

Workers' Compensation Advisory Committee (WCAC)
Meeting Minutes
August 28, 2006

Committee Members:

Business Representatives: Kris Tefft, Association of Washington Business; Mike Sotelo, W. G. Clark Construction Company; Jon Warling, Mon-Jon Orchards

Labor Representatives: Owen Linch, Joint Council of Teamsters No 28; Dave Johnson, Washington Building & Construction Trades Council; Robby Stern, Washington State Labor Council, AFL-CIO, Ellie Menzies, Service Employees State Council, Self Insured Workers' Representative

Self Insured Employer's Representative: Katrina Zitnik, Costco Wholesale

Ex Officio Member: Tom Egan, Board of Industrial Insurance Appeals

Chair: Bob Malooly

Recorder: Gwen Reed

Presenters: Bob Malooly, Tom Egan, Roy Plaeger-Brockway, Bill Vasek, Gary Weeks

Guests: Melissa Wade, Allen Frank, Janice Camp, Paula Moore, Toni McKinley, Rick Bender, Rick Slunaker, Ann Jarvis, Dave Kaplan, Mark Johnson, Laurel Smith, Vicky Smith, Michael Settles, Gary Fasso, Jon Warling, Dan Fazio, Joe Gillian, Jeannie Gorrell, Steven Hecker, David Lauman, Toni Thompson, Greg Kabacy, Bill Kemble, Lucinda Young, Amy Brackenbury, Lisann Rolle, Tammie Hetrick, Joe Jauquet, Sarah Beznoska, Larry Brown, Libby Bigler, Kim Hoff, Randy Logmans, Terri Herring, Melissa Johnson, Susan Champlain, Michael Temple, Larry Ditman, Holly Chisa, Erin Walker, Carolyn Logue, Beverly Simmons, Jerri Wood, Jan Gee, Lauren Gubbe, Jeff Johnson, Bill Alkin, Jamila Thomas-Roberts.

L & I Staff: Gary Franklin, Cameron Craigie, Hal Stockbridge, Cynthia Harris, Vickie Kennedy, Jamie Lifka, Gary Walker, Jean Vanek, Sarah West, Sandy Dziedzic, Ron Moore, Barb Collier, Cheri Ward, Bob Lewis, Christine Swanson, Diane Doherty, Judy Schurke, Roy Plaeger-Brockway, Mike Ratko.

Meeting Minutes, Reminders and Updates:

Minutes were approved as written.

An employer feedback video was shown.

At the present time there is no new information to share on the Performance Audit.

Committee was reminded of the special 2 hour meeting to review Legislative reports. The meeting is scheduled for Monday, October 16, 2006 10:00 – 12:00 Noon, Tumwater building room S119.

Update on Intrathecal Pump Rule:

The department has decided to delay the rule on Intrathecal Pumps. The department has asked manufacturers of the pumps to provide additional information on safety and appropriate use of the pump.

An updated rule filing timeline was handed out for Intrathecal Pumps. New rule draft language will be filed on 10/17/2006.

Labor asked if those claimants who have gone through the process of applying for approval of the pump would be approved and is it an absolute non-coverage decision.

Sandy Dziedzic advised that following the recent decision, Claims Administration has developed procedures and communicated to staff that a review must be made of each claim with such a request on a case-by-case basis. Sandy advised that there have been some decisions to approve the pump based on these individual reviews.

Budget:

The budget requests that have been submitted to OFM were handed out and Bob reminded the committee that nothing is final. Information has to be reviewed by OFM and then included in the Governor's budget request.

Board of Industrial Insurance Appeals Update – Tom Egan:

Tom presented updated figures for the Industrial Appeals. There were no significant changes from last quarter.

Third Party Pharmacy Discussion - Roy Pleader-Brockway:

At the request of the WCAC, Health Services Analysts met with stakeholders and representatives from the state pharmacy association and their response was supportive of eliminating third party pharmacy billing. They felt an additional \$2.75 dispensing fee for a new claim was fair. Costs to the department would be around \$50,000 per year.

Labor asked for more information on how the department came up with \$50,000 per year. The department committed to emailing committee members the details for this estimate.

Business asked if the department has done any outreach to stakeholder representatives from third party pharmacy billers to give them the opportunity to accommodate the departments' recommendation that all claims be submitted electronically.

Roy stated that L&I has had conversations with executives from the companies that are currently using third party billers, but have not asked the third party billers if they would be willing to make changes to accommodate the departments' electronic billing system.

Business felt before the committee makes a decision they would like to see, in writing, whether the two third party billing companies can meet the department's requirements. Roy agreed to send letters asking whether the third party pharmacy billers can meet L&I's requirements.

Labor asked if a filled prescription could be a first indication that a claim exists and could this be utilized as notice of claim? Bob and Sandy Dziedzic will follow up with more information at the next meeting.

Update on Experience Rating Plan – Bill Vasek:

The experience plan for 2007 will be simpler, more robust, and more accurate.

Simpler – the experience rating formula will be presented in a form that is easier to understand. The information will also be available in WACs and rules. As in the past, the department will give each employer their experience modification factor and resulting rate.

Labor asked if the new plan will take away the incentive for kept on salary for small employers. Bill responded that it could reduce the kept on salary incentive by reducing the jump for the first dollar of time loss paid. However, by giving more credibility to small firms, the incentive for them to keep larger claims on salary is increased. The department will need to educate employers about light duty, kept on salary, and return to work.

Robust – the plan reduces the impact of the first dollar of time loss or PPD that firms may have. In the new plan \$1,510 will be deducted from all non-disability claims when calculating the experience factor. Also, the credibility assigned to the experience of small firms will be increased. These changes will help ensure that small claims have a small impact on the experience factor. The \$1,510 deduction will result in 70% of the medical only claim cost being eliminated from the experience rating calculation.

An example showing the effect of a small compensable claim on a small firm was provided to illustrate the \$1,510 deduction, and the effect of a small compensable claim on the experience factor.

Accurate - the accuracy is increased through decreasing the credibility weights given to the experience of medium to large firms (firms greater than approximately \$80,000 in premiums for 2007). This change will help to equalize the expected future loss ratios for these firms regardless of their past claim experience.

Business asked about the way that the credibility was assigned to firms. Bill confirmed that the credibility was assigned based upon a firm's three year experience period expected losses.

Labor asked what impact the new plan would have on the rate level. Bill responded that the plan will have no overall effect on the rate level, and it will maintain the same average experience factor that the prior plan did.

Actuarial Trends – Bill Vasek:

Bill reviewed the actuarial trends that are an important part of setting rates. These trends included:

- Trends in insurance exposure.
- Time loss and Pension claim frequency trends.
- Fatal pension cost trends.
- Trends in PPDs.
- Time loss duration growth.
- Medical growth rates.
- Loss Ratio Trends.

Overall Rate Level Analysis – Bill Vasek:

Bill presented the overall rate level indication for 2007. For each fund the rate level indication is the overall rate increase or decrease that will balance the projected 2007 costs and revenues.

In the Accident and Medical Aid Funds historical data is used to estimate the expected losses, administrative expenses, and investment income in 2007 per dollar of 2006 premium. For these two funds indications were presented based upon four different estimates of the 2007 adjusted loss ratios. In the Accident Fund these indications vary between a reduction of 11.4% and a reduction of 7.9%, and in the Medical Aid Fund the indications vary between an increase of 7.4% and an increase of 15.3%. The selected indication is a decrease of 9.8% in the Accident Fund and an increase of 10.1% in the Medical Aid Fund.

The Supplemental Pension Fund premiums are calculated on a 'pay as you go' basis, and the 2007 premiums are set to match the estimated 2007 benefit payments. The Supplemental Pension Fund indication was based upon actual and projected changes in the state average annual wage, as calculated by the Employment Security Department, and the historical relationship between these changes and changes in the Supplemental Pension Fund payments. The indication for the 2007 Supplemental Pension Fund rate is an increase of 7.0%.

The selected overall rate level indication was a decrease of 1.3% consisting of a 9.8% decrease in the overall Accident Fund rate, a 10.1% increase in the Medical Aid Fund rate, and a 7.0% increase in the Supplemental Pension Fund rate.

Rate Scenarios – Bill Vasek/Gary Weeks

There are three decisions that the department needs to make:

1. Setting rates for next year.
2. What to do about the pension discount rate – currently it is too high.
3. What to do about the growing Medical Aid Fund contingency reserve.

The department will be proposing, by rule, an average 2% rate reduction per hour worked, consisting of a 5% overall decrease in the Accident Fund rate, no change overall in the Medical Aid Fund rate, and a 7% increase in the Supplemental Pension Fund rate.

The pension discount rate may be reduced in the next year, which would result in a significant decrease in the Accident Fund contingency reserve. The proposed 5.0% reduction in the overall Accident Fund rate is not as great as the indicated 9.8% reduction to avoid any additional decrease in the Accident Fund contingency reserve.

The proposed 0.0% rate change in the Medical Aid Fund is significantly lower than the 10.1% indicated rate increase. The Medical Aid Fund contingency reserve has grown large, and the proposed Medical Aid Fund rate will help to reduce the contingency reserve slightly.

In order to address the concern with the growing Medical Aid Fund contingency reserve a rate holiday in the Medical Aid Fund is being looked into and will be addressed further at the Workers' Compensation Finance Committee Meeting.

Business mentioned that the pension discount rate may not be too high. They also expressed concern that there was no contingency reserve policy in place, and without policies on the pension discount rate and contingency reserve it was difficult to make a decision on the rate level.

Labor felt that the department needs to look further at the pension discount rate.

Labor suggested that the surplus of non-profit medical insurers may provide a benchmark for an appropriate contingency reserve for the State Fund.

Business was concerned about the proposed 5% overall rate level reduction in the Accident Fund in light of the trends in pension frequency in recent years.

Proposed Legislative Packages – Vickie Kennedy

Vickie updated the committee on the proposed legislative packages:

- Medical Advisory Committee – draft language available. WAC will have to be updated to remove WSMA and to clarify what the role of the committee will be.
- Claim Suppression – draft language not yet available.
- Voc Package – more detailed information will be available in the next few weeks.
- Reopening Statute – draft language not yet available.
- Proposed Statutory Amendment to increase burial awards – draft language available. Fiscal impact information included on handout.
- Reduce administrative burden on medical providers – draft language available to require the department to provide copies of all correspondence and legal orders to medical providers only when they may impact medical treatment issues. Roy is working to get feedback from WSMA and other medical associations.
- Clarify the Occupational Disease Statute – draft language available.
- Outline for Pension Study – Labor requested further discussion before draft language is completed.
- Self Insurance Authority – draft language not yet available. Outline of issues to be addressed based on department's review to date was provided.
- Benefit Determination – draft language not yet available. Further analysis needs to occur to determine whether new definition of wages, flat benefit rate, increased minimums, and other related changes would result in more consistent and fair benefits to workers. Needs further information to address how changes may impact individual industries.

Meeting Adjourned.

Special WCAC Meeting on Monday, October 16, 2006, Tumwater S119 10:00 am to 12:00 noon.

Next regular meeting Monday, December 4, 2006, Tukwila Service Location, 9:00 am to 12:00 noon.