

**WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE**

January 16, 2009
10:00 a.m. – 12:00 noon
Conference Room 260, Labor & Industries Building
350 Winter Street NE, Salem, Oregon

Committee Members Present:

Linda Barno, ESIS, Inc., Portland
Tracy Brill, Portland Fire Fighters Association, Portland
Lon Holston, Laborers' International, Local 483, Portland
John Kirkpatrick, IUPAT District Council, Portland
Greg Miller, Gunderson LLC, Portland
Jeri Ray, Timber Products Company, Springfield
Bob Shiprack, Oregon Building Trades Council, Portland
Sheri Sundstrom, Hoffman Construction Company, Portland
Cory Streisinger, Ex-Officio Member, Department of Consumer and Business Services, Salem

Committee Members Excused:

Kathy Nishimoto, Duckwall-Pooley Co., Hood River
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin

Bob Shiprack, committee co-chair, called the meeting to order at 10:04 a.m.

A motion was made and seconded to approve the minutes of October 17, 2008 and December 3, 2008 full MLAC meetings as submitted. All members voted aye. Motioned passed.

Review and Approve SB 835 Death Benefits Study Report

Cara Filsinger, Workers' Compensation Division (WCD), presented the draft death benefits report to the legislature. Ms. Filsinger mentioned the Information Management Division will update a couple of items in the report. She requested MLAC to approve the report, which is a required report to the legislature by the end of January.

Committee members thanked the division and Jennifer Flood for helping put the report together.

Chris Davie, SAIF Corp., outlined several questions and submitted them for the record to the committee regarding the death benefit changes that will be made by SB 110. He mentioned perhaps some of the questions can be resolved through administrative rule changes.

Sheri Sundstrom mentioned Fred Bruyns, WCD administrative rules coordinator, will recognize for rule making that certain people should be notified.

Action: A motion was made and seconded to approve the death benefits study report. All voted aye. Motion passed.

Possible Committee Action on Proposed 2009 Legislation

The department presented the following bills for MLAC approval to move forward in the legislative committee:

- **HB 2195 (LC 487) Vocational Assistance Streamlining**

Action: A motion was made and seconded to recommend HB 2195 to the legislature. A vote was taken and the following members voted aye: Linda Barno, Greg Miller, Sheri Sundstrom, Jeri Ray, Tracy Brill, Lon Holston, John Kirkpatrick, and Bob Shiprack. Motion passed.

- **HB 2196 (LC 488) Forum for Workers' Compensation Disputes**

Action: A motion was made and seconded to recommend HB 2196 to the legislature. A vote was taken and the following members voted aye: Linda Barno, Greg Miller, Sheri Sundstrom, Jeri Ray, Tracy Brill, Lon Holston, John Kirkpatrick, and Bob Shiprack. Motion passed.

- **HB 2197 (LC 489) Workers' Compensation Regulatory Streamlining**

Action: A motion was made and seconded to recommend HB 2197 to the legislature. A vote was taken and the following members voted aye: Linda Barno, Greg Miller, Sheri Sundstrom, Jeri Ray, Tracy Brill, Lon Holston, John Kirkpatrick, and Bob Shiprack. Motion passed.

- **SB 110 (LC 790) Death Benefits**

Action: A motion was made and seconded to recommend SB 110 to the legislature. A vote was taken and the following members voted aye: Linda Barno, Greg Miller, Sheri Sundstrom, Jeri Ray, Tracy Brill, Lon Holston, John Kirkpatrick, and Bob Shiprack. Motion passed.

- **LC 1336 Firefighters Cancer Presumption:** Establishes presumption that certain cancers are compensable occupational diseases for certain nonvolunteer firefighters. Requires certain cities to apply presumption to claims by nonvolunteer firefighters employed by city.

Action: A motion was made and seconded to recommend to the legislature LC 1336 as presented. A vote was taken and the following members voted aye: Linda Barno, Greg Miller, Sheri Sundstrom, Jeri Ray, Tracy Brill, Lon Holston, John Kirkpatrick, and Bob Shiprack. Motion passed.

Reports from Department of Consumer & Business Services Biennial Report Update

Mike Manley, Information Management Division (IMD), presented the 9th Biennial Report on the Oregon Workers' Compensation System for the record to the committee. He explained the report documents the change to the system and the results of those changes and they produce this collaborative report for those that have a stake in the system. Mr. Manley guided members to certain sections of the report.

Discussion: There was discussion surrounding the flowcharts on page 61 of the report. Mr. Shiprack asked about declining denials and thanked the department for the report. He said the report is a tribute to the labor and management success story. Linda Barno thanked the department and mentioned the information contained in the report is very valuable. John Kirkpatrick asked if there is a chart showing the trend of net cash flow in the Workers' Benefit Fund (WBF)?

Follow-up Requests at December 3rd Meeting

AMA 6th Edition Impairment Guides

Barbara Smith, WCD, summarized simplified information and submitted a spreadsheet for the record comparing the AMA 3rd Edition Impairment Guides to the AMA 6th Edition Impairment Guides. Ms. Smith mentioned the 6th edition is drastically different compared to the 3rd and this would require serious research to consider moving to the newer edition.

Discussion: Ms. Sundstrom is interested in what the Medical Advisory Committee (MAC) thinks about moving to the 6th edition. She said this might place more burdens on providers and take longer on claim closure.

Tracy Brill inquired what the department used before the 3rd edition and if there was a plan in place to keep up-to-date with science. Ms. Brill would like to ensure the department is not stuck and out-of-date in medical technologies and standards. Ms. Smith clarified the 3rd edition is not the only tool used to rate impairment, but the 35 rules is an additional method.

Mr. Shiprack said in the past there were no impairment standards. After working with medical providers, the 3rd edition was adopted as a foundation, which provided ratings for impairment.

Vern Saboe, Chiropractors Association of Oregon, commented the evidence based medicine has moved beyond the range of motion. He said the newer AMA versions are part of the movement to make it easy to rate impairment.

Chris Davie, SAIF Corp., said there are claim adjusters that specialize in rating impairment. The 6th edition is substantially different, which means employees would need training in the new methods of rating impairment. He said some states have had some significant debate on whether the 6th edition is good or bad.

Mr. Shiprack suggested letting the experts at MAC handle the issue and not MLAC. Lou Savage, committee administrator, recommended the department present the issue to MAC and possibly put together a work plan to assess the 6th edition. Mr. Savage said given MAC's schedule and the number of times they meet, it might be several months before they can get back to MLAC.

Job Match & Preferred Workers

Barbara Smith, WCD, provided a printout example of the job match Web site in response to the suggestion at the last full MLAC meeting that a list of participating employers should be available for preferred workers to see. Ms. Smith said there is a Preferred Worker Advisor sent out to workers which gives success stories and lists the Web site for job matching.

Ms. Sundstrom asked if there is marketing done by the department for employers to join the job match for preferred workers. Ms. Smith said getting employers to join has always been a challenge, however; the department plans to begin sending out a newsletter to employers to discuss what's happening with the preferred worker program. Mailings and notices are also sent to potential employers.

Mr. Shiprack asked if the division has talked to the Employment Department. Ms. Smith said yes they have been working and communicating with the Employment Department for many years.

Research on Changes to Chiropractors and Impairment Findings (HB 2756)

Kevin Willingham, WCD, said he did not find any evidence of discussion in the MLAC minutes or previous meeting materials regarding changes to language that limited chiropractors doing impairment ratings. Mr. Willingham said there will be a bill to restore the ability of chiropractors to rate impairment introduced by Dr. Vern Saboe.

Ms. Sundstrom believes the changes were a mistake and should be fixed.

Ms. Sundstrom mentioned she would like to discuss the Medicare mandatory insurer reporting requirements at the next full MLAC meeting. She believes the reporting could have an impact on settlements and people should be aware of the requirements.

John Shilts, Administrator, WCD, said the department will give an update on the accepted disabling claims rate at the next full MLAC meeting.

The meeting adjourned at 11:20 a.m.