase the amount of the permanent disability award.

Particularly with regard to the problem of legal encapsulation, both Marcus (1963) and Kessler (1963) have criticized workers' compensation systems for their legalism. As Sink and King (1978) have pointed out, legalism perpetuates frictions between legal and rehabilitation professionals, leads lawyers to advise

injured workers to refuse rehabilitation, e.g., to increase the permanent disability award out of which the applicants attorney's fee is paid (Gulledge 1963), and promotes unilateral advocacy by lawyers favoring the defense (Marcus 1963).

Another consequence of legalism is the influence it has had on the definition of vocational rehabilitation, and therefore, the disabled worker's rehabilitation One definition of vocational rehabilitation, mentioned previously (e.g., Ross 1979), has generally been associated with public rehabilitation agencies such State Department of Rehabilitation. the Such rehabilitation agencies view as maximizing the vocational potential of the disabled worker. Silberman has concluded that, as it is defined in the California Workers' Compensation System, rehabilitation the employer's/insurer's legal obligation assist the injured worker "to be employable in the open competitive labor market (1980:20). Thus, vocational rehabilitation in the California system appears to be operationalized so as to attain a compromise between limiting the liability of the employer/insurer maximizing the vocational potential of the disabled worker.

Another consequence of legalism is that workers' compensation its corresponding rehabilitation and component are part of an adversary system (Marcus 1963) in which conflict is inherent. It is not so much that conflict is necessarily built into the claim for compensation and rehabilitation itself, but that the claim process, with its procedures rooted administrative-judicial interface and operating in adversarial mode, serves to promote and escalate conflict between antagonists. The adversarial mode so

pervades the claim procedure that the potential for conflict is maximized. This maximization of conflict is probably the single most important consequence of legalism in the California Workers' Compensation System today.

The vocational rehabilitation component of the Workers' Compensation Laws in California is a relatively recent addition. With its introduction adversarial system, the nature and extent of vocational rehabilitation services have been profoundly influenced by the larger encapsulating structure. The result is that the lives of thousands of permanently disabled Californians who seek the provision of vocational rehabilitation services are affected by resolutions to conflicts surrounding the rights and responsibilities of a particular party to the rehabilitation process.

One of the primary areas of conflict with which I am concerned here centers on the determination of the disabled worker's ability to benefit from the provision of vocational rehabilitation services. one of criteria used to determine whether an injured worker is qualified to receive such services. In addition, I am concerned with how this criterion is continuously applied throughout the claim process as a means of determining the feasibility of a disabled worker to be vocationally rehabilitated successfully. The disabled worker's "feasibility" is assessed in terms of vocational and medical factors.

It is in the service delivery and administrative power domains and through the vocational rehabilitation counseling and dispute resolution processes that criteria concerning who can reasonably be expected to benefit from the provision of vocational rehabilitation

services are developed and legitimized. Here, I shall show that criteria are developed in terms of the goals and standards of rehabilitation functionaries and legitimated via complex patterns of social relations concerned with the provision and administration of vocational rehabilitation benefits.

Consequently, I focus primarily on those claims for rehabilitation benefits in feasibility of the disabled worker to benefit from the provision of rehabilitation services is contested by one or more rehabilitation functionaries. Such claims may (and often do) result in the need for a Rehabilitation Bureau case conference. The conference provides a "public" hearing of the contested cases and brings them to resolution. Conflict as it occurs in this forum, then, is used as both the focus and unit of analysis for understanding the influence of feasibility criteria in the claim process.

#### INTRODUCTION TO THE RESEARCH

Thus, the study addressed an important problem area within this system: the determination of the feasibility of industrially injured workers to benefit from vocational rehabilitation services. In its most general form, the overall objective of the research was to determine what structural, organizational, and cultural factors of the Vocational Rehabilitation System affect the defining of the vocational rehabilitation role of the disabled worker.

Within the framework of this overall objective, the research had several interrelated specific aims:

- 1) To define the population served by the Rehabilitation Bureaus of two neighboring districts (i.e., district offices). This definition was sought in terms of the population's major socio-demographic claimant characteristics (e.g., age, sex, occupation), and such characteristics salient as types and natures injuries, and contested rehabilitation issues.
- 2) To provide an ethnographic description of the structure, organization, and culture of two district offices of the State of California Rehabilitation Bureau. This ethnography focused on two major contextual components the social and the cultural context of the Bureau. More specifically, I proposed to:
- Describe the context of a ) the Vocational Rehabilitation System in which the Rehabilitation Bureau operates. This description consisted of the identification of the interrelations between those structural parts of the system and the two district offices of the Rehabilitation Bureau and to concentrate rehabilitation roles of on the statuses and functionaries vis-a-vis each other;
- b) Describe the structure, procedure, and content of Rehabilitation Bureau case conferences convened to manage disputed vocational rehabilitation claims; and,
- c) Detail the cultural context of the Vocational Rehabilitation System through elicitation of the attitudes, values, and beliefs about vocational rehabilitation held by rehabilitation functionaries.
- 3) To determine what factors influence the initiation, course, and resolution of claims for rehabilitation

filed by injured workers. More specifically, by focusing on those cases in which disputes occurred, I hoped to be able to outline factors operating to inhibit or promote the successful completion of the claim, and how.

4) To relate the influence and relevance of these factors to interaction concerned with the provision of vocational rehabilitation services to disabled workers, and to disputes arising from this interaction.

focusing how the transition By on from non-producing to producing worker status is effected for those permanently partially disabled workers who seek vocational rehabilitation services from the California Workers' Compensation System, the research was intended to address an important and significant topical area which affects the lives of thousands of Californians today, viz., the process the vocational by which rehabilitation role of the disabled worker - the social role which effects this transition - is defined and applied.

#### CHAPTER TWO

#### METHODOLOGY

Many theoretical and methodological problems have faced anthropologists studying American society. Weaver and White (1972) have outlined three major problem areas that anthropologists face in the study of complex societies in general, and of urban settings in particular: scale, holism, and culture. All three problems are intimately interrelated.

The first, scale, is concerned with the size and complexity of the American scene. Anthropologists have traditionally studied small, relatively isolated, non-western societies. With America's complex. pluralistic society, they are faced with a completely different kind of research setting - and a difference in scale - which demands reconceptualization of how best to approach a research problem and setting. The researcher cannot study the whole society, and so is faced with the theoretical dilemma of how to link theories derived from the study of the society's parts (microcosms) to a general theory of the whole (the macrocosm) (Weaver and White 1972; cf., Henry 1966). As Weaver and White point out, there are two parts to the holism problem. first, related to the microcosm/macrocosm issue, deals with "relating part-to-whole in terms of units of analysis, definition of parts, boundaries, and subsystem linkages\* (1972:117). The second is concerned with providing a definition of the whole within which the particulate studies can be interrelated. Finally, they mention the problem of the concept of culture as related to a complex, pluralistic society. This issue is related to the other two issues in the sense that it has a) a definitional aspect, b) a level of analysis aspect, and c) an aspect that is concerned with relating micro-culture(s) to macro-culture.

In addition to these concerns, the question of the applicability of anthropological methods to the study of complex society has been raised. Kimball (1955) has stated the most important contribution of anthropological methods for the study of complex civilizations lies in their emphasis on qualitative Anthropological method, according to Kimball, is data. "catholic, eclectic, holistic, and comparative" (1955:1132); the techniques of systematic observation, participant observation, and informal and interviews are its backbone, and give the qualities Kimball described.

These methods used in this study were designed to elicit data on the means whereby a rehabilitation role of the disabled worker has come to be defined and ligitimized. They were applied in interaction settings within the community where this role was operative. Using a naturalistic ethnomethodological approach, (cf., Garfinkel 1967; Denzin 1969), I focused on conflict as it originated in a naturally occurring social context (i.e., the vocational rehabilitation system). specifically, Ι focused on the vocational Rehabilitation Bureau case conference, an interactional setting designed for dispute management. Frequently, these Bureau conferences are the only times at which all parties to а contested claim come together. Consequently, it represents a critical point in the conflict-management and claim-resolution processes. example, the Bureau conference is a conflict-management process existing within the claim-resolution process of the Vocational Rehabilitation System. As a microcosm of the Vocational Rehabilitation System and a forum specifically concerned with management and resolution of conflict, the case conference is an ideal forum for the study of the cultural, structural, and organizational features of the system.

## Data Collection Tasks

Within this general research design, data collection procedures consisted of three tasks: ethnography, case conference observation, and archival Each of these tasks addressed a significant research. aspect of the objectives of the research and used a unique methodological approach.

Ethnographic Research. In this first task. the ethnographic data concerning vocational rehabilitation aspects of the Workers' Compensation System were gathered. The goal of the ethnography was to provide descriptive and processual data Rehabilitation Bureau and the vocational rehabilitation environment of which it is a part.

The methods used to accomplish this goal were:

- 1) Interviews with rehabilitation functionaries: Bureau consultants, applicant attornies, defense attornies, counselors, and insurance representatives;
- 2) Observations of activities occurring in the rehabilitation system such as Rehabilitation Bureau district office proceedings, area and statewide

Rehabilitation Bureau meetings, and special interest group meetings; and

3) participant-observation as an apprentice counselor in a private vocational rehabilitation firm.

Between November 1981 and January 1982, I arranged interviews conducted three per category rehabilitation functionary for а total of The informants for these interviews were interviews. chosen on a non-random, judgement basis: I selected them because (a) they had been or were actively and frequently involved with some aspect of the vocational rehabilitation component of the Workers' Compensation System (as determined from the archival data research), or (b) they had been recommended by other informants as being particularly knowledgeable about the system.

The semi-structured interviews (See appendix 1) were developed to elicit six major data categories: structural data which relate the individual's perceived rights, and duties vis-a-vis other status. functionaries; (b) organizational data on the actual role performed and the function of this role; (c) data on process variables that enter into how decisions which influence the course of vocational rehabilitation claims are made; (d) general information about the impact of historical developments of the wwrkers' Compensation System on the particular role of the informant relative to vocational rehabilitation; (e) the personal professional values, attitudes, and beliefs of informants about workers' compensation and vocational rehabilitation; and (f) any perceived advantages and deficiencies of the system in general or as they relate to the particular role of the informant.

From December 1980 to December 1981, observations were made of various vocational Rehabilitation System activities. The activities observed included everyday activities of two district offices of the Rehabilitation Bureau as well as impromptu events such as area and statewide Bureau meetings, and special From February 1982 interest group meetings. continuing now as a part of my employment in the field vocational Rehabilitation, Ι observed participated in educational/informational seminars held by rehabilitation-related organizations, e.q., Industrial Claims Association, and the California of Rehabilitation Professionals. Association All observations were made on an opportunistic basis because the activities observed were not necessarily regularly° occurring events.

Case conference observations. This second task of the data collection phase consisted of making systematic observations of Rehabilitation Bureau case conferences. The time period during which I made these observations extended from May 1981 to September of the same year. The Bureau case conference was the central focus of the research; the purpose of which was to study the issues in conflict and the dispute resolution process. The methods used to accomplish this purpose were systematic observations of actual case conferences of open cases.

Archival Research. Between March 1981 and February 1982, I collected archival data to: (a) define the characteristics of the injured worker population, (b) provide the data on closed cases with conferences necessary for a controlled comparison to the open cases with conferences that I observed (e.g., Eggan 1954), and (c) establish a timeframe for the process of dispute

management. Structured data collection forms
were designed to retrieve information from
Rehabilitation Bureau files, including Bureau forms,
medical and vocational reports, and relevant
rehabilitation-related correspondence (See appendix 2).

The archival research consisted of systematically sampling vocational rehabilitation case files relevant sociodemographic and rehabilitation data. drew a ten percent random sample of all vocational rehabilitation cases opened between January 1, 1980, and December 31, 1980, which had been closed as of the date of the sampling. This sampling procedure was identical for each of the two district offices studied. A total sample of 111 cases was drawn: 36 cases from the San Francisco office and 75 cases from the Oakland one. addition to this random sample, a purposive sample was drawn of all rehablitation cases with case conferences, opened between the same dates as the random sample. total sample of 73 cases was drawn: 23 cases from the San Francisco office and 50 cases from the Oakland office.

The data collected for the archival research were found on the RB-1, or "Work Status Report" (See appendix 3). These included: the name, identification number, number and claim number of the phone carrier/self-insured employer whose representative submitted the report; the name, title, and signature of the representative, the date the report was submitted; the name and address of the employer; the name, address, occupation, social security number, date of birth, sex, and phone number of the injured worker; the date and nature of the injury/illness; the body part affected by the injury; and any additional comments which appeared in the record.

This submitted form must be by the insurer/self-insured employer within 180 days of worker's injury, or as soon before that time as it becomes evident that the injured worker will not be returning to work within 180 days of the date of injury. In the event that an RB-1 was not submitted and a district office began to receive correspondence on a case, that office opened a file with a Dummy RB-1 (See appendix 4). While the Dummy RB-1 form contained many of the same data categories, the data actually entered on the form was consistently less than those contained in the RB-1. The Dummy RB-1 included the following data: the name, identification number, phone claim number of number. and the insurance carrier/self-insured employer whose representative was supposed to have submitted the report; the name and district office of the Bureau staff member who prepared the report; the date the report was prepared; the name and address of the employer; the name, address, social security number, date of birth, sex, and phone number of the injured worker; the date of the injury/illness; and the Workers' Compensation Appeals Board number.

Though not required to do so, the disabled worker or his representative may submit an RB-5, "Request for Workers' Compensation Benefits" (See appendix 5). The information contained in the RB-5 is roughly the same as that in the RB-1, and both of these forms contain significantly more information than the Dummy RB-1.

An RB-2 form, "Vocational Rehabilitation Plan," is used to submit information on the vocational rehabilitation program designed to return the disabled worker to employment (See appendix 6). In addition to the data categories already described for the RB-1 and

RB-5, the RB-2 contains the following additional data: the name, address, and telephone number of the insurance carrier/self-insured employer/or applicant submitting the report; the name, title, and firm of the rehabilitation counselor who developed the program and prepared the report, as well as the date the counselor signed the plan into agreement; the vocational objective and the estimated earnings of the disabled worker upon successful completion of the program; the proposed dates of plan commencement and completion; the nature, extent and duration of the rehabilitation services to provided; the amount of temporary disability payments to be made, as well as the nature, amount and duration of anticipated additional living expenses provided during rehabilitation; a section for employee comments; and the date the disabled worker signed the plan into agreement. The data gathered from these forms comprise the baseline data for the study population.

The research techniques I used (observations, interviews, and collection of data from records) were interrelated and complementary in many respects. The ethnographic effort was undertaken to provide the structural, organizational, and cultural context which the case conference occurs. The archival research provides a baseline with which to compare other data. Together, these three data bases provide the necessary materials for an understanding of the ways in which conflict is initiated, the courses it takes, and the ways in which it is managed.

<u>Participant-Observation</u>. I conducted participant-observation as an apprentice vocational counselor in a private vocational and health consulting firm in the Bay Area. This method was not a part of the original research design, but was begun after all other data

collection phases had been completed and during the analysis phase of the research. Consequently, its effect on the resarch has been to add depth and breadth to my interpretation of existing data.

As vocational counselor, Ι assumed responsibilities of this role as described in a later section on social actors. The assumption of this role allowed me to know, first-hand, the vocational counseling process and how conflict in the process originates. In addition, I became an active member of the vocational rehabilitation social network. As a result of my participation, I gained an appreciation of the interactional context that could not have been gained by observation alone.

## Data Core and Its Management

The semi-structured interviews conducted with rehabilitation functionaries consisted only of open-ended questions. A content analysis of their answers was conducted to reduce the responses relevant categories which had significant construct validity.

Data from the observations of daily Bureau activities, rehabilitation-related events, and case conferences were used to ground the interview questions schedule was constructed. interview when the In addition, these data also grounded the analysis of environment interviews in the actual in which rehabilitation functionaries interact. These observational data were subjected to the same kind of employed with the content analysis as interview responses.

The analysis of archival data was similar to that described for the interview data. The archival data retrieval form was а semi-structured instrument containing a precoded (fixed category) and postcoded (open-ended) mixed item format. In general, analysis of the quantitative data obtained from the archival research was approached first by grouping the cases into four categories defined by the intersection of two major dichotomous variables: whether or not a case contained a rehabilitation plan and whether or not a case contained a conference. These categories were: (I) cases without rehabilitation plans and without conferences, (II) cases without rehabilitation plans but with conferences, (III) cases with rehabilitation plans without conferences, and (IV) cases with rehabilitation plans and with conferences (See Figure 1).

## Rehabilitation Plan

		Absent	Present
Case	No	I	II
Conference	Yes	III	IV

Figure 1

Information from those cases with rehabilitation plans and with conferences (Category IV) were compared to those cases without rehabilitation plans but with conferences (Category II); and the information from cases without rehabilitation plans but with conferences

(Category II) were compared to those with rehabilitation plans and without conferences. Such comparisons determine whether these categories are distinct. This procedure was important for establishing the generalizability of the data from cases with conferences — the focus and unit of analysis for the study.

The interview. observation, and participant-observation data in the collected ethnographic and conference observation research tasks add a qualitative dimension to the archival Observation and participant-observation data allow for interpretive understanding of the an meaning quantitative data through experience with the context which they are drawn. In addition. interviews contribute semi-structured а cultural perspective by providing the values, attitudes, and beliefs that rehabilitation functionaries have about vocational rehabilitation. Using all these data bases, am able to assess the degree of "fit" between I perceptions and behavior, i.e., between what individuals perceive to be happening and what I (as the researcher) believe is happening.

#### CHAPTER THREE

#### SETTING AND POPULATION

Within the Department of Industrial Relations, the Division of Industrial Accidents handles all administrative matters related to industrial This division is headed by the Administrative Director who is responsible for promulgating rules and regulations relating to the handling of claims. division includes special service bureaus medical, disability evaluation, rehabilitation - with experts "to carry out the work of the division and assist the Appeals Board and its trial judges" (Herlick The Chief of Ancillary Services oversees the 1979:4). operation of these Bureaus and reports Administrative Director. Of these Bureaus, my research concentrated on the one concerned with overseeing the provision of vocational rehabilitation services industrially injured workers, vis., the Rehabilitation Bureau.

Headed by the Chief Administrative Officer who reports to the Chief of Ancillary Services for the Division, the Rehabilitation Bureau is geographically divided into three areas, one northern area and two southern areas, and into a total of 22 districts. Each area is administered by one supervisor while the number of Bureau consultants per district varies by district. The Northern Area consists of eleven districts with offices located in the following cities: San Francisco with one consultant, Fresno (including the Bakersfield

District) with one consultant, Oakland with two consultants, Sacramento (including Redding and Stockton) with two consultants, San Jose (including Salinas) with two consultants, and Santa Rosa (including Eureka) with one consultant. The research focused on the activities occurring in two California State Rehabilitation Bureau Districts located in the northern area: San Francisco and Oakland.

I chose to study two district offices rather than concentrating on a single one in order to increase the generalizability of the data gathered, and to obviate, as far as possible, the potential problem surrounding the identifiability of informants. The San Francisco and Oakland Districts were chosen specifically because a) the San Francisco Bureau, in addition jurisdiction over rehabilitation for its district, is the administrative office for the entire Bureau and the therefore. is Northern Area. and information-gathering and communication center; and b) the two districts were reported to be similar in the types of workers' compensation claims they handled.

secretaries Four full-time and one part-time secretary manage the centralized information gathering communication operations of the San Francisco headquarters. Their duties include opening the mail, and sorting and directing it to its proper recipient. In addition, they process the claims forms received by This process involves making a record of the Bureau. their receipt; checking and returning those forms which are incomplete; sending the properly completed forms to the Bureau of Labor Statistics for entry into the computer which prints out case file cards, address sheets, and labels for folders and correspondences; and when returned, mailing them to the Bureau district office which will handle the case. Staff also provide back-up clerical support for the Bureau consultant, as well as, general clerical duties for the Bureau Chief and Northern Area Supervisor. The secretarial staff is coordinated by an administrative assistant who is the secretary to both the Bureau Chief and the Northern Area supervisor.

The San Francisco Rehabilitation Bureau has one full-time consultant with a reported caseload of 800 This consultant is assisted by one cases per year. full-time secretary. The Oakland Bureau consultants, each having a reported caseload of 800 cases per year and a secretary who assists in the clerical duties associated with handling these cases. Interviews with secretarial staff revealed that they are responsible for maintaining statistics on the work load, which are sent to data processing in Sacramento. statistics are reported on a monthly basis include: number of Decisions and Orders issued, the number of new claims received, and the number of notices of intent to issue a Decision and Order. Secretaries are also responsible for all clerical duties, such transcription, typing and filing related to issuing Decisions and Orders, and notices of intent to issue a Decision and Order. In addition, secretaries for "Come-Up" responsible keeping а diary which indicates when a claim file should be reviewed. example, if a secretary types a Decision and Order requiring a response to that order within twenty-days, then an entry is made in the "Come-Up" diary that that file should be checked in twenty-five days to see whether the party to whom the Decision and Order was addressed had made a timely response. Top priority is given to processing Decisions and Orders, then issuing notices of case conferences, and finally, to

issuing Decisions and Orders stating the resolutions achieved in case conferences. In all, one secretary noted that she was responsible for some fifty cases and mailing approximately two-hundred letters per day.

A general description of claims for vocational rehabilitation, involving some basic socio-demographic characteristics, is presented here. This information stems from the descriptive statistical analysis of the samples of 150 cases which had claims for vocational rehabilitation in 1980. These samples consisted of both the Oakland and San The "average" claimant is a Rehabilitation Bureaus. 37-year old male with a back strain resulting from a specific injury. His reported income at time of injury \$286.24 per week. By in large, the nature of his employment consisted of taking instructions or helping people, and manipulating things. The percent of men to women in the sample was 69 to 31. Of all injuries in my sample, forty-three percent involved the back. remaining fity-seven percent variously included injuries to other body parts, such as the knee, wrist, elbow, foot, shoulder, and hand. The type of injury that most often occurred was a sprain or strain. This accounted for fifty-percent of all injury types in my sample.3 Examples of other types of injury include allergic reaction, inflammation, and herniation.

Of the work-related injuries in 1975 and 1976, the filing for percent workers claims vocational 11 12. rehabilitation were and respectively. Unfortunately, more recent figures are not available in the literature. In the California Workers' Compensation System, the ratio of "litigated cases to lost-time injuries is approximately 1 to 3" (Herlick 1979:6). Sanchez et al. (1981) report that workers' compensation claims involving vocational rehabilitation are more likely to be litigated than those not involving rehabilitation.

Interacting in the setting described above is a group of rehabilitation functionaries who are concerned effecting the claim process. Among functionaries is the disabled worker described above who functions in a vocational rehabilitation role which is intended to prepare him for a reintroduction into the labor force. The strategies, aims, and goals of these rehabiltation functionaries influence the defining of the disabled worker's rehabilitation role. This is accomplished through the interaction of each functionary's vocational rehabilitation role vis-a-vis The section which follows the disabled worker's. describes these roles in terms of the goals of each social actor.

#### THE SOCIAL ACTORS

An appropriate starting point for a discussion of the structure of the Vocational Rehabilitation System is the elucidation of the social actors in the system, and a detailing of their respective reciprocal roles. As Radcliffe-Brown pointed out, the study of social structure is concerned with a complex

network of actually existing social relations...a particular social relation between two persons (unless they be Adam and Eve in the Garden of Eden) exists only as part of a wide network of social relations, involving many other persons...social structure (includes) all social relations of person to person...(as

,

well as) the differentiation of individuals and of classes by their social role (1952:190-191).

The specific structural elements with which this dissertation is concerned are the normative rights and duties of the disabled worker, and the nature of the reciprocal rights and duties of the other social actors (i.e., the Rehabilitation Bureau consultant, rehabilitation counselor, the applicant attorney, the defense attorney, and the employer/insurer representative) vis-a-vis the disabled worker. Nader and Todd (1978) have pointed out, the structure of social relationships among and between litigants may not only give rise to conflict and disputing, but may also act as a constraint on escalation of that conflict.

For example, the relationship between employer and employee as it relates to the responsibility for a work-related injury is structurally defined by the Workers' Compensation Laws of the California Labor Code. The intent of these laws was to eliminate as much as possible the increasing incidence and prevalence of litigation seeking a determination of who was at fault in causing an injury. Such a determination would be used to establish liability for the losses incurred by the worker as a result of the injury. Instead, a While this system no-fault system was established. constrains conflict by making the employer liable to a worker for a work-related injury in exchange for the employee's giving up his right to sue the employer, this system now also generates conflict related to the nature and extent of that liability. A determination of whether an injured worker is able to benefit from the provision of rehabilitation services directly influences the nature and extent of these services and, therefore, the employer's liability.

Consequently, by concentrating on understanding the disabled worker's vocational rehabilitation role vis-a-vis the roles of the other social actors, we may approach a more complete understanding of the relationship between the disabled worker's role and the vocational rehabilitation disputes concerned with the nature and extent of an employer/insurer's liability for providing benefits associated with this role.

The discussion of roles which follows is based on the conceptual developments of three anthropologists and developments in social interactionist thought. Linton (1936) distinguished a person's total status, the sum of rights and duties within a society, from the person's total role, the sum of all social actions of Based on the premise that social relations the person. dyadic reciprocal, Linton's formulation and society emphasized the normative aspect of in status, while role was concept of viewed as the operationalization of status. Status was thus a static, structural concept while role was a dynamic, behavioral one.

Goodenough (1965) sought to reformulate Linton's concept of status, seeing it as a combination of rights and duties rather than as a social position (Goodenough According to Goodenough, every individual has a 1965). number of different social identities (social positions). In interaction, one of these identities is taken to match a specific other's social indentity. result of this match is what Goodenough calls identity relationship. For every identity relationship,

there is a corresponding status relationship consisting of reciprocal duties-statuses and corresponding rights-statuses.

Whereas Goodenough reformulated Linton's concept of status, Nadel (1957) reconceptualized Linton's concept of role. Nadel used the concept of role, as it applied to dyadic social relations, as the unit of study for constructing a model of society. He rejected Linton's distinction between status and role as artificial, instead viewing status as quasi-role. A role, according to Nadel, consists of a performance aspect (=role) and a knowledge aspect (=status). Since roles are enacted in a process over time, and since the role concept occupies intermediary position between society and individual, Nadel considered it the best conceptual tool available for a processual analysis of society.

This view of role and status is consistent with Firth's (1951) distinction between social structure and social organization. He viewed structure in abstract terms as ideal patterns of social relations. Social organization, on the other hand, was seen as the concrete activity of ordering social relations by rational choice.

The structure provides a framework for action. But circumstances provide always new combinations of factors. Fresh choices open, fresh decisions have to be made, and the results affect the social action of other people in a ripple movement which may go far before it is spent (Firth 1964:35).

Social structure, then, sets the parameters within which social organization takes place. The social actors involved in interaction are individuals who, in relation to others, are constantly being forced to make choices among competing alternatives. They are continually redefining the interaction situation in light of the behaviors and meanings of each other.

In social interactionist thought, social role and typification, i.e., the process of categorizing situations and persons on the basis of socially shared meanings, have been used by Natanson (1970, 1974) for an analysis of shared meanings. This approach has led to an understanding of behavior through subjective meanings and definitions of interaction situations (e.g., Thomas and Thomas 1928; Mead 1920, 1934). Berger and Luckmann (1966), focusing their attention on the concept of typification, view social institutions as patterned reciprocal typifications which are legitimated by being grounded in more encompassing schemes Such legitimations stabilize the organization of the social system.

The vocational rehabilitation system is composed of six categories of participants: applicant attorney, defense attorney, Bureau consultant, insurance representative, counselor, and disabled worker. participant has a unique role to play within the The expectations of the social actors who perform these roles, both in terms of their own role and the roles of the others with whom they interact, influence and are influenced by the adversarial mode of the Workers' Compensation and Vocational Rehabiliation The result is a differentiation of each actor's role in terms of the meaning of that role vis-a-vis the other roles involved in the contest over vocational rehabilitation services: obtaining versus limiting services. This influence should be clearer in the description of each role which follows.

In addition, however, these same roles are unified by a set of common values which are not distinctive of an adversarial system, but rather encompass the system. In a system concerned with returning disabled workers to the workforce, the attitudes, values, and beliefs of the rehabilitation functionaries about "work" are important to an understanding of how the injured worker's return to work is effected and affected. For rehabilitation functionaries in general, work has become a path to individual freedom (Hsu 1972), and liberty and progress (Tilgher 1965). As Arensberg and Niehoff (1975) and others (e.g., Hughes 1958; Slocum 1966) have noted, work provides a primary role that if bolstered by an adequate degree of conformity, either in the form of education (Dubois 1955) or social ethic (Whyte 1956), performed according to the value of effort-optimism (Kluckhohn and Kluckhohn 1947; Dubois 1955; Arensberg and Niehoff 1975) will lead to the realization of material well-being. It is within this conception of that rehabilitation functionaries play their respective roles in determining the disabled worker's capacity to return to the workforce, and then, effecting this return, if possible.

# The Applicant Attorney

The primary role of the applicant attorney is to preserve the injured worker's rights under the California Workers' Compensation System. Some of the rights which the disabled worker has are the right to: receive reasonable and adequate medical treatment; receive a maintenance allowance; waive rehabilitation

benefits and reapply at a later date<sup>5</sup> and a timely and appropriate provision of vocational rehabilitation services by a competent rehabilitation counselor (Sanchez et al. 1981).

The applicant attorney's role is to gain access to the resources associated with this right and secure them for his client. If access is blocked by the defense, the applicant attorney must establish that his client meets the criteria used to determine whether the worker is a "Qualified Injured Worker" (QIW). Consequently. applicant attorney must secure medical vocational information which will be favorable to his client's claim. In general. two sources of such information are available. The first is from medical and vocational rehabilitation professionals who generally respected as being impartial and proficient in their respective specialties. These professionals are also a source of evidence for the defense. The second source is from medical and vocational rehabilitation professionals who are biased in favor of the injured A third source of such information is from those professionals biased in favor of the defense, and generally contradictory evidence to thus, is the position of the injured worker.

The disabled worker's participation in the vocational rehabilitation process is often profoundly influenced by the information provided by medical and vocational rehabilitation professionals. Essentially, the applicant attorney must establish only that his client cannot meet the physical requirements of the employment at time of injury and, therefore, is eligible for vocational rehabilitation. In the scope of the total worker's compensation claim and from the perspective of the applicant attorney, it is irrelevant whether the disabled worker is able to benefit from the provision of vocational rehabilitation services. and vocational information restricts disabled worker's access to vocational rehabilitation resources by determining that he is unable to benefit the provision of rehabilitation services, disability award positively the reflects subsequent loss of wage earning capacity due to the disabling affects of the injury. In addition, since the disabled worker is eligible for rehabilitation, but currently is unable to benefit from the provision of rehabilitation, the potential need for future vocational rehabilitation services becomes a bargaining pawn in the settlement of the worker's compensation claim. applicant attorney's role is to bargain for the best possible outcome for his client.

# The Defense Attorney

The defense attorney's primary role is to limit the employer/insurer's liability. This is accomplished by addressing the following concerns: is the injury related to the employer's work; can the injured worker benefit from vocational rehabilitation benefits; are the services provided to, and the vocational objectives of, the disabled worker cost-effective; is the disabled worker meeting his reciprocal obligations; and is the disabled worker responsible for impeding in any way the claim process.

As reflected by the liberal construction of the Workers' Compensation Laws, the system operates primarily in terms of preserving the disabled worker's rights. Consequently, in addition to arguing against the claimant's allegations concerning liabilities of the employer/insurer, the defense attorney also acts to

the rights of the employer/insurer. preserve Specifically relating to vocational rehabilitation, these include the rights (1) initially, to determine whether the worker is a qualified injured worker; (2) to select a vocational rehabilitation initially. professional to work with the injured worker; and, (3) to expect the provision of reasonable, adequate, and cost-effective services (Sanchez et al. 1981).

Providing that the defense assumes liability for the work-related injury, the defense attorney then seeks to obtain information that either the injured worker has no permanent disability or that the disability which exists does not preclude the injured worker from returning to his usual and customary occupation at the time of injury. The result in either case would be to deny vocational rehabilitation benefits to the injured worker. In addition, the aims of the defense are generally the converse of the applicant attorney's which were presented previously.

At the administrative-judicial interface, the power of both the applicant and defense attornies stems from their knowledge and manipulation of the law and judicial procedure. Consequently, they are relatively powerless in both the service delivery and administrative power domains where the law sets the parameters interaction, but is not the focus of the interaction. presence is in preparation for the settlement of the claim which is reviewed domain of the WCAB. judicial power Then. knowledge of all pertinent violations of their client's rights become bargaining chips in the settlement.

#### The Rehabilitation Bureau Consultant

The Bureau consultant is responsible for reviewing and evaluating the reasonableness and adequacy of all rehabilitation services provided to a disabled worker (Sanchez et al. 1981). From this obligation comes the consultant's Bureau primary function: dispute management. As a dispute manager, the Bureau consultant acts as both a mediator and an adjudicator depending on requirements of the social situation issue(s) to be addressed. As an adjudicator, the Bureau consultant may unilaterally issue a "Decision and Order" - quasi-judicial statements of the facts relating to an issue and the resulting administrative order on how the issue is to be managed - and, in this way, attempt to resolve the contested issue(s). The Bureau consultant, as a mediator, moves the disputing parties toward an agreed resolution of the issue(s).

The only access an injured worker has to a judicial forum for deciding a rehabilitation issue is by appeal to the WCAB from a Bureau Decision and Order. even though the WCAB may review a Bureau Decision and Order on appeal and reverse it, the Board may not vocational rehabilitation decide а issue with "Decision and Order" by the Bureau. Thus, as one Bureau consultant noted, his primary aim is to resolve a dispute so as to obviate the need for a WCAB Decision. The main job of the Bureau consultants, then, is to use mediation to bring the disputing parties to a mutually acceptable resolution of the contested issue(s). Consequently, no Decision and Order is required, and thus, no appeal to the WCAB is necessary regarding that Agreed resolutions, therefore, maintain Bureau control of the dispute should it resurface.

As an example of the Bureau's emphasis on mediation, the consultant can rquire that the disputants hold an informal conference in an attempt to reach an agreed resolution of the issue(s). If the informal conference fails to produce results, the consultant may convene a Bureau conference. Within this forum, both Decisions and Orders and agreed resolutions are possible depending on the number of contested issues and the disposition of the disputants toward the issues.

Within the liberal construction of the Workers' Compensaton Laws, the Bureau consultant is an impartial administrative and decision-maker. consequence of this structural position is that the Bureau consultant gives both implicit and explicit legitimacy to certain attitudes and behaviors associated with the provision of vocational rehabilitations These attitudes and behaviors are directly related to the ways in which vocational rehabilitation services are delivered.

## The Employer/Insurer Representative

The employer/insurer representative is the administrator of the service delivery domain. Consequently, he controls the source of all workers' compensation resources. As an administrator, representative is responsible for initiating, managing, and evaluating the provision of both medical rehabilitation vocational services to the The representative also has a responsibility to the employer to insure that the services delivered are reasonable, adequate, and cost-effective (Sanchez et al, 1981). Therefore, the representative is always concerned with who is providing medical and vocational services, and with the nature and extent of the services provided.

Initially, the representative controls who will be authorized to provide the necessary services. control is an important factor in the management of the injured worker's claim. Like the applicant attorney, the representative must secure "objective" medical and vocational information in order to assess the nature and extent of the services due to the injured worker. Unlike the applicant attorney, the representative has initial control over what information is to be gathered and who is to gather it. In a legalistic system, access to and control of information can be crucial to the outcome of a claim because of the way that information build a legal case or influence can be used to out-of-court negotiations.

In more practical terms, a money reserve must be set aside for each workers' compensation claim. This determines the representative's budget for a given claim. Since the goal is to settle the claim with some money to spare, the best way to achieve this goal is to keep tight control of the way money is utilized. Consequently, the control of money and information are the primary concerns of the representative.

In terms of vocational rehabilitation, the injured worker's eligibility for these services is determined on the basis of the medical and vocational information submitted to the Rehabilitation Bureau. While only five percent of the total indemnity claims incur vocational rehabilitation expenses, the cost of vocational rehabilitation in these claims is high (Sanchez et al. 1981). As an example, the projected cost of a two-year

electronics technician training program in 1982, including the temporary disability indemnity, was twenty-seven thousand dollars, with temporary disability payments accounting for the bulk of the expense of this plan.<sup>6</sup>

With regard to the cost of providing workers' compensation benefits, the private industry perspective of the insurance representative is that time is money. In reference to the temporary disability benefit but including the provision of all benefits, informant noted that the benefit system is like the ticking away of a clock: once started, it will run whether or not anything is accomplished while it is With an emphasis on cost-effectiveness, the running. employer/insurer representative attempts to fulfill the employer's liability as soon as possible, and thus stop Consequently, impediments to the clock. service delivery or unreasonable delays are a major source of concern to the representative.

worker's availability An injured for and vocational rehabilitation participation in directly influence the ability of rehabilitation professionals to deliver timely services. Consequently, expectations regarding availability and participation are imposed on the injured worker. For example, Sanchez et al. note that the injured worker is expected to be "full-time, 40-hour-per-week available on a (1981:74-75).Conflicts concerning these expectations related expectations represent the majority of issues addressed in Rehabilitation Bureau case conferences.

## The Vocational Counselor

The role of the rehabilitation counselor is to provide reasonable and adequate vocational services for the purpose of returning the disabled worker to suitable gainful employment. In addition, the counselor is responsible for determining whether an injured worker can benefit from the provision of such services. Therefore, the counselor serves both as an evaluator for, and consultant to, the employer/insurer, and as a vocational counselor and service provider to the disabled worker.

The counselor's structural position between antagonists is a precarious one. The employer/insurer representative pays him for services rendered and is often the primary case referral source. However, the counseling relationship requires that he be supportive of the needs and wants of the injured worker which many times conflict with those of the employer/insurer. addition, the applicant attorney may request a change of counselor if he so desires and is an alternative source case referral. Therefore, the appearance partiality to either the employer/insurer representative or the injured worker and his representative (if any) can create referral and thus economic problems.

A more complete discussion of the counselor's role is presented in the discussion of the counseling process.

#### The Disabled Worker

The vocational rehabilitation role of the disabled worker is a typification reflecting the shared meanings

rehabilitation functionaries as to appropriate rehabilitative behavior. Some of the obligations and responsibilities associated with this role are: the disabled worker participate and cooperate fully in the rehabilitation process by keeping all appointments and interviews on time, maintain regular contact with his vocational rehabilitation counselor, and attend promptly and regularly to the requirements of rehabilitation program as outlined in the rehabilitation plan; and that he put forth a maximum effort (i.e., that he be motivated) to be successfully rehabilitated.

The emphasis on the disabled worker's participation stems in part from the requirement that his sick role be terminated and his transition to a full resumption of his work role be initiated. Meeting the obligation to participate is an element of cooperation. Therefore, the two requirements are closely associated. In addition, these elements are related to a third element, motivation.

A rather appropriate cartoon in a Sunday newspaper illustrates these associations. After having corrected her son on two occasions for taking something away from his baby sister and neglecting to clean-up the room after playing, the mother pleads innocence to being a Rather, she explains to the boy that it is simply a matter of everyone living together and getting In a word, she remarks that they all have to "cooperate" with one another. When she asks if he knows cooperation means, he unwittingly reveals essence of his social situation, defining cooperation as having to do everything his mother says. However, of equal importance in this cartoon is what is not said, but rather implied. If our little friend had done all those things which he had been expected to do without

having to be told, he would be seen as being motivated. Consequently, from one viewpoint, motivation is self-directed participation or initiative; from another, it is other-directed cooperation.

The intersubjectiveness of the meanings which link participation, cooperation. and motivation established through the everyday face-to-face interaction among functionaries which occurs within the vocational rehabilitation system. The legitimacy of the meanings as applied to the vocational rehabilitation role stems from their objectification in exchange. Therefore, in the remainder of this dissertation, I shall be concerned with a presentation and examination of these interactions in terms of social exchange.

## FACTORS INFLUENCING VOCATIONAL REHABILITATION

Where vocational rehabilitation components workers' compensation systems exist, many obstacles to rehabilitation have been identified. Prior writers have tended to group these obstacles under headings: those associated with the disabled worker (Krusen and Ford 1958; Cheit 1963; Gulledge 1963; Kessler 1963; Weiss and Bergen 1968; White 1969; Beals and Hickman 1972; Tichenor, Thomas and Kravetz 1975; Groh 1977; Eaton 1979; Lynch 1979), and those identified with the employer and co-workers (Eaton 1979).

As an example of an obstacle associated with the disabled worker, Eaton (1979) has noted that a long period of medical recuperation, i.e., a sustention of the sick role, may leave the disabled worker accustomed to the alleviation of his work role obligation.

Informants reported that the same types of injuries occurring outside the Workers' Compensation System had a recuperative time than those covered faster workers' compensation. One possible explanation of this is that the disabled worker may adjust to the income of the temporary disability indemnity (part of the Workers' Compensation benefit) and be disinclined toward a more productive lifestyle. The result is an extension of the sick role. Other examples are: the influence personality, economic, and social problems have on the disabled worker's ability to concentrate participate in vocational rehabilitation (Cheit 1963; Gullege 1963; Kessler 1963; Tichenor, Thomas and Kravetz 1975; Lynch 1979); and the degree of residual disability after physical rehabilitation (Gulledge 1963). latter element and other physical limitations of the disabled worker set limits on the vocational options which may be (or are) available.

obstacle associated with the employer co-workers is their rejection of the disabled worker as an employee. For the injured worker, this rejection may loss of the source of his vocational represent a identity, a factor which itself may create further motivational obstacles to vocational rehabilitation (Eaton 1979). The disabled worker's self-perception may be so closely associated with a particular vocation and the worth he feels from working at the vocation that he himself imagine in any other work Consequently, he experiences rejection from his former co-workers and dejection from the loss of his work role. The result is a difficult situation which requires counseling to build the injured worker's confidence in himself, his ability to learn a new vocation, and his ability to arrive at a new vocational identity.

Of particular relevance to the research obstacles associated with rehabilitation functionaries. general, Eaton (1979) noted that conflicts professional interest among groups hinder the These groups and the problems rehabilitation process. they create include:

- 1) Vocational rehabilitation counselors. Counselors often evaluate workers not in terms of the worker's goals and standards but their own (Gulledge 1963). Further, rehabilitation firms are frequently developed and operated by individuals with little or no training in rehabilitation (Ross 1979);
- 2) Insurance personnel. Insurance representatives create а negative impression with the disabled worker when they appear to be too eager to settle a and terminate the liability employer/insurer (Eaton 1979). Insurance representatives also often fail to initiate referral to rehabilitation proper facilities or other specialists (Gulledge 1963). For example, early referral of disabled workers who are likely to be in of vocational rehabilitation need believed to increase the chances of successful rehabilitation by encouraging the disabled worker to consider vocational future during medical The futuristic nature of recuperation. such a goal is believed to decrease the recuperation time by focusing attention on

productive adjustment to the physical disability through a resumption of a new work-role in terms of the disability. In other words, by an earlier referral of the injured worker for vocational rehabilitation services, the potential for a sustention of the sick role is dimished; and

3) Medical personnel. Physicians may perpetuate the disability process through the uncertainty engendered by diagnostic inconsistencies (Meichenbaum and Turk 1976; Lynch 1979).

Additional interrelated barriers cited in the literature which have relevance to the research are mandates of legislation for client eligibility (Ross 1979), complex patterns of relationships in the administration of compensaton (Kessler 1963, and the legalism of the encapsulating judicial arena.

Of these barriers, the one most relevant to the focus of the research is the influence of rehabilitation counselors (actually, of all rehabilitation functionaries) and of their marked tendencies evaluate disabled workers in terms of their own goals and standards rather than those of the worker. example, a disabled worker whose work history is erratic or contains employment terminations by the employer may be labeled a "flake" without an adequate assumption of the workers' perspective of his work history. Such an individual may be counseled away from certain types of vocational options which might otherwise be suitable, because the worker is thought to be uncooperative, unstable, and unreliable.

#### CHAPTER FOUR

#### THE CLAIM PROCESS

I have divided the vocational rehabilitation claim process into seven major stages: 1) Initiation of Claim Process, 2) Determination of Bureau Jurisdiction, 3) Bureau Determination of Qualified Injured Worker Status, Plan Development,
 Plan Approval/Disapproval,
 Plan Approval Program Implementation, and 7) Program Completion. Each of these stages is described and discussed below. In addition, they correspond to the stages outlined in Figures 2-4. These figures also illustrate the administrative-judicial interface, the contextual placement of the Rehabilitation Bureau case conference, and the exit points for the system's "washout" claims.

The descriptions of several of these stages include transcripts of Bureau case conferences. Each example is representative of claims at that stage, and has similar issues in dispute. Before each example, I present some background information on the case and the transcript of the conference. Elements of these presentations are used in a later chapter.

Stage 1. Date of Injury - Initiation of Claim Process.

The occurrence of a work-related injury initiates the total rehabilitation process. As required by statute, any industrial injury must be reported to the Rehabilitation Bureau if there is a possibility that the

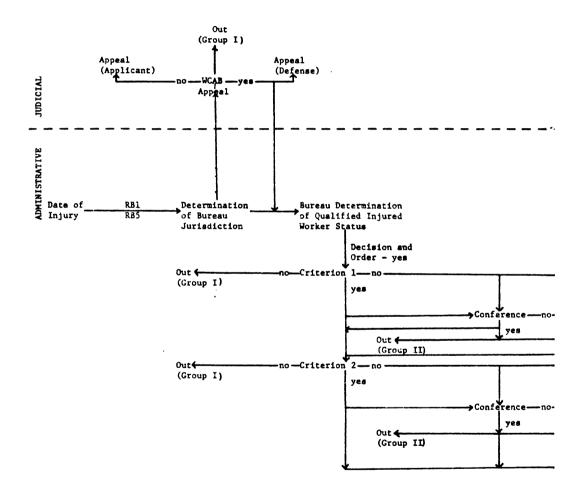


Figure 2

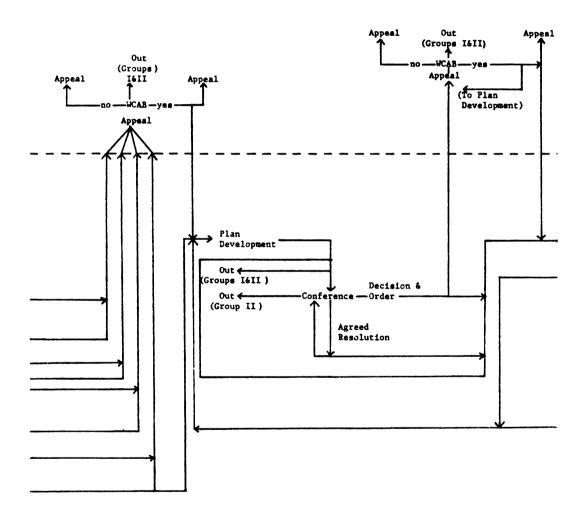


Figure 3

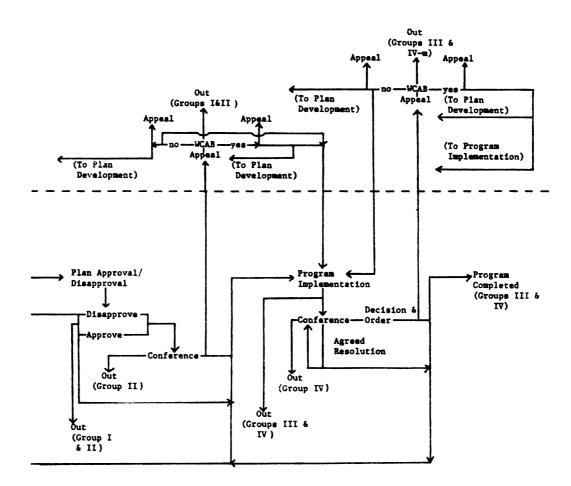


Figure 4

injured worker may not be able to return to his usual occupation. This reporting customary accomplished through the use of a Form RB-1, Work Status This form is required of an employer/insurer either after 180 days of temporary total disability, or immediately upon the knowledge that the employee is unlikely to be able to return to his usual and customary occupation on a permanent basis. Additionally, a Form for Workers' Compensation RB-5, or Request Rehabilitation Benefits, may be filed by the injured worker or his/her representative. However, this form is not required for the initiation of a claim. receipt of an RB-1 or RB-5, the Bureau statistical file for the claim in the central office at San Francisco.

Interestingly, the data show that for cases which go to conference, the average time between the injured worker's date of injury and the date the Rehabilitation Bureau opens a file is 1.7 years, considerably longer than the 180 days maximum prescribed by law. possible explanation for this long delay is that, many cases, insurance representatives expect that the injured worker will return to his usual customary occupation, hence hesitate to initiate the provision of vocational rehabilitation services.

The extended length of the injured worker's sick role and consequent exemption from the social obligation to work initiates an element of doubt regarding the legitimacy of the worker's compensation claim. This is especially so if the objective medical evidence does not support the need for an extended period of physical rehabilitation. With the influence of a legalistic system, doubts here about the injured worker's integrity

color subsequent social relations and set an adversarial tone which may lead to eruptions of conflict.

From the San Francisco office, case files are sent to the appropriate district offices for bureaucratic overview of the employer's/insurer's administration of the rehabilitation process.

## Stage 2. Determination of Bureau Jurisdiction

The Determination of Bureau Jurisdiction stage may be bypassed if the defense fails to contest this issue. Cases of contested jurisdiction are decided by the WCAB, which use the conjunctive criteria: 1) whether the injured worker was an employee at the time of injury, and 2) whether the injury was work-related [i.e., whether the injury arose out of employment (AOE) or in the course of employment (COE).] Those injured workers meeting both criteria pass to the third stage. If the WCAB determines that the injured worker fails either criterion, then the Bureau has no jurisdiction over the case because, as outlined in the California Labor Code, the injured worker is not entitled to receive workers' compensation benefits.

As the diagrams show, injured workers who exit the process, such as those failing to meet either of the criteria described above, are "washouts" in the rehabilitation process. These "washouts" are designated in the diagram as "out." The group number preceding the "out" corresponds to the comparison group of which that "washout" is a part. These comparison groups (discussed above in the chapter on Methodology), are briefly: Group I - cases without rehabilitation plans and without conferences, Group II - cases without rehabilitation plans but with conferences, Group III - cases with

rehabilitation plans but without conferences, and group IV - cases with rehabilitation plans and with conferences.

Stage 3. Determination of Qualified Injured Worker Status

The third stage - that involving Bureau determination of Oualified Injured Worker status establishes whether an injured worker is eligible to receive vocational rehabilitation benefits. This stage may be bypassed if the defense does not contest the claimant's status as a Qualified Injured Worker. However, two conjunctive criteria must be met by the injured worker in order to be considered "QIW." criteria are that a qualified injured worker be an employee,

1) the effects of whose injury, whether or not combined with the effects of a prior injury or disability, if any, permanently preclude, or are likely to preclude, the employee from engaging in either his usual and customary occupation or the position in which he was engaged at the time of injury; and 2) who can reasonably be expected to benefit from a vocational rehabilitation program (Aadministrative Director's Rules and Regulations).

This second criterion consists of determining both the medical and vocational feasibility of the disabled worker. That is, a determination is made concerning whether there are physical and/or vocational factors that would prohibit the disabled worker from benefiting from the vocational rehabilitation process.

The presence of the permanent effects of the work necessary element to legitimizing injury is a initiation of the rehabilitation Ιt process. injured worker's disability status. establishes the Without a permanent disability, the injured worker would be expected to "get well" - i.e., to terminate the sick role and return to his work at time of injury. If the injured worker were "Permanently Totally Disabled," then no expectation of a return to a work role would be held. However, the presence of а "Permanent Disability" suggests that the now-disabled worker can be vocationally rehabilitated to a work role consistent with his physical limitations.

Ιf the defense fails to contest the injured worker's QIW status, then the disabled worker moves on to Stage Four. However, if either criterion or both criteria are contested, the Bureau itself will issue a determination of status. This determination may be preceded by the Bureau's request that the parties settle the issue(s) informally. In the event that such informal efforts fail, one or the other or both of the disputants may request that a formal case conference be set for a Bureau resolution of the dispute. This is the first point in the vocational rehabilitation process at which the case conference is utilized. As can be seen. conference is a microprocess of the workers' compensation claim process.

# THE BUREAU CASE CONFERENCE AND THE DISPUTE RESOLUTION PROCESS

In cases where Rehabilitation Bureau case conference was held, the data showed an average time of 11.8 months between the date a Bureau file was opened

and the date on which a conference was held. In the context of the time sequences to be reported shortly, this time lag suggests that many conferences were held either for claims in which problems were occurring in the implementation of the rehabilitation plan, or in which development of a plan was problematic.

involve all rehabilitation Α conference may functionaries as well as the injured worker. While not functionaries participate in any given the conference (depending on the nature of the case and the issues involved), any one may request that a conference held. However. in practice. the representative is generally the party who requests a conference, either on his own initiative or upon a recommendation by the rehabilitation counselor that a conference be held. Often, a rehabilitation counselor's direct contact with a Bureau consultant problematic case prompts the consultant to convene a conference.

Once a conference has been requested, the Rehabilitation Bureau consultant notifies all other parties as to the time, date, and location of the conference. The data indicate that the average time between the notice that a conference is to be held and the date the conference is held is four weeks. While all conferences are scheduled to last an hour, the average duration is, in fact, 40 minutes.

In general, the conferences I observed proceeded in the following manner. Once the Bureau consultant determined that all parties expected to be present for the conference had arrived or verified a consent to proceed from those functionaries affected by the absence of another party, the conference participants entered a small conference room. This room was just large enough to contain a rectangular table around which six people can be seated comfortably. At conferences where more than six people were present, chairs were pulled into the room from the outer office. In such cases, the quarters were quite cramped and the ventilation was generally noticed to be inadequate by conference participants.

The consultant began the conference by passing around a Bureau form where each participant completed a specified section indicating his/her name, address, and telephone number. The consultant then requested that someone begin the conference with a review of the issue(s) needing to be addressed and the events which led up to the current status of the case. Generally, these reviews were presented bv the rehabilitation counselor, and consisted of summaries of key events involving the problematic issues.

The issues which most often needed to be addressed fell into two main categories. The first is composed of issues relating to the medical and vocational feasibility of the disabled worker to benefit from rehabilitation vocational services. Typically, feasibility issues concern whether or not a disabled worker possesses certain attributes, hence, meets the medical and vocational criteria necessary to benefit from services. This problem accounted for 36 percent of all conference issues. The second most common set of rehabilitation concerned issues addressed plan development, implementation, and/or progress. These issues accounted for 33 percent of all conference issues. Together, these two categories accounted for more than two-thirds of all case conferences observed. The remaining 31 percent of the cases going to conference were in dispute over a host of other issues, e.g., wage parity, change of counselor, and retroactive temporary disability.

During the discussion of the case and the relevant issues, the Bureau consultant's role was primarily that of a mediator, rather than that of an adjudicator. would occasionally interrupt the discussion to ask for clarification, to elicit information. and to statements of personal biases and Bureau policies and On the basis of the information presented procedures. at the conference and contained in the file which the Bureau consultant reviews prior to the commencement of the conference, the consultant would seek to have the parties arrive at a mutually agreeable resolution to their dispute. In the absence of such an agreement, the consultant often will posit a possible resolution or leave in question the specific nature of a resolution while affirming the Bureau's intention to resolve the dispute unilaterally by issuing a Decision and Order.

Near the end of the conference, participants were asked if there were any other issues, whether or not addressed. A11 disputed. which needed to be rehabilitation-related issues were discussed until resolved, and then incorporated into the framework of the agreed resolution or Decision and Order pertaining to the major disputed issue(s). In addition, the consultant often allowed participants the opportunity to make statements concerning the vocational rehabilitation process in general and the content of the conference in In the absence of any further discussion, particular. the meeting was adjourned by the consultant. not related to rehabilitation had been raised, they were discussed at this time.

While the diagram shows separate conferences for determining criteria 1 and 2, in fact, it is not unusual for a single conference to be held which deals with both criteria. In cases of conflict, medical evaluations of the injured worker's physical limitations and vocational evaluations are solicited to determine whether the injured worker is capable of returning to his usual and customary occupation. Vocational evaluations may include a job analysis — i.e., description of the duties, responsibilities, and physical requirements of the job; and descriptions of the injured worker's transferrable work skills and vocational aptitudes and interests.

Case Example #1 - The Bottomer. The Bottomer case example illustrates the application of the two general criteria used to determine whether an injured worker is entitled to receive vocational rehabilitation benefits. My data suggest that these criteria are sequentially applied rather than simultaneously, in part, a function of the cost of determining whether the injured worker meets a particular criterion. To determine whether an injured worker meets the first criterion, the only "rehabilitation" cost incurred is the provision of a job analysis for assessment by a physician as to physical conditions the injured worker has preclude him from performing the job as described. However, to determine whether an injured worker can benefit from the provision of rehabilitation services, an analysis is required which includes at least an assessment of the following factors: the worker's physical ability to participate in vocational rehabilitation; his vocational aptitudes, abilities, interests, and wage expectations; and the current and future labor markets. The particular importance of this case example is its illustration of the differential emphasis placed on factors relating to the first second, conjunctive criterion as opposed to the in criterion at this stage the claim process. Subsequently and with an examination of additional case examples at other stages in the claim process, an appreciation can be gained of the relative influence each criterion has for the claim process at different stages in that process, and the specific criteria which are associated with each of the two general criteria.

Pre-Conference Notes . Fifty-five year-old "Mabel" sustained a back strain as a result of an industrial injury on September 16, 1977, while working as "Bottomer." A rehabilitation case file was opened in the Rehabilitation Bureau on February 28, 1978, five months from the date of injury, and thus within the 180 day filing period. Mabel's file was closed for the first time on August 31, 1978, because she medically ineligible to determined to be receive rehabilitation benefits (i.e., she did not meet the first criterion used to determine Qualified Injured Worker status). Subsequently, her file was reopened on 1979, May 5, when а request for vocational rehabilitation benefits was received by the Bureau. defense contended that Mabel was not qualified because inability to do her job was related to her non-industrial, arthritic condition and not the industrial injury for which the employer/insurer bears liability. The applicant attorney contended that a rehabilitation plan should be developed documenting Mabel's inability to perform the heavier aspects of her job as a Bottomer and her change to the lighter work of a Consumer. His reason for requesting this was so that Mabel would not be terminated from her employment as a Consumer and face having to return to her job as a Bottomer or terminate her employment after her workers'

compensation claim was settled. A conference was requested by Mabel's attorney; notice of the conference was made on July 22, 1981, followed by the conference itself on September 15, 1981.

Mabel was waiting in the outer office prior to the conference. As I was sitting there, Mabel started to tell me what was happening with her case, stating that she had been without benefits for three months. later to learn that the reason for this was that the defense maintained that Mabel had been unavailable for work, and therefore. had terminated her benefits. Mabel's version was that when work had been made available to her, she was on a one-week pre-arranged This vacation was to allow her to be with her vacation. daughter who was having a baby. Mabel had been told that the job would not be available after that week. She went ahead with her vacation plans anyway, and it later that she found out that her was only rehabilitation benefits had been terminated.

The Conference . The rehabilitation consultant introduced herself, explained my presence, and asked whether the issue before them was the injured worker's Qualified Injured Worker status. The defense attorney confirmed that this, indeed, was the issue. (There was a slight pause while the consultant and defense attorney looked through some papers.) The consultant asked if the job analysis in her possession was for the job at which Mabel was working at the time of injury. This was the vocation of "Bottomer." Mabel whispered to her attorney that it was, and the attorney confirmed this fact the other conference participants. consultant summarized from the report, which stated that about 80 percent of the injured worker's time was spent lifting bundles which weighed approximately 14 pounds each. With her hands, Mabel indicated that sometimes the bags were quite large and weighed 30 pounds or more. She also stated that the bags were often wet and that some needed repair.

The consultant asked how the WCAB judge had ruled on this case. In response, Mabel's attorney noted that the judge's Decision and Opinion was not accurate because the injured worker had said that she could not do the work which the doctor had said she could do. The consultant mentioned that the issue seemed to be what constitutes "heavy lifting." In addition, there is no mention, and there should be, of any stooping and bending limitations for the injured worker. The defense attorney questioned whether there was any stooping or bending involved in the Bottomer job, to which, the injured worker replied that there was a lot of both.

The defense attorney stated that his main position was that the basic functions of the Bottomer job and the lighter (Consumer) job are the same: to take the bags off of the machine and to stack them. Mabel's attorney asked her why she felt she could do the "Consumer" job but not the "Bottomer" job. Mabel explained that the materials she would have to handle are smaller and easier to work with, and they weigh less. The consultant asked if there was any reaching involved in the Consumer job, and Mabel said "no."

The consultant asked Mabel whether she would agree that she could work at the Consumer job if the plant were still in operation and it were possible for her to do so. Mabel answered affirmatively. The consultant then asked Mabel whether she could work at the Bottomer job, to which Mabel replied in the negative, adding that the weights were entirely different. The consultant

then asked if the bottomer job required Mabel to stand. Mabel replied that it did, and that it also necessitated stacking and some twisting. The consultant asked how many bags had to be lifted in the Consumer job. replied "25." the consultant asked if this was the same number as in the Bottomer job. Mabel said "yes," but that the bags were of different sizes and weights. defense attorney remarked that over the course of the day, the poundage lifted by Mabel worked out to be about the same for both jobs. Mabel responded that there was "no way" that that could be true. She remarked that the defense attorney could not possibly know because he had never worked at the job. The defense attorney confirmed that he has never worked at the job, and clarified that he had been told that the above was true.

The consultant stated that the most recent doctor's report in her possession was from July. In that report, the doctor had said that, based on the job descriptions which had been submitted to him, Mabel could do the Consumer job but not the Bottomer job. Mabel interjected that she did not know why this had happened to her. She stated that they show movies at work on how not to get injured and she had watched them. Why, then, had she become injured.

The consultant declared that in her opinion, Mabel was a Qualified Injured Worker because she was precluded from returning to her usual and customary occupation - the Bottomer job. The WCAB judge, the doctor, and the job analysis all supported this conclusion. However she noted, the employer's plant is no longer open; if it were, the injured worker would have a job to which she could go. The defense attorney reiterated that he still felt the jobs were the same if they were viewed over the course of an entire day. The injured worker replied

with an emphatic, "no they are not, that's not true!"
The defense attorney backed away from this position, and asked what had been happening with the injured worker since the plant closed. In addition, he asked how many years of school Mabel had completed and what special vocational skills she possessed. Mabel indicated that she had completed the second year of high school. (The rest of her response went unrecorded because of the pace of the response.)

The consultant suggested that office work might be an appropriate direction in which to go. She asked Mabel if she would be interested in such work. Mabel remarked that she would like that. The defense attorney asked if the injured worker had any experience in that area, to which Mabel replied in the negative.

The consultant asked Mabel i f she would available for rehabilitation five days per week, and whether she had any means of transportation. answered "yes" to both questions. The consultant then asked if there were any other questions. After the defense attorney said "no," the consultant asked him if he would agree, then, to pick up rehabilitation benefits for the injured worker. He stated that he would not agree to that at this point. He stated that he assumed that the consultant would be issuing a Decision and Order, and so, suggested that the employer/insurer be ordered to provide benefits. In the meantime, the defense attorney indicated that he would check with his client to see if the employer/insurer would voluntarily pick up the cost of rehabilitation. The consultant agreed, and suggested that the defense attorney confer with the applicant attorney when the position of the employer/insurer was known. The consultant instructed the parties to attempt to agree among themselves about a

counselor, if that point were ever reached. Further, she stated that if she could be of any assistance, then the parties should contact her. As a parting remark, the defense attorney mentioned that he felt that the employer/insurer would not be agreeing to provide rehabilitation benefits voluntarily because they feel the jobs are the same; nevertheless, he said, "we will see."

# # #

In the case conferences, two outcomes are possible. The first is that an agreed resolution may be reached from which no appeal is possible. The disabled worker then moves to the next stage. If the agreed resolution fails, however, then the parties may attempt to settle the dispute informally or return to the formal conference setting to attempt another resolution. The second possible outcome is that a Bureau Decision and Order resolving the dispute is issued by the consultant. If the resolution is in favor of the disabled worker, then the claim moves to the next stage. In Mabel's case, the defense clearly wanted a Decision and Order to be issued by the Bureau, and so refused to participate in an agreed resolution where the employer/insurer would voluntarily provide rehabilitation services. With a Decision and Order, the defense could appeal to the WCAB to overturn the Bureau. The goal of such an appeal would be to obtain a decision stating that the injured receive is not qualified to worker vocational rehabilitation benefits because she is not precluded from the physical requirements of her job as a bottomer.

Appeals may also be made from Bureau Decisions and Orders which are issued without benefit of a case conference. Such decisions and orders are made on the

basis of medical and vocational reports on file. Those individuals whose Qualified Injured Worker status is contested, but for whom the Bureau and/or the WCAB ruled in favor, pass on to Stage Four.

## Stage 4. Plan Development

In the plan development stage, the parties are concerned with the formulation of a suitable vocational objective and the means whereby this objective will be - i.e., with the vocational rehabilitation process and the development rehabilitation plan. Development of a plan is the responsibility of the rehabilitation counselor collaboration with the disabled worker. If the planning stage results in the development of a rehabilitation plan, then the disabled worker continues to Stage Five of the claim process. Where some problem arises in the planning stage, the Bureau asks the parties involved to attempt to settle the dispute informally. If these informal efforts fail, some party may then request a formal Bureau case conference in which the conflict issue(s) may be discussed and resolution reached. The indicates that research for cases which to conference, the average time between the date a file is opened at the San Francisco office of the Rehabilitation Bureau and the date of implementation of the first rehabilitation plan is 8.4 months.

#### THE COUNSELING PROCESS

General descriptions of the components of the vocational counseling process have been provided by Sanchez et al. (1981) and Deneen and Hesselund (1981). Sanchez et al. identify eight stages: 1) initial vocational rehabilitation evaluation, 2) establishment

of a vocational diagnosis, 3) development of vocational objectives, 4) preparation of vocational rehabilitation plans, 5) plan implementation and monitoring, 6) job placement services, 7) employment monitoring, and 8) They suggest that the purpose of the case closure. counseling process is to provide information necessary to determine an injured worker's eligibility for services, and then, to provide those rehabilitation services necessary to restore disabled worker to the workforce. Α description of the general process is adequately provided in the references cited above; the description below, based on participant-observation, presented complements this more general treatment in providing a micro-level view of the process as it takes place in the two settings in which I was present.

After an injured worker is referred to a vocational rehabilitation counselor, an initial vocational evaluation is conducted. For injured workers who are is represented by legal counsel, the counselor should contact that attorney to seek authorization to contact the client and to conduct the interview. If the counselor does not know whether an injured worker is represented, then he should establish this fact first before proceeding with the evaluation.

Unless otherwise informed by the referring agent or the injured worker's attorney, QIW status can be assumed, and the evaluation can be focused on making the initial determination of whether the disabled worker can benefit from the provision of rehabilitation services. If QIW status has not been established, then the counselor will often be asked to conduct only a job analysis of the injured worker's usual and customary occupation. A physician then evaluates the injured

worker's physical condition in terms of the claimant's ability to meet the physical requirements reported in the job analysis. If the injured worker cannot meet them, he is considered to be precluded from returning to his job at time of injury, hence to meet the first criterion regarding eligibility to receive vocational rehabilitation benefits.

Once it is determined that the injured claimant is a disabled worker, the process of determining whether he can benefit from rehabilitation - the second criterion used in determining QIW status - is begun. Factors used in this determination include age; education; presence of physical limitations; availability of transferable work skills and stability of previous employments; interest, motivation, and cooperation; tested vocational aptitudes, interests, and abilities; and current labor market data (Deneen and Hesselund 1981; Sanchez et al. 1981). With the exception of the vocational testing, these criteria are assessed in the initial interview. Testing is an attempt to establish objectively whether a disabled worker is likely to benefit from rehabilitation and by what means.

Of particular importance to my purposes here are criteria concerned with the disabled worker's participation, motivation, and cooperation characteristics over which the worker should be able to exercise control. If he exhibits these characteristics, it is generally assumed that the other criteria can be enhanced through the provision of services - e.g., counseling for coping with the effects of disability, vocational training for acquiring marketable skills. However, as Deneen and Hessellund (1981) point out, while motivation is а key to successful rehabilitation, it is also greatly influenced by the counseling relationship, particularly by the expectations of the counselor toward the disabled worker.

Once a vocational diagnosis has been made and the determination that the disabled worker can benefit from the provision of services has been made, the type of service to be provided must be established. Two factors greatly influence the order in which types of services are considered: time and cost. Generally, the first step is to see if a return to work with the same This would take the form of employer can be arranged. developing a modified or light duty job that consistent with the disabled worker's physical limitations, and abilities and aptitudes. The provision of this type of rehabilitation involves the least amount of time and money. In the event that such a job cannot i f the disabled developed. and worker has transferable work skills. vocational objectives consistent with these skills are developed.

Psycho-vocational testing information, together with current labor market data and knowledge of the disabled worker's physical limitatons, are used to aid determining whether a vocational objective suitable. By "suitable" is meant that the objective has a chance of being realized in terms of employment. Objectives which can be accomplished through direct placement are often given first consideration. Sixty days is a fairly common upper limit for the provision of this type of service. In the event that employment is found, an additional period of 30 days is often The purpose of allocated for employment monitoring. monitoring is to allow the disabled worker time to adjust to the new employment situation and to allow time for any problems related to the disability to come to the fore.

On-the-job training may be considered if the disabled worker has no transferable work skills, or has transferable skills in job areas which usually require on-the-job training. While the time required in arranging for and monitoring the provision of this service may be extensive, costs are often minimized. Generally, a contractual arrangement is entered which guarantees the disabled worker employment with the employer at the end of training, thus eliminating the need for placement and monitoring services. In addition, training fees charged by the employer are often minimal compared with those required by training schools.

Finally, a formal training program may be required to realize the vocational objective of the disabled By formal training program, I mean a program offered by a vocational school, community college, or other educational institution. These programs are often the most costly and time consuming. As an unofficial rule, programs lasting one and a half to two years or longer are not given serious consideration. More practically, programs seem to range from four months to Some insurance representatives a year in duration. prefer the shorter plans not only because they cost less, but also because they are believed to be more successful (CWCI 1982). Some rehabilitation counselors maintain that many disabled workers lack the motivation needed to complete extended rehabilitation programs, and thus, prefer the shorter training programs. consultants, in turn, consider and are most likely to approve lengthy plans only where the disabled worker's motivation toward the vocational objective is well documented. These arguments in favor of short-term (vs. long-term) formal training, however, may, in fact, be apocryphal ones. Because of lower educational levels, many disabled workers who are placed in short-term formal training plans fail in these plans because the training is too intensive and compacted. If these same individuals were allowed the "luxury" of time to learn the skills necessary to enter their new vocation, many more might suceed.

Having indentified a vocational objective decided on the means whereby that objective can be realized, the counselor must prepare a vocational rehabilitation plan outlining these means. He first reviews the details of the plan with the disabled worker worker's and/or with the representative attorney). If both are in agreement with the plan, they return it to the counselor sign it and for his forwarded to the The forms are then signature. insurance representative for approval, and finally, to the Rehabilitation Bureau consultant for review.

If approved, the plan is implemented and monitored until completion. Counseling activities center on resolving problems as they arise, but preferably by anticipating them and acting on difficulties prior to any interruption in the plan. Job placement services are provided as needed and often include the services of a job developer. Generally, the job developer works with the counselor and the disabled worker throughout the counseling process. Job developers, and sometimes counselors, conduct labor market analyses to help in determining whether a demand for a particular vocational objective exists in the open competitive labor market. In addition, the job developer will teach job seeking

skills, arrange for informational and employment interviews, and gather follow-up information on employer reactions to interviews.

Once employed, the disabled worker's employment is monitored as described above, and the case is closed when the monitoring period is over. Typically, monitoring periods extend to 30 days or more.

The two case examples which follow aptly illustrate the feasibility criteria which are used in determing a disabled worker's ability to benefit from the provision of vocational rehabilitation services. These criteria are applied in the counseling process as requirements of the disabled worker's rehabiliaton role and emerge in the dispute resolution process as contested issues. While a number of issues are discussed and vary between the two cases, the three primary issues with which I am concerned here: participation, cooperation, and motivation, appear in both case examples.

Case Example \$2 - Eduardo. The following case illustrates some of the criteria used in determining whether a disabled worker is able to benefit from the provision of rehabilitation services. Since Eduardo's eligibility status is not at issue here, the assessment of his ability to benefit in stage four constitutes a reapplication of this criterion - not for an assessment of Eduardo's eligibility to receive benefits, but rather for an assessment of whether rehabilitation will be successful (i.e., the probability of Eduardo's being able to return to work).

Feasibility assessments are made in terms of medical and vocational factors. Specifically related to Stage Four, the emphasis in this case is on whether a

rehabilitation plan can be formulated for Eduardo. As will be seen in subsequent case examples, feasibility assessments in each stage reflect the liklihood that the disabled worker will be able to complete successfully the goal of that stage, and so to continue on through the rest of the vocational rehabilitation process.

Pre-Conference Notes. Spanish speaking, forty-five year old "Eduardo" sustained a back strain as a result of an industrial injury on August 6, 1979. Eduardo was injured while lifting reportedly an eighty one-hundred pound cover from a machine. Subsequently, a case file was opened at the Rehabiliation Bureau on January 15, 1981. The following conference requested by the defense attorney for his client, the The reason for the conference was employer/insurer. that the employer/insurer held that Eduardo could not benefit from the provision of further vocational rehabilitation services. A Bureau confirmation of this fact was being sought. The employer/insurer terminated Eduardo's rehabilitation benefits pending the Bureau's determination of the contested issue. determination the the favorable by Bureau toward employer/insurer at the conference would result in the case being closed, thus terminating the liability for providing any future rehabilitation benefits.

The Conference. The consultant began the conference by stating her role. She stated that it was to help the parties concerned to find resolutions to their problems and to make decisions where no agreed resolutions result. The consultant then asked what the issue was which resulted in the need for a conference. Eduardo began by saying that he didn't know what "rehabilitation" means. The consultant stated briefly the purposes of rehabilitation. Then, the consultant

asked Eduardo whether she was correct in stating that the doctors had said that he was precluded from returning to his usual and customary occupation. Eduardo replied, "yes."

Eduardo's attorney questioned whether a modified work position was available with the employer. defense attorney replied that this possibility had been considered "Ad Nauseum." The consultant asked Eduardo if he had personally asked about returning to his former Eduardo said that he had and they said that there was no work for a mechanic available there. indicated that they had not told him much, but said that his former lawyer had told him that the employer did not want him back. (Eduardo had changed attorney and his new one was present. Presumably, this attorney did not know that the possibility of returning Eduardo to light duty work at his former employer had already been explored.) Eduardo puzzled aloud as to why that should be so, and answered his own question by concluding that they do not see him as a human being, but only as a broken motor which can just be thrown away.

The consultant stated that part of the answer to the question which Eduardo raised regarding rehabilitation is that the employer is not required to take him back. So, rehabilitation is an attempt to find some other work for him. (Eduardo stated that he was trouble having understanding what was being Consequently, the counselor began translating everything.) The consultant explained that it was part of the rehabilitation professional's job, however, to see if the employer is interested in taking him back. Eduardo indicated that he understood. The consultant continued by saying that if the employer does not wish to have him back, then the rehabilitation professional can only help him to find some other employment. Eduardo indicated that he understood.

The consultant suggested that they discuss what Eduardo can expect from rehabilitation. attorney interjected that the problems with the case He continued by saying that the work begin here. evaluation done on Eduardo had shown him not to be "feasible" for rehabilitation because his condition precluded his taking any kind of job. stated that he had questions about the injured worker's ability to participate in a rehabilitation plan, let alone work. The rehabilitation counselor said that at the time the work evaluation was done, all that was Eduardo indicated, however, that there had been no change in his physical condition over the last three months.

The consultant asked Eduardo if he felt he could work a light job for eight hours per day. He replied he could, SO long as he could lay periodically. The consultant asked Eduardo what he thought an employer would think if he was told that by a prospective employee. Eduardo stated that he could do it on his breaks. The consultant pointed out that he would only have two breaks - one in the morning and one in the afternoon. Eduardo said that he would try to work and that he thought even only two breaks would help.

The consultant asked what the specific reasons for the conference were. The counselor said that some of the goals of rehabilitation in this case are problematic. There is one problem or another with the labor market, the physical demands of the jobs explored, and the length of time of the plan. The counselor mentioned that Eduardo did not have enough capital for the self-employment he desires, and that no modified work is available because the employer will not take him So, the specific reasons for the conference are as follows: 1) though a number of vocational options have been explored, there have been problems with each; 2) Eduardo has high salary expectations which result in the exclusion of а lot of vocations which otherwise be physically suitable for him; 3) he is in poor physical condition; 4) he has only a fifth grade education though his testing results do indicate that he has the aptitude to learn; 5) he requested a training program in Spanish but there are very few of these around; and 6) he complains about the rehabiltation services being delivered which has resulted in a lack of trust in the counselor/client relationship.

The consultant commented that the list of problems was unusually long and wondered openly where to begin in addressing them. Eduardo's attorney asked him what sort of duties he had performed in his job at time of injury. Eduardo replied that he had done all kinds of jobs. attorney next asked that he give a breakdown as to what percent of his duties had been heavy, light, etc. Eduardo stated that he never did any light work though he had been a forklift driver for a while. The attorney asked his client what he thought about doing forklift driving. Eduardo replied, "the bumps killed The consultant asked the applicant attorney what it was he was aiming at in this discussion? attorney replied that he was trying to see if something might be available for Eduardo at his former employer's In a bit of rage, the defense attorney stated business. that the employer will not take the injured worker back because there is no light work available. He continued by saying that there was absolutely no reason to investigate this issue any further because it had been discussed countless times before. The applicant's attorney retorted that, if the defense wanted to be "hard-nosed" about this, it was fine. The defense attorney replied that it was not a matter of being hard-nosed; it was just the reality of the situation.

The consultant pointed out to Eduardo that the rehabilitation system gets a lot of people with injuries like his and the system has been able to get them back to work. She continued by saying that if they could get enough cooperation from him, then they should be able to find some employment situation for him. However, it seemed the injured worker was saying "no" before even starting to explore the possibilities, and so the case sounded very hopeless. The applicant attorney replied that his client was not saying "no." Eduardo also interjected that it was the consultant saying "no," not him.

The consultant countered by explaining that Eduardo had said that he could not do heavy work, and that this means he must do lighter work. But, light work doesn't pay well and he wants something that will. Eduardo replied that he had to have enough to live on. The consultant asked him how he was managing to make it now. He replied that he was on welfare and foodstamps. The consultant mentioned that the jobs they would be considering might have low salaries to start, but then it should be possible for the injured worker to work up from there.

Eduardo's attorney asked him if he would go to work for five dollars per hour. Eduardo questioned whether anyone really wanted to help him. His attorney replied that they were willing to help him if he was willing to help himself. Eduardo suggested that he could paint because he has done that before, but that he would need a license. The consultant asked him if he had ever worked and been paid for painting. He said that he had been paid for painting. He said that he had been paid for painting which he had done on the weekends. The consultant suggested that the counselor could look into what would be required for the injured worker to obtain a license. (Eduardo began to crane his neck noticeably in different directions as if he were experiencing discomfort and trying to alleviate it.)

that she The consultant stated had watched Eduardo's movements, indicating his physical discomfort, thoughout the conference, and would now question seriously whether he could even get through a day's work. The consultant suggested that a two-week work evaluation should be done to see if Eduardo can work at She suggested that the work be some form of volunteer work. The defense attorney asked what kind of volunteer work the consultant had in mind. consultant stated that that would be up to the counselor The defense attorney remarked that he just to decide. did not want Eduardo saying that he will not accept a The consultant assured the job stuffing envelopes. attorney that something appropriate would be found which involved a real employer, and not just a test situation as had been done in the previous work sample evaluation.

The consultant suggested that all the "if's" be discussed now so that another conference would not have to be held. The defense attorney thanked the consultant for her suggestion. The consultant asked the counselor if she had anything to say. The counselor suggested that another one be assigned to the case. The consultant asked whether the parties could agree on a

replacement or preferred for her to appoint one. The defense attorney asked what Eduardo's requirements were as to an appropriate counselor. The attorney mentiond that, for example, the present counselor had been chosen because she was bilingual. Eduardo said that he did not see any reason for changing the counselor. The defense attorney asked, then, if this was a personal situation for the counselor. She said that it was. The attorney remarked that if that was the case, then he would not object. He then suggested that a male, bilingual counselor be assigned and that there be no duplication of efforts.

The consultant stated that the next "if" was that if, at the end of the two-week evaluation, Eduardo can work, then he and his counselor should decide on a vocational objective for a rehabilitation plan. She continued by saying that the new counselor should be informed that Eduardo's interests are not an issue, and so as many vocational options as possible should be developed - e.g., locksmith or shoe repair. The jobs considered should, however, be jobs which do not require English language proficiency, academic proficiency, or heavy lifting, bending, or climbing.

The defense attorney asked about a timeframe for developing a plan, and suggested 45 days. The consultant indicated that 45 days would be reasonable as an addition to the two-week work evaluation. She also suggested that the two-week period during which the evaluation is being conducted be used by the counselor to research job titles. Eduardo should choose from that list of jobs.

The consultant asked Eduardo if he had a telephone to which he replied that he did. The consultant told

him that the new counselor, then, would be in contact by phone. The applicant attorney asked about salary considerations. The consultant stated that she would not be comfortable discussing that until after a list of possibilities had been developed.

The consultant asked if there were any other The defense attorney mentioned the temporary issues. disability payments. The consultant stated that these payments should begin as of the day of the conference. The defense attorney remarked that it was his position that there should be no payments during the evaluation period and until the injured worker is determined to be "feasible" for rehabilitation. He continued by saying that if the injured worker successfully completed the evaluation, then the two-week evaluation period could be considered a part of the plan and the payments made retroactively. The applicant attorney objected to his client's being denied payments during the evaluation period. The consultant recognized that the issue was an arguable one, but stated that the plan to make payments retroactively seemed reasonable and would not jeopardize Eduardo's welfare. The consultant then stressed that it would be up to Eduardo to explore carefully all of the possibilities developed by his counselor, and to decide on a suitable vocational objective.

# # #

<u>Case Example #3 - Kevin</u>. This case is an example of vocational feasibility as an issue independent of medical feasibility. Indeed, the assumption made by the rehabilitation professionals in this case is that the disabled worker is physically capable of participating in rehabilitation, but that he has not adjusted to the

effects of his disability. This has adversely affected his participation in the rehabilitation process. From the perspective of the rehabilitation professionals, Kevin is "medically feasible" to benefit from rehabilitation, but may be "vocationally infeasible" because of his impaired self-image. This self-image resulted in Kevin's rejecting employment opportunities in which his counselor asserted that he should be able to engage.

Additional elements of vocational feasibility are issues in this case. Kevin's availability for and participation in rehabilitation bring into question his attitude toward rehabilitation and his motivation to return to work. Because of these elements, Kevin failed to identify a vocational objective, and consequently, no rehabilitation plan was developed for returning him to the workplace. The purpose of the Bureau conference was to address all of these issues. Of particular interest in this conference is the relationship among conference issues, Kevin's choices concerning continued participation in the rehabilitation process, and the resources to be exchanged in order to produce a resolution.

Pre-Conference Notes. Kevin was a 31-year old janitor who strained his shoulder on April 11, 1978. He had reportedly been making a monthly wage of \$1,100. On August 29, 1980, a Rehabilitation Bureau case file was opened for this case. In the file, it was indicated that Kevin was having difficulty adjusting to the effects of his disability and that this problem was adversely affecting the progress of his vocational rehabilitation. On July 30, 1981, a notice that a conference was being convened by the Bureau Consultant on August 4, 1981, was sent to all concerned parties.

On the day of the conference and after reviewing the case file, the consultant mentioned that Kevin had been missing many of his scheduled appointments with his counselor. The work history showed that he had been fired from many of his former jobs, and had held at least 19 jobs previously. Thus, the consultant was feeling very much like Kevin might be irresponsible and that this irresponsibility was the reason why he had missed his appointments. Therefore, his motivation to participate in the vocational rehabilitation process was in question. The consultant had set this case for conference, but did not remember that she had until the counselor reminded her.

The Conference. The consultant began the conference by explaining her role in the rehabilitation process. She explained that that role was to help settle disputes, and mentioned that the aggrieved party who was dissatisfied with a Bureau Decision and Order could appeal to the WCAB for further consideration of The consultant then stated that she had the matter. received a request for a suspension of benefits from the defense. The request was based on the appearance that Kevin was not following through with his commitment to vocational rehabilitation process. Kevin, responding to this, interjected softly at first and then with increasing volume and angered tone, "I love this; I really love this!" The consultant, with a quizzical look on her face, asked the injured worker to tell her what he meant. Kevin, speaking rapidly and in a breathy tone, stated that the first rehabilitation gorup had done nothing for him. He stated that he was fed up with this rehabilitation "stuff." He continued by saying, "I'm ready to snap like this!" He loudly snapped his fingers. The consultant, in a calm tone, pointed out

that they were not at the conference to discuss the first rehabilitation group, but rather, the group with which he was currently working. Kevin stated, "my arm is garbage; I can't make a living. I have a family I have to support. So don't put this on me!"

The consultant asked Kevin what it was he wanted. Kevin replied, "you don't understand. The kids are hungry. I need a job so I can pay the rent and feed the kids, and I can't do that with an arm that's garbage."

The consultant asked the counselor to summarize her rehabilitation efforts in this case to date with Kevin. The counselor noted that there had been trouble from the She noted that the injured worker was not able to participate in rehabilitation because his arm was giving him so much trouble with pain. Then, he began to appointments: on one occasion, his reportedly broken down; on another, the boat he was on ran out of gas. The car incident was the most recent. Consequently, the counselor stated, she asked for a suspension of rehabilitation until the injured worker could fix the car and have transportation participating in rehabilitation. To this, Kevin responded, "so, where am I going to get the money to get the car fixed?"

The counselor continued by stating that because of these difficulties, the rehabilitation process had not reached the stage of developing vocational objectives. Kevin restated the fact that he could not afford to travel. He noted that he pays \$600 per month to rent a house, and is already \$2,000 in debt for back rent. He stated that he collected coke bottles and turned them in so he could make one appointment with the counselor. He pointed out that he could not even afford to take public

transit, stating, "you don't understand. My kids are hungry. The kids come first and I don't even have enough money to keep them from going hungry! I sure don't have money for public transit!"

The consultant asked Kevin what she could do for him. He remarked that the counselor and the defense attorney were not going to find him a job. He stated that he could not do anything with his arm, and, therefore, no one was going to hire him for the kinds of jobs that the counselor keeps mentioning to him. He mentioned that when all this started, he had "great hopes" that he could be rehabilitated to a new vocation, but, that all he got for the first six months from the first rehabilitation group was the "chromium shaft." Now, he added, "these people keep putting me off."

The defense attorney stated that the first job in which Kevin had been interested was not appropriate because the employer was going out of business. Kevin responded that this was not true, and added that, it was too late for that job now, anyway, because they had already hired someone for the available position.

The consultant commented that the system could only help Kevin so much, and that is by helping him to find suitable employment. She noted that he is expected to participate fully in the process of finding a job. Consequently, Kevin cannot reasonably expect to take vacations or trips. Kevin replied, "oh, because I went to Oregon on my own to look into worm farming and missed an appointment, you think I'm on vacation or something. I went up there and in order to get there I had to bum a

ride from some friends who were going up there anyway.

Look, I want to be involved, but I can't afford to be involved.

The consultant pointed out that Kevin was getting the maximum temporary disability benefit available. responded that it had been five years now since this whole ordeal began. He noted that he had some money back then. But now, he remarked, "it is killing me to be in debt." The defense interjected that a medical examiner, which had been chosen and agreed to by the carrier and the disabled worker, had been assigned; and that, pending the results of that examination, some more should be known concerning Kevin's physical limitations. The consultant asked if the extent of disability was also going to be assessed. The defense attorney indicated that it was, and that a thorough and complete examination was anticipated.

The attorney asked Kevin if defense understanding was correct that he wanted to be done with the whole rehabilitation process. Kevin responded "yes," and stated that he would depend on friends and relatives to find and give him jobs. The defense attorney indicated that he would be agreeable to putting off rehabilitation efforts until Kevin desired them. Kevin's attorney interjected that he had mainly been concerned that the attitude being manifested by the defense toward his client was that he was not participating because he was irresponsible, and that such was clearly not the case. He noted that his client is trying even to the point of trying to find a job on his own in Oregon. Kevin's attorney continued by saying that the reason his client cannot participate in the rehabilitation process is because he cannot afford to participate. He pointed out that the period Kevin was

off work without compensation had placed him in a financial bind. The attorney suggested that Kevin might benefit from advances for transportation costs.

The defense attorney clarified that he was not interested in terminating Kevin's benefits. The attorney felt, however, that Kevin's benefits should be suspended until he indicates that he wants rehabilitation and is ready to participate in it.

Kevin was told by the consultant that if he wanted a suspension, then that would be fine. However, if he wants rehablitation, then he will be expected to meet certain obligations and these are meant to be met purposefully. Kevin noted that he did not want advances of anything, or anything else that was not due to him. He stated that he could not go into debt any further, and so, he wanted a suspension of benefits until a later time.

The consultant indicated that she would retire the file until such time as Kevin requested a reinstatement of the benefits. Kevin, his attorney and the defense attorney all agreed that this arrangement was acceptable.

# # #

The two case conference examples just presented are representative of conferences occurring at stage four of the claim process. Such conferences are generally concerned with resolving issues that are impeding the identification of a vocational objective and the development of a rehabilitation plan for realizing that objective. Unless issues concerning the disabled

worker's medical and vocational feasibility can resolved, he is not allowed to proceed further in his claim for services. Consequently, the employer/insurer's liability for the disabled and worker's access to vocational rehabilitation services is limited by a determination of whether rehabilitation seems likely to succeed. Rehabilitation functionaries make the promise of success dependent on the disabled worker's motivation towards rehabilitation, his ability to participate in the process, and his willingness to cooperate in achieving a successful result.

# Stage 5. Plan Approval/Disapproval

This stage is primarily a bureaucratic administrative suitability one where the and reasonableness of the vocational services to. proposed vocational objective of, the disabled worker Here, all proposed rehabilitation plans are assessed. are subjected to the scrutiny of the Rehabilitation Bureau consultant and are approved, approved with modifications outlined by the consultant, disapproved. Conferences are held at this stage to resolve conflicts aspects over of the proposed rehabilitation plan in order that the disabled worker might move on to Stage Six. If no conflict exists and the plan is approved as is or with modifications, the disabled worker moves on to Stage Six.

Two major types of conflict, however, may cause the plan to be delayed at Stage 5. First, the defense may object to a Bureau Decision and Order approving a plan (with or without modifications), and may appeal the matter to the WCAB. Second, the disabled worker may object to the Bureau's Decision and Order disapproving a plan or the modification of the plan, and thus, cause an

appeal to the WCAB to be initiated. In either case, a conference may or may not be held. If one is held and a solution is agreed upon, replanning may be needed, in this instance, the disabled worker returns to Stage Four, or the plan proceeds with or without the modification(s) to Stage Six. The appeal process may result in the same possibilities as outlined in stage four above.

## Stage 6. Program Implementation

The program implementation stage operationalizes the rehabiliation plan developed in Stage Four and approved in Stage Five. This stage is also part of the vocational rehabilitation counseling process. The research suggests that the average length of a first rehabilitation plan is six months. Disabled workers who complete Stage Six with no conference(s) move on to Stage Seven. If a conflict arises, the Bureau will first ask the disputing parties to resolve the matter informally. If the informal approach fails, then a formal Rehabilitation Bureau case conference may be held.

Stage Six conferences have essentially the same outcomes as those outlined above for Stage Four.

Case Example #4 - Stuart. Stuart is a 37-year old, Causasian male who injured his back on March 13, 1978 while lifting a case of six-one gallon containers of liquid. He was 34-years of age at the time of his injury and was earning a weekly wage of \$340.20. His temporary disability indemnity was the maximum allowed by law - \$154 per week.

Rehabilitation Bureau file was opened Stuart's case on June 6, 1979. This file was opened one year and almost three months from the date of injury despite the Bureau's 180 day reporting requirement. Stuart's file had been closed once previously on March 25, 1980 because it had been determined at that time that he was not physically able to benefit from the provision of rehabilitation benefits (i.e., he had been determined to be medically infeasible). Subsequently, the file was reopened on December 9, 1980; a vocational objective of electronics technician was identified provision of vocational rehabilitation through the counseling services; and a plan was drawn up and submitted to the Rehabilitation Bureau for approval. The plan called for formal training to begin September 8, 1980, and to end on September 10, 1981. successful completion of the plan, Stuart's estimated earnings as an electronics technician would be \$240 per week. The Bureau approved the plan through the issuance of a Decision and Order, dated February 2, It should be noted, however, that this same plan had been disapproved earlier through a Decision and Order, dated December 18, 1980. The Decision and Order noted the reason for the disapproval was that Stuart was having some personal/marital problems and that he would engaging in some pre-vocational training while be attempting to resolve these problems.

A conference was originally scheduled for January 26, 1981, but was changed. Conference participants were informed of the new conference date of May 20, 1981, by a Bureau notice, dated April 7, 1981.

<u>Pre-Conference Notes</u>. This case is an example of how Bureau consultants can be instrumental in mediating

In addition and in relation to the previous disputes. it emphasizes additional elements examples, comprise the concept of vocational feasibility i.e., the disabled worker's attitude and integrity. This case clearly illustrates how feasibility factors, which are used to evaluate the disabled worker's ability benefit from rehabilitation, may be viewed as resources which may be exchanged for continuation The case illustrates the rehabilitation services. carrier's/insurer's emerging concern with not only the nature and extent of the vocational rehabilitation services already provided, but also what additional liability existed and how this was to be justified.

The Conference. The consultant began conference by indicating that it was her understanding that a problem existed with the rehabilitation plan. The counselor gave a summary of the plan and what had occurred to date. He stated that Stuart was having personal difficulties which had interfered with his ability to devote enough time to the school work associated with the plan, and that, consequently, his grades had suffered. Stuart had been accused of cheating in his course work, and so, had been suspended In addition, there seemed to be some from school. personality problems between Stuart, and his instructor and tutor.

The consultant asked Stuart to explain about the alleged cheating episode. Stuart stated that students routinely worked together and shared their findings; so similar answers on laboratory work were not unusual. In addition, the other students supported his position that he was not cheating. Also, problems were created by the fact that his lab book was stolen meaning that he had to start over.

The consultant asked Stuart what he felt the insurance company should do for him. Stuart indicated that he would like to go back to school. The defense attorney then mentioned that it was his contention that Stuart had not lived up to the contract of rehabilitation plan. Consequently, the obligation of the employer/insurer to provide further services should be terminated. The insurance representative remarked that \$11,882 had already been spent in an attempt to rehabilitate Stuart.

The consultant asked the counselor if he had any insight into how Stuart's problems had occurred. counselor stated that the school was very clear about its position. They maintained that the injured worker was doing more than just sharing the workload. counselor felt that a great deal of effort had been put into helping Stuart get through his rehabilitation and even so, there were still program, problems. Stuart's attorney stated that he realized that the school could not be told what to do in terms of readmitting him, so the question appeared to be what do He mentioned that jobs were available now, and that the possibility of a direct job placement or even starting the course over again might be considered since only a couple of weeks had been lost. The insurance representative mentioned that in fact the rehabilitation program had been started January 12 and was terminated on March 17. The defense attorney stated that he was not in favor of any further training because the injured worker was not qualified to receive any additional benefits.

The counselor suggested that an on-the-job training program was needed, but these are difficult to

create. He continued by saying that while Stuart does have a basic understanding of the vocation, he has minimal skills needed for such a training program. Stuart's attorney asked if it would be possible to get Stuart back to work in a short time through the use of on-the-job training. The insurance representative stated that he could go with a 60-day extension of the rehabilitation program, but that expenses were getting high and the cost of the rehabilitation would soon hit \$14,000.

Stuart's attorney stated that Stuart making job applications. The insurance representative asked when these applications were made. interjected that he needed his books from school to show prospective employers, but the school would not give these books to him. His attorney asked why. counselor said that he did not know why. commented that the books served as proof that the program was attended. The representative asked about the results of Stuart's job applications, and Stuart indicated that there had been some response, but nothing definite.

The consultant suggested that a finite period of job placement be considered as a possible alternative. She noted that if the parties agreed, such a decision could be issued. When Stuart's attorney asked Stuart how much time he would need, Stuart said that he did not know. The counselor suggested that 60-days would be adequate with 30 days of on-the-job training.

Stuart's attorney suggested that the solution being discussed would result in Stuart's having to travel very far. Stuart indicated that since his marriage was now "all messed-up," the distance would not be an issue.

However, he noted that he did not have a car for transportation. The insurance representative stated that he could see no reason why he should continue to assist Stuart when he did not even have the transportation necessary for actively participating in the rehabilitation process.

The consultant asked if a compromise could be then suggested that reached. and 90-days placement and 30-days of on-the-job training considered as an extension. Stuart's attorney held that the extension should be a total of 30-days with 60-days of job placement and 30-days of training. The proposal was rejected as unacceptable by the defense attorney. The consultant suggested that the costs for such an extension come from Stuart's permanent disability lien, to which benefits via Stuart's attorney responded that he felt his client was being punished for being unsuccessful in finding a job. The consultant stated that some kind of compromise needed The defense attorney restated his position that his client's obligation to the injured worker was completely fulfilled. He continued by saying that if Stuart can prove himself by getting a job then the defense would be willing to help. But if he cannot prove himself, then that shows that the defense's position is a valid one. The insurance representative stated that Stuart was already receiving permanent disability advances. The defense attorney clarified that his only interest is that Stuart show substantial compliance to the conditions he had contracted to fulfill when he agreed to engage in the rehabilitation plan.

After the consultant stated that she felt the defense position seemed reasonable, Stuart's attorney

reluctantly agreed to accept 30-days of job placement The defense 30 days of on-the-job training. attorney added that he wanted a good faith effort. Stuart's attorney replied that this could assured. The defense attorney suggested that if Stuart did not act in good faith, then they would withhold temporary disability benefits and use permanent disability benefits to pay for services rendered.9 If, however, the injured worker shows a good faith effort, then the permanent disability benefits paid would be treated as temporary disability payments and the carrier would still owe the permanent disability indemnity.

The consultant suggested that the parties resolve the matter and reach an agreement or a Decision and Order would have to be issued. Stuart's attorney stated that if the compromise just stated is the Decision and Order, then this would be acceptable. The consultant remarked that if she was forced to issue a Decision and Order, then it may be something other than what had just been discussed. Stuart's attorney asked what other possibilities the consultant was considering, a question consultant evaded. Stuart's the mentioned that the parties are very close to agreement. The consultant stressed that purpose of the the conference was to arrive at a mediated settlement.

Stuart's attorney stated that he would go along with temporary disability benefits retroactive to March 26 which would be dependent on Stuart's being successful in finding a job. The defense attorney replied that this was asking for too much. He continued by saying that this was not what the original contract had called for. Stuart's attorney, according to the defense attorney, was asking for two months of retroactive temporary disability. The applicant attorney responded

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that it was not quite two months and in any event, according to the compromise, it will not cost the defense anything if Stuart is unsuccessful. (The defense attorney suggested that the participants take a break and confer with their clients. The break lasted approximately five minutes during which time the consultant and counselor remained in the room.)

Upon return, the defense attorney stated that the temporary disability had been paid through March 22, therefore, he would be agreeable to paying these benefits from March 23 to May 20. The applicant's attorney asked about the benefits from May 20 forward. The consultant asked if 45-days of placement with 30-days of on-the-job training seemed reasonable. The insurance representative suggested that the 30-days be on a wage-loss basis if a job is found. The consultant agreed that this should be the case.

The consultant summarized the agreement. Temporary disability would be paid for 45-days of job placement assistance if the injured worker is successful in finding a job. If Stuart is not successful, then the temporary disability paid during that period will be disability considered permanent advances. as Furthermore, if Stuart is successful in finding a job, 30-days of on-the-job training wold be provided on a The consultant indicated that a wage-loss basis. memorandum of agreed resolution would be issued, hence no Decision and Order.

# Stage 7. Program Completion

This stage terminates the vocational rehabilitation claim and counseling process. It results in the disabled worker's 1) finding employment in the

occupation for which he was rehabilitated; 2) finding employment in an occupation for which he was not rehabilitated; or 3) remaining unemployed even though a vocational rehabilitation plan had been completed.

While the first outcome is clear enough, the others require some explanation. Most rehabilitation plans contain a job placement phase designed to find a job suitable for the vocational objective of the disabled During this phase, a disabled worker may find employment that is in a vocation for which he was not rehabilitated. Ιf this occurs. when the employer/insurer asks for such and the disabled worker does not object, the Bureau issues a Decision and Order closing the case.

A disabled worker who fails to find employment by of the job placement phase faces The first is that the Bureau possibilities. determine that an extension of the placement phase is In this event, the employer/insurer may reasonable. voluntarily provide, or may be ordered to provide, these additional services. The second possibility is that the employer/insurer may ask that the case be stating that a reasonable attempt had been made to secure employment for the disabled worker. If the Bureau agrees, then the case is closed, the file that disabled worker indicating the completed approved rehabilitation plan but remains unemployed.

The claim process contains two microprocesses - the counseling process and the dispute resolution process - which come together in the setting of the Rehabiltation Bureau case conference. I have identified seven stages to the claim process: 1. Initiation of the Claim Process (date of injury), 2. Determination of Bureau

Jurisdiction, 3. Bureau Determination of Oualified Injured Worker Status; 4. Plan Development; 5. Plan Approval/Disapproval; 6. Program Implmentation; and 7. Program Completion. Within my descriptions of stages 3 through 6, case conference examples were presented which illustrate the dispute resolution process for contested issues arising in the claim process. These claims contained contested issues for which no resolution was achieved in the service delivery domain. Subsequently, a resolution was sought in the administrative domain of the Rehabilitation Bureau. The resolutions I focused on concerned contested issues relating to the medical and/or vocational "feasibility" of the disabled worker.

In the flow chart presented along with descriptions outlined above, I have indicated all exit points where an injured worker's claim may stop being I have concentrated on claims where the processed. disabled worker's "feasibility" to benefit from the provision of vocational rehabilitation services has been contested and where a resolution of the issue is sought so that the claim can either proceed or terminate. Through the case conference, a resolution is sought in a bureaucratic forum situated at an adminstrative-judicial interface. These resolutions involve the application of certain feasibility criteria as a means of determining the disabled worker's ability to benefit from further services. The next chapter applies a combined social interactionist and exchange perspective understanding of the meaning and use of feasibility criteria in the claim process.

### CHAPTER FIVE

### ANALYSIS OF THE DISABLED WORKER'S REHABILITATION ROLE

## Introduction

chapter, I concentrate on In this how Vocational Rehabilitation System defines who Qualified Injured Worker. In addition, I explore how a resulting rehabilitation role operationalizing this definition is imposed on claimants for vocational rehabilitation services. The focus of the research was primarily on the criteria used in determining an injured worker's qualified status, an inquiry initiated in Stage Three of the claim process. The analysis aims to provide a combined interactionist and social exchange perspective of the relationship among the vocational rehabilitation role, the interactional context of which it is a part, and the criteria used to define the eligibility and feasibility of a disabled worker for receiving vocational rehabilitation services.

As described in the previous chapter, aspects of the two criteria used to determine QIW status include: the injured worker's physical ability and limitations, his motivation for actively participating, and his cooperation in doing so. These criteria are used to determine whether an injured worker is eligible to receive vocational benefits. These same criteria are continuously reapplied in subsequent stages of the claim process. Their reapplication is for the purpose of

assessing the disabled worker's feasibility or his ability to benefit from the provision of vocational rehabilitation services. The effect of this reapplication is to define certain requirements for the disabled worker being vocationally rehabilitated, and thus, to create for the disabled worker a socially defined transition role linking the sick role to the rehabilitated role of disabled worker. This transition role is the disabled worker's vocational rehabilitation role.

The significance of applying feasibility criteria in addition to eligibility criteria is that sometimes there is an elimination of an otherwise eligible disabled worker from vocational rehabilitation because he was determined by rehabilitation functionaries to be unable to benefit from the provision of rehabilitation services. A disabled worker so determined is said to be "infeasible." Α determination of infeasibility terminates an employer's/insurer's liability to continue to provide vocational rehabilitation services. important is the fact that the disabled worker's access to vocational rehabilitation services is denied, despite his legal eligibility to receive those services. the most part, conflict in the vocational rehabilitation system centers on the disjunction between the disabled worker's right to receive benefits/services and his ability to exercise this right.

A knowledge of the nature of feasibility criteria, i.e., what they are, how they are defined, and why they are so defined, is important to an understanding of the California Vocational Rehabilitation System as it operates in the San Francisco and Oakland districts. Conflict is used both as a methodological and theoretical tool for achieving this understanding.

### Role Definition

analysis seeks to explain how vocational rehabilitation functionaries have influenced the defining of the disabled worker's vocational rehabilitation role. Critical to this analysis is a consideration of the criteria which determine who is a injured worker. qualified These are treated resources which must be exchanged by the disabled worker in return for the provision of vocational rehabilitation In addition, the disabled worker the vocational rehabilitation throughout process, maintain his motivation, cooperation, and participation in order to continue to receive rehabilitation services. Consequently, some of the criteria used to determine eligibility motivation, cooperation, (e.g., participation), have become obligations associated with the disabled worker's rehabilitation role.

The ongoing assessment by rehablitation functionaries of who is able to benefit from vocational rehabilitation services acts as a sanction enforcing compliance on the part of the disabled worker to meet his vocational rehabilitation role obligations. critical question posed by my research is how the social organization and culture οf the Vocational Rehabilitation System have influenced the construction of the disabled worker's vocational rehabilitation role to include the above criteria.

As I shall show, the issue of who is able to benefit from vocational rehabilitation services is a multifacited one, the first among at least three basic areas of conflict facing participants in the vocational rehabilitation process in California. Disputes

concerning a disabled worker's feasibility accounted for 36 percent of all issues. Another critical and highly problematic area is the nature of a reasonable and necessary rehabilitation program. This issue category accounted for 33 percent of all issues. Both of these issue categories intimately are related to determinations of the nature and extent οf the employer's/insurer's liability to the disabled worker vis-a-vis the disabled worker's compliance to obligations of his vocational rehabilitation role.

In order to address the question posed by the research, I selected as the principal foci for the research the conflict in, and conflict resolution of, contested vocational rehabilitation claims centering around the first issue noted above. The theoretical and methodological bases for a focus on conflict are found in social interactionist and social exchange thought. The impetus for this focus stems from the work of Llewellyn and Hoebel (1941), who noted that a study of "trouble cases" is an important way of discovering and elucidating the social and cultural norms of a social system. As they point out,

it is the case of hitch or trouble that dramatizes a 'norm' or a conflict 'norms' which may have been latent. forces conscious attention; it forces the defining of issues. It colors the issues. too, they are shaped, with personalities which are in conflict, and with matters of 'face,' and with other flavors of the culture. Ιt solution,....It is one more experiment toward new and clearer or more rigorous patterning both of behavior and of

recognized and recognizable 'norm' into that peculiarly legal something one may call a 'recognized imperative' (Llewellyn and Hoebel 1941:21).

Taking conflict as both the focus and the unit of analysis, I employed a naturalistic ethnomethodological approach (cf., Garfinkel 1967; Denzin 1969) which focuses on conflict as it is dealt with in a naturally occurring interaction setting: the claim process, and in the counseling process which is a microprocess of the claim process. The Rehabiliation Bureau case conference reflects conflicts occurring in the claim process. Frequently, Bureau conferences are the only times at which all parties to a contested claim come together at the same time. It represents a critcal point in the conflict management and claim resolution processes.

The Bureau conference is itself a microprocess ocurring within the claim process which is the primary process of the Vocational Rehabilitation System. The expressed goal of a Bureau conference is the resolution of the issues and conflict created by or arising out of the disabled worker's vocational rehabilitation claim. As a microprocess and a forum specifically concerned with conflict management and conflict resolution, the Bureau case conference is an ideal forum for the study of the structural, processual, and cultural features of the Vocational Rehabilitation System.

Here, I am following Turner's definition of conflict as, "the observable efforts of parties to thwart each other's access to scare resources, and which involves mutual awareness and contact of conflict parties with each other (1978:188)." This definition assumes inequality in access to and distribution of

scarce rehabilitation resources. Inequality, then, is taken as one basis of conflict (Nader and Todd 1978; Turner 1978).

In the service delivery domain of the California Vocational Rehabilitation System, the employer/insurer administers the provision of rehabilitation services. As an administrator, the employer/insurer has the authority and power to grant or deny the provision of these While the State Department of Rehabilitation services. or a private rehabilitation firm or counselor could distribute disabled worker would services, the without the temporary disability payment accompanies eligibility for vocational rehabilitation In addition, only the services of the State services. Department of Rehabilitation could be obtained at no Consequently, in the event that services are denied, the employer/insurer effectively thwarts the disabled worker's access to the desired services until informal either conference or formal an conference can be held to resolve the dispute. Thus, the disputed rehabilitation claim involves oppositional parties, one of whom has thwarted the other's access to scarce rehabilitation resources.

Only the Rehabilitation Bureau has the authority and power to override the employer/insurer and to demand that services be provided. The Bureau's authority was legislatively mandated; its power stems primarily from the Administrative Director's Rules and Regulations which are administratively promulgated. Consequently, the administrative domain of the Bureau encapsulates and regulates the service delivery domain which is controlled by the employer/insurer.

Dahrendorf (1958, 1959, 1961, 1967) indentifies "institutionalized authority relations" as one source of conflict. He describes "institutionalization" as the creation of imperatively coordinated associations (ICA) which represent a distiguishable organization of roles. Such an organization is "characterized by power relationships, with some clusters of roles having power to extract conformity from others" (Turner 1978:144).

the California By definition. Vocational Rehabilitation System is an ICA within which there exist three distinct but interrelated power domains. previously mentioned, in the service delivery domain, authority and the employer/insurer has the necessary to extract conformity from the disabled worker and/or the rehabilitation counselor. bureaucratic administration domain. the consultant may issue a Decision and Order to extract conformity from the employer/insurer and/or the disabled worker.

A third domain exists which has authority and power beyond the domains already mentioned. The judicial domain encapsulates and regulates both the service delivery and administrative domains. The presence of the primary antagonists' legal representatives is in anticipation of proceedings within this final domain. Because the settlement of all claims must eventually be reviewed in this power domain, conflict does not necessarily have to be present in order for a claim to enter this domain. However, for contested claims, the WCAB judge may issue a Decision extracting conformity from the employer/insurer, the disabled worker, the rehabilitation counselor, and/or the Bureau consultant.

Each of these power domains, therefore, successively incorporates the previous domain(s). succession from one domain to the next higher reflects the failure of the lower level to resolve or contain the dispute, and the escalation of the dispute to the judicial domain for final resolution. Therefore, the Vocational Rehabilitation System is a social institution characterized by three unique and interrelated power domains. These three domains occupy a social space at administrative-judical interface where disputed claims are resolved.

others, Lockwood (1958) has posited Among mechanisms for operationalizing sources of conflict. These include: 1) power differentials, 2) existence of scarce resources, and 3) different goals of the various groups involved in the conflict. Implicit in my consideration of these mechanisms is that power, resources, and goals are imputed with meanings and values. That is to say, meanings and values help to In this study, I concentrated on the define conflict. institutionalization (involving both the defining and operationalizing) of the vocational rehabilitation role of the industrially injured worker and the influence of some of the values and meanings of rehabilitation professionals on this process. An explanation of the nature of this process is sought in a theoretical framework which synthesizes theories concerned with understanding face-to-face interaction: social interactionism and social exchange.

# The Social Interactionist Perspective

Social role and typification, i.e., the process of categorizing situations and persons on the basis of socially shared definitions and meanings, have been used

by Natanson (1970, 1974) for an analysis of intersubjective consciousness. This approach has led to an understanding of behavior through subjective meanings and definitions of interaction situations (e.g., Thomas and Thomas 1928; Mead 1920, 1934). Berger and Luckmann (1966) have focused their attention on Schutz's concept of typification. They view social institutions as sets reciprocal typifications of patterned which are legitimized by being grounded in more encompassing schemes of meaning. Such legitimations stablize the social organization of society.

The vocational rehabilitation role of the disabled worker is a typification reflecting the intersubjective shared meanings consciousness or of rehabilitation functionaries as to appropriate rehabilitative behavior. This typification is influenced by the work values of rehabilitation functionaries. For example, the value of effort-optimism implies that the more effort individual puts into realizing his goal(s), the more optimism he should have that the goal(s) will realized. The criteria of motivation and participation associated with the vocational rehabilitation role are reflected in this value of effort-optimism.

The intersubjectiveness of these criteria meanings associated with the value of effort-optimism is established through the everyday face-to-face interaction among rehabilitation functionaries occurring the vocational rehabilitation process. legitimacy of associating these meanings with effort-optimism and then applying them to the vocational rehabilitation role stems from their objectification in social exchange. It is here that they first become associated with one another through the interaction of the reciprocal roles of the rehabilitation functionaries.

Concerning the definition of the disabled worker's vocational rehabilitation role, rehabilitation functionaries have personal conceptions of the rights and duties to be associated with this role. These conceptions are formulated and altered through the interaction of each individual functionary's personal beliefs about the attitudes and beliefs he would exhibit if he were being vocationally rehabilitated and the beliefs about what other functionaries would expect of him (e.g., Mead 1934).

Each new modification is then negotiated in the interaction by the social actors involved. In other words, a common definition of the interaction is established by the actors (Thomas and Thomas 1928). A modification becomes part of the general pattern of social attitudes and behaviors (norms) when a consensus on the modification's legitimacy for the social situation involved is reached by the social actors (Mead 1934; Blumer 1969, 1970; Thomas and Thomas 1928; Strauss 1977).

Each rehabilitation functionary's conception of the appropriate rehabilitative role is tested against every functionary's conception. This testing accomplished in the everyday interaction concerned with providing vocational rehabilitation services. be seen in the consensus among rehabilitation functionaries displayed in the Rehabilitation Bureau case conferences presented in the previous chapter. example, both Kevin and Eduardo failed to meet one important requirement of the rehabilitation role:

participation. Where Eduardo's failure to participate was attributed to his lack of cooperation and his physical ability to meet the requirements of the role, Kevin's was attributed first to a lack of cooperation and motivation and then to an "acceptable" conflict of roles, i.e., a sense of responsibility to his family vs. his responsibility to vocational rehabilitation. Consequently, consensus on the legitimacy of the role requirements associated with appropriate rehabilitative attitudes and behaviors is framed in terms of the purpose of the provision of rehabilitation services and qoals, aims. and strategies of the functionaries toward satisfying this purpose, as well as the perceived goals, aims, and strategies of the disabled worker.

Kuhn (1964) has pointed out that a controversy exists over the determinancy vs. indeterminancy of Mead's view of the relationship between the individual's self and social structure. The process described above may give the appearance of indeterminancy. However, Mead did not ignore the structural aspects of society, but considered them only inasmuchas they influence the process of interpretation and definition in social action. In other words, social structure does not determine social action (Blumer 1970; Timasheff and Theodorson 1976), but merely sets the parameters within which action may occur.

Symbolic interactionists focus on the emergence and modification of the social order through social action and see symbols and common meanings as the link between the individual and social structure (Denzin 1969). However, the symbolic interactionists (from Mead's influence) do not limit the existence of common perceptions of the world just to those created in the

interaction situation. They believe in the existence of common perceptions internalized as a result of being a member of society, i.e., socialization (Mead 1934; Denzin 1969; Blumer 1970; Desmonde 1970; Timasheff and Theodorson 1976). Unfortunately, as Denzin (1969) has suggested, the approach does not clearly indicate the origin of meanings and definitions (cf., Singlemann 1972; see, for example, Braroe 1975, Berreman 1962; McPartland, Cumming, and Garretson 1961). This remains problematic in my analysis.

## The Social Exchange Perspective

The perspective of social exchange is adequately summarized by Schneider when he states that it is,

a view of behavior as relating available desired ends. The means to exchanger desires to obtain the highest profit or utility from social and material In order to do so he must relate means. whatever he has means to end...(1974:156).

To give a better understanding of social exchange as it occurs in the Vocational Rehabilitation System, four concepts currently associated with social exchange are These are 1) rationality, 2) resources, 3) power, and 4) social behavior as exchange. The concept of power, though not mentioned in Schneider's summary, has recently been considered an important component of social exchange (e.g., Emerson 1962; Blau 1964). Since, Blau has noted, social exchange involves as the management of power.

Power influences the social exchanger's access to social and material resources, and thus, the degree of profit or utility the exchanger achieves. The disabled worker's access to vocational rehabilitation services is in terms of the power exerted bv employer/insurer who controls the payments for delivery of such services. For example, the employer/insurer controlling Mabel's services was seeking to deny them on the basis that Mabel was not medically eligible for vocational rehabilitation benefits. Consequently, the employer/insurer denied Mabel's claim to proceed beyond Stage Three of the claim process.

Mabel's Bureau case conference was convened for an administrative hearing of the issue. Movement of the disputed issue to the Rehabilitation Bureau was the only means available to Mabel for maintaining access to vocational rehabilitation benefits. An examination of the concept of power and its distribution Vocational Rehabilitation System provides a understanding of its use in the social exchange concerned with obtaining services. First, however, an understanding of the concept of rationality as a guide for, and the resources controlled by, the expression of power is necessary to my analysis.

Rationality. Weber (1947) distinguished four bases for decision-making. These are: 1) tradition, 2) emotion, 3) rational assessment of means and ends, and 4) assessment of means without considering ends. The concept of decision-making in social exchange is expressed in terms of the notion of rational choice. Rational choice involves the exchange of values in social behavior and follows certain decision rules (Meeker (1971). According to Meeker, rationality is

composed of four such rules. They are: reciprocity, altruism, status consistency, and competition.

First and foremost, as Heath (1976) points out, rationality is concerned with means to an end and not the end only. Earlier and in contrast to Heath's position, Meeker (1971) suggested that only reciprocity is concerned with means while the other decision rules are concerned with ends.

The choosing of means has been expressed in the form of two theories of rational choice. The first is known as the theory of riskless choice, and the second is a theory of risky choices. In situations that involve risk, the individual will choose the means with the greatest expected utility over the means which will yield the greater expected value.

regard to vocational rehabilitation, employer's/insurer's greatest expected utility comes from providing just enough services to satisfy its legal liability. addition, when the total claim In settled, the monetary value of the claim can decreased relative to the work capacity achieved by the disabled worker through the provision of those services. The disabled worker's greatest expected utility is to rehabilitation vocational services either to maximize his employability, or if this is limited by the employer/insurer, to document decreased employability in order to increase the value of the total claim when it is settled.

For Mabel, the employer/insurer was limiting its liability by denying that Mabel was physically precluded from returning to her job as a bottomer, and that given the absence of the bottomer job, her present job as a consumer consisted of different physical requirements. Therefore, the employer/insurer maintained that Mabel did not qualify for vocational rehabilitation benefits.

In the other conference examples, the disabled workers' eligibility for services had already been established, and instead, participants disputed the issue of the disabled workers' ability to benefit from the provision of services. In these cases. the employer/insurer stops services (one category resources) until the disabled worker agrees to meet "feasibility" criteria (another category of resources). The conditions under which these resources were to to be exchanged were addressed in the dispute resolution process.

Resources. The resources involved in social exchange have been described as material as well as nonmaterial, i.e.. social or symbolic (Foa Schneider 1974; Timasheff and Theodorson 1976). material and nonmaterial resources are exchanged in the Vocational Rehabilitation System. For rehabilitation services and monetary maintenance (both are material resources) are exchanged for the disabled worker's participation and cooperation in. and motivation toward, vocational rehabilitation (all are nonmaterial resources). Eduardo was required exchange his cooperation in considering vocational of his objectives irrespective interests expectations for the provision of further vocational Kevin, however, declined to rehabllitation services. exchange his participation for the delivery of further services because he felt he could not afford participate. For Kevin and as seen in his conference, of vocational rehablitation the expected utility services did not outweigh the expected utility of other means toward rehabilitaton, i.e., re-employment through the assistance of friends and relatives.

The concept of power is currently an important element for understanding social exchange. has been variously stated that power expresses itself through social relations (Bierstedt 1950; Emerson 1962). specifically, linked More Emerson has power dependency in social relations by suggesting that power rests in the dependency of one actor on another, but never as an attribute of any one actor. Therefore, the concept of power in social exchange appears in the form differential access to means (e.q., rehabilitation role) and control of resources among social actors (e.q. the development and operationalization of feasibility criteria).

What, then, is power? Unfortunately, the concept has never been adequately defined. Bierstedt (1950) attempted to define it in terms of a synthesis of coercion and authority while holding that power is either force authority. expressed as or distinction between what power is it is and how expressed suggests the existence of types of power. addition, there is an implication that certain types of power may be more legitimate than others by virtue of their authentication.

Generically, power could be thought of as potentiality: latent, "stored," unexpressed. The potential power of each social actor can be defined in terms of the resources controlled by that actor. The source of power is the dependence relationship created by the control of resources by one actor vis-a-vis another. This dependency relationship creates scarcity situation through the unequal distribution of subordination of the legitimacy of one domain's control of resources by another domain via socially sanctioned structural arrangements.

The first power domain in the Vocational Rehabilitation System is that of service delivery. Borrowing from developments in the area of coalition formation (e.g., Styker and Psathas 1960; Kelley and Arrowood 1960; Gamson 1961; Caplow 1968), this domain consists of three primary social actors: the insurance representative, the rehabilitation counselor, and the disabled worker. The relationship among these players is continuous for the life of the rehabilitation claim. The power distribution among these social actors is such that the insurance representative's power is greater than that of the counselor, which in turn is greater than that of the disabled worker. In addition, the power of the insurance carrier is greater than the combined power of the counselor and the disabled worker. For example, even if a counselor and a disabled worker a proposed rehabilitation plan, employer/insurer representative can refuse to pay for implementation of the plan which delays commencement of the plan until a Bureau decision on the matter can be obtained.

In the event of conflict concerning the feasibility of the disabled worker to benefit from services, the counseling relationship may be used to encourage the disabled worker's compliance to his role obligations. This may take the form of attempting to socialize the disabled worker to what is considered appropriate rehabilitative behavior. Therefore, the counselor may disabled that explain to the worker his active participation in the rehabilitation process is essential to the continuation of that process. In addition, the

resources. Power is expressed through exchange of scarce resources either by denying or controlling the exchange.

Social Behavior As Exchange. The concept of social behavior as exchange concentrates not on the normative aspects of behavior, but rather on pragmatic ones (Bailey 1969). Therefore, this theoretical approach to the study of the Vocational Rehabilitation System complements the study's concern with social process and face-to-face interaction.

Exploring the relationship between the individual and society, some researchers have suggested that, on a micro-level, societal structures emerge from social interaction (Blau 1964; Timasheff and Theodorson 1976; cf., Homans 1964, 1974). This interaction involves complex networks of direct and indirect reciprocal The vocational rehabilitation exchange relationships. role of the disabled worker has emerged and been defined the direct and indirect social exchanges through involved in the Vocational Rehabilitation System.

The institutionalized authority relations of the Vocational Rehabilitation System in conjunction with the pragmatic management of power by rehabilitation functionaries have influenced and legitimated vocational rehabilitaton role of the disabled worker. The notion of authority in relationship to the concept of potential expressed power and suggests possibility of power domains. Power domains contain authority structures with potential vested Pragmatically, expressed power occurs within and between power domains and influences the social relations and exchanges within the domains involved. In terms of domains, an additional expression of power is the

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disabled worker may be informed that his motivation and cooperation in moving toward the selection of a vocational objective and then realizing that objective will also be required and should occur in an unimpeded manner.

Socialization facilitated through may be coordinated communications to the disabled worker representative legal and/or through his through face-to-face interaction at an informal case conference. This strategy is designed to display for the disabled worker the concensual nature of the exceptions. Presumably, if the worker's own representative confirms that he must meet certain expectations, then the disabled worker will be more likely to meet them.

The mediated and quasi-adjudicative resolutions of conflicts originating in the service domain serve to confirm and legitimize the basis of the conflicts, i.e., that certain role obligations must be met for service delivery to be re-instated. When compliance is not forthcoming, the insurance representative and counselor may support a suspension of services until such time as the disabled worker complies. This action generally terminates all vocational rehabilitation benefits, but not the exchange relationship. The exchange relationship cannot be terminated until the insurance carrier has fulfilled its obligation to provide services as legislatively mandated.

When the insurance representative defaults in meeting role obligations or reacts to the disabled worker's default, a termination of the exchange relationship in the service delivery domain results. Termination or threat of termination will generally lead to a shift in power domains. The shift is initiated by

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the failure of a disputed issue to be resolved in a given power domain. The purpose of the shift is to move the dispute to the next higher power domain for resolution. This shift, then, is from the service delivery domain to the administrative domain. The shift is not preferred by the insurance representative because of the loss of authority and power to the Rehabilitation Bureau consultant, and subsequently, the control and manipulation of rehabilitation resources (and finally to the judicial domain).

However, the loss of authority and power to the consultant in what amounts to an episodic situation, i.e., the case conference, is preferable to forming a coalition with the disabled worker. Such a coalition would legitimize the disabled worker's position of non-compliance and challenge the role expectations of the rehabilitative role. The result would be undermining of the insurance representative's power in the continuous exchange relationship. A loss of power in an episodic exchange relationship is preferable to a loss of power in a continuous one. This is especially true when the loss of power can be framed in terms of yielding to a higher authority which happens to be guided by many of the same professional values, and system factors as the insurance representative.

The amount of power one part has vis-a-vis another in a dependence relationship is determined primarily by the alternative means open to the dependent party (Blau 1964; Heath 1976). Heath operationalizes this conception of power in social exchange when he states,

we have to know about the alternatives open to men and their valuation of them and we can then make predictions about the

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consequential rate of exchange. But we do not actually need to measure power itself directly (1976:25-26).

Access to, and control of, scarce resources is the basis of dependence relationships. So, the more one party needs certain resources and the fewer the alternatives for obtaining or substituting the needed resources, the more power the controller of the resources has vis-a-vis the "needy" party.

Eduardo and Stuart acquiesed to the requirements of the vocational rehabilitation role imposed on them. Whether this was because they did not have or did not envision alternative means to become re-employed, or for some other reason, the result was that they agreed to meet the obligations of the role as outlined for them. Kevin, on the other hand, planned to use friends and/or relatives for assistance in becoming re-employed. Consequently, he exited the system even though he was eligible to receive services, because he felt he could not meet the obligations of the role as outlined and because he had other alternatives available to him. of Eduardo and Stuart, the requirements the rehabilitation role were specified and imposed exchange for the receipt of further rehabilitation services.

The power and authority of the administrative domain served to legitimize the obligations of the disabled worker in all the case examples. By re-enforcing the expectations of other rehabilitation functionaries concerning the disabled worker's obligation to cooperate and participate in, and be motivated toward, vocational rehabilitation, the Bureau consultant legitimizes these expectations.

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One consequence of the legitimations of administrative domain is the influence they have on the counseling process, and subsequently, the socialization of disabled workers to the Vocational Rehabilitation It becomes encumbent upon the disabled worker to decide whether or not to accept responsibility for the obligations of his vocational rehabilitation role. If the disabled worker accepts, then services are forthcoming although they may be coupled with additional conditions specific to the particular claim in question. For example, Eduardo's services were continued but with the condition that he would receive permanent disability payments during his evaluation instead of the customary temporary disability payments. If the disabled worker rejects his obligations, then services are denied on the basis of the disabled worker's "infeasibility," i.e., inability to benefit from the provision vocational rehabilitation services. Infeasibility, therefore, takes precedence over a disabled worker's eligibility for services. The result is that the disabled worker's right to vocational rehabilitation services is denied.

## CONCLUSION

The vocational rehabilitation role of the disabled worker is an institutionalized one which serves to reactivate the social role obligations of the injured worker. These obligations had been suspended during the sick role resulting from the industrial injury. Therefore, it is a socially constructed transition role with a focus on forcing the injured worker to cope with the permanancy of a partial disability and reactivating his primary social role obligation: to work.

Rehabilitation functionaries influence the defining of the vocational rehabilitation role and the disabled worker's adoption of this role via control manipulation of rehabilitation resources exchanged during the rehabilitation process. The control and manipulation of resources in a system situated at an administrative-judical interface and operating adversarial mode tends to generate conflict. For example, feasibility criteria represent resources deemed necessary to an injured worker for the purpose of initiating an appropriate rehabilitative role. of these criteria limit imposition vocational rehabilitation claims by establishing parameters on who considered an appropriate vocational rehabilitation candidate. By appropriate, it is meant able who is to benefit from the provision rehabilitation services and who is willing to acquiesce to the role requirements imposed.

Feasibility criteria, however, not only serve to screen disabled workers, but also serve as a template socializing the disabled worker to the socially shared meanings of rehabilitation functionaries as to what constitutes an appropriate work role. In part, this template reflects the professional work values of the rehabilitation functionaries. Disabled workers who resist socialization, decide against meeting or are unable to meet the obligations of the vocational rehabilitation role imposed on them, are determined to be infeasible for the purpose of benefiting from the provision of vocational rehabilitation services. Consequently, disabled workers who have been determined to be eligible for services are denied services because of the imposition of socially defined obligations of the vocational rehabilitation role. These obligations

reflect the professional work values of the rehabilitation functionaries who impose them on the disabled worker.

### **FOOTNOTES**

- 1. See for example, several excellent summaries of the essential elements of models and existing systems, by Larson 1963; Blain 1974; Ross 1979; and U.S. Chamber of Commerce selected annual editions.
- A story does exist in the popular sector, however, 2. about the signing of this legislation into law. relates that in the closing days of Governor Ronald Reagan's Administration, two stacks of bills were presented to the Governor for his signature. stack consisted of bills to be approved and the other one was bills to be vetoed. By clerical of oversight or some other form "Divine" intervention, Labor Code 139.5 was signed into law when the governor had intended to veto it.
- 3. A "sprain" refers to the stretching or tearing of ligaments and a "strain" means the stretching or tearing of a muscle or its tendon However, on the basis of the information provided in the medical records of most cases, little or no distinction was made between these, and the injury was most often diagnosed as "sprain/strain."
- 4. (See also, Maine 1861, Weber 1947, and Pareto 1966.)
- 5. A statute of limitations for applying for the benefit goes into effect January 1, 1983. The limitation specifies that an injured worker must apply for benefits within one year of the last finding of permanent disability by the WCAB or from

the date of the WCAB approval of a compromise and release of other issues.

- 6. Temporary disability is a weekly maintenance benefit paid directly to the injured worker. The maximum benefit is currently \$175 per week. As of January 1, 1983, the maximum will be \$194 per week, and then on January 1, 1984, the maximum will again increase to \$224 per week.
- 7. A Bottomer inspects paper bags coming off a conveyor belt. He ensures that the bottom of each sack has been glued and folded. The Bottomer also stacks bundles of paper bags on a pallet for delivery to the shipping department.
- 8. A Consumer feeds materials into the machine which folds the bottom of the sack. He is responsible for keeping the machine and the conveyor belt operating.
- 9. Temporary disability is a maintenance benefit paid at the current maximum rate of \$175 per week. effect, the benefit represents approximately 66-2/3 percent of average weekly wage in California. benefit is paid throughout the injured worker's physical and vocational rehabilitation. Permanent disability is paid at the current maximum rate of \$70 per week for a specified period. This period is determined by the injured worker's disability rating which is a measure of his loss of work capacity. An injured worker who has no permanent disability as a result of his work injury would receive no permanent disability award though he would receive temporary disability during his period of physical rehabilitation. For Stuart, the

payment of permanent disability instead of temporary disability during the remainder of his vocational rehabilitation represents an overall monetary loss unless he successfully meets the conditions imposed on him.

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### APPENDIX 1

#### INTERVIEW SCHEDULE FOR PROFESSIONALS

- What kinds of factors or situations precipitate a need for a Rehabilitation Bureau case conference? (Probe: for example, termination of benefits)
- Who most often requests that a conference be held? Are they generally justified in making such a request? How so?
- 3) What reasons might prompt you to ask for a conference?
- 4) How long does it usually take from when a conference is requested to when it takes place? Is this a reasonable period of time? (Probe: If yes, why? If not, why not?)
- 5) How long does a conference usually last?
- 6) How often are conferences changed or cancelled? For what reasons are conferences changed or cancelled? What affect does this have on the case?
- 7) What are the issues that most often need to be resolved in the conference?
- How would you characterize the fairness of conference proceedings?

  (Probes: Are conference procedures consistent across claimants and over time? Across Bureau consultants?

  Are proceedings influenced by self-interest? On whose part and in what way?

  Do conference proceedings take place with complete and accurate information? (Probe: for example, information pertaining to the issue of conflict)
- 9) What purpose does the Bureau case conference serve? (Probe: What is the conference suppose to do? What does it actually accomplish?
- 10) Are there stages to the conference proceedings? (Probe: If so, what are they and describe them)
- 11) What types of resolutions are reached? (Probe: D&O's and what \$; agreed resolutions and what \$; others and what \$)
- 12) What is your opinion of the fairness of the conference resolutions to the parties concerned? Who most often benefits? Why? In what ways do these parties benefit?
- 13) From your experiences, describe a typical case conference. Why do you consider this to be a typical conference?
- 14) Do past conference experiences with participants affect future conferences involving those participants? (Probe: adversary relationships, personality conflicts. etc.)
- How would you characterize the rehabilitation claimant population?

  (Probe: What are their attitudes and values toward work,
  injury and disability, and rehabilitation?)

- 16) How would you characterize the professionals who come into contact with these claimants? (Probe: like yourself what are your values and attitudes toward work, injury and disability, and rehabilitation?)
- 17) In Order of their importance to you, what factors influence the rehabilitation claim process? Do these same factors influence the claim's outcome? (Probe)
- 18) How long have you been involved professionally with the Workers' Compensation and Rehabilitation system?
- 19) When were you born?
- 20) What is your current occupation's job title and description?
- 21) More specifically, what are your duties and responsibilities in your present job?
- 22) What problems or difficulties do you associate with your job?
- 23) How might these problems or difficulties be remedied?
- 24) For what reasons might a Bureau Decision and Order be appealed?
- 25) How does the appeal process work?
- 26) How would you characterize the fairness of the appeal process?

  (Probes: Are appeal procedures consistent across claimants and over time?

  Are proceedings influenced by self-interest? On whose part and in what way?

  Do appeal proceedings take place with complete and accurate information? (Probe: for example, information pertaining to the appeal issue)
- 27) How are appeals most often resolved? What are other ways they may be resolved and explain.
- 28) Do you ever have any contact with:

  a) Rehabilitation Counselors? How often is this contact?

  For what reasons are the contacts made? What is the contact medium, that is, face-to-face, phone, letter, or some other? \$\mathscr{f}\$?
  - b) Defense lawyers?
  - c) Applicant lawyers?
  - d) Insurance representatives?
  - e) Bureau consultants?

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# STATE OF CALIFORNIA AGRICULTURE AND SERVICES AGENCY DEPARTMENT OF INDUSTRIAL RELATIONS DIVISION OF INDUSTRIAL ACCIDENTS

## WORK STATUS

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REHABILITATION BUREAU

### REQUEST FOR

Workers' Compensation REHABILITATION Benefits

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FROM		INSTRUCTIONS: The original copy of this form is to be completed — TYPED OR PRINTED — and submitted to the Robabilitation Bureau office listed below which is closest to employee's residence.  PREFIX BOURCE
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STATE OF CALIFORNIA
AGRICULTURE AND SERVICES AGENCY
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
REHABILITATION BUREAU

### VOCATIONAL REHABILITATION PLAN

NOT E	INSTRUCTIONS: The original copy of this form is to be completed - TYPED OR PRINTED - and submitted to the Robabilitation Buroow in accordance with Article 12, Rule 10006 of the Rules and Regulations of the Administrative Director, Division of Industrial Accidents.	Attach capies of all modical, psychological and vacational avaluation reports and a description of the qualifications of the rehabilitation representative(s) who proposed the plan.
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UNIVERSITY OF CALIFORNIA, SAN TRANCISCO: HUMAN AMPENYIROKMI NEA PROFECTION COMMITTEES CJ DRICS 116

Harry Todd, Ph.D. Gregg Smith Reynolds
1285 Fifteenth Avenue

RE: The Role of Social and Cultural Factors in the Processing of Vocational Rehabilitation Claims

The UCSF Committee on Human Research (an IRB holding DHHS assurance GO155) approved the above request to involve humans as research subjects.

APPROVAL NUMBER: 200905-01\* This number is a UCSF CHR number which should be used on all consent forms, correspondence and patient charts.

APPROVAL DATE: Oct. 20, 1981 Full review Expedited review XX

EXPIRATION DATE: Oct. 20, 1982

must be renewed by the expiration date. If the project is to continue it renewal will be expedited.

SUBMISSION ADDENDA: No XX or Yes . A yes indicates that there was correspondence between the Committee and the investigator during review of this submission; it does not stand unaltered.

CONDITIONS:

ADVERSE REACTIONS/COMPLICATIONS: All problems having to do with subject safety must be reported to the CHR within five working days.

MODIFICATIONS: All protocol changes involving subjects must have prior CHR approval.

LEGAL NOTICE: The University will defend and indemnify a principal investigator in legal actions arising from research activities involving humans if the activities had current CHR approval.

QUESTIONS: Please contact the Human and Environmental Protection Committees office (Erica Heath or Louise Tipton) at (415) 666-1814, room Clinics 116.

Sincerely.

James M. Lindauer, M.D.

Chairman

Committee on Human Research

CC: Contract and Grants
Drug Info and Analysis Service
\_\_\_\_ VAMC Research Office

Enc: extra copies of protocol

### CONSENT FORM FOR PROFESSIONALS

My name is Gregg Reynolds. I am a doctoral candidate in the Medical Anthropology Program of the University of California, San Francisco, and am conducting a study of the vocational rehabilitation aspect of the Workers' Compensation system. The purpose of my study is to understand how the Workers' Compensation system and vocational rehabilitation work. More specifically, I want to learn more about who file claims for vocational rehabilitation, what problems various parties associated with these claims face, and means to resolution and types of resolutions of these problems.

By agreeing to be in this study, you will be interviewed one to two times. The total time will amount to between one and two hours. The interviews will be tape-recorded, if you agree. The questions you will be asked will concern your opinions and experiences with Workers' Compensation and vocational rehabilitation, along with some basic information about you, such as, your educational and work backgrounds.

There will be no direct benefit of any kind to you from participating in this study. There may be some benefit to Workers' Compensation as a system and the vocational rehabilitation process.

The information gathered will be summarized for statistical comparison and your name will not be used or released without your written permission. In addition, the information given will remain as confidential as possible under law.

Your participation in the research is voluntary. Consequently, if for any reason you do not wish to be interviewed, you may refuse. Also, if you decide to be interviewed, your cooperation remains voluntary, and so, you may refuse to answer any question or you may stop the interview at any time, for any reason.

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