

Retro Advisory Committee (RAC) Meeting

Labor and Industries, Tumwater, WA

Meeting Minutes

5/18/2023

Virtual (Zoom)

Trade Association Representatives:

Lauren Gubbe, Associated General Contractors

Victoria Montrose, Washington Hospitality Association (*not in attendance*)

Tim Lundin, Archbright

Maria McClain, Association of Washington Business

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

Individual Firm Representatives:

Luis Sanchez, Grant County Public Utility District No. 2 (*not in attendance*)

Tom Walrath, T.E. Walrath Trucking, Inc.

John Cichosz, DJ's Electrical

Labor and Industries Representative:

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

Court Reporter:

Andrea Clevenger, Capitol Pacific Reporting

Recorder:

Tyler Langford (*present*)

Guests:

Alicia Milani, Anthony Felice, Amy Earley, Andy Shelton, Ann Bartholomew, Art Dalessandro, Ben Bower, Bill Vasek, Brandon Dion, Brenda Heilman, Brian Ducey, Bryon Bailey, Casey Sparber, Chris Ristine, Cindy Kropp, Corwyn Fischer, Dan Beaty, Dan Plunkett, Debra Hatzialexiou, Eric Wood, Greg Kabacy, Heather Vogus, Herbert Atienza, Ian Payne, Ibis Myers, Janee Cantu, Jeaneil Brown, Jennifer Aldrich, Joshua Ligosky, Julie Black, Keith Bingham, Kelly Boykin, Kevin McDaniel, Kevin Neubauer, Kris Johnson, Leslie Qunell, Lisa Sullivan, Lisa Vose, Lori Gruber, Lynda Ducharme, Matt Carrithers, Mike Williams, Nicole Alexander, Nikki Mills, Ron Saacke, Ruark Bohonos, Ryan Moore, Sarah Crain, Scott DeHem, Shannon Elliott, Sharla Case, Si Sarton, Tara Withrow, Teresa Sheldon, Tim Newton, Tom Kwieciak, Tricia Gullion, Vanessa Hughes, Wayne Whiton, Wendy LeClair

Welcome, call to order, and approval of minutes

Ms. Nau opened the meeting with a welcome and reminders about virtual meeting procedures. Ms. Nau called the meeting to order and invited introductions from the committee members present. After introductions, Ms. Gubbe made a motion to approve the minutes from the February 23, 2023 meeting. Ms. McClain seconded the motion. The motion passed unanimously. Ms. Nau reviewed the agenda.

Safety Message: Anthony Felice

Mr. Felice presented slides 5-16.

Legislative Updates: Brenda Heilman

Ms. Heilman presented slides 17-19.

Regarding SHB 1068, **Ms. McClain asked** when rulemaking would begin. **Ms. Heilman responded** that rulemaking would begin very soon, although an exact date is not known. Ms. Heilman added that rulemaking would be required around notifications from the worker to the scheduling entity and how the actual recording was to be conducted.

Ms. McClain asked whether there has been any outreach to providers. **Ms. Heilman responded** that the panels are very aware of the legislation because they were present and provided testimony while the legislation was being considered. The legislation only applies to independent medical examiners, not attending providers.

Amy Earley, Association of Washington Business, asked via Zoom chat whether workers would be able to record IME examinations using audio or video or both. **Ms. Heilman responded** that it could be both.

Jeaneil Brown, Archbright, asked via Zoom chat "Does the Department have rules on guidelines and discrepancies that may come up?" **Ms. Heilman responded** that there could be additional rulemaking related to that and that L&I's Fraud Prevention Labor Standards division is part of the rulemaking workgroup. There will be a process to refer videos to that division if tampering/alteration of videos is suspected. The plan is to outsource the task of reviewing the videos, since L&I does not currently have the technology to do that in-house.

Ms. Earley asked via Zoom chat "Are there going to be rules in place to prohibit 'live streaming'? I would recommend this be considered." **Ms. Heilman thanked** Ms. Earley for the suggestion and said that she would make a note of it for future rulemaking conversations.

Regarding HB 1197, **Ms. Gubbe asked via Zoom chat** "Will claims for other conditions where the other conditions are done being treated be allowed to have the Psychologist be the AP if all that is left is depression?" **Ms. Heilman responded** that the bill is for mental health only claims. That is, claims that are accepted solely for a mental health condition and that is the only condition on the claim.

Ms. Earley asked via Zoom chat "What if the OMD or IME say meds need rx'd for PTSD, would in those cases require AP be a psychiatrist vs. psychologist?" **Ms. Heilman responded** that no, the law does not require that the AP be a psychiatrist, so prescriptions would need to be obtained through concurrent care if the AP is a psychologist.

Secure Application Programming Interface (API): Matt Carrithers

Mr. Carrithers presented slides 20-21.

Ms. McClain asked via Zoom chat about next steps. **Mr. Carrithers responded** that they will wrap up the beta and go to a version one. This would involve opening up access to the secure API to other interested organizations and include additional features that have been identified or requested through the beta. This would include adding vocational reports to the Secure API. The intention is to block bot traffic to CAC, but this cannot be done until this remaining functionality is added to Secure API.

Heather Vogus, Sedgewick, asked via Zoom chat “Will the API be available only to retro employers?” **Mr. Carrithers responded** that any organization with authorization to access claim or account or provider data can access the Secure API.

Sanjeev Batta, Guardian, asked if participants could now exceed the 500 claim limit. **Mr. Carrithers clarified** that this was part of an informal conversation and confirmed that participants could go beyond 500 claims, up to what is specified in the data access agreement. **Mr. Batta asked** if an SLA is going to be established for the Secure API. **Mr. Carrithers responded** that L&I would be establishing one.

Insurance Table Study: Leslie Qunell, L&I Financial Incentive Coordinator

Ms. Nau provided some introductory remarks related to the implementation of the new insurance tables being moved to October 1. Ms. Qunell presented slides 22-25.

Ms. Vogus asked via Zoom chat “When do you anticipate that FIC’s will complete their meetings with the retro associations? Will it be in advance of the July 25th?” **Ms. Nau responded** that that is the team’s goal.

Ms. Gubbe added, via Zoom chat, a summary of slide 29 from the February 23rd RAC meeting related to the anticipated impacts of the updated tables and expense charges. **Ms. Nau added** that the individual changes felt by retro participants will be on a spectrum and that the FIC team is triaging those participants for whom the largest adverse impacts are expected.

Greg Kabacy, Aspire Consulting, asked via Zoom chat “Why does L&I continue to choose Oliver Wyman to review the tables. Aren’t they just reviewing their own previous work. Wouldn’t another firm be helpful in providing agreement or another perspective on the tables?” Ms. Nau responded that there was a rigorous, competitive process that led to the selection of Oliver Wyman for the contract. Ms. Qunell added that L&I actuaries are the ones that do the updates to the table values and that the contractor reviews their work. So the contractor is not reviewing their own work.

Ms. McClain asked via Zoom chat “Will the PAF go down if (med) costs come down? Much like when the PAF goes up when costs are up?” **Ms. Nau responded** that it is assumed that the PAF will go down when applying the proposed tables to historical data. This is not guaranteed, however, because it is unknown how retro participant behavior will change in the future.

Ms. Vogus asked via Zoom chat “When you say PAF will go down by 14-15% is that basis points? Or [percent] decrease from current PAFs?” **Ms. Nau responded** that it was 14% from current PAFs used in prior adjustments.

Ms. Gubbe asked via Zoom chat “I thought I heard that they did NOT use the COVID years. They used 18 years of data which has NOT been used before.” **Bill Vasek, L&I Senior Actuary, responded** that that is true. If medical costs go up or down more than indemnity, the ELRFs would be responsive to the shift, not the PAF.

Ms. Vogus asked via Zoom chat whether the PAF would go from 1.14 to 1.00, as an example, under the proposed tables. **Ms. Nau responded** that the PAF would go down 14%, so that is an example of how it might react to the new tables.

COVID-19 Updates: Jessica Nau

Ms. Nau presented slides 27-32.

COVID-19 Trends: Joshua Ligosky, L&I Actuary

Mr. Ligosky presented slides 33-42.

Ms. Vogus asked via Zoom chat what the median cost of a COVID-19 claim is. **Mr. Ligosky responded** that he does not have that information offhand, but could come up with it. He added that one of the difficulties in coming up with that figure is that the estimates are done in bulk, so allocating the costs back to individual claims can be a challenge. The distribution of COVID-19 claims tends to be a small number of high cost claims and a large number of sort duration time loss claims, so his guess is that the median COVID-19 claim is going to look like a small time loss claim.

Ms. Earley asked via Zoom chat “Are the 3/31/23 Q[quarter] ending lost time claims from 2023 or older claims? We have seen a fairly sharp drop in COVID claims but are curious if that is what LNI is seeing as well for 2023.” **Mr. Ligosky responded** that the data are compiled by injury quarter. L&I is also seeing a drop in COVID-19 claims.

RAC Workgroup Updates: Mike Williams, L&I Financial Incentive Coordinator & Maria McClain, Association of Washington Business

Mr. Williams presented slides 44-46. Ms. McClain presented slides 47-48.

Retro Updates: Jessica Nau, Retro Program Manager & Tyler Langford, Retro Operations Manager

Ms. Nau presented slides 51-53, and 59-60. Mr. Langford presented slides 54-58.

Related to re-reserve requests, **Ms. Gubbe noted in the Zoom chat:** “Exception: If there is a change in status, i.e. a full duty release or job or no surgery that originally was indicated, then it is appropriate to ask for a case reserve review.” **Ms. Nau agreed and added** that documentation would need to be present in the claim file supporting the re-reserve request.

Vanessa Hughs, Approach Management Services, asked via Zoom chat “Does the [two] week blackout period also apply to EMR snapshot for employers? There has been some mixed responses on this.” **Ms. Nau responded** that yes, she would think that the same principles would apply to that period as well, since the Case Reserve unit has to work through priority reserve lists related to ratemaking during that time.

Chris Ristine, Washington Retail Association, asked via Zoom chat “can you remind us of the new outstanding debt threshold for enrolling/reenrolling members?” **Ms. Nau responded** that the new threshold is \$500, as of January 1, 2023.

Meeting adjourned.