

Workers' Compensation Advisory Committee (WCAC)
Labor & Industries Tukwila Service Location
Meeting Minutes
December 4, 2007

Introductions:

Present:

Committee Members:

Business Representatives: Kris Tefft, Association of Washington Business; Rebecca Forrester, Group Health; Nancy Dicus, TOC Management Services.

Labor Representatives: Owen Linch, Joint Council of Teamsters No. 28; Robby Stern, Washington State Labor Council, AFL-CIO; Dave Johnson, Washington State Building & Construction Trades Council; Karen Gude, United Food & Commercial Workers Union Local 1439.

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

Labor & Industries Director: Judy Schurke.

Chair: Bob Malooly.

Recorder: Sharon Avery.

Guests: Lloyd Brooks, Janice Camp, Beverly Simmons, Jan Gee, Gary Bodeutsch, Becky Bogard, Tammie Hetrick, Ann Jarvis, Vicky Smith, Joan Elgee, Dave Kaplan, Donna Egeland, Art D'Allesandro.

L&I Staff: Felix D'Allesandro, Lee Glass, Roy Plaeger-Brockway, Vickie Kennedy, Mike Ratko, Sharon Elias, Karen Peterson, Jean Vanek, Joshua Ligosky, Mark Mercier, Russell Frank, Bill Vasek, Josh Swanson, Diane Doherty.

Absent Committee Member: Jon Warling, Mar-Jon Orchards.

Presenters: Bob Malooly, Tom Egan, Karen Peterson, Bill Vasek, Mike Ratko, Beth Hoffman, Sharon Elias, Gary Bodeutsch, Roy Plaeger-Brockway, Gary Franklin, Towers Perrin/Tillinghast: David Mohrman and Tapio Boles.

Opening Comments- Bob Malooly:

The meeting began with an introduction of the attendees. Bob presented a safety message regarding "Driving in the Rain".

Review/Approval of August 21, 2007 Meeting Minutes:

August 21, 2007 meeting minutes were approved with the following corrections:

Page 1: Mr. Egan requested his name be moved from guest list to committee list.

Page 3: 4th paragraph, 3rd concern: there was discussion regarding the term "shadow claims management" and it was decided that it would be appropriate to place quotations around this term.

Board of Industrial Insurance Appeals- Tom Egan (handouts):

Mr. Egan reported on the following charts:

- 'Appeals Filed/Granted'- in the last three months there was a significant spike in appeals granted which is attributed to issues with ORION. The Board staff worked overtime and are now current.
- 'Department Reassumption Rate by Quarter'- this went down in September, but is at 24% which compares favorably with historical rate of 26%.
- 'Average PD&O Lag-Time by Quarter for Hearing Judges'- continues to be at 26 days.
- 'D&O Time Lag'- fiscal year number, these have stayed the same for the last three years.
- 'Average Weeks to Completion'- the numbers went up for a few weeks in September due to the focus of working on older cases. The number went down last month to 33 weeks (not reflected on these charts).
- 'Pending Appeal Caseload by Quarter'- 5,518 are active cases that are in process at the board.
- 'Final Orders Appealed to Superior Court/ Quarterly'- Remains at 3% of all orders issued.

Business: Are there any trends in appeals other than the increase?

Mr. Egan responded no, however he indicated there was a 16% overall increase in appeals for the first four months of this year. He is not sure why since the number of claims being filed has been the same. He plans to meet with the department to discuss particular issues that may explain the increase and will report back to WCAC at next meeting.

Business: They wanted to bring to the committee's attention that the BIIA received recognition for their Plain Talk efforts from the Governor's Office.

Fair Isaac/Vericomp- Bob Malooly:

The Fair Isaac contract provided a claim scoring product for state fund claims. This product provided a numeric score for each claim-- low scores were for relatively simple claims, high scores for complex claims and extremely high scores may indicate an unusual circumstance such as a possible fraud situation. We were hoping to utilize this as a resource for claim managers (CM) -- if a claim received higher scores, we would have an experienced claim manager coach the new or lower level CM leading to better understanding. However, staff spent an inordinate amount of time trying to determine why the score was high because the program did not indicate any details or explanation. There was a consensus on the claim floor that the tool did not provide the information needed for the cost of \$600,000 a year. (These charges were charged to the claim, not out of operation budget.) Since 40% of claim managers are apprentices, we would like to find a product that identifies claims that need more expertise early on.

Mr. Malooly responded that we have an internal claim complexity assessment tool that works, but it would be helpful to have something more sophisticated. There are other companies in this market and we will be looking at what else is available.

Ms. Schurke stated that arguably you do not need a tool if you have good accountability and claims planning. Fair Isaac tool was used to flag potential fraud claims, however it mimicked red flags we already used. We used it for complexity assessment, and we found that it was duplicating what our staff was already doing.

Labor: If I understood, part of the problem is turn over-- you are training new claim managers-- if you spread the \$600,000 amongst the employees, what kind of affect would that have on retention?

Mr. Malooly explained we cannot do this-- the expenses for the product were charged to the claim and expenses for claim managers are part of the appropriated budget.

The problem of retaining claim managers is universal across the country. However, the turn-over we experienced years ago is not there anymore. We have people wanting to move into claims because it is an opportunity for advancement in our organization. Sandy Dziedzic has improved the morale dramatically in claims.

Ms. Schurke added that a few years ago, claim managers were given a 12.5% pay increase, causing employees who were getting ready to retire to stay on for two more years. We may see increased turnover once these folks begin retiring.

Labor: Has a salary survey been done on claim manager positions? How long ago was the last survey done-- are they done periodically?

Further discussion explained the Department of Personnel does a salary survey for state government positions yearly. The department will provide more information at the next meeting.

Business: What are the outcomes of Fair Isaac-- do we know how many resulted in fraud detection?

Carl Hammersburg answered that the Fair Isaac score alone did not require a claim manager to send the claim for investigation-- the claim manager reviewed the case for elements that would indicate an investigation.

Mr. Malooly pointed out the Year in Review handout in their packet that includes information on recovery of unpaid premiums at-\$133.9 million, benefit costs avoided because of early investigations at \$4.4 million and inappropriate billings recovered of \$525,000 from medical providers. More details on anti-fraud efforts can be discussed at next meeting.

Labor: Do we know how much of this is fraud related?

Mr. Hammersburg clarified that not all cases were fraud-- for example the audit program assessed over \$20 million dollars in additional premiums last year. 4,800 audits were conducted and 20% of employers were not registered. He can break down these numbers and update the committee at the next meeting.

ORION Update: Karen Peterson

Karen Peterson presented the committee with an update on ORION. ORION was implemented last biennium. Ms. Peterson explained that this is an event driven system-- as documents and phone calls come in to claim managers, these are brought to their attention. The system prioritizes events for the claim managers. The idea is to simplify the process for claim managers-- to give them one tool rather than multiple screens in the mainframe system.

Business: Would like to applaud your effort to provide good tools for claim managers to be more efficient and effective in their jobs.

Labor: What is the acceptance on the claim floor?

Ms. Peterson explained that there was some resistance but the acceptance of the system has improved.

Rate Hearings Update: Bob Malooly

Mr. Malooly stated that the rate hearings this year were as calm as he had ever seen. There was very little objection to the proposed rate increase of 3.2 percent.

A draft "Experience Modification Factor" (EMF) letter was provided as a handout. Mr. Malooly explained that safe construction employers may see an increase in their EMF. This letter explained that the increase is due to our change to the weighting used in the formula and no material change in the firm's actual experience-- this letter would go out to those select employers.

Labor: What is the percentage of total premium that workers pay? Also, requested that the net percentage (after retro refunds) be provided in the future.

Bill Vasek clarified that it is 25% before retro refunds and 27% after. Mr. Malooly explained that the department tracks these numbers and can provide the history and details to the committee.

Business: Would like to note that not all employers take the deduction from their employees' pay checks.

Labor: Would you indicate what the effect of taking less than indicated rate is on the contingency reserve?

Ms. Schurke provided an update to the committee that we adopted the 3.2 rate increase on Saturday. Subsequently, she has heard concerns in other meetings regarding the supplemental pension fund increase.

Contingency Reserve Policy: Judy Schurke and Bob Malooly

Ms. Schurke provided a status update on the draft policy. In order to keep volatility down, do we want to hold returns down? The State Investment Board invests our money for optimal return at a prudent level of risk. The policy would change allocation and reduce some return to funds. There are questions in some department and stakeholders' minds on whether we want to do that because those returns offset premiums.

Ms. Schurke plans to vet this policy with the WCAC at a later date.

Ms. Schurke addressed Mr. Lynch's question regarding the fact that we took half of the indicated rate. If we had taken the indicated rate, it would have brought in \$58 million more dollars.

Mr. Malooly mentioned that in the past years we have not charged the indicated rate to the medical aid fund-- but we are working toward that. This rate depends on medical inflation and on what is expected for next year. The rate of medical inflation changes all the time. Given the contingency reserve, we wanted to take another step closer to break even for the medical aid fund with out taking too big an increase.

Labor: If we decrease the equities in medical aid, we earn less money-- and the effect is that we need larger increases in the medical aid fund. The medical aid fund costs have continued to grow as percentage of total premium, shifting more of a burden to workers. It also increases employers' contribution to the medical aid fund. If we are going to continue to take less than indicated rate-- it puts us at more risk of volatility in future rates.

Mr. Malooly explained that the purpose of the draft policy is to memorialize the thinking that went to our management of the contingency reserve so that years from now others can review the document and utilize it when making decisions. We will re-visit this issue in a future meeting.

Business: In that situation, could rate holidays be avoided?

Mr. Malooly answered that rate holidays should not be something that is commonly done. However, under certain circumstances where the capital and the funds are beyond our needs, we should give funds back. This should be a policy option.

Retro/Pension Study Updates: Bob Malooly

Copies of the handout titled "Pension System Review" from the committee members' packets were reviewed.

The department selected UpJohn Institute as the contractor for this project; both business and labor ranked this team at the top of the list. This project is to conduct an analysis of the factors contributing to the recent increase in pension frequency, determine whether the upward trend will continue. The project is scheduled to be completed by July 1, 2008.

Ms. Schurke mentioned that the next Retro meeting will be used to brainstorm with labor and business for areas for deeper analysis. Judy thanked all those who have been involved in this process.

New Rate Notices: Bob Malooly

The department has redesigned the rate notices-- a copy of will be provided at the next meeting.

Ms. Schurke added that the quarterly reports for employers are also being redesigned to make it clearer and easier to use. Before and after copies will be provided at the next meeting for comparisons, these are great examples of utilizing the principles of Plain Talk.

The notices will be mailed the 3rd week of December. The Year in Review will also be included in this mailing.

Rate Holiday Dividend & Rate Holiday Updates: Judy Schurke, Bob Malooly, and Bill Vasek

A portion of the contingency reserve was used to pay the premium of the medical aid fund for the last six months of 2007. The last quarterly report will show half of the effect of the rate holiday and the quarter after that will show the remainder amount. This will draw down the contingency reserve by about \$300 million dollars.

In order to keep the balance between retro and non-retro participants, we are paying a small dividend to non-retro employers. This is due to the fact that an adjustment was made so retro refunds will not be affected by the rate holiday and to keep the retro and non-retro loss ratio the same. Further details will be shared at the next meeting.

Reciprocal Agreements Report Update: Mike Ratko

There have been multiple meetings since August with a work group consisting of labor and business representatives. The work group has reviewed the draft reciprocal agreement report and is working toward solutions on how to address extraterritorial issues going forward. A status report will be provided at our next meeting and hopefully we will have a final report to distribute to the committee.

Mr. Malooly thanked all who have been involved in this process.

Safety and Health Investment (Grants) Projects: Beth Hoffman

Copies of the draft "Safety and Health Investment Projects" were provided in the committee members' packets.

The program for Safety and Health Investment Projects (SHIP) was established during the 2007 legislative session to provide funding for safety and health projects for work places covered by the medical aid fund. Priority is give to projects involving accident prevention through cooperation between employers and employees or their representatives.

Ms. Schurke remarked that this is a real opportunity to get employers and workers to think about innovative ideas for safety in their work places.

Quarterly Financials: Sharon Elias

Copies of the "Statutory Financial Information; Fiscal Year 2008- First Quarter; September 30, 2008" were distributed to the members of the committee.

Sharon Elias reported that the contingency reserve amount is reflected on page 3 of the handouts-- it is currently at \$1.9 billion; \$117 million difference from the June 30th balance. The rate holiday impact is not reflected on this statement because this represents the quarterly payments that we received for the quarter ending in June before the beginning of the rate holiday.

Ms. Elias provided updates on the following:

- GAP/SAP reports will be submitted by December 31st, 2007 per legislative requirements.
- The State Auditor office has hired Peterson Sullivan to conduct the GAP audit.
- L&I decided to hire a consultant to review the SAP financial statement for the state fund. We are waiting for the final report and looking for a clean opinion.

Ms. Schurke asked the committee if they felt there was a need for additional meetings to discuss quarterly reports. It is important to her that the WCAC members are comfortable with the numbers.

Labor: A request was made to have the percentage of the contingency reserve to the total fund on future quarterly reports.

Ms. Elias noted that she will add this requested information to the next report.

Labor: Expressed concern on negative number of pension reserve fund. Is this related to the discount rate?

Ms. Elias answered that this is not reflective of any discount funds-- it is due to timing on when the reports were generated.

Mr. Malooly added that the pension fund dollars are transferred in and out-- it is designed to zero-out over time.

State Average Wage (SAW) Presentation: Gary Bodeutsch

Gary Bodeutsch from Employment Security Department gave a presentation regarding the calculation of the average annual wage. Copies of the "Average Annual Wage Calculation 2007" handout from the committee members' packets were reviewed. The handout provided an explanation of:

- the methodology used for calculations.
- definition of other calculations of the average annual wage.
- estimates of the average annual wage.

Labor: Do you calculate the median? A request was made to see those numbers at next meeting-- if they are available.

Mr. Bodeutsch responded that he currently does not have that number, but it could be done mathematically from current records-- he will do his best to provide this information to the committee.

Business: Within covered employment, do you have breakouts that show by occupation/industry where wages are falling? Is this information available?

Mr. Bodeutsch answered that this information is not on the website, but he can provide this information upon request.

Audience Member: Do you compute the numbers by June 15-- do you do them on a quarterly basis?

Mr. Bodeutsch explained that they do not compute the number quarterly on this particular calculation. However, their own financial models are updated quarterly. The models are designed to be annual models, particularly the long term ones, which reflect many years. The quarterly distribution makes it inaccurate on a quarter to quarter basis but, they do self-adjust over the course of the year.

Audience Member: Expressed concern from Self Insured community regarding the supplemental pension fund. The curve is very steep, so when projections of SAW are off by small percentage, it can result in a large premium increase. If there was a more frequent way to evaluate what the increases are on a comparative basis, it could provide advance notice to how big the rate increase would be in advance and avoid surprises.

Mr. Bodeutsch explained that the variables they use are from the Economic Forecast numbers. They publish their assumptions on a quarterly basis on their website. For September 2007, the numbers were reflected as the following:

- 2.9%: Total employment growth.
- 8.2%: Wage growth.
- 5% increase in SAW compared to last year.

Mr. Malooly noted that there is a leveraging effect. When the SAW goes up by a large percentage, it almost doubles the effect on the supplemental pension fund. This introduces a lot of volatility in the supplemental pension fund rate.

Labor: Does Oregon and California use similar formulas to ours?

Mr. Bodeutsch was not sure, but he guessed that most states are fairly close.

Mr. Malooly stated that follow up meetings will be scheduled in the future with Mr. Bodeutsch.

Health Care Updates: Roy Plaeger-Brockway

Copies of the "Health Care Update" handout were reviewed from the committee members' packets. Mr. Plaeger-Brockway explained that the current problems with access to health care reported that workers had difficulties accessing doctors in Orthopedics, Family Practice and Psychiatry. The solutions were to provide a new website "FIND-A-DOC" service, outreach to hospitals, improve service from provider account representatives, reduced paperwork and conduct provider satisfaction surveys. Concerns have been raised regarding Independent Medical Exams (IMEs). These include workers' satisfaction, provider credentials, report quality and appropriate use of IMEs. This resulted in an extensive review of issues, meetings with stakeholders and the development of a draft report with recommendations that has been shared with stakeholders for feedback.

Labor: What is the percentage of registered doctors at L&I?

Mr. Plaeger-Brockway has these numbers available and will provide them to the committee at the next scheduled meeting.

Business: Roy has been very successful in helping to find orthopedic doctors to work with injured workers in the Clarkston area- this has made a big difference. In the future, she would be interested in quality assurance efforts and what the department is doing regarding physicians with high utilization of opioids.

Mr. Plaeger-Brockway will provide an update on this request at the next scheduled meeting.

Mr. Malooly complimented Mr. Plaeger-Brockway, Dr. Franklin and Dr. Glass- the relationship between the department and the medical community has improved dramatically due to their efforts.

Chiropractic and Medical Advisory Committees Update: Dr. Gary Franklin

Dr. Franklin provided an update on access and opioid issue. All agencies rolled out an educational pilot for opioid dosing in March. This free, two credit/hour CME class on opioid dosing guideline is available on-line to any doctor or pharmacist. The guidelines explain that if a doctor has been increasing the dose for chronic use of opioids and they have gotten to 20 milligrams of morphine equivalence, and pain and function has not improved in the patient, the doctor should ask for help. Also, there is an issue with access to pain management services in eastern Washington. Dr. Hal Stockridge is working on a pilot to utilize tele-health to assist primary doctors to access pain management specialists.

The first Chiropractic and Medical Advisory Committee meeting was last month. The next meeting is scheduled for January 28, 2008 at the Cedarbrook Center in Seatac. The draft agenda includes:

- Bi-Laws.
- Choosing Chair/Vice Chair.
- Presentation: Draft methods for prioritizing topics to be addressed.

- Presentation: Interim policy of nerve conduction policy.
- Schedule upcoming meetings for the rest of the year.

Labor: They had concerns that public comment opportunity was not added to the agenda for the first meeting. They requested assurance from Dr. Franklin that public comments will be part of future meetings.

Dr. Franklin assured that future meetings will include an opportunity for public comments.

Labor: They received a copy of Health Technology committee on lumbar fusion. What is the impact on the policy? The statement was not clear- could you provide your interpretation?

Dr. Franklin was under the impression that this is not completed yet. As a result, it is difficult to come to a conclusion. His own thoughts would be to re-think pain clinics. Dr. Glass has been sending complicated spine cases to the UW Spine center, with the approval of the attending doctors, surgeons and attorneys. Dr. Franklin would like to see this evolve in the future.

Actuarial Reviewers: David Mohrman, FCAS, MAAA principal Towers Perrin/Tillinghast

Towers Perrin is a benefits and financial-actuarial consulting firm. Tillinghast is the actuarial consulting practice of Towers Perrin, and the largest employer of property/casualty actuaries in the world. The department received a clean opinion from Tillinghast – Towers/Perrin who were contracted by the State Auditor’s Office.

Tillinghast was asked to look at a number of items related to the funds managed by the department. They performed an independent analysis of the liabilities of the funds, an independent analysis of the overall rate level, a financial analysis related to solvency, and a higher level review of the L&I actuaries’ work in several other areas including the Supplemental Pension Fund liabilities, premium receivables, retrospective rating , and experience rating.

Findings – Fund Liabilities as of June 30, 2007

For the liability study they took L&I data and ran it through their own independent model to determine the estimate of the total reserves. L&I is carrying \$9.2 billion for the Accident, Medical Aid, and Pension Fund liabilities. Our estimate is slightly higher at \$9.31 billion, a difference of \$0.16 billion or about 1.7%. This was not a major difference as they see it.

In the Medical Aid Fund the estimates are very close. In the Accident Fund the indication are slightly higher than that proposed by the actuaries at L&I. For the Pension Fund, the results are the same.

Copies of the “Towers Perrin Tillinghast” presentation were distributed to the committee for review.

Schedule of 2008 WCAC Meetings: Bob Malooly

The committee was provided potential dates for the upcoming 2008 schedule. The meetings were scheduled as the following:

- March 31, 2008 Tukwila Service Location.
- August 25, 2008 Tumwater Location.
- October 6, 2008 Tumwater Location.
- December 8, 2008 Tukwila Service Location.

Meeting was adjourned.