

## Meeting minutes: Workers' Compensation Advisory Council

Date: March 6, 2019

Minutes prepared by: Executive secretary to the Workers' Compensation Advisory Council

Location: Department of Labor and Industry, 443 Lafayette Road N., St. Paul, MN 55155

### Attendance

#### Members attended

Colin Beere  
Walter Frederickson  
Dennis Galligan  
Russell Hess  
Jeffrey Horner  
Brad Lehto  
Douglas Loon  
Ed Reynoso  
Gary Thaden  
Kevin Yakes

#### Legislative liaisons attended

Representative Mike Sundin

#### Visitors attended

Sandra Bodensteiner – City of St. Paul  
Lynn Carroll – WCRA  
Seamus Dolan – HealthPartners  
Debra Driver – Metropolitan Council  
Andrew Essling – MCIT  
Karen Ebert – MCIT  
Carla Ferrucci – MAJ  
Katie Friend – CorVel  
Maggie Green – Messerli Kramer  
James Herr – WCRA  
Patricia Milun – Workers' Compensation Court of Appeals  
Brienne Mitchell – Winthrop and Weinstine  
Cody Martz – CorVel

#### DLI staff member attended

Sandy Barnes  
Kate Berger  
David Berry  
Pam Carlson  
Lorelei Hoyer  
Karen Kast-Meinke  
Chris Leifeld, deputy commissioner  
Nancy Leppink, commissioner  
Brad Morse  
Pat Munkel-Olson  
Jessica Stimac  
Jeanne Vogel  
Laura Zajac

Phil Moosbrugger – Department of Commerce  
Andy Morrison – Morrison Law  
Laura Mundt – Mayo Clinic  
Kim Olson  
Patty Prentice – LMCIT  
Tammy Pust – Office of Administrative Hearings  
Dean Salitis – MNAJ  
Lauryn Schothorst – Minnesota Chamber of Commerce  
Sandy Stoddard – UCWCP  
Julie Soderveld – Minnesota IT Services  
Phil Vigliaturo – Department of Commerce  
Gary Westman – Department of Administration

## Call to order and roll call

- Commissioner Nancy Leppink called the meeting to order at 9:45 a.m.
- Roll call was taken and a quorum was present.

## Approval of the minutes

Commissioner Leppink asked for approval of the minutes from the most recent Workers' Compensation Advisory Council (WCAC) meeting. Gary Thaden moved to approve the minutes from the May 12, 2018 meeting, Russell Hess seconded the motion and all voted in favor to approve the minutes.

## Approval of the agenda

Leppink asked for approval of today's agenda. Brad Lehto made a motion to approve the agenda and it was seconded by Douglas Loon. All voted in favor and the agenda was approved.

## Announcements

Commissioner Leppink asked each of the members to introduce themselves and give a brief summary of their background. The commissioner then introduced herself to the group, explaining she is from Minnesota, went to the University of Minnesota law school, started her career with the Minnesota Attorney General's Office, worked for the Department of Labor and Industry (DLI) as general counsel of the Office of General Counsel for 10 years, worked for the U.S. Department of Labor as director of the Wage and Hour Division, and then was appointed as a branch chief for the International Labour Organization in Geneva, Switzerland. She was appointed commissioner of DLI in January by Governor Tim Walz. The commissioner shared her vision for the department, that there is an opportunity to think about workers' compensation in a preventive role as a council in preventing injuries and illnesses. DLI can also look at how we can better leverage the incentives to help employers and workers prevent injury. She invited WCAC members to weigh in on options and explore ideas together and become more proactive.

## Agenda items

### a. Legislative proposal

Commissioner Leppink explained the first item on the agenda is the legislative proposal concerning changes to Minnesota Statutes 176.1812 and 176.231.

The commissioner introduced Laura Zajac from DLI's Office of General Counsel. Zajac explained this modification of the statutes deals with the Union Construction Workers' Compensation Program (UCWCP). This particular provision covers the collective bargaining agreements and it allows employers and unions to

collectively bargain for certain obligations and procedures that are defined by statute. DLI's role is one of oversight to ensure the program meets legal requirements, to ensure there are the same benefits as for claims outside of the program and to report the program's effectiveness to the stakeholders and the Legislature if they require it. The UCWCP administers a program that employers and unions enter into when they create collective bargaining agreements and they then join this program to comply with statute. It is the only program approved under this statute. It was established in the late 1990s.

There are two key concepts in the legislation, the first being the elimination of employer approval by the department. Presently, when an employer joins the UCWCP, the program administration sends the department a letter and then the department approves the employer's addition within 21 days. This may have been more integral to the process in the past, when the program was limited to construction contractors, but now any employer can bargain with this with their unions. DLI is proposing there no longer be an approval process but, instead, the program notify DLI when employers join or leave the UCWCP. Right now, DLI is not informed when an employer leaves the program. This modification will allow DLI to better track participation and it eliminates an unnecessary step and unnecessary paperwork for both parties. DLI is proposing an effective date of June 1, 2019, for this provision.

The second key issue is related to the exchange of data. Currently, the program is required to provide an annual report to DLI with information specified in the statute about its program. This is data that is not claim-specific and it is burdensome for the program to compile. This is because the program administrators must contact every payer and insurer that is in the program, ask for data and each may have different policies and data collection techniques. By the same token, when DLI receives the data, it is aggregate data that is difficult to manipulate and compare to other claims in the state's system. Instead, the department is proposing participants simply will be required to report the data to the department on claims they would otherwise be reporting. An example would be when they are filing a first report of injury, they would flag which claims are covered by the program.

The proposed date of the legislation taking effect is August 2020. With the assistance of DLI's modernized system, the data will be more meaningful. This will give us better data by allowing DLI to analyze on a claim-by-claim basis the data points that are of interest and compare them to claims that are not in the program as well. This will show us the effectiveness of the program and also unnecessary data is eliminated. The program director of the UCWCP has provided a letter of support for these changes and the letter is also attached to the meeting materials.

Thaden stated that he is on the board of directors of the UCWCP and, because these proposed changes are general in nature, he will not be abstaining from the vote and he is in support of the legislation.

Lehto made a motion to approve the legislative proposal, Thaden seconded and the motion was approved.

## **b. Presentation about the *Workers' Compensation System Report***

The commissioner introduced David Berry, DLI Research and Statistics. Berry explained the *Workers' Compensation System Report* is an annual report and contains chapters summarizing claims and costs; the report today is about only one of several chapters. He began by giving a few definitions for clarity. An

indemnity claim is considered a lost-time claim with three or more days of lost time or cash benefits paid to the injured worker. The medical-only claims do not have cash benefits. Some of the key findings in today's presentation were the following.

- The indemnity claim rate has decreased from 1.74 to .94 during a 20-year period. That is a 46% decrease and the total claim rate has fallen 53%, from 8.7 per 100 full-time-equivalent workers (FTE) to 4.1 FTE workers. This is an important statistic because costs are falling in the workers' compensation system and the decreasing injury rate is the main driver of the decrease.
- The average cost per \$100 of covered payroll: we saw a decrease by 18.9% from 1997 to 2017.
- Indemnity claims have constituted anywhere from 20% to 23% of paid total claims paid. The main thing to note is that the late 1990s and early 2000s were a period of rapid cost growth. Since about 2003, when adjusted for average wage growth, the cost per claim has stabilized. Starting in 2003, the cost per claim (adjusted for average wage growth) had a neutral effect.
- The commissioner noted this statistic is one place where the department may want to take a closer look. She said we want to be certain these claims are falling for the right reasons – safer and healthier workplaces – and they are not falling for other unintended reasons. Furthermore, to the extent that they are falling, she would like to call out the good practices that are resulting in these falling injury rates. These positive practices can be highlighted so others can learn from them.

## Other business

The commissioner explained there is a report in the members' materials, *Report on the Workers' Compensation Rates in Minnesota*, submitted by the Minnesota Department of Commerce to the WCAC as the Rate Oversight Commission. This report is required annually by statute, comparing the average rates charged by workers' compensation insurers to the pure premium base rates filed by the Minnesota Workers' Compensation Insurers Association. Commissioner Leppink asked if there were any questions or concerns regarding this report; there were none.

The commissioner asked if there was any other business from the members. Lehto asked when the hospital outpatient system report will be released. Deputy Commissioner Chris Leifeld responded that both the ambulatory surgical center payment system report and the outpatient payment system report will be released in January 2021. There was no other business discussed.

## Adjournment

Thaden made a motion to adjourn the meeting, Lehto seconded the motion, all voted in favor and the meeting adjourned.

Respectfully submitted,  
Executive Secretary