

Rehabilitation Review Panel minutes – July 13, 2017

RRP members present

Duane Butorac (chairman)
Russell Gelfman, M.D. (vice chairman)
Chris Leifeld
Steve Hollander
Bobbi Pearson
Carl Crimmins
Richard Hills, DC
Alissa O'Hara
Nicole Kilgo, DC
Ken Askew
Mary Wells (via telephone)

RRP members absent

Lisa Weed
Steve Patton
Margaret Kasting
Scott Parker

Visitors and DLI staff members present

Kate Berger, DLI
Kerry Giang-Davies
Mike Hill, DLI (business liaison)
Matt Jobe, DLI
Mark McCrea, DLI
Bridget Richardson
Aaron Scherk
Kip Smith
Jessica Stimac, DLI
Jeanne Vogel, DLI
Darci Wing, DLI

Call to order

Chairman Duane Butorac called the meeting to order at 1:05 p.m. A quorum was met. The chairman reminded the group that because there is one member, Mary Wells, in attendance via telephone conference, please identify yourself when commenting.

Approval of minutes

Dr. Russell Gelfman moved and Carl Crimmins seconded to approve the April 6, 2017, meeting minutes as printed. All voted in favor and the motion carried.

Approval of agenda

Alissa O'Hara moved and Bobbi Pearson seconded to approve the July 13, 2017, meeting agenda as printed. All voted in favor and the motion carried.

Assistant commissioner's update – Chris Leifeld

Assistant Commissioner Chris Leifeld introduced Nicole Kilgo, D.C., as the new appointee to the Rehabilitation Review Panel (RRP), filling the open chiropractic provider position. Additionally, Dan McConnell has been appointed to the RRP in the labor alternate position, but is unable to attend today due to a prior commitment.

Leifeld also reminded the group the Department of Labor and Industry (DLI) will be having a 2017 Workers' Compensation Summit on Sept. 19 and he invited the members and attendees to review the announcement in the agenda packet. It will be a one-day session at the University of Minnesota's St. Paul Campus (near the fairgrounds) with no taxpayer dollars used to fund the event.

In his legislative update, the assistant commissioner said the Workers' Compensation Advisory Council (WCAC) legislative proposal was passed by the Legislature and signed by the governor. However, there was one issue that was not approved by the WCAC: the post-traumatic stress disorder (PTSD) presumption legislation for first responders. The PTSD presumption language was added as an amendment on the floor of the Senate and passed, but ultimately was not a part of the legislation that became law. The department continues to work with the interested parties regarding this issue.

Leifeld also updated the RRP about the Workers' Compensation Modernization Project (WCMP) and indicated there are some issues that will need to be addressed during the 2018 legislative session.

Carl Crimmins asked if it will be necessary to ask the Legislature for more funding for the modernization project. Leifeld indicated the WCAC and the Legislature have already approved \$16 million for the project, little of which has been spent so far, and the request for proposals (RFP) for implementation will be going out later this month. If necessary, the department may go back to the Legislature to request more funding, but that is yet to be determined.

Agenda items

I. 2015 Workers' Compensation System Report – Dispute resolution

David Berry, DLI Research and Statistics, provided a slide presentation to the panel about dispute rates, outcomes and timelines involving processes conducted by the Office of Administrative Hearings (OAH) and DLI. Berry indicated the information he is presenting today is available on the DLI website for public viewing.

- The percentage of claims with disputes, attorneys and settlements has increased. During the past three years, the percentage of claims denied without payment have increased and this development has accounted for an increase in the overall denied claim rate.
- DLI has jurisdiction regarding medical and vocational rehabilitation disputes, unless the disputes are referred to OAH. OAH has jurisdiction of discontinuance disputes, claim petition disputes and appeals of administrative conference decisions issued by DLI. OAH and DLI conduct mediation sessions.
- One of the first steps in the dispute resolution process at DLI is dispute certification. The dispute certification process requires attorneys representing injured workers to consult with DLI before charging fees for services connected to medical or vocational rehabilitation issues. DLI subsequently determines if the issue is

disputed and tries to resolve it. If the issue is resolved, the matter is not certified. If the issue is not resolved, the matter is usually certified and an administrative conference may be scheduled.

- Since 1999, the certification rate for medical and vocational rehabilitation issues has declined significantly. This decline is primarily attributable to DLI's success in resolving these issues. The percentage of medical issues certified is higher than the percentage of vocational rehabilitation issues certified.
- At DLI, from 2014 through 2016, the largest category of outcomes for certified disputes were cancellations of administrative conferences and withdrawals of medical or rehabilitation requests. Forty-three percent of conferences or requests involving medical issues were canceled or withdrawn and 47 percent of conferences or requests involving rehabilitation issues were canceled or withdrawn.
- Resolutions by informal interventions occurring before and after the dispute certification process accounted for 66 percent of dispute resolutions at DLI, from 2014 through 2016.

II. Proposed rehabilitation rule revisions

Jon Brothen and Matt Jobe presented about the proposed rehabilitation rule revisions.

Brothen told RRP members the department has been putting out drafts of the rehabilitation rules. Today's presentation is the most recent version of the draft language arising from comments and feedback. The main areas the department has focused on for the past year or so are Minnesota Rules 5220.1900, subparts 1f and 6a. The major change from the earlier drafts is that subpart 1f is eliminated entirely, that was the \$10 fee-reduction taken by qualified rehabilitation consultants (QRCs) when rehabilitation plans exceed 39 weeks or \$3,500, whichever comes first.

To account for the subpart 1f removal, there are subtle changes made to 1b and 1c. Subpart 1b is not really a technical change, but has some added language. Subpart 1c has a major change where the maximum QRC rate is adjusted. The rate the department has proposed is \$101.58 an hour, which is subject to change.

In subpart 6a, the department determined, based on feedback, to increase the current two hours of QRC time during a job search to six hours, which more closely reflects current practice. Additionally, reasonable and necessary language was added that ties the rule to subpart 2.

The estimated economic effects of these changes are rather minimal. The benefit of doing this is that the billing rate will not be affected by the plan length or complexity, one of the main comments the department heard during this process. And, the bigger issue, is that both QRCs and insurers may see cost savings resulting in less friction costs.

The next step for the department is sending out communications asking for additional stakeholder input and comments. The main issue will be a cost analysis provided by interested parties if the department adopts these amendments. Brothen encouraged stakeholders to get in touch with the department to provide feedback. Steve Hollander asked if the department is still taking comments, which Brothen confirmed.

III. Filing with Compliance, Records and Training, and workers' compensation modernization

Brothen shared an update with the RRP about the direction of the WCMP and how this will impact parties involved. The project anticipates future reporting and interaction between DLI and its stakeholders will be close

to 100 percent electronic. Special exceptions will be made for injured workers impacted by the changes. Additionally, all rehabilitation provider registration, investigations, etc. will be done through the new web portal.

O'Hara commented that in many cases the software QRCs currently have for online R-form reporting is not conducive to the system. Brothen said one of the benefits of the modernization project will be that all the parties involved in a file will have access to what they need to complete the file. He encouraged the group to send questions and comments to him (jon.brothen@state.mn.us). Askew said his office uses the portal and asked that when planning is done if providers will be invited to participate. Leifeld indicated stakeholder involvement will be requested after the request for proposals are considered and details are put together. Crimmins brought up privacy factors involved with having personal information online. Brothen said security is DLI's number one concern. The new system will give the parties easier access to the same files they can see today. Access to personal data will still be limited only to those who have the right to access it.

Other business

Chairman Butorac asked the panel if there were any agenda items for the next meeting. Because there were none, he encouraged members to send items to either him or to DLI business liaison Mike Hill.

RRP meeting dates

Chairman Butorac announced the next meeting dates: Oct. 12, 2017, and Jan. 4, 2018.

Adjournment

Crimmins moved to adjourn the meeting and O'Hara seconded. All voted in favor to adjourn and the meeting was closed.

Respectfully submitted,
Patricia Rutz, executive secretary
Rehabilitation Review Panel