

WORKERS' COMPENSATION MANAGEMENT-LABOR ADVISORY COMMITTEE

February 13, 2009
11:00 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
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
Bob Shiprack, Oregon Building Trades Council, Portland
Sheri Sundstrom, Hoffman Construction Company, Portland

Committee Members Excused:

Tracy Brill, Portland Fire Fighters Association, Portland
Lon Holston, Laborers' International, Local 483, Portland
John Kirkpatrick, IUPAT District Council, Portland
Cory Streisinger, Ex-Officio Member, Department of Consumer and Business Services, Salem

Bob Shiprack, committee co-chair, called the meeting to order at 11:04 a.m.

Approval of the minutes was postponed due to lack of labor member quorum.

Subcommittee Reports

Significant Court Cases

Sheri Sundstrom reported the subcommittee has narrowed their focus to two main issues: occupational disease and statute of limitations. Ms. Sundstrom said she discussed the work group formed at the last subcommittee with Mr. Shiprack and decided it would be best to have a subcommittee on this specific topic during the interim. Ms. Sundstrom volunteered to chair and the following members volunteered to participate: Linda Barno, Mike O'Rourke, Bob Shiprack, Jeri Ray, Lon Holston, and Kathy Nishimoto.

Mr. Shiprack said no one has looked at this issue for over 20 years and he believes it is time to review occupational disease. The courts and workers' attorneys have said the statute needs some work. He would like to proceed the right way, get all the facts, data, and make a logical conclusion on whether the statute needs amendments. Ms. Sundstrom added she would also like to review giving notice requirements.

Department of Consumer & Business Services (DCBS) Updates

Update on Permanent Partial Disability (PPD)

Mike Manley, DCBS, Information Management Division (IMD), presented the PPD biannual updates and submitted a PowerPoint presentation and 2009 report for the record.

Jeri Ray and Kathy Nishimoto requested a copy of the original PPD study from 2001.

The committee discussed situations where a worker is awarded a large PPD benefit and fellow co-workers find out about the award and wonder why the injured worker continues working at the same job site. Employers try very hard to keep the worker employed there, however; the employer does not get credit for doing this even though they use a preferred worker program.

Linda Barno commented even after all the radical changes to PPD there seems to be no real trend in the system. It appears the trends are about even with the old PPD data. Greg Miller commented there is not much change because of the safety programs and preferred worker program in place. Mr. Manley concluded there really are not any surprises in the PPD report.

Ms. Sundstrom asked if other states have looked at Oregon's PPD system changes. Mr. Manley said he knows of several states that have looked at pieces of it rather than the whole program since Oregon is unique. There were questions about how the department estimated what it would cost. Jerry Managhan, Deputy Administrator, Workers' Compensation Division (WCD), said the PPD process is easier and has not created additional problems in the system.

John Fowler, Liberty NW, said they still have to have a specialized unit to exclusively do PPD. He had a questions and comments about figure two of Mr. Manley's PowerPoint presentation.

Chris Davie, SAIF Corp., said they also have a specialized group of people that rate impairment and PPD. SAIF has not looked at their internal numbers to compare to Mr. Manley's presentation, but Mr. Davie is sure they are probably very similar.

Update on Accepted Disabling Claims Rate

Jerry Managhan, WCD, reported the frequency of claims has dropped significantly along with the drop in the economy. He submitted an informational chart for the record. Mr. Managhan said the trend has been when people are laid off, claim frequency and severity of the claims drop. Starting in November and December, the claims that have come in have dropped 19%. This is a very significant change and is consistent with the general economy. Mr. Managhan expects as the economy recovers, new businesses open with new workers so there might be a slight increase in claims.

2009 Legislation

- LC 2761 State Employee Return-to-to work – Requires Oregon Department of Administrative Services to adopt process to identify entry level and light duty assignments for injured state workers.

Mary Botkin, American Federation of State, County and Municipal Employees (AFSCME), explained the need for the state employee return-to-work program to be placed in statute. She said the Department of Corrections is the largest problem and she gave a specific example of a corrections officer whose knee was injured and targeted by inmates several times. The doctor said the officer can only have limited contact with inmates. Ms. Botkin then looked at the law and the State of Oregon did not have a return-to-work program for their employees. She said all the bill does is say the state is one employer for return-to-work and rates. She wishes to codify what is in current practice already through administrative rules. Ms. Botkin believes it will reduce costs for the state and relieve anxiety for people.

Ms. Botkin said the bill was a little broad initially and it needed clarification to be sure it only looked for employment in the judicial branch. They have requested amendments at the request of Mark Rasmussen with the Department of Administrative Services (DAS). Ms Botkin explained briefly the requested amendments. She expects DAS to support the bill with amendments at this point.

There was committee discussion and clarification made regarding whether an injured worker would get open positions over the person that might be more qualified. Chris Davie, SAIF Corp., said he does not think the bill changes the method with which the worker is reemployed. He said this bill makes sure that all state agencies are like one big employer and this is no different than private industry having the obligation to reemploy injured workers.

Mr. Shiprack noted MLAC members did not appear to have problems with the proposed legislative concept.

Appointment of Subcommittee on Volunteer Issue

Jeri Ray volunteered to chair the subcommittee and Kathy Nishimoto volunteered to be a member or help chair. Tracy Brill and Lon Holston mentioned to the co-chairs before the meeting they would like to be members of the subcommittee as well.

The next full MLAC meeting will be February 27, 2009, at 10:00 a.m.

Meeting adjourned 12:14 p.m.