

Workers' Compensation Advisory Committee (WCAC) Meeting
Labor and Industries, Tumwater, WA
Meeting Notes
June 23, 2015

Business Representatives: Sheri Sundstrom, Washington Self-Insurers Associations; Mike Roozen, Farm Bureau; Bob Battles, Association of Washington Business; and Nancy Dicus, Vigilant

Labor Representatives: Joe Kendo, Washington State Labor Council; Lee Newgent, Washington State Building Trades; and Karen Gude, United Food Commercial Workers 1439

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

BIIA: Dave Threedy, Board of Industrial Insurance Appeals

Absent: Karen Bowman, Washington State Nurses Association

Court Reporter: Milton Vance

Recorder: Sharon Avery

Guests: Alan Paja, Joan Elgee, Jan Gee, Lauren Gubbe, Kim Clauson, Jody Brennan-Wagner, Kris Tefft, Curran Bower, Martin Cohen, Viona Latschaw, Steve Reinmuth, Alex Ge, Tammie Hetrick, and Christine Brewer

L&I Staff: Leah Hole-Marshall, Lisann Rolle, Karen Peterson, Anna Quichocho, Cathy Nowlds, Karen Jost, Sandi Haerling, Debra Hatzialexiou, Brenda Heilman, Jeff DeVere, Marnee Couthran, Mariya Rohde, Leslie Yonkers, Amy Ray, Liz Smith, Julie Black, Sharon Elias, Mike Ratko, and Rachel Mercer

Welcome & General Updates: Joel Sacks and Vickie Kennedy

The meeting began with introductions of the committee members and audience. Lee Newgent was introduced as the new member of the committee representing the Washington State Building Trades.

The safety message focused on the nationwide stand-down for construction focusing on fall protection.

Ms. Kennedy provided an update on the Benefit Accuracy Workgroup. Senate Bill 5510 requires the department to create a group of two business and two labor representatives, along with two department staff to discuss issues of benefit accuracy. Certain benefits time-loss and pension are primarily derived from the calculation of the worker's wages. Meetings will be scheduled once the department receives names for the workgroup. Two reports will be drafted from the Legislature, one February 2016 and one December 2016.

Director Sacks shared that the budget has not yet passed. The department has notified all contractors of the potential that we may not have a budget to be able to pay them as of July 1st. The department will be sending out temporary layoff notices today to all employees advising that if there is no budget adopted and signed, we do not have the ability to pay them. If the budget does not pass, the workers' compensation system day-to-day operations would stop as well. We are permitted to continue to pay benefits and medical bills because funds for these are not appropriated and the processes for ongoing benefits and electronic bill payment are automated. The department would not be able to adjudicate new claims and no medical treatment that requires preauthorization would be processed.

Ms. Kennedy shared the department's interest to reconvene the WCAC Finance Committee. This committee would discuss next steps in the overall plan for the mortality tables and the pension discount rate. The committee would also discuss our investment strategy, providing input into our work with the State Investment Board. The department would like participants' names by July 15, 2015.

Lastly, Ms. Kennedy updated the committee about the implementation of the electronic benefit payments for injured workers. Through the budget proviso, for the current biennium, we have been working on a technology project to provide options for pension, time-loss and permanent partial disability recipients to receive payment by direct deposit into a bank account, to a payment (debit) card. A decision has been made to delay the implementation date and continue testing the process. Currently, over 80 percent of existing pensioners participate in direct deposit and we need to ensure the change occurs smoothly. Additionally, this is the same payment system used for the annual cost-of-living adjustments effective July 1, 2015. We are also making changes in response to the *Crabb* decision by the Supreme Court. The court decided the freeze on cost-of-living increases effective July 1, 2011, as part of the workers' compensation reforms, did not apply to workers who were entitled to the maximum benefit level. The department is working on the adjustments in the payment system and anticipates changes will be in place before this year's cost-of-living increase.

Industrial Insurance (State) Fund Financial Overview: Sharon Elias

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

Ms. Elias provided a financial highlights overview for July 2014- March 2015:

- The contingency reserve balance decreased \$22 million, from \$950 million to \$928 million from July 1, 2014 through March 31, 2015 due to:
 - Premiums collected greater than current accident year incurred benefits;
 - Investment income increased; and
 - Prior year's benefit liabilities increased less than expected (favorable)
- Other significant changes included:
 - An accounting entry was recorded in the first quarter for the remaining portion of the 2011 reform savings;
 - Implementation of the new mortality table during the third quarter;
 - Pension discount rate decreased from 6.5 to 6.4 percent; and
 - Costs associated with extending Vocational Option 3 benefits and eliminating the sunset provision for these benefits.

State Fund Results:

- Insurance Operations:
 - Premiums Earned (we took in): \$1,355 million
 - Total Expenses Incurred (we spent): \$1,830 million
- Premiums Earned:
 - Net premium earned increased by \$147 million mainly due to increase in hours reported, change in business mix, and rate increase in Medical Aid Account.
- Net Benefits Incurred:
 - Benefits incurred increased from \$116 million compared to last year.
- Investment Income:
 - Total investment income was \$419 million.
- Investments grew \$535 million during the quarter and ended at \$13.96 billion.
- Other Revenues and Expenses:
 - The net for other revenues and expenses was \$40 million.
- Results of Operations:
 - We have a net negative of \$16 million. *If we had not taken the savings offset, implemented the new mortality tables, decreased the pension discount rate, or booked the cost of the anticipated savings for the Vocational Option 2 law change, we would have had a net income of \$219 million.*

- Contingency Reserve:
 - As of March 31, 2015, the contingency reserve balance was \$928 million. This is below the WCAC target of \$1,190 million (14 percent of liabilities based on the agreed-upon ten year plan).
 - The contingency reserve for the Accident and Pension Funds was \$193 million.
 - The contingency reserve for the Medical Aid Fund was \$735 million.
- Key Financial Ratios:
 - The operating ratio is 107.8 percent.

Insurance Services Performance Metrics Dashboard: Vickie Kennedy

Ms. Kennedy briefly reviewed the quarterly Insurance Services Performance Metric dashboard for the overall indicator and focus areas. The overall indicator for long-term disability is yellow because we are making progress, although slowly. 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, measured as the number of claims on time-loss at 12 months.

The key focus areas are:

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

Creating a culture that promotes Return to Work: The key indicator is to increase return to work in 6 months and is currently yellow because this number has continued to stay flat.

One of the department's efforts to change the culture of return to work is having claims identified by a "return-to-work score". These claims meet certain criteria that indicate the worker may be at high risk for long-term disability. Claim managers receive a report when a claim is on time-loss at the 40th day and has these risk factors. This will trigger staffing and likely a referral to our field early return-to-work staff. The goal is to drive down the number of those claims still on time-loss six to twelve months from the claim receipt.

Director Sacks added the goal is to target where we think we can make the biggest difference very early in the process and focus on how to have the biggest impact on improving the system.

The indicator measuring the percentage of Ability to Work Assessment (AWA) referrals made in 90 days of claim receipt increased from 5.6 percent to 15 percent due to claim managers' actions. Their efforts have exceeded the target of 10 percent.

It was asked who makes the initial vocational assessment. A claim manager refers a claim out to the vocational community; the vocational counselor will then return to the department with a recommendation. The services provided are included in overall claim costs.

Help injured workers heal and reduce preventable disability: The key indicator of progress to decrease time-loss persistence from three to six months is currently green. These are two additional measures in this focus area. The first is the percent of initiated claims seeing a COHE provider. Our goal by end of June 2015 is 50 percent and we are currently at 45.3 percent. The second measure is the percent of claims

with opioid use six to twelve weeks from injury. These claims are much more likely to turn into long-term disability. The measure has been consistently at about 1 percent of claims, an 80 percent reduction from the baseline.

Collaborate with stakeholders to reduce system delays: The key indicator of the decrease in the average days of time-loss paid at three months from the first time-loss payment decreased from 57 days to 54 days and is considered yellow. Two efforts in this focus area include reducing the median time-loss days to first AWA referrals. A target has not been established, but the measure of days has gone down from 249 days (CY2013) to 165 days in the first quarter of 2015. Secondly, the department is working with external vocational community to develop new approaches or services for vocational rehabilitation counselors.

It was asked if there are pilot projects occurring involving large employers and external vocational staff for return to work. Ms. Kennedy answered there are no pilots specifically directed at large employers the department currently is involved with but we are aware of some larger employers working on creative ways to address light duty.

Another question was asked if the department is working with employers to proactively prevent injuries prior to them happening. Ms. Kennedy answered this is a role for our risk managers, and safety consultants in the Occupational Safety and Health program. Their focus is injury prevention discussions, hazard abatement, and how employers can prepare themselves with department programs so they are ready with an accident occurs. In the Stay at Work program, we have outreach staff that focus on identifying employers who need assistance in putting together a return-to-work program so they can take advantage of stay-at-work benefits.

Director Sacks added that smaller employers' challenges include their need to focus on day-to-day operations, not necessarily focusing on proactive efforts to preventing future injuries. The department is determining the best intervention points for outreach efforts. An example is a one page document that has been developed to share the employer's claims history, industry costs, and the claims-free discount options. DOSH inspectors are providing this after an inspection. Another example is when a claim enters the system; the department is calling the employer to start a conversation about claims-free discount. What many small employers do not know is that keeping a worker on light duty for a week or two may avoid the claim's impact on their rates and they would be able to keep this discount.

Independent Medical Exams: Vickie Kennedy

The independent medical exams (IMEs) project is a new system that was deployed last week. Historically, the department used a centralized scheduling unit located in the Seattle Service Location to schedule IMEs referred to them from claim managers. A claim manager would request an IME to help determine causation on a claim, provide input on the treatment plan, or rate impairment, for example.

These are approximately 25,000 IME referrals made every year and the process was very cumbersome for the scheduling staff and IMEs were not scheduled as quickly as sometimes needed. They used multiple applications with the goal of fairly distributing the work among IME panels and to have the IME in a reasonable location for the injured worker.

A new technology application was developed for the assignment, management, and reporting of IME referrals. Claim managers will initiate an IME referral and it is assigned by the system to the next panel whose turn it is in that geographic location. The IME panel then decides if they can accommodate the offer within the expected timeframes for the worker. If accepted, the system manages the data and reports related to the IME. If declined, the request would be assigned to the next IME panel to receive the

referral. Some of the IMEs and related work cannot be completed by the system. The scheduler will still handle complex cases, out-of-state cases (excluding Oregon), and travel issues.

Enterprise Knowledge Management Project: Ray Jones, Brooke Dixon, and Mitchell Dunlap

Ms. Kennedy provided an overview of the Enterprise Knowledge Management project. Over the last 15 years, the department has evolved from an entire paper process for claims staff's access to statute, policies, rules, and training handouts to the current on-line reference system. This system was a vast improvement over the paper version but including very limited search capability. The new system is very perceptive on searches, similar to "Google". This system will also be available to external community members such as Retro groups and trial attorneys. This new system will allow both internal and external users to have access to the same information.

Karen Peterson, Program Manager for Insurance Services Technology Management, provided an overview of the RFP process to identify the vendor we contracted with. The department hired eGain as the vendor for the system.

Ms. Dixon, Information Services Specialist, provided a demonstration of the Knowledge Management System which is accessible through "My Secure L&I".

A question was asked if the department will be able to track how much time people will save using the new system. Ms. Dixon advised a baseline survey was conducted before the project was started to gauge how many staff were using the old system and what their experience was; this is solely based on satisfaction. With the new system, we will be able to monitor how long staff are in the system and how quickly they are finding material needed.

Ms. Ward, Chief of Claims, added one of the biggest complaints we had from staff with the old on-line reference system came from those accustomed to search engines such as "Google" and the new system provides a more enhanced search capability similar to what they are used to. Feedback from staff has been supportive and they are pleased with the ability to access resources more quickly and with more drilled-down information.

Goal 4: Helping Workers and Businesses by Cracking Down on the Dishonest Ones: Elizabeth Smith

Elizabeth Smith, Assistant Director for Fraud Prevention and Labor Standards, is the agency lead for our efforts around Goal 4, which is helping honest workers, providers, and businesses by cracking down on the dishonest ones. This goal is focused on how we find, profile, target and have effective compliance action against the worst violators. Goal 4 is an agency effort to analyze each individual compliance area and assess its enforcement approach, identify gaps and implement changes.

The purpose of the agency's efforts is to identify and move forward both with a consistent approach in how we do this and also an approach that is more effective in finding and deterring bad actors. In the last year, staff have conducted both escalation strategy analysis and strategic data analysis in construction compliance, employment standards, electrical, and in safety and health. A number of recommendations and changes have been implemented in each area to be more effective in our compliance approach.

The area of focus currently is employer premium and the focus is on the programs that educate, detect, enforce, and prosecute relating to employer premiums. Education, focusing recourses and touchpoints where the need is greatest with significant violators, handling low level violators differently, building new

detection techniques and training staff to ensure consistency through the varied response levels are the goals.

The Goal 4 team is developing a tiered concept. Tier 1 includes education and outreach. In Tier 2, we may find initial levels of violation and we would meet with the employer to educate them on appropriate documentation and other requirements, assuming this is a mistake that can be corrected. Tier 3 is when the department comes across the employer again and they are still violating the law. This develops into a compliance audit with higher penalties. If we have educated and interacted with them and they are still violating, then we determine whether there is a different issue. Tier 4 is for repeat violators and includes the highest penalties, including criminal action.

The second component in employer premium is strategic data analysis. We began by creating a list of violators from three areas of law: premium violators, employment standards wage violators, and repeat and serious wage violators. We focused on the intersection and identifying patterns. The next step is to create a list of recommendations on how can we do our work differently based on what is found.

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

Dave Threedy provided the quarterly update from the BIIA.

- Total Appeals Filed: 3,472
- Quarterly Average Weeks to Completion: The goal is to keep this measure at less than 32 weeks; it is currently at 29.4 weeks.
- Structured Settlements: There are 129 structured settlements received and filed. There was a significant rise in the number of State Fund structured settlements from fiscal year (FY) 2014 to FY 2015. 100 structured settlements have been received and filed since January 2015. Six are currently pending with the Board.

In response to the increase, Ms. Kennedy commented that this may be due to several factors: the Structured Settlement program staff and trial attorneys are getting more familiarized with the structured settlement process, for example. Over time, there is now more understanding that this is a viable approach for some injured workers.

Closing Comments:

Meeting Adjourned.