



Workers' Compensation Advisory Council
Feb. 3, 2010
minutes

Voting members present

Mike Bredeck
Wayne Ellefson
Jim Gander
Ryan Holmes
Mike Wilde for Glen Johnson
Shar Knutson
Bob Lux
David Olson
Susan Olson
Edward Reynoso
Elizabeth Shogren
Gary Thaden

Nonvoting members present

Representative Michael Nelson

Nonvoting members excused

Senator Tom Bakk
Senator Joe Gimse
Representative Bob Gunther

Staff members present

Penny Grev
Mike Hill
Jayne Jones
Karen Kask-Meinke
Julie Klejewski
Mary Miller
Donna Olson

Carol Pankow
Shawn Peterson
John Rajkowski
Steve Sviggum
Patricia Todd
Cindy Valentine
Lisa Wichterman

Visitors present

Kathryn Berg, MNHLRP
D. Brown, PTD
Jeremy Estenson, MN Chamber
Charlie Feenstra, MDLA
Kyle Grunder, HealthPartners
Tom Hesse, MN Chamber
Steve Hollander, MARP
Judge William Johnson, OAH
Meg Kasting, SFM
Suzanna Kennedy, Leonard, Street & Deinard
Jonell Kluver, Encore
Judge Ray Krause, OAH
Nancy Larson, MARP
Carolyn Laviolette, Messerli & Kramer
Brad Lehto, MN AFL-CIO
Andy McCoy, Fairview
Carrie Mortrud, MNA
Tom Mottaz, MNAJ
Ken Peterson, Fairpay Solutions
Mark Rodgers, Rodgers Law Office
David Sullivan, House DFL
Elizabeth Wefel, MARP
Dan Wolfe, MNAPTA

The meeting was called to order by Commissioner Steve Sviggum at 9:35 a.m. Roll was called and a quorum was present.

Opening

Sviggum asked Todd to address a concern that had been raised from testimony she gave at the Jan. 13, 2010, WCAC meeting. Todd pointed members to the actual typed transcript of that section, which was included in their packets. She also suggested attaching that transcript to the Jan. 13, 2010 minutes, if members wished to do that.

Todd clarified that when she first started at DLI there was a perception that the agency was not objective and was not consistent. A study was done, over an extended period of time, looking at this perception and found it to be true. As a result, procedures and processes were developed, best practices were identified, audits were performed, as well as additional staff members participated in some of the different conferences to specifically see and hear what transpired.

Todd clarified member Knutson's concern – that indeed the agency does look at each specific case uniquely on a case-by-case basis and decisions are based on the realities coming forth from that specific case.

Sviggum added that within all units at DLI, the agency seeks impartiality, consistency and fairness.

Elizabeth Shogren made a motion to amend the Jan. 13, 2010, meeting minutes to include attaching Todd's transcript to the minutes. Gary Thaden made a motion to approve the Jan. 13, 2010 meeting minutes as amended. All voted in favor and it passed on a voice vote.

Members agreed to switch the agenda around to include deleting item A – Caucus – and having item E – Attorney Mark Rodgers – speak first.

Mark Rodgers, attorney – re: post-traumatic stress disorder

Attorney Mark Rodgers represents teachers who were involved in the Red Lake School shooting tragedy that happened March 21, 2005. Because they did not sustain a physical injury, they are not entitled to workers' compensation. He asked the council to consider proposing a change in law for this legislative session to allow workers' compensation benefits for mental disorders in the state of Minnesota. The criteria and coverage for mental disorders is different state by state. Minnesota is one of approximately 15 states that does not allow that type of coverage.

Sviggum stated his Policy Development, Research and Statistics unit would provide members additional information about the comparisons of mental coverage among all 50 states.

Legislative concepts

Knutson reported that the two groups have met and have three issues that are heading toward agreements – it is not all worked out yet, but they continue to work on them:

- moving more dispute-resolution work to OAH;
- using the customer service section more effectively so that they would be providing the services of an ombudsman; and
- vocational rehabilitation limits and placement hours per month.

Knutson continued reporting they have one outstanding issue dealing with criminal and civil commitment denial benefits, and are still discussing attorney fees. Olson added they also discussed, as a part of the dispute-resolution piece, a possible one-time contribution of funds to OAH for needed software for handling their cases.

Olson stated the goal is to have statutory language, agreed to by all members, by the last week in February, and suggested the council meet next on Fri., Feb. 26 at 9:30 a.m. Members agreed to setting Feb. 26 as the next meeting date.

Commissioner

Task force

Sviggum asked Todd to report on the task force that met Feb. 2 regarding H1N1, pandemics or mass casualties. Todd pointed members to her memo that was included in their packet.

The task force recommendations are:

1. DLI will ask the Department of Health (MDH) to include/consider workers' compensation during planning meetings for future pandemics or mass casualties. The WCAC will identify participants for these planning meetings.
2. DLI will ask for inclusion of WCAC members, or designees, in MDH post-event evaluation of response to the H1N1 pandemic, specifically as it relates to workers' compensation issues/concerns. The WCAC will identify participants for these post-evaluation meetings. DLI will ask on behalf of the WCAC that the Department of Health generate a report regarding this issue within the third quarter of 2010.
3. DLI will research and identify any applicable public policies that have been developed with regard to pandemic illnesses and their impact on workers' compensation stakeholders.

Shogren made a motion that the above three recommendations be adopted by the WCAC so the work can move forward. All voted in favor and it passed on a voice vote.

2010 interest rates – M.S. 176.221

Todd referenced the handout in the members' packet relating to Minnesota Statutes 176.221, which identifies an interest rate for any payment of compensation, charges for treatment under 176.135, rehabilitation expenses under 176.102, subd. 9, or penalties assessed that have not been paid when due and the rate is set by a specific section outside of the workers' compensation statutes, section 549.09, subd. 1. As a result of a change in the 2009 Minnesota Laws, section 549.09, subd. 1, (c), the applicable interest rate percentage will depend on the amount of the judgment:

1. based on a judgment or award of \$50,000 or less; or
2. based on a judgment or award greater than \$50,000.

Update about 2010 WC conference/expense approvals

There was discussion about changing the dates of the 2010 conference. Sviggum announced the WCAC members would serve as hosts and he would like as many in attendance as possible. After polling members about several dates, it was agreed the dates would be changed to June 14, 15 and 16, 2010. The conference would most likely begin at noon on June 14 and end at noon on June 16.

Mike Bredeck made a motion to approve the expenses for WCAC members who attend the 2010 workers' compensation conference. Expenses include lodging, conference registration and mileage to and from the conference. All voted in favor of the motion and it passed on a voice vote.

Sviggum also announced there will be a special Governor's Award on Innovative Measures in Workers' Compensation presented to individuals, organizations, businesses, etc., doing special, unique, positive measures in the handling of their WC systems. An application form is being created that will be sent out to many entities. The awards will be presented at one of the evening dinner sessions at the conference.

Conclusion

Sviggum announced the Feb. 10 and June 9 WCAC meetings are canceled. The next WCAC meeting will be Fri., Feb. 26 at 9:30 a.m.

Gander made a motion to adjourn at 10:55 a.m. All voted in favor of the motion and it passed on a voice vote.

Respectfully submitted,

Julie Klejewski

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Executive Secretary