

Minutes
Labor-Management Advisory Council
October 12, 2016
Radisson Motel, Helena, MT

Advisory Council and Subcommittee members present:

Lt. Governor Mike Cooney
Jackie Lenmark, American Insurance Association
Larry Jones, Montana Self-Insureds Association
Al Smith, Montana Trial Lawyers Association –Proxy for Chris Cavazos
Seth Bergan, Iron Workers Local No. 732
Nicole Thuotte, OPI/MPEA
Lance Zanto, Workers' Compensation Management Bureau
Kevin Braun, Montana State Fund
Vicky Byrd, Montana Nurses Association
Bonnie Lyytinen-Hale, Genex Services
Bill Dahlgren, Sun Mountain Sports – Proxy for Annette Hoffman
Jean Branscom, Montana Medical Association
Doug Buman, Laborers' International Union of North America
Don Judge, Injured Workers Resource Council
Jim Larson, Teamsters Local 190
Marvin Jordan, Montana Contractors Compensation Fund

Project Core Team members present:

Eric Strauss, ERD Administer
Bryan Page, Safety & Health Bureau Chief
Peter Van Nice, Regulations Bureau Chief
Mark Cadwallader, Department Legal Counsel
Jason Swant, Project Manager

Others present:

ERD: Barb Gullickson, Karen Wiles, Julia Brennan, Kristine Ediger, and Maralyn Lytle

Montana State Fund:

Julie Jenkinson

Montana Municipal Interlocal Authority

Ann Komac and Alan Hulse

PCI

Jon Metropoulos

Montana Chamber

Bridger Mahlum

Montana Schools Group Insurance

Tim Fitzpatrick

Kalispell Regional Medical Center

Aidan Myhre, Brad Roy, Kelly Stimpson

NCCI

Bruce Spencer

I. Welcome and Introductions

Lt. Governor Mike Cooney chaired the meeting greeted those present and introductions were made. He had another commitment and gave the chair to Lance Zanto.

II. Approval of Agenda and Previous Minutes

The agenda and minutes from the August 23, 2016 were approved.

III. Installation of Co-chair

Lance Zanto was installed as the Council Co-Chair with the retirement of Bob Worthington.

IV. Drug Formulary – Maralyn Lytle

Maralyn advised the committee had its first meeting on October 4th 2016. The committee members are:

Claims examiner representative Mike Marsh with Midland Claims/Industrial Injury Claims

Claimant attorney Leslae Dalpiaz

Pharmacy representative LeeAnn Bradley

Dr. John Schumpert

Lance Zanto, LMAC Co-Chair, Workers' Compensation Management Bureau

Medical provider representative Char Lewis-Richards

Montana State Fund representative Michelle Fairclough

Support staff Eric Strauss, Mark Cadwallader, Bill Wheeler, Kristine Ediger, Jennifer Hepfner, Lindi Mandy, Maralyn Lytle and Karen Wiles

The committee is currently in need of a member of the public. The committee anticipates meeting for 18 months. Mark is drafting legislation and discussion involved the committee's objectives.

It was suggested a member of LMAC be on the committee. Doug Buman will be added to the committee.

V. Indicators of Occupational Health in Montana 2004 – 2014 – Julia Brennan

Julia's presentation consisted of:

MOHSS, the Montana Occupational Health and Safety Surveillance Program
Occupational Health Indicators OHIs; Two main types of rates in epidemiology, prevalence (old and new cases) and incidence (new cases).

State non-fatal occupational injury and injury incidence rates per 100 FTE compared to the national rate, private industry, 2014

Estimated incidence rates per 100 FTE of all non-fatal work-related injuries and illnesses, and cases with days away from work, in Montana and U.S. 2004 – 2014.

Non-fatal work-related injuries and illnesses 2014 by industry and occupation.

Work related fatalities – Percentage of fatal work-related injuries by event or exposure 2004-2014.

The aging workforce in Montana.
Amputations identified in the workers' compensation system.
Work-related musculoskeletal disorders with days away from work.
Incidence of malignant mesothelioma.
Workers at high risk for injury and illness, by industry and occupation 2014.
Workers' at high risk for occupational fatality by industry and occupation.

VI. Safety Information – Bryan Page.

Bryan discussed the buy safe state contracting, procurement requirement, public safety professional certification and expansion of the 10 hour classes for students.

VII. Stay at Work/Return to Work – Jason Swant

Jason reviewed the program objective, notice to injured workers; assistance requests; assistance availability and delivery; the insurer and department responsibilities; results to date and; areas of improvement.

VIII. Kalispell Regional Medical Center Draft Legislation – Brad Roy and Kelly Stimson

The proposed legislation consists of: A false statement made by an employee, either in an employment application or a questionnaire calling for the disclosure of the employee's medical condition bars all benefits if: 1) an employee knowingly or willfully, by omission or commission, makes a false representation regarding the employee's physical condition. 2) the employer relies upon the false representation and this reliance is a contributing factor in the hiring of the employee and 3) there was a causal connection between the false representation and the injury for which benefits are claimed.

The summary of issues are safety and the cost of fraud.

KRMC is asking LMAC for support of the proposed legislation. Discussion included HIPPA, exclusive remedy and a violation of constitutionality. The LMAC members will vote whether or not to support the legislation at the next meeting.

Other Matters

Mark Cadwallader advised of a District Court appeal to Supreme Court of Talbot vs WMK-Davis, LLC which held the Montana courts will not entertain causes of action seeking to attach workers' compensation liens to an injured worker's tort recovery, prior to being made whole.

There were no public comments

IX Next Steps – Jason Swant

Re-visit the LMAC Work Plan.

Develop LMAC work process for 2017 legislative session.

The meeting was adjourned