Workers' Compensation Advisory Committee (WCAC) Meeting
Labor and Industries, Tukwila, WA
Meeting Notes
June 24, 2014

Business Representatives: Sheri Sundstrom, Hoffman Construction; and Bob Battles, Association of Washington Business
Labor Representatives: Dave Myers, Washington State Building Trades; Karen Gude, United Food Commercial Workers 1439; 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 of Financial Management
BIIA: Dave Threedy, Board of Industrial Insurance Appeals
Absent: Sofia Aragon, Washington State Nurses Association; Rick Anderson, Washington Farm Bureau-Sakuma Brothers; and Nancy Dicus, Vigilant
Court Reporter: Milton Vance
Recorder: Sharon Avery

Guests: Janice Camp, Veronica Shakotko, Scott Dilley, Regine Neiders, Greg Kabacy, John Meier, Joan Elgee, Kathy Petrizelli, Lindsey Shafer, John Bowden, and Brian Bishop

L&I Staff: Karen Jost, Doug Stewart, Ryan Guppy, Rob Cotton, Bill Vasek, Joshua Ligosky, Steve Reinmuth, Sharon Elias, Mike Ratko, Rachel Aarts, Debra Tollefson, Amy Ray, Rena Shawver, Cheri Ward, and Tim Smolen

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 ladder falls. The video can be viewed on www.EyeOnSafety.Info.

Logger Safety Initiative: A total of 100 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. These companies received a 10 percent discount on their base rate for premiums and have agreed to a six month premium audit, a safety consultation visit, and monthly reports to the department on hours in manual logging.

GEW LLC has been hired as the third-party safety auditor. After the consultation and premium audit have occurred and the abatements happen, GEW LLC will conduct an independent safety audit. Once a company passes that audit, they will receive an additional 10 percent premium discount. There are approximately 50 companies that are ready for this next level audit.

Joint Legislative Audit and Review Committee's Workers' Compensation Management System Audit: John Bowden

John Bowden shared the objectives of his presentation and described the seven research areas for the audit on slides 6-8 of the Power Point presentation. As a reminder, the research areas focus on the handling of claims for state fund Retro and non-Retro employers and for self-insured employers. The data will be used to assess the promptness, fairness and efficiency of workers' compensation claims management and determine if there are recommendations to improve the system or reduce costs. The research team will also focus on differences in claims organization and service delivery for Retro and non-Retro claims, and whether current initiatives are improving service delivery.

Interviews and claim file reviews are completed. The contractors are currently analyzing the claims data and in the process of conducting surveys to gather perceptions from injured workers and employers. They are also comparing Washington with similar jurisdictions that will focus on timeliness, fairness, and efficiency.

The preliminary report is due June 2015 and the proposed final report is due June 2015. The final report includes the response of the agency. There is not an opportunity for public participation, but the committee members are welcome to send feedback that will be included in the appendix of the report.

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

Dave Threedy provided a quarterly update from the Appeal Board.

- Total Appeals Filed and Granted:
    - Total Appeals Filed Quarterly: 3,171
    - Total Appeals Granted Quarterly: 1,869
- Department Resumption Rate by Quarter: The Board tracks how many appeals for which the department reassumes jurisdiction. This is at 26%.
- 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 32 days which is a decrease.
- 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 23 days.
- Quarterly Average Weeks to Completion: This was a measure reported by the Board in the performance agreement with the Governor. The goal is to keep it at 32 weeks; it is currently at 30.8 weeks.
- Caseload at End of the Quarter: There were 5,369 appeals at the end of the quarter.
- Structured Settlements of 6/13/14:
  149 claimants involved:
    - 137 approved
    - 9 rejected
    - 3 pending

Mr. Threedy provided an example of structured settlement agreement rejected based on 'other grounds', no on whether the agreement was in the worker's 'best interests'. Occasionally a submission does not comply with the statutory requirements for how much payments need to be. The statute requires a certain percentage for the initial payment and for each payment after that for structured settlements. Ms. Kennedy added that the Zimmerman case talks about best interest and whether the Board can make that evaluation only when the worker has an attorney. Best interest will be a criteria that the Board reviews for pro se or unrepresented workers.

The department currently has 108 state fund settlements that have received approval from the Board.

Industrial Insurance (State) Fund Financial Overview: Sharon Elias

Sharon Elias, Chief Accounting Officer, presented the third quarter financial report and an overview of results for the first nine months of the fiscal year.

The department was recognized with a fourth Government Financial Officers Association (GFOA) award, which was included in the Comprehensive Annual Financial Report (CAFR). Director Sacks recognized Ms. Elias and the accounting staff.

Ms. Elias provided a nine month financial highlights overview:

- The contingency reserve balance increased from $620 million to $924 million from July 2013 through March 2014 due to:
  - Higher than expected investment results due to a strong stock market; and
  - Favorable development in benefit liabilities.

<u>State Fund Results:</u>

- Insurance Operations:
  - Premiums Earned (we took in): $1,208 million
  - Total Expenses Incurred (we spent): $1,678 million
- Premiums Earned:
  - Net premium earned increased by $57 million mainly due to an increase in hours reported and more hours reported by businesses in higher rate classes.
- Net Benefits Incurred:
  - Benefits incurred decreased from $67 million compared to last year.
- Impact of Discounting:
  - Total impact of discounting was $488 million.

On slide 29, Director Sacks noted a substantial change as an initial step for adjusting the pension discount rate. This relates to claims not yet on pension; however, there is an expectation that a certain number will ultimately be pensioned. The changes in discounting increased expected liabilities from $192 million on December 31, 2013 to $250 million on March 31, 2014.

This represents the first step in adjusting the discount rate. As a reminder, the WCAC members felt the 6.5 percent rate was too high; we cannot assume bond and other investments will yield a 6.5 percent return in the future.

Ms. Elias continued the presentation with a review of slide 30. In March 2014, two changes were made: 1) The structured settlement assumptions were adjusted, increasing the liabilities by $40 million; and 2) An accounting adjustment was made to structured settlements that impacted the liabilities by a $71 million increase.

To provide clarification regarding these adjustments, a year ago, the department advised the committee that based on actual data, significant adjustments to the structured settlement assumptions were needed. The amount of settlements that were approved were not close to the assumptions for the fiscal note. The department's challenge was assessing the impact of a new program based on limited data; we anticipated and expect to continue to adjust the assumptions. Based on another year's data, another adjustment was needed. Last year, the department reduced the savings by 70-75 percent. With the newest change, the aggregate adjustments are closer to 81-82 percent and reflect actual settlements received at the department which is approximately a total of 108 settlements. The current trend is two structured settlements per week. These assumptions include the changes coming over the next few years where younger workers will be eligible for the program (currently it is 55 years old; in January 2014, it will lower to 53 years old, and in January 2016 it will drop to 50 years old).

A question was asked how the Zimmerman case will affect the assumptions, does the department anticipate more workers will submit applications? Ms. Kennedy answered it may have some influence; and the actuaries are relying on actuals to date opposed to anticipating changes going forward.

Another question was asked regarding the unfavorable adjustment in Stay at Work net savings. Ms. Kennedy clarified this is due to the overall level of participation in the program. We anticipated quicker maturity than what Oregon experienced due to Retro's influence in Washington. However, we are now projecting maturity closer to the time it took for Oregon's program.

The department is conducting surveys and working with media consultants to determine the best target group and the best approach to marketing the Stay at Work program. In addition, Bill Smith, Stay at Work Program Manager, is meeting with each Retro group to help them understand their participation levels and to get their feedback on areas for process improvement.

Ms. Elias continued the presentation.

- Investment Income:
    - Total investment income was $553 million.
    - Investments grew $790 million in the past nine months and ended at $13.3 billion as a result of investment income and a strong stock market.
- Other Revenues and Expenses:
    - The net for other revenues and expenses was $41 million.
- Results of Operations:
    - We have a net income of $170 million.
- Contingency Reserve:
    - The contingency reserve for the Accident and Pension Funds is $290 million.
    - The contingency reserve for the Medical Aid Fund is $634 million.
    - As of March 31, 2014, the overall contingency reserve balance is $924 million. This is below the WCAC target of $1,820 million (14 percent of liabilities for the ten year plan).
- Key Financial Ratios:
    - The operating ratio is 121.4 percent.

WCAC Sub-Committee: Pension Discount Rate and Mortality Tables: Randi Warick

Randi Warick, Deputy Director, began her presentation with a review of slide 49. This is a follow up from the last WCAC meeting where we discussed making changes to update the pension mortality tables in addition to beginning to reduce the pension discount rate. As a reminder, the mortality tables currently used are over thirty years old and no longer reflect the current mix of beneficiaries and their life expectancies. The actuaries conducted an in-depth study using 2000 census data; their study has been validated by Deloitte.

The sub-committee was asked to review 1) the mortality updates; 2) the discount rate; and 3) the gender consideration when a pensioner picks a survivor option.

The recommendations by the sub-committee were reviewed on slide 52:

> 1) Contingency Reserve Impact: The committee was in consensus to take the full impact of the mortality table changes in June 2015. The impact will be between $85 and $91 million.
>
> 2) Discount Rate Reduction: The committee recommended taking the first step toward reducing the discount by changing it to 6.4 percent in June 2015.

3) Impact to Pension Benefits for Surviving Spouse Options: The committee recommended using a blended gender approach for survivor pension options. This is consistent with the state retirement system and the State Actuary.

Ms. Kennedy added an important element considered is the impact to self-insured employers. The impact would be primarily to the self-insured second injury fund which funds a significant amount of the cost of self-insured pension claims in the system. The actuaries confirmed there is sufficient funding in the second injury fund to bear the costs of these adjustments without an additional charge in the assessment the self-insurers pay.

The department will move forward with the subcommittee's recommendations.

Insurance Services Performance Metrics Dashboard: Vickie Kennedy

Ms. Kennedy reviewed 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.

The overall indicator for long-term disability claims is green because we are on track to reduce the number of injured workers still on time-loss 12 months after their injury from the baseline of 436 per 10,000 claims in 2012 to 377 per 10,000 claims by June 2015.

Kirsta Glenn continued the presentation with a detailed review of the focus areas:

1) Create a Culture of Return to Work (yellow);
2) Reduce preventable disability (yellow); and
3) Collaborate to reduce system delays (yellow)

A question was asked if part of the downward trend on slide 61 resulted from employers avoiding time-loss claims by keeping workers on salary. Ms. Kennedy answered unless the employer reports that the worker is kept on salary, we are unable to identify this claim type. The proportion of overall claims that are becoming time-loss claims is going down; this may be an indication of a combination of kept on salary and other light duty and Return to Work efforts where employers do not apply for Stay at Work reimbursements.

Health Care Quality Update: Leah Hole-Marshall

Leah Hole-Marshall, Medical Administrator, provided an update on Health Care Quality.

Distribution of Quality of Care: There is a small portion of providers that represent poor quality care that we want removed from the worker's compensation system. The department has strategies to move our providers toward being high-adopters of occupational health best practices, as these are proven to reduce the incidence of long-term disability.

Advisory Committee on Healthcare Innovation and Evaluation (ACHIEV): This is an external advisory group formally known as the Provider Network Advisory Group. The vision of the group is to:

1) Set minimum standards for providers who treat injured workers;
2) Incentivize collaborative models and occupational best practices;
3) Promote/identify evidence based policies and practices; and
4) Identify areas of ongoing need for system innovation.

Medical Provider Network: Slide 80 provides a summary of status for the Medical Provider Network (MPN). There are over 20,000 providers in the network. This is an increase from 17,000 providers when the network began in January 2013. The data helps validate that we are good business partners for providers who want to treat injured workers.

- There is a higher volume of work to credential providers for the system than originally projected. The department is struggling with processing the increased volume and is looking at Lean efforts to make the process more efficient.
- 97 percent of claims have network providers. Some providers are not part of the network because they are exempt, such as emergency room doctors.
- Despite the positive numbers in the system, we still have problems getting certain injured workers care they need with quality providers, specifically around psychiatric issues and complex claims. This was an issue prior to the MPN.

Ms. Hole- Marshall reviewed slides 81-84 which included:

- Network enrollment;
- Access key map;
- Reasons for network denials; and
- Next steps

The actual impact in reduced costs for the system for the network is $34.7 million annually. This is on target with the estimated savings in the fiscal note for the MPN.

Slide 86 compared the group of providers not in the network versus providers in the network. The non-network group is 36 percent higher in terms of time-loss claims.

Center of Occupational Health and Education (COHE): The proposed number of enrolled providers is 3,492. We are currently at 2,474 providers and are on our way to meeting the legislative target of access to a COHE provider for all injured workers by December 2015. To accomplish this, we increased from four COHEs to six. The six COHEs cover 38 of 39 counties. The coverage within the counties still need to be reviewed and is a good starting point for a gap analysis.

Ms. Hole-Marshall reviewed slides 88-92:

- Incentivize collaborative care and best practices;
- Incentivize collaborative model and best practice use;
- Promote evidence based policies;
- New best practices; and
- Collaborative care vision

Closing Comments:

Bob Battles, General Counsel and Director of Government Affairs for the Association of Washington Businesses was introduced as Kris Tefft's replacement on the committee.

Meeting Adjourned.