

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

October 5, 2009
3:00 p.m. – 4:00 p.m.
Conference Room 260, Labor & Industries Building
350 Winter Street NE, Salem, Oregon

Committee Members Present:

Linda Barno, ESIS, Inc., Portland
Lon Holston, Laborers' International, Local 483, Portland
Greg Miller, Gunderson LLC, Portland
Kathy Nishimoto, Duckwall-Pooley Co., Hood River
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin
Jeri Ray, Timber Products Company, Springfield
Sheri Sundstrom, Hoffman Construction Company, Portland
Cory Streisinger, Ex-Officio Member, Department of Consumer and Business Services, Salem

Committee Members Excused:

Tracy Brill, Portland Fire Fighters Association, Portland
John Kirkpatrick, IUPAT District Council, Portland
Bob Shiprack, Oregon Building Trades Council, Portland

INTERPRETERS SUBCOMMITTEE

Lon Holston, subcommittee chair, called the meeting to order at 3:07 p.m.

There was unanimous consent by the subcommittee that the minutes from August 28, 2009 be adopted.

INVITED TESTIMONY – Insurer Representatives

Kara Olsen, Workers' Compensation Division (WCD), explained she contacted many insurers and none of them were able to make it to the subcommittee meeting; however, she did find some consistency in what many of the insurers said about interpreter services. Many of the insurers already pay for interpreter services and they do not have a fee schedule. Most of the insurers said they absorbed this expense into the claim cost.

Mr. Holston asked if any of the insurers mentioned a dispute resolution process. Ms. Olsen said no, several insurers could not recall turning down any interpreter claims. As long as the claim seemed reasonable, they paid for the interpreter services. The insurers appear not to question mileage or anything else; they just pay the interpreter service bill.

Sheri Sundstrom commented when interpreter services are needed for workers' compensation claims, private businesses ask the insurer to provide this service.

INVITED TESTIMONY – Worker Representatives

Jennifer Flood, Ombudsman for Injured Workers (OIW), introduced Alicia Benavidez, Assistant Bi-lingual Ombudsman for OIW. Ms. Flood said the system does not have recourse if there is a dispute regarding interpreter services. There is no rule or law that requires an insurer to pay for interpretive services if it is deemed reasonable to request an interpreter.

Ms. Benavidez explained that when she has an injured worker that is in need of an interpreter, she calls the claim adjuster to let them know and most of the time the insurer authorizes payment for an interpreter. She said in a denied claim some interpreter service bills may not be known until the claim is settled and the worker finds out the services were not covered by the claim. There are times where the interpreter fees were taken out of the worker's settlement to pay for these services. It's the worker's liability for cost of interpreter services if it isn't covered somewhere else.

PUBLIC TESTIMONY

No one signed up to testify.

REVIEW TESTIMONY AND INFORMATION RECEIVED TO DATE – DCBS Staff

Kara Olsen, WCD, presented the Interpreter Services Study follow-up information chart, which outlined the testimony given at interpreter subcommittee meetings to date.

Lou Savage asked when do injured workers receive the *Guide for Workers Recently Hurt on the Job* in three different languages (Spanish, Russian, and Vietnamese)? Ms. Olsen said they receive them twice, when the injured worker receives the 801 and 827 forms.

Mr. Savage asked for the return-to-work program where are interpreter services provided? Ms. Olsen said the most common occurrence is when a work site is being modified, a workers' compensation staff member will take a bilingual person with them. Also, if workers have questions over the phone WCD has many bilingual staff members that can assist. For the vocational training, a bilingual staff from WCD is provided.

Mr. Holston submitted the following written testimony for the record:

- Written testimony from Liberty NW
- Written testimony from A&R Enterprises Inc.
- Written testimony from Providence Health Services

COMMITTEE DISCUSSION – Determine Next Steps

Mr. Holston asked for the subcommittee's input on what the next steps are for the subcommittee. Ms. Sundstrom acknowledged the insurance carriers that already provide interpreter services without being forced to by statute. Ms. Sundstrom wishes to ensure interpreter services are available if it involves a workers' compensation claim. This would facilitate good claims handling and make certain the injured worker understands the process.

Mr. Holston asked about dispute resolution. Ms. Sundstrom said the cost of interpreter services should be part of the claim. When it comes to claims, there are medical and legal components

that make them complicated. If insurers or other parties involved in the claim do not have a bilingual staff, then it makes sense to outsource so they get the best representation for the worker and insurer as well.

Committee members asked WCD staff if changes can be made by rule? Ms. Flood noted her concern for the record; it would not be ok if an in-house insurer's interpreter were to go to a medical appointment with the injured worker. MLAC members agreed with Ms. Flood. Ms. Flood said every worker is entitled to reasonable interpreter services. There is the possibility a dispute could arise regarding whether interpreter services are reasonable from either party.

Ms. Flood added injured workers should have the option for an interpreter or a family member before the medical and legal terminology make it complicated. Workers then have the option of an interpreter if they don't wish their family member to interpret.

Mr. Holston made an important distinction regarding the difference between interpreting vs. translating. He wanted to make sure the committee is not confusing the two.

Jerry Managhan, Deputy Administrator, WCD, answered the question whether WCD has the authority to make this a rule. He said there might be a slim window under the medical section of the OARs where the director could place something for interpreter services. Mr. Managhan recommended if the subcommittee wants to create a specific entitlement, it is better to have in the law where the director can apply the standards to carry out the law. Anything outside of medical services there are no provisions for placing this in rule.

Mr. Savage agreed there might be a way to do the rule in the medical section. Mr. Managhan said the division will have to do more research to determine if the department has the legal authority to place rule language in the medical section of the OAR.

Ms. Sundstrom asked the subcommittee if this issue is just limited to medical issues for interpreter services? The subcommittee reviewed the follow-up information from Ms. Olsen and determined the main issue appears to be medical treatment issues for interpreter services.

Subcommittee members expressed concerns about doctors providing their own interpreter and the injured worker not wanting that interpreter but their own. Providing within reason could be questioned. Mr. Managhan said the department can look at the different options, review the fee schedules, and find some way to resolve disputes if they should arise.

Mr. Savage pointed out the testimony from A&I Enterprises that provides suggestions for a survey to be sent out to interpreters, physicians, and workers. The subcommittee indicated they do not think a survey is necessary.

The meeting adjourned at 4:07 p.m.