

Minutes
Labor-Management Advisory Council

December 14, 2009

10:00 a.m., Great Northern Hotel, Helena

Advisory Council members present: Lt. Governor John Bohlinger, Doug Buman, Bill Dahlgren, Annette Hoffman, Don Judge, Jason Miller, Bob Worthington, Danny Lee, and Jerry Keck.

Others present: Carl Kochman, Kevin Braun, Nancy Butler, MSF; Thom Danenhower, MMIA; Chuck Hunter, HD 79; Tim Fitzpatrick, MTSBA; Al Smith, MTLA; Jon Bennion, Montana Chamber; Pat Murdo, Legislative Services; Larry Jones, Liberty Northwest; Jim Larson, Montana Teamsters; Andy Adamek, BKBH; Trudy Winslow, Montana Health Systems; Dustin de Yong, Lt. Governor's Office; Bryan Page, Mark Hurlbut, Connie Ferriter, Anni Druce, Diana Ferriter, Karen Wiles, Keith Messmer, ERD; Judy Bovington, DLI.

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. Approval of Agenda and Minutes- Bob moved to adopt the agenda and minutes, Jason seconded. Motion passed.

III. Follow Up on a Discussion Process – Bob Worthington & Jason Miller

The LMAC reviewed the discussion process drafted by Bob and Jason at the request of LMAC, outlining a process for the LMAC to reach a comprehensive proposal to recommend to the Commissioner of Labor and Industry, the Economic Affairs Interim Committee and the 2011 Legislature. The principles were read by the Lt. Governor. Jason moved that the LMAC adopt the process; Bob seconded. The Lt. Governor read the Process for Decision Making and thanked all who had worked on this project. The motion carried.

IV. LMAC Work Plan - Jerry Keck

LMAC will hold a two-day meeting in February and a one-day meeting in March. Jerry gave an overview of the 2009-2010 work plan.

V. Course and Scope- Diana Ferriter

Diana gave an overview of Ann Clayton's briefing paper and PowerPoint presentation on course and scope issues. In discussion, LMAC members expressed concern about the opening language in SB371 and the phrasing "including but not limited to" and language regarding the recreational and social activities. The Lt. Governor asked Jason and Bob if they would co-chair a subcommittee to work on the issues and they agreed. Don and Bill agreed to help on the committee and work on the language for course and scope. The Lt. Governor asked the subcommittee to draft options and bring those drafts to the next meeting.

VI. WorkSafeMT-Carl Kochman

Carl presented the new video on safety programs at Simms Fishing in Bozeman.

VII. Attorney Fees – Jerry Keck

Jerry gave Ann Clayton's PowerPoint presentation on attorney fees. Dan recommended that they move this topic to the subcommittee for further study. Judy Bovington suggested breaking the topic into three parts: Lockhart Lien, Attorney Fees, and Offer of Judgment issues. The Lt. Governor agreed that this needs to go to the subcommittee for further study along with claim

closure. Annette Hoffman will replace Bill Dahlgren on the subcommittee for discussion of claim closure.

VIII. Claim Closure, Reopening and Settlement – Diana Ferriter

Diana gave an overview of Ann Clayton's briefing paper and PowerPoint presentation of claim closure and settlements. The recommendations presented were:

- Adopt a two-year statutory closure
- Closure conditional upon a written notice to employee
- Allow reopening based on current settlement law
- Allow settlement of future medical benefits after MMI

Diana gave statistics about the percentages of claims that were inactive after 2 years and after 5 years. Doug wanted to know if the inactive claims can be broken down for 1 – 5 years or 10 years. Diana said they could and she would ask staff to work on the break down.

The Lt. Governor requested the subcommittee to work on these recommendations and report back at the next LMAC meeting.

IX. Other - Benefits

Don wanted to know if staff could provide other state comparisons of benefits. Diana asked for specific benefits the LMAC wanted information about.

Don suggested the following comparisons:

Do other states pay the retroactive waiting period?

What is the percentage of wages paid for TTD in other states?

What is the percentage of wages paid for PPD in other states? On the percentage of payment, does it go up if you are married or if you have children?

Diana said the IAIABC/WCRI had a publication she would email out to LMAC members right away. Bob made a challenge to all to find a better way to solve the problem of delays in the work comp system along with the process the U & T Guidelines Committee is doing.

The work plan was updated:

Comparison from other states

Cost Elements

Retroactive pay for the first four days

Education

Physical Lifting

X. Next Steps

Next meetings:

LMAC Subcommittee: 10a-2p, December 22, 2009, Employment Relations Division, 1805 Prospect, Helena; also via teleconference

LMAC: January 19, February 17 -18, March 23, 2010; all meetings 10a-4p, Best Western Great Northern, Helena