

MANAGEMENT LABOR ADVISORY COMMITTEE
Wednesday, May 26, 2004
Labor & Industries Building, Conference Room 260
Salem, Oregon

Committee Members Present:

Lon Holston, AFSCME, Grants Pass, OR
Diane Janzen, NorPac Foods, Lake Oswego, OR
John Kirkpatrick, IUPAT District Council #5, Portland, OR
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin, OR
Bob Shiprack, Oregon Building Trades Council, Tualatin, OR
Sheri Sundstrom, Hoffman Construction Company, Portland, OR
Lisa Trussell, Associated Oregon Industries, Salem, OR
Brad Witt, Oregon AFL-CIO, Salem, OR

Committee Members Absent:

Ken Hector, CNF Service Company, Portland, OR
J.L. Wilson, NFIB, Oregon Chapter, Salem, OR

Staff Present:

Nancy Bieber, Workers' Compensation Division
Teri Bledsoe, Director's Office
Jerry Managhan, Workers' Compensation Division
Mike Manley, Information Management Division
John McCullough, Workers' Compensation Board
Roger Pearson, Workers' Compensation Board
Lou Savage, Director's Office
Mary Schwabe, Workers' Compensation Division
John Shilts, Workers' Compensation Division
Barbara Smith, Workers' Compensation Division
Travis Wall, Ombudsman for Injured Workers
Kevin Willingham, Workers' Compensation Division

REVIEW MINUTES FROM FEBRUARY SUBCOMMITTEE MEETING

Chairperson Bob Shiprack called the Management Labor Advisory Committee meeting to order at 1:08 p.m.

Mike O'Rourke moved to accept the August 14, 2003 meeting minutes as submitted. Sheri Sundstrom seconded the motion. A vote was taken and the following committee members voted yes to accept the minutes Holston, Janzen, Kirkpatrick, O'Rourke, Shiprack, Sundstrom, Trussell, and Witt.

STATUS REPORT ON SENATE BILL 757

John Shilts updated the committee on Senate Bill 757 which was passed last session. This bill changes how disability benefits are reallocated and goes into effect January 1, 2005. Workers' Compensation Division is currently in the rulemaking process and dates will be announced as the hearings are scheduled. A lot of input and feedback was recently received at the Workers' Compensation Educational Conference. Concerns expressed were about the process and what is considered regular work. There will be training provided to explain the process and address any concerns.

Committee members Ken Hector and Sheri Sundstrom are on the rulemaking committee.

VOCATIONAL REHABILITATION SUBCOMMITTEE REPORT

Sheri Sundstrom, Chairperson of the Vocational Rehabilitation Subcommittee, gave an update on the subcommittee's work. They have received a lot of input from stakeholders, which the subcommittee welcomed and considered. The subcommittee has been working on the length of time for workers going into vocational plans. The subcommittee is also working on how to better link the injured worker and preferred worker programs. The subcommittee has come to a consensus on a few items, but will be doing more planning with the assistance of staff. Sundstrom asked Nancy Bieber from the Workers' Compensation Division to go over the items the subcommittee is proposing.

Nancy provided a handout of the subcommittee's proposals with general agreement, concepts and options that have not been generally endorsed, and new concepts. There were seven proposals listed with general agreement and one concept listed with some limited agreement. Members of the subcommittee had agreed that the concept listed under some limited agreement should be moved to the general agreement list as number eight. Nancy briefly summarized the handout.

Stakeholders have offered to assist with determining what the eight concepts would look like and how they would flow. It is possible that these proposals may be able to be included with an existing department legislative concept that has already been sent in for drafting.

Action: John Kirkpatrick moved that proposals five, six, and eight which require statute change be referred to Legislative Counsel for drafting and be brought back to the committee for review to amend, approve, or reject. Sheri Sundstrom seconded the motion. The motion passed unanimously.

The next subcommittee meeting is June 17, 2004, 9:00 a.m., at Oregon Building Trades Council, Tualatin (Bob Shiprack's office).

WORKERS' COMPENSATION DIVISION 2005 LEGISLATIVE CONCEPTS

The following concepts have already been sent to Department of Administrative Services for their review. Written summaries were provided for each concept, which staff briefly reviewed.

LC #8 – Reemployment Assistance Program

This concept could be included with the vocational rehabilitation changes just discussed. The purpose of the Reemployment Assistance Program is to get workers back to work sooner. A number of incentives are provided that that the Preferred Worker Program can offer to employers. Currently, funds cannot be used to provide direct assistance, such as job search assistance, to help preferred workers find jobs. This is an issue they have heard about from many workers over the years. Many workers would like assistance with job searching skills. This concept will modify the language to allow the Preferred Worker Program to provide direct return-to-work assistance to Preferred Workers. The department anticipates an increased use of the Reemployment Assistance Program because benefits will be delivered to eligible workers sooner, but do not believe it will negatively impact the assessment rate.

LC #9 – Civil Penalties Against Insurers and Self-Insured Employers

The Department has limited civil penalty authority over self-insured employers and insurers. Current law allows penalties of up to \$2,000 per violation, or \$10,000 in the aggregate for all violations within any three month period. The concept proposes to raise the cap to \$35,000 for each three month period (based on the CPI inflation rate since the \$10,000 cap was put in place). This

concept is intended to raise the aggregate cap, but not the maximum penalty per violation. The intent is to focus on system performance issues related to benefit delivery.

LC #20 – Transferring Review of Administrative Orders to the Workers’ Compensation Board Hearings Division

This concept would transfer contested case hearings now heard by the Office of Administrative Hearings to the Workers’ Compensation Board. Workers’ Compensation is unique because an independent panel of administrative law judges existed prior to the development of the centralized Office of Administrative Hearings. For other agencies, the Office of Administrative Hearings is the only available panel. This concept would result in decreased expenditures because the agency pays the Office of Administrative Hearings for services and administration. The Workers’ Compensation Board can absorb the projected number of contested cases with current staffing.

LC #28 – Workers’ Compensation Technical Cleanup

This concept corrects an error in statute which inadvertently extends the timeline required to begin a mandatory reconsideration of a claim closure. The concept changes the start date to the earliest event, rather than latest. Also this concept would eliminate an obsolete statute requiring DCBS to designate a doctor to complete a pre-employment physical, if requested by a prospective employer, and removes requirement that a copy of a pre-employment physical be submitted to the department.

LC #19 – Worker Leasing Companies-Coordination and Regulatory Streamlining

Under current law, worker leasing companies must obtain a license from the department and are required to provide Workers’ Compensation for client employers’ workers, unless that client employer has extended coverage to leased employees and any other subject workers employed by the client. Under this concept, the department would shift from the current licensing structure to a simple registry and “multiple coordinated policies.” This change will support rapid determination of coverage responsibility when a leased worker is injured, and provide better security for client employers’ deposits in the event their worker leasing company defaults or leaves the state.

Action: John Kirkpatrick moved that all of the proposed legislative concepts (LC #8, LC #9, LC #19, LC #20, and LC #28) discussed be forwarded for drafting. Lon Holston seconded the motion. Motion passed unanimously.

Chairperson Shiprack requested that staff schedule a meeting for the PTD Subcommittee. Also, a meeting needs to be scheduled for stakeholders and other interest groups to bring their concepts to MLAC for their review. This meeting will be scheduled in September 2004.

ADJOURNMENT

The meeting was adjourned at 2:40 p.m.