Workers' Compensation Advisory Committee (WCAC) Meeting
Labor and Industries, Tukwila, WA
Meeting Notes
December 5, 2014

Business Representatives: Nancy Dicus, Vigilant; Mike Roozen, Farm Bureau; Sheri Sundstrom, Hoffman Construction; and Bob Battles, Association of Washington Business
Labor Representatives: Karen Gude, United Food Commercial Workers 1439; Joe Kendo, Washington State Labor Council; and Karen Bowman, Washington State Nurses Association
Labor and Industries: Joel Sacks, Director and Vickie Kennedy, Assistant Director for Insurance Services
BIIA: Dave Threedy, Board of Industrial Insurance Appeals
Absent: Dave Myers, Washington State Building Trades
Court Reporter: Milton Vance
Recorder: Sharon Avery

Guests: John Meier, Carl Singleton, Patrick Koenig, Kris Tefft, Janice Camp, Veronica Shakotko, and Frank Romero

L&I Staff: Tim Smolen, Amy Ray, Rena Shawver, Tim Church, Rachel Aarts, Mike Ratko, Sharon Elias, and Ryan Guppy

Welcome: Joel Sacks and Vickie Kennedy

The meeting began with introductions of the committee members and audience. Karen Bowman, Washington State Nurses Association, was introduced as Sofia Aragon's replacement on the committee.

The department shared a safety message about a campaign that will be launched soon that focuses on preventions of fatalities and hospitalizations called "FACTS".

The minutes for June 24, 2014 were approved. The approved minutes and Power Point presentation will be posted on the department's website.

2015 Rate Update: Joel Sacks

Director Sacks reviewed the department's rate-setting philosophy. The adopted 2015 premium rate increase of 0.8 percent is about $.05 cents per hour worked.

A copy of the "Your Premium Dollars At Work" brochure was provided to the committee members. This is available on the department's website and is mailed to all employers with their 2015 rate notices.

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

Dave Threedy provided the quarterly update from the BIIA.

- Total Appeals Filed:
    - 3,589
- Average Proposed Decision: Order Time-Lag by Quarter for Hearing Judges: This is the time between the hearing and when the judge issues the proposed decision and order. The average was 35 days which is an increase from the prior quarter lag of 32 days.

- Decision & Order Time-Lag by Quarter: This is how many days it takes the Board members to process a Decision and Order after a Petition for Review has been granted; this is at an average of 35 days.
- Quarterly Average Weeks to Completion: The goal is to keep this measure at less than 32 weks; it is currently at 30 weeks.
- Caseload at End of the Quarter: There were 5,255 appeals at the end of the quarter.
- Percentage of Final Orders Appealed to Superior Court- Quarterly: 2.7 percent
- Structured Settlements Pre-and Post-Zimmerman: There has been a slight decrease of structured settlement requests after the Zimmerman decision.

A request was made to have the Board consider reposting structured settlement orders on the website.

Legislation and Rule Updates: Joel Sacks and Vickie Kennedy

Ms. Kennedy reviewed legislative reports that were approved or are pending approval by the Office of Financial Management (OFM).

Ms. Kennedy updated the committee that as of December 4, 2014, the Workers' Compensation Vocational Rehabilitation report has been approved by OFM. This report and the Underground Economy Benchmarks report were provided to the committee members.

The other legislative reports were briefly discussed:

- Claims Resolution Structured Settlement Agreements
- Implementation of the Provider Network and COHE Expansion
- Medical Management Best Practices Pilot Project
- Workers Compensation Fraud Report (annual report)
- Logger Safety Initiative

Ms. Kennedy summarized one of the 2015 potential agency request legislation proposals related to Insurance Services, specifically "Goal 2: Help Workers Heal and Return to Work".

This bill incorporates two significant changes which include the recommendations of the Vocational Rehabilitation Subcommittee and enhancements to the Preferred Worker Program.

The primary elements of the 2007 legislation regarding vocational improvements:

- Expanded training time for eligible injured workers.
- $12,000 in training funds indexed to increases in community college cost (now $17,500).
- An option 2 for injured workers.

As a reminder, the 2007 changes extended the retraining time for eligible workers from one year to two years; training funds increased from $4,000 to $12,000 with an index to changes in community college tuition; and injured workers received an alternative choice if they did not want to participate in a training plan to take a vocational award equivalent to six months' time-loss (option 2) and access to training funds for self-directed training while their claim moves to closure.

The subcommittee recommended retaining the two years of training time, and to retain the increased money available for tuition but capped at no more than 2 percent per year. The cap would have a trigger to address access to community colleges and vocational technical schools to ensure these programs remain available to injured workers. The subcommittee also agreed to expand the option 2 benefit to the equivalent of nine months' time-loss and allow the worker to select this option through the first academic quarter or three months training. The subcommittee would become a permanent advisory group of business and labor representatives.

Preferred Worker Program:

The department has also been working with the vocational subcommittee on significant enhancements to the Preferred Worker Program. This program is underutilized; it allows an employer that hires a worker with permanent work restrictions to be free of the primary workers' compensation premiums for that worker for up to three years, and to be protected from new claim costs for that worker over the same time period. There are approximately 2,000 qualified workers per year, yet there are only 75 workers actively in the system whose employers are using this incentive.

The proposed changes are modeled after our Stay-at-Work Program. For workers who have a permanent disability that is likely to be a substantial barrier to their employment, a hiring employer, including the employer of injury can have access up to 66 days of half-time wage replacement and the costs of any equipment or tools that they need in order to re-employ this worker. Based on feedback from workers who emphasized the importance of having these be real jobs that provide value to the employer and worker, the proposal includes a durable employment bonus. If the employment relationship is maintained for a year or more, there is an additional payment to the employer.

Self-insured employers would not participate in this at their request.

It was asked if the Preferred Worker Program will provide the employer of injury premium and new claim cost protection, for up to three years, when they bring an injured worker back to a new and modified job. Ms. Kennedy confirmed this element of the program will remain intact.

Ms. Kennedy added that a vocational counselor will be engaged in the process under the statutory return-to-work priorities to ensure the worker has an advocate and that the jobs are consistent with the worker's medical restrictions.

Lastly, the department is aware that employers often struggle with the time frames for a preferred worker because they must apply within a certain length of time after they hired a worker. A vocational provider's assistance should eliminate that barrier because they will know ahead of time that this worker has been hired in the Preferred Worker Program.

Director Sacks summarized the other two agency request legislation bills.

The first bill will allow the department to engage additional Stay at Work resources and one-time Self-Insured Program investments by accessing non-appropriated funds without waiting for the legislative budget process. This will allow the department to take quicker action when demand and stakeholder impact supports it. For the Stay at Work program, this bill would allow the department to utilize funds already collected to pay to ensure sufficient staff to process payments quickly and to provide outreach to more employers for example. Spending requests would be reviewed by a group and the department would require their approval before funds are spent.

The second bill creates dedicated accounts for certain registration and inspection revenues that support costs for department services, such as elevator permits. This would be revenue neutral to the general fund.

A question was asked if there are disincentives for state fund employers in the department's system that the self-insured employers do deal with regarding return to work. Is this why self-insurers do not participate in Stay at Work or the proposed Preferred Worker enhancements? Ms. Kennedy answered, the significant difference is the size of the employers and their capacity to provide light duty work. In addition, for self-insurance, the Preferred

Worker program is funded through separate self-insured assessment for the Second Injury Fund. In state fund, it is a percentage of the Accident Fund cost.

Another question asked was concerning incentives for providers. Ms. Kennedy advised there currently are not specific incentives other than participation in Centers of Occupational Health and Education (COHE). The department is greatly expanding participation in the COHEs and developing the Top Tier of the Medical Network. Top Tier will include incentives for doctors that are both financial and non-financial for following certain practices including those related to Return to Work. A report out from the Office of the Medical Director can be scheduled for a future WCAC meeting.

Pension Discount Rate and Mortality Table:
The committee discussed the need to update the pension mortality tables in addition to beginning the planned changes in the pension discount rate. On November 18, 2014, the department filed the Code Reviser 102 rule packet to make the changes. The Code Reviser 103 rule packet is scheduled to be filed January 6, 2015. The hearing is scheduled on December 23, 2014.

Ms. Kennedy advised a summary of the rules concerning unreasonable delays if benefits and resulting penalties is included the packet for review. Coston is a significant Board case where the Board has interpreted the statute related to unreasonable delay of benefits on the part of the self-insured employer to include payments for medical treatment.

Industrial Insurance (State) Fund Financial Overview: Sharon Elias

Sharon Elias, Chief Accounting Officer, presented a financial update for fiscal year 2015- first quarter.

In the past, the annual financial reports have been distributed to WCAC members at the March/April meetings. This year, the information will be provided electronically. The members will receive an email from Ms. Kennedy with a PDF file of the reports. The reports will also be available on the department's website at: http://www.lni.wa.gov/ClaimsIns/Insurance/Learn/StateFund/Reports.

Ms. Elias provided a three month financial highlights overview:

- Overall, the performance of the state fund during first quarter of fiscal year 2015 is positive.
- The contingency reserve balance increased $11 million, from $950 million to $961 million from July 1, 2014 through September 30, 2014 due to:
    - Premiums collected greater than new liabilities;
    - Investment income increased; and
    - Decrease in projected benefit liabilities.
- Other significant changes included the unrealized losses related to the decline in stock market on September 30th, and the department booked the total remaining adjustment for 2011 reform savings of $83 million. These two offset the increase contributing to the net $11 million increase.

State Fund Results:
- Insurance Operations:
    - Premiums Earned (we took in): $482 million
    - Total Expenses Incurred (we spent): $563 million
- Premiums Earned:
    - Net premium earned increased by $39 million mainly due to an increase in number of hours reported, and to the premium rate increase in the Medical Aid account January 1, 2014.
- Net Benefits Incurred:

    - Benefits incurred decreased from $74 million compared to last year.
- Investment Income:
    - Total investment income was $132 million.
- Investments grew $112 million during the quarter and ended at $13.5 billion, impacted by reinvesting our net income and increasing our portfolios.
- Other Revenues and Expenses:
    - The net for other revenues and expenses was $16 million.
- Results of Operations:
    - We have a net income of $67 million.
- Contingency Reserve:
    - As of September 30, 2014, the contingency reserve balance was $961 million. This is below the WCAC target of $1,859 million (14 percent of liabilities based on the agreed-upon ten year plan).
    - The contingency reserve for the Accident and Pension Funds was $297 million.
    - The contingency reserve for the Medical Aid Fund was $ 664 million.
- Key Financial Ratios:
    - The operating ratio is 91.2 percent.

A question was asked regarding the $13 million change in nonadmitted assets in the contingency reserve balance. Ms. Elias answered that under statutory accounting, any receivables that are greater than 90 days old are not admitted. We do not take credit for it in our balance sheet.

Ms. Elias reviewed potential changes for the 2015 contingency reserve including decisions that could reduce or increase it. Director Sacks would like to reconvene the finance subcommittee to review the long term plan to rebuild the contingency plan. The subcommittee would also review the long-term historical decision about the non-pension discount rate.

Insurance Services Performance Metrics Dashboard: Vickie Kennedy

Ms. Kennedy reviewed the dashboard for the overall indicator and focus areas. The overall indicator for long-term disability is yellow because, although we are below the baseline, the current trend over the past year has been flat.

The overall indicator for the agency goal of helping injured workers heal and return to work is to decrease the number of long-term disability (LTD) claims.

The three key focus areas are:

- Promote a culture of return to work;
- Reduce the development of preventable disability; and
- Collaborate with stakeholders to reduce system delays.

A question was asked if the department is still tracking the time-loss duration index. The actuaries still track that data, but is not the driver for our initiatives because it does not reflect what is done operationally. Director Sacks added the measurements have shifted to focus on what is happening in a claim in the first year and return to work efforts. The department now looks at all claims; claims that are successfully participating in the Stay at Work program and have no time-loss days are counted as positive in this measure. The time-loss duration measure did not account for these claims because it only focused on time-loss claims.

Culture of Return to Work: A new performance measure focuses on the reduction in long-term disability of workers off work 40 days from claim receipt. This will serve as a benchmark for us. Using predictive analytics, we are looking at certain characteristics of a claim based on historical data to identify those that are more likely to become long-term disability cases. Some factors are small employers, back injuries, high risk industries and being non-Retro. Through this data the claim will recieve a score of the likelihood of return to work. The department has been testing this to use the information to trigger claim managers to consider a referral for early return to worker services by the field staff. In March 2015, the department will be able to use technology to produce a list of these particular claims.

Another measure is to increase the proportion of long-term disability claims receiving an Ability to Work Assessment (AWA) within 90 days of claim receipts. The target is 10 percent and we are moving in the right direction.

In addition, the department is working on increasing the percentage of workers receiving 'first calls'. This is an effort to help injured workers recognize their role in the system, what expectations they should have about claims, helping to recognize barriers for returning back to work. This is a conversation with the claim manager and worker to gather information and set expectations.

Lastly, we want to increase the share of eligible workers and employees participating in the Stay at Work program. There will be an increase in marketing efforts; there is a media campaign starting in 2015 that will be aimed at the right audience.

Reduce the Development of Preventable Disability: This measure looks at the percentage of claims filed through COHE providers. The other important factor is the percent of COHE providers who are medium or high adopters of best practices. The last focus area is to decrease the number of injured workers who are on opioids.

Collaborate to Reduce System Delays: There are several efforts underway to reduce unnecessary steps and delays in our processes. At a future meeting, we will discuss how we are changing expectations of vocational counselors in the early days of a claim. One measure is the median number of time-loss days to first Ability to Work Assessment (AWA) referral. The decrease is attributed to the different initiatives.

Lastly, the department is measuring how well our vocational counselors adhere to standard work. Through the department's Lean efforts, this standard work contributes to reducing the duration of referrals.

A question was asked how the measures are shared with claim managers. Ms. Kennedy explained that these measures are part of the performance agreement with Cheri Ward, Chief of Claims, the measures cascade through to operations managers and supervisors to ensure consistency. The managers also conduct Gemba Walks within the claims units; these are opportunities for staff to discuss the processes, barriers and status updates to create visibility on the claims floor. Unlike typical strategic plans that include a lot a details, these measures are concise and simple and claim managers can see how they fit into the process. Additionally, the same presentation shared with WCAC is also provided at Claims all staff meetings.

The Evolution of Vocational Rehabilitation Services: Ryan Guppy

Ryan Guppy, Chief of Return to Work Partnerships, provided an update for reducing delays in the provision of vocational services.

The Ability to Work Assessments (AWA) are referrals completed by private sector Vocational Rehabilitation Counselors (VRCs). The AWAs take place in 22 to 25 percent of claims that receive time-loss benefits.

Through the department's Lean initiatives, innovations, and partnerships, the department has reduced time-loss by 100 days on claims with AWAs. Mr. Guppy reviewed the AWA Referral Duration Process Reduction

Timeline. In 2011, the total number of days from the date of injury of a claim to an AWA referral closure was 440 days. After AWA Lean efforts, in 2014, the total number of days from the date of injury to an AWA closure was 340 days.

The vocational community and the department worked on several approaches and decided on certain standard work expectations. When the VRC can meet with the worker within 14 days, submit a job analysis to the attending provider within 30 days, receive feedback from the attending provider within 12 days, the likelihood of being able to resolve an AWA referral within a shorter period of time increases significantly.

The department has been able to sustain a 60-70 day decrease in the overall AWA duration. This was attained by working with the VRC community and setting standard approaches on how to reduce delays.

<u>Early Ability to Work Experiment (EAWA):</u> This effort began January 2014. A small group of apprentice claim managers are encouraged to refer the claim to a VRC to start the ability to work assessment in most instances. VRCs are asked to provide continued counseling to injured workers even if they are considered medically unstable.

The experiment started with on-the-job training for these new claim managers to help integrate the use of VRCs earlier. What we found was the claim managers not only made referrals earlier, but the confidence level in handling more complex claims increased.

The department has learned when involving the worker, VRC, and claim manager during the AWA early in a claim, there is more willingness to talk about returning to work. Stakeholders are generally very supportive of these efforts.

Data showed that, based on 132 closures for 2014 using Early AWA, the total number of days from the date of injury of a claim to an AWA closure was 160 days. This is a reduction of 280 days from 2011.

This is a culture shift for claim managers and the department is excited about this experiment.

The department has submitted a decision package requesting additional Vocational Service Specialists (VSS) on the claims floor to further support return to work, identification and elimination of barriers, working closely with workers, employers, medical providers and VRCs. Currently, there is one VSS for every 20-30 claim managers.

<u>Closing Comments:</u>

Due to time constraints, Ms. Kennedy offered to review the slides for Logger Safety Initiative and Self Insurance Risk Analysis System (SIRAS) after the meeting is over for those interested, otherwise these topics will be covered in a future meeting.

2015 meeting dates options will be forwarded for consideration.

Meeting Adjourned.