

Workers' Compensation Advisory Committee (WCAC) Meeting
Labor and Industries, Tumwater, WA
Meeting Notes
April 30, 2013

Business Representatives: Rick Anderson, Washington Farm Bureau- Sakuma Brothers; Nancy Dicus, Vigilant; and Kris Tefft, Association of Washington Business; and Rebecca Forrester, Group Health

Labor Representatives: Jeff Johnson, Washington State Labor Council; Dave Myers, Washington State Building Trades; Karen Gude, United Food and Commercial Workers 1439; and Sofia Aragon, Washington State Nurses Association

Labor and Industries: Joel Sacks, Director; and Vickie Kennedy, Assistant Director for Insurance Services

Absent: Dave Threedy, Board of Industrial Insurance Appeals

Court Reporter: Milton Vance

Recorder: Sharon Avery

Guests: Karen La Verne, Frank Romero, Janice Camp, Nancy Simcox, Veronica Shakotko, Paulette Avalos, Tammie Hetrick, Chuck Gotcher, Dave Kaplan, Alan Paja, Tom Kwieciak, Trudes Tango, Curran Bower, Adeline Crinks, Jim Newhall, Kristine Cole, Viona Latschaw, and Teresa Mosqueda

L&I Staff: Mike Ratko, Rachel Aarts, Sharon Elias, Kirsta Glenn, Janet Peterson, Deb Tollefson, Rena Shawver, Lisann Rolle, Brian Schmidlkofer, Amy Leneker, Julie Black, Celia Nightingale, Kim Contris, Steve Reinmuth, and Mary Shatto

Welcome: Joel Sacks and Vickie Kennedy

The meeting began with introductions of the committee members and audience.

The minutes from the December 6, 2012 quarterly meeting were approved.

An award winning mobile ergonomic application that was sponsored by the Occupational Safety and Health Administration was shared as the safety message.

The members' binders included: the meeting presentation; "Organizational Goals" handout; L&I organizational chart; rules update; "Working Solution" Q&A; "Washington State's Logger Safety Initiative Accord" handout ; the second quarter fiscal year 2013 statutory financials; Comprehensive Annual Financial report; and the Statutory Financial Information report.

Reorganization & New Staff Introductions: Joel Sacks

Director Sacks introduced himself to the committee members and identified the department's five focus areas:

1. Make work places safe;

2. Help injured workers heal and return to work;
3. Make it easy to do business with L&I;
4. Help honest workers, businesses and providers by cracking down on the dishonest ones; and
5. Ensure L&I is an employer of choice.

Director Sacks advised the committee of the department's reorganization.

- Ernie LaPalm was appointed as the agency's Deputy Director and will be the point of contact for day-to-day internal operations.
- Liz Smith was appointed as the Assistant Director for the new division, Fraud Prevention and Labor Standards. This new division includes the Fraud, Apprenticeship, Contractor Compliance, Employment Standards and Prevailing Wage programs.
- Randi Warick was appointed the agency's Deputy Director for Financial Management. This division includes the accounting, budget and actuarial teams. In addition, Randi will coordinate the agency's performance measurement system and Lean management efforts.
- Vickie Kennedy was appointed as the Assistant Director for Insurance Services and will be the chair of the Workers' Compensation Advisory Committee.
- Steve Reinmuth was appointed as the Deputy Assistant Director for Insurance Services.

A question was asked regarding who the point of contact should be for data requests from stakeholders; Amy Leneker, Tamara Jones, Vickie Kennedy or Steve Reinmuth could all assist with requests.

Director Sacks was asked to describe the criteria the department would employ in making the decision to support, be neutral or oppose proposals discussed with stakeholders. Director Sacks answered that he believes the best public policy change we can make is one where there is broad consensus. He provided the example of the work of the vocational committee; the group took a controversial issue, worked with labor, business and the department to present an approach that all agreed on.

Legislation Update: Vickie Kennedy

Legislation to address concerns of the Washington Horse Racing Commission (HB 1469) to change how premiums for the horse racing industry are assessed and collected was adopted and signed by the Governor.

A three-year extension to June 2016 was adopted for the vocational rehabilitation improvements that were set to sunset June 30, 2013. The vocational subcommittee will review its work with the department to determine how to best measure outcomes for workers. The subcommittee will also consider recommendations for permanent vocational improvements.

The ability to pay benefits through debit cards was also adopted.

Working Solutions: Kim Contris

The Communications Office developed a campaign that uses TV, radio and digital ads to help explain the department's Stay at Work and File Fast programs. The Stay at Work program is designed to give employers an incentive to return injured workers to light duty; the File Fast program allows injured workers, and providers to file their claims online. Ms. Contris presented two digital banner ads and one TV commercial. In addition, the department will have outreach efforts after the campaign is over to include workshops, webinars and mailers.

2011 Reform Updates: Janet Peterson and Vickie Kennedy

Ms. Kennedy advised that both the Stay at Work and Structured Settlement programs are operational.

Ms. Peterson, Program Manager for Health Services Analysis, began her presentation regarding the Medical Provider Network.

- The program has received more applications than initially anticipated: to date the department has approved or has decisions pending for approximately 19,000 applicants. 4,080 applications are pending and these providers can currently bill and be paid for ongoing care for injured workers if they applied by January 1, 2013 and meet criteria for provisional enrollment.
 - 77 percent of open claims have an attending provider who is fully approved for the network.
 - 15 percent of open claims have attending providers in provisional status.
 - 1 percent of workers are with providers whose complete application did not come in until after January 1st.
 - 7 percent of providers have not applied; these include emergency room doctors.
 - Providers who have not enrolled in the network can still treat for initial visit when the report of accident is filed.
- There are nine types of medical providers that can be the attending provider on a workers' compensation claim. They are medical physicians, osteopathic physicians, chiropractors, naturopathic physicians, podiatric physicians, advanced registered nurse practitioners, physician assistants, dentists, and optometrists. The focus for the network is on in-state providers; out-of-state care may be phased in over the next year.
- The department issued initial denials to 69 providers. Nine of these have been approved upon reconsideration because they submitted additional information for their files.
 - The 60 providers whose applications were denied (either final or pending) treat in over 1,000 claims; these workers will be impacted and need to transfer care. Many providers were denied for multiple issues and they have been informed by the department.
- The department has resources available and has distributed information to workers who need help transitioning care; they can seek assistance through a call center and from the regional offices. The department also initiates outbound calls on claims that have non-network providers.
- Statewide, 98% of workers with state fund claims and 99% of self-insurance claims have access to at least five primary care providers within fifteen miles.
- For the next steps, the department will continue to finish processing remaining applications, support transfer of care, monitor access to care, identify providers who present a 'risk of harm' to workers, and finalize criteria and processes for Top Tier.

Ms. Peterson was asked to describe what occurs when an injured worker is being treated by providers who have been denied into the network. Ms. Peterson answered that a standard letter is sent out to the injured worker to advise them that they need to find another provider for their claim. They are referred to a regional care transition coordinator who can provide them assistance. The department does not advise why the doctor has been removed from their claim; those questions are deferred back to the physician to address with the injured worker.

Centers of Occupational Health & Education (COHE) Expansion:

Ms. Peterson continued the presentation with a project overview of multiple approaches to promote occupational health best practices:

- COHE expansion
- Pilots of new best practices
- Occupational Health Management System (OHMS)
- “Top Tier” of the network

A question was asked regarding OHMS Phase 1 going live in June; has this been tested with existing COHEs for compatibility? Ms. Peterson answered the COHE staff were heavily involved providing the initial set of business requirements. The department will work with them in the next month for usability testing.

It was asked how Self-Insurance ties to COHEs. Ms. Peterson advised this was recently discussed with the Provider Network Advisory Group and they are encouraging further discussion.

Ms. Peterson was asked how OHMS is being paid for. Ms. Peterson answered there was a specific appropriation for it as part of the implementation of SSB 5801, adopted in 2011. Ms. Kennedy added it is funded from the Medical Aid Fund.

A question was asked if there is adequate time to implement OHMS and the answer is yes, it is a web-based product and does not require significant system development.

Structured Settlement:

Ms. Kennedy advised that Dustin Dailey, Structured Settlement Program Manager, is no longer with the department. Deb Tollefson, Manager of Legal Services, has been highly involved with the implementation of structured settlement and is continuing to manage the program.

25 state fund settlements have been approved by the Board and nine were rejected. There are currently 30 cases in negotiations or in contract drafting with the Attorney General’s Office.

We have learned more about what the Board looks for when they evaluate a case for structured settlement and what elements of a claim make it a potentially valid structured settlement case. The department is proactively applying this information to update its claims.

The department is contacting workers who may not realize that structured settlement could be an option for them. A mailer was sent out several months ago to injured workers who turned 55, had an open claim and have been in the system for 180 days; other mailings will follow to those newly eligible.

The department was asked about the injured worker’s experience and concerns with the process. Ms. Kennedy answered that there is concern from injured workers about providing personal information such as total assets, debts, family situation, their income and their spouse’s income that is needed to present a full picture of whether structured settlement is in their best interest.

Director Sacks added that the department is working to eliminate barriers. For example, this was a paper process, but now workers are able to apply on-line.

Washington State's Logger Safety Initiative: Vickie Kennedy

The logger safety initiative began in January 2012 when concerns for the logging industry's hourly rate for manual or non-mechanized logging reached \$19 an hour. This is a risk class with one of the highest serious injury rates, along with fewer hours being reported in the last several years. Injury rates in non-mechanized logging are ten times higher than all other state fund risk classes.

- Per one hundred FTEs, workers in non-mechanized logging (5001) have a 60 percent chance that they will be injured in a year; there is a 28 percent chance that injury will involve disability and time-loss.
- Mechanized logging (5005) has a 6 percent chance of injury and 2 percent of those would involve disability. This is much safer compared to non-mechanized logging.
- There is an increasing trend in the acute inpatient hospitalization rate for risk class 5001.

The department has partnered with the Washington Forest Protection Association (WFPA), the Washington Contract Loggers Association (WCLA), and the Department of Natural Resources to focus on approaches to promote occupational safety and health in the woods.

- The department is supporting the industry's efforts; WFPA and WCLA are leading this initiative.
- The logging safety task force is focused on reducing the frequency and severity of injuries and reducing costs by preventing the accidents that have historically happened in the 5001 risk class.
- Another focus for the taskforce is to address the under-reporting of premiums and hours and misclassification of workers as independent contractors.

The task force has two components:

- Policy Task Force: This group makes the decisions for a certification program for employers, and to develop a governance structure so the industry's commitment is maintained. This group has agreed to the approach of a third party safety vendor to ensure companies meet the criteria the group ultimately agrees to.
- Technical Group: This group is made up of subject matter experts from the industry and develops the detailed elements of the training and certification programs.

The WA Logger Safety Initiative Accord objectives were shared.

In response to concerns about the underground economy and under-reporting, the department started an industry-focused education and audit program and has reached out to all employers in the logging industry. The logging industry focused audit program will include a period of industry education focused on safety, reporting and risk management; this will take place May and June 2013. After the education period, audits will begin for firms that appear to be out of compliance.

Director Sacks added that this is an example of the department serving in the role of convener; the driving force is the industry.

Ms. Kennedy recognized the technical group's commitment and efforts; they meet four hours every other week to discuss these issues. In addition, Senator Hargrove sponsored a bill that requires the department to report out on this effort to the legislature. The report maintains the visibility and priority of the work, while allowing the industry to run the effort.

Ms. Kennedy was asked if the third party vendor to conduct certification audits was included in the accord. Ms. Kennedy answered that the decision for a third party vendor was made after the taskforce agreed to the accord. The department would initially provide oversight of the third party vendor. The vendor's work will involve going on site in the woods to see logging work being done.

A comment was made that this initiative resonates well with stakeholders.

Ms. Kennedy stressed that the department is engaging in an effort that, except for British Columbia and a few other states, has not been tried before; this approach will only be successful with the industry's support.

Industrial Insurance (State) Fund Statutory Financial Information: Sharon Elias

Sharon Elias, Chief Accounting Officer, presented a financial update.

Fiscal Year annual reports have been reviewed by three different audits involving the State Auditor's Office, Eide Baily, and Deloitte. All issued an unqualified or clean opinion. In addition, we were recognized with a third Government Financial Officers Association (GFOA) award, which was included in the CAFR report.

State Fund Results: From July through December 2012, revenue exceeded expenditures by \$250 million.

- Insurance Operations:
 - Premiums Earned (we took in) : \$840 million
 - Total Expenses Incurred (we spent): \$909 million
 - Net loss from Insurance Operations: \$69 million
- Premiums Earned:
 - Net premium earned for July through December 2012 was up by \$63 million mainly due to an increase in the hours reported.
- Benefits Incurred:
 - Net benefits incurred decreased \$221 million as a result of fewer long-term time-loss claims becoming pensions than previously estimated.
- Change in benefit liabilities:
 - The benefit reserve for future payments increased \$13 million during the first six months of FY 2013 due to:
 - Overtime approved to resolve long term time-loss claims; resulting in a *decrease* in estimated future liabilities.
 - Non-pension discount rate changed from 2 percent to 1.5 percent; resulting in an *increase* in liabilities.

It was asked what the typical resolution of long-term time-loss claims is if they did not become a pension claim. Ms. Kennedy answered that claim managers worked overtime September to December and, on a case-by-case basis, claims were either referred for pension review or closed with a permanent partial disability award. Ms. Kennedy reminded the committee that the department lost several experienced claims staff to the private sector; as a result, claim managers had an increase in their caseloads and the department put resources on claims to minimize delays. The result was a lower number of pensions allowed than the actuaries projected for the age of the claims.

A question was asked, when the program is caught up, will the workload decrease? Director Sacks answered that for every dollar we pay out, 85 cents goes to benefits and medical costs. Nationwide, this number is

between 40 and 60 cents for other workers' compensation insurance companies; the rest is spent on administrative costs. The department's administrative costs are too low; additional staffing would give the department more capacity to work claims. The department needs to demonstrate to the committee that we are using our existing resources as efficiently and effectively as possible; however, adding more staff to work with injured workers, reinforce return to work, and to make decisions more quickly, would have an impact on liabilities.

Another question was asked regarding future liabilities: does this indicated change in reserves and developed losses on claims include both individual claims as well as costs for retro groups? Ms. Kennedy advised this analysis is completed by quarter; this was a positive quarter and had an impact on the reserves, but it takes time to know the impact on Retro and the 2014 rates.

Ms. Elias continued with the presentation.

- Total Investments:
 - Total investment income was \$305 million.
 - Investments grew \$395 million in the past six months and ended at \$12.3 billion as a result of positive operations and an improved economic condition.
- Other Revenues and Expenses:
 - The net for other revenues and expenses was \$14 million.

A comment was made regarding 'non-insurance expenses' which totaled \$24 million on a six month basis. Has the department considered requesting legislation to stop funding non-workers' compensation programs through workers' compensation premiums? Director Sacks advised conversations have occurred, and there is a belief that these programs are workers' compensation related expenses (such as DOSH, SHARP, and work with DOH).

- Net Income Summary:
 - We have a net income of \$250 million for July through December 2012.
- Contingency Reserve:
 - As of June 30, 2012, the contingency reserve balance was \$580 million. As of December 31, 2012, the contingency reserve balance was \$953 million, slightly below the bottom of the targeted range of 8.7 percent of liabilities.
 - The contingency reserve for the Accident and Pension Funds was \$383 million and is below the target, which is \$595 million. Although not yet at the bottom target, the ending balance is higher than it has been for several years.
 - The Accident Fund had a positive reserve balance of \$351 million, and the Pension Reserve had a positive contingency reserve balance of \$32 million.
 - The contingency reserve for the Medical Aid Fund is at \$570 million, above the lower target of \$446 million.
- Key Financial Ratios:
 - The operating ratio is at 80.3 percent which is lower than the industry average of 95.4 percent.

Director Sacks reminded the committee that these numbers represent a snapshot at a point in time. The committee needs to have ongoing conversation and continue to assess the best short-term, medium-term and long-term strategies to achieve the agreed upon goal.

Director Sacks advised of educational opportunities from Conning that will be scheduled in June for the committee members to participate in.

A comment was made that the material presented was helpful and clear. The operating ratio and combined ratio are impressive; it would be interesting to hear more about how we got there and if we will see an increase next year.

Director Sacks congratulated Ms. Elias and her team for receiving the certificate of achievement for excellence in financial reporting from the Government Financial Officers Association for the United States and Canada. This is the highest form of recognition in government accounting and reporting.

Workers' Compensation Insurance- Current Conditions: Kirsta Glenn

Kirsta Glenn, Research and Data Services Program Manager, presented an economic update and how it relates to the workers' compensation system. Ms. Glenn's focus was on the effects of the economy on workers' compensation nationally and in Washington State, and cost drivers.

There are three significant considerations for workers' compensation insurance nationally.

1. Using analytics from data to strategically drive our decision.
 - We have limited resources in Washington, if we can use analytics to help target where resources go, we best use our resources and provide better outcomes for injured workers.
2. The second element is the realization nationally of the cost of long-term disability.
 - This cost is not only for employers who are paying the premiums, but it is a tragedy for injured workers and a cost in productivity for society of millions of dollars for every person that becomes a long-term disabled person.
3. The third trend is the aging workforce.

Economy:

- The unemployment rate is below 8 percent. Return to work continues to be a challenge in this environment.
- Real GDP is growing by 2 percent.
- 10 year T-Bill rates are under 2 percent.
- Inflation is around 2 percent.
- The stock market is up since 2009, but volatility is still high.

Premiums:

- The improving economy means workers' compensation carriers nationally are seeing an increase in premium income due to:
 1. An increase in exposure,
 2. Increasing rates, and
 3. A recovery in relatively hazardous industries that pay higher premiums.

In Washington, rates fell on a payroll basis last year, but hours increased to increase total premium.

Cost Drivers:

- Nationally, there was an increase in the frequency of claims, however, in Washington, the frequency of claims has continued to decline.
- Medical cost is the main driver of costs nationally in worker compensation systems. In Washington, medical cost growth is below 5 percent and indemnity costs have been stable since 2008.

A question was asked if medical costs prior to 2008 were lower. Ms. Glenn answered there was an increase in costs in 2008 and since then have remained stable. The challenge with medical cost is the constant need to innovate because there are forces in our society that cause medical costs to grow at a faster rate than other costs. In order to keep our cost growth below 5 percent, we have to continually work and find new cost control approaches.

- Washington medical severity is in the mid-range compared to other states. The average ultimate medical cost per claim is \$6,106.
- Washington indemnity severity is one of the highest. The average ultimate indemnity cost per claim is \$9,042.
- Long term claims drive claim cost in Washington.
 - About 9 percent of claims account for 85 percent of system costs.
 - The average cost of a medical only claim is \$1,300.
 - The average cost of a short-term time-loss claim is \$11,000.
 - The average cost of all time-loss claims is \$74,000.
 - The average cost of a time-loss claim that becomes a pension claim is \$760,000.
- Most injured workers return to work quickly. Claims that stay in the system longer become expensive and pull the average cost up. The department has programs that focus on helping an injured worker early in their claim return to work quickly so we do not have a bigger challenge of helping them return to work later on. The programs include:
 - Stay at Work,
 - Specialized early return to work staff in regions,
 - Claim manager training on setting expectations for return to work,
 - Medical provider training on their role in return to work, and
 - Retro groups' focus on supporting early return to work and light duty programs.

Director Sacks added the importance of continually asking both administratively and legislatively what are things we can do to create a culture to help workers stay connected to work so the outcome of their claim is a job rather than a pension.

Closing Comments:

The Claims Evolution update will be presented at a future meeting.

Director Sacks expressed interest in working with the committee to identify ways to continue moving forward to discuss ways to improve our system. He asked that committee members provide input on topics of interest. He is interested in creating a series of forums to share what we are doing administratively and to ask for the committee members' best thinking.

Meeting Adjourned.