

Retro Advisory Committee
Meeting minutes of April 15, 2014
Room S117, L&I Building (Tumwater)

Meeting called to order at 9:35 a.m.

Committee members present: Jan Gee, *Washington Food Industry Association*; Scott Dilley, *Washington State Farm Bureau*; Lauren Gubbe, *Associated General Contractors*; Trish Leimbach, *Vigilant*; Lloyd Brooks, *Washington Employers Association*; Teran Petrina, *Washington Restaurant Association*; Tim Smolen (chair), *Department of Labor & Industries*.

Introductions

Safety review

Approve agenda

Approve minutes

Stay at Work Program – Update

Bill Smith, Program Manager

- Stay at Work staff have completed a round of meetings with Retro customers.
- They shared the reimbursement and participation data (electronic file). These will be available each Quarter.
- We're at \$22 million in reimbursements.
- Staff have a list of suggestions and they'd like to do another presentation to show some of the answers that we have or feedback to the comments that came from the field.

LAUREN GUBBE: One thing that is a barrier to accessing the reimbursement is when the attending physician doesn't sign the job descriptions.

BILL SMITH: And we're presenting that as part of our steering committee, when we meet with the steering committee.

LLOYD BROOKS: It's very frustrating to be required to supply so much documentation, and it's frustrating for the attending physician as well when we get everything we need from the physician, submit the application and then further clarification is needed.

BILL SMITH: We're using the feedback to educate ourselves as well and our adjudicators with the intent that our customer service is really a big piece of what we're trying to do.

BRIAN DUCEY: The employer had made a valid light-duty job offer, paid their salary, but the Stay at Work program rejected the application because in auto adjudication, there's not an allowance order issued. And correct me if I'm wrong, but without an allowance order, they can't reimburse. Is there any way around that?

BILL SMITH: I don't have an answer. I need to pull that together.

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Enrollments - Update

Ashley Frank, Enrollment Manager

We received applications for two new January groups, one PITB elite, which is for Industry Category 4, chemical, distillation, food and related services. The second application that we got was for Washington Growers League for Industry Category 1, which is agriculture.

Review of performance metrics.

We'll be doing a lean value stream map of how we process group applications. This has been a request from members of the Retro enrollment workgroup committee, just to have a better understanding of what that process is. We're looking to drive out efficiencies on our end.

Committee Workgroups - Update

Ashley Frank

Enrollment

If there were to be a catchphrase, it would be "consistency, accuracy and timeliness." As part of the workgroup suggestions, customers want decisions up-front without having to do all of the legwork and get applications, and they want an up-front yes or no for their membership applications. I've been working with my group to develop a way where we can review members that don't necessarily directly fit into industry categories up-front, so hopefully getting you that up-front yes or no so you know how much time to invest in an application or employer prior to getting a contract signed.

TERAN PETRINA: So if you're going to implement that, when would you start?

ASHLEY FRANK: So hopefully before July enrollment. Looking at getting -- you know, doing a couple of test cases to work out all the kinks and then coming back with a live date. But as of right now, I don't have a firm date.

Data

The catchphrase for this one would be "more data, more timely." We'll be going over potential enhancements for the data files that are out there for the monthly, quarterly and adjustment reports, trying to figure out what data our customer is looking for, what can we implement, as well as possible improvements for the way we handle information requests. We're looking at standardizing it on our end and making sure that we get you meaningful data on your end.

Retro Rules - Update

Tim Smolen

Joel Sacks, our director, signed off on going forward with rulemaking relative to changing the rules regarding how we calculate the insurance charges for folks that are enrolled in premium-based plans.

Relative to common ownership and individual Retro, what we've provided to the Committee now is both sort of a consolidated view of the feedback that comprises both conversations that I had individually with Retro groups and third-party administrators as well as folks who came out to

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public meetings or sent feedback electronically through our group in-box. That's been provided back to the Committee, and I think we've posted it on our Web site as well so that you can see all of the feedback that we got about that. My sense was we didn't have a clear consensus about how to go forward from the Retro community, and I think equally significantly, from my perspective, we want to make sure that we've got a sound plan for implementing these changes inside our own operations in the Department so that if we undertake these changes, that it comes out well and that we don't have sort of unintended consequences.

So with that, what we're proposing to do is convene two different working groups including both folks from the Retro community and from L&I staff. With regard to the proposal on common ownership, Lloyd has agreed to continue to stay involved, and Julie Osterberg is going to be the point person for running that one on behalf of L&I staff. We do intend to include as part of that review a look at how we handle owner-optional coverage. I want to characterize the position of the Department is that we're not opposed to changing the rules about that. We just want to make sure that we do it in a way that represents where the community is at, that it's responsible in terms of legal issues, and most importantly, that we can really run it through the operations of the Department.

Jessica will run the second workgroup related to individual Retro, which was really five separate kinds of interest areas including the premium threshold for individual enrollment. And Teran and Julia Clark from WRA will represent the committee in that regard.

JESSICA NAU: We anticipate posting by the end of this week to our Web site the transcripts from the public hearings so that people can see verbatim what that feedback entailed as well as the consolidated feedback that has not been summarized that we collected through the personal interviews as well as the e-mails.

Additionally, we'll be sending out at the end of the week a reminder on the hearings. For the first time, we are offering the option for people to call in and offer testimony if they can't attend in person, so we'll be sending out what that bridge phone number would be and instructions on how to do that. It's here in Tumwater on May 6th starting at 10:00.

LAUREN GUBBE: We want a provision for the change to be studied. Because we all know that the PAF can change. It can go the other way.

TIM SMOLEN: This will be implemented on a prospective basis, for the next set of enrollments for July. And you're looking for us to study the impacts to make sure that there's no adverse impacts about making this rules change.

LLOYD BROOKS: You know, we throw around the term "consensus." The Retro community started these discussions two years ago last month. We spent a lot of time getting the group together on a consensus, and there was a lot of discussion, a lot of work that went into that. We filed the rule proposals a year ago January. Now we're going to have workgroups. From our perspective, we already got a consensus. How is this going to be different? There will always be someone who doesn't speak their mind in a public forum, there will always be someone who doesn't show up when the opportunity is there.

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TIM SMOLEN: I appreciate, Lloyd, that this has taken us a long time to get here. And as I've said before, I'll take responsibility for the delay in getting us to this point. I certainly agree with you that we're not going to have unanimity of opinion. There's going to be divergent opinions about that. And we may ultimately not even end up with a consensus point of view among the community or inside the Department. And at that point, then I think it's my responsibility working with Doug, Vickie and Joel to drive out the best policy decision. I appreciate that we have moved slowly on this, and from my point of view, it's about just being deliberate. And as much as we have an open invitation to the meetings here and the Retro coalition meetings and community meetings -- and, Jan, you've done a super job leading that and now Scott has been very open -- I felt personally that it was very important that we have a really robust outreach effort including individual Retro, including folks who aren't typically represented, not because there's a lack of sincerity of the invitation, but just because they're not availing themselves of it. And then I think for the rest of the story for me -- and I don't mean to be defensive about it, so I hope it doesn't come across that way. It's just that there's a real learning curve inside the Department as well about sort of unbundling these issues for people and helping them to appreciate that we need to make some changes so that this goes better. And so there's a sort of paradox where the program has a very high profile publicly, but inside the Department it doesn't. And so we have had a fair amount of work just educating people of the implications of this. The short answer is what's going to be different is that we've got more capacity inside the program with Jessica, Ashley, Marnee, Julie. I think we're in a better place institutionally in Retro to take this on, and I also think that our relationship with the rest of the Department, the folks who would be affected by making a rules change or doing something administratively, we're in a better place. I think that we've sort of raised the level of literacy about the program. So I want you to appreciate that we haven't been idle with this, but I appreciate from an outsider's perspective that we also have not produced a rules change or changed our policy. But it's not because we've been idle.

TERAN PETRINA: It feels backwards. It seems like the workgroup should have been formed then, not two years later. And so I think from your perspective, I think that's what you're alluding to is if there were departmental challenges, that that should have been brought out when the initial filing occurred so that the workgroups -- you know, so there was transparency. So it hasn't felt transparent, at least not to me and I don't think to the rest of us.

TIM SMOLEN: That's really fair.

I don't think that there's any more outreach or stakeholdering that we need to do, the Department to the Retro community. At this point, I think we're just going to take a policy decision about it's rules or it's not rules. If it's rules, this is what it looks like. If it's not rules, this is what an administrative solution looks like.

LLOYD BROOKS: Okay. That makes sense.

TAMMIE HETRICK: We have another twist to do with common ownership, and that is we're seeing account managers tying more businesses together as subaccounts if there's any ownership relationship. With that, their experience factor is also being tied together even though they're totally dissimilar. So, if you're going to have this discussion and work on this, I would recommend

including account management and maybe having that discussion also as part of this. Because a retail store with low risk shouldn't have to take on the same experience as, say, an auto repair shop that has a higher risk or a higher experience factor. So I'd ask that that be included in this.

SCOTT DILLEY: One more sort of general question, not only with regard to these workgroups but with the others. Is there a good tracking mechanism that you're going to use to show all the changes? I mean, obviously some of the changes in common ownership may affect enrollment and data may affect enrollment and all that. So what kind of tracking mechanism is going to be put in place to at least show throughout these workgroups or maybe at the end of the workgroup what was accomplished?

TIM SMOLEN: We're going to apply a fair amount of sort of project management discipline to this and create charters and work plans and status reports and communication plans.

LLOYD BROOKS: One other point, Tim, something that hasn't been talked about much but was talked about a lot in the preparation for this submission. There was also a component of this in the prohibitive conduct where we were changing some of the language to allow for a more realistic protest period under the prohibitive misconducts rule. For example, what already exists in the rule is claim suppression. And we reworded some of the protest period to say that you were not barred from participation in Retro until that protest process had run its course. And so I just want to make sure that that's not being lost and being overshadowed, because that certainly was part of our intent in changing that rule as well.

BREAK

Loss-Development Factors (LDF's)

Bill Vasek

JESSICA NAU: This conversation is being initiated in our efforts to be transparent in the process in our operations, and we wanted you to know where we are with making kind of course corrections or adjustments along the way as we're seeing things.

I first want to qualify that what Bill is presenting today is certainly not an error. It really is just a process that we continually do, and we just have not been maybe communicating what that process is in the past. So we thought this was an opportunity to share with you what that process entails and what the impacts are when these routine adjustments are occurring in the loss-development calculations.

This was brought forth by John Meier, with ERNWest. He noticed that there was a calculated value above 4.0 where historically in our adjustments he was noticing that they had been at exactly 4.0. So his question was really have we been using caps in adjustments, and do we intend to use the same cap values for this adjustment cycle and going forward. This was a great opportunity to have that conversation with everybody instead of just replying to John individually.

John was correct in noticing that we've had a cap of 4.0 in place in the past, and after the review that Bill and his crew do routinely, we saw the need to raise the cap to 4.5.

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BILL VASEK: The small change that is being introduced is a change in the limitation. The limitation for miscellaneous Accident Fund claims, we're leaving that at 8.0. The limitation for all the other loss-development factors, that's being raised from 4.0 to 4.5. So this is just a very small increase in the limitation.

LAUREN GUBBE: I notice you have here February 2014 is the change implementation date. Did the quarterly reports reflect this change?

BILL VASEK: Yes.

JESSICA NAU: Yes. The quarterly had the calculated value, not the limitation, not the capped value.

TAMMIE HETRICK: Bill, refresh my memory. On the LDF, you said it's not just for Retro. So do you apply the LDF across the board before you do the Retro versus non-Retro calculation?

BILL VASEK: We do the comparison independently of the LDF calculation. The comparison is done without the application of loss-development factors.

TAMMIE HETRICK: Has that been considered at all?

BILL VASEK: We haven't considered applying LDF's when doing the comparison between Retro and non-Retro. Since the beginning of this program, we've done it just on a case-incurred basis, Retro versus non-Retro.

TIM SMOLEN: Can we take that as homework, Tammie?

GREG KABACY: Because the PAF -- I mean, by taking it away, I mean, in a sense what you said before was we gave some of the premium-based plans too much money. And, I mean, we're in a sense saying, you know, now we're going to take money away by increasing the LDF. So I've got to be honest. On the surface, it feels like L&I is just taking just a little bit more each time. That's what it feels like. One change is not independent of other changes in this. I mean, I hope you get the magnitude of this. I mean, you're making changes here and here, and they are going to compound on each other.

LLOYD BROOKS: But in perspective of this rule change that we're moving forward with, it seems like there's a lot of variables shifting, and that needs to be studied.

TIM SMOLEN: You'd like to see the byplay between the two changes, right?

LLOYD BROOKS: I think you need to see it, yeah. I mean the Department. The Department needs to understand the cause and effect.

TIM SMOLEN: That's fair. Greg, I'll follow up with you.

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ED LONGMIRE: Is the LDF calculated independently every time it's calculated, or does the last calculation affect this calculation? The question of having a higher number because the cap is higher doesn't matter because it's being calculated again independently of that higher number the next time it's calculated. And so that part of the question doesn't matter because it's always going to be new every single time.

BILL VASEK: The last calculation doesn't affect this calculation.

RUSSELL FRANK: [Regarding] the premium-based plans, there is some interaction, but it is, in fact, very small. In other words, this capping issue, as you noticed, it's a 0.6 percent effect on the refund at first adjustment. And changing the premium-based plans, you know, that might make a 1 percent or a 2 percent change in, you know, that effect, so 1 percent of 0.6 percent. It's the interaction between those is very small largely because the premium-based plans by and large are a small part of the program premium and a small part of the total losses. So there is some potential interaction at some point far in the future, but it's very small.

BILL VASEK: And what we're talking about, this is only occurring at the first adjustment. The point of these caps is to limit the loss-development factors prior to the first adjustment. And so we want to keep it that way. We want to keep the caps prior to the first adjustment. We don't want the first adjustment development factors to be capped. The uncapped LDF's are the actuary's best estimate of what the LDF should be, and we don't want the cap. So raising the cap makes that happen by the first adjustment. We still want the cap for your reports that you get prior to the first adjustment. That's the point of this. And the interaction with the rule change, you know, these caps don't happen at the second or third adjustment, so it's kind of a moot point.

TIM SMOLEN: Lloyd, we'll take that as homework.

LLOYD BROOKS: Well, what I hear you saying, Bill, is that theoretically, as long as the cap doesn't apply at third adjustment, the refunds are exactly the same in the end.

BILL VASEK: Exactly. Even with the second adjustment. The caps don't apply at the second adjustment either. The caps are meant only for prior to the first adjustment, and we want to keep it that way. That's all.

LLOYD BROOKS: About the Stay at Work program. Retro, by the nature of what it does, is already bringing people back to light-duty work, and it's great that we can get more money for Retro participants and rewarding them for that. Is it safe to say that if the program really is successful, the overall losses for the State Fund will be lowered and therefore might be a little bit more of a challenge for us to maintain a bigger gap between Retro and non-Retro for our refunds?

BILL VASEK: So far what we're seeing is this: Retro is about a little over 40 percent of the claims. Your usage of the Stay at Work program is about 70 percent of the program. The non-Retro's, so they're more like 60 percent of the claims. Their usage of the Stay at Work program is about 30 percent. So if anything, you folks are getting higher refund percentages because of this program.

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LLOYD BROOKS: No. I'm trying to understand if we need to -- I mean, so far -- the desired outcome of the program overall, it's great to hear that Retro is utilizing it more. That's great. We're getting reimbursed for things we were already doing prior to the existence of the Stay at Work program. If the general State Fund becomes more effective at gaining those reimbursements and taking advantage of the program, it may create a challenge as far as that spread between the performance of Retro and non-Retro overall.

TIM SMOLEN: So, Lloyd, in general, I think, yeah, what you're describing, that's really real. And I think what Bill is saying is that what the data demonstrate, though, is that given the same opportunity, the Retro groups are simply being more effective at capturing the reimbursements. So rather than closing the gap, the gap is actually probably increasing in terms of the performance.

LLOYD BROOKS: But I need you to think about it this way. We were already bringing people back to light-duty work. We're now just getting reimbursed for part of that.

LAUREN GUBBE: Actually, more Retro is doing Return to Work than used to because of it. So a lot of us were doing it, but actually, there's more people in Retro doing it now than used to. So actually, it has really changed the gap. A lot of people weren't doing those best practices, and now they are. Because they can convince their employers because of the reimbursement that they get some money back.

TIM SMOLEN: The point for us of putting those data in front of you is to show you who are your high performers and low performers in terms of Return to Work, and then it's up to you to decide do you know how you sort of reward or sanction that behavior. But I think what we're trying to do is just put it in front of you as a tool. And what we're seeing is when we put the same data in front of the folks that are not in Retro, they're not as responsive to the data.

BILL VASEK: Russell is doing that study again of the relative loss-development factors, so how much higher should those time-loss factors be than the PPD factors and so on and so forth. So if you want to hear more about loss-development factors, Russell would be very happy to come here and talk to you about his little study that he's doing.

TIM SMOLEN: I think it would be worthwhile to have Russell come. I think Russell's study can help us answer some questions.

Committee Vacancies

TIM SMOLEN: I'd like for us to do that as a group if we could come to terms about that. And then I would put those names in front of Joel and Vickie and, you know, if they'll sign off on them, then I would make that appointment.

There is no deadline in place.

TERAN PETRINA: How does the process work? What are we doing with the submissions? I mean, who's vetting that?

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Agreed to have a conference call.

JAN GEE: It is vitally important for the Advisory Committee members to participate in the Retro community meetings, because that's where the Advisory Committee members are getting feedback on what are concerns, what are issues.

Retro Groups/ Staff Assignments

TIM SMOLEN: What we're trying to do here is really establish kind of a point of contact, if you will, or an account executive for your account, someone who is familiar with enrollment aspects as well as what's happening with adjustment protests, with your claims experience, with your plan choices. So what we've done is assigned a financial incentive coordinator, an enrollment coordinator and a claims manager to each of the group and individual accounts. This is a handout.

We're not planning on changing our internal process, for how we handle managing adjustment protests or enrollment protests or the routine work of enrollment. We'll still do that, you know, to balance the distribution so we can meet our service standards.

Meeting Dates

From the staff perspective, it makes sense to us that we would schedule these meetings to be more coincidental when we issue the refunds to the groups and individual accounts so that we're having a more current conversation about performance.

Retro for Claim Managers - One-Minute Video

Cami Cole is here. Cami is working with us as a Claims Manager, on loan from Claims Administration. She created this one-minute promotional video that we did promoting Retro inside of L&I. And we got really good feedback about the video.

(Video played.)

TIM SMOLEN: Lauren, thank you.

Folks on the Committee have been very generous about offering to come and visit with our claims managers and other staff and talk about the program, so I hope this is just an introduction to having some more real live conversations between you all, our customers and our staff, about how we affect each other and how we can improve our performance.

Meeting adjourned at 12:00 p.m.