Workers' Compensation Advisory Committee (WCAC) Meeting
Labor and Industries, Tumwater, WA
Meeting Notes
April 4, 2014

Business Representatives: Sheri Sundstrom, Hoffman; Rick Anderson, Washington Farm Bureau- Sakuma Brothers; Nancy Dicus, Vigilant; and Kris Tefft, Association of Washington Business
Labor Representatives: Karen Gude, United Food Commercial Workers 1439; Dave Myers, Washington State Building Trades; and Joe Kendo, Washington State Labor Council
Labor and Industries: Joel Sacks, Director; Vickie Kennedy, Assistant Director for Insurance Services and Randi Warick, Deputy Director
BIIA: Dave Threedy, Board of Industrial Insurance Appeals
Absent: Sofia Aragon, Washington State Nurses Association
Court Reporter: Milton Vance
Recorder: Sharon Avery

Guests: Michael Roozen, Brian Ducey, Sharon Swanson, Lauren Gubbe, Jan Gee, Carolyn Logue, Kathleen Collins, Viona Latschaw, Dave Kaplan, Tammie Hetrick, Alan Paja, Peri Smith, Ariana Ulrich, Trudes Tango, Mary Mulholland, Richard Clyne, Donna Egeland, and Janice Camp

L&I Staff: Brian Schmidlkofer, Dan Johnston, Rena Shawver, Julie Black, Sharon Elias, Mike Ratko, Les Hargrave, Rachel Aarts, and Elizabeth Hott-Smith

Welcome: Joel Sacks and Vickie Kennedy

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

The department shared a safety message about a logging fatality.

The minutes for September 16, 2013 and December 12, 2013 were approved. The approved minutes and power point presentations will be posted on the department's website.

Updates: Vickie Kennedy

Ms. Kennedy provided a brief summary of the outcomes of the 2014 legislative session. A one-page summary of legislation specific to the workers' compensation program was reviewed.

The primary bill specific to workers' compensation protects the confidentiality of injured workers' personal information that is submitted to the Board for structured settlement consideration. Claim file information is confidential, but many documents that go to the Board are subject to disclosure. The statutory change is intended to protect personal information of injured workers' financial situations, medical conditions and family status from disclosure.

Another bill specific to workers' compensation expands the scope of practice for athletic trainers to include injured workers.

The primary budget request specific to Insurance Services was for claim processors. The package was not approved in the budget, but we continued to move forward by shifting and reallocating existing resources. Director Sacks commented on two packages (unrelated to workers' comp) that were approved: 1) an increase in the number of electrical inspectors, and 2) funding for the prevailing wage program to develop an automated system.

Ms. Kennedy discussed the agency's ability to use the self-insurance overpayment reimbursement fund. We now have requests from self-insured employers for reimbursement for uncollectible benefit overpayments where the employer ultimately prevailed on an appeal. This fund was created with the 2009 pay pending appeal legislation that requires benefits to continue during an appeal unless an employer or the department requests and receives a stay of benefits. For self-insured employers, an account was established and funded by payroll deductions from self-injured workers. The premium was collected for two years, but discontinued as the fund has adequate resources. The legislative took action to provide the department with authority to spend from the fund.

Lastly, Director Sacks discussed the budget proviso for Employer Security Department's budget to convene a working group made up of individuals representing labor and growers to take a look at a series of issues related to agriculture including labor issues, workplace safety, and wage and hour issues. The department will serve as an ex officio member of this group.

<u>Logger Safety Initiative:</u> A total of 93 logging companies have joined the Logger Safety Initiative (LSI) since December 2013. This is approximately a third of all employers that report premiums and hours into risk class 5001, which is non-mechanized or manual logging. Qualified companies will soon be able to take advantage of the next discount tier which gives them a 20 percent discount.

A question was asked if there were hazard trends identified from the safety audits. This information was sent to the committee members.

<u>Industrial Insurance (State) Fund Financial Overview: Sharon Elias</u>

Sharon Elias, Chief Accounting Officer, presented the annual financial reports and the six month results for financial overviews.

The department received an unqualified or 'clean' opinion on:

- The Workers Compensation Program Comprehensive Annual Financial Report (CAFR);
- The Industrial Insurance Fund Annual Statutory Financial Information Report; and
- Review of actuarial estimates.

Ms. Elias provided a six month financial highlights overview:

- The contingency reserve balance increased from $620 million to $1,041 million from July 2013 through December 2013 due to:
  - Higher than expected investment results due to a strong stock market; and
  - Benefit liability decrease due to fewer than expected active pension and time loss claims.

<u>State Fund Results:</u>

- Insurance Operations:
  - Premiums Earned (we took in): $867 million
  - Total Expenses Incurred (we spent): $975 million
- Premiums Earned:
  - Net premium earned increased by $27 million mainly due to an increase in hours reported and more hours reported by businesses in higher rate classes.

- Net Benefits Incurred:
  - Benefits incurred increased from $56 million compared to last year.
- Impact of Discounting:
  - Total impact of discounting was $430 million.

On slide 20, Director Sacks explained that we increased the projected amount that we are going to pay out by $430 million from six months ago; this is a bookkeeping change due to discounting. With all the administrative efforts to reduce the liabilities, our liabilities will continue to increase similar to our revenue and reserves because of discounting.

A question was asked if the department is taking this because we can afford to due to positive investment returns. It is easier and has less of impact when times are good; but whether they were good or bad, we need to reduce the risk of over assuming a positive impact on investment. The positive returns are a result of the portion of our funds that are invested in equities. The discount rate should be tied to bonds, not to equities. We are not seeing the kind of return on bonds that would justify a 6.5 percent discount rate.

Slide 21 was a new slide to explain the changes in benefit liability. Overall, the benefit liability developed better than expected and we had a positive development of $371 million. In contrast to the prior slide, this represents how much actual dollars the actuaries project will be paid out as a result of claims.

Ms. Elias continued the presentation.

- Investment Income:
  - Total investment income was $273 million.
  - Investments grew $521 million in the past six months and ended at $13.0 billion as a result of investment income and a strong stock market.
- Other Revenues and Expenses:
  - The net for other revenues and expenses was $26 million.
- Results of Operations:
  - We have a net income of $191 million.
- Contingency Reserve:
  - The contingency reserve for the Accident and Pension Funds was $429 million.
  - The contingency reserve for the Medical Aid Fund was $612 million.
  - As of June 30, 2013, the contingency reserve balance was $620 million. As of December 30, 2013, the contingency reserve balance was $1,041 million, below the WCAC target of $1,772million (14 percent target for ten year plan).
- Key Financial Ratios:
  - The operating ratio is 85.7 percent.

Director Sacks reviewed the target ranges on slide 27. The targets were set in 2007 by a WCAC subgroup.

Additionally, as part of the 2011 reforms, the rainy day fund was created. The contingency reserve is currently at 8.5 percent in excess of liabilities; the rainy day fund must be considered if this ratio reaches 70 percent and will be further discussed at the September WCAC if indicated as part of the rate considerations.

It was asked to explain the difference between the rainy day fund and contingency reserve. Ms. Kennedy answered they both represent assets in excess of the liabilities. For the rainy day fund, Director Sacks must make certain considerations before money is moved out of the fund. At the time of the rate proposal, in order to offset a potential increase, we could consider pulling funds from the rainy day fund if we were in another difficult economic situation. Director Sacks added that the rainy day fund represents guidance for the Director about managing rate settings to avoid wide swings in rates that have occurred historically. The rainy day fund provides legislative direction and support to keep the increases predictable.

The benchmark we are using is wage inflation. In every other state, as wages go up, the premiums other workers' compensation insuring collect increase. In our state, rate changes are more transparent because we charge based on hours. Feedback received by both business and labor noted that predictability was most important in the rate setting process.

A request was made for a refresher about the rainy day fund statute at a future WCAC.

Ms. Elias closed the presentation by reviewing the key factors in the contingency reserve change on slide 33.

Pension Discount Rate and Mortality Tables: Randi Warick

Randi Warick, Deputy Director, began her presentation with a review of slide 36. Between now and the next WCAC meeting, we will work on adjusting the pension discount rate and evaluating the pension mortality tables. Ms. Warick reviewed the strategy for the pension discount rate reduction; the goal is to reduce to 4.5 percent within the next nine years.

The mortality tables currently used are over 30 years old, and no longer reflect the current mix of beneficiaries and their life expectancies.

A number of changes from the current tables are needed such as:

- The life expectancy of both males and females (females are living longer than males);
- The injured workers are all assumed to be males and that their spouses are females. Our actual mix for injured workers receiving pensions are 69 percent males and 31 percent female pensioners; and
- For survivor benefits, 85 percent females and 15 percent males.

The impact of the changes could be between $50 to $70 million to the contingency fund if we changed the mix between males and females for the state fund.

A small group of representatives for the WCAC will gather for more detailed discussions and to bring recommendations to the next WCAC meeting. Ms. Kennedy asked the WCAC to send names to participate in the discussion.

A comment was made that these changes have significant financial implications for the self-injured community and requested to have self-insured representation for the small group.

Insurance Services Performance Metrics Dashboard: Vickie Kennedy

The three key focus areas for the agency goal of helping injured workers heal and return to work:

1. Create a culture of return to work;
2. Reduce the development of preventable disability; and
3. Collaborate with internal and external stakeholders to reduce system delays and improve the customer experience in the first six month of the claims process.

Ms. Kennedy reviewed the dashboard for the overall indicator and the focus areas. The overall indicator for long-term disability claims is green because we are making progress.

A question was asked if the department tracks who the medical provider is for persistent claims and if there are trends. The department does not track this by medical providers, but at the next WCAC, we will discuss the Medical Provider Network and related measures, and next steps. We will provide the actuaries' analysis along with an update by the Office of the Medical Director on areas such as identifying providers for whom trends indicate a potential risk of harm and how we address that.

<u>Culture of Return to Work:</u> One of our indicators concerns referrals for vocational services made early in a claim. We hear from the vocational community that we provide cases to them too late, often when the claim is over a year old, and opportunities and motivation of the parties are lost. We are identifying cases for referral earlier to support better outcomes for workers, which in the long term saves the system and employers money.

<u>Culture of Return to Work:</u> Another measure involves the Stay at Work program participation. This is an incentive to help keep a worker on the job or bring the worker back to work. The Stay at Work program is meeting with Retro groups to discuss their members' participation levels. A marketing campaign is also being planned that will focus on the parties, whether employers, medical providers or injured workers, to ramp up participation.

A question was asked if the numbers correlate with the financials that show savings are unexpectedly low for this program. Ms. Kennedy answered that the actuaries reduced the expected savings for the Stay at Work program because the initial estimates assumed participation in Washington would ramp up more quickly than it did in Oregon. The actuaries reviewed the data and extended the expected date of full maturity of the program.

<u>Reduce the Development of Preventable Disability:</u> This measure looks at the percentage of claims filed through COHE providers. The numbers are beginning to increase now that the new COHE's have increased their provider membership. The other important factor is the percent of COHE providers who are medium or high adopters of best practices.

<u>Collaborate to Reduce System Delays:</u> Several efforts are underway to reduce unnecessary steps and delays in our processes. One measure is the median number of time loss days to first Ability to Work Assessment (AWA) referral.

We will continue to provide updates on the performance agreement measures in future meetings.

<u>Claims Evolution:</u> Claim Processors remove tasks from claim managers so they can focus on actions to assist injured workers and employers. The department has hired one claim processor per unit. It is estimated that the Claims Processors have freed up 18 percent of time, equivalent to 1.5 CM FTEs per unit.

<u>Return to Work Partnerships</u>

Ms. Kennedy provided an update on Return to Work Partnerships. The department's focus is "the right time and the right claims" for return to work efforts and vocational services.

<u>Exploring New Vocational Services:</u> There is a work group of private vocational counselors and the department to consider earlier, more proactive approaches for vocational services. Initial conversations have focused on

how to support and maintain motivation and identify and eliminate barriers. The group also discussed tools and processes such as resume development.

Labor Market Surveys: Labor market surveys are problematic for all parties in the system including workers, employers, vocational counselors and the department. We are partnering to look at potentially different approaches to improve the consistency and objectivity of the surveys.

Early AWA experiment: This effort is beginning to influence the number of days between claim receipt and the first AWA referral. A group of apprentices are participating in this experiment by making vocational referrals on time-loss claims at 60-70 days unless it is a catastrophic case or if the worker is medically unstable. Claim managers are beginning to have different conversations with doctors about helping the worker return to work. This is the type of partnering and collaboration we are working toward.

L&I and ESD partnership opportunities: The department currently has access to ESD work history information for injured workers and, we are working with ESD to identify whether this information can be used to simplify and expedite the process for workers that need vocational services. We are also working to improve to hand-offs from time-loss to unemployment compensation. It has been reported that this process can take 12 to 16 weeks and workers are without benefits in the interim.

WorkSource Partnerships: The Claims Re-employment Specialist pilot provides ESD re-employment specialists on the claims floor to take referrals directly from claim managers for workers who are motivated to return to work. This is a voluntary process for workers and does not put their benefits at risk.

With the Everett WorkSource pilot, we continue to make referrals to a re-employment specialist who is dedicated to injured workers and referrals received from the department or external communities. A number of these referrals have come from vocational counselors. Because the referrals tend to happen at the end of the vocational plan or when the worker is found able to work and benefits are stopping, we are considering how we can identify cases earlier.

There are six L&I vocational staff co-located at WorkSource as part of the 2007 vocational improvement changes. They currently provide a range of services depending on which WorkSource location they are in. We are working on how they could better assist workers earlier in their claim as opposed to waiting for an AWA referral.

A number of questions were asked regarding what the department can do to help streamline processes for employers such as updating the website to provide instructions to medical providers about responding to job descriptions from employers, sending a form letter that advises providers of this and sending a blank APF with the worker on their first treatment.

A comment was made that Oregon's Return to Work program was successful because they are able to give the documentation that is needed to the worker on the first visit. This was a paradigm shift throughout the whole community.

Self-Insurance Changes: Vickie Kennedy

Following commitments made at a quarterly WSIA meeting, the department is working with the self-insured community on significant changes.

Performance Metrics: The department has just implemented a new system to track pending work. We have agreed to certain performance measures with the self-insured representatives. Prior to this, the department's Self Insurance program did not have a caseload management system.

Based on the new system, the initial performance targets include:

- 90 percent of closing orders issued within 90 days of request.
- 98 percent of allowance orders within 30 days.
- 70 percent of wage orders within 60 days.
- All protest completed within 90 days.

Self-Insurance Audit Reform: The department met with a group of self-insured and labor stakeholders to determine how we can improve the audit process. Discussion started with identifying the most important issues for audits from the customers' perspective. All parties thought the most important element was the appropriate delivery of injured worker benefits. Ms. Kennedy reviewed the quick wins on slide 59. The department is looking at a new approach called a tier auditing system, discussed on slide 60.

Closing Comments:

A demo of the First Call e-learning module was presented after the meeting for those interested.

Kris Tefft was recognized for his representation on the WCAC committee.

Meeting Adjourned.