

STATE OF FLORIDA
DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY
DIVISION OF WORKERS' COMPENSATION

FILED
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ADMINISTRATIVE
HEARINGS

WILLIAM SPAULDING,

Petitioner,

vs.

DLES CASE NO. 01-003-DWC
DOAH CASE NO. 00-3302

JBC

DEPARTMENT OF LABOR AND
EMPLOYMENT SECURITY, DIVISION
OF WORKERS' COMPENSATION,
BUREAU OF REHABILITATION
AND MEDICAL SERVICES,

Respondent.

**ORDER RELINQUISHING JURISDICTION TO THE
ADMINISTRATIVE LAW JUDGE FOR CLARIFICATION**

On December 12, 2000, Administrative Law Judge Jeff B. Clark entered a Recommended Order in the above-referenced matter, denying the relief sought by the Petitioner, William Spaulding, against the Florida Department of Labor and Employment Security, Division of Workers' Compensation, Bureau of Rehabilitation and Medical Services. In reaching his determination, the Judge cited Chapter 38J-1.005(1)(a), Florida Administrative Code. While this rule may have persuasive value, the rule actually governs the Division of Vocational Rehabilitation, which is housed in the Department of Education and is a federally funded rehabilitation program. This division is completely separate and apart from the Division of Workers' Compensation, which is administered under the Florida Department of Labor and Employment Security and funded through the Workers' Compensation Administrative Trust Fund. Thus, while Chapter 38J-

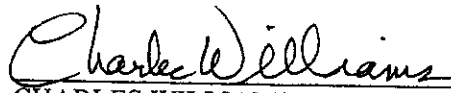
1.005(1)(a) applies to a similar program, it does not directly govern the Division of Workers' Compensation.

Chapter 38F-55 of the Florida Administrative Code governs the Reemployment Services Program of the Bureau of Rehabilitation and Medical Services, which is part of the Division of Workers' Compensation. It is unclear whether the Administrative Law Judge would have reached the same factual determination if he had not applied rule 38J-1.005(1)(a) of the Administrative Law Code. However, it would appear that chapter 38F-55.012 of the Florida Administrative Code and the evidence supports the Judge's determination.

Based upon the foregoing it is **ORDERED** that this case is relinquished to the Division of Administrative Hearings for clarification.

DONE AND ORDERED this 6th day of February, 2001, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF
LABOR AND EMPLOYMENT SECURITY



CHARLES WILLIAMS, Director
Division of Workers' Compensation

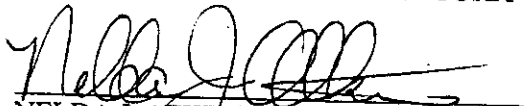
CERTIFICATE OF THE AGENCY CLERK

I HEREBY CERTIFY that the above ORDER has been filed with the Agency
Clerk of the Department of Labor and Employment Security this 06 day of February,
2001, and that a true and correct copy has been furnished on this date by U.S. mail to:

Elana J. Jones, Esquire
2012 Capital Circle, S.E.
Suite 307, Hartman Building
Tallahassee, FL 32399-2189

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STATE OF FLORIDA DEPARTMENT OF
LABOR AND EMPLOYMENT SECURITY


NELDA J. ATKINSON, Agency Clerk