



**Workers' Compensation Advisory Council
January 15, 2008
Minutes**

Voting Members:

Mike Bredeck
Marilyn Durenberger
Wayne Ellefson
Don Gerdesmeier
Ryan Holmes
Glen Johnson
Peter Lewon for Elizabeth Shogren
Bob Lux
Tom Hesse for David Olson
Susan Olson
Ray Waldron

Voting Members Absent:

Gary Thaden

Von-Voting Members:

Representative Mike Nelson

Non-Voting Members Excused:

Senator Tom Bakk

Non-Voting Members Absent:

Representative Bob Gunther
Senator Geoff Michel

Staff:

Bill Bierman
Kate Berger
Debbie Caswell
Fred Charlton
Penny Grev
Michael Houliston
Jayne Jones
John O'Loughlin
Mark McCrea
Carol Pankow
Shawn Peterson
Steve Sviggum
Patricia Todd
Dee Torgerson
Jana Williams

Visitors:

See Attached

The meeting was called to order at 9:10 a.m. by Commissioner Steve Sviggum.

Sviggum introduced Peter Lewon as an alternate for Bettye Shogren. Lewon is a business agent at the Minnesota Nurses Association and was a mediator at the Department of Labor and Industry.

Roll was called and a quorum was present.

II. Approval of the December 12, 2007, Minutes

Don Gerdesmeier made a motion to approve the minutes for the December 12, 2007, meeting. Susan Olson seconded the motion. All voted in favor of the motion and it passed on a voice vote.

A. Labor & Industry's Rehabilitation Proposal

Steve Hollander, the Legislative Chair for the Minnesota Association of Rehabilitation Providers (MARP) provided that organization's response to the rehabilitation proposal presented at the last Workers' Compensation Advisory Council (WCAC) meeting to limit rehabilitation plans to \$3,000 and 24 months. The proposal was later changed to \$6,500 per case and 24 months. They are opposed to the proposal and said it

would have a negative affect on workers and the system in general because rehabilitation is about returning injured workers to work quickly and appropriately.

In response, MARP circulated their own proposal which called for an enhanced review procedure that would encourage parties to talk about the plan at a certain point. If there was a disagreement, the dispute resolution process already in place would be used. They asked that the proposal be studied before it was implemented and suggested the Rehabilitation Review Panel be used for that process.

Hollander also addressed the 2% cap on annual fees that has been in place for 14 years. He said it does not keep up with the cost of living or doing business and asked the WCAC to consider a bill MARP put together and distributed.

Hollander introduced an injured employee, Lon Tekrony and his wife, Starla, to testify about his experiences with a Qualified Rehabilitation Consultant (QRC) and their story about getting back to work and getting through a rehabilitation plan. Tekrony was electrocuted 2 ½ years ago and had to have part of his hand amputated. He had a long rehabilitation period, taking nine months to a year before transitioning back to work with his original employer and eventually at his original job as a lineman. The QRC helped keep everyone focused on his return to work by keeping the medical providers, insurer and employer involved and accountable and maintained communication between the parties involved. They noted their QRC expenses were \$10,000 and it was not a waste of money but was an investment that saved money down the road. They did not need an attorney because they had a great QRC, there was never a battle and the communication was good.

Bob Lux asked what part of the entire budget is allocated annually for rehab costs. That information is available in the November 2007 CompAct. Sviggum said \$36 million is spent for rehabilitation which is approximately 2.5% of the workers' compensation system cost.

Ellefson asked whether there were issues with stubborn adjusters. Hollander said claim adjusters are usually onboard if a QRC is present.

Sviggum noted Minnesota spends more per rehab case than any other state and that 36.8% of all rehab plans end up in no job and no job placement. That is a good reason to look at this area, along with all other areas.

B. Self-Insured Proposal

Andy Morrison spoke on behalf of the Self-Insured Security Fund (SISF). He distributed a copy of the statute and pointed out the subd. 2 B., Acceptable Securities, provisions regarding self insurance and presented a proposal to take parts of Minnesota Statutes, Section 176.181, and move them into Chapter 79A under the Department of Commerce. Both commissioners have discussed the changes and approved them. He said they would move this section in its entirety without changes.

Morrison will provide language to WCAC members, both commissioners and the Minnesota Self-Insurers Association.

C. Chamber and Labor Questions

Sviggum noted that the WCAC members asked the department to have staff members review the following housekeeping and technical items so they would have a better understanding of the issues in the draft they received for discussion purposes.

1) Prohibit reimbursement of complementary and alternative health care practitioners listed under Minnesota Statutes 146A.01. Kate Berger reviewed that statute, the types of services and noted that a person not licensed by the Department of Health or a licensing board are defined as unlicensed by this law. A person who is unlicensed, or who is not employed by a licensed provider, would not be compensated for the services listed in paragraph (a) under the workers' compensation law.

2) Establish a required medical dispute mediation program. Mark McCrea reviewed the department's ADR proposal and the background.

Glen Johnson referred to the housekeeping issues identified by the department regarding not being able to subpoena department employees and Todd responded that the Department of Labor and Industry (DLI) would be willing to take that off the table.

Tom Hesse asked about the documentation required to be submitted with a medical bill and Todd responded that a work group would identify what those documents are if the WCAC approves the bill.

3) Incorporate language to allow for electronic receipt of data. Jana Williams provided background on the electronic receipt of data at DLI. DLI wants to become data driven and the proposed language will move towards the use of electronic data.

4) Remove requirement that DLI certify electronic signatures. Berger and Bill Bierman provided information. Language would be deleted requiring a signature to be certified because it is outdated and adds an extra step. Todd noted DLI needs a process to get a signature that is not on a piece of paper.

5) Clarify the agency related claims purchasing methodology as it relates to state purchasing standards. Carol Pankow noted this language would exempt the WCD from following the procurement provisions in 16C that apply to purchases for state agencies. This provision is not practical in some situations, for example, an injured employee who lives in another state who needs a wheelchair.

6) Define who is responsible for ensuring workers' compensation coverage for personal care assistants facilitated by the Department of Human Services. Pankow stated that this provision is regarding fiscal intermediaries and that DLI would get back to the WCAC with language.

7) Define who is responsible for ensuring workers' compensation coverage for volunteers during an emergency response. Steve Shakman from the Department of Health and Rob Carlson, the State Director of the Medical Reserve Corp program within the Department of Health's Office of Emergency Preparedness, circulated a fact sheet and proposed legislation for this provision to fix a gap in workers' compensation coverage when sending Medical Reserve Corps volunteers in response to disaster recovery. Workers' compensation would be covered through the State of Minnesota, specifically the Department of Health.

Lux asked what the cost would be for the state to pick up this coverage. Sharkman responded that an additional \$7,500 per year will cover the workers' compensation for volunteers.

8) Remove the financial limitations to qualify for a "collective bargaining agreement." Bierman discussed the language and stated the financial limitations are deterring some employers from using the program. He outlined the protections that would remain.

Johnson requested information about when and why the 1995 financial limits were established. Sviggum encouraged members to move this provision forward so that the success we have seen in construction could be used in other industries.

9) Attorney fee language drafted by the department. Berger discussed the attorney subd. 7 fees on page 18 of the draft.

Sviggum asked the members to move on and make decisions. He used a chart that provided his suggestions for cost drivers/increases in the workers' compensation system and a second chart that provided cost savings to the system. Some were significant reforms and he encouraged members to do something substantial this year.

Discussion occurred about employer choice and a process to get the number one doctor for a certain injury so that injured workers get quality care.

At 11:30 a.m. Sviggum suggested a caucus. Instead, Hesse proposed that members continue this discussion at a meeting that was set up for next week. All agreed.

Hesse made a motion to adjourn the meeting. Waldron seconded the motion. All voted in favor of the motion and it passed on a voice vote.

Respectfully submitted,



Debbie Caswell
Executive Secretary
dc/s

Visitors:

Kathleen Anderson; QRC
Mila Anderson; MARP
Amy Barker; QRC
Don Barrett; MASPPR
David Bohlke; EDC
Joe Bohlke; QRC
Ray Bohn; WCRA
Debra Bourgeois; MARP
Annette Byrne; QRC
Amy Chraster; QRC
Mark Dahl; QRC
Don Dederich; MARP
Gerald Dielentheis; TLLM
Karen Dorholt; MARP
Zach Dorholt; MARP
Karen Ebert; MCIT
Nancy Jo Ferguson; QRC
Suanne Grobe; QRC
Josie Hardy
Andy Heals; vendor
Carmen Heim; QRC
Terry Henricksen; QRC
Gary M. Hogan; MARP
Steve Hollander; MARP
Stephanie Igtanlov; MARP
Nilani Jayatilaka; MN Medical Assn
Laura Jenson; MASPPR
Deb Kersten; Placement Vendor
Kaylene Kickhafer; MARP
Stacy Kohlhofer; Mayo Clinic
Katherine Lapata; MARP
Nancy Larson; MARP
Tammy Lohmann; Commerce
Rebecca Madsen; Injured worker
Thomas Martinez; MARP
Pat McCabe; QRC

Julie McDonough; QRC
Brian Martinson; MN Senate
Jerry Meyer; MN Rehab Assoc.
Andy Morrison; Koll, Morrison
Carol Mossey; Corvel
Carol Norris; QRC
Alissa O'Hara; MARP
Charlotte O'Keefe; QRC
Don Ostenson
Rob Otos; MARP
Laura Ottensacher; QRC
John Peterson; QRC
Marlys Peterson; QRC
Robert Pullmen; QRC
Dorothy Quick; Columbia Park Medical
Jim Reichards; QRC
Susan Reynolds; QRC
Ruth Rulf; QRC
Cheryl Sanmartin; MARP
Audry Schlong; QRC
Kari Schwandt; QRC
Julie Selister; QRC
Scott Sexton; Corvel
Steve Sharkman; MN Dept of Health
Mary Skubal; MARP
Sue Stout; MHA
Sarah Strong; Cook, Hill, Girard
Ann Tait; QRC
Carolyn Tapia; MARP
Bryan Thomas; Vendor
Kitsy Thomas; Placement
Anna Thompson; Allina
Kathy Tuff; QRC
Jan Vanpelt; QRC
David C. Wulff; MTLA