

Labor-Management Advisory Council  
Minutes  
April 16, 2010

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

**Project Team members present:** Diana Ferriter, Keith Messmer, Judy Bovington, Georgiana Kochman, Bryan Page, Dustin de Yong, Anne Wolfinger

**Others present:** Rick Clark, Plum Creek Timber; Al Smith, MTLA; Trudy Winslow, MHS; Mat Schwager, RMC; Lance Zanto, Department of Administration; Mark Cadwallader, Lea Coles, Department of Labor and Industry; Pat Schendel, RPM; Bridget McGregor, Nancy Butler, Kevin Braun, Montana State Fund; Connie Ferriter, Teresa Graham, Mark Hurlbut, Kristine Shields, Ryan Morton, Anni Druce, Barb Gullickson, Karen Wiles, ERD

- I. Welcome and Opening Remarks – Lt. Governor John Bohlinger  
Lt. Governor John Bohlinger opened the meeting by thanking those in attendance for coming.
- II. Approval of Agenda and Minutes  
The agenda and minutes were approved.
- III. LMAC Workplan and Summary – Jerry Keck  
Jerry reviewed the current workplan. Don Judge requested an additional meeting of the entire LMAC to continue the benefits discussion from yesterday's subcommittee meeting. The LMAC set that date and also scheduled meetings through the summer. Those dates are:  
Tuesday, May 4, 1:00-5:00 pm, Red Lion Colonial Hotel  
Tuesday, Wednesday, May 18-19, 9:00 am – 3:00 pm, Best Western Great Northern  
Wednesday, Thursday, June 23-24, 9:00 am – 3:00 pm, Best Western Great Northern  
Wednesday, Thursday, July 21-22, 9:00 am – 3:00 pm, Best Western Great Northern  
Monday, Tuesday, August 16-17, 9:00 am – 3:00 pm, Best Western Great Northern
- IV. Cost Drivers: Frequency/Duration – Georgiana (George) Kochman, Executive Director, WorkSafeMT  
George announced a new staff hire, Kevin Connolly, who has extensive experience in safety. In addition, WorkSafeMT has a safety specialist position closing today for which many applications have already been received.

George reported on the recent SafetyFest which exceeded expectations in attendance with over 500 participants. Initial feedback has been very positive. A final report will be given to the LMAC next month. A second SafetyFest will be held in Missoula in December. Doug Buman, citing experience with declining attendance at safety fests in Washington and Alaska, cautioned against scheduling too many such events. Bill Dahlgren complimented George, WorkSafeMT staff and ERD staff on a great effort.

The WorkSafeMT board meeting will be May 5. The board will be addressing the board structure, strategic planning, and the operational plans for FY 2011.

Jerry explained current plans for WorkSafeMT funding.

V. Cost Drivers: Medical – Keith Messmer

Keith reported that Frank Neuhauser, ERD consultant, and staff WC analyst Kristine Shields have continued their work on the evaluation of the nonfacility and facility fee schedules. The Utilization and Treatment Guidelines for Montana will be the Colorado Medical Guidelines as the primary set with the Official Disability Guidelines-Treatment as the filler guidelines for areas not addressed in the Colorado guidelines, unless public input changes the Department's position.

Frank gave a presentation on the Estimated Impact of Utilization and Treatment Guidelines on Employers' Costs and answered questions on guidelines analysis. He estimates that 42 percent of medical costs will be saved with the adoption of guidelines, resulting in a conservative estimate of \$102 million.

VI. Claim Closure/Settlements Subcommittee Report – Jason Miller

Jason reported he and Don will draft language to clarify the role of the Department and the standards that will be used to determine if settlement approval should be granted.

Nancy Butler, Montana State Fund, asked the LMAC to think about retroactive applicability.

VII. Benefits Subcommittee – Connie Welsh

Connie said the subcommittee reviewed information that had been requested and provided by staff such as cost impacts of the different benefit proposals and preliminary statutory language. The subcommittee did not get through all the information so the LMAC decided to reopen the discussion following the agenda of the LMAC meeting.

Doug asked ERD to cost out the impact of permanent partial disability (PPD) benefits in 25-week increments up to 500 weeks from the current 375.

VIII. Provider Access Subcommittee – Don Judge

The subcommittee has reverted back to the language in SB 285 as the starting point for discussion. Judy Bovington distributed and reviewed a draft proposal for statutory language based on the subcommittee's discussion. Public comment was that the number of Lockhart liens would be much higher if all that could be filed were filed, which could create a medical provider access problem.

IX. Benefits Discussion

AMA Guides

Don recommended that the 5<sup>th</sup> Edition AMA Guide be codified in statute as the rating tool for permanent impairment instead of the 6<sup>th</sup> Edition. Tom Murphy, Murphy Law Firm, spoke to support Don's suggestion, saying the 6<sup>th</sup> Edition was biased. He previously addressed the LMAC on this topic in November.

Kevin Braun, Montana State Fund, said the 6<sup>th</sup> Edition was evidence-based and reflected current medical practices.

Ann Clayton said this was one of the most controversial issues in workers' compensation. From a public policy basis, she suggested redesigning the PPD benefit structure to make up for the benefits reduction under the 6<sup>th</sup> Edition.

After further discussion among LMAC members and the public, the consensus was to keep the AMA guides issue in the benefits package for further discussion.

LMAC Efficient Benefits Distribution

Jason Swant, WorkSafeMT, discussed the handout which outlined the use of certified vocational rehabilitation counselors to expedite safe and successful return to work.

Temporary Transitional Employment

Judy Bovington summarized the intent of the draft statutory language.

Summary

Jerry identified proposals #5 (Washington-type approach) and #8 (reducing the permanent total disability (PTD) benefit) as ones that should be placed on hold until after the Economic Affairs Interim Committee meeting in May. He said proposal #6 (changing the waiting period) has already been scrapped since there was no interest from the committee to pursue this one.

X. Next steps

<b>General</b>		
Have a presentation on the new claims examiner certification process at the next LMAC meeting	Staff	May 14
<b>Benefits Subcommittee</b>		
Continue benefits discussion	LMAC	May 4
<b>Provider Access Subcommittee</b>		
Prepare language similar to SB 285, that if any part of it was overturned, it would invalidate the whole process	Staff	May 14
<b>Claim Closure/Settlements Subcommittee</b>		
Draft language on the settlement approval standard and the Department's role in the process	Jason, Don, Judy	May 14