

Rehabilitation Review Panel
Thurs., Jan. 6, 2011

Voting members present

Dr. Joseph Sweere
Shirley Muelken
Steven Hollander
Alissa O'Hara
Carl Crimmins
Anthony Ferraro
Scott Van Binsbergen (by phone)

Voting members excused

Sue Mauren
Dawn Soleta
Dennis Ballinger
Margaret Kasting

Nonvoting members present

Nonvoting members excused

William Martin

Alternates present

Don Ostenson

Alternates excused

Lucena Slaten

Department staff members present

Ken Peterson	Karen Ryba
Dee Torgerson	Mike Hill
Donna Olson	Dave Berry

Others present

Rob Otis

Call to order

Dr. Joseph Sweere called the meeting to order at 1:07 p.m. Ken Peterson was introduced as commissioner. The panel, department staff members and guests were then introduced.

Approval of minutes

Don Ostenson made a motion to approve the Oct. 7, 2010 minutes. Alissa O'Hara seconded and the minutes were unanimously approved.

Approval of agenda

The agenda was approved with no additions.

Status of reapplication on RRP

Sweere asked Mike Hill if there was information about the status of reapplications. Hill was unaware of any applications. Ostenson stated he had sent his application, but hasn't heard back. The department will check into the status of any applications. If there is a vacancy, the Secretary of State will be contacted.

Meeting minutes agenda format

Hill stated the agenda key was changed to combine the inform and clarify categories, per the panel's suggestion. The agenda key will always be printed on the backside of the meeting agenda.

Disciplinary matters

Sweere asked Hill if he had any information about disciplinary matters. For 2010, there were 16 files closed; of that, one file was no jurisdiction, four files were complaints that were unsubstantiated, five letters of instruction were issued to rehabilitation providers and six were stipulated agreements. Complaints are down from last year, when there were 35 closed files.

Carl Crimmins asked if there were any repeat provider complaints and what happened to repeat offenders. Hill indicated this hadn't been reviewed. However, he stated repeat offenders face higher fines for the same infractions and, if serious enough, it could affect their registration.

Comparison of WCRI 2009 and 2008 reports

Dave Berry, DLI Research and Statistics, gave a presentation about the Workers' Compensation Research Institute (WCRI) reports for 2008 and 2009. The reports compared workers' compensation systems in 6-18 states, of which Minnesota was a participant. Berry indicated the following.

- Claim rates have dropped: A trend that's happening nationwide and Minnesota is part of that.
- Average benefits per claim in total have risen; the main driver was medical benefits per claim. Indemnity benefits per claim have been flat since 2002. Put two together and what Minnesota has is a trend in benefits per \$100 of payroll.
- Benefit duration: Temporary total disability (TTD) is up 50 percent; temporary partial disability (TPD) is up 19 percent from 1997 to 2009.
- Dispute rates: The rate of overall disputes has risen 40 percent; medical requests are up 144 percent; and rehabilitation requests are up 87 percent.

Peterson asked why there was a rise in medical and rehabilitation requests. Donna Olson reported the cost of medical services and the economy may play a role, along with insurers looking at things closer. For rehabilitation requests, she indicated it might be due to the economy. Crimmins suggested insurers may have begun a policy of rejecting every claim with the expectation that only 50 percent would appeal the decisions, which would be a cost savings. Scott VanBinsbergen reported employers were working harder to train employee's to avoid injuries, to reduce overall injuries. Berry then went on to report the following.

- The percentage of indemnity claims ending with awards on stipulation has been increasing, up 42 percent during the 12-year period.
- Vocational rehabilitation participation has gone up 54 percent since 1997. In 2009, 23 percent of indemnity claims are projected to have a vocational rehabilitation plan filed.
- Vocational rehabilitation costs have gone up 40 percent since 1998. The cost per indemnity claim rose from \$1,000 to \$2,020. The vocational rehabilitation 2009 total cost is \$43 million and is 3.1 percent of the system cost.

- Vocational plan duration has increased.
- Return to work status: The total with jobs fell from 71 percent in 1998 to 53 percent in 2009.
- Reason for plan closure: Plan completion is down from 61 percent in 1998 to 41 percent in 2009; in most cases where the plan is completed, the person has a job. There is an increasing trend in the percentage of closures where there is a settlement or agreement of the parties.

CompScope report

WCRI collects data from insurance companies, self-insured companies and the Assigned Risk Plan (ARP) and adjusts the data to represent the total claim population.

- The cost per claim in Minnesota, compared to the other states: Minnesota is 30 percent lower than the 15 state median.

Peterson asked if there was some similarity in the measures between the 16 states in the study. Berry indicated there were both similarities and differences. He also reported the following about Minnesota.

- The Minnesota Workers' Compensation Insurers Association (MWCIA), insurance companies and DLI made a decision together to participate.
- Fewer Minnesota workers were off work for one week.
- Length of disability: Minnesota workers were off work a shorter time than in many states.
- For indemnity benefits, with claims with seven days or more of lost time, there was an average cost of \$10,000 a claim.
- Minnesota was lower than the median state for medical benefits with claims with seven days or more of lost time.
- Minnesota had a much higher percentage of claims involved with vocational rehabilitation provider expenses than the other states. One factor may be that in some states, some or all vocational rehabilitation services are provided by a state agency.
- Vocational rehabilitation services are provided earlier in Minnesota.
- Minnesota had the highest vocational rehabilitation provider expenses per claim among the study states.
- The average number of weeks of disability, having vocational rehabilitation, was substantially less in Minnesota than the three other states it was compared to.

Crimmins pointed out that the graph on page four, "system cost per payroll," didn't point out 2009 costs. Berry indicated it was approximately \$1.35, which is almost the same as the costs in 2000. Peterson then asked about the overall cost of rehabilitation in Minnesota. Berry indicated rehabilitation costs in Minnesota are approximately 3.1 percent of the total workers' compensation system cost, with the average file cost of \$6,000.

Per diem for telephonic attendance

Mike Hill stated the 176.102 statute change occurred in 2009, which allowed panel members to attend panel meetings electronically. He further reported the question arose whether panel

members participating electronically should receive their per diem. Hill discussed the 15.0575 Administrative Boards and Agencies Subd. 3., Subd. 3c statute, which indicated the panel needed to adopt an internal standard regarding this.

Shirley Muelken made a motion that panel members attending via phone should receive per diem. Anthony Ferraro seconded and the motion was unanimously approved. Steve Hollander asked how a per diem should be requested if the member wasn't present. Hill indicated Executive Secretary Lisa Smith should be contacted for a form.

Also at this time, Hill announced an orientation for QRC interns and new vendors was scheduled for Feb. 7, 2011, in the Minnesota Room, with information posted on the DLI website.

Chart about vocational rehabilitation utilization by insurance type

Berry reported about a "vocational rehabilitation utilization by insurance type chart" in conjunction with the panel's October request. Through the review, it was noted that larger employers were able to accommodate more of their injured workers.

Crimmins asked about the voluntary insured companies account for 70 percent of the indemnity claims and what the percentage of all companies were; Berry did not know. Ostenson then pointed out the group of self-insured had dropped off significantly and asked if there were fewer participating in that group; Berry stated that since the numbers are not fully matured, individual years could not be reviewed at this time.

Other business

Review of rules – Sweere asked if there is still a sense or need for the panel and department to carefully scrutinize the rehabilitation rules having to do with fees and disputes. He asked if the department has a continuing agenda with regard to having to take another look at this. Peterson indicated DLI will take a look at this and the data.

Ostenson stated he would like the panel, in the next few months, to look at the high number of stipulated settlements, which was having an impact on people returning to work. He indicated more than half weren't returning to work and wondered if they were going into the public system for assistance with placement, support and/or medical. Ostenson inquired that if 50 percent weren't going back to work, then are we doing our job in vocational rehabilitation. He asked, "What can we do to make a change to that?" Ostenson stated that it appeared in the past few years there was a trend to encourage settlements rather than fixing resolutions and encouraging placement and retraining. He indicated the RRP should do a study to track what happens to these people and asked, "If a person isn't working, should we really close out rehab or should we still try to help place these people?"

Peterson indicated he was not sure if the information was available, but that the increase in stipulations and their cause was a troubling question. Dee Torgerson indicated the department does not collect this type of follow-up data, but that it could see if it was possible. Berry indicated one possibility was to see if DLI could take those cases and compare them to other information available through other state agencies.

Hollander then commented about a source of frustration for rehabilitation providers in which a retraining plan is put together and then the case settles. For individuals not involved in the case it then appears the qualified rehabilitation consultant (QRC) case closed with a lot of expense and no explanation. Hill reported the rehabilitation forms have been revised, with the R-8 closure form having a box for the QRC to indicate if retraining, etc. was proposed. The revised forms will be launched soon.

Peterson stated the department will report to the panel at the next meeting whether a study, such as Ostenson proposed, is possible. Sweere and the panel agreed to postpone further discussion until the next meeting to allow the department to take a look at some of the issues.

Adjournment

Ostenson made a motion to adjourn the meeting and VanBinsbergen seconded. The meeting was adjourned at 2:50 p.m.