

LABOR MANAGEMENT ADVISORY COUNCIL
BIG SKY MONTANA
August20, 2019

Council Members:

Lt. Governor, Mike Cooney
Eric Strauss, Administrator ERD
Don Judge, Injured Workers Resource Council
Lance Zanto, Workers' Comp. Management Bureau
Michael Marsh, Midland Claims Services Inc.
& Industrial Injury Claims
Vicki Evans, Montana Contractors Compensation Fund
Al Smith, Montana Trial Lawyers Association
Bridger Mahlum, Montana Chamber of Commerce
Jim Larson, Teamsters Local 190
Doug Buman, Laborer's Int'l. Union of N. America
Annette Hoffman, St. Vincent Healthcare

Via Skype:

Liz Krzan, Sedgwick Claims
Emily Healy, ERD
Adam Haight, AFL-CIO
Bruce Spenser
Doug Roope, ERD

Other Attendees:

DOLI: Mark Cadwallader

ERD: Jason Swant, Bill Wheeler, Adrienne McLean, Shanna Swigert, Ken Biskupiak, Kristine Ediger, Karen Wiles, Cindy Zimmerman, Bri Lake, Peggy Coggeshall, Wendy Jackson, Mike Bartow, Celeste Ackerman Peter Van Nice, Maggie Cook-Shimanek, Debbie Blossom and Casey Kyler-West

Montana State Fund: Kevin Braun and Ethan Heverly

MMIA: Ann Komac and Amber Worman

NCCI: Todd Johnson

Lt. Governor's Office: Reilly Parisot

Attorney General's Office: Wendi Waterman

Victory Insurance: Ashley Burch

Guest: Bill Dahlgren

Welcome and Introductions

The agenda and minutes from the June 25, 2019 meeting were approved.

New Poll Items for Work Plan – Bri Lake

Two new poll items were introduced for "Future Work Plan Topics for LMAC." Questions included:

1. How important is this work plan topic to you: Employee Misclassification?
2. How likely do you think it is that the LMAC could come to consensus on this work plan topic: Employee Misclassification?

3. How important is this work plan topic to you: SROI Reporting for Medical-Only Claims?
4. How likely do you think it is that the LMAC could come to consensus on this work plan topic: SROI Reporting for Medical-Only Claims?

Weighted responses will be added to the “Future Work Plan Topics for LMAC” graphic by Bri. Discussion included capturing full data by the requirement of submitting a final SROI on all claims.

Work Plan Discussion – Cindy Zimmerman

A graph was provided showing the plan topics and order of importance. The topics are the Montana Safety Culture Act, 5-year re-opening of medical benefits and definition of prosthetics, 5-year re-opening of medical benefits joint petitions, SAW/RTW reporting, WC system cost drivers, telemedicine, insurer/employer broker communication, medical marijuana, corporate office elections, subsequent injury fund, 90-day closure notice and treating physician/admitting privileges.

Drug Formulary Update – Bill Wheeler

Bill provided information on lessons learned from other states including Tennessee, North Dakota, Ohio and Texas. Montana lessons learned included data overload received at the start of the process and appropriate questions to ask of the other states. Frequently asked question implemented early on proved to be a great resource. Other lessons learned included: it was a lengthy process, the need for diversity and transparency throughout the process, utilizing the expertise of PharmDs in the working group, communication with stakeholder groups, reaching out to medical providers and the value of expedited reviews. Things we could have been done differently include: inviting the State Medical Officer from DPHHS to participate in the working group sooner, setting the workplan at 12 months maximum, and looking at speaking options at stakeholder conferences earlier in the process for outreach opportunities.

Safety Culture Act – Eric Strauss

Eric’s presentation included the significant elements of statute and rule; OSHA 10-hour cards issued from 2014 through 2019; SafetyFest attendees from 2010 through 2019 and; safety visits from January through December 2018. Bri Lake will conduct a survey to determine how insurers are using the Montana Safety Culture Act and he provided a list of questions that will be asked. A list was also provided of improvements with and without statutory changes and, with and without employer enforcement. The improvements requiring statutory changes include civil penalty on insurers requiring an insurer to price SCA non-compliance as a fixed % increase in rates and/or surcharge. Employer compliance would require an insurer to price SCA non-compliance as a fixed % increase in premium rates and/or require a surcharge. Discussion included education, strengthening language in the Act, and providing incentives.

SAW/RTW Reporting – Cindy Zimmerman

Cindy outlined the program goal, and statutory and rule requirements. She provided a copy of the SAW/RTW letter sent to injured workers, the Outcome Reporting form, the statute and rule pertaining to the SAW/RTW assistance fund. The current balance of the fund as of 08/13/19 is \$347,998.15. Potential solutions and possible opportunities to improve reporting include make RTW fields mandatory on SROI’s, focus on compliance with insurers regarding statute and rule, upgrade EDI 3x and possible use of funds as a grant program to assist small businesses. Discussion included what are the best practices of other states, have conditions changed, is DLI sending notices to insurers, the necessity of the program

and is it doing what we thought it would do. Currently, it is standard procedure for a claims examiner to provide RTW/SAW assistance. In order to determine necessity of the program, it was agreed data needs to be available through reporting.

Annual Report – Kristine Ediger

Kristine advised the annual report will be now posted on the department’s website and provided examples of how to access the different fields of information.

Injured Worker Survey Follow up – Bri Lake

No questions were asked

Claims Examiner Certification – Jason Swant

Jason provided the proposed rules for CE certification, the schedule to implement the rules, new definitions, the certification process, and what happens if there is a lapse in certification. He also provided a count of the adjuster certificates from 2010 to 2019

Public Comment

There was no public comment

Next Steps

1. More follow-up on MCSA and SAW/RTW
2. Possible sub-committee for SAW/RTW