

Meeting minutes: Workers' Compensation Advisory Council

Date: Dec. 16, 2020

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

Location: Online Webex meeting

Attendance

Members attended

Jason Bartlett
Colin Beere
Maggie Hobbs
Doug Loon
Bill McCarthy
Ed Reynoso
Robert Ryan
Gary Thaden
Kevin Yakes

Legislative liaisons attended

Senator Paul Utke
Representative Mike Sundin

DLI staff members attended

Kate Berger
Jon Brothen
Pam Carlson
Richard Davis
Mike Hill
Ethan Landy
Chris Leifeld
Brad Morse
Tyrone Spratt
Jessica Stimac
Lisa Wichterman
Laura Zajac

Visitors attended

Joel Carlson, MAJ
Gary Carlson, LMC
Thomas Coccia, MCIT
Aaron Cocking, IFM
Sara Curtis, Corvel
Eric Dick, MMA
Karen Ebert, MCIT
Andrew Essling, MCIT
Carla Ferrucci, MAJ
James Heer, WCRA
Meg Kasting, SFMIC
Bill Keller
Suzanna Kennedy, Stinson
Brad Lehto, AFL-CIO
Patty Milun, chief judge, WCCA
Terry Miller
Branden Miller, MWCA
Phil Moosbrugger, Department of Commerce
Laura Mundt, Mayo Clinic
Deb Norsten, SFM
Patty Prentice, LMCIT
Joe Schindler, Minnesota Hospitals
Lauren Schothorst, Minnesota Chamber
Mike Scully
Jenny Starr
Pete Thrane, Stinson
Lauren Weaver, Stinson
Adam Wolkoff

Call to order and roll call

Temporary Commissioner Roslyn Robertson called the meeting to order at 1:05 p.m. A verbal roll call was taken and a quorum was present.

Approval of the minutes and agenda

Robertson asked for approval of the minutes from the Jan. 22, March 20 and April 6, 2020 meetings. Gary Thaden moved and Bill McCarthy seconded the motion to approve the minutes. A verbal vote was taken and the motion passed.

Robertson asked for a change to today's agenda. She requested item six (2020 legislative update by Kate Perushek) be removed from the agenda. Robertson indicated she will give the 2020 legislative update to the council. She asked for a motion to amend today's agenda. Doug Loon moved and Thaden seconded the motion to approve today's amended agenda. A verbal vote was taken and the motion passed.

Agenda items

1. Legislative update

Robertson gave an update about legislation proposed by the Workers' Compensation Advisory Council (WCAC) during 2020. She said the bill was recently passed by the Minnesota Legislature during a special session. This legislation was passed as proposed. She said Sen. Paul Utke and Rep. Mike Sundin were advocates of this bill and thanked them for their efforts.

2. Rate Oversight Commission – MWCIA calculation of workers' compensation pure premium rate by Andrea Everling, director, Actuarial Services, Minnesota Workers' Compensation Insurers Association (MWCIA)

Andrea Everling presented the annual report and explained the process of obtaining the rate. The ratemaking report contains workers' compensation average pure premium base rates derived from Minnesota only. The Jan. 1, 2021, pure premium rate reflects a decrease of 1.2%. This decrease is determined by collecting data from two recent years available – 2017 and 2018.

The entire report is attached to these minutes.

Remarks about the 2020 MWCIA rate filing

Phil Vigliaturo, Minnesota Department of Commerce, property and casualty actuary said his comments included that MWCIA uses ratemaking methods that are similar to those used by other organizations in other states and are appropriately used for ratemaking. From his observations, the pure premiums produced by MWCIA are not excessive, inadequate or unfairly discriminatory.

Vigliaturo's entire comment about the report is attached to these minutes.

3. Work Comp Campus update – Brad Morse, Workers’ Compensation Modernization Program, DLI

Brad Morse reported Work Comp Campus launched Nov. 2. The work continues to engage stakeholders by adding hours for answering questions, attending group sessions, delivering improvement releases and data clean-up. Some of the challenges impacting stakeholders are data quality issues that can create confusion and system problems that need to be identified. The Campus support and training team are providing support and training activities. These activities continue to be monitored and adjusted according to needs and priorities. There continues to be real-time feedback and engagement.

The presentation is attached to the minutes.

4. COVID-19 workers’ compensation claims update – Brian Zaidman, Research and Statistics, DLI

Brian Zaidman presented his report that included the workers' compensation claims with COVID-19 or coronavirus exposure given as the nature of injury. All claims submitted to the department are counted, ignoring lost-time status and acceptance or denial of benefits. He said the majority of COVID-19 claims submitted were from hospitals, nursing homes, prisons and meat-processing plants. Further, the major types of workers' claims were from nursing assistants, registered nurses, correctional officers and food processing workers. Older health care workers have shown a longer disability duration. He explained these numbers will likely change as the claims come in for November and December.

The presentation is attached to the minutes.

5. Research and Statistics reports update – David Berry and Brian Zaidman

David Berry reported about this mandate required by the Legislature regarding indemnity benefits to injured workers in Minnesota. This mandate requires 80% compliance by insurers to report payment accuracy and timeliness. Data transmission was via a secure portal on the DLI website.

The report is attached to the minutes.

6. 2020 legislative session update: This item was deleted from the agenda.

7. 2021 proposed legislation by the Minnesota Association of Justice

Because the meeting ran over its designated time limit, this item was tabled to a later date.

Discussion followed concerning workers’ compensation denials of COVID-19 claims. Specifically, it was brought up there were several claims from the meatpacking industry during the summer months and most of those were denied. The commissioner said the department had many questions regarding the meatpacking industry and reports of the virus among the workers. The department reached out to the industry and told them they had a requirement to report those cases. The feedback from the industry basically challenged the assumption that the cases originated from the workplace. The commissioner said that unless the denial of claims is challenged by the employee making the claim, the department is limited in its abilities to take any action. The department is reaching out to educate the industry in terms of what their responsibilities are.

Other discussions were about reports of workers in long-term-care facilities who test positive for COVID-19 and were denied workers’ compensation benefits. In some cases, the denial was because the workers were often

asked by the insurer if they had been to a retail or grocery store. If the answer was yes, it was then determined the virus could have been contracted through community spread rather than in the workplace.

Zaidman answered it is difficult to determine why claims are denied because there are no specific statistics that track the reason for a denial in most cases.

McCarthy and Ed Reynoso asked if the department can look further into why there was a 90% denial rate for meatpacking workers and into how many health care workers, who test positive, are frontline workers.

Other business

The commissioner announced Jan. 13, 2021, as the next meeting date; she proposed discussing the 2021 legislation. In addition, the individuals from the Minnesota Association of Justice and others who were scheduled to present today will be asked to present to the advisory council.

Adjournment

McCarthy moved and Loon seconded a motion to adjourn the meeting. A verbal vote was taken and the meeting was adjourned at 3:26 pm.

Respectfully submitted,
Executive secretary