

Retro Advisory Committee (RAC) Meeting

Labor and Industries, Tumwater, WA

Meeting Minutes

04/25/2024

Virtual (Zoom)

Trade Association Representatives:

Lauren Gubbe, Associated General Contractors

Victoria Montrose, Washington Hospitality Association

Tim Lundin, Archbright

Maria McClain, Association of Washington Business

Rose Gundersen, Washington Retail Association (*not in attendance*)

Individual Firm Representatives:

Tom Walrath, T.E. Walrath Trucking, Inc. (*not in attendance*)

John Cichosz, DJ's Electrical

Labor and Industries:

Jessica Nau, Retrospective Rating Program Manager, *Committee Chair*

Court Reporter:

Andrea Clevenger, Capitol Pacific Reporting

Recorder:

Melissa Morales (*present*)

Guests:

Alicia Milani, Amy Fregia, Amy Earley, Ashtyn Baker, Bill Vasek, Bobbie Hanna, Brandon Dion, Brenda Heilman, Brian Ducey, Casey Sparber, Cherrell Fisher, Chris Ristine, Collin Head, Curran Bower, Dan Plunkett, Debra Brown, Dominique Damian, Ellen Hull, Emily Gillis, Eric Wood, Greg Kabacy, Heather Vogus, Herbert Atienza, Ian Payne, Janee Cantu, Jeaneil Brown, Julie Black, Julie Osterberg, Kelly Boykin, Ken Smith, Kevin Neubauer, Kim Wallace, Kirsta Glenn, Kyle Ducey, Kyle Monnett, Lauren Gubbe, Leslie Qunell, Lisa Sullivan, Lisa Vose, Lloyd Brooks, Lori Gruber, Lynn Harrell, Matt Carrithers, Megan Bjornberg, Michael Couthran, Michelle O'Brien, Mike Williams, Nancy Adams, Nicholas Kot, Nichole Runnels, Cindy Kropp, Rachelle Bohler, Richard Clyne, Robert Mitchell, Ruark Bohonos, Ryan Moore, Sanjeev Batta, Sarah Fishback-Duran, Sarah Wheeler, Scott Bradley, Seth Shapiro, Shannon Elliott, Shauna Muendel, Sheila Parker, Sheri Call, Stacie Neiswanger, Tara Withrow, Teresa Sheldon, Tom Bascom, Tom Kwieciak, Trish Guadagnoli, Tyler Langford, Vanessa Hughes

Welcome and Introductions: Jessica Nau

The meeting began with a welcome message from Ms. Nau and introductions from each of the committee members present.

Ms. Nau introduced Brenda Heilman, Deputy Assistant Director for Insurance Services. Ms. Heilman announced Michelle O'Brien as replacement for Keith Bingham, Employer Services Program Manager. Ms. Heilman announced the merging of Retrospective Rating into the Employer Services program but still under the leadership of Jessica Nau who will also be taking on Risk Class Development, Outreach and Technical Service Unit. Ms. Heilman announced that both the Early Contact and Special Risk teams

will report to Julie Black under Account Services and Stay-At-Work will remain with Michelle. Ms. Heilman announced these changes will begin May 1st 2024.

Ms. Nau reviewed the agenda and asked for a motion to approve the September and December minutes. Lauren Gubbe made a motion to approve the September minutes. Mr. Lundin seconded the motion. The motion passed unanimously. Maria McClain made a motion to approve the December minutes. Ms. Gubbe seconded the motion. The motion passed unanimously.

Safety Topic: Tyler Langford

Mr. Langford talked through slide 5.

Community Claims Questions: Brenda Heilman, Shauna Muendel, Cherrell Fisher

Ms. Muendel talked through slides 6-12. **Ms. Muendel discussed** the UR improvement project related to delays from re-reviews, initial reviews and delays that are case specific or clinical. **Ms. Muendel noted** that 80% of inquiry emails (120 total per month) were going to individual accounts with no current tracking mechanism in place. **Ms. Muendel revealed** that the need for additional staff is necessary to address and streamline these inquiries in a timely manner to prevent further delay, however, most inquiries require RN or clinical review. **Ms. Muendel shared** that in the interim, she is still the main point of contact to keep communication consistent with Comagine, however, a UR ONC will be added to the staff on May 1st as a permanent solution along with a newly created UR clinical inquiries mailbox to streamline inquiry tracking.

Ms. Muendel pointed out the Comagine delay issue for initial reviews with timeliness dropping below 90% in 2023 due to an extensive IT platform upgrade, high volume of requests and staffing fluctuations with a return to over 90% starting in December thru March. **Ms. Muendel shared** the hiring of two RNs and an intake staff and IT issues addressed during upgrade.

Ms. McClain asked via Zoom chat if she could get the RLOG UR notes to be more specific as to what they are reviewing (ex. Surgery, PT, etc.). **Ms. Muendel responded** that she would look into making that an ongoing project to make them more specific.

Ms. Fisher talked through slides 13-17. **Ms. Fisher discussed** a graph showing the average caseload handled Level 2 and 3 CMs by quarter since December 2018 with a slight increase in 2021. **Ms. Fisher shared** the hiring of apprentices to alleviate high caseload as well as 12 new Level 3 CMs starting on May 1st. **Ms. Fisher noted** the current average caseload is around 230 at the 2 level and 240 at the 3 level.

Ms. McClain asked how many vacancies are currently open. **Ms. Fisher responded** that she did not have that information at hand.

Ms. McClain asked via Zoom to have the vacancy number of CM's sent to her later. **Ms. Nau shared** she would note that question as a follow-up.

Ms. Fisher addressed the first three days of time loss issue and if the Liniis alert to CMS that the time loss is being paid before the 14th day will be turned back on. **Ms. Fisher noted** the alert was due to COVID legislation, ESSB 5115 and 5190, which require the Department to pay the first three days of time loss on COVID claims regardless of the disability continuing on the 14th day. **Ms. Fisher explained** that because the public health emergency has ended, the alert might be turned back on once House Bill 1927 has been implemented. **Ms. Fischer addressed** the concern over House Bill 1927 causing an increase in overpayments reassuring that the time was taken to ensure that would not happen, however, there might be an increase in the amount of the overpayment. **Ms. Heilman asked** where this topic originated from and **Ms. Earley responded** that because the alert was turned off during COVID, her team noticed the first three days were being paid well before the 7th day (previously 14th day) so she brought up the issue to ask that the alert be turned back on for apprentice use. **Ms. Heilman reassured** that measures are being taken to monitor the overpayment and will have to follow up on the IT alert due to legislation and resources.

Ms. Heilman continued with asking everyone to share the alerts and systems – claims-related or not – that they need as well as the hours requested the system to be available for IT to prevent more outages and prevent further slowdown to Retro Inbox (retro@lni.wa.gov). **Ms. Heilman explained** that IT have made some changes such as moving to the Cloud as well as changing vendors and staff. **Ms. Earley mentioned** that the issue was focused on three-day weekends with CAC usually down on Mondays or State holidays they do not recognize leaving TPA staff unable to complete their daily tasks and requests notice to avoid work stoppage. **Ms. Heilman responded** that she would add this item to her task list.

Ms. Heilman presented slides 18-22. **Ms. Heilman shared** that in regards to the IME recording issues, IT has purchased new software (Kaltura) that allows them to send a link to the worker to upload their IME videos directly with the employer having access if it's related to a claim decision but not if complaint related. **Ms. Heilman went on to share** the 6-7% IME cancellation rate of the 1500 IME requests per month and that the IMEs with a request to record has increased (up to 60% per the slide). **Ms. Heilman stated** that since the implementation in August, 30-40% of exams are being cancelled, rescheduled or having to find new ways to receive information to manage the claim, however, they are currently working on fixing this issue.

Ms. Heilman noted that a field to capture the intent to record has been added to the system but can only track rescheduled IMEs at this time. **Ms. Heilman shared** they have asked IME providers to include the exam is being recorded in their reports as well as any translator present. **Ms. Heilman stated** that although there is not currently a way to pull a report with this information, a manual review will show this data. **Ms. Heilman addressed** the question on how many IME providers are willing to record versus not record and unfortunately, they do not have this information as they are employed by the IME firms, however, the IME scheduling unit has begun manually tracking 50 out of 300 examiners so far.

Ms. Heilman continued on the issue of lack of available IMEs within a geographic area that are willing to record causing the worker to travel and possibly invoking the noncooperation process as a decision left up to claim leads to issue ordering notices or continue with non-co-op process. **Ms. Heilman encouraged** participation in listening sessions, starting May 6th, to work alongside the business leader and IME panel community, on solutions not yet resolved by legislation such as requiring panel doctors to record or requiring workers to co-record. **Ms. Heilman asked** that any questions be given to Jessica Nau and the meeting notices will be sent soon.

Ms. Gubbe added via Teams that the current interpretation of WAPA, RCW 9.72 states the exam cannot be co-recorded by an IME provider without consent from the worker, which hinders the bills intentions, and because workers comp does not fall under the HIPAA laws, it is requested that they readdress the issue with a focus on HIPAA compliance.

Ms. Earley added her concern for the seemingly indifferent response from the Department and the strain on Retro groups when a claim is given a pension reserve status because the client is unwilling to travel but wants to be recorded for objective purposes and non-co-op is not being pursued nor is a panel of providers being consulted. **Ms. Adams explained** that because legislation was implemented quickly, the Department had to pivot but has since been exploring RCLs and working with providers and claim consultants to work out the unique cases. **Ms. Heilman discussed** the chart on slide 20 showing that although there are only 100 workers in the 30-40% cancellation rate, it is still a concern they are taking seriously and looking to remedy.

Ms. Hughes stated via Teams that some consults have unrelated conditions added to the IME claim because consults want to treat.

Ms. McClain asked via Teams if Groups are seeing more pensions than usual and requests information. **Ms. Nau committed** to researching the pension information with the actuarial partners that have this data.

Ms. Gubbe noted via Teams that exams are always recorded when board directed so the delay from the Department is confusing and concerning for the well-being of the employers, workers and retro participants. **Ms. Heilman acknowledged** the concern and reassured that her team is committed to resolving the issue.

Legislative Updates: Brenda Heilman

Ms. Heilman talked through slides 23-24. **Ms. Heilman discussed** House Bill 1927 where the number of days that a worker has to receive time loss or be disabled is changing from 14 days to seven days effective June 6th. **Ms. Heilman continued** to Substitute House Bill 2127, effective January 1, 2025, that expands dollar amounts for incentive programs such as Stay-At-Work, Preferred Worker, continuous employment incentive, job modifications and pre-job accommodations. **Ms. Heilman shared** Substitute House Bill 2382 affecting the transportation network that expands to include death that occurs when they are logged into the system for work but with no passengers.

Ms. Heilman discussed Substitute Senate Bill 6197 covering first responder death benefits where when pension adjudicators are making eligibility decisions and applying the Title 51 time limitation for filing a claim, the bill states the request must come within one year of an injury and two years for occupational disease and that DRS has since removed the limitation for this death benefit. **Ms. Heilman continued** to Senate Bill 5886 that expands the fire program benefits for purchasing safety equipment to include training and other types of safety funding effective in June. **Ms. Heilman shared** Engrossed Second Substitute Senate Bill 2311 on first responder wellness with a focus on providing wellness for first responders which may include DOC.

Ms. Heilman resumed discussing proviso funding the agency is receiving to research and report – by June 30th, 2025 - on a complaint process regarding light-duty work when workers are declining light-duty

jobs. **Ms. Heilman finished** with sharing the funding of \$400,000 for a study on PTSD impacts on our system and employers and learn ways to implement best practices previously formed by other jurisdictions across the country.

Secure API Updates: Matt Carrithers

Mr. Carrithers presented slide 25. **Mr. Carrithers shared** an updated regarding the Secure API team exchange due to limited availability by the previous team and moving forward will be given additional resources to create higher production turnout. **Mr. Carrithers continued** to share those deployments for the Secure API were paused for knowledge transfer, however, working on bugs and issue fixes continued with next deployment scheduled for Tuesday, April 30th at noon. **Mr. Carrithers mentioned** the agency's desire to eliminate bot traffic from CAC – especially from the vocational progress reports functionality.

Mr. Smith asked via Teams “What is bot traffic?” **Mr. Carrithers answered** by explaining how some companies with access to CAC and will set up a “bot” to retrieve information from the CAC system and download to their internal system for use amongst employees.

Employer Quick Reference Card & Voc Updates: Kirsta Glenn

Ms. Glenn presented slide 26-34. **Ms. Glenn discussed** the RTW Employers quick reference card with LNI role information and what each one does while the back displays help and contact information for common issues. **Ms. Glenn continued** to share the location of the card on the vocational side of the LNI website via the VRC resource library or by searching Publication F280-080-000.

Ms. Glenn resumed on to SHB2127 with an increase in the level of incentives for stay-at-work and Preferred Worker, changes to the approval process for Preferred Worker, increase in the amount available for pre-job and job accommodation and modifications, and establishing funding for skill building in voc prior to retraining.

Ms. Glenn explained the need of training for manual labor jobs, workers transitioning to sedentary work post-injury and that the current process of returning the 20% of limited English proficiency to lower physically demanding work is difficult, as they also do not meet the skill requirements. **Ms. Glenn shared** the limited training for these transitions with only 2 years and \$20,000 allotted which proves difficult with limited formal education and English proficiency.

On how this job skill funding works, **Ms. Glenn continued to say** that it is available before formal training and once a vocational referral is made. Approval is not based on worker characteristics; **Ms. Glenn clarified**, and is tied with low administrative oversight and full employee engagement.

Ms. Gubbe noted her team's involvement in the passed bill that was amended to allow for the basic skills prior to and/or during vocational plan development. **Ms Glenn responded** that her understanding was the funding was not allowed prior to voc but is allowed during the plan development but would confirm the language with Lauren later.

Ms. McClain asked via Zoom chat “Be in either VR or AWA?” **Ms. Glenn responded** yes, it would be either VR or AWA or plan development.

Ms. Glenn resumed by stating the approval is done on a course-by-course basis and based on the type of voluntary training that was requested rather than the employee evaluation. **Ms. Glenn**

acknowledged the participation is voluntary and encouraged; however, the worker's decision does not impede the claims or vocational decision process whatsoever or have a success requirement. **Ms. Glenn finished** by saying the CAC is up to \$5,000 per claim and paid from the stay-at-work fund unless they are self-insured where the amount is paid directly.

Ms. Earley asked via Zoom chat "Do the claims managers have to approve this? I am concerned about the additional load on them". **Ms. Glenn responded**, "No, they don't".

Governor's Industrial Safety & Health Conference: Tasha McMaster

Ms. McMaster presented slides 35-36. **Ms. McMaster talked about** the shared safety and healthy work environment outreach event for the Governor's Industrial Safety and Health Advisory Board, Evergreen Safety Council and UW's Department of Environmental and Occupational Health Sciences happening at the Tacoma Convention Center. **Ms. McMaster shared** the success of the agricultural safety day events in Yakima and Wenatchee with 15 sessions in English and Spanish as well as the maritime and construction safety event put on in March in Puyallup.

Ms. McMaster announced the 73rd annual Governor's Industrial Safety and Health Conference with two days of full training, 60 sessions and a keynote happening on September 25th-26th. Ms. McMaster conveyed the expectation of 800 attendees as well as sessions and speakers chosen the 16 industries throughout the state. **Ms. McMaster stated** the registration date is open after July 4th with the cost of \$299 for 2 days and sponsored students from tech/trade/colleges or apprenticeship programs can attend for \$75. **Ms. McMaster shared** her contact information via Zoom chat for any questions: info@gishab.org (888) 451-2004 and as for any "questions on helping or volunteering for the event, I can be reached at drag235@lni.wa.gov."

Ms. Dominique Damian added her rewarding experience sitting on advisory board as well as participating in the planning committees where management and labor representatives from 16 different industries partner together to create a safe and healthy workplace as well as put the conferences on. **Ms. Damian noted** of the current vacancies on the management and labor side of the board as well as vacancies for an ASSP and AIHA representative. **Ms. Damian shared** that most GISHAB members are typically appointed after working some time on their industry planning committee and gave out the GISHAB contact website for anyone interested in joining: www.gishab.com.

RAC Workgroup Updates: Tim Lundin (Presented by Jessica Nau)& Maria McClain

Ms. Nau presented slides 37-39. **Ms. Nau started** with an update on the topic of the common ownership requirement, which has been stakeholdered internally, and is now at the point of the process of getting an updated AG memo or opinion.

Ms. McClain presented slides 40-42. **Ms. McClain shared** that the industry category guide has been completed and sent out via email by Retro on March 29th and is also available under the Retro resources page "Publications". **Ms. McClain added** that they will review the guide annually for updates in March and April of next year to also include any new classifications or common exceptions. **Ms. McClain asked** if anyone has any interest on giving input on the guide, please contact her or Jessica Nau directly.

Ms. Nau thanked the group members as well as all internal partners for their work in keeping this project up-to-date. Many thanks were shared by various meeting attendees via Zoom chat for the group's efforts on the guide.

Retro Updates: Jessica Nau & Tyler Langford

Mr. Langford presented slides 43-47. **Mr. Langford shared** that the January enrollment was successfully completed at the end of February (28th), the current April enrollment is almost 99% complete since the week prior with only one order left to issue and a completion time targeted for the end of April. Due to being fully staffed and trained, **Mr. Langford stated** the trend for the enrollment outside enrollment is being completed timely in both number of requests and days needed to complete the requests.

Mr. Langford noted the response time on data requests have been within the allotted time and even sooner, in some cases, however, with July enrollment approaching, those minimum response times may begin to rise again. **Mr. Langford asked** to please reach out if you receive no response that exceeds the allotted times of 7 days for data requests, 30 days for EOOE, and 60 days for protests or if something is time-sensitive.

Ms. Nau noted the positive place the EC team is currently working from and how those expectations for response times can be revisited depending on service standards and any impacts felt externally. **Ms. Nau continued to share** the adjustment protest updates with 62 protests for January (24 Granted, 35 Denied, 6 Pended) and \$859,901 in total amounts refunded. For the April enrollment cycle, **Ms. Nau remarked** on the smaller amount of participants with only one protest so far and no refund awarded yet and shared the July adjustment results would be out shortly.

Covering questions from a past RAC meeting, **Ms. Nau shared** a request from the community to share how the new tables that were implemented in October 2023 are influencing and impacting plan choice selection. **Ms. Nau made sure to note** that not all coverage years have yet made a plan choice selection under the new rules so she is reporting only on the two aspects of the plan choices: maximum assessment potential and break-even losses. **Ms. Nau stated** that the graph shows the comparison of maximum assessment potential where plan choices were made and denotes the amount of standard premium, somebody who had paid back in the event there is assessment – a maximum assessment.

Ms. Nau continued that the gray line on the graph denotes the risk tolerance for choices that were made under our historical (or prior) tables with range of participant varying while the yellow line denotes the same but under the new tables. **Ms. Nau noted** that participants showed trends of taking on more risk due to maintaining their previous maximum loss ratios or increasing their single loss limits. **Ms. Nau shared** the next graph showing the same type of comparison but with break-even loss ratios based on each participant's plan choice, which showed that even with more risk being taken on, the participants will have to perform better to maintain or increase the refunds they are currently receiving.

Ms. Nau reassured paper risk, meaning selecting a plan choice that affords you the optics of taking on more risk and inflating your refund potential, is no longer an option, as refunds will be based off performance noted as your loss ratio. Ms. Nau finished with noting some attrition from our individual participants as a result of the insurance table studies and once July enrollment is completed, Retro will have a better idea of the impact the tables have had so far.

Ms. Nau concluded the formal agenda and noted Nichole Runnel's PAR/PAF presentation as well as other supplemental slides provided in the deck.

Ms. Earley asked Ms. Nau to elaborate more on what happened with the March quarterly report and what the department is doing to ensure it will not happen again. **Ms. Nau reiterated** the incident where the reports were run with data or claim values that were after the free state which is allowed to happen

on certain types of claims such as early case reserves or type T2 claims that are reserved by a human. **Ms. Nau shared** that in this case, the claims that were outside the scope and had their capture dates being later than the indicated freeze date and therefore, the reports were processed incorrectly.

Ms. Nau explained the internal 3-4 week process of capturing various snapshots of information to support these reports and at the very onset of the initial claim that would be captured on the freeze date did not capture correctly. **Ms. Nau shared** that because the system is limited, the mistake could not be remedied to recapture the data on a prior date, but could only be reordered based on a new freeze date. **Ms. Nau reassured** that Retro is researching and working with our IT partners to figure out what caused the report to fail so it can be prevented from happening again and are also checking daily that the current adjustment process steps are running smoothly with nothing to report so far.

Ms. Gubbe added via Zoom chat and encouraged attendance of the IME recordings meeting where “members of the business and employer communities and Washington Self Insurers Association (WSIA) are invited to a listening session to provide feedback and ask questions about Independent Medical Examination (IME) recordings. The listening session, scheduled virtually and in person, is set for 9:30 a.m. to 11:00 a.m. on Tuesday, May 7.”

Ms. Nau shared the open invitation Worker Memorial Day event that was happening later that day at 2 PM at the LNI headquarter auditorium in honor of those workers who passed this year.

Meeting adjourned.