



**Workers' Compensation Advisory Council
January 29, 2008
Minutes**

Voting Members:

Mike Bredeck
Wayne Ellefson
Edward Reynoso for Don Gerdesmeier
Ryan Holmes
Glen Johnson
Robert Lux
David Olson
Elizabeth Shogren
Gary Thaden
Ray Waldron

Voting Members Excused:

Marilyn Durenberger
Susan Olson

Non-Voting Members:

Representative Bob Gunther
Representative Mike Nelson

Non-Voting Members Excused:

Senator Tom Bakk

Non-Voting Members Absent:

Senator Geoff Michel

Staff:

Kate Berger
David Berry
Debbie Caswell
Kathleen Eggert
Michael Houliston
Jayne Jones
Mary Miller
Shawn Peterson
Steve Sviggum
Patricia Todd
Jana Williams

Visitors:

Ray Bohn; WCRA
Dave Dederichs; MN Chamber
Karen Ebert; MCIT;
Kevin Gregerson; UCWCP
Tom Hesse; MN Chamber
Brian Hicks; MAPS
Steve Hollander; MARP
Stefanie Igtanluc; Chicilo & O'Hara; MARP
Nilani Jayatilaka; MN Medical Assn
Meg Kasting; SFM
Nancy Larson; MARP
Gloria Linn; Placement Vendor; MARP
Brian Martinson; Senate
Jerry Meyer; MASPRR
Louise Montague; MOTA
Andy Morrison; Koll, Morrison
Tara Mullery; Park Nicollet
Alissa O'Hara; Chicilo & O'Hara; MARP
Sharon Olson; MARP-QRC
Dorothy Quick; Columbia Park Medical Group
Dotti Rottier; Encore
Cassandra Seningen; Koll, Morrison
Scott Sexton; Corvel
Steve Shakman; MDH
Sarah Strong; Cook, Hill, Girard
Cathy Van Ruca; SMBC Health Sys.
Kelly Wolfe; LS & D
Dan Wolfe; MN APTA
David C. Wulff; MNAJ

The meeting was called to order at 10:08 a.m. by Commissioner Steve Sviggum.

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II. Approval of the January 15, 2008, Minutes

Mike Bredeck made a motion to approve the minutes from the January 15, 2008, meeting. Gary Thaden seconded the motion. All voted in favor of the motion and it passed on a voice vote.

IV. Agenda Items

A. Commissioner's Update

Sviggum pointed out copies of the *Minnesota Workers' Compensation System Report, 2005* in members' packets. He noted that, generally, the trends are the same as they were from 2004 to 2005. He invited comments and Department of Labor and Industry (DLI) staff members were available to answer questions.

B. Action on Legislative Language

Sviggum hopes for an agreement on a Workers' Compensation Advisory Council (WCAC) reform bill for this year. He noted they might have to reduce their expectations so they can move ahead to reform the medical side of the system and do some things on benefits and policy items presented to the WCAC. Over the summer, they can do more as they try to put things together for the injured worker.

Sviggum pointed out the legislative items that have been agreed upon by business and labor. Those agreed upon items are highlighted on the document beginning on the next page. He opened up discussion about the remaining items on the list and DLI staff supplied information and answered questions.

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Items agreed upon by business and labor.

Medical Cost Package

1	Incorporate by reference into the wc fee schedule annual Medicare coding and RVU updates, at least every 3 years, in a cost neutral manner. Utilize expedited rule making where necessary	The number of services covered by the schedule continues to decrease, which increases medical costs. The present fee schedule is based on 1998/1999 CPT codes and RVUs. In order to change a rule through standard APA methods it takes at least 2 years.	-.4 system cost
2	Reimburse out-of-state providers at their workers' compensation rate.	Consistency for providers	
3	Hospital Reimbursement	7 county metro hospitals with 65 or more beds and Greater MN hospitals with 100 or more beds will be reimbursed at their specific payment-to-charge ratio plus 10% points with a maximum of 75% and a minimum of 65%	-1.4% system cost
	Eliminate line-item denials - application of prevailing charge - bundling	7 county metro hospitals with 65 or less beds and Greater MN hospitals with less than 100 beds will be reimbursed at 90% of their usual and customary	
	Mediation of medical disputes will be handled within 45 days		
	Provide for inadvertent payment		
	Strengthen penalties and enforcement of: prompt payment within 30 days, direct billing of employees, and inappropriate charges by medical providers		
	Post audit of medical charges		
	10 member work group to facilitate discussion on what medical documentation is needed	A work group will be established, there is no need to include in statute	
4	Implants	Reimburse at 25% above the manufactures invoice	-.3% system cost
5	Ambulatory Surgical Centers Reimbursement	Reimbursed at their specific payment-to-charge ratio plus 10% points with a maximum of 75% and a minimum of 65%	-.2% system cost

Benefits

6	Increase the maximum compensation rate from \$750 to \$1000	The maximum comp rate was increased from \$615 to \$750 in 2000. Effective Oct 1, 2007 the Statewide Average Weekly Wage, as defined in the workers' compensation law, will be \$808.	1.6% system cost
7	Extend the time frame for wage loss benefits from 104 to 130 weeks.	The 1995 law established the 104 week TTD cap.	.2% system cost
8	Eliminate the COLA delay for statutory PTD	Allow for it to occur within the first year.	.3% system cost

Good Policy

9	Restrict the use of oral transmucosal opioids (2 language options included)	Reduce the inappropriate use of "lolly-pops"	
10	Prohibit reimbursement of unlicensed/unregistered complementary and alternative health care practitioners listed under Minn. Stat. § 146A.01.	A licensed/registered health care provider, such as a massage therapist, may be compensable if it is: 1) reasonable and necessary to cure or relieve the effects of a work injury; and 2) the treatment is prescribed and monitored by the employee's licensed treating health care provider.	
11	Make intoxication easier to establish by providing that intoxication need be only a "contributing factor" in the employee's injury (rather than proximate cause). If employee alcohol level exceeds .08 within 2 hours after injury the burden of prove changes to the employee.		

Litigation

12	Deduct from attorney subd 7 reimbursements to employees when the employee's attorney fees are paid by the employer/insurer.	Deal with the double payment concern	
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Rehabilitation

13	Maximum of 104 weeks and allow for an extension granted by ALJ in unusual cases. Limit the total plan to \$6,500.		-.1 system cost
14	Extend the time frame for requesting retraining from 156 to 208 weeks.	The 1995 law required that a request for retraining must be filed within 104 weeks of payment of any combination of TTD and TPD. The time frame was increased to 156 weeks in 2000.	
15	Increase the maximum compensation for QRCs	Increase the maximum from \$86 to \$93, allow for a minimum of 2% or SAWW for ongoing COLA	.2% system cost
16	Pay for Performance	Receive 25% above invoice provided the employee is back to work within 6 months.	

Housekeeping

17	Repeal obsolete 176.669, which allows DLI to recover expenses from the general fund to implement 1943 laws.	No longer applicable.	
18	Remove certification for federal tax credit.	No longer applicable.	
19	Incorporate language to allow for electronic receipt of data.	Required for implementation of DDWC.	
20	Remove requirement that DLI certify electronic signatures	Required for implementation of DDWC.	
21	Utilize workers' compensation employee ID numbers instead of SSN numbers for administration of wc files.	Will protect privacy in line with state and national trends to restrict SSN use.	
22	Ensure employee benefit continuation by MIGA when an employer with a \$25 million net worth does not pay the claims of its insolvent insurer as required by law. Allow MIGA to collect benefit payment and penalties in cases where they are required to pay.	Employee may be unable to receive benefits if an employer with a net worth of greater than \$25 million does not pay.	
23	Clarify the agency related claims purchasing methodology as it relates to state purchasing standards.	Delay occurs for uninsured employees in getting their equipment and/or supplies.	
24	Define who is responsible for ensuring workers' compensation coverage for personal care assistants' facilitated by the DHS.	Department of Human Services	
25	Define who is responsible for ensuring workers' compensation coverage for Medical Reserve Corps.	Department of Health	
26	Independent contractor	Reference to the new statute language	

Process Improvement

27	Include the ability to pilot new technology and/or processes prior to making all the statute and rule changes. Would need the consent of the WCAC prior to any pilot program.	Allow DLI to "test drive" changes before implementation and work out the problems prior to changing a rule and/or statute.	
28	Include ability to penalize QRCs for failure to submit required documentation in a timely manner.	Will allow for an administrative penalty for late filing instead of current system, which requires a formal investigation and possible action against the QRC's registration. This will resolve issues sooner.	
29	Allow DLI to sample wc files for adherence to legal requirements.	Utilize statistically sound methodology for sampling.	
30	Remove the financial limitations to qualify for a "collective bargaining agreement"	Increase participation	

Other

31	Centers of Excellence	Develop the requirements for centers of excellence - dealing with common workers' compensation injuries. Will be in statute but language not defined yet.	
32	SISF	Transfer the definition of secured liability to the commerce statute	

#10 - Kate Berger explained that the draft language would not prohibit reimbursement if the services listed were provided by a licensed health care provider, if the services were otherwise compensable under the workers' compensation law.

In response to a question from a WCAC member, it was noted that this is a policy issue and would not have a cost effect.

#19 and #20 – Patricia Todd noted if these provisions about electronic receipt of data and electronic signatures were not approved, the department's electronic data program could not go forward.

Sviggum discussed the hospital reimbursement issues 2, 3, 4 and 5 in the summary. He outlined the issues that are before the WCAC and stated that these are key issues for finding savings for medical provisions. He asked for discussion and a decision and said it will probably be the hinge for the entire bill.

Sviggum called a caucus at 10:33 a.m. Members returned from the caucus at 11:22 a.m. without a decision and decided to set an additional meeting for February 8, 2008, from 10:00 a.m. to Noon, in the Minnesota Room at DLI.

Olson made a motion to adjourn the meeting at 11:25 a.m. Thaden 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