

Meeting minutes: Rehabilitation Review Panel

Date: April 7, 2022

Minutes prepared by: Executive secretary of the Rehabilitation Review Panel

Location: Webex meeting

Attendance

RRP members present

Russell Gelfman (chair)
Michael Anderson (vice chair)
Carl Crimmins
Monica Cronin
David Dubovich
David Frary
Richard Hills
Sarah Hunter
Paul Osterbauer
Steve Patton
Megan Schueller
Sarah Kacer
Mary Wells

Visitors, DLI staff members present

Mike Hill, DLI
Ethan Landy, DLI
Anita Hess, DLI
Chris Leifeld, DLI
Jessica Stimac, DLI
Yashica Calderon, DLI
Merone Melekin
Nichole Sorenson, DLI
Brittany Wysokinski, DLI
Chris Raymond, DLI
Rob Otos

Call to order

Chair Russell Gelfman called the meeting to order at 1:10 p.m. Gelfman read the remote meeting statement. A verbal roll call was taken and a quorum was present.

Approval of minutes and agenda

Gelfman asked for approval for both the Jan. 6, 2022, meeting minutes and the April 7, 2022 agenda. Ethan Landy, Department of Labor and Industry's (DLI's) Office of General Council, indicated this action could be taken. There was one revision to the agenda: Chris Leifeld, DLI Compliance, Records and Training director will be filling in for Commissioner Roslyn Robertson, giving the commissioner's update. A verbal vote was taken and both documents were approved as printed, with the one revision.

Commissioner's update – Chris Leifeld, director of Compliance, Records and Training, filling in for Commissioner Roslyn Robertson

Safety announcements

- DLI is opening its doors to public April 22, 2022. Staff members will be available to assist stakeholders.

Panel member appointment

- New insurer member, Sarah Hunter, was introduced.

Legislative updates

- The Workers' Compensation Advisory Council is to meet April 12, 2022, with three bills under consideration:
 - COVID-19 bill, proposal presumption reimbursement;
 - duty disability timeline determination modifications; and
 - agricultural employee wage-calculation modification.

DLI updates

- The new DLI Alternative Dispute Resolution (ADR) help desk supervisor is Yashica Calderon.
- The new DLI ADR supervisor is Chris Raymond.
- The new DLI Research and Statistics Director is Nichole Sorenson.

Education

- At the Minnesota continuing legal education, Workers' Compensation Institute, April 25 and 26, 2022, DLI Assistant Commissioner Kate Daly and DLI Medical Consultant Emily Bannister will be presenting.
- DLI will have a Minnesota Workers' Compensation Symposium, May 12, 2022.
- The Minnesota Safety and Health Conference is May 3 and 4, 2022.

Agenda items

At-home COVID-19 test kits – Merone Melekin, COVID-19 vaccine outreach and external relations director, Minnesota Department of Health

- Presentation about the COVID-19 testing program and reasons to get tested.
 - You are experiencing symptoms.
 - You had contact with someone who may have COVID-19.
 - It is before or after travel.
- Free at-home rapid antigen tests are available that you can order monthly from the state or federal programs.
- The Minnesota Department of Health provides tests for vulnerable communities.
- A good resource is "Find COVID-19 guidance for your community" website at www.covid.gov.

Rehabilitation rulemaking update – Ethan Landy and Brittany Wysokinski, DLI Office of General Counsel

DLI is preparing an updated draft for public review. The current rehabilitation rules, Minnesota Rules 5220.1400 to 5220.1700, relate to qualified rehabilitation consultants (QRCs), firms and vendor registration. The draft on the website is being reviewed. These are to provide clear guidance, outline the process and meet plain language requirements. Some parts will be repealed and some parts will be rewritten or are adding information to outline the process. You can sign up for the rulemaking updates at dli.mn.gov/about-department/rulemaking/workers-compensation-rulemaking.

Alternative Dispute Resolution overview – Chris Raymond, ADR supervisor

The ADR management team includes: Brian Mak, the new director; Chris Raymond and Donna Olson, supervisors; and Yashica Calderon, Workers' Compensation Division Help Desk supervisor.

- Mediators try to resolve disputes. If unresolved, a dispute must be certified and then a rehabilitation request for assistance can be made. The arbitrator issues a decision and order.
- Help desk customer service answers questions from injured employees, employers, medical providers, rehabilitation consultants, attorneys, insurers and others.
- Mediation is offered free of charge.
- Live support is available from 8 a.m. to 4:30 p.m., Monday through Friday.
- The help desk also answers Work Comp Campus users' questions.

Mike Anderson asked if there are statistics about ADR outcomes:

- the number of cases annually that get mediated by DLI that get resolved;
- the number of cases that are resolved without some form of vocational resolution; and
- whether there is any followup to see how the claimants are doing a year or two later, such as: are they happy with the outcome; are they employed or unemployed; are they employed in their field again in physically and economically appropriate jobs; and what happens to these injured claimants?

Raymond said DLI Research and Statistics would have more objective data because ADR does not track that information.

Landy suggested looking at the most recent version of the *Workers' Compensation System Report* for statistics about rehabilitation.

David Dubovich said he typically sees the employee's attorney is the one who wants mediation. Is this a question for the workers' compensation plaintiff attorneys? And, why don't cases get vocational resolution?

Gelfman said it would be interesting to see what happens to the individuals. Are they happy with their settlements? Are they working or on Social Security?

Raymond noted that in mediations the attorney typically assists the employee for a fair resolution of the claim. The attorneys are very cautious about Social Security and Medicare issues.

Agenda items for next meeting – Gelfman and panel

- Rulemaking update
- DLI Research and Statistics: Mike Hill will find out if there is settlement data to present at the July meeting. If settlement data is not available, can we legally start collecting it and have a study group?
- Do injured workers understand the role of the QRC?
- Send questions to Hill or Gelfman.

Next meeting dates

Gelfman announced the next meeting will be July 7, 2022. After that, scheduled meetings are Oct. 6, 2022, and Jan. 5, 2023.

Adjournment

Carl Crimmins made the motion to adjourn the meeting and it was seconded by Dubovich. Votes were taken and the motion passed. The meeting was adjourned at 2:32 p.m.

Respectfully submitted,

Anita Hess

Executive secretary to the Rehabilitation Review Panel