

**LABOR MANAGEMENT ADVISORY COUNCIL
HELENA MONTANA
January 8, 2020**

Council Members:

Lt. Governor, Mike Cooney
Don Judge, Injured Workers Resource Council
Lance Zanto, Workers' Comp. Management Bureau
Al Smith, Montana Trial Lawyers Association
Bridger Mahlum, Montana Chamber of Commerce
Jim Larson, Teamsters Local 190
Adam Haight, AFL-CIO
Mike Marsh, Midland Claims
Doug Buman, Laborers' International Union of North America
Vicki Evans, Montana Contractors Compensation Fund

Via Skype:

Peggy Payne, Liz Krzan - Sedgwick Claims Management
Annette Hoffman, St. Vincent's Healthcare
Leah Tietz
Cassie Buckley – St. Paul/Travelers
Shannon Frieze
Nikki Hartman, Mike Bartow, Ken Biskupiak - ERD

Other Attendees:

DOLI: Interim Commissioner Tom Lopach
Attorney Mark Cadwallader

ERD: Eric Strauss, Bill Wheeler, Doug Roope, Cindy Zimmerman, Maggie Cook-Shimanek, Kristine Ediger, Bri Lake, Jason Swant, Celeste Ackerman and Peggy Coggeshall, Brian Page, Peter VanNice, Emily Healy and Karen Wiles.

Montana Municipal Interlocal Authority: Ann Komac

Montana State Fund: Kevin Braun

Montana Schools Group Insurance Authority: Kevin Bartsch

Welcome and Introductions

The agenda and minutes from the November 26, 2019, meeting and the agenda were approved.

By letter dated December 17, 2019 Governor Steve Bullock provided notice to the Secretary of State that effective January 1, 2020 the Labor Management Advisory Council is renewed.

Kid's Chance – Peter VanNice

Kids Chance of Montana is a 501(c)(3) non-profit organization established in April 2017 to fill a void in helping provide scholarships to children of seriously or fatally injured workers so Montana's children can pursue and achieve their educational goals. Currently there are 19 corporate sponsors and anticipated donations are around \$20,000-\$25,000 per year. Kids Chance is part of the SECGC charitable giving campaign and Montana State Fund is a partner.

From 2011 to 2018, 273 workers died on the job in Montana. In addition, there is an average of around 100 severe traumatic injuries in a year. Kids' Chance of Montana is committed to identifying eligible scholarship applicants across the state. Peter provided the website to [Planning for the Future](#), to help find future students in need and the email address of [Email---info@kidschanceofmontana.org](mailto:info@kidschanceofmontana.org). The mailing address is: Kids Chance of Montana, P.O. Box 7224, Helena, MT 59602

SAW/RTW Reporting – Cindy Zimmerman

During the 10/31/19 meeting, there were discussions regarding possible changes to ERD's business plan. If an injured worker calls in, we will contact the adjuster rather than just providing the caller with the adjuster contact information. Discussion also included to the Subsequent Report of Injury (SROI) form and fields available for adjusters to indicate actual return to work vs release to return to work. However, this does not help identify the time of injury employer. Further discussion in the meeting included when insurers need to report and the value of reporting. The next meeting is 1/17 and next steps include whether return to work duration can be determined and how to track it.

Employee Misclassification - Eric Strauss

Eric provided the final report from the task force on the wage integrity and misclassification in the construction industry. The report is on ERD's website. He walked through the contents of the report and the recommendations to include rule and statute changes. In addition to an independent contractor certification letter, IC's now also receive a wallet size I.C. card.

Subsequent Injury Fund - Bill Wheeler

Bill provided background on establishment of the fund; SIF funds nationally; how SIF works, benefits, and how it is funded; SIF payments by fiscal year; approved applications by fiscal year; working age eligible SIF certified; and information on the Americans with Disabilities Act.

Discussion included the number of claims receiving reimbursement has increased for aggregate open claims.

The Department will conduct additional research to determine how many are repeat claims and how many are new claims added each year, in addition to the criteria for approval. About 80% of applications received are approved and the Department would continue as is for current SIF claims. Also, how liability for reimbursement currently works and how it would be spread for future reimbursements moving forward. How the program pertains to the ADA and the employer's inability to ask health-related questions and whether someone is SIF certified. It may be useful to consider a possible study of employers regarding knowledge of SIF and legislation to allow this question for re-employment or continued employment purposes. Other topics included: how current funds are invested and consideration of options for future investments; possible ways to notify employers they

have a SIF certified employee; the possibility of a premium adjustment; and incentives for employers to hire a SIF certified employee.

Opioids by Industry & Occupation – Bri Lake

Bri's presentation provided an overview of NCCI data: class codes with largest overall share of opioid claims; claims by gender and age at the time of injury, distributions within a single class code; average percent of claims within a class code; average MME per claim by class code; opioid related overdose deaths; Montana rate of overdose deaths per 100,000 general vs. working population; and overdose deaths by industry and occupation from 2008 – 2017.

Proposed Language for Joint Petition Medical – Statute & Rule – Bill Wheeler

Bill provided draft language for statute and rule changes to allow insurers to forego submitting medical records for a joint petition to reopen medical benefits. This rule change would also affect 24.29.3127 regarding the Department's periodic review.

WC Benefit Brochure – Bill Wheeler

39-71-606 MCA requires the Department produce and distribute a workers' compensation benefit brochure to injured workers and made available to TPA's and insurers. The Department is also required to distribute a document that describes the SAW/RTW assistance that is available upon request by the injured worker. This was initially done by way of a postcard and was an automated process upon receipt of a FROI. Beginning in July 2018, the postcard was upgraded to a RTW notification via letter. We now leverage sending the brochure along with the letter and are proposing a change 39-71-606 MCA to allow the Department to send the brochure rather than sending bulk brochures to insurers and TPA's to distribute. Draft statutory language change will be available at the next meeting and the brochure is available in PDF form on the Department's website.

Public Comment

No public comment

Next Steps

1. Draft language change to 39-71-606 MCA.
2. Act on the joint petition statute and rule language change and address the time frame allowed by the medical director.
3. Information on how other states have dissolved their SIF programs.
4. Draft statute change to allow the Department to exchange information with non-profits
5. Schedule next meeting.

Meeting adjourned