

Meeting Minutes: Rehabilitation Review Panel

Date: 04/05/2018
Minutes prepared by: Patty Rutz
Location: Minnesota Department of Labor and Industry

Attendance

RRP Members Present

Duane Butorac (Chair)
Russell Gelfman, M.D. (V. Chair)
Ken Askew
Steve Hollander
Carl Crimmins
Richard Hills, DC
Margaret Kasting
Alissa O'Hara
Scott Parker
Mary Wells (via phone)
Chris Leifeld
Patricia Rutz
Mike Hill

Visitors/DLI Staff

Jon Brothen, DLI
Matt Jobe, DLI
Nancy Kuntz, Encore
David Musielewicz, DLI
Jessica Stimac, DLI
Jeanne Vogel, DLI
Brian Zaidman, DLI

Excused:

Dan McConnell

Call to Order

Chair Duane Butorac called the meeting to order at 1:05 p.m. A quorum was met. The Chair told the group that member Mary Wells was attending via teleconference.

Approval of Minutes

Butorac asked for a motion to approve the minutes from the last meeting. Carl Crimmins asked for a correction of the minutes on page two, paragraph two to correct his first name incorrectly spelled Carol. Meg Kasting also pointed out from the last meeting, we were to follow more "green" procedures and not print out meeting documents. Deputy Commissioner Chris Leifeld agreed and said that it is a continuing process to create less

paper and the department is slowly transitioning. Alissa O'Hara moved and Laura Jerde seconded to approve the January 4, 2018 meeting minutes with the correction noted. A vote was taken and the motion carried.

Approval of Agenda

Crimmins moved and Scott Parker seconded to approve the April 5, 2018 meeting agenda as printed. A vote was taken and the motion carried.

Deputy Commissioner's Update – Chris Leifeld

Safety Announcements. Chris Leifeld asked if there were any safety concerns from the members that needed to be addressed. Russell Gelfman noted snow buildup by the front door. Leifeld stated that that would be addressed. Leifeld told the group that there is some work going on in the building so that might be something to be aware of with workers coming and going.

Legislation. Leifeld distributed a summary of House File 3873, which is the Workers' Compensation Advisory Council's current legislative proposal. He explained the bill was going to be heard in the Ways and Means committee in the House of Representatives. The state Senate also has a bill, which is not in final form as yet.

Leifeld explained that section one of the bill relates to pay parity bill. Last year OAH judges received a raise, but the Workers' Compensation Court of Appeals judges were not included in the legislation. The proposal makes the wage scales more equitable for the two court systems. There is money set aside to fund this proposal. Section two allows for retired judges to serve on the Workers' Compensation Court of Appeals' panel when needed for a quorum.

Section three relates to the workers' compensation identification number (WID) and the allowance of DLI to provide the WID numbers to attorneys for the claimant, intervenors, or to an employee's QRC.

Section four relates to the Office of Administrative Hearings (OAH) and the workers' compensation imaging system. Currently, everything needs to be filed with DLI, but as of June 1, litigation documents related to OAH will only be filed at OAH. All other documents will be filed with DLI. We are referring to this as the "split filing system."

Two other issues that may be brought up by the WCAC for legislative consideration: First issue is the reform of the payment system for outpatient hospital care and ambulatory surgery centers. There continues to be dialogue between the hospitals and insurers on this issue. It is possible that some language changes may be passed by the WCAC in the few weeks. This type of proposal would possibly be amended onto the bill when it gets to the floor of the house or senate.

The second possible issue, which has been a focus at the recent WCAC meetings is Post Traumatic Stress Disorder (PTSD) and the presumption language for first responders. Nothing has been agreed to as yet. The labor representatives are in support of adding the presumption for the first responders. The business side has taken a different approach of requiring the department to create rules or treatment parameter guidelines for the injured workers. That issue may come up at the WCAC again but there is a possibility that it may be amended onto the bill in either the house or the senate.

Crimmins asked a question about section four, number 4 concerning “objections to a penalty assessed.” Is there a time limit if you are going to object to a penalty, does this have to be in a certain amount of time? A DLI staff member in the audience was able to answer the question stating 30 days is given to object to the penalty. Also, Crimmins asked who determines the diagnosis for PTSD. Leifeld answered a physician will have to confirm the diagnosis of PTSD.

Leifeld spoke about the DLI’s workers’ compensation technology modernization project. There are negotiations currently with one vendor and the department hopes to have a vendor in place in the next couple of months. This will be a two year project once the vendor selection is completed. Brad Morse, the project manager, will be brought back again at a future meeting of the Panel to discuss the process.

Agenda Items

1. Proposed Rehabilitation Rule Revisions

Jon Brothen and Matt Jobe discussed the handouts concerning the proposed rehab rule revisions. A draft of the rules are attached to these minutes.

Jobe gave an update on the previously approved 5220.1900 section. The department has proposed a hearing date and requested formal approval from an Administrative Law Judge to move forward. There should be some notification from the ALJ the week of April 9. At that point, the department will send out a notice of intent to adopt the rules.

5220.0100; 5220.1410; 5220.1510; 5220.1610; 5220.1710; and 5220.1750

Brothen explained that the above sections are in rough draft form and ready for discussion and comment. He briefly explained each of the section changes and why it was necessary. There was some discussion about how the different versions of the rules can be written as to show each different version after the changes. Brothen and Jobe said going forward they will try to clarify what changed from the last version reviewed by the RRP.

2. 2016 Workers’ Compensation System Report – Vocational Rehabilitation

Brian Zaidman from DLI Research and Statistics represented the annual report to the panel members. Some key takeaways from the presentation:

- The number of people entering vocational rehab has been stable in the last few years;
- The number of indemnity claims and vocational rehabilitation claims have been stable;
- Workers are getting into vocational rehabilitation sooner;
- Stable percentage of workers returning to work;
- Medical benefits are the largest workers’ compensation expense; and
- Workers returning to a different employer are finding much better wages than in previous years.

All of the above information is taken from the WC system report which will be available by the end of April 2018.

Other Business

Chair Butorac asked the panel if there were any agenda items for the next meeting. None were offered so panel members were reminded to contact Mr. Butorac or Mike Hill if they wanted items placed on the April agenda.

Gelfman asked if a mailing that was sent to panel members from a member of the public would be addressed. He questioned if there was something that needed to be done. Leifeld responded that due to data privacy the department couldn't discuss the matter. Mike Hill also responded advising panel members to not discuss the matter between themselves.

RRP Meeting Dates

Chair Butorac announced the next meeting date: **July 12, 2018.**

Adjournment

Crimmins made a motion to adjourn the meeting at 2:05 p.m., it was seconded and all voted in favor to adjourn and the meeting was closed.

Respectfully submitted,

Patricia Rutz, Executive Secretary

Rehabilitation Review Panel