

## Rehabilitation Review Panel

Thurs., April 5, 2012

### **Voting members present**

Dr. Joseph Sweere  
Carl Crimmins  
Michael Hawthorne  
Dr. Russell Gelfman  
Margaret Kasting  
Alissa O'Hara  
Shirley Muelken  
Dawn Soleta  
Sue Mauren

### **Department staff members present**

Kris Eiden	Brian Zaidman
Laura Zajac	Chris Leifeld
Jessica Stimac	Jim Vogel
Mike Hill	Ralph Hapness

### **Voting members excused**

Scott Van Binsbergen  
Dr. Calandra Theisen  
Steven Hollander

### **Nonvoting members excused**

William Martin

### **Alternates present**

Don Ostenson (by phone)

### **Alternatives excused**

Nellie Munn

### **Visitors present**

Kevin Gregerson

### **Call to order**

Dr. Joseph Sweere called the meeting to order at 1:05 p.m.

### **Approval of minutes**

Shirley Muelken made a motion to approve the Jan. 5, 2012 minutes. Alissa O'Hara seconded and the minutes for Jan. 5, 2012 meeting were unanimously approved.

### **Approval of agenda**

The agenda was approved with no additions.

### **Introductions**

Jessica Stimac, director of Compliance, Records and Training, and Kris Eiden, DLI deputy commissioner (who has replaced Gary Hall due to his appointment to the Workers' Compensation Court of Appeals).

### **Deputy commissioner's update**

Kris Eiden announced the 2012 Workers' Compensation Summit will be June 12 and 13 at Cragun's Conference Center in Brainerd, Minn. Panel members will receive an emailed invitation.

## **Rehabilitation-related**

### ***Election of vice-chairperson***

Sue Mauren was previously nominated for vice-chairperson, but was absent during the election. Carl Crimmins renominated her, which was seconded by Muelken; Mauren accepted the nomination, after which a unanimous vote occurred.

### ***2010 Workers' Compensation System Report data***

Brian Zaidman, DLI Research and Statistics, reported about the *2010 Workers' Compensation System Report* that will be available in late April or early May.

The number of workers' compensation claims has been a relatively stable number with an increase in the percentage of indemnity claims. Plan costs have increased, but total costs have not. There has been no change in rehabilitation plan duration. There has been a decrease in the percentage of employees returning to work and an increase in file closures due to settlement.

The vocational rehabilitation utilization rate was just under 24 percent. The unemployment rate followed the same trend as the vocational rehabilitation utilization rate. As jobs became more scarce more people needed vocational rehabilitation to return to work after an injury. The number of indemnity claims, with plans filed, reached a high of 6,500 in 2000, and has steadily dropped in the past decade. Specifically, indemnity claims dropped from 35,000 in 2000 to about 22,000 in 2010. While indemnity claims have dropped, vocational rehabilitation has not. Plan costs adjusted for wage growth, differences are due to various features of the vocational rehabilitation system and not due to changes in qualified rehabilitation consultant (QRC) pay levels. Plan costs for 2010 averaged \$8,800, with median cost of \$5,100.

Total plan costs, comparing adjusted and unadjusted means have actually dropped in the past couple years. The cost breakdown of vocational rehabilitation service plan closures was 72 percent for QRC services, 17 percent for QRC firm job development/placement, 10 percent for vendor job development/placement and 1 percent for "other." It was noted that employees with higher permanent partial disability (PPD) ratings needed vocational rehabilitation services. There has been little change in plan duration. However, plan costs have gone up over time. Plan closure, related to successful plan completion, has dropped from 60 percent in 1998 to 44 percent in 2010 as file settlements have increased. For a full review of the *2010 Workers' Compensation System Report* go to [www.dli.mn.gov/RS/PDF/wcfact10.pdf](http://www.dli.mn.gov/RS/PDF/wcfact10.pdf).

### ***Draft of 5217 rule revision***

DLI Attorney Laura Zajac distributed a revised draft of Minnesota Rules 5217 and discussed the panel's proposed change with the Medical Services Review Board. Changes included: 1) reduction of meeting frequency from monthly to quarterly; 2) regular meetings could be canceled for lack of a quorum or with the approval of the chairperson; and 3) mirrors the statutory open meeting law and references the open meeting law for calling special meetings, emergency meetings and continued meetings. The current statute requires that for the RRP to keep existing, it must minimally meet every 18 months. Zajac indicated that by rule the panel might want to meet before that period. The panel recommended it minimally meet every 12 months.

Zajac further indicated that based on the panel's most recent meeting, interest was expressed in work groups or ad hoc committees for special projects under Minnesota Rules 5217.0610. Language was added so small work groups could be appointed to work on special projects and then report to the panel. Additionally, there was a change under the officers provision (5217.0500) in which officers were previously elected at the first meeting after the last day of April; this has been changed to the first meeting after the last day of July.

The draft, with panel changes, will go before the Medical Services Review Board on April 19. Following that, the rules will be posted on the department's website for stakeholder review and comment, and then sent to the Office of the Revisor of Statutes for formatting. At the July RRP meeting, Zajac will provide a draft statement of need and reasonableness. She also said a Notice of Intent to Adopt Rules will be sent to panel members before the next meeting.

### ***Union construction workers' compensation program***

Kevin Gregerson, Union Construction Workers' Compensation Program representative, addressed the panel. This program was developed in 1997 with a small group of labor unions and contractors. The program tries to remove obstacles for the employee so he or she can return to their trade and with their pre-injury employer. The program only selects QRCs with a medical background, to assist the injured employees. If the employee doesn't return to their previous trade, despite their best efforts, then the program offers retraining and/or settlement of the claim.

Gregerson said he believed, on a percentage basis, his program had more participants being retrained than in the statutory system. This was due to employees being high-wage earners, doing heavy-duty work and being in highly skilled professions, which weren't necessarily transferrable into the greater marketplace. If it appears an individual is not appropriate for retraining, they have the conversation with them regarding settlement of their claim.

Meg Kasting asked about obstacles to expanding the program to other industries and unions. Gregerson stated there were several reasons why it hasn't grown outside the construction industry. One reason is several industries were nonunion, thus making it difficult to compete. Kasting asked what things about the program could be transferred to the general workers' compensation system to make it work better. Gregerson wasn't sure, because his system works because of labor and management agreements. Carl Crimmins asked if there were current program statistics. Gregerson said DLI did an analysis in 2007, comparing the claim statistics of his program to the statutory system, using the same standard industrial classification (SIC) codes and class codes. The program's indemnity claims used statutory vocational rehabilitation 50 percent less often and the return-to-work rate to the pre-injury job and pre-injury employer was 65 percent higher. He attributed it to employer education, including how to manage modification ratings and getting employees back to work doing light-duty. Current program statistics haven't been provided to DLI.

### ***Agenda items for next meeting***

Sweere asked for July agenda items. Dr. Russell Gelfman indicated there were some rule issues with contested cases and regulatory items to discuss. Sweere indicated this might be discussed at a later date. Mauren asked the department to break down the *2010 Workers' Compensation*

*System Report* statistics by industry; Eiden was not sure how easy this might be, but would follow up with Brian Zaidman.

Sweere made a motion to adjourn the meeting, which was seconded by Gelfman. The motion was unanimously approved and the meeting adjourned at 2:54 p.m.