

NOTICE OF PUBLIC MEETING
WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE

September 18, 2007
10:30 a.m. – 12:00 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
Bob Shiprack, Oregon Building Trades Council, Portland, OR
John Kirkpatrick, IUPAT District Council, Portland, OR
Greg Miller, Gunderson LLC, Portland, OR
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin, OR
Linda Barno, Schnitzer Steel Industries, Portland, OR
Cory Streisinger, Department of Consumer & Business Services, Salem, OR

Committee Members Excused:

Tracy Brill, Port of Portland, Portland
Ellen Cutler, Harry and David, Medford, OR

Bob Shiprack called the meeting to order at 10:35.

Workers' Compensation Combined Rates announcement

Cory Streisinger, Director, Department of Consumer and Business Services

Ms. Streisinger thanked the committee for their contribution in helping make Oregon's Workers' Compensation system a national model. A press release and associated documents were provided to the committee and are part of the record. The recommended rates for 2008 are as follows: decrease in the "pure" premium rate by 2.3 percent, maintain the premium assessment rate at 4.6 percent (4.8 percent for self-insured employers and self-insured employer groups), and maintain the Workers' Benefit Fund Assessment at 2.8 cents per hour worked in 2008. This represents 18 years in Oregon without a rate increase while increasing benefits to injured workers. Ms. Streisinger gave examples improvements to the system that benefit both workers and employers.

Review Minutes from May 18, 2007 Full MLAC meeting

A motion was made and seconded to approve the minutes as submitted. The vote to approve the minutes as submitted was unanimous.

Introduction of new MLAC member

Linda Barno, Schnitzer Steel Industries, was introduced to the committee and members of the public as a new MLAC member recommended by the governor and confirmed by the Senate. Ms. Barno has a strong background in workers' compensation and is looking forward to working with the committee.

Workers' Compensation Board - Introduction of Holly Somers, WCB Presiding Administrative Law Judge

Workers' Compensation Board (WCB), Abbie Herman

Ms. Herman introduced Holly Somers, new presiding Administrative Law Judge (ALJ). Ms. Somers has worked as an ALG out of the Portland office of the Workers' Compensation Board.

Significant Court Cases

A report of significant cases was provided to the committee and is part of the record. Ms. Herman gave a brief overview of the report.

Ms. Herman also gave a brief summary of rulemaking being done by the Board to implement bills passed in the 2007 legislative session. The Board will also be reviewing rules related to *Jordan v SAIF* regarding own motion jurisdiction. The board will review the rules to determine if the related rule needs revising/recision.

Jerry Managhan, WCD

Mr. Managhan introduced Anna Braun as new staff with WCD taking the position formerly held by Cara Filsinger. Ms. Braun will be helping with MLAC related activities.

Medical Quality Initiative Report

Kevin Willingham, Holly Mercer, Workers' Compensation Division

A memo regarding Medical Quality Initiative Update was provided to the committee. Ms. Mercer and Mr. Willingham gave the committee an overview of changes in the Workers' Compensation Division, which initiated the creation of the medical section. They also gave the committee information on the goals of the section which were recommended by the executive team as a result of the medical quality initiative.

HB2756 Update – The division now has online certification for the four provider groups. Notification was sent to the members of the provider groups. A database will be available so that insurers can verify that a provider is certified. Outreach is also being made to out of state providers.

Committee Discussion: A request was made that efforts be made for follow up on anecdotal reports that physicians are refusing to care for injured workers. Response: The Workers' Compensation Division is working to reduce the burden on physicians and reduce the hassle between physicians and insurers. In addition, the division is looking for ways to get data. MLAC would like updates at future meetings on the progress of the Medical Quality Initiative.

Care Providers in the MCO context

Jerry Managhan, Workers' Compensation Division. A document titled "Executive Summary, MLAC Care Provider Study" was provided to the committee. The document provides information on the various provider types that participate in each of the MCOs. MCOs must demonstrate to the director that they have an adequate number of providers in each category in each geographical service areas (GSA). Mr. Managhan explained the data provided on the

various tables. Rules require a minimum of three providers in each category for an MCO to provide service in a specific GSA. WCD reviews and tracks the MCOs to verify that they have the minimum number of providers in each GSA where they are providing services. If the MCO does not have at least three providers then WCD will allow them to continue to provide services in the area as long as the MCO agrees that the worker can seek services from any provider in the GSA as long as the provider agrees to abide by the terms of the MCO. At this time the MCOs are actively trying to recruit. WCD does not receive complaints that workers cannot see a particular type of provider. The occasional complaint seems to deal with having to wait to see the provider.

Committee Discussion: A request was made for clarification regarding recruitment efforts.
Response: Recruitment efforts are documented efforts to try to get additional providers. There are many GSAs where there is a lack of provider types. Providers can belong to multiple MCOs. The division does not have data about why a specific provider would agree to work with one MCO but not work with another MCO. Some areas are small. The emphasis is that workers have access and they have choice. The Workers' Compensation Division will provide the data to the care providers groups.

Interim Subcommittees:

Ms. Sundstrom asked that a subcommittee also be added to look at significant legal cases. The committee asked to review the case regarding arthritis as well as other cases that have a significant impact on the system. Greg, Sheri, Linda, Bob, and John volunteered to serve on the subcommittee.

Reconsideration

When a worker is determined to be medically stationary, the claim is closed and determinations regarding temporary disability and permanent disability are made. At that time, the worker, carrier, or self-insured employer can challenge those findings and request reconsideration. The request triggers a review over the closure of the claim. WCD staff looks at the findings as well as medical information and often request that another doctor look at worker (medical arbiter exam.) Staff then issues an order on reconsideration. The worker can appeal that decision to a hearing by ALJ at WCB. Mr. Managhan provided a draft interim plan for review of reconsideration including a suggestion for study plan to look at the reconsideration process. Greg, Bob, Linda, and Mike volunteered to serve on the subcommittee. (Sheri will also participate when available.)

Supplemental Disability and Multiple Wage Determinations

When a volunteer is elected for workers' compensation coverage there is an assumed wage and that is used for calculating the workers' compensation premium. If a worker is working more than one job they are entitled to wage determination based on the combined wage of all of the jobs. Some workers who return to work in their regular job but can't go back to the volunteer work could receive more money than they were receiving when they were working because of the combined wage determination. This did not get resolved during session.

Committee Discussion: The original discussion was about people who have two paying jobs. The committee also wants to discuss emergency response volunteers and who is going to carry

their insurance. The committee would like to look at what other states are doing around this issue. Sheri, Linda, Tracy, and John volunteered to participate on the subcommittee.

Death Benefits

SB 835 (2007 Legislative Session) directed the committee to study death benefits. A copy of the bill was provided. A report is due to the legislature in Jan 2009. Mr. Managhan gave a summary of current law regarding death benefits. A document was provided titled Death Benefits Study and is part of the record. Mr. Managhan discussed the suggestions for a framework for the study. Mike, Sheri, and Ellen volunteered to participate on the subcommittee.

Record Retention

A document was provided to the committee regarding records retention providing an overview of the current status. The document is part of the record. The discussion stemmed from SB917 from the 2007 session. Sheri, Mike, and Ellen volunteered to participate on the subcommittee.

Public Testimony: None

Other Business: The Senate will not meet prior to February. Future confirmations will not happen until February 2008.