

NOTICE OF PUBLIC MEETING

WORKERS' COMPENSATION MANAGEMENT-LABOR ADVISORY COMMITTEE

Friday, January 5, 2007
1:00-3:00 p.m.

Conference Room 260
Labor & Industries Building, 350 Winter Street NE, Salem, OR
(A map is available upon request)

Committee Members Present:

Sheri Sundstrom, Hoffman Construction Company, Portland, OR
Linda Jefferson, City of Portland, Portland, OR
Greg Miller, Gunderson LLC, Portland, OR
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin, OR
John Kirkpatrick, IUPAT District Council, Portland, OR
Tracy Brill, Port of Portland, Portland
Cory Streisinger, Director, Department of Consumer and Business Services
Lon Holston, Grants Pass, OR
Bob Shiprack, Oregon Building Trades Council, Tualatin, OR

Committee Member Excused:

Ellen Cutler, Harry and David, Medford, OR
Lisa Trussell, Associated Oregon Industries, Salem, OR

Meeting Agenda

Approve minutes of November 3, 2006 full MLAC meeting

Sheri Sundstrom requested that the minutes be corrected to show that Bob Shiprack was excused. A motion was made and seconded that the minutes be approved as corrected. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Bob Shiprack, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

Care Provider Subcommittee Report

Sheri Sundstrom gave a brief report from the Care Provider Subcommittee. The subcommittee has reviewed information from the Workers' Compensation Division as well as input from the Medical Advisory Committee. The recommendation from the Care Provider Subcommittee is to bring all provider groups in alignment to so that medical treatment begins from the date of first visit. In addition, the subcommittee would like to recommend that the full committee review any bills from the various provider groups as they become available from the legislature.

John Shilts, Workers' Compensation Division (WCD)

Mr. Shilts provided a draft of a revised notice to workers that will inform workers about their rights regarding choice of provider. The document is provided as part of the record. In addition, WCD will be drafting revision to the booklet "What happens if I get hurt on the job" to improve education to workers regarding provider choice.

Committee Discussion: The committee discussed whether the change recommended by the subcommittee be included in LC325 as an amendment or whether it should be in a separate bill. Because the content of LC 325 is directed toward regulatory streamlining, it was recommended that the change regarding aligning treatment from date of first visit be in a separate bill

Action:

Sheri Sundstrom made a motion that the department request a bill draft that would change appropriate statute so that commencement of medical treatment begin at first visit for all of the provider groups. The motion was seconded by Lon Holston. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Bob Shiprack, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

Legislation

LC 578 – Safety Committees (HB 2222)

Michael Wood, Oregon OSHA

Safety committees were established by Mahonia Hall; therefore it is appropriate to bring this bill before MLAC for review. An analysis of the concept was provided to the committee as well as a statement of fiscal impact. Mr. Wood summarized existing law and explained the changes that this concept would make.

Action:

John Kirkpatrick made a motion to support the bill. The motion was seconded by Lon Holston. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Bob Shiprack, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

LC325 Workers' Compensation Regulatory Streamlining (HB 2218)

John Shilts, Mary Schwabe, Workers' Compensation Division

A copy of the legislative concept, an analysis, and a fiscal impact statement were provided to the committee. The documents are part of the record. Ms. Schwabe gave the committee a summary of the four main changes in the bill. The changes relate to: 1) temporary rules, 2) changes in attending physician, 3) lump sum payments and 4) Managed Care Organization (MCO) penalties.

Public Testimony:

Beverly Kirk

Ms. Kirk particularly expressed interest in how changing the code on civil penalties from one statute to another may affect management or labor and asked that the department and the committee consider this change carefully.

Discussion: The department will work with the MCOs to determine the appropriate language and statute for the provision on MCO penalties and bring the bill back to the committee. A clarification was requested regarding temporary rules and lump sum payments. Additional clarification was provided by Ms. Schwabe and Mr. Shilts.

Action:

A motion was made and seconded to accept the concept. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Bob Shiprack, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

LC788 Assigned Risk Plan (HB 2250)

John Shilts, Workers' Compensation Division

A copy of the bill, an analysis, and a fiscal impact statement was provided to the committee. The documents are part of the record. Mr. Shilts gave the committee an overview of the assigned risk plan study that was done by the department. Some of the recommendations will require rulemaking and others will require review by NCCI. The recommendation in this bill would require change in statute.

Discussion: Committee asked whether there had been any opposition from insurers. None was expressed.

Action: A motion was made and seconded to support the bill. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Bob Shiprack, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

Sunset Bills:

John Shilts, Workers' Compensation Division

Mr. Shilts provided brief background on the two sunset bills, which were reviewed by subcommittees of MLAC.

LC784 Sunset – Permanent Partial Disability (PPD) (HB 2244)

The department will bring the bill back to the MLAC after an amendment is drafted.

LC786 Sunset – Nurse Practitioners (HB 2247)

The department provided corrections on study materials that were previously presented to MLAC. The documents provide corrections on statistics that were previously submitted to the committee.

Charlie Cheek, Office of Legislative Counsel

The concepts as currently drafted are placeholders to get the bills through the deadline process for pre-session filing. Mr. Cheek has been working on the amendments for both bills and when they are prepared they will be brought back to the committee for review. In addition, Mr. Cheek gave a brief explanation of the complicated nature of removing the sunsets.

Public Comment:

None

Committee Discussion: Members discussed the need to review the changes to PPD awards to review the cost-neutrality.

Action:

A motion was made and seconded to add a provision requiring DCBS to review PPD awards biennially and bring any recommendations to MLAC.

Discussion on the Motion: New committee members are relying on the knowledge and expertise of the department and committee members with more experience in this area.

Action: A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Bob Shiprack, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson.

Motion passed.

Action: A motion was made and seconded to accept LC 784 conceptually as amended. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Bob Shiprack, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

Action: A motion was made and seconded to accept LC 786 conceptually as amended. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Bob Shiprack, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

Public Testimony

John Shilts, WCD

Mr. Shilts asked permission from the chair to review concept discussions the Workers' Compensation Division has been having with industry representatives on a systems issue regarding guaranty contracts. Mr. Shilts provided a brief description of the background of the discussion that has taken place regarding guaranty contracts.

David Lake, Liberty Northwest

Liberty Northwest has participated in a stakeholder group working with the department to address the topic of Guaranty Contracts. DCBS staff has prepared a draft legislative concept to amend statute eliminating the need for guaranty contracts and move to a policy based system. MLAC will be kept informed on the progress.

Shawn Miller, Liberty Northwest

Oregon is the only state that has guaranty contracts. Oregon has an opportunity to review other states experiences in this area and make improvements to the system.

Vern Saboe, Oregon Chiropractic Association

Dr. Saboe provided testimony regarding suggested changes for treatment authority for chiropractors. He provided a response to findings of the survey of the members of the Medical Advisory Committee members. In addition, he responded to testimony given at the Care Provider Subcommittee by Karen McNamee regarding the “come-along” provision. He testified that the Oregon Chiropractic Association recommends the “come-along” provision as well as expanding the number of visits and the duration of treatment for chiropractors.

Mike Mason, Oregon Doctors of Chiropractic (ODOC)

Mr. Mason testified regarding the results of the Care Provider Study and the findings regarding chiropractors. ODOC is working on a bill that would expand the treatment authority of chiropractors.

Johns Schmidt, Oregon Doctors of Chiropractic (ODOC)

Dr. Schmidt testified that ODOC will be working together with the Oregon Chiropractic Association to bring forward a concept to MLAC. In addition, he testified regarding the survey of the members of the Medical Advisory Committee members. He also responded to testimony given at the Care Provider Subcommittee by Karen McNamee regarding the “come-along” provision. Dr. Schmidt testified that the Oregon Doctors of Chiropractic recommends the “come-along” provision as well as expanding the number of visits and the duration of treatment for chiropractors.

Committee Discussion: Members requested clarification regarding testimony about workers who visit a chiropractor and appear to have had a possible injury at work. The provider has the duty to determine whether the claim should be a health claim or a workers’ compensation claim.

Abbie Herman, Roger Pearson, Workers’ Compensation Board

WCB Quarterly Report was submitted to the committee.

Ms. Herman was asked to provide information regarding a case in which a worker was injured in a motor vehicle accident on the way to work. In this specific case there was a specific dollar amount that was paid to the worker while using their personal vehicle. Additional information on this case will be provided at a future meeting. There was also a request for information on the data provided on dismissal orders.

Meeting adjourned at 3:15 pm