

## Meeting minutes: Workers' Compensation Advisory Council

Date: Jan. 25, 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 55155

### Attendance

#### Members attended

Bernie Burnham

Burt Johnson

Colin Beere

Doug Loon

Maggie Hobbs

Matthew Schmidt

Sophie Thaden

#### DLI staff members attended

Commissioner Nicole Blissenbach

Assistant Commissioner Kate Daly

Ann Tart

Alyssa Westergard

Brian Mak

Brian Zaidman

Carey Wagner

Christopher Leifeld

Ender Kavas

Ethan Landy

Hared Mah

Jeanne Vogel

Jessica Stimac

Jon Brothen

Josiah Moore

Jessica Stimac

Karen Kask-Meinke

Laura Zajac

Lila Zarins

Lisa Wichterman

Michelle Doheny

Mike Hill

Nichole Sorenson

#### Visitors attended

Aaron Cocking

Adam Fowler, Optum

Adam Wolkoff, OAH

Andrea Everling, MWCIA

Andrew Essling, MCIT

Andrew Morrison, KMCH Law

Auntara De, MWCIA

Brad Lehto, AFL-CIO

Carrie Jacobson, Brown and Carlson

Carla Perrucci, MAJ

Dan Dwight, Stinson LLP

Dan Greensweig, LMC

Danny Gillis, Minnesota Senate

Darin Richardson, LMC

Dave Kaiser, SFM

Elizabeth Appel

Evan Cordes, Aafedt Forde

Gary Westman

Heather Tidmore, Minnesota Townships

James Heer, WCRA

Jennifer Wolf, MWCIA

Jessica Stoeckman, SFM

Joe Schindler, MHA

John Hollick, SFM

John Kysylyczyn

Jon Kelly, Department of Commerce

Julie Benfield, Trial Group North

Kara Huberty, LMC  
Karen Ebert, MCIT  
Kathy Bray, SFM  
Katie Storms, Lind Jensen  
Katie Winge, LMC  
Laura Mundt, Mayo  
Lauren Weaver, Stinson LLP  
Liam Biever, LMC  
Michael Tupy

Peter Lindquist, SFM  
Rebecca Yang, WCRI  
Sandy Stoddard, Wilson McShane  
Sara Payne, Department of Commerce  
Sarah Hunter, SFM  
Sarah Groskreutz  
Scott Brener  
Shawna Holewinski  
Suzanna Kennedy, Stinson LLP

## Call to order and roll call

Commissioner Nicole Blissenbach called the Workers' Compensation Advisory Council meeting to order at 9:35 a.m. A roll call was taken and a quorum was not present.

## Approval of the minutes and agenda

No votes were taken because a quorum was not present.

## Announcements

Commissioner Blissenbach informed the council that Minnesota House of Representatives minority leadership appointed Rep. Joe McDonald as a legislative liaison.

Assistant Commissioner Kate Daly gave an update about the MAJ and MDLA efforts regarding a joint legislative proposal.

## Agenda items

### **1. Minnesota Hospital Association HOFs presentation response and Minnesota Nurses Association PTSD presumption response – Joe Schindler, MHA**

Joe Schindler reminded the council the Minnesota Hospital Association (MHA) had supported an updated hospital outpatient fee schedule (HOFs) in 2018 if the fee schedule led to predictable and reliable reimbursements. A stipulation to an updated outpatient fee was that there would not be a rate cut until the Department of Labor and Industry (DLI) conducted a study to assess insurers' compliance with timely and accurate payments at least 80% of the time.

DLI's study concluded insurers were meeting state-mandated requirements for timeliness and accuracy. Schindler claimed the data was faulty because it was not a new survey but simply a review of the old survey looking for common claims data between insurers and hospitals. Schindler stated the median hospital operating margins were negative in 2022. That, coupled with the other challenges hospitals are

currently facing, made it difficult for hospitals to consider a proposed cut to hospital outpatient reimbursement and it was not something Schindler thought the council should consider at this time.

Schindler proposed DLI conduct a follow-up study to more adequately conclude whether anything has changed in the system to improve timeliness and accuracy of payments.

Doug Loon asked that DLI respond to Schindler's questions about the thoroughness of the updated data. The commissioner said she will be having a conversation with staff members in response to the presentation.

Schindler responded to MNA's post-traumatic stress disorder (PTSD) presumption proposal. Schindler said no evidence or data had been produced that showed nurses were not getting the benefits associated with a PTSD diagnosis.

Schindler argued that changing the presumption for PTSD coverage through the workers' compensation program would only exacerbate the current workforce shortages currently being seen across the health care system.

Maggie Hobbs questioned how many PTSD claims were denied among nurses.

Bernie Burnham encouraged the council members to strongly consider what the nurses have to say about the PTSD presumption.

**2. Minnesota Statutes 79A.04 – Jon Kelly and Sara Payne, Minnesota Department of Commerce, and Andy Morrison, general counsel, Minnesota Self-Insurers Security Fund**

Jon Kelly reported the Department of Commerce had spent the past month working with the Minnesota Self-Insurers Security Fund (SISF) around legislative changes.

Andy Morrison provided an overview of SISF. While SISF had initial concerns with the Department of Commerce's proposal, SISF and the Department of Commerce met and both parties agreed to changes to the statute.

**3. DLI housekeeping updates – Ethan Landy, DLI Office of General Counsel**

Ethan Landy presented DLI's housekeeping proposal, which had been previously before the council.

Subdivision 23 was a newly added subdivision in Minnesota Statutes section 176.111 regarding notice of a change in dependency benefits that was presented. The modifications still require an employer provide written notice when benefits are discontinued, but the amendment will now requires that notice to state the exact date of discontinuance. The notice must also be filed with the DLI commissioner. The new language adds some additional background about triggering incidents and the timing. It also cross-references some provisions in Minn. Stat. section 176.231 that require notice when there is a change in the compensation amount or a change in the number of dependents. There is also a cross-reference to the penalty provision under Minn. Stat. section 176.231.

## **Other business**

The next meeting will be Feb. 8, 2023.

## **Adjournment**

The meeting was adjourned at 10:08 a.m.

Respectfully submitted,  
Alyssa Westergard, executive secretary