

Minutes
Labor-Management Advisory Council
November 18, 2015
Best Western Great Northern, Helena MT

Advisory Council and Subcommittee members present: Lt. Governor Angela McLean, Chris Cavazos, Marv Jordan, Don Judge, Al Smith, Bob Worthington, Kevin Braun, Bill Dahlgren, Jean Branscum, Lance Zanto, Jacqueline Lenmark, and Bonnie Lyytinen-Hale.

Project Core Team members present: Diana Ferriter, Anne Wolfinger, Bill Wheeler, and Mark Cadwallader

Others present: Dave Elenbaas, Anni Druce, Kristine Ediger, Karen Wiles, Dr. Carla Huitt and Erin Weisgerber, ERD; Nancy Butler, Peter Strauss and Ethan Heverly, Montana State Fund; Glen Oppel, Montana Chamber; and Scott Conrady, Legislative Fiscal Division.

I. Welcome and Introductions

Lt. Governor Angela McLean greeted those present and introductions were made.

II. Approval of Agenda and Previous Minutes

The minutes from the October 14, 2015 meeting were approved. The agenda was approved.

III. LMAC Assessment Advisory Committee – Bob Worthington

A conference call was held 11/09/15 with the Department regarding the next steps the Committee wants to take in educating stakeholders about the administrative and safety assessments. Erin Weisgerber and Diana Ferriter put together a power point that explains how the assessment is calculated and what functions are covered by the assessment. Discussion during the conference call included continued education for stakeholders and the Legislature. It was agreed that the ppt would be turned into a Webinar and posted on the Department's website and in-person training would be given by the Department to any stakeholder requesting the training. No further action was planned.

IV. Discussion of SB 288 (subrogation/experience modification) – Diana Ferriter

Diana summarized the handouts and information that has been provided to the LMAC regarding this subject. LMAC members reviewed the documents and asked questions about them.

V. Proposed Subrogation Legislation – Mike Marsh, Industrial Injury Midland Claims

Via Skype, Mike proposed a bill to allow employers to recover medical benefits paid and to be paid under workers' compensation from at-fault parties. After his presentation, discussion involved both parties having the ability to pursue a separate direct cause of action; of how equal protection comes into play; whether the employer has a right to be

made whole; how the Courts might interpret the proposal; of the fact not all subrogation involves medical benefits; concerns of the construction industry and prime contractors using the modification factor when bidding for jobs; limiting the experience modification to 2 years rather than 3; how safety impacts modification factors; suggestion of using reimbursement rather than subrogation to describe the issue; looking at other states for subrogation statistics; and development of a document an employer can use to show experience modification is not a true reflection of an employer's safety practices when bidding jobs. No specific alternatives to the underlying issues was presented for action by the LMAC.

VI. Safety Update – Casey Kyler West, Safety & Occupational Health Bureau

Via Skype from SafetyFest in Billings, Casey advised approximately 550 had signed up for the SafetyFest not counting walk-ins. The largest group in attendance were private employers, construction and manufacturing. There were about 30 attendees from the Crow Reservation. Due to technical difficulties, not all of her report was captured.

VII. HB 334 Work Comp Reform Monitoring, Five Year Reopening Rules and Vendor Selection – Bill Wheeler, Claims Assistance Bureau

Bill advised the rules were filed November 16, 2015 with modest adjustments. The rules hearing will be held December 18, 2015. Dr. Huitt and Maralyn Lytle will provide training for interested parties on the reopening process.

Maximus Federal has been chosen as the vendor to assist the Department in the reopening process. They have been doing independent medical reviews for over 40 years and currently have 16,000 employees. The medical reviewers must be licensed in Montana. The contract will be for one year renewable each year for up to seven years. The first step in the process will be sharing of information between the parties and the medical reviewers. If the petition to reopen is accepted by the Department, the information will be sent to Maximus and notification made to the insurer to provide medical records which can be electronic, paper copy, overnight mail or faxed. Maximus will provide the reviewers' information, on-going review and status updates. The Department will have online access. The average turnaround time will be 15 days and the completed medical review will be issued by Dr. Huitt.

VIII. Next Steps – Anne Wolfinger

Anne reviewed the things done by LMAC over the past 2 years advising what was accomplished and what was not. The LMAC members then had an opportunity to provide their comments regarding their experience serving on LMAC. They all expressed their willingness to be reappointed for another term. Lt. Governor Angela McLean will take to the Governor what was discussed at the meeting. As soon as a decision about reappointment of the LMAC is made, the members will be notified. Diana reminded the LMAC members that a webinar from WCRI on drug formulary is scheduled for December 10, 2015.

The meeting was adjourned.