

**Retro Advisory Committee
Meeting Minutes: January 14, 2014
L&I Building, Room S117**

Committee Members Present: Jan Gee, Scott Dilley, Lauren Gubbe, Trish Leimbach, Lloyd Brooks and Teran Petrina.

Committee Chair Present: Tim Smolen; **recorder:** Marnee Couthran.

Introductions – All

Tim Smolen opened the meeting at 1:09 p.m. with introductions of the Committee and others in attendance.

Safety Topic – Lloyd Brooks

Scott Dilley provided the safety message for the meeting – Don't text and walk; personal story provided.

Review Agenda – All

The Committee reviewed the agenda – no changes were suggested.

FileFast Information – Rena Shawver, Gail Richardson

Rena Shawver provided a handout/card describing how workers can e-file their Report of Accident (ROA) form when they are injured, asking the retro group for support as the department transitions from paper ROA's. Currently, 16% of all ROA's received by the department are being received through FileFast; a combination of providers and workers e-filing; reducing the claim processing by as much as five (5) days. To increase awareness fliers were sent to the employers with their rate notices this year; there are also free materials on the LNI website.

Gail Richardson, FileFast Unit Supervisor, advised that the majority of the e-ROA filers are providers and workers can file via phone or web. The web version of the ROA has a few mandatory fields and depending on the answers provided, there are more in-depth questions asked e.g. right/left handed. Once the provider portion of the accident report is received or if the provider is filing the claim, the claim is routed to the account manager to attach the risk class. They also generate and send the notice of the claim, with the employer portion of the accident report, to the employer. If the worker indicates they haven't yet sought treatment and a provider report isn't received within 30 days, the claim is rejected.

Stay at Work Update – Bill Smith, Chris Ver Eecke

The Stay at Work program staff are looking for assistance in increasing the reimbursements to employers for return to work services and would like to work with the Retro groups and their representatives. Bill Smith advised the data is now available to show how much reimbursement was claimed by employers in each Retro group; some are utilizing this benefit and others are not.

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Two handouts were provided: 1. Stay at Work Timeline and 2. Stay at Work Program – A financial incentive for Washington employers; tips for using this benefit and department contact information.

Jan advised the feedback she has heard is the paperwork was a burden, so some folks are not participating. Bill said they are taking a critical look at the application for ease and clarity – a new version should be ready in March and we anticipate the application being easier to use. Chris Ver Ecke offered individual workshops, one-on-one meetings and webinars for employers.

Upcoming Committee Vacancies – *Tim Smolen*

Tim advised that three (3) committee member's terms will expire this year –

1. April 2014, Jan Gee, Washington Food Industry Association.
2. August 2014, Lloyd Brooks, Washington Employers Inc.
3. December 2014, Trish Leimbach.

Tim asked the committee to take primary responsibility in seeking replacements and would like to balance the committee as much as possible with 6 group and 4 individual representatives. The By-Laws were provided as a handout to assist with this process. Committee member participation was clarified for all, per the By-Laws, identifying the participant as the owner/employee of an individual firm or an employee of a trade association that is currently enrolled in the retrospective rating program. The committee appreciated being involved in the process and advised it would serve the committee better if the anticipated vacancies were staggered vs. multiple in the same year.

Steve Sussman, PCI Services, offered to serve on the committee representing individual employers.

Retro Rules, Feedback – *Update by Tim Smolen*

Tim advised he wanted to provide ample opportunity for comment on the proposed rules; informal public meetings are scheduled for January 27 (Tukwila L&I office) and January 31 (Tumwater L&I office), and informed the group that we are also developing a Frequently Asked Questions (FAQ) document to be available on the L&I Retro website compiling questions we receive as we progress through the process.

Retro staff made phone calls to all individually enrolled employers and are now starting to make calls to the groups. The CR102 has not been filed, yet.

Tim informed the Committee and attendees that he had recently talked with Julia Gorton, Washington Restaurant Association (WRA), who advised they are requesting the petition related to *Individual Retro Requirements* be withdrawn. Instead of moving forward at this time with the proposal, they would like to collaborate with the department before moving forward with their proposed changes. Tim agreed that after reviewing the feedback he will meet with Julia and Teran Petrina of the WRA. There was

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consensus from the Committee to ‘unbundle’ this proposal from the other two proposals – *Common Ownership* and *Distribution of Refunds Based on Plan Choices and PAF*.

Lauren Gubbe, AGC, advised she doesn’t agree with the summary statement for *Common Ownership* and the information the department provided; the analysis is not comprehensive from their perspective and is missing information that is important for the public. She would like to meet and discuss; Tim said that he welcomes her feedback ahead of and at the public meetings. Also, he will be meeting individually with all members of the Retro Advisory Committee (RAC).

Scott Dilley advised the *Distribution of Refunds Based on Plan Choices and PAF* rule appears to be moving toward removal of the PAF; he would like to know if Oliver Wyman/Eric Hornick (consultant) provided more options or is the department set on this as the solution. Tim advised that the department is still looking for feedback and is scheduled to get more information from Eric Hornick ahead of the public meetings so that all options can be considered.

BREAK

Verify a Contractor demonstration – Todd Baker

Todd Baker introduced and demonstrated ‘Verify a Contractor’ (which replaced the ‘Look up a Contractor’ site effective December 5, 2013). The new site offers:

- a better search function.
- more useful information for the customers and plain talk.
- all employers in the worker compensation system.
- search filters — by business type, location etc.
- consolidated department information, e.g. Safety & Health information, etc.

Feedback from the committee was that this site will be helpful in educating employers, much better than the federal site. People also suggested adding a filter for industry codes e.g. agriculture, food processing, etc.

The L&I web site also features a “house icon” that directs users to ‘*ProtectMyHome*’ for home improvement projects.

Both of these websites were well received by the committee.

Committee-Sponsored Projects – Ashley Frank

Ashley gave an update on enrollment and staff status:

- Human Resources reallocated the three (3) Enrollment Coordinator positions from Customer Service Specialist – 2 to Program Specialist - 2, based on updated position descriptions.
- Retro filled two (2) Enrollment Coordinator positions; previously filled by temporary staff; hired permanently Julie Osterberg and Debbie Sanders through a competitive interview process.

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- Ashley thanked Jenn Kavanaugh, of BIAW, for participating on the hiring panel.
- October enrollment was completed within our goal time, November 7th.
- (As a handout) Enrollment Denials totals and breakdown for 2013; Ashley also shared this information at the most recent Enrollment Workgroup meeting.
- January enrollment update – access was granted to the accounts January 9th; staff have started activating Groups accounts and the reviewing initial denials; our goal for completion is mid-February.

Teran said things were going well for them.

Lauren Gubbe asked for the data for withdrawals, requested weekly account balance updates ahead of enrollment; and advised we are getting better at providing this information timely. Ashley said the account balance report is a key topic the Communications Workgroup will be addressing. Tim advised this is one of the items on our IT request list for the upcoming year; the focus is more self-service. Lauren also suggested the WISHA Right-to-Know and other debt be located in one place, suggesting a link to where the quarterly premiums are located.

Robert Mitchell, Washington Retail Association, said the enrollment staff have done an *excellent* job in educating him on Retro. And he has the impression the account managers don't understand the impacts of their work on Retro. Ashley let him know we (Retro program) are expanding our Retro 101 training and education to the account managers this year to help address the concern.

RAC Workgroup Update – with the departure of Rick Burkhalter, Ashley will now head all three workgroups.

1. Enrollment – has met twice; need to develop a 60–90 day and long-term plan.
2. Communications – first meeting scheduled for January 23rd.
3. Data – to be scheduled.

Trish and Lauren appreciated the work Ashley has done with the workgroups.

Handouts:

- Adjustment Protest data for October 2013 and January 2014.
- Retro IME Collaboration pilot.
- Enhancements to the Claims and Accounts Center (CAC).

Rule Making – part 2

Tim apologized if the documents we published came across as the department having a position. That was not our intent. He thanked the Committee members for their feedback.

Lloyd assumed these were public hearings versus discussion and Scott advised the documentation came across as a final department position versus preliminary discussion.

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Approval of 10/08/13 Minutes

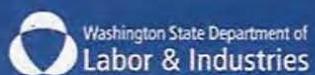
Scott Dilley approved and Teran Petrina seconded the approval of the 10/04/13 minutes.

The Committee expressed the need to receive the minutes in advance of the next meeting and within a reasonable timeframe while the meeting is still fresh in their memory. We agreed to record and document requests and wants; capture high-level meeting notes that detail commitments, assignments and estimated completion dates. The Committee also asked that action items be highlighted for them in the minutes so commitments could be more easily identified.

Meeting Adjourned – 3:20p.m.

Task	Assigned to	By When
Forward Wyman 'math' options	Tim Smolen	01/27/14
Update to FileFast website with more information regarding impacts and benefits to employers	Gail Richardson/Tim Smolen	03/31/14
Start to include 'withdrawal' numbers for each Quarterly report-out	Ashley Frank	04/08/14
List of Committee replacements for consideration	RAC Committee Members	03/31/14
Retro 101 presentations w/Account Managers	Ashley Frank	08/2014
Consolidation of debt owed to the department to one location	Ashley Frank/Communications or Data work groups	On-going
Future RAC Agendas to include list of handouts	Mark Matthies	On-going

Next meeting – April 15, 2014



Working Solutions



Stay at Work Program *A Financial Incentive for Washington Employers*



www.WorkingSolutions.Lni.wa.gov

AGENDA

Retro Advisory Committee

1:00 – 4:00 pm, Tuesday

January 14, 2014

L&I headquarters, Room S117

- Introductions All
- Safety topic Scott Dilley
- Review agenda; approval of minutes All
- Stay At Work – update Bill Smith, Chris Ver Eecke
- Upcoming committee vacancies Tim Smolen
- BREAK All
- Verify a Contractor – demonstration Todd Baker
- Committee-sponsored projects – update Ashley Frank
- Retro rules, feedback – update Tim, Jessica Nau
- Good of the order All



Stay at Work Data Sample – Retro Groups

6 Quarter Average / Totals

Average

Total

Total Hours Reported	Premium Assessed	Stay At Work Portion of Premium Assessed	Open Claims	WSAW Expense Claims	WSAW Expense Amount	WSAW Wage Reimbursement Claims	WSAW Wage Reimbursement Amount
116,192.33	114,762.70	1,556.38	9.50				
31,241.88	78,696.51	1,157.25	9.00			6	29,689.25
25,673.33	28,050.07	388.15	1.00				
126,823.00	111,407.34	1,482.06	12.83			10	42,454.05
27,136.00	22,213.37	290.68	4.33				
21,748.75	80,019.47	1,115.82	6.50	1	155.00	9	20,476.88
66,276.17	128,912.71	2,046.59	10.83			1	3,698.25
0.00	0.00	0.00	0.00				
142,279.17	161,621.65	2,124.50	15.83			8	38,064.33
59,641.50	68,251.47	899.10	14.17				
12,313.50	12,752.56	164.60	2.00				
75,075.00	101,569.93	1,431.55	11.17				
36,753.17	62,159.42	897.42	7.67			3	16,203.86
62,640.00	50,502.96	673.41	5.17			1	9,625.60
55,652.17	58,216.09	813.53	5.33			2	11,397.29

www.WorkingSolutions.Lni.wa.gov

1



Employers get money faster - when

- 1) Health care provider's written certification that the worker is unable to do usual job.
- 2) A written job description of light duty or transitional work.
- 3) Approval by the attending health care provider that the worker is physically able to perform the light duty or transitional work described.
- 4) Payroll records and Time Cards for duration of light-duty or transitional work.
- 5) Receipts for tools, clothing and instruction purchased that were necessary for the light duty or transitional work.



Application Speed Bumps & Traffic Jams

- 1) Requesting reimbursement for ineligible time period
- 2) Lack of approved Light Duty Job Description
- 3) Lack of records
 - Payroll records, time sheets/cards, salaried staff information, other employee information not redacted
- 4) Application not signed
- 5) Tools/Equipment receipts
- 6) Not including the daily wage on the reimbursement form



Department of Labor and Industries
 Insurance Services Administration
 PO Box 44291
 Olympia WA 98504-4291



Stay at Work Wage Reimbursement Application for Employers

Apply separately for expense reimbursement.

ALN1 12/2013 9:28:22 AM Pacific Standard Time

▼ Employer:

Business Name ██████████
L&I Account # ██████████

▼ Injured Worker:

Name ██████████
L&I Claim # ██████████

▼ Mail Reimbursement to:

Mailing Address Line #1 ██████████		
Mailing Address Line #2 ██████████		
City Kent	State WA	Zip Code 98089-0327

▼ Job Description Before Injury:

Example: Warehouse Worker - Produce packing

▼ Light-duty or Transitional Job Description:

Example: Inventory Control Clerk Light Duty
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▼ Apply here for reimbursement of 50% of base wages you paid for up to 66 days or \$10,000 (whichever comes first).

Hints: Don't include tips, commissions, bonuses, board housing, fuel, health care benefits, etc. See page 2 for more on base wages.

▶ I pay my worker a fixed salary. Yes No I keep track of the number of hours worked. Yes No

Hints: ██████████



hours worked each day. These records will help you complete this section. You'll also need to send copies of these records with this form. (See page 2)

Base wage for light-duty or transitional work: _____
 (See page 2 for more on base wages.) hr/day/yr/mo/other

Total # of days requested (employee actually worked light duty) 66
 Total base wage paid this period for light-duty or transitional work: \$8046.44
 50% amount you're requesting: \$4023.22

- Include only hours and wages paid for work performed.
- Don't include holiday pay, vacation pay, sick leave, or similar payments or benefits.

Hints:
 Enter dates, # of hours, and total daily wage paid for each day's work.
Example:
 8 hrs x \$11/hr = \$88.00 total daily wage
 Don't apply for the date of injury as it is not reimbursable.
 You must apply within one year of the date the work was performed.

Date	# Hrs	Total Daily Wage	Date	# Hrs	Total Daily Wage	Date	# Hrs	Total Daily Wage
9/27/13	2.67	48.79	8/15/13	7.98	135.66	9/30/13	8	136.00
8/16/13	8	136.00	10/1/13	8	136.00	8/19/13	5.5	93.50
10/2/13	8	136.00	8/20/13	7.97	135.48	10/3/13	8	136.00
8/21/13	7.98	135.66	10/4/13	6.3	107.10	8/22/13	6.38	108.46
10/7/13	7.98	135.66	8/23/13	8	136.00	10/6/13	8	136.00
8/28/13	5.5	93.50	10/9/13	7.92	134.64	8/27/13	8	136.00
10/10/13	7.78	132.28	8/28/13	2.27	38.59	10/11/13	6.12	104.04
8/29/13	4.5	76.50	10/14/13	8	136.00	8/30/13	8	136.00
10/15/13	7.98	135.66	9/2/13	5.5	93.50	10/16/13	8	136.00
9/3/13	8	136.00	10/17/13	7.98	135.66	10/18/13	4.3	73.10
10/21/13	8	136.00	10/22/13	8	136.00	10/23/13	7.98	135.66

▼ Sign below to confirm the information on this form is true and accurate. Important: Attach required documents listed on page 2.

Signature 	Printed Name and Title
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Where to find more information about the Stay at Work Program?

- Our website at:
www.stayatwork.Lni.wa.gov
- E-mail the Stay at Work Unit at:
stayatwork@Lni.wa.gov
- Call the Stay at Work Unit at: **1-866-406-2482** or **360-902-4411**



Thank you for your interest!

- **Call or E-mail:**

- Bill Smith, MS, MBA, CRC - Program Manager
william.smith2@Lni.wa.gov 360-902-4748

- Christopher Ver Eecke, M.Ed, CRC, CCM, CDMS
Vocational Outreach 360-902-4419
christopher.vereecke@Lni.wa.gov

STAY AT WORK TIMELINE



- **Legislature amended RCW 51.32.090 to establish Stay at Work Program**

- **Published *The Complete Stay at Work Guide for Employers***

- **L&I Stay at Work website posted to the Internet**

- **Received first reimbursement request**

- **Processed first payment**

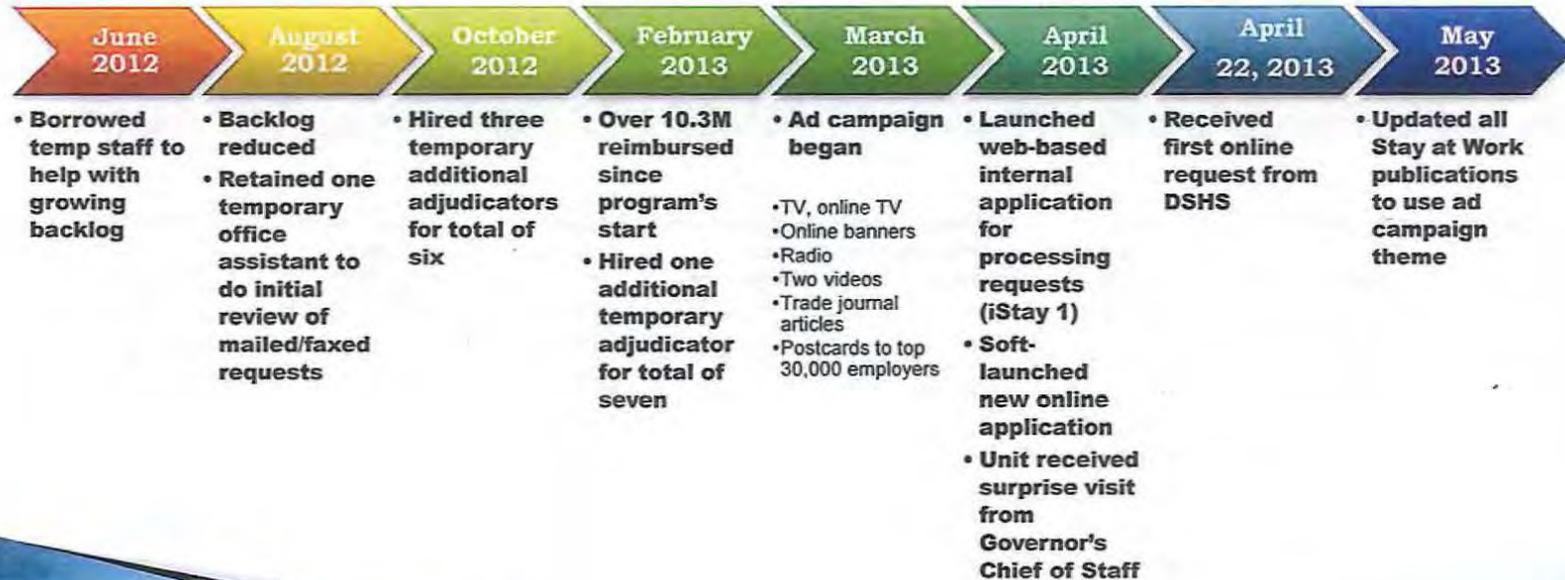
- **Public Hearings on proposed Stay at Work rules**

- Tumwater 1/10/2012
- Spokane 1/12/2012
- Shoreline 1/17/2012
- Vancouver 3/6/2012

- **Cumulative total of \$1M in employer reimbursements**

- **Effective date of new Stay at Work rules - WAC 296-16A**

STAY AT WORK TIMELINE



STAY AT WORK TIMELINE



- **Over 15.6M** reimbursed since program's start
- **Added a unit supervisor**
- **Temporary staff time-limit ended; hired permanent staff to replace temporary positions**
- **Over 2,300 employers** received over **18.5M** to keep over **7,900** workers on light duty and receiving wages

Name Organization	Mailing Address City, State	Voice Fax	E-mail Address
Lloyd Brooks Washington Employers Inc <i>Term expires August 2014.</i>	PO Box 3827 Kent, WA 98089-0327	206-664-7280 FAX 206-664-7281	Lbrooks@wa-emp.com
Scott Dilley Washington State Farm Bureau <i>Term expires April 2017.</i>	PO Box 8690 Lacey, WA 98509-8690	360-357-9755 FAX 360-705-0419	sdilley@wsfb.com
Jan Gee Washington Food Industry Association <i>Term expires April 2014.</i>	PO Box 706 Olympia, WA 98507-0706	253-209-5079 FAX 206-338-2714	jangee@wa-food-ind.org
Lauren Gubbe Associated General Contractors <i>Term expires October 2017.</i>	PO Box 12629 Olympia, WA 98508-2629	360-280-0135 FAX 360-943-1032	Lgubbe@agcretro.com
Trish Leimbach Vigilant <i>Term expires December 2014.</i>	6003 23rd Dr W Ste 200 Everett, WA 98203-1583	425-349-4477 FAX 425-349-4479	trishL@vigilant.org
Teran Petrina Washington Restaurant Association <i>Term expires April 2017.</i>	510 Plum St SE Ste 200 Olympia, WA 98501-1587	800-225-7166 FAX 360-357-9232	teranp@warestaurant.org
Tim Smolen (Chair) Department of Labor and Industries <i>Permanent member.</i>	PO Box 44180 Olympia, WA 98501-4180	360-902-4835 FAX 360-902-4258	tim.smolen@Lni.wa.gov

BY-LAWS OF THE RETRO ADVISORY COMMITTEE

ARTICLE I Name

The name of this Committee shall be the Retro Advisory Committee.

ARTICLE II Purpose

The purpose of this Committee shall be to provide input to the Department of Labor and Industries in the policy rules applicable to retrospective rating administration and procedures for effectively operating the retrospective rating program. The members receive no compensation for their work. Motivation for participating in the committee stems from the desire to shape the Retrospective Rating systems policies in a fashion most beneficial to business. The Committee operates in an advisory capacity only. Suggestions or actions of this Committee are intended to keep the Director of Labor and Industries informed as to the possible affects the Retrospective Rating policies will have on business.

ARTICLE III Members

- Section 1.** The director or his/her designee shall appoint a Retro Advisory Committee composed of eleven members: Four members shall be owners of or employees of firms that are enrolled individually in the retrospective rating program; six members shall be employees of trade associations enrolled in the retrospective rating program, and one ex officio member, without a vote, whom shall be an employee of the Department. The member representing the Department shall be chairman.
- Section 2.** Individuals shall be eligible to membership on the Retro Advisory Committee provided that such person is an owner/employee of an individual firm or an employee of a trade association that is currently enrolled in the retrospective rating program. The chairman will provide the Committee with a list of owners/employees from individually enrolled employers or employees of trade associations who are interested in serving on the Committee, along with recommendations to the Committee for their review. The director, or his/her designee, shall appoint replacement representatives from the original list of names, as well as the recommendations of the Retro Advisory Committee.

ARTICLE IV Term of Membership

- Section 1.** Appointees representing individual employers. Two of the initial appointees representing individual employers shall serve three year terms. One shall serve a two year term and one shall serve a one year term.

Thereafter, all individual employer members shall serve a two year term or until their successor is appointed. The term of membership shall begin at the close of the meeting at which they are appointed.

Appointees representing associations. Two of the initial appointees representing associations shall serve three year terms, two shall serve a two year term and two shall serve a one year term.

Thereafter, all association members shall serve a five year term or until their successor is appointed. The term of membership shall begin at the close of the meeting at which they are appointed.

- Section 2.** Each member cannot miss 3 meetings per year or shall be dismissed from the Committee.
- Section 3.** There shall be a two year waiting period before a member can again serve on the Committee.
- Section 4.** Vacancies shall occur when a term expires or when a member:
- resigns
 - expires
 - leaves position of employment
 - no longer qualifies as a "member" as described in Article III Section 2.
- Section 5.** The department may allow an employee of an employer who participates in a group plan to be appointed as an individual member when a vacancy occurs in that member category and a volunteer employee of an employer enrolled in an individual plan to fill the vacancy has not been found. When this type of appointment occurs the member must represent the interests of individual employer enrollments and not that of the group they participate in. Such appointment is for one year.

ARTICLE V Quorum

Six voting members shall constitute a quorum.

ARTICLE VI Meetings

The Committee may hold quarterly meetings unless changed by vote. Additional meetings may be held if there are items of an urgent nature.

It shall be decided at each meeting the time and place of the next meeting.

ARTICLE VII Amending Bylaws

By-laws may be amended by majority vote of a quorum.

Meetings of the Committee shall be conducted pursuant to "Robert's Rules of Order" unless the Committee establishes separate rules.

(Amended 08-July-2003.)



Petition for Retro Rulemaking, WAC 296-17b

01/10/14

Background

The Department of Labor and Industries is considering changes to the current Retrospective Rating rules.

Two petitions for rulemaking were received from the Retro Advisory Committee (RAC). One petition requested revision to the current rules for Individual Retro participants. The other addresses Retro enrollment requirements for businesses under common majority ownership.

In addition to the two petitions, based on review of the first adjustment of the 2011 coverage year, the department identified a need to modify the retro adjustment calculations and the factors used within the calculations to ensure the equity of the distribution of retro refunds based on individual plan choices.

At its October 8, 2013 quarterly meeting, the RAC was briefed on the status of the two rule petitions and about the potential need for rulemaking to modify the existing retro plans. The committee agreed that the department should move forward with rulemaking.

Rules Timeline

- Preproposal: November 5, 2013
- Proposal: April 1, 2014
- Hearing(s): April 22 - 25, 2014
 - Location(s): Tumwater and Tukwila
- Adoption: May 20, 2014
- Effective: June 21, 2014

Status Update

As we move forward with rulemaking, we have so far:

- Assigned roles and responsibilities to the rulemaking process:
 - Management sponsor, Tim Smolen
 - Project manager, Jessica Nau
 - Project facilitator, Debbie Sanders
 - Project leads, Jose Cuellar and Julie Osterberg
 - Subject matter expert, Diane Doherty
- Developed a work plan detailing deliverables required for a May 20, 2014 rule adoption date for a rule effective date of June 21, 2014.
- Completed summary documents for each of the three proposed rule changes.
- Scheduled two public meetings to answer questions and gather input related to the rule proposals:
 - Monday, January 27, 2014 – Tukwila
 - Friday, January 31, 2014 – Tumwater

- Electronically communicated to the members RAC and Retro Coalition:
 - A cover letter detailing the public meetings and options for submitting comments and questions
 - Three attachments summarizing each rule proposal
- Mailed to all Retro participants:
 - A cover letter detailing the public meetings and options for submitting comments and questions
 - Three attachments summarizing each rule proposal
- Drafted an outreach and communication plan for:
 - Individually enrolled employers,
 - Retro groups and associations,
 - Third Party Representatives (TPAs), and
 - Internal stakeholders

Next Steps

As we look ahead, next steps in the rule making process from now until the end of January include:

- Implementation of the outreach and communication plan:
 - By 01/15/14 – call all individually enrolled participants to alert them to the recent mailing and encourage participation at the public meetings.
 - By 01/15/14 – call those Retro groups and TPAs who have been identified as critical stakeholders and schedule separate meetings.
 - By 01/17/14 – provide status briefing on the rule making process to internal stakeholders.
- Draft three feedback forms to consistently document comments and questions from the Retro community.
- Develop an FAQ document to consolidate and incorporate feedback received.
- Maintain FAQ document so that it can be:
 - Updated weekly,
 - Posted to SharePoint for internal stakeholdering conversations, and
 - Posted to Retro's website for external stakeholdering conversations.

Closing

We will continue to engage the broader Retro community and other stakeholders in order to ensure appropriate public input as we continue to further develop these rule proposals.



STATE OF WASHINGTON
 Department of Labor and Industries

Retrospective Rating Program
 PO Box 44180 • Olympia, Washington 98504-4180 • Fax (360) 902-4258
 www.retro.lni.wa.gov • retro@lni.wa.gov

January 9, 2014

Subject: Petition for Rulemaking, WAC 296-17B

Dear Retro Stakeholder:

The Department of Labor and Industries is considering changes to the current Retrospective Rating rules.

Two *Petitions for Rulemaking* were received from members of the Retro Advisory Committee (RAC). One petition requested revision to the current rules for Individual Retro participants. The other addresses Retro enrollment requirements for businesses under common majority ownership.

In addition to the two petitions, based on review of the first adjustment of the 2011 coverage year, the department identified a need to modify the retro adjustment calculations and the factors used within the calculations to ensure the equity of the distribution of retro refunds based on individual plan choices.

We will work with the RAC and others in the Retro community to identify the next steps moving forward. Please review the *Individual Retro Requirements*, *Common Ownership* and *Distribution of Refunds Based on Plan Choices and PAF* documents that provide more detailed information regarding these rule proposals [attached].

We have planned two meetings to discuss the proposed changes, and we would like to invite you to attend in person or teleconference. The meeting specifics are listed below. These meetings will be open forums where the department will answer any question you have and seek your input. Please contact us at retro@lni.wa.gov to let us know which meeting you plan to attend. Information for attending by (*toll-free*) teleconference is listed below.

	Meeting 1	Meeting 2
<i>Date and Time</i>	10:00 AM, Monday, January 27, 2014	10:00 AM, Friday, January 31, 2014
<i>Location</i>	L&I field office, Room #TRN-1 12806 Gateway Dr S, Tukwila, WA	L&I headquarters building, Room #S117 7273 Linderson Way SW, Tumwater, WA
<i>Teleconference</i>	1-866-499-3402 (meeting ID No 5221575487)	1-866-499-3402 (meeting ID No 5221575487)

We look forward to your participation.

Sincerely,

Tim Smolen
 Program Manager
 for Retrospective Rating
 360-902-4835

Attachment(s)

3. Demonstrate an acceptable workplace safety plan - WAC 296-17B-100

Current Rule Language

Current Retro rules do not require that an employer enrolled in Retro as an individual demonstrate an acceptable workplace safety plan.

Proposed Rule Language

(1) We will enroll a qualified employer who applies for enrollment for individual retrospective rating. To qualify, an employer must:

(e) Demonstrates an acceptable workplace safety and accident prevention plan;

Scope

- This requirement will apply to the 175 current individually enrolled employers, and any additional employers applying for individual enrolment in the future.

Impact

- All individually enrolled employers will need to demonstrate an acceptable workplace safety and accident prevention plan when enrolling in Retro.
- Retro will have to develop criteria regarding what constitutes demonstration of an acceptable workplace safety and accident prevention plan.
- Verifying demonstration of an acceptable workplace safety plan for every employer enrolling individually will add additional time to the quarterly enrollment process.
- Retro will require further resources to enforce this proposed requirement.

Preliminary Department Perspective

- Retro has expectations of safety programming and performance for employers enrolled individually and these expectations are different than the expectations of safety programming and performance for groups.
- L&I acknowledges that groups have a fiduciary responsibility to their members. Group enrollment implies that the sponsoring organization offers accident prevention, loss control, claims management and return to work services for members in exchange for fees. WAC 296-17B-220 (3) and (7) are written to ensure that enrollment in a retro group will improve safety for all members. The group plan for retro does not replace the DOSH requirements for every employer.
- WAC 296-800-140, administered by the Division of Occupational Safety & Health (DOSHS), requires every business to establish, supervise and enforce an accident prevention plan that is effective in practice.
- Requiring employers to demonstrate an acceptable workplace safety and accident prevention program for retro enrollment creates additional work, and may lead to confusion and duplication of efforts as the standards for retro enrollment may not be consistent with the standards enforced by the Division of Occupational Safety and Health (DOSHS).

4. Have an acceptable plan for cooperation with the department's claim management - WAC 296-17B-100

Current Rule Language

Current rules do not require that an individually enrolled employer have an acceptable plan for cooperation with the department's claims management activities.

Proposed Rule Language

(1) We will enroll a qualified employer who applies for enrollment for individual retrospective rating. To qualify, an employer must:

(f) Have an acceptable plan for cooperating with the department's claims management activities.

Scope

- This requirement will apply to the 175 current individually enrolled employers, and any additional employers applying for individual enrollment in the future.

Impact

- Retro will have to develop criteria regarding what constitutes an acceptable plan for cooperation with the L&I's claims management activities for individually enrolled employers.
- Verifying demonstration of an acceptable plan for cooperating with L&I's claims management activities will add additional time to the quarterly enrollment process.
- Retro will require additional resources to enforce this proposed requirement.

Preliminary Department Perspective

- L&I acknowledges that groups have a fiduciary responsibility to their members. Group enrollment implies that the sponsoring organization offers accident prevention, loss control, claims management and return to work services for members in exchange for fees.
- WAC 296-17B-220(4) was written to ensure that when an employer chooses to enroll in an association sponsored retro group, claim management and return to work assistance will be provided to ensure the success of both the individual member accounts as well as the group.
- Success in the Retro program incentivizes safety and loss control, claims management and return to work best practices.

5. Establish probation period for individual enrollment - WAC 296-17B-730

Current Rule Language

Current rules do not require a probation period for individual enrollees that have received a net assessment for two consecutive coverage periods.

January 9, 2014

Proposed Rule Language

If you as a sponsored group or an individual enrollment as specified in WAC 296-17B-100 receive a net assessment for two consecutive coverage periods, you will be placed on probationary status. We will review your workplace safety and accident prevention plan and your methods of cooperation with the department's claims management activities, and contact you to discuss ways of improving your performance. If you receive a net assessment in the following coverage period, you will be denied future enrollment, and your sponsoring organization will not be allowed to sponsor another group in the same industry category or enroll in an individual enrollment for the five years following the third coverage period with a net assessment.

Scope

- Since 2006, 22 individually enrolled employers (representing \$39.3M) have had three consecutive net assessments (\$5.9M).
- Of these 22 employers, only one individual continues to be enrolled.
- Since 2005, three groups (representing \$15.2M) have been subject to this probationary rule and are, consequently, no longer enrolled in Retro. Their total assessment was \$1.4M.

Impact

- Retro staff currently offer and conduct annual re-enrollment consultations with individuals that include discussions on the viability of continued Retro participation.
- Additional resources including system modifications and staff time will be required to implement this proposal.

Preliminary Department Perspective

- Collectively, individual accounts are contributing to positive retro returns.
- The current rule applies to group enrollment to ensure safeguards around the assumed liability groups have towards their members; whereas, individually enrolled employers assume sole liability for their performance.
- This requirement will apply prospectively to any employer applying for individual enrollment after July 1, 2014.

Closing

Labor & Industries welcomes your feedback and suggestions regarding these proposed rule changes. Two public stakeholder meetings have been scheduled for you to share your opinions and to ask questions. You may also submit your written feedback to retro@lni.wa.gov.

For specific dates and times of the public stakeholder meetings please go to the Retro website at www.retro.lni.wa.gov or refer to the cover letter that accompanied this document.

Summary Statement – Common Ownership

Labor & Industries (L&I) received two petitions from the Retro Advisory Committee (RAC) proposing rule changes related to individual enrollment and common ownership. The intent of this document is to summarize the petition regarding common ownership. A summary of the petition's proposed rule changes is provided below:

1. **Common ownership**
2. **Prohibited conduct**

1. Common ownership - WAC 296-17B-770

Current Rule Language

An employer that shares common ownership with one or more other employers cannot enroll in retrospective rating unless all employers sharing common ownership that are within the same industry category also enroll. Employers sharing common ownership can enroll individually or as members of a sponsored group. Employers sharing common ownership that are enrolled individually can choose to be rated separately or together.

Employers share common ownership when:

- (1) One or more owners, directly or indirectly, own a majority interest in both employers; or
- (2) One employer, directly or indirectly, owns a majority interest in another employer.

Proposed Rule Language

When the owner or owners of one business also own an additional business or businesses or they own a majority interest in an additional business or businesses, the owner or owners of the commonly owned businesses can elect to include all commonly owned businesses in retrospective rating or just some of them. When the owner or owners of a business desire to enroll some or all of their commonly owned businesses into a retrospective rating group at least one of the businesses they seek to enroll into the retrospective rating group must fall within the business and industry category of the group. The retrospective rating group sponsor can then decide which if any of the businesses they wish to allow to enroll in their group. Businesses that share common ownership and who are enrolled in an individual enrollment can choose to have their enrolled businesses rated separately or together.

A business is deemed to be commonly owned when:

- 1) One or more owners, directly or indirectly, own a majority interest in the businesses; or
- 2) One business directly or indirectly, owns a majority interest in another business.

For purposes of this rule the phrase "majority interest" shall have the same meaning as it is defined in WAC 296-17-87301.

2. Prohibited conduct - WAC 296-17B-720

Current Rule Language

(1) Employers and group sponsors must not engage in claims suppression as defined in RCW 51.28.010(4).

(2) Employers and group sponsors must not pay medical service providers for medical services related to an industrial injury or occupational disease. Payment of monthly direct fees made on behalf of employees to qualifying direct primary care service providers as permitted by RCW 48.150.050 does not disqualify an employer or group sponsor from participation in the retrospective rating program.

(3) Unless disclosed to the member at the time of enrollment, group sponsors must not require members to pay dues, fees, or continue membership in the retrospective rating program beyond the last date of the coverage year in order to receive their share of refunds, if any.

Proposed Rule Language

The proposal is to add requirement #4 to the current rule, and to modify the wording below. Underlining indicates proposed new language and strikethrough indicates removal of current language:

(4)When an owner or owners have multiple industrial insurance accounts or subaccounts with the department and they have elected to have one or more of these commonly owned businesses enrolled in retrospective rating they must not engage in any activity that artificially manipulates the retrospective rating calculation, such as inappropriately reporting most of the company's work hours into the account participating in retrospective rating and some or all of the claims into the non-enrolled account.

If we determine that you have violated any of these provisions, we will issue you an appealable order outlining the alleged infraction(s). The order will contain your appeal rights and will become final and binding sixty days from the date the decision and order is communicated to you unless you appeal the decision. If you do not appeal our decision and it becomes a final decision or if, on appeal, the board enters a final ruling affirming our decision, we will remove you from further participation in retrospective rating effective the date the order became final or the board issued its ruling. You will be barred from further participation in retrospective rating for a period of three plan years. You will remain liable for any additional premium assessments related to your participation in retrospective rating for any plan year in which you were enrolled that has not had its final adjustment and you will forfeit all refunds that have not been distributed regardless of plan year where the infraction occurred. If a retrospective rating group encourages or promotes any of the prohibited activities referenced above the group will have the same appeal rights and be subject to the same penalties.

Scope

The proposed changes to common ownership and prohibited conduct apply to both group and individually enrolled employers.

Impact

Policy

- L&I will have less oversight of an employer potentially manipulating hours versus claims between related accounts.

January 10, 2014

Administrative

- Retro will have to develop criteria regarding what constitutes prohibited conduct, implement a process to identify prohibited conduct, and develop a process to address the resulting protests and appeals.
- We can expect fluctuation in the volume of accounts enrolling in Retro which may impact the quarterly enrollment process.

Preliminary Department Perspective

Current rule protects against an employer reporting hours worked in an account enrolled in Retro, but reporting claims in a sub-account not enrolled in Retro. Implementing the proposed rule changes may potentially result in employers earning refunds because claims are not being accounted for in the overall retro rating calculation. This manipulation of the calculation may also affect the disparity between Retro and non-Retro performance; impacting the overall amount of retro return.

Implementation of the proposed rule will remove the current safeguard in place to deter this type of dishonest activity and moves L&I from a proactive position to a reactive position related to manipulation of hours vs. claims between accounts. In addition, L&I under current rule, is proactive in identifying which sub-accounts are acceptable to enroll, and implementation of the proposed change will shift responsibility of identification of such accounts to the group or the individual member.

Closing

Labor & Industries welcomes your feedback and suggestions regarding these proposed rule changes. Two public stakeholder meetings have been scheduled for you to share your opinions and to ask questions. You may also submit your written feedback to retro@lni.wa.gov.

For specific dates and times of the public stakeholder meetings please go to the Retro website at www.retro.lni.wa.gov or refer to the cover letter that accompanied this rule filing summary.

Summary Statement – Distribution of Refunds Based on Plan Choices and PAF

Based on review of the first adjustment of the 2011 coverage year, Labor and Industries (L&I) proposes a rule filing to address a situation that we have identified with regards to the calculation of retro adjustments. This summary provides information about L&I's recommendation.

Summary

L&I identified a need to modify the retro adjustment calculations and the factors used within the calculations. In certain situations, participants received refunds even though their loss ratio (claim costs divided by standard premium) was greater than the maximum loss ratio limit they had chosen. Other participants received larger refunds than indicated by their performance relative to their plan selections. An amendment is needed ensure the equity of the distribution of retro refunds based on individual plan choices.

The situations described above were caused by the combination of all of the following scenarios:

- (1) The participants' choice of a premium-based rather than a loss-based plan.
- (2) Their conservative plan choice, risking only 5% of their premium based on the expected Performance Adjustment Factor (PAF) of 1.0000.
- (3) Lower than expected calculated PAFs, based on higher than expected overall Retro performance.
- (4) Current rule that includes multiplying the net insurance charge by the PAF in the premium-based plans.

In order to prevent this particular situation from occurring in the future, L&I believes modifications are needed to one or more of the scenarios listed above. On October 8, 2013, the following proposal to remove the PAF in premium-based plans was presented to the Retro Advisory Committee (RAC) and is outlined in further detail below.

WAC 296-17B-440 Net Insurance Charge

Current Rule Language

- (1) If you choose to have your net insurance charge calculated using your standard premiums, your net insurance charge will be calculated using the following formula:

(Premium insurance charge factor - Premium insurance savings factor) x (Standard premiums) x (Performance adjustment factor)

Proposed Rule Language

- (1) If you choose to have your net insurance charge calculated using your standard premiums, your net insurance charge will be calculated using the following formula:

(Premium insurance charge factor - Premium insurance savings factor) x (Standard premiums) ~~x (Performance adjustment factor)~~

January 9, 2014

Scope

- Only one full adjustment cycle has been completed for the 2011 coverage period. Only participants enrolled in the July and October 2011 coverage periods have experienced the effects described above. The January and April 2011 coverage periods were not affected due to their relatively higher PAF at the time of their first adjustment.

<i>Coverage year start date - PAF</i>					
Jan. 2011	-	.9394	July 2011	-	.8526
Apr. 2011	-	.9456	Oct. 2011	-	.8527

(The target factor for PAF is 1.0000)

- Because the calculated PAF was approximately 0.85, the net insurance charge was discounted by 15% (1.00 - 0.85).
- Ten individual participants received refunds totaling approximately \$100,000. They would have paid a total of approximately \$230,000 in additional premium assessments had the PAF been at 1.0000.
- There are currently 219 participants enrolled in Retro. Of those, 123 are enrolled in a premium-based plan. Those 123 participants are composed of four groups and 119 employers enrolled individually.

Impact

- This proposal will not change the overall amount of refunds available to participants in the Retro program; however, it will ensure that refunds are distributed equitably among participants in Retro.
- This proposal will eliminate the PAF from the calculation of net insurance charges for premium-based plans. If the PAF remains much lower than 1.0000, the results will be higher charges resulting in lower refunds or increased assessments for these participants.
- L&I anticipates that Retro participants will continue to outperform non-Retro participants going forward. As long as Retro significantly outperforms non-Retro and without amendment, the risk of inequitable distribution of retro refunds will continue.

Closing

L&I is recommending a rule amendment be in place for the July 2014 coverage year and all coverage years beginning thereafter.

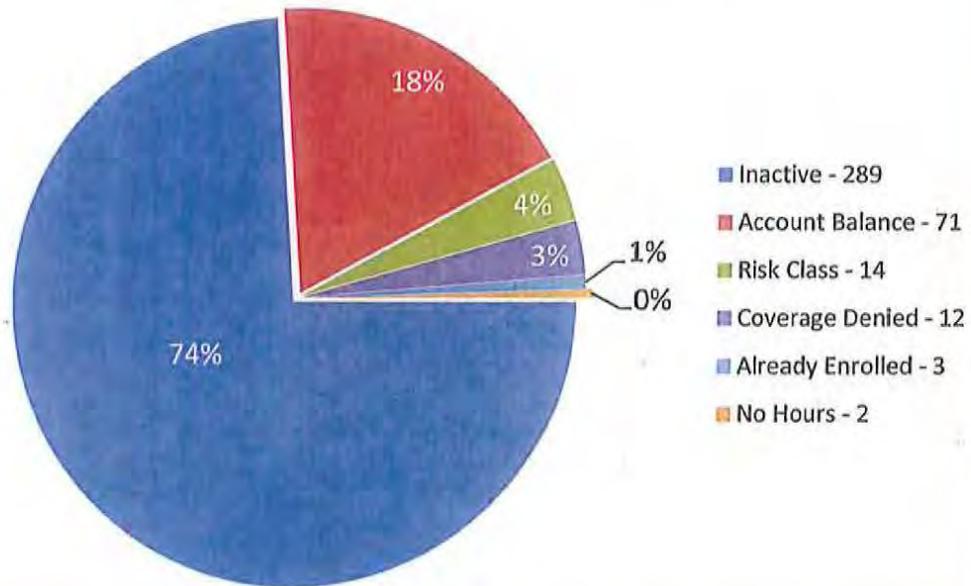
L&I is working with an independent actuarial consulting firm to review this proposal as well as other proposals that will eliminate the possibility of this unintended outcome in the future.

Along with seeking the input of the actuarial consulting firm, L&I would also like your feedback and suggestions regarding this rule proposal. Two public stakeholder meetings have been scheduled for you to share your opinions and to ask questions. You may also submit your written feedback to retro@Lni.wa.gov.

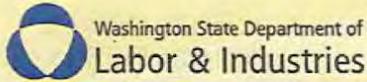
For specific dates and times of the public stakeholder meetings please go to the Retro website at www.retro.Lni.wa.gov or refer to the cover letter that accompanied this rule filing summary.

Enrollment Denials for 2013

391 Total Denials



	January	April	July	October	
Denial Reason	Account Id	Account Id	Account Id	Account Id	Total
Inactive	60	3	214	12	289
Account Balance	23	1	37	10	71
Risk Class	6		8		14
Coverage Denied		2	8	2	12
Already Enrolled	1		2		3
No Hours			2		2
Total	90	6	271	24	391

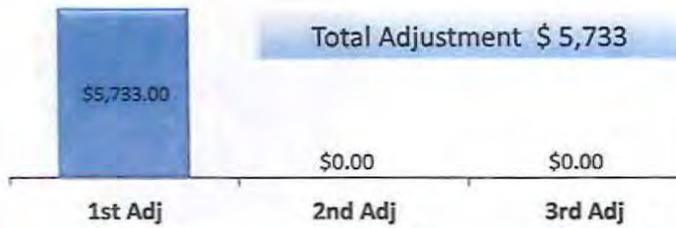


Adjustment Protests

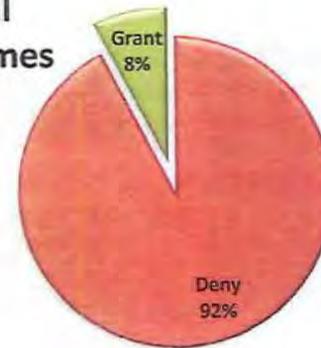
October Groups ~ 2009 / 2010 / 2011

Employer Services
Retrospective Rating

Amount Refunded per Adjustment Cycle



Total Outcomes



Claims Protested by Adjustment Cycle

1 st Adj	10	77%
2 nd Adj	3	23%
3 rd Adj	0	0%
Total Claims Protested	13	

Adjustment Protests Timeline





Washington State Department of Labor & Industries

Adjustment Protests

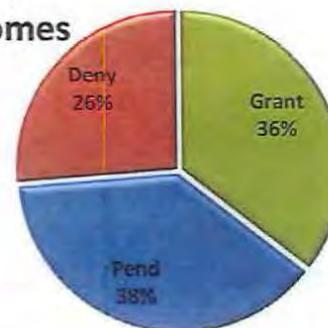
January Groups ~ 2010 / 2011 / 2012

Employer Services
Retrospective Rating

Amount Refunded per Adjustment Cycle



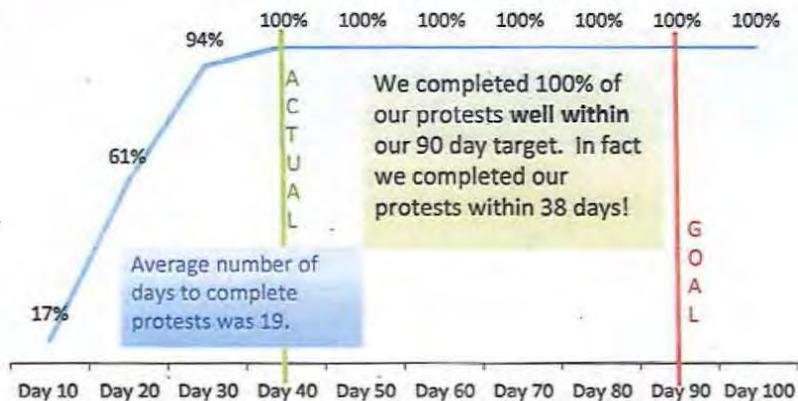
Total Outcomes



Claims Protested by Adjustment Cycle

1 st Adj	40	53%
2 nd Adj	21	28%
3 rd Adj	15	20%
Total Claims Protested	76	

Adjustment Protests Timeline





Briefing on Retro IME Collaboration Pilot

01/10/14

Brief summary

The Independent Medical Examination (IME) pilot was identified as an administrative solution to address the concerns of the Retro community relative to our timeliness in scheduling IME's and resolution of issues with decisions about claim actions.

In collaboration, several Retro groups, third-party representatives and department Claims staff developed:

- workflows
- performance metrics
- point-of-contact-lists
- request and response forms
- training
- dedicated 'fax' line
- expectations of staff

A 'test' run of requested IME's on claims was conducted between 11/20/13-12/2/13. Three (3) claims were received. The claims were staffed at the 12/12/13 meeting:

- 1 denied requesting exam at this time,
- 1 delay in getting exam awaiting prior medical,
- 1 agreed and requested exam.

The pilot officially began on the Claims floor 01/06/14 and is scheduled to run through at least 03/06/14; with committee agreement to extend from three (3) to six (6) months, if needed. Vickie Porter's Designated Service Area – King County (DSA), Unit's A, B, C, E & N were chosen participants of the pilot because of the volume of claims, as well as a split of 'regular' units (3) and Employer Based Units (2).

Background

Some Retro groups and third-party representatives have expressed concern over the last few years, contending department delays in obtaining IME's, not asking all of the questions (e.g. addendums needed), not obtaining an exam within 90-120 days of injury, obtaining a consult vs. an IME and - when the department does not get an exam as requested - customers don't receive a response as to why.

On 09/25/13, the Retro Coalition invited Vickie Kennedy, Tim Smolen and Marnee Couthran to their meeting to hear about the Claims Evolution projects and ask about the department's position regarding a bill some Groups have sponsored several times – last year's bill was SB5112 Retro Scheduling Authority. (The bill may run again this year, if it has support.)

Historically, the department has not supported the Retro bill, but has provided technical assistance and performance data.

Effect on L&I and stakeholders

The pilot has had positive effects for the department, our Claims staff and the Retro customers involved. We also anticipate positive effects for our injured workers.

- We are looking at our business process and what is value added to the customer, for example, understanding why we aren't getting an exam at this time, what 'leading' questions are and sharing IME training materials Claims staff received and use as a resource.
- Education on the business needs of each party. The Retro participants understand Claims staff have large caseloads and have voiced their understanding and willingness to be a resource to the Claim Managers.
- Building a better relationship between L&I Claims staff and our Retro customers by having conversations regarding their exam requests and expressing empathy both ways with regard to difficult and complex claims.
- Reassurance by the Retro participants that there will be guidelines and training for other participants prior to their joining the pilot. This helped relieve department staff concerns regarding volume and appropriateness of requests.
- Help ensure workers' receive timely and appropriate benefits by addressing medical conditions and curative treatment timely.
- Help ensure the employers are being charged/paying for appropriate benefits.
- Have impacts on many department goals including (2) Helping injured workers heal and return to work, (3) Making it easier to do business with us and (5) Make L&I an employer of choice.

Next steps

02/18/14 – Check-in meeting with participants, share success and address concerns. Determine if additional Claim Units will be added to the pilot or if the volume is higher than anticipated.

Actions needed

- Analysis of metrics and report out - March/April 2014
- Debrief 'what went well' and 'what to do differently next time' with participants. (date TBD)
- Recognition and celebration with pilot participants and sponsors. (date TBD)

Staff contact

Department Sponsors:	Phone	Retro Sponsors:	Phone
Vickie Kennedy Asst. Director for Insurance Services	902-6092	John Meier ERNWest	253-237-0827
Tim Smolen, Program Manager, Retrospective Rating	902-4835	Lauren Gubbe AGC	352-1632
Marnee Couthran Project Lead, Retrospective Rating	902-4690	Lloyd Brooks Washington Employers	206-664-7294
Department Committee Participants:		Retro Committee Participants:	
Mark Goodwin, Unit A Supervisor	902-4262	Ryan Legaspi, BIAW	352-7800 ext. 121
Suzanne Gore, Unit A Lead	902-6443	Chloe Kaufman, BIAW	352-7800 ext. 118
Sue Richardson, Unit B Supervisor	902-4280	Wendy LeClair, Washington Employers	206-664-7284
Jessica Portschy, Unit B Lead	902-6541	Cheri McLaughlin, ERNWest	253-237-0815
Mark Holm, Unit C Supervisor	902-4295	Janet Hansen, AGC	352-1632
Andrew Camus, Unit C Lead	902-6561	Rick Clyne, Farm Bureau	357-9975
Chris Baker, Unit E Supervisor	902-4323	Jim Newhall, Farm Bureau	357-9975
Maria Avalos, Unit E Lead	902-6736	Kim McIsaac, AGC	352-1632
Scott Busz, Unit N Supervisor	902-6670		
Stephanie Ackley, Unit N Lead	902-6673		
Erin Kilgore, Admin. Asst.	902-9191		

The employer, employer's third party representative, or Retro coordinator, can view the other claims by clicking the Check for Other Claims for This Worker link located on the Current Claim Status page of CAC:

Current claim status

Claim number: D111115 Injury date: 1/3/2008
 Worker name: MR CODE DAVIS
 Employer name: BYRT'S TEST BUSINESS
 Attending doctor:
 Claim manager: MCK L GUNTER 260-902-6585
 Claim manager fax: (200) 902-4597

Status

Claim status: Allowed
 This claim is currently: Open
 Claim received at LSI: 01-01-2008
 Next claim manager review date: 07-29-2008

Activity

Time-loss activity	No	Claim protest/appeal	No
Last time-loss payment date		Vocational activity	No
Is there a payment pending?	No	Third party claim	Yes

[Check for other claims for this worker.](#)

They are then taken to the Other Claims for This Worker screen, which will list all of the non-confidential claims associated with this claimant. The user can click on the claim number of one of these other claims and get taken to the Current Claim Status screen. From there they can view all of the information and pages about that claim. They cannot, however, do any transactions (Secure Message, Protest, Submit Wage Info, etc), unless they are listed as the employer for that claim.

Closed claims that have had no activity for 18 months are archived and will not be displayed here. If necessary, these claims can be re-activated by contacting the claim manager. Claims against self-insured employers cannot be viewed in this application.

Employers, providers, and legal representatives: Other claims may exist that you do not have permission to view.

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Claim #	Injury Date	Status	Claims Dates		Time-loss Paid	Disability Award
			Closed	Reopened		
D111115	01-01-2008	Allowed			Yes	Yes
Employer name:	BYRT'S TEST BUSINESS		Diagnosis information			
D000023	03-01-1999	Allowed			No	No
Employer name:	BYRT'S TEST BUSINESS		Diagnosis information			
D111113	12-02-1986	Rejected			No	No
Employer name:	BYRT'S TEST BUSINESS		Diagnosis information			
D111112	12-10-1987	Allowed	05-05-2005	05-20-2007	No	No
Employer name:	BYRT'S TEST BUSINESS		Diagnosis information			
D111114	12-01-1987	Allowed	06-20-2006		No	No
Employer name:	BYRT'S TEST BUSINESS		Diagnosis information			
D111124	12-01-1987	Allowed			No	No
Employer name:	BYRT'S TEST BUSINESS		Diagnosis information			
D111117	07-15-1987	Allowed	06-20-2005		No	No
Employer name:	BYRT'S TEST BUSINESS		Diagnosis information			

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