

Workers' Compensation Insurers' Task Force
Sept. 19, 2012

Members present

Karen Clayton-Ebert
Amanda COX for Charles Bierman
Robert Farber
Margaret Kasting
Claire McCoy
Robert Rangel
Laurie Simonsen
Cori Wentzlaff *via telephone*
Gary Westman

Members absent

Mary Abraham
Robert Johnson
David Oertli
Susan Pilon
Ryan Shaughnessy
Cindy Van Eyll
Jerry Walthour

Visitors and staff members present

Sandy Barnes
Kate Berger
Kris Eiden, Deputy Commissioner
Ralph Hapness
Kathy Hansen
Pamela Mclaughlin
Brian Neubauer, ILBNC, P.A.
Gregory Peterson, ILBNC, P.A.
Karen Ryba
Jessica Stimac
Jim Vogel
Lisa Wichterman

Call to order

The meeting was called to order at 9:07 a.m. by Chairwoman Karen Clayton-Ebert. Announcements were made. Members introduced themselves.

Approval of the agenda

Meg Kasting moved to accept the agenda as presented. Rob Rangel seconded, all approved. Motion carried.

Approval of the minutes

Meg Kasting moved to accept the March 21, 2012, meeting minutes as presented. Rob Rangel seconded, all approved. Motion carried.

New business:

Department update – Deputy Commissioner Kris Eiden

- The Office of Administrative Hearings (OAH) is adopting a new case management system. The Department of Labor and Industry (DLI) wants to make sure the system is completely interfaced with its imaging system.
- DLI's information technology and business staff members have been working diligently to ensure those two systems are integrated. OAH has targeted the end of December 2012 for the system to be in full operation.

- The 100th anniversary of workers' compensation in Minnesota – DLI will be acknowledging the 100th anniversary of workers' compensation in Minnesota at the next 2013 Workers' Compensation Summit. Ideas about how to commemorate this historic event can be forwarded to the deputy commissioner at kris.eiden@state.mn.us.

Lumbar fusion surgery – Dr. William Lohman, DLI medical consultant

Dr. Lohman provided a presentation about treating incapacitating low back pain, caused by degenerative disc disease (DDD), using spinal fusion, within workers' compensation. Current issues are the increased use of fusion surgery, significantly increased costs, regional variations in use and questionable outcomes. The PowerPoint presentation is attached to the file.

The department has been working to develop a fact sheet for patients contemplating fusion surgery to discuss with their doctor. The Medical Services Review Board (MSRB) and Workers' Compensation Advisory Council (WCAC) reviewed a request for ideas about an information sheet that patients could discuss with their doctors when fusion surgery has been recommended. The concept of an information sheet was generally well received by the MSRB. The medical community does not want the department to interject itself in the informed consent process. A request for comments handout was included in member packets. Member comments (individually or those representing member organizations) are to be forwarded to Dr. Lohman at bill.lohman@state.mn.us. The WCITF supports the department's nonpartial initiative.

Electronic billing – Lisa Wichterman, DLI medical policy analyst

Lisa Wichterman provided an update about the Minnesota Statutes § 62J.536 electronic billing effective dates:

- July 15, 2009 – all health care providers must electronically submit bills (837);
- Dec. 15, 2009 – all payers must electronically submit EOB/remittance advice (835); and
- Jan. 1, 2012 – clearinghouses are required to transmit and receive electronic transactions to and from any other clearinghouse or trading partner that request a connection.

The department has been looking at paper EOBs and Minnesota's compliance rate has been disappointingly low, even though it's been in effect for three years. Lisa Wichterman contacted larger health care systems for feedback.

DLI and the Department of Health (MDH) will be conducting meetings with health care providers to identify roadblocks that prevent compliance and to develop an action plan to achieve compliance.

Payers should be prepared to transmit 835s (EOBs), implement requirements for rules on reporting the reason for payment or denial of a medical charge (Appendix C) and confirm their clearinghouse has connectivity with health care provider clearinghouses. Appendix C has been updated and will be available on the DLI and MDH websites soon.

EDI – Jessica Stimac/Jim Vogel

Two handouts being referenced were included in member packets: 1) a letter mandating electronic filing of the First Report of Injury (FROI) form; and 2) a draft FROI form. Minnesota has been accepting voluntary FROI form data via electronic data interchange (EDI) since 1993.

Currently, 30 percent of FROI forms are received via EDI. According to the International Association of Industrial Accident Boards and Commissions (IAIABC), 23 states currently mandate electronic filing of FROI form data and six more states plan on mandating within the next three years. The benefits of electronic submission include decreased paper-handling by DLI and reporting entities, increased efficiency and more timely reporting of FROI forms to the department.

The commissioner has the authority to mandate electronic filing of FROI forms pursuant to Minnesota Statutes §176.285 and Minnesota Rules 5220.2525. Stakeholders were informed of DLI's intent via multimedia Aug. 29, 2012: letters were sent to entities handling Minnesota claims, to adjusters and to OAH attorneys; notice was posted on DLI's website; and information was posted on IAIABC's blog. Very little feedback has been received, with no negative feedback.

Two options are available to reporting entities: EDI, especially for use by those who submit multiple FROI forms annually; and the Web-based FROI form, developed for entities that do not submit many FROI forms a year. EDI can require funds for programming and the Web-based FROI form is available for smaller companies that choose not to set aside funding to use EDI. One caveat to those options is the department cannot require an employee to file a FROI form electronically, so paper forms will continue to be collected.

Because DLI is conforming to a national standard developed by the IAIABC, the data it will be getting doesn't correspond with the data fields of the current FROI form. Multiple changes have been made from the current form to capture the information received via EDI. This document is not only for department use, but also for reporting from employers to insurers. WCITF member comments about the new FROI form are due by the end of the month.

Key dates to remember:

- Aug. 29, 2012 – DLI notification was sent to multiple stakeholders;
- Sept. 10, 2012 – testing was frozen to any new trading partners;
- Nov. 1, 2012 – drop-dead date for DLI to finalize business processes;
- March 1, 2013 – testing requirements with existing trading partners;
- May 1, 2013 – voluntary testing with new trading partners;
- July 1, 2013 – anticipated rollout of the new FROI form;
- July 1, 2013 – voluntary testing of Web-based FROI form;
- Oct. 1, 2013 – new trading partners must have begun testing;
- Dec. 1 2013 – all testing completed; and
- Jan. 1, 2014 – implementation date.

Contact Jessica Stimac at (651) 284-5177) or Jim Vogel at (651) 284-5265 or email questions to dli.edi@state.mn.us.

Contractor registration – Kate Berger/Charlie Durenburger

Minnesota Statutes §181.723, which established the independent contractor exemption certificate (ICEC) program, was enacted in 2009. This year, the Legislature repealed the ICEC program and replaced it with contractor registration, effective Sept. 15, 2012. Individuals and business entities

that perform building construction work, including LLCs, corporations and partnerships, are now required to register with DLI unless they meet with one of the statutory exceptions.

Those already licensed by DLI are exempt from registration. The online registration is a fairly simple process. An online-lookup database of those who are registered is available on the DLI website.

The new law also retains the long-standing nine-factor test for determining whether an individual is an independent contractor. A hiring contractor may be considered the employer of an owner of a subcontractor business entity unless the business entity meets the nine-factor test and other conditions. Charlie Durenberger, from the Construction Codes and Licensing Division (CCLD), was introduced. The department is pleased with the results: 3,900 contractors have registered so far. A frequently asked questions (FAQs) sheet about the new law is available on DLI's website; that information, with email address links, was included in member packets.

Reports/meeting schedule

- The most recent edition of the *COMPACT* newsletter can be found on DLI's website at www.dli.mn.gov/WC/Compact.asp.
- The WCITF meeting schedule, agenda and approved minutes are available online at www.dli.mn.gov/wcitf.asp.
- The 2013 meeting schedule is May 15, Sept. 18 and Nov. 20.
- The next meeting date is March 20.

Adjournment

The meeting was adjourned at 10:40 a.m.

Respectfully submitted,

Pamela McLaughlin
Executive Secretary