

Meeting minutes: Workers' Compensation Advisory Council

Date: Sept. 13, 2023

Minutes prepared by: Alyssa Westergard, executive secretary to the Workers' Compensation Advisory Council

Location: Department of Labor and Industry, Minnesota Room, 443 Lafayette Road N., St. Paul, MN

Attendance

Members attended

Bill Gschwind
Bernie Burnham
Burt Johnson
David Henrich
John Thorson
Lauryl Schothorst
Maggie Hobbs
Matthew Schmidt
Sen. Jennifer McEwen
Sen. Paul Utke
Sophie Thaden

DLI staff members attended

Commissioner Nicole Blissenbach
Assistant Commissioner Kate Daly
Alyssa Westergard
Ann Tart
Brian Mak
Carey Wagner
Donna Olson
Jeanne Vogel
Jessica Stimac
Josiah Moore
Karen Kask-Meinke
Laura Zajac
Melissa Parish
Mike Hill
Pam Carlson

Visitors attended

Alison Khan, WCRA
Amy Erving
Amy Kockelman
Auntara De, MWCIA
Bette Zerwas, North Memorial
Brad Lehto, MN AFL-CIO
Carrie Jacobson, Brown and Carlson
Carla Ferrucci, MAJ
Dana Gerber, Atkinson Gerber
Daniel Gillis
Deb Norsten
Jerry Sisk, MAJ
Joel Carlson, MAJ
John Reynolds, NFIB
Julie Benfield, Trial Group North
Katie Kottenbrock, MNA
Katie Storms, MDLA/Lind Jensen
Kim Lewis, MN MSBA
Laura Mundt, Mayo
Lauren Waver, MEWCA
Liam Biever, LMC
Nicole Van Heel, Bauer Design Build
Peter Lindquist, SFM
Sarah Hunter, SFM
Steve Scharfenberg, SFM
Suzanna Kennedy, MEWCA

Call to order and roll call

Commissioner Nicole Blissenbach called the meeting to order at 9:40 a.m. A roll call was taken and a quorum was not present.

Approval of the minutes and agenda

Today's agenda and the minutes from April 20, 2023, were unable to be approved because there was not a quorum.

Announcements

Commissioner Blissenbach said implementation of the changes related to the Workers' Compensation Advisory Council bill had been going very smoothly. She also noted there has been a renewed focus on worker misclassification. There is a new task force assigned to the matter, of which the commissioner is a member. She will keep the council updated about the progress of the task force, especially as it relates to the workers' compensation system.

Assistant Commissioner Kate Daly updated the council about the progress of the post-traumatic stress disorder (PTSD) study. She noted the Department of Labor and Industry (DLI) is finalizing the contract with the University of Minnesota, which will be leading the study. DLI hired additional staff members to assist with the study. Daly asked that interested stakeholders contact her for additional information.

Agenda Items

1. **MWCIA Ratemaking Report – Auntara De, MWCIA**

Auntara De addressed the council to give an overview of MWCIA's Ratemaking Report.

There are two main components that led to changes in the ratemaking report: experience only; and the changes in House File 2988. The primary drivers in this component were the increase to the permanent partial disability (PPD) schedule and the decrease to the Hospital Outpatient Fee Schedule (HOFS). The other components MWCIA looks at are the state average weekly wage increase and the loss-adjustment expense. These components all add to the significant experience-only decrease. Combining all of those impacts resulted in a 10.3% decrease indication for the 2024 pure premium base rates.

De said the past 10 years of cumulative decreases in the pure premium base rates has resulted in an overall drop of 28% since 2015. She also noted that because of the impact of COVID-19, MWCIA has found the data from 2020 is not a reliable indicator of the workers' compensation experience.

De reviewed the benefits on the indemnity side of claims. She said the average cost per case for indemnity benefits has increased, but is not quite to the level seen in the state average weekly wage. As for medical benefits, the cumulative changes on the medical average cost per case have been significant.

2. Minnesota Association for Justice legislative proposals – Jerry Sisk, Mottaz and Sisk Injury Law

Jerry Sisk addressed the council, noting the Minnesota Association for Justice (MAJ) would bring specific language at a later time.

MAJ potential proposals include:

- removing the statutory cap on attorney fees;
- adding employer contributions in the calculation of an injured worker's average weekly wage;
- combining the maximum allotment of temporary partial disability and temporary total disability;
- requiring a form to provide notice when discontinuing vocational rehabilitation benefits;
- allowing an injured worker to bring medical bills forward for consideration on their own if the provider's intervention interests are extinguished;
- determining additional penalties and enforcement;
- obtaining further information about the reasons it takes so long to receive independent medical examinations; and
- having court certified interpreters available for evidentiary hearings and other formal matters.

Members of the council raised questions about these proposals, as well as the data supporting them. The commissioner and assistant commissioner said DLI would not be able to provide some of the data requested because it is outside of the department's purview or is simply not data that is recorded.

Other business

The next Workers' Compensation Advisory Council meeting is tentatively scheduled for Oct. 11, 2023.

Adjournment

Commissioner Blissenbach adjourned the meeting at 11:10 am.

Respectfully submitted,
Alyssa Westergard, executive secretary