

Minutes
Labor-Management Advisory Council
December 10, 2014
Best Western Great Northern Hotel, Helena, MT

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

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

Others present: Jerry Laughery, Jason Swant, Kristy Ediger, Barb Gullickson, Karen Wiles, and Anni Druce ERD, Nancy Butler, Tammy Lynn and Ethan Everly, MSF; Glenn Oppel, MT Chamber, Tom Dauenhauer, MMIA, Dustin Stewart, MBIA, Tana Wilcox NW Energy and Representative Chuck Hunter.

I. Welcome and Introductions

Lt. Governor Angela McLean chaired the meeting and greeted those present.

II. Approval of Agenda and Previous Minutes

The agenda was approved and minutes from the September 09, 2014 meeting were approved as amended.

III. State OSHA Update – Diana Ferriter, Bryan Page

The final draft of enabling legislation has been sent to the Federal OSHA Regional Office for review and it was advised there should be a response from them sometime in December. Bryan Page and Jerry Laughery have met with various associations providing information on the goals, and cost savings of a State based plan and showing a comparison of a State plan vs. a Federal plan. The associations are concerned with how a State plan will work, and how it will affect them.

IV. ERD Funding//Workers' Compensation Assessment – Diana Ferriter

Diana reviewed a graph of the Department's expenses and revenues and projected increases to Plan 2 and Plan 3 employers. She noted a change to the bill was made to make it effective on the date of passage. She advised Senator Bruce Tutvedt will sponsor the bill.

V. Legislative Matters – Diana Ferriter

Diana advised the housekeeping bill is posted and Representative Andrea Olsen may sponsor the bill. Representative Olsen is concerned with the provision pertaining to admitting privileges for treating physicians. She does not feel it is a housekeeping matter and is a controversial issue. Discussion involved whether or not treating physicians should be required to have hospital admitting privileges as required in Sections 39-71-116 and 39-71-711. The consensus of the LMAC was to let the department decide whether or not to remove those two controversial sections from the bill.

Other legislative issues include amending Section 39-71-107 to require written notice to injured workers when their claim is transferred to a new claims examiner; amending language in Section 39-71-704 to provide for only one update in the medical fee schedules per year versus three updates. This provision will reduce the work for both the department, insurers, and medical providers and make the fee schedule more efficient to administer.; amending 39-71-736 to include language regarding paid time off leave, as it pertains to eligibility for Temporary Total Disability benefits; amending 39-71-915 regarding the time frame for assessment of the Subsequent Injury Fund and; amending 39-71-606 regarding an employer's right to loss information, jurisdiction and penalty.

Also, Senator Rosendale approached the Montana State Fund regarding a drug formulary bill. He asked Diana Ferriter, Nancy Butler and Kevin Braun to work on draft legislation for this.

VI. Safety Committee Report – Don Judge

Don advised the only thing to report is a representative of the Grain Elevator Operators attended the safety subcommittee meeting and shared concerns of whether a State based OSHA plan would have higher standards than the Federal plan, the possibility of an escalation of fines and repeat violations, and what the rule making process will be.

At this point, the meeting moved to public comment on the proposed State based OSHA plan. Glen Oppel with the Chamber stated his board supports the concept and the advantage of bringing regulatory body to the State however, negatives overshadow positives. The concerns include whether the State will exceed the Federal Regulations and there is no confidence the plan will translate into a reduction of injuries.

Dustin Stewart of the Montana Building Industry Association also provided public comment stating the Association is interested in the concept and are dedicated to safety. He also commented on the politics that can get involved. He suggested inserting a sunset clause on the enabling legislation which their association would support. The sunset clause would allow stakeholders to work with the department on the operational plan to see how it's going to work and if not successful, the sunset clause would stop further work on the legislation. Because the Federal OSHA has to review and approve the enabling legislation, the department thinks the sunset clause would send a message that the state is not serious about a State OSHA plan.

Further public comment came from Representative Chuck Hunter. He is the sponsor of the bill and stated that safety has been talked about by employers for 20 years since the Montana safety culture act was enacted and our injury rates are still 40% higher than the national average. He stated employers need to start focusing on safety because that's where the most savings will come from rather than continuing to decrease benefits to workers.

VII. Employer Education on Transitional Employment – Lance Zanto

A meeting was held in October and in attendance were Jim Larson, Bill Dahlgren, Annette Hoffman, Bonnie Lyytinen-Hale, and Kevin Braun. Discussion included what came out of the 60 Summits statewide effort, measuring outcomes of SAW/RTW, looking at cities and the state where safety programs are implemented and their financial incentives; reaching out to unions for training; requesting meetings with the City of Billings and Yellowstone County; and educating the medical community on SAW/RTW.

VIII. HB 87 (2011) Provisions – Diana Ferriter

A hand-out was provided with the provisions of HB87 from 2011 that were not addressed in some manner in HB334. After discussion, Don motioned to have the LMAC pursue legislation to increase the PPD from 50% of the SAWW to 75% in 2015 and from 75% to 100% in 2016. There was no second on the motion so no vote was taken.

IX. WorkSafeMT Update – Diana Ferriter.

In the absence of Robyn Morrison, Diana advised the Board considered dissolving as a private non-profit due to lack of private donations. However, at the December Board Meeting the decision was made to continue to operate with the board members managing the non-profit. Mike Marsh from Midland Claims would assume the record keeping and house the records in Billings. Forty-five thousand dollars remain and Mike will also manage these funds. Two employees are contracted and their term ends in 2014. Seven board members agreed to remain. Diana Ferriter is resigning at the end of 2014 and the board will keep the Department updated on their activities.

X. Medical Provider Survey – Bill Wheeler

Bill provided graphs of the outcome of the medical provider survey. He said the primary takeaway was the desire for on-demand web-based training.

XI. LMAC Workplan and Follow-up – Diana Ferriter and Anne Wolfinger

After discussing the LMAC workplan, the LMAC decided not to meet on January 7 as originally planned. During the 2015 Legislature, the LMAC will meet weekly in the Native American Room in the Governor's Office on Fridays at 1:00 pm (and by teleconference) to review proposed legislation and discuss whether or not LMCA will take a position.

Next steps were reviewed and the meeting was adjourned.