

Workers' Compensation Insurers' Task Force
May 20, 2009
minutes

Members present

Dave Clark for Dennis Ballinger, Western Nat'l
Karen Clayton Ebert; MCIT
Robert Farber; BRAC
Charlie Bierman, Mayo
Claire McCoy; GAB Robins
Dave Oertli; Sedgwick
Laurie Simonsen; Travelers
Cindy Van Eyll; General Casualty
Gary Westman, MN Dept of Administration
Jerry Walthour; City of Minneapolis

Members excused

Rob Rangel; Broadspire
Mary Abraham, Westfield Ins.
Bruce Baker; Liberty Mutual
Jodie Connor; Wausau
Bob Johnson; Insurance Federation
Meg Kasting; SFM
Susan Pilon; RTW

Staff members present

David Berry
Penny Grev
Ralph Hapness
Julie Klejewski
Steve Sviggum
Patricia Todd
Cindy Valentine
Lisa Wichterman

Visitors present

None

The meeting was called to order at 9:05 a.m. by chairperson Gary Westman. Members and visitors introduced themselves. The agenda was accepted as presented.

4) Assistant commissioner updates

Legislative update

Assistant Commissioner Patricia Todd gave a summary of the workers' compensation bill, which did pass this past legislative session, as well as the bill for funding the Department of Labor and Industry. Some key points of the WC bill are:

176.101 Compensation Schedule

- Eliminates, consistent with case law, gaps in the permanent partial disability (PPD) rating table, which currently provides for only whole number ratings. For example, there could be a PPD rating of 5.5 percent.
- PPD is the most common problem found while reviewing benefits. This, along with some anticipated rule changes, should help to reduce this problem.

176.102 Rehabilitation Review Panel (RRP)

- Changes the membership from a person representing "medicine," which is an unclear term, to a person representing a "licensed or registered health care provider." We have been unable to fill the opening as previously defined for more than 10 years. This will allow the department to fill the number of positions defined in the statute.

- Allows members to attend panel meetings by telephone or other electronic means, provided that a physical meeting with at least one member is still held in St. Paul at the regular meeting site. This will also provide for a greater pool of potential members from other parts of Minnesota.

176.103 Medical Health Care Review – Medical Services Review Board (MSRB)

- Changes the membership from a person representing “hospital administrators” to a person representing “hospitals.” Also replaces a person representing the “general public” with an “occupational therapist.” We have been unable to fill the openings as previously defined for more than 10 years. This will allow the department to fill the number of positions defined in the statute.
- Allows members to attend panel meetings by telephone or other electronic means, provided that a physical meeting with at least one member is still held in St. Paul at the regular meeting site. Board meetings have been canceled for lack of a quorum because, given their schedules, it is sometimes difficult for physicians to travel to St. Paul. This will also provide for a greater pool of potential members from other parts of Minnesota.

176.135 Treatment; appliances; supplies

- **Subd. 6 Commencement of payment**
 - Eliminates the requirement that workers' compensation payers must notify the employee when the payer reduces payment of a bill based on maximum fees under the workers' compensation law (the fee schedule, the statutory 85 percent payment limit on non-fee-scheduled charges or the statutory maximum amount payable to out-of-state providers). Payers would still have to notify the employee if payment is reduced or denied because the insurer is denying liability for the injury or a medical condition, or if the insurer is claiming that the treatment was not reasonable and necessary.
 - The employee is not liable for these charges and, therefore, does not need to receive notice of the amount paid under the workers' compensation law. The amendment will help facilitate the electronic payment of medical bills.
- **Subd. 7 Medical bills and records**
 - Cross references the electronic health care billing transactions mandated in the Department of Health statute enacted in 2007, and eliminates a sentence that conflicts with that statute.
 - This amendment will help facilitate the electronic billing of medical bills.
- **Subd. 8 Data**
 - Provides the department access to workers' compensation electronic billing and payment transactions that are required by Minnesota Statutes § 62J.536.
 - This will assist the department research the financial costs and outcomes of treatment in the workers' compensation system.
 - The information is confidential and will only be used to generate statistical summary information.

176.155 Examinations

- Prohibits independent medical examinations from occurring in hotel or motel facilities.

176.179 Recovery of Overpayments

- Incorporates a court decision prohibiting a workers' compensation payer from offsetting an overpayment of benefits against a penalty awarded to the employee for late payment or underpayment of benefits.

176.181 Insurance

- Provides for data-sharing of information between state departments to more effectively implement recommendations in the November 2007 legislative auditor's report about misclassification of employees. Specifically, the OLA recommended that DEED, DLI and DOR should better coordinate their audit and investigation activities related to worker classification. Additionally, in its February 2009 report, the OLA recommended better use of DEED employment data to identify employers that lack worker's compensation insurance.

176.183 Uninsured and self-insured employers; benefits to employees and dependents; liability of employer

- Allows the agency to collect from an uninsured employer any costs and employee attorney fees that are paid by the Special Compensation Fund.

176.186 Records from other state agencies

- Deletes a requirement that data-sharing of information between departments may only be used for insurance verification. For example, in addition to insurance verification, the data will also assist the agencies implement recommendations in the legislative audit report about misclassification of employees.

176.231 Report of Death or Injury to Commissioner of Department of Labor and Industry

- Allows an employer/insurer to report a fatality as required by OSHA and workers' compensation in one phone call instead of two.

Implementation of WID number

Todd reported that the Office of Administrative Hearings announced that as of April 1, 2009, any and all of their documentation being sent out would only have the worker identification (WID) number on it and not the Social Security number (SSN). Within the past month, Todd has met with some leaders in the insurance industry in regard to DLI going in that same direction. It is anticipated as of June 1, 2009, any and all documents from DLI will only include the WID number. However, you can continue to send documents to DLI with either the WID number or the SSN. The statute allows both ways.

Worker's compensation policy conference

DLI is putting on a workers' compensation policy conference at Grand View Lodge in Nisswa, Minn., June 17 and 18. The conference will include stakeholders, interested parties, members of the department and expert speakers. For more information, visit our Web site at www.dli.mn.gov/WorkComp.asp.

5) New business

- Workers' Compensation System Report, 2007

Westman introduced David Berry, who works in the Policy Development, Research and Statistics unit at DLI. He gave a PowerPoint presentation about the Workers' Compensation System Report, 2007. The report, part of an annual series, presents data from 1997 through 2007 about several aspects of Minnesota's workers' compensation system: claims, benefits and costs; vocational rehabilitation; and disputes and dispute resolution. The purpose of the report is to describe statistically the current status and direction of workers' compensation in Minnesota and to offer explanations where possible for recent developments. The report also presents workers' compensation medical cost data from a major insurer to provide insight into current medical cost issues. Following are some highlights.

- The claim rate fell continually from 1997 through 2006.
- Workers' compensation system cost has fluctuated mildly relative to payroll since 1997, with a somewhat lower value for 2007 than for 1997.
- Adjusted for wage growth, average medical benefits per insured claim rose rapidly between 1997 and 2003, but more slowly from 2003 to 2006. Indemnity benefits per claim² rose through 2002, but were stable from that point until 2006.
- Relative to payroll, medical benefits have risen since 1997 while indemnity benefits have fallen, reflecting the net effect of the falling claim rate and higher benefits per claim.
- The increase in indemnity benefits per claim is due primarily to increasing benefit duration and increases in the frequency and amounts of stipulated benefits.
- The vocational rehabilitation participation rate increased between 1997 and 2007, and average cost per participant rose from 1998 to 2007 (adjusting for average wage growth).
- The dispute rate rose substantially from 1997 to 2007.
- According to data from a large insurer, outpatient facility services contributed the largest portion (among all service groups) of the overall medical cost increase from 1997 to 2007, and service and provider groups not subject to the fee schedule showed the largest increases in cost per unit of service.

The full report, as well as archived editions, are available online at www.dli.mn.gov/RS/WcSystemReport.asp.

6) Future agenda items

- Sept. 16, 2009
 - Overview of the Workplace Safety Report, 2007 – available online at www.dli.mn.gov/RS/WorkplaceSafety.asp.

7) Reports/meeting schedule

The following schedule is available online.

- The WCITF meeting schedule, agenda and minutes are available online at www.dli.mn.gov/wcitf.asp.

The meeting adjourned at 10:05 a.m.

Respectfully submitted,

Julie Klejewski

Executive Secretary