



**Rehabilitation Review Panel
April 7, 2016 meeting minutes**

RRP members present

Carl Crimmins
Dr. Russell Gelfman
Dr. Richard Hills
Steve Hollander
Laura Jerde
Dr. Stephen Jobe
Margaret Kasting (by telephone)
Carol Norris
Alissa O'Hara
Bobbi Pearson
Mary Wells

Nonvoting members excused

Duane Butorac
Chris Leifeld, assistant commissioner
Scott Parker
Lisa Weed

Visitors and DLI staff members present

Jody Austreng
Sandy Barnes
Kate Berger
Jon Brothen
Tim Flaherty
Sonya Herr, executive secretary
Mike Hill, business liaison
Mark McCrea
Patricia Munkel-Olson
David Musielewicz
John O'Loughlin
Donna Olson
Jessica Stimac
Jeanne Vogel
Darci Wing
Brian Zaidman

Call to order

Vice Chairman Russell Gelfman called the meeting to order at 1:04 p.m. A quorum was met.

Approval of minutes

Carl Crimmins moved and Stephen Jobe seconded to approve the Jan. 7, 2016, meeting minutes as printed. All voted in favor and the motion carried.

Approval of agenda

Jobe moved and Alissa O'Hara seconded to approve the April 7, 2016, meeting agenda with the change in presenter order. All voted in favor and the motion carried.

Assistant commissioner's update by Jon Brothen

- Pending workers' compensation legislation includes clarifying the role of the Workers' Compensation Court of Appeals as related to attorney fees.
- Workers' Compensation Modernization Project: Brad Morse has been hired as project director and an information technology consultant RFO has been posted.

Rehabilitation-related items

MARP – Minnesota Rules 5220.1900 rule revision request

Steve Hollander, as a Minnesota Association of Rehabilitation Providers (MARP) representative (visit www.marponline.com), spoke to the panel about his March meeting with the Workers' Compensation Insurers' Task Force (WCITF) and proposed rehabilitation rule changes. This included the elimination or adjustment of the qualified rehabilitation consultant (QRC) fee reduction cap for cases reaching \$3,500 or 39 weeks, and to increase QRC services during job search beyond the current two-hour time limit. MARP suggested raising the QRC fee reduction cap to \$7,541 and indexing it to inflation. It was further proposed QRC service time be raised to 10 hours a month. MARP requested a decision from the panel about the proposed Minnesota Rules 5220 changes and requested those changes be recommended to the Department of Labor and Industry (DLI) for amendment. Hollander reported WCITF was sympathetic to the need to raise the fee reduction cap, but questioned how the 10-hour limit was determined.

Crimmins initially suggested raising the proposed increased hour limit incrementally or proposing a range of hours to make the request more palatable to DLI. Carol Norris stated Minnesota Rules 5220.1900, subp. 2, gives insurers a mechanism to object to any QRC billing deemed "unreasonable or unnecessary" and suggested

eliminating the two-hour limit. Following this, Crimmins agreed that since insurers could object at any point, that the cap be eliminated.

Meg Kasting noted WCITF's discussion that the fee reduction cap be indexed to inflation before the \$10 discount is taken. She stated it may be premature to have DLI amend the rules. She felt the statement of need and reasonableness (SONAR) from the original rule development should be reviewed to determine why QRC service time had been limited to two hours during job search and QRC fees reduced after \$3,500 or 39 weeks. Kasting indicated she would like to see continued conversation with those who would be impacted by the rule changes.

Hollander moved that the panel recommend to DLI that Minnesota Rules 5220.1900, subp. 1f and subp. 6a, be amended so the \$10 fee reduction would apply to cases costing more than \$7,541 or lasting longer than 39 weeks, and that it be indexed annually to the statewide average weekly wage (SAWW). He further moved that QRC service time during job search be increased from two hours total time to six hours of professional time, with travel time excluded. Crimmins seconded. A majority voted in favor and the motion carried.

Research and Statistics – Review of settlement outcomes

Brian Zaidman, DLI Research and Statistics, addressed panel questions about the R-8 settlement outcomes PowerPoint presentation related to return-to-work wages and services for rehabilitation plans closed due to settlements or agreements. The statistics show that plan closures by settlement have not increased and there has been no change in the percentage of return-to-work (RTW) settlements since 2009. Additionally, RTW wage ratios have increased after the recession for all plan-closure types.

QRC service invoices – Insurer nonpayment

O'Hara addressed the panel about insurer nonpayment and/or why parts of QRC invoices were being denied both before and after a rehabilitation file is being litigated. She reported the workers' compensation statutes, Minnesota Statutes § 176.106, requires conferences about rehabilitation plans be scheduled within 21 days unless there is good cause for delay. The law requires QRCs to continue to provide reasonable services under the rehabilitation plan until the date the conference is first scheduled. There is no language that requires QRCs to provide rehabilitation services free of charge. QRCs are seeing an increasing number of files where invoices on approved rehabilitation plans are not paid until the date of the conference. Furthermore, insurers are not objecting to the rehabilitation plan, as required by Minnesota Rules 5220, nor are they paying QRCs for their services through the administrative conferences.

Bobbi Pearson made a motion that was seconded by Jobe to place this topic on the July agenda for further discussion. All voted in favor and the motion carried.

Department of Labor and Industry ombudsman program

DLI Ombudsman David Musielewicz reported his office provides advice and assistance to employees and small businesses that need help understanding and navigating the workers' compensation system. The ombudsman helps injured workers understand their rights and obligations under the law, and how to prepare for settlement negotiations or mediation. The ombudsman also contacts other parties to help resolve disputes and makes referrals to other available resources.

Other business

Agenda items for the next meeting:

- Insurer nonpayment of QRC invoices; and
- Lack of 5220 rules for transitional work programs (Minnesota Statutes § 176.108, Light-duty work pools).

Contact Chairman Duane Butorac and Business Liaison Mike Hill with agenda items for the meeting.

Adjournment

Richard Hills moved to adjourn the meeting and O'Hara seconded. All voted in favor and the motion carried.

Next tentative meeting dates

The next meeting is July 7, 2016, 1 to 3 p.m. After that, meetings are scheduled Oct. 14, 2016, and Jan. 5, 2017.