

**Workers' Compensation Insurers' Task Force**  
**March 21, 2012**  
**Minutes**

**Members present**

Jodie Connor *via telephone* for R. Shaughnessy  
Karen Clayton-Ebert  
Mike Johns for D. Oertli  
Margaret Kasting  
Stacy Kohlenhofer for C. Bierman  
Laurie Simonsen  
Claire McCoy  
Gary Westman  
Cindy Van Eyll *via telephone*

**Members absent**

Mary Abraham  
David Oertli  
Susan Pilon  
Jerry Walthour

**Visitors and staff  
members present**

David Berry  
Wendy Willson Legge  
Chris Leifeld  
Kathy Hanson  
Ralph Hapness  
Pamela McLaughlin  
Ken Peterson  
Robert Rangel  
Karen Ryba  
Jessica Stimac  
Jim Vogel  
Lisa Wichterman

**Call to order and introductions**

The meeting was called to order at 9:05 a.m. by co-chairman Gary Westman, who read the announcements. Members and visitors introduced themselves.

**Approval of agenda and meeting minutes**

The agenda was accepted as presented and approved.

The March 16 and Nov. 16, 2011, meeting minutes were approved.

**New business**

- Department update – Commissioner Ken Peterson  
Assistant Commissioner Gary Hall was appointed by Governor Dayton to the Workers' Compensation Court of Appeals. His last day at DLI was March 13. Deputy Commissioner Kris Eiden will take on the duties of the assistant commissioner until someone has been hired to fill that vacancy.

No significant workers' compensation legislation is being proposed during this session. The Workers' Compensation Reinsurers Association (WCRA) bill may be of interest to the task force members. Items include mandating the WCRA comply with the Minnesota Data Practices Act and that its board of directors be subject to the open-meeting law.

- The Workers' Compensation Summit is scheduled to be June 12 and 13, 2012, at Cragun's Conference Center in Brainerd, Minn. More information and online registration will be available on DLI's website the first week of April.
- New Policy Holder Task Force seat – Jim Vogel  
Rob Rangal currently works in risk management services/workers' compensation as a claim consultant with the Hays Companies. He has 20 years of experience as a member of the task force and was chairman for 11 years. Rob's appointment to the new seat on the task force was approved.
- NOID form changes – Jim Vogel  
Copies of the current and draft NOID forms were reviewed. An increase in receiving stipulated settlements where the employee takes part of the settlement money, not as payment for the indemnity benefits when they close it out, but as payment for close-out of future rehabilitation and/or full or total medical. Questions about how the data is recorded have arisen from the industry as well as within the department. When compiling statistical data, it was found the payment data cannot be matched. The form will be changed to make clear any benefits paid to the claimant, including indemnity payments to employee, attorneys, dependent heirs, taxes, burial expenses and interveners. Targeted rollout date is early 2013. Task force members are asked to bring the proposed form back to their staff for review and forward comments/suggestions to Jim by phone at (651) 284-5265 or email at [jim.vogel@state.mn.us](mailto:jim.vogel@state.mn.us).
- Electronic billing – Lisa Wichterman  
A PowerPoint presentation was made to the task force and is attached to these minutes. Minnesota Statutes 62J.536 was created July 15, 2009, by the Minnesota Department of Health to reduce administrative costs in health care. It requires all health care providers submit bills to the payers electronically and submit explanation of benefits (EOBs)/remittance advice back to the health care providers. Electronic funds transfer remains optional. On Jan. 1, 2012, updates were made, including: implementation of the standard acknowledgement (which tracks the health care provider/payer bills); the 4910 standard was upgraded to 5010 to accommodate ICD-10 diagnosis coding changes; clearinghouses must make or provide electronic connections with other clearinghouses or trading partners requesting a connection to eliminate any roadblocks between the payers and providers; and specification of who may impose fees for the transfer of electronic data. Pharmacy transactions are doing well at more than 90 percent compliance. The actual medical transactions are at 10 to 15 percent. The biggest challenges found relate to connectivity – identifying the clearinghouse to submit bills/EOBs, electronic payer ID numbers and clearinghouse contracting issues.

Work-arounds: Minnesota Rules 5221.0500, subp. 4 A-D – Appendix C of the Minnesota Uniform Companion Guide for the 835 (handout) has been developed to send back to the health care provider for clarification about why the amount has been reduced/denied.

Status of federal updates:

- ICD-9 to 10 diagnosis codes conversion has been delayed by Secretary Kathleen Sebelius, Department of Health and Human Services (HHS).
  - Lisa testified this past fall at a hearing about HIPAA security; no recommendations were made by the national group. A letter to Secretary Sebelius from the National Committee on Vital and Health Statistics is included in member folders (*see* handout).
- Pending legislation – Kate Berger  
The ICEC proposal is an amendment that affects the Minnesota workers' compensation law. In 2009, legislation was passed that required construction industry companies and independent

contractors to file an application with the state to exempt tax withholding payments, with unintended consequences. This amendment seeks to assist state agencies identify the true ownership and control of business entities operating in the construction industry. Many construction companies file as LLCs to avoid the ICEC requirement and 2-percent tax withholding. Current ICEC certificates will be phased out as they expire. Effective July 1, 2012, the bill will initiate a two-year pilot project for the registration of independent contractors and business entities performing construction services for another person. The registration deadline is Sept. 15, 2012, unless they already have another license or registration with the department. Online registration and payment will be available. This will allow the department to identify the ownership and make-up of these corporations, to clearly identify who is operating and in what capacity. The nine-factor test would be retained, in addition to individuals and construction contractors who will need to be registered with the department. Penalties will be assessed for companies performing construction services without being registered.

*See* H.S. 2093 – Independent Contractors, and S.F. 1653 – Independent Contractors Provision Modifications.

- Data Privacy – Wendy Legge  
Minnesota’s Data Practices Act (DPA) is similar to the federal Freedom of Information Act, which allows access to some, but not all information maintained by the department. *See* PowerPoint presentation, attached. The DPA is Chapter 13 of the Minnesota Statutes, which presumes all data public, unless there is a state or federal law that makes it not public. It classifies data that is not public; it provides rights for the public and for the data subjects; and it requires that data about individuals is accurate, complete, current and secure.

A deadline to respond to data requests depends upon who the requesting party is: immediately or within 10 days if the information is requested by the individual, or as soon as is reasonably possible by anyone else requesting public data.

The department charges for copies of data, but not to look at the data. The amount of the charge depends upon the request. Data can be requested by completing a form. Deputy Commissioner Kris Eiden is the department’s data practices compliance official and all requests for public data should be directed to her. She has appointed various individuals within the department as unit data coordinators, who are responsible for data in their assigned areas. Cheryl Colbert is responsible for data requests within the Workers’ Compensation Division; her email address is [cheryl.colbert@state.mn.us](mailto:cheryl.colbert@state.mn.us).

### **Reports/meeting schedule**

- The 2012 WCITF meeting schedule: May 16, Sept. 19 and Nov. 21
- The February 2012 edition of *COMPACT* is online at [www.dli.mn.gov/WC/Compact.asp](http://www.dli.mn.gov/WC/Compact.asp).
- The WCITF meeting schedule, agenda and approved meeting minutes are available online at [www.dli.mn.gov/wcitif.asp](http://www.dli.mn.gov/wcitif.asp).

The meeting adjourned at 10:16 a.m.

Respectfully submitted,

*Pamela McLaughlin*

Executive Secretary

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