

Minutes  
**Labor-Management Advisory Council**  
November 19, 2009  
10:00 a.m., Great Northern Hotel, Helena

**Advisory Council members present:** Lt. Governor John Bohlinger, Doug Buman, Jacquie Helt, Bill Dahlgren, Annette Hoffman, Don Judge, Connie Welsh, Jason Miller, Bob Worthington, Riley Johnson, Danny Lee, Jerry Keck

**Others present:** Rick Clark, Plum Creek; Pat Murdo, Legislative Services; Lance Zanto, Department of Administration; Terry Minow, MEA-MFT; Bruce Spencer, PCI; Nancy Butler, Montana State Fund; Jason Swant, WorkSafeMT; Trudy Winslow, MHS; Suzanne Elfstrom, Korin Youngberg, PartnersCreative; Mari Kindberg, State Auditor's Office

**I. Welcoming & Opening Remarks – Lt. Governor John Bohlinger**

Lt. Governor John Bohlinger opened the meeting by thanking those in attendance for coming. He had members of the advisory council and the audience introduce themselves.

**II. Followup Discussion Process – Bob Worthington & Jason Miller**

Bob and Jason presented a proposed process for the Council to reach a comprehensive proposal to recommend to the Commissioner, the Economic Affairs Interim Committee and the 2011 Legislature. Jason explained that he had been giving some thought to how the Council might proceed with making decisions on the issues being brought forward. He said the Council needs a range of tools to utilize in decision making. He proposed tentative agreements on issues rather than a consensus position on each issue. Then after all issues are identified, the Council would address all issues as a whole. Jason gave an example; if the Council has 10 sub-issues and may agree on 7 of the 10, the Council needs a way to catalog the others. The Council will need a vote on a package decision.

A motion was made by Bill Dahlgren to delay the discussion of the decision making process until the next meeting. Jason Miller seconded the motion; motion was carried.

**III. LMAC Workplan - Jerry Keck**

LMAC will hold a two-day meeting in February, and finalize in March. The Council wants all the documents provided ahead of time to study so they will be prepared for the next meeting with their questions, comments and concerns.

**IV. Overview of Workers' Compensation Research Activities – Ann Clayton**

Ann Clayton, consultant for the Employment Relations Division, gave an update on the work she has done thus far. She stated she has been interviewing stakeholders and is about two-thirds complete with the ones on her list. She summarized where she is at on research for each topic she's working on: medical costs and quality, benefit structure, payment of attorney fees in medical disputes, course and scope, frequency of work related injuries, workers' compensation insurance structural issues, and fraud.

**V. U & T Guidelines Medical Provider Update – Keith Messmer**

Keith summarized the work of the Medical Provider Group so far. He advised the MPG will bring their preliminary recommendations to their December meeting and try to reach a preliminary recommendation at that meeting. Then they will send out a survey to all physicians in MT with

the assistance of the MT Medical Association. The MPG will consider feedback they get and make a final recommendation at the January meeting. Keith explained that a draft dispute resolution process was presented to the MPG. It would require a medical director to review requests for treatment outside the guideline and render an opinion within five days of the request. Bob Worthington attended the MPG meeting and commented that the medical providers' concerns are that the process must be a fast and speedy one. The committee also needs to aware that there will be a cost to the system. Jerry said he had heard the Billings Clinic in an earlier meeting making the comment that the State of Montana needs to have a medical director for the state's work comp. Bob said that there needs to be a training plan. Jerry said that there needs to be expedient care and treatment to the claimant, the speed making decisions in this process is crucial. Don Judge had concerns that the rural physicians would be left out of the loop by not having access to the internet. None of the three companies that have made presentations to the committee have a fast access to a guideline for doctors to use. The Reed Group has a front end tool that the doctors can use to make it a quick and simple access to see the guidelines. Maybe there could be a front end package that everyone could access, even the claimant. There was concern from Doug Buman on the five-day turnaround time for the medical director to be able to handle all the claims and his practice too. Jerry said that there are approximately 80% of the claims that are being approved and the other 20% should be able to be handled in a timely manner. Discussion will continue on hiring a medical director for the State of Montana at future meetings.

#### **VII. Economic Affairs Interim Committee Update – Pat Murdo**

Pat Murdo gave the update from the interim committee. MT's structure, the Plan 1, 2, and 3 system, will be discussed at the January 20 -21<sup>st</sup> meeting. March's meeting topic will be benefits. Legislative Service used the Metnet at their last meeting and got good response from it. They will try to do more Metnet meetings in the future. Senator Keane would like to see hospital personnel and doctors to attend the March 30-31<sup>st</sup> meeting.

#### **VIII. Workers' Compensation Fraud – Ann Clayton and Nancy Butler**

Ann Clayton gave a presentation on work comp fraud, how it can be defined, how to pursue it and how the WC Court defines fraud. She gave examples of employer fraud, insurer fraud, healthcare provider fraud, attorney fraud and other types of civil fraud. Ann asked Nancy Butler to give an overview of how MSF handles their fraud cases. MSF established a Special Investigations Unit to handle the fraud cases that they receive from red flags or tips. Nancy presented statistics from the fraud unit. Jerry described the Uninsured Employers Fund in the Department that pursues employers who do not purchase the mandatory workers' compensation coverage. The Department issues penalties to those employers and requires them to come into compliance with the coverage.

Danny Lee made a motion to remove fraud as an issue for consideration. Riley and other members felt fraud needs to be addressed since the perception of employers and employees is that there is a great deal of fraud in the system. No one seconded the motion so a plan for educating the public will be considered in the future.

#### **IX. WorkSafeMT Operational Plan, Media Plan and Focus Groups – Carl and George Kochman & Partners Creative**

George and Carl requested the Council review and approve WorkSafeMT's operational plans that were already approved by the committees and the Foundation Board. Riley moved and Bob seconded that the plans be approved. The motion carried.

WorksafeMT is planning a Safety Fest for March in Helena at the Red Lion to train employers, employees and safety professionals on “nuts and bolts” issues. Idaho has held similar fests in the past with good participation and results. WorksafeMT will no longer hold a conference in conjunction with the Governor’s Conference on Workers’ Compensation and Safety and Health. The Governor’s Conference will still have safety presentations but not “nuts and bolts” training. WorksafeMT went live on November 1<sup>st</sup>, with a print and radio campaign called “Good Morning”. Carl played a couple of the radio ads as examples. November is “Work Safe Commitment Month”. The week of December 7<sup>th</sup> an email will focus on the Simm’s Fishing success story. Suzanne Elfstrom and Korin Youngberg from Partners Creative presented the results of focus groups and the media campaign and gave a tour online of the website and how it works. Bob wanted to know if the fraud issue could be worked into the WorkSafeMT presentations and goals. George advised they could incorporate something on fraud into their training.

Lt. Governor suggested that WorkSafeMT needs to incorporate their safety program into the school districts. George responded that they are moving on that. Bob commented that the Safety Culture Act has a process to bring it to the school levels. Doug said there is also a “Training the Youth” to bring it into the schools. Lt. Governor Bohlinger said he feels that a meeting with the MT School Boards Association would be a good start. He will get the names of the Board members to George. Lt. Governor Bohlinger applauded the group’s creative efforts, saying they are doing a wonderful job. He asked how much money had been raised so far and the answer was none as yet. WorkSafeMT has spent \$245,000 so far on the media campaign. They are also looking for other volunteers to participate in future TV and video ads.

#### **X. LMAC Communications Plan – Jason Miller**

Jason and Bob have been talking about how to get the communicate LMAC’s work to the public. The committee discussed the development of a sub-committee who would draft a communication plan and then bring it back to the committee for discussion and approval. Bob asked for volunteers to be on the sub-committee, Don Judge, Lt. Governor, and Annette Hoffman volunteered for the committee.

The Lt. Governor said they need to craft a message that everyone can use so we are all on the same page with the message they are sending.

#### **XI. Public Comment**

Thom Danenhowe from MMIA made the suggestion that it might be helpful to take a look at the subrogation issue and also how to provide exclusive remedy to temporary employers who provide transitional employment to another employer’s injured workers.

Al Smith said that improving benefits for workers needs to be looked at by the committee. Jerry told Al that it has already been included on the workplan under benefits.

Next Meetings: December 14, 2009; tentatively scheduled for January 14<sup>th</sup>, 2010, and a two-day meeting on February 17<sup>th</sup> & 18<sup>th</sup>. Dates will be confirmed as soon as possible.