

Minutes
Labor-Management Advisory Council
Thursday, February 18, 2010
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, Riley Johnson, Connie Welsh, Jerry Keck

Project Team members present: Diana Ferriter, Keith Messmer, Judy Bovington, Georgiana Kochman, Anne Wolfinger

Others present: Marv Jordan, MCCF; Dwight Easton, Farmers Insurance; Larry Jones, Liberty Northwest; Mike Taylor, NCCI; Pat Murdo, Legislative Services; Ann Komac, MMIA; Trudy Winslow, MHS; Andy Adamek, BKBH; Curtis Larsen, MSF; Karen Wiles, Anni Druce, Barb Gullickson, Teresa Graham, Bryan Page, Kristine Shields, Ryan Morton, ERD; Ann Clayton, Frank Neuhauser, consultants to ERD

Meeting agenda, handouts and presentations are available online at:

<http://erd.dli.mt.gov/wcstudyproject/labormngmntadvisorycouncilmeetinginfo.asp>

I. Welcome and 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 LMAC and the audience introduce themselves.

II. Approval of Agenda and Minutes

The agenda and the minutes were approved.

III. LMAC Workplan and Summary – Jerry Keck

Jerry gave an overview of the work plan package and of highlights of the previous day's subcommittee meetings.

Pat Murdo, Legislative Services, briefly informed the LMAC that a subcommittee of the Interim Committee would meet to discuss how HIPAA Guidelines impact Workers' Compensation. She is unsure if the Economic Affairs Interim Committee will be dealing with fraud but they may be able to have one extra meeting depending on the budget.

IV. Cost Drivers- Frequency – WorkSafeMT – Georgiana (George) Kochman

George said WorkSafeMT is planning a Safetyfest – a four-day event to teach work safety for all Montanans from March 30 to April 2. They anticipate 200 registrants but with several weeks left they have already passed their predictions. They have 15 exhibitors and \$10,000 has been donated by sponsors so far. She described their continuing media efforts.

V. Cost Drivers: Duration – George Kochman and Diana Ferriter

At George's request, Don moved, Annette seconded a motion to approve two WorkSafeMT flyers developed by the Return-to-Work committee. Motion carried.

Diana Ferriter reported on discussion of the proposal to assist with early return to work intervention. In last month's meeting, she presented a proposal to have vocational rehab counselors' involvement early in the process to help get the injured worker back to work sooner

VI. Cost Drivers- Medical – Keith Messmer

Keith said the next meeting of the Medical Provider Group will be February 24. Dr. Kathryn Mueller, medical director for the State of Colorado, will be presenting the Colorado treatment guidelines. The MPG will be making their final recommendation at the meeting. Jerry discussed the dispute resolution process.

Frank Neuhauser, ERD consultant, described the methodology to be used to evaluate the nonfacility fee schedule

VII. Occupational Disease Presumptions –Ann Clayton

Ann gave a presentation on occupational disease presumptions. Doug Neil, Montana State Firemen's Association, addressed the LMAC.

VIII. Claim Closure/Settlements Subcommittee Report- Doug Buman, Annette Hoffman, Jason Miller and Don Judge

Bob Worthington moved, Don Judge seconded, to accept the language on claim closure that came out of the committee: to close claims after 36 months with a 24-month window to reopen. Don requested clarification that this didn't mean this was being adopted as a final approved but that the staff was being asked to go forward to include it in a whole package. Jerry confirmed and said NCCI would be asked to price the whole package. Motion carried. Jerry said Judy Bovington needs to work on the language and then bring it back to the LMAC for final vote.

Jason gave an overview of the decisions and discussion they had in their subcommittee meeting regarding settlements. Bob moved, Riley Johnson seconded that the LMAC approve the language from the subcommittee: the claimant has reached maximum medical improvement, the claimant indicates by a signed acknowledgement that they understand they will not receive any more medical treatment paid for by the insurer for the injury because of the settlement, and, in the settlement agreement, the parties detail the amount and basis for the amount of future medical benefits included. In any settlement of future medical benefits, the parties may agree that the funds be deposited into a trust that is established specifically for the payment of medical expenses due to the injury. After discussion, Bob made an amendment to the motion to give the staff oversight authority of settlements and directed the staff to work with Pat Murdo to address issues she had raised in the wording, with final approval from the committee after the language has been added and modified. Riley seconded the amendment. Bob made a second amendment that the staff be authorized to approve settlements as consistent with current statute. Riley seconded. The amendments and the motion passed.

IX. Benefits Subcommittee Report- Doug Buman, Danny Lee, Connie Welsh, and Riley Johnson

Connie Welsh gave an overview of the discussion held at the previous day's subcommittee meeting and the three objectives of this subcommittee. She read the 14 proposals that Ann Clayton had recommended and summarized the discussion that took place.

X. Attorney Fees Subcommittee Report-Bob Worthington, Bill Dahlgren, Jason Miller and Don Judge

Don moved, Danny Lee seconded, that the LMAC accept the following language voted on by the subcommittee: that attorney fees will be paid by the insurer if a dispute is filed with the Workers' Compensation Court and if the claimant prevails, or if an offer of judgment is made by an insurer more than thirty days prior to the court date but is rejected by the claimant and the court approves a judgment of at least 105% of the offer of judgment. After discussion, the motion failed.

Jason moved, Don seconded that the attorney fees issue be referred back to the subcommittee. Connie asked to broaden the title to "provider access." Jason so amended the motion and Don seconded the amendment. The amended motion was passed.

XI. Benefits- Independent Medical Examiner Fees- Diana Ferriter

Information on independent medical examiner fees is in development. Staff has done a survey and is processing the results. Diana plans to have the information ready for next month's meeting.

XII. Public Comment-

Jon Bennion, Montana Chamber of Commerce, addressed the LMAC.

XIII. Next Steps

LMAC Subcommittee Meetings– Thursday, March 18th, Red Lion Colonial Inn

LMAC– Friday, March 19, Best Western Great Northern

Upcoming dates:

April 15 -16 – Best Western Great Northern

May 20 – 21 –Best Western Great Northern