Workers' Compensation Advisory Committee (WCAC) Meeting
Labor & Industries Tumwater, WA
Meeting Minutes
April 30, 2010

Business Representatives: Rick Anderson, Sakuma Bros; Nancy Dicus, Vigilant Counsel; Kris Tefft, Association of Washington Business; Rebecca Forrestor, Group Health

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

Labor & Industries: Judy Schurke, Director; Bob Malooly, Assistant Director of Insurance Services

Board of Industrial Appeals: Dave Threedy

Recorder: Sharon Avery

Guests: Kathleen Collins, Scott Dilley, Liana Dupont-Smith, Jim Brownell, Craig Scukas, Amy Brackenbury, Joan Elgee, Jan Gee, Trisha Zugel, Christine Swanson, Carolyn Logue, Holly Chisa, Vicky Smith, Viona Latshaw, Angela Ramacher, Tammie Hetrick, Tom Egan, Janice Camp, Beverly Simmons, Dennis Kelley-Jones

L&I Staff: Karen Peterson, Dave Overby, Joshua Ligosky, Lisann Rolle, Naomi Goodman, Mike Ratko, Janet Morris, Janet Peterson, Jason McGill, Bill Vasek, Sharon Elias, Gary Walker, Kirsta Glenn and Vickie Kennedy

Opening Comments and Safety Message

The safety message was presented by Mr. Malooly.

The December 9, 2009 minutes were approved.

Updates: Bob Malooly

The Workers Compensation Research Institute (WCRI) project is a limited study to examine prescription patterns and shoulder and knee injuries. The contract has been signed and the department has made the first payment. We will see results from this project in December when the completed first draft of the analysis is provided.

Mr. Malooly introduced Kirsta Glenn, Research and Data Services Program Manager. Prior to joining L&I, Ms. Glenn has worked as the Chief Economist for Employment Security Department and as the Executive Director for the Economic Forecast Council which forecasts for the state budget process. Her vast experience is helping the department's understanding of our data.

Mr. Malooly presented Tom Egan with a certificate expressing the department's appreciation of his service as the Chairman of the Board of Industrial Insurance Appeals for the past 12 years. Director Schurke continued with an introduction of Dave Threedy as the new Chairman of the Board.

Board of Industrial Insurance Appeals (BIIA) Update: Dave Threedy

The presentation was reviewed.

- *Appeals Filed and Granted per Month:* There were 3,134 appeals filed last quarter and 1,870 appeals granted. These have remained steady the last few years. Mr. Threedy generated a trend chart over a ten-year span because of the variations in the number of appeals. The slight upward trend shown on the chart would be expected.
- *Department Reassumption Rate by Quarter:* The reassumption rate is 26%. This has remained constant over the years.
- *Average PD&O Time Lag by Quarter for Hearing Judges:* This is at 32 days which is an increase from past quarters. If increases continue, the Board will evaluate the cause and take action if needed.
- *D&O Lag Time by Quarter:* It is taking a total of 46 days for the Board to issue a decision and order after a petition for review is filed.
- *Quarterly Average Weeks to Completion:* This is a key chart used to monitor how the Board is doing overall. As of March 2010, the average weeks to completion is 30.7 weeks. Mr. Threedy noted that when Mr. Egan took over as chair, the average weeks to completion was 41 weeks—in 12 years, the board has made remarkable improvements.
- *Caseload at End of Quarter:* The active appeals have decreased from last quarter to 4,841.

It was asked how the average weeks to completion compare to other states. Mr. Threedy answered it would be difficult to compare the data with other states and that he was unable to answer the question with certainty.

Economic Update: Judy Schurke

Director Schurke distributed a handout for discussion. The handout is the most recent update from the Economic & Revenue Forecast Council and can be found at www.erfc.wa.gov. For the U.S. forecast, there was an increase in economic activity in March and an addition of 162,000 jobs; 48,000 were census workers. The unemployment rate remained steady at 9.7%. The U.S. recovery in housing continues to falter—new home sales hit a record low, but improvement is expected in April.

For Washington's update, the Forecast Council says the economic data continues to support their view that the state's economy has 'turned the corner'. For January and February, there was a modest employment gain of 2,800 jobs in Washington. It was reported that initial claims for unemployment insurance showed a decline in March but it is believed that 2010 job growth will initially be slow and uneven and gain momentum at the end of the year and into 2011. The outlook for manufacturing is positive, while new housing construction fell in February. The upcoming expiration of government incentive programs is a threat to the housing economy and housing construction will not return to previous levels. The department will utilize this information, along with Conning's economic updates about the insurance markets, for upcoming rate setting. The department needs the latest information about job growth in Washington and the best economic predictions available when considering rates.

It was asked if the department uses the available data from electrical permits and inspections. Director Schurke advised that the department recently laid off electrical inspectors because we do not have revenue from permit sales coming in. The data shows the numbers are continuing to decline. An update will be provided at the next WCAC meeting.

Director Schurke continued with an update on ESHB 6503, the legislation regarding furloughs of state workers. The workers' compensation program and safety and health compliance activities are exempt from furloughs.

The department will determine the parameters of these two exemptions for the purpose of implementing the legislation. The bill specifies there are ten furlough days scheduled. About 25% of the state workforce is subject to furloughs, 75% are not. It was asked if the Board will be exempt. Mr. Threedy answered the Board was not exempted in the final version of the bill and would not be considered as part of the workers' compensation program. The Board is considering whether to submit a plan to OFM to show savings in other ways rather than suspending functions.

Financial Update: Sharon Elias

The presentations, *Summary of Fiscal Year 2009 Workers' Compensation Program Comprehensive Annual Financial Report* and *Industrial Insurance (State) Fund Statutory Financial Information Fiscal Year 2010-Second Quarter As of December 31, 2009* were reviewed. Copies of the *Statutory Financial Information Report, Comprehensive Annual Financial Report* and *Industrial Insurance (State) Fund Interim Statutory Financial Information Fiscal Year 2010- 2nd quarter* were distributed.

Summary of Fiscal Year 2009 Workers' Compensation Program Comprehensive Program

Ms. Elias provided several updates to the committee.

- Since adoption of the state law, the department has issued four sets of annual reports. Without any audit exceptions, we delivered our fourth set of annual reports on-time to the Governor's Office prior to the December 31, 2009 deadline.
- For the FY 2009 audit, the State Auditor's Office (SAO) hired Peterson Sullivan to conduct the GAAP audit, and Towers Perrin for the actuarial review. They both issued unqualified, or "clean", opinions.
- Though it is not required by law, the department again elected to have our SAP financial information audited. The SAO selected Peterson Sullivan who worked with Brown Smith and Wallace to conduct an audit of SAP financial information. They also issued an unqualified opinion.

Financial highlights:

- The downturn in the stock market and changes in economic conditions resulted in $403 million in realized and unrealized losses during the fiscal year. In comparison to FY 2008, the loss increased by $321.5 million. The loss in FY 2009 was $81.6 million. This is based on the SAP financial statement. Again, due to economic conditions, our premium revenue dropped as the number of hours reported decreased.

GAAP Highlights: These highlights represent significant changes from June 30, 2008.

- As of June 30, 2009, the workers' compensation program's Accident, Medical Aid, Pension Reserve, Second Injury and Self-Insured Overpayment Reimbursement funds all have positive fund equity. The only fund with a deficit is the Supplemental Pension Fund SPF). This fund is pay-as-you-go and no assets are allowed to accumulate for future benefit liabilities.
- There were few changes in the financial reporting. The GASB requires the department to report post-employment benefits other than pension expenses. Post-employment benefits include medical, dental, life and long-term disability insurance. The workers' compensation program is legally required to provide other post-employment benefits and is funding them on a pay-as-you-go basis. The impact to our financial statement is $14.5 million. In addition, a new fund was added to the 2009 CAFT, for a total of six. In 2008, legislation created the new Self-Insured Employer Overpayment Reimbursement account for reimbursing the self-insured employers for benefits paid during appeals in which the self-insured employer prevails.

- As a result of a change in the forecast of future wage inflation, the SPF was impacted:
    - Estimated future benefit liabilities decreased by $590 million largely due to a change in the forecast of future wage inflation.
    - On page 21, regarding the combined statement of revenues, expenses and changes in fund equity, there is a negative number in benefits incurred. This is unusual for the SPF because our actual cash payment is normally about $375 million per year. If you net the decrease in benefit liabilities of $590 million and the payment of $375 million, it calculates to the negative amount appearing on the statement of revenues, expenses and changes in fund equity.

SAP Highlights: The SAP financial statement only includes the Accident, Medical Aid and Pension Reserve Funds.

- As of June 30, 2009, the contingency reserve balance was $550 million which was a decrease of $1.051 billion from the prior fiscal year.
- Economic conditions and future benefit liabilities impacted the contingency reserve balance.
- Future benefit liabilities increased by $826 million largely due to time-loss claims not resolving as quickly and medical costs growing higher than projected. Additional information is available at www.lni.wa.gov/Claims Ins/Insurance/Learn/StateFund/Reports/Default.asp.

Regarding the June 30, 2009 deficit balance of $10 billion, Ms. Elias explained the department always has a deficit balance in the workers' compensation GAAP financial statement because the SPF future liabilities are not funded.

It was asked how much of the $10 billion is attributable to the SPF. Ms. Elias answered it is 100%; all other funds are positive, the only negative fund is the SPF with $11.4 billion in future liabilities that are not funded. Mr. Malooly added this has always been on the financial statements and the amount is likely to increase because every year we incur additional future liabilities. The decision to make SPF a pay-as-you-go fund was done when the legislature moved it from a general fund liability to a liability in the workers' compensation system. Mr. Malooly added that there may be changes in the GAAP requirements going forward to make them more similar to the SAP requirements.

Industrial Insurance (State) Fund Statutory Financial Information Fiscal Year 2010- Second Quarter As of December 31, 2009

Financial Highlights: Second quarter highlights include cumulative changes from June 30, 2009.

- The contingency reserve balance as of June 30, 2009 was $545 million; it increased to $715 million as of December 31, 2009. This was due to investment gains because of the changes in the market condition. This is a net increase of $298 million in the contingency reserve balance.
- The benefit liabilities increased by $208 million.
- The total in the investment portfolio increased $276 million from $10.809 billion to $11.219 billion.
- For the first two quarters of FY 2010, we had a realized gain of $8.2 million compared to $41.5 million realized losses in FY 2009.
- Total unrealized gains in the first half of FY 2010 was $289.6 million compared to $362.6 million total unrealized losses during FY 2009.
- Benefit liabilities increased by $207.5 million to $10.364 billion.
- The changes to the benefit liabilities was a result of:
    - At June 30, 2009, our total benefit liability was $10.156 billion.
    - We had new liabilities of $784 million.

- Unfavorable development of $167.8 million due to discount accretion and other development.
- Total claim payments during first quarter was $767 million.
- Net change in liability since June 30, 2009 was $201 million.

- Contingency reserve balances:
  - The combined contingency reserve is at $715 million which is below the bottom of the target range. The contingency reserve did increase $165 million from the previous quarter because of investment gains.
  - The contingency reserve for the Accident Fund is $21 million, while the Pension Reserve Fund has a positive $56 million balance. The combined Accident and Pension contingency reserve was at $77 million and is still below the bottom of the target range.
  - The Medical Aid Fund is above the lower threshold of the target range. This fund currently has $638 million, an increase of $157 million from the previous fiscal year.
  - At June 30, 2009, the contingency reserve was at $550 million. We had a net realized and unrealized gain of $297.8 million. The actuaries estimated an anticipated expected gain of $47.4 million for the first two quarters. However, changes in investment brought a $250.4 million increase. For insurance operation results, we had favorable development for the year of $19.3 million. We also had an operating loss of $105.2 million for a combined increase of $164.7 million in the contingency reserve. The resulting 2nd quarter contingency reserve balance is $715 million.

Ms. Elias clarified that the change in the insurance operation is for the current fiscal year loss and means the revenue did not come in to meet the expenditures.

Interim Discussions: Judy Schurke

Director Schurke has met with the Governor's Office regarding the interim work planned with business and labor. This work is clearly a priority for the governor. She has requested the department, labor and business work toward legislative proposals for the 2011 session. Director Schurke advised the governor that half-day meetings likely twice each month will be scheduled during the summer and a meeting facilitator will be used. The first meeting will be used to determine meeting process and structure. The governor plans to attend an early first meeting.

It was asked what issues the governor wants the group to work on. Director Schurke answered that the governor is concerned about issues identified during last year's rate-setting process such as pension trends, the increasing frequency in long-term disability claims, and other significant issues.

The department was asked to provide information concerning the estimated cost of a change to continue survivor pensions after remarriage for all fatality cases. Ms. Kennedy remarked that following the 2009 session, Senator Kohl-Welles and Representative Conway asked the department to report on the background of the current system and what the costs of such a change would be. This report will be provided to the WCAC.

It was reported that the Washington Self-Insurers Association (WSIA) legislative committee requested the WCAC consider a change to the 8% statutory interest rate on unpaid permanent partial disability benefits to make it more in line with current rates.

Supplemental Pension Fund Loan: Bob Malooly

As Ms. Elias mentioned, the SPF is statutorily a pay-as-you-go fund and the department cannot accumulate reserves as is done in the other funds. When the fund was created, the legislature anticipated the need for cash flow loans from time to time. Because of cash-flow issues, the department borrowed from the pension reserve fund, as provided in the law, to meet the SPF obligations as of April 15, 2010. The fund required $7,861,000 and we borrowed $15 million to ensure sufficient SPF funds as quarterly premium payments come in. We may need additional cash-flow loans at other times during the course of the year. This is primarily because of the decline in work hours due to the economic downturn. This fund reacts significantly to changes in hours reported. When 2010 rates were set, the department understood the SPF rate was just enough to meet the obligations, not to restore the balance historically held that is equal to one quarter's liabilities. Given the economy and the impact an additional rate increase would have on employers and workers, we anticipated the likelihood of a loan or loans sometime during the year. As the economy recovers, the income into the fund will improve.

It was asked if the department has considered the possibility of transitioning from a pay-as-you-go approach to reserves for the SPF. Mr. Malooly answered that we have looked at that in the past and it would require substantial rate increases. The department will ask the actuaries to update their analysis and provide the information for the WCAC at the next meeting.

It was asked besides furloughs, are there other administrative cuts the department is taking such as a hiring freeze? Director Schurke answered that there is a statewide hiring, travel, and equipment freeze that has been implemented. More importantly, the majority of the department's savings are coming from administrative efficiencies and changes. The department is working to reduce delays in the system, and to ensure we have good connections with physicians and vocational counselors to help reduce delays in claims management and resolution. Mr. Malooly added the department is launching its lean program to look at our business operations to identify where we can reduce the cost of delivering services. There will be 20 lean projects underway in the insurance program by the end of the year. An update on these projects will be provided at a future WCAC meeting.

Mr. Malooly added that Conning was asked to benchmark the department's expenditures compared to peers in the workers' compensation insurance industry. The department's administrative expenses are extraordinarily low when compared to other insurance carriers of our size. The department does not want to pursue staff savings where we would not have sufficient people to manage claims, resulting in increased costs because of delays in surgeries and medical treatment and getting people back to work.

A concern was raised regarding the department continuing to look at administrative savings. The Conning report raises concerns about whether the department is spending enough money on administration. If the department drives this down further, will this adversely impact productivity and the effectiveness of the program?

Lean techniques were endorsed; improving administrative efficiency does not mean quality is lost. It could increase production, providing an opportunity to re-deploy employees to other areas.

Conning Modeling and Prospect of Inflation: Bob Malooly

The department has enlisted Conning for assistance in a modeling effort. Conning is under contract with the State Investment Board and they have been asked to study the likely future consequences of inflation in the workers' compensation system. Because of the volatility of the situation, the department felt it would be helpful to model scenarios that can reveal the consequences of either inflation or deflation in the system. The department would also look at the likely consequences of different economic recoveries so we have a better understanding of what impact a slow recovery versus a rapid recovery might have on the workers'

compensation system. Scott Daniels, from Conning, will be invited to present at a future WCAC meeting. He will provide the committee with a more in-depth explanation of the modeling efforts.

Legislative and Rules Update: Vickie Kennedy

Copies of the *2010 L&I Legislative Summary* and *April 2010 WCAC Agency Rules Development Update* handouts were reviewed.

2010 L&I Legislative Summary: This is a summary of all legislation that was passed during the 2010 session that impacted any program within the department.

EHB 2519: Addressing duty-related death benefits for public safety employees; the bill as originally submitted included lifetime benefits for surviving spouses of LEOFF members and WSP who were killed on the job. This was changed to an increase in the remarriage settlement option from the equivalent of 24 to 36 months' benefits for the survivors of these individuals. Currently, when a surviving spouse remarries, they must choose to either leave their benefits for reinstatement later should the remarriage end through divorce or death, or they can take a settlement of 24-months' of their pension benefit with no future reinstatement. For these people, the 24-month value has been increased to 36 months.

ESHB 2876: Concerning pain management; the Department of Health is the lead on implementing this legislation concerning pain management. Jason McGill will provide further details in his presentation.

HB 3061: Addressing claims of insolvent self-insurers under industrial insurance; this was an issue presented by the Insolvency Trust Board, made up of labor and self-insured employer representatives. The insolvency trust fund covers benefits for workers when a self-insurer becomes insolvent and there are no longer funds available through their surety. The board recommended transferring the surety that might exist for an employer who has been insolvent for more than 10 years and all their claims have been closed. This remaining surety would be available for the payment of benefits on other insolvent self-insurers' claims before the self-insured community must pay any additional assessment. The legislation also eliminated second injury fund relief for insolvent self-insurers.

SHB 2789: Authorizing issuance of subpoenas for purposes of agency investigations of underground economic activity. This legislation was proposed in response to the Washington Supreme Court's decision in the *Miles* case.

SSB 6949: Establishing a farm internship program. Ms. Kennedy described the department's implementation efforts; staff are expediting the creation of risk classes for interns approved under the program and developing the criteria for internships. Small farms have an opportunity to utilize the program for two seasons before the provisions sunset.

The State Labor Council (WSLC) would like to be involved in the program's development. Ms. Kennedy confirmed that she would forward the request to the appropriate staff, and indicated they are working on the criteria to be in policy rather than adopting rules.

April 2010 WCAC Agency Rules Development Update: This update will be a reoccurring agenda item for the WCAC. Any rule activity for Insurance Services or Occupational Safety and Health that has occurred since the last meeting will be provided.

IME Improvement: New rules establish credentials for Independent Medical Exam (IME) providers and require reapplications every three years. In the past, if a provider was on the IME provider list, they remained unless the department took action to remove them. In addition to provider requirements, the department has established a cap on how many exams the provider can do in a day.

Travel Expense: This change is one example of department efforts to cut costs. In the past, the department paid travel expenses based on the state reimbursement per diem rate for a worker who had to travel 10 miles or more for medical treatment or for vocational retraining. If they exceeded 10 miles, the department paid from mile one. Example: if a worker was required to travel 9 miles, they would not be reimbursed, but if the worker travelled 11 miles, they would be reimbursed for 11 miles. The two changes being proposed would change the 10-mile cap to 15 miles and the department would only pay for the mileage over the 15-mile cap for each trip. A public hearing has been held, but no comments were received from the vocational community. To make sure the appropriate parties have the opportunity to be heard, the department is filing another CR102 and will hold an additional hearing on June 30, 2010. The department is anticipating a September 1st implementation date.

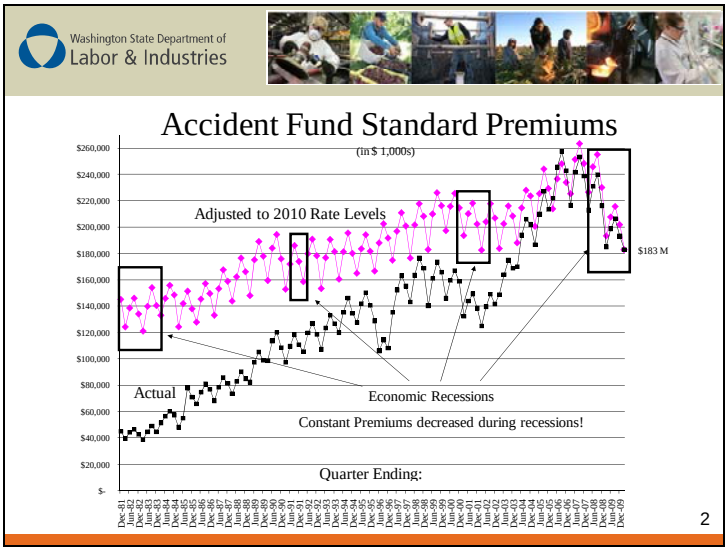
It was asked if the department has an estimate of how much can be saved through these changes. Janet Peterson answered it is roughly $2.8 million in savings.

Time loss Duration Update/Pension Trends: Bill Vasek

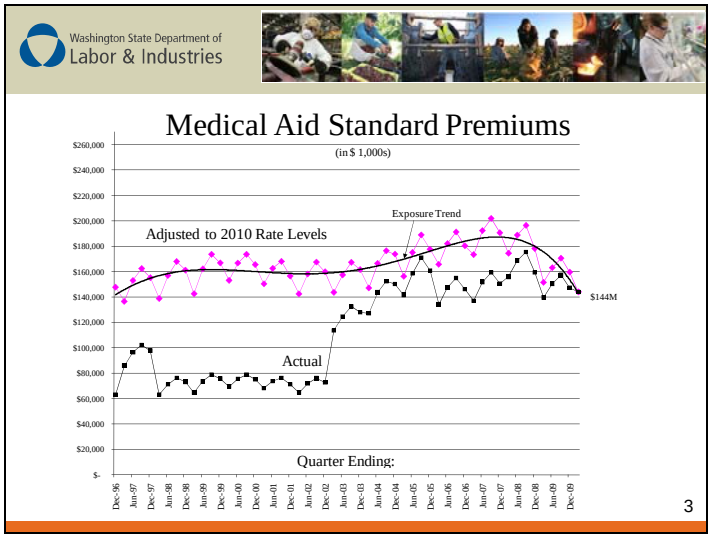
Copies of the *Actuarial Trends In Premiums, Hours, LTD claims, Time loss duration, and TPD pension* presentation were reviewed.

Mr. Malooly began the presentation by defining the Time Loss Index. The term "average days of time loss paid" is misleading. The department does not know what the average days paid over the life of new claims will be because they have not occurred yet. Nevertheless, this is a very useful index because it give us an idea of what is happening at the macro level in the workers' compensation system. Kirsta Glenn reviewed the index and noted it is also a way to calculate the probability of a time-loss claim receiving a day of time-loss paid. The department will continue to work on the index; we hope to see if there are leading indicators of the future direction of the index.

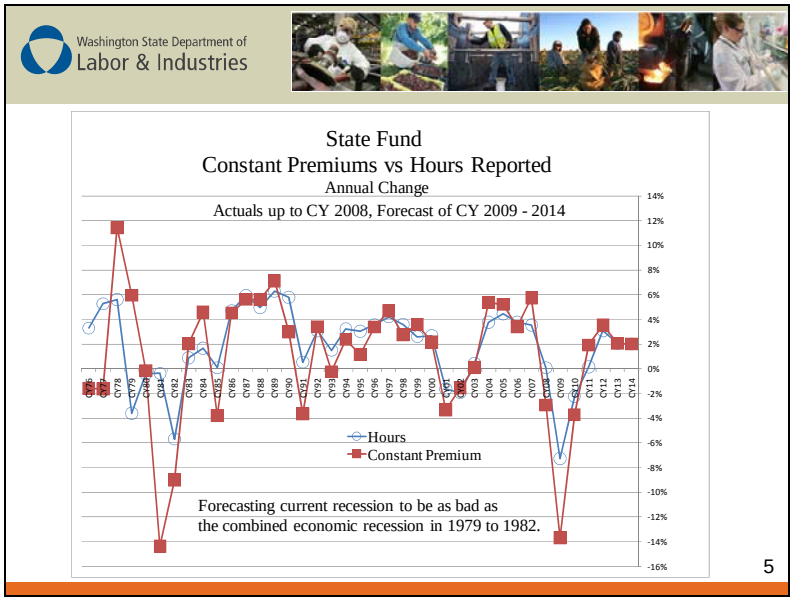
Mr. Vasek presented the updated trends for measures that the actuaries review. These trends were first provided at the September WCAC meeting.



Slide 2 shows the assessed Accident Fund premiums by quarter starting in December 1981. An estimate of the premiums assessed for the 1st quarter of 2010 is provided. The department adjusts those premiums to 2010 rate levels to show how insurance exposure has changed over time. The premiums adjusted to constant rate levels will increase or decrease based on the amount of work reported. During economic recessions, the premiums adjusted to constant rate levels decreased. Currently, we are at $183 million for the Accident Fund.



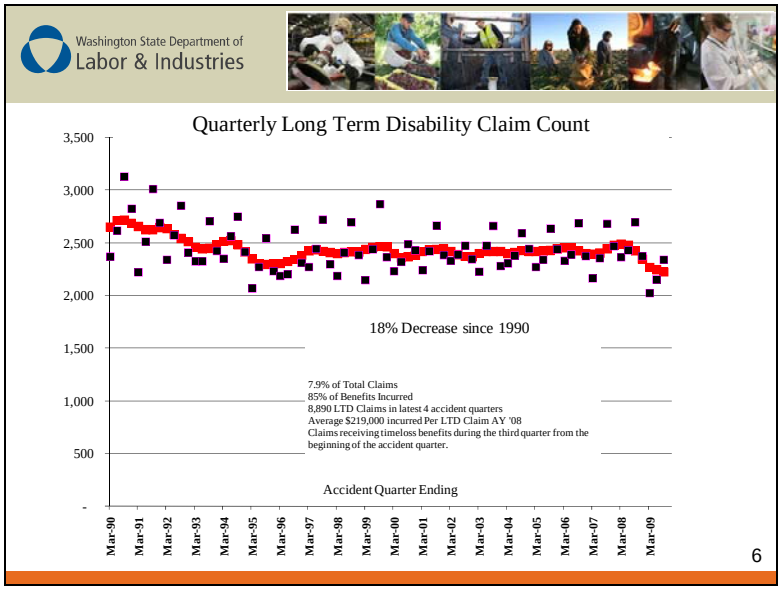
Slide 3 shows the Medical Aid Fund premiums and the Medical Aid Fund premiums adjusted to constant 2010 premium rate levels. The pattern of the adjusted premiums is similar to the Accident Fund. Currently, we are at $144 million for the Medical Aid Fund.



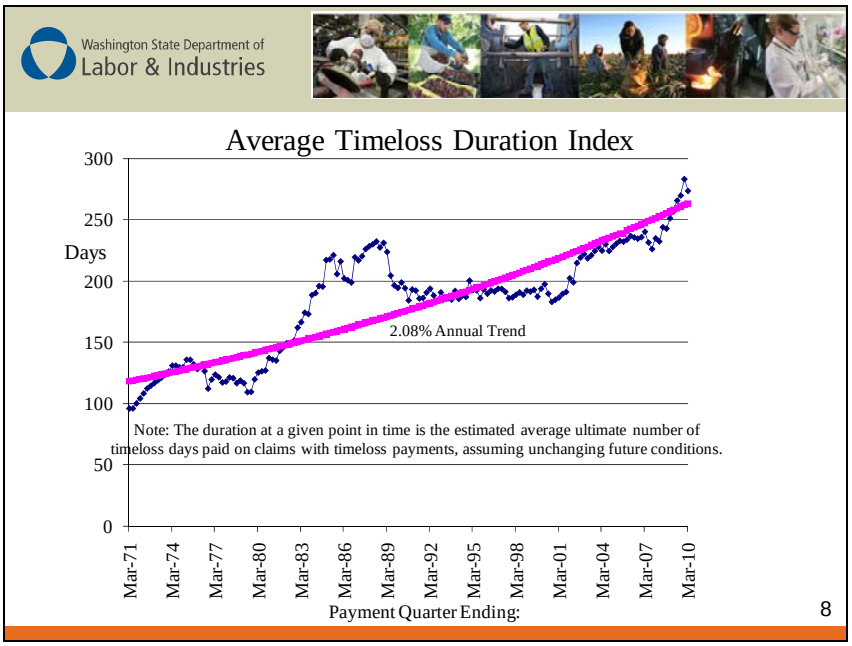
Slide 5 reflects the annual changes in the Accident and Medical Aid Fund premiums at constant 2010 rate levels, and reported hours. The premiums and hours peaked at the end of 2007 and the trend has been declining due to the recession. The trend has decreased 18% since its peak. We are currently at 1998 and 2003 levels.

In 2008, there was a decrease in constant premiums of 3%. There was no change in hours. In 2009, there was a decrease of 7% in hours and the constant premiums have declined almost 14%.

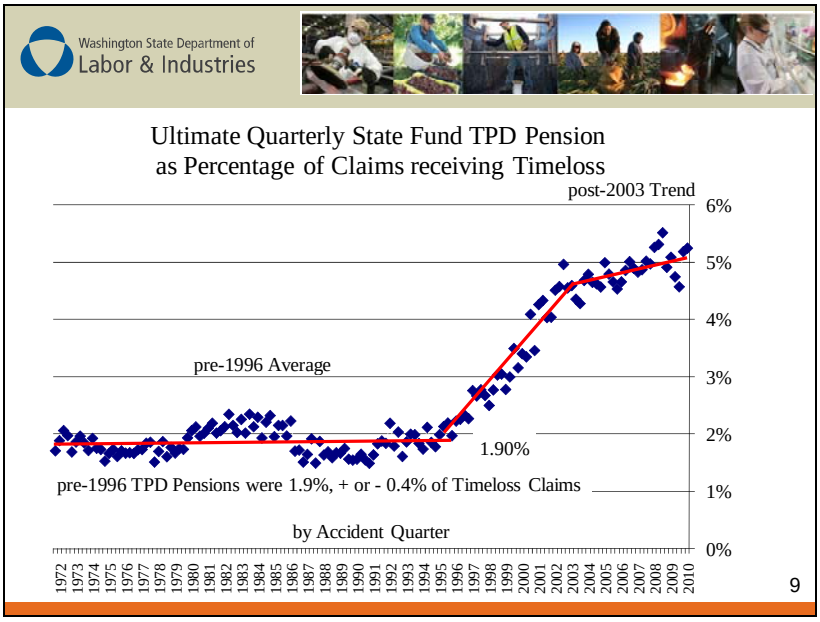
Mr. Malooly remarked that the difference is due to the fact that this recession affected the higher risk, higher premium residential construction industry more than other segments of the economy. The hours worked in classes with higher rates (and higher risk) are declining more than in classes with the lower rates (and lower risk).



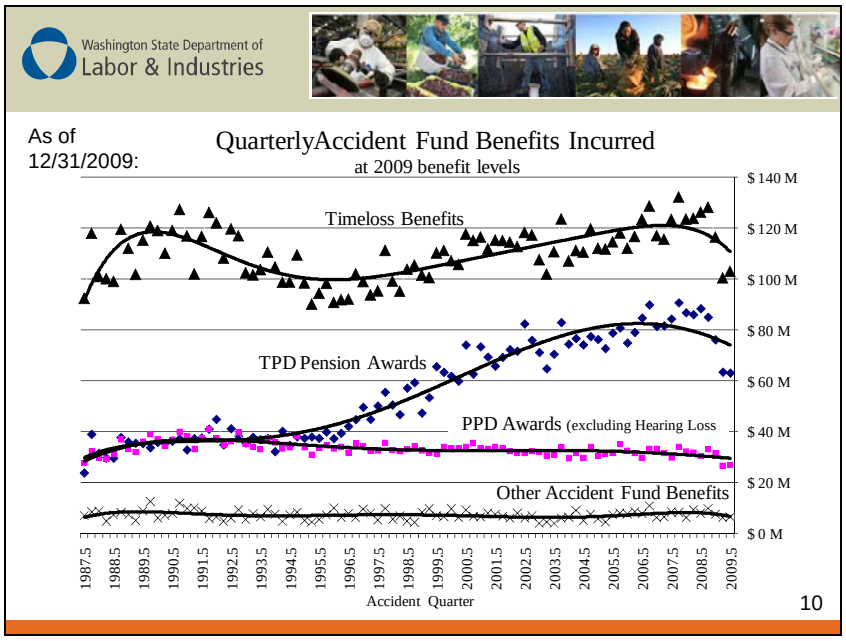
Long-term disability claims are claims that receive time-loss during the 3rd quarter (the 1st quarter is when the injury/illness took place). On average, these are claims that are receiving more than 4 months of time-loss. They represent 7.9% of total claims but 85% of the benefits are incurred for these claims. Because of the downturn in the economy, and the decline in hours and premiums, there is a decline in long-term disability claim counts.



The annual trend in the time-loss duration index has averaged 2.08% since 1971. This chart has the preliminary index for the quarter ending March 31, 2010—274 days—which is a decrease of 10 days from the previous quarter.



Time-loss claims include loss-of-earning-power and kept-on-salary claims in the chart above. The majority of the pensions for the more recent accident quarters are estimates of pensions the department believes will be granted in the future. Most of the pensions have already been awarded for the older periods. There continues to be an increasing trend. Currently about 5% of time-loss claims are estimated to eventually receive a total permanent disability (TPD) pension.



The chart of Quarterly Accident Fund Benefits Incurred is based on the reserve analysis as of December 31, 2009. The actuaries take benefits incurred in the past and adjust them to benefits that would have been incurred if the injury took place in 2009 in order to remove the effect of inflation from the statistics. Because of the increasing duration and frequency of pension awards, the cost of TPD pensions by accident quarters has grown.

With the declining premiums and work hours, the department is also seeing a decline in incoming claims.

A concern was raised regarding the number of pensions that are being awarded. Recently those numbers have been increasing. The department contracted with the Upjohn Institute to review what happened during the period of 1996-2003. They could not pinpoint a single event or cause. They said there was some catch up in the number of pensions from previous years and that workers tended to stay in the system longer which has also occurred nationally. The underlying severity of time-loss claims has also grown nationally.

It was commented that slide 8 shows a pattern of leveling and significant increases. In 2001, the leveling period is smaller than the historic pattern. As opposed to focusing on one period of time in 2001, it was felt the overall pattern should be reviewed as to why there are constant levels at some points in time and significant increases at other points. What happened in the system is more reflected in these spikes, rather than one overall increase.

Mr. Malooly added that in 1980, there was a run-up due to statutorily mandated vocational services. These trends have been reviewed and the conclusion reached that it could be the effects of the aging workforce, or it could be due to the types of accidents that are more easily prevented. The overall accident rate, fatality rates and catastrophic injuries have decreased.

Slide 8: It was commented that the average person has a perception that the average time-loss duration of a claim is 280 days based on how the data is currently presented. In reality, there are a few cases that are extremely long and driving the duration number up.

It was requested that the actuaries provide another chart for the next WCAC meeting that is based on the median to explain what the duration for a typical claim is. It is difficult for others who do not participate in the WCAC meetings to understand that the average claim does not last 280 days. It was requested this chart show the average duration of a time-loss claim is without factoring in pension claims.

Slide 9: it was commented, based on this chart, that the pension trend may flatten out instead of increasing in the future. Mr. Malooly remarked that we do not know what the future will present, but the time-loss index has gone down for the first calendar quarter. He reminded the committee that most of the department's claims are for medical benefits only and most time-loss claims are short duration. A small number last for significantly long periods, and a higher percentage of these are becoming pensions. This is where the majority of costs in the system are. If the pension trend from 2010 continues to go up, it will present challenges for the department.

Another comment was made that the committee has previously discussed this same issue and they felt the average time-loss and time-loss duration data are very complex. It was suggested that the department provide payment triangles so the development of losses could be presented. The payment patterns may be more revealing about how many cases per development year are long-term versus short-term. It would be useful to have the medians or averages together with these payment triangles in the future.

Another comment was made that if a median were used for the time-loss duration index, it would be substantially less than 274 days as the . The majority of time-loss claims do not last more than thirty or forty days. A question was asked if kept-on-salary (KOS) claims are included in the data. Mr. Vasek answered that KOS claims and loss-of-earning-power claims. Pension claims are not.

A question was asked if the department has seen a correlation of occupational disease claims and the pension trend. Mr. Malooly answered that the Upjohn Institute reviewed occupational disease claims and determined they were a factor, but not a driving factor to explain the pension trend. Mr. Vasek added that a third of occupational disease claims are for hearing loss; there are no pensions or time-loss associated with these claims. Another third are carpal tunnel claims and there are few pensions associated with these. It is the other third of occupational disease claims that may be associated with pensions.

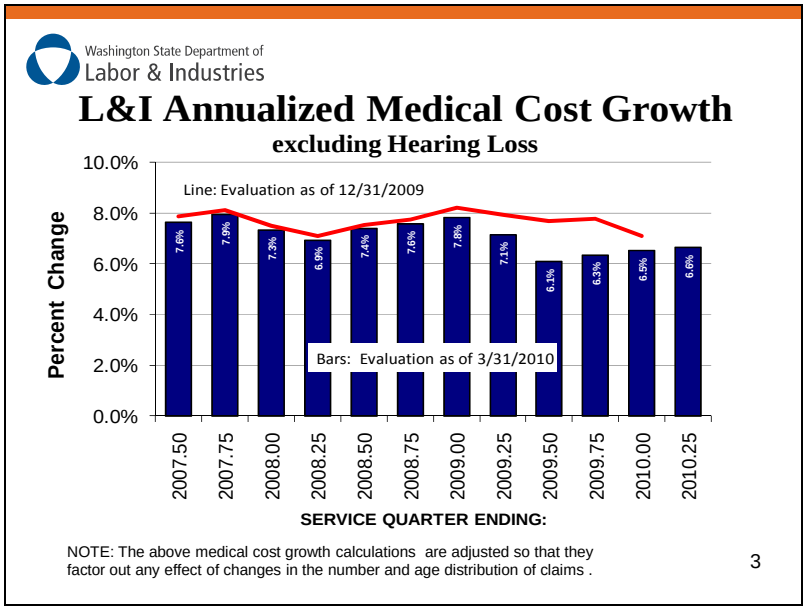
It was asked if the actuaries have reviewed the rate at which reported premiums are dropping and the decrease in incoming claims to determine whether they are decreasing at the same rate. Mr. Vasek answered the claims frequency is dropping more than the premiums, by about 1-2%. In other words, the constant premiums are decreasing by 14% while the losses are decreasing by 15-16%. They are very close. Mr. Malooly added that new workers tend to get injured more other than experience workers. With new workers getting laid off or not hired, there are a higher percentage of experienced workers who are less likely to get injured.

Update on Medical Costs: Janet Peterson and Jason McGill

Copies of the presentation were reviewed.

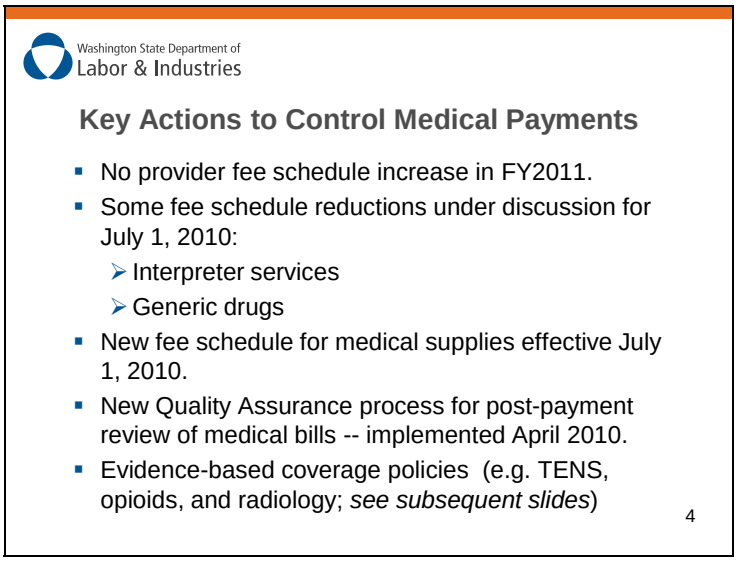
Janet Peterson, Program Manager for Health Services Analysis, began the presentation. The presentation focused on an update of medical trends and high level initiatives that are underway to control costs and reduce disability. Mr. McGill presented on the department's work on evidence-based care and follow-up on cost drivers.

On slide 2, Ms. Peterson explained that the annual medical cost growth is calculated based on the date the medical services occurred. As a result, the cost for services in a particular quarter includes an estimate for bills that the department has not yet received (doctors have up to a year to submit a bill). With updates based on actual expenditures, annual medical growth figures for prior quarters have been revised downwards. The actual costs for unprocessed bills were lower than estimates due to more bills being submitted electronically (and, as a result, paid faster). In the last few years, the percentage of bills filed electronically has increased from 70% to 77%. Also, paper bills are also being handled more quickly. Two years ago, the average completion time for paper bills was over 30 days, and in February 2010 it hit a record low of 18 days.



She explained that the chart on slide 3 shows the department's medical cost growth on an annualized basis, comparing the updated figures to the previous estimates. The previous estimates as of last year (the red line) were close to 8%. However, the updated figures are in the 6% range for most of the past four quarters. The latest quarter's data reflects 6.6%.

It was asked if the department's medical cost inflation is lower than the national average. Ms. Peterson answered the most recent national average for general health insurance is around 7%. It is difficult to get up-to-date information that is specific to workers' compensation, but the department's medical cost inflation is similar to an average health care payer's medical cost increase.



For slide 4, Ms. Peterson explained the cost control efforts that may reduce the department's inflation below 6% in the future. Some of these are still in the discussion phase.

- The WAC has been filed for the fee schedule adjustment for July 2010. There will be no general fee increase through fiscal year 2011.
- There is discussion of targeted reductions to fees paid for interpreter services and generic drugs. It was determined the department could control costs in these areas while still being competitive with market rates.
- A new fee schedule for medical supplies will be effective July 1, 2010. Supplies were previously reimbursed on what the provider billed the department. Adopting a fee schedule will provide more consistency in the amounts paid to different providers for the same supplies, and also help the department control these costs.
- In April 2010, the department's bill payment unit implemented a new quality assurance process for post-payment review of medical bills. This provides standardized quality assurance data on medical payments and has been helpful in identifying areas for additional training and improving accuracy.
- The department's emphasis on evidence-based medicine and evidence-based coverage policies has ended payments for certain medical treatments that are not supported by clinical evidence. The TENS decision has had the biggest financial impact—we were previously spending $600,000 per year on TENS units and related supplies.

Washington State Department of Labor & Industries

Oversight of Provider Quality

- Preliminary analysis showed providers with a pattern of quality of care complaints cost at least 20% more for medical treatment and time loss.
- 5 peer reviews of physicians are close to completion.
- 4 files are almost ready to send out for peer review.
- 1 physician is on active monitoring (post review).
- Added one temporary Occupational Nurse Consultant position to expand provider review; started April 16th.
- L&I to begin regular monitoring of providers via the state's new centralized provider credentialing database (phase-in starting December 2010).

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Regarding slide 5, Ms. Peterson explained that the department analyzed if there was a link between provider quality and cost, and determined that there was. The department found that most providers with many complaints cost around 20% more for medical treatment and time-loss combined.

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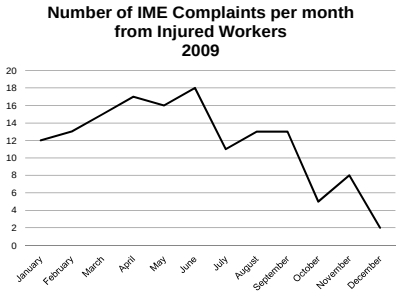
Independent Medical Exam (IME) Quality Improvement Project



Key Actions Implemented:

July 2009: Examiners limited to12 exams per day

March 2010: New WACs effective –
- Clearer standards
- Examiners must reapply every 3 years
- New language on suspension/termination of examiners
- Stronger language requiring testimony

March 2010-February 2011: Phase-in of reapplication process

March 2010: Exit survey of injured workers (on-going)

6

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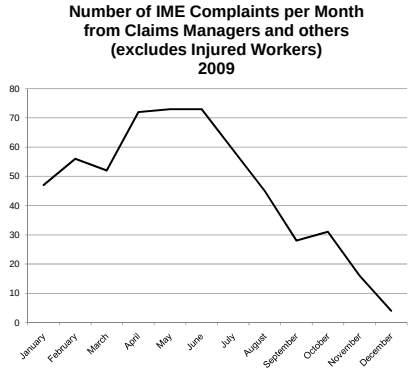

Key future actions:

Electronic scheduling

Improve the referral process

Monitor quality issues

Peer review and follow up actions on poor quality exams

Reporting on IW survey results

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For slides 6 and 7, the graphs illustrated some results for the IME Quality Improvement Project. Slide 6 shows changes in complaints from injured workers while slide 7 represents complaints from claim managers and others. There were positive results for both groups. Ms. Peterson reviewed the key actions that were implemented and the key future actions.

Key Actions Implemented:

July 2009: Examiners limited to12 exams per day

March 2010: New WACs effective:

- Clearer standards
- Examiners must reapply every 3 years
- New language on suspension/termination of examiners
- Stronger language requiring testimony

March 2010-February 2011: Phase-in of reapplication process

March 2010: Exit survey of injured workers (on-going)

Key future actions:

- Electronic scheduling
- Improve the referral process
- Monitor quality issues
- Peer review and follow up actions on poor quality exams
- Report on IW survey results

Mr. Malooly acknowledged Gary Walker for his efforts with working with IME providers to implement higher standards and ensure appropriate services and treatment of injured workers.

Ms. Peterson concluded with an update on COHEs on slide 8.

Jason McGill, Medical Administrator for the Office of the Medical Director, continued the presentation with an update on evidence-based medicine. The Institute of Medicine predicts $800 billion is spent on health care needlessly for ineffective, fraudulent or possibly harmful care. Evidence-based medicine focuses on providing the best and least harmful care. In Washington and for L&I, there are three general groups that produce evidence-based health care decisions. The first is the State Health Technology Assessment (HTA) program. The second is L&I's Industrial Insurance Medical & Chiropractic Advisory Committees, and the third is the department's work with researchers who participate collaboratively with other state payers such as Medicaid and PEBB payers. In addition, there are ad hoc committees such as the workgroup formed through legislative action to address advanced imaging.

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http://www.hta.hca.wa.gov/assessments.html

Evidence-based coverage policies

Recent State Health Technology Assessments (HTA)

- Transcutaneous Electrical Nerve Stimulators (TENS) coverage ended March 1, 2010 (based on HTA program coverage review).
- Bone Growth Stimulators (HTA decision to expand coverage slightly to include fresh fractures)
- Hip Resurfacing (pending final determination, covered)
- Open for review:
  - Vertebroplasty, Kyphoplasty and Sacroplasty
  - Knee Joint Replacement or Knee Arthroplasty
  - Spinal Cord Stimulators
  - Hyaluronic Acid / Viscosupplementation

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http://lni.wa.gov/ClaimsIns/Providers/Treatment/TreatGuide/

Evidence-based treatment guidelines

IIMAC Upper Entrapment Neuropathies guideline subcommittee

- Carpal Tunnel Syndrome (CTS)
  - Most common peripheral nerve entrapment disorder; surgical candidates must have positive objective signs and prohibits use of unreliable tests
- Proximal median nerve entrapment
  - Weakness in the forearm and the hand; in very rare cases, may require a complex surgical release somewhat like CTS
- Cauda equina syndrome
  - A rare and severe, compressive disorder of the lumbosacral nerve roots
- Ulnar Nerve Entrapment
  - Second only to CTS as the most common peripheral nerve entrapment disorder; symptoms include restriction in blood supply due to trauma
- Radial Nerve Entrapment
  - Due to acute trauma; weakness in the radial muscles; requires abnormal EDS for surgery
- Thoracic outlet syndrome (update estimated July-August 2010)
  - On average the 10th diagnosis in a claim; symptoms include pain and weakness in the upper extremity; update may require abnormal EDS for rare and drastic surgery

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Other Evidence-based medicine work

- Washington State Preferred Drug List and Pharmacy & Therapeutics Committee
  - (*See* http://www.rx.wa.gov/druglist.html) (http://www.lni.wa.gov/ClaimsIns/Providers/Treatment/Presc/PDL.asp)
- Quantitative Sensory Testing
  - (subjective, psychophysical test, now non-covered following L&I health technology assessment and IIMAC advice)
- UW Review for New HCPCS and Current Procedural Terms (CPT) entries (UW Dossier process)
  - An evidence based review of new technologies, devices etc.
- Functional Recovery Questionnaire Project
  - UW validated research; COHE best practice questionnaire to predict long-term disability. Piloting with four COHE clinics.
- Agency Medical Director's Group Opioid Dosing Guidelines – (see subsequent slides)
- High cost imaging – (see subsequent slides)

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Mr. McGill reviewed the evidence-based coverage policies, treatment guidelines and medicine work. He noted that the department's pharmacy costs are 5% of total costs. This is half the industry average for other worker's compensation insurers which is about 12-20%. This has had a positive effect on quality care and costs, while reducing dangerous drug interactions etc.

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Advanced Imaging Management (AIM)

Evidence-based Radiology Guidelines & Utilization Review (UR)

- L&I will implement web-based UR in June 2010
- New law directs state agencies to develop and use evidence based radiology and imaging guidelines (SB 2105, 2009).
- Completed evidence-based guidelines
  - Low back MR-final
  - Cervical MR
  - U/E MR (shoulder, elbow, wrist/CTS)
  - L/E MR (hip, knee, ankle/foot)
  - Brain MR/CT
  - PET (L&I not requiring UR – low volume)
- Translated guidelines to UR checklists
- Provider Bulletin early May

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Advanced Imaging Management (AIM): Three innovations

- Three innovations for efficient, cost effective, and low burden process for health care delivery institutions/groups already doing this.
  1. Web-based checklist review
  2. Quick and easy log-on access through OneHealthPort
  3. Institutional "Group A" pilot for UR simplification and savings

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Mr. McGill reviewed the slides for Advanced Imaging Management, explaining this new innovative utilization review/management program that should effectively reduce unnecessary imagining utilization, while maintaining a low administrative burden for providers. The department has sent letters to providers and is working with the provider groups to share these details. A Provider Bulletin has been published. These policies are applicable to self-insurers and will be implemented on June 1, 2010; however, utilization review is discretionary, and self-insurers do not currently manage utilization review in the same way as L&I.

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Discussion items from December meeting

- WCAC health care sub-committee to work with L&I IIMAC and IICAC on further analysis and development of solutions to address:
  1. ***Complex claims*** – delayed and multiple diagnoses
  2. ***Medical providers*** – concentration of workers with minority of providers and quality standards
  3. ***Opioid use*** – increased risk of disability from inappropriate prescribing and use

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Mr. McGill provided a refresher on the cost drivers that were focused on at that December WCAC meeting. The department took these issues for discussion to the IIMAC in January and April as the next step.

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1. Complex claims – delayed and multiple diagnoses; & 2. Medical Providers

- IIMAC considered matters and made a number of suggestions; noted barriers and concerns.
- Will present to the IICAC in May
- Next steps involve working with members from IIMAC, IICAC, and probably the WCAC Health care subcommittee (or other business and labor representation)

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3. Opioids in WA workers compensation

- Game-changing 2010 Legislation: ESHB 2876, Concerning Pain Management
  - Revokes 1999 DOH WAC rules; new WACs by June, 2011
  - Specific dosing guidance
  - Mandates consultation before exceeding set dose
  - Guidance on consultations, assessments, tracking
  - Signed into law by Gov Gregoire March 25, 2010
- Critical updates to the AMDG Opioid Dosing Guidelines
- New CDC recommendations adopting 120 mg MED dosing – See handout

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The IIMAC group met and discussed ideas for policy updates, best practices, next steps, barriers and concerns. The IIMAC will now work with HCA in a collaborative effort. Mr. Malooly acknowledged Gary Franklin's work on the opioid legislation which is the first of its kind in the nation.

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Opioids: AMDG Guideline Updates

- New data, including scientific evidence to support the 120mg MED dosing threshold
- Recommended screening tools for substance abuse, mental health, and addiction
- Validated two-item scale for tracking function and pain
- Urine drug testing guidance and algorithm
- New and revised information on access to mentoring and consultations (including reimbursement options)
- New patient education materials and resources
- New information on reducing drug seeking behavior in the Emergency Department
- Additional tools to help streamline clinical care

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Mr. McGill continued with a review of the AMDG guideline updates. He noted on the update of "Validated two-item scale for tracking function and pain", that the current form the department endorses does not work very well for providers and claim managers. Providers prefer not to use them and claim managers have a difficult time interpreting them. The two-question scale should provide a significant improvement, along with the urine drug testing.

Mr. Malooly concluded the meeting and advised that the Update on Claims Improvement presentation from Janet Morris will be scheduled for the June WCAC meeting.

Meeting adjourned.