

## **Workers' Compensation Advisory Committee (WCAC) Meeting**

Labor and Industries, Tumwater, WA

Meeting Notes

September 28, 2022

Hybrid – L&I Auditorium and Zoom

### **Business Representatives:**

Bob Battles, Association of Washington Business  
Sheri Call, Washington Trucking Association (via phone)  
Jon DeVaney, Washington State Tree Fruit Association  
Sheri Sundstrom, Washington Self-Insurers Associations

### **Labor Representatives:**

Joe Kendo, Washington State Labor Council  
AJ Johnson, Washington State Council of Firefighters  
Mark Riker, Washington State Labor Council  
Brenda Wiest, Teamsters Local 117

### **Labor and Industries:**

Joel Sacks, Director  
Mike Ratko, Assistant Director for Insurance Services

### **Board of Industrial Insurance Appeals (BIIA):**

Holly Kessler, Chair

### **Court Reporter: wcac**

Andrea Clevenger, Capitol Pacific Reporting

### **Recorder:**

Ashley Oberst (*present*)

**Guests:** Ali Ishaq, Andy Shelton, Anna Minor, Audrey Dorsey, Azadeh Farokhi, Bill Vasek, Bobbi Meins, Bre Eskey, Brenda Heilman, Bryan Jewell, Celeste Monahan, Celia Nightingale, Cherell Fisher, Cherie Wagaman, Chris Ristine, Christine Brewer, Connie Carlson, Craig Scukas, Dan Beaty, Debra Hatzialexiou, Donna Egeland, Gena Cruciani, Herbert Atienza, Ian Payne, Jeff Closson, Jessica Gallardo, Jessica Nau, Ji Young Nam, John Cox, John Meier, Julie Black, Karen Jost, Karen Peterson, Keith Bingham, Ken Smith, Kim Wallace, Kirsta Glenn, Knowrasa Patrick, Kris Tefft, Kristi Bromley, Lauren Gubbe, Leigh Haley, Lisann Rolle, Liz Smith, Lloyd Brooks, Maria McClain, Mark Phillips, Megan Soria, Michael Harris, Michelle O'Brien, Nathalie Penberthy, Nichole Runnels, Rachel Swanner, Richard Clyne, Rob Cotton, Robert Mitchell, Ron Langley, Rose Gundersen, Ryan Guppy, Sarah Battin, Sheryl Divina, Tammy Fellin, Tiffany Loescher, Tom Feller, Tom Kwieciak, Tyler Langford, Vickie Kennedy

**Welcome and Safety Message:** Joel Sacks, Mike Ratko, and Celia Nightingale

The meeting began with a brief introduction of the agenda. The committee members introduced themselves and Mr. Ratko introduced AJ Johnson, the new Labor member of the committee.

Mr. Kendo moved to approve the minutes from the June 2021, September 2021, December 2021, March 2022, and June 2022 meetings. There was no opposition to the motion. The minutes were approved.

Mr. Ratko introduced Celia Nightingale, Small Business Liaison, who presented the safety message.

**Mr. Riker asked** if there is a plan to do the videos Ms. Nightingale mentioned that are being produced in English and Spanish, in other languages. **Ms. Nightingale responded** that there is not a plan at this time, but the idea will be noted.

**General Updates:** Joel Sacks, Mike Ratko, Tammy Fellin, Brenda Heilman

Mr. Ratko gave an update on the current status of COVID-19 claims and talked through slides 17-19.

**Mr. Battles asked** if there was a particular reason that there is a “Miscellaneous Services” category listed on slide 17 and what makes up the category. **Mr. Ratko responded** that the category is comprised of quite a few industries, including restaurants, retirement centers, and chore services. **Mr. Battles added** that he would be interested in seeing those industries specifically listed with their claim totals.

Mr. Sacks let the committee know that the governor’s public health emergency would be ending October 31 but the president’s state of emergency is still in effect until at least March, meaning that the current presumptions and protections for frontline workers will remain in effect until the president’s order ends.

Mr. Ratko gave an update on the agency’s legislative requests for the 2023 session and talked through slides 20-22.

**Ms. Gundersen asked** about proposal Z-0011 and if the only condition remaining on the claim is mental health, would a psychologist be allowed to be the attending provider (AP) on that claim, even though physical conditions were present in the past. **Ms. Heilman responded** that it would depend on the circumstances of the claim. For example, if mental health is the only condition the injured worker is still being treated for, but there are permanent physical restrictions based on other diagnoses, it might be appropriate to have a non-psychologist as the AP, because a psychologist can’t respond to return-to-work efforts.

Mr. Ratko talked through slide 23.

**Ms. Gundersen asked** if the agency has decreased it’s budget at all because of hybrid work and possibly having a smaller footprint. **Mr. Sacks responded** that all state agencies, L&I included, are evaluating their space needs and seeing some opportunities for downsizing, which would have an impact on our facilities budget. There are some situations where long-term leased prevent us

from moving out of buildings right away, but the current plan is to move out of those unnecessary buildings as the leases expire.

**Mr. Battles asked** if the agency is looking at setting up temporary work stations for staff who are remote, but may need to come into the building occasionally, but not often enough to warrant having an assigned workstation. **Mr. Sacks responded** that the agency has created a matrix that guides the type of workstation and equipment staff receive based on their percentage of telework and that we are setting up hoteling stations for staff who come into the building very occasionally, but may need space to work when they come in for a meeting or training. **Mr. Battles followed up** by asking if there has been an increased cost for equipment because of this matrix. **Mr. Sacks responded** that there were some upfront purchases that were made to meet the shift to hybrid work, but most employees who are hybrid are using some combination of their previous equipment, depending on their telework percentage. The only major piece of equipment staff are transporting is their laptops.

**Ms. Call asked** about the security of staff transporting their laptops from point A to point B. **Mr. Sacks responded** that most of the confidential information L&I staff have access to is not stored directly on their laptop.

**Mr. Kendo asked** if the Department treats home offices and working from home differently than they do working in an office, as far as workplace safety is concerned. **Mr. Sacks responded** that the agency is focusing on training for staff and continuing to raise awareness and the internal safety and health team is regularly assessing potential risks and then coming up with interventions for employees.

**Mr. Battles asked** what work the Center for Equity Research will be doing and how it will determine and connect with underserved workers. **Mr. Sacks responded** that the Center will be doing research to determine the root cause of non-reported injuries in certain industries and then identifying proactive steps that can be taken to address the concerns.

Ms. Heilman talked through slide 24.

**Workers' Compensation System Modernization:** Liz Smith and Cristy Campbell

Ms. Smith talked through slides 26-29.

Ms. Campbell talked through slides 30-34.

**Mr. DeVaney asked** if the current system is in danger of failure and if it will survive until a new system is put in place. **Ms. Smith responded** that it depends on what system is being talked about. The mainframe system that L&I uses, LINIIS, is still very strong even if the technology is outdated. Other systems are at a higher risk, but the agency is aware of the risks. Over the next year, the agency will be working on understanding how all of our systems map together and doing a deep dive on all 100-plus systems to determine every aspect of them and get all of the

specifications together. **Ms. Campbell added** that part of the work being done over the next year is to consider what systems are the highest risk. **Mr. DeVaney followed up** by asking if the new system is intended to be in a steady state that lasts into the future or if there is going to be ongoing improvements so that another gigantic transition can be avoided. **Ms. Smith responded** that the goal is to have a system that can be upgraded as technology changes, similar to the way cell phones are upgraded. **Mr. Sacks added** that the long-term strategy is to find vendor partners that upgrade their systems so we can avoid another 40-year gap.

#### **Board of Industrial Insurance Appeals (BIIA) Update:** Holly Kessler

Ms. Kessler talked through slides 57-62.

**Mr. Battles asked** if BIIA is having a workforce issue. **Ms. Kessler responded** that workload wise, they are doing well, but on the workforce front, they are being impacted a bit. Applicants for judge positions have been good, but there have been fewer than in the past and there have been some issues with support staff.

**Ms. Earley asked** if proceedings will continue to be remote for the foreseeable future. **Ms. Kessler responded** that BIIA is going back to live proceedings for hearings, but this is being implemented slowly with the goal of keeping it hybrid. BIIA has experienced higher participation when doing mediations by phone and Zoom, so those will continue to be done virtually.

#### **2023 Workers' Compensation Rates:** Joel Sacks

Mr. Sacks talked through slides 37-39.

**Mr. Battles asked** why the proposed change is 5.9% for the Accident Fund versus 1.0% for the Medical Aid Fund. **Mr. Sacks responded** that the reason for the difference is the difference in the contingency reserves for the funds.

Mr. Sacks talked through slides 40-49.

#### **Operational Health Dashboard:** Mike Ratko

Mr. Ratko talked through slides 64-70.

**Ms. Sundstrom asked** if the long-term disability claims are truly due to severe injury or if they are due to employers not having light duty work. **Ms. Glenn responded** that the graph on slide 65 shows new claims that were paid time loss right from the start. If light duty was offered and time loss was avoided, the number would go down. If there were more severe injuries, the number would go up. **Ms. Rolle added** that the graph on slide 65 does not include claims where the worker was kept on salary.

#### **Industrial Insurance State Fund Financial Overview:** Rachel Swanner

Ms. Swanner talked through slides 83-94.

**Closing Comments and Adjourn:** Mike Ratko

Mr. Ratko thanked the presenters for preparing and providing presentations and the committee members for joining.

Meeting adjourned.