

Minutes
Labor-Management Advisory Council
August 21, 2014
Best Western Great Northern Hotel, Helena

Advisory Council and Subcommittee members present: Council Chair Lt. Governor Angela McLean, Chris Cavazos, Annette Hoffman, Riley Johnson, Don Judge, Al Smith, Bob Worthington, Lance Zanto, Kevin Braun, Jim Larson and Jacqueline Lenmark.

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

Others present: Dick Martin, FairClaim; Pat Murdo and Scott Conrady, Legislative Services; Robyn Morrison, WorkSafeMT; Nancy Butler, MSF; Katy Howell, MSGIA/WCRRP; Leah Tietz, MUS; Dwight Eston, Farmers Insurance; and Pete Ropp, Liberty Mutual; Jerry Laughery, Barb Gullickson, Karen Wiles, Erin Weisgerber, Dave Elenbaas, Maralyn Lytle, Jason Swant, Chris Bradley, and Teresa Graham, ERD;

I. Welcome and Introductions

Lt. Governor Angela McLean chaired the meeting and greeted those present. She advised of her attendance at the Safety Fest in Havre and presented the WorkSafeMT Governor's Safety Award to Helena Sand and Gravel. She will be working with Lance Zanto and Sheila Hogan on safety for State of Montana Employees.

II. Approval of Agenda and Previous Minutes

The agenda was approved and minutes from the July 17, 2014 meeting were approved.

III. LMAC Decision Making Process – Diana Ferriter

Diana reviewed the LMAC Guiding Principles and the Process for Making Decisions that was agreed upon in 2009 by the previous LMAC. Discussion included what LMAC would do in situations when the Council has a consensus on draft legislation and attempts would be made to amend the legislation. It was agreed to work on the language regarding LMCA working collectively and to meet weekly during the Legislature to arrive at a consensus. The additional language will be discussed at the September 2014 meeting.

IV. ERD Funding//Workers' Compensation Assessment – Mark Cadwallader

Based on the recommendation from LMAC, Mark presented a draft bill that separates the Administrative Assessment from the Safety Assessment. Discussion involved whether or not to assess Plan 1 employers and Plan 2 insurers who are no longer doing business in Montana but still have paid losses and that there is no need to adjust the \$200,000 cap on medical benefits. Department staff will review the draft bill and send out to LMAC members for a decision at the September 2014 meeting.

V. LMAC Safety Committee Report – Don Judge, Lance Zanto

Lance updated the Council on the efforts to have language added to State contracts to require the bidder meet a certain level of safety standards. He stated they are also looking within the State agencies to ensure they meet the safety standards and adhere to the Safety Culture Act. Leah Tietz advised the Helena College has added OSHA training to their brochure, however, their website still needs to be updated. She stated one teacher has completed the 10-hour OSHA training and she will gather more information on this. Robyn Morrison of WorkSafeMT advised of the student safety video contest and cash rewards to 9th and 10th grades and 11th and 12th grades. Don Judge added that Diana sent out an email about an injured worker from the State of Washington who had lost his arm in an accident and is speaking to students regarding safety in the workplace. He also stated Bryan Page reported the State of Georgia had issued a press release about the 100 students who had been trained and in Montana there have been 1,000 students who have received safety training. Bryan has asked the Department communications officer to put together a similar press release. Lt. Governor was asked to send a letter to the Helena College thanking them for the addition of these classes to the curriculum.

The Safety Committee reviewed the draft State OSHA plan in their August 14th meeting. The draft would need federal OSHA approval at the regional and national levels before going to the Legislature. Mark Cadwallader summarized the Federal to State crosswalk table. LMAC was asked to make a decision on this draft bill at the September 2014 meeting.

VI. Employer Education on Transitional Employment - Lt. Governor Angela McLean, Jim Larson

Jim Larson presented to the Council his concern of the lack of training to employers regarding workers' compensation and their role in the system. He feels education is warranted to train employers on the benefits of transitional and early return to work. Jason Swant advised the Council of what outreach the Department currently does in the Stay at Work/Return to Work program, SafetyFests, postcards to injured workers, and the medical status form, but there is currently no specific education plan for employers although he did recently meet with a group of restaurant managers in Bozeman. Discussion involved how it is easier for larger employers to provide transitional early return to work as opposed to smaller employers and the need to reach out to middle management for education. Jim will work with the Lt. Governor, Jason, Diana, and Annette on a plan for educating employers and will bring back ideas at the September 2014 meeting.

VII. Workers' Compensation Judge Vacancy – Al Smith

Al presented an amendment to Section 39-71-2901 regarding appointment of a substitute judge. It was recommended paragraph 4 be amended to include "have experience in workers' compensation". He will discuss the substitution with the Chief Justice of the Supreme Court and the Governor and report back at the September 9, 2014 meeting.

VIII. Designated Treating Physician Task Force Discussion – Diana Ferriter, Al Smith

NCCI has completed a preliminary cost impact analysis. It's estimated that the proposed changes to the choice of treating physician provisions may have an upward impact on workers' compensation system costs however the magnitude of such an increase is uncertain. Discussion included the constitutional right to select a treating physician and possible rate increases. Al moved for LMAC to adopt the compromise proposal that was sent to NCCI for pricing. Chris Cavazos seconded the motion. The motion failed.

IX. Workers' Compensation Statute Review of 39-71-1006, MCA Discussion – Diana Ferriter, Al Smith

Al made a motion to amend this Section to reduce the impairment from 15% to 10%. Jim Larson seconded the motion and it was carried with the Lt. Governor voting affirmatively. The Department will draft the bill.

X. LMAC/Lt. Governor Notification Letter Update – LMAC

Al questioned what kind of response is given to those who take the time to respond to the letter. Anne advised she sends an email acknowledging receipt of the letter and they are informed regarding the LMAC members and their contact information. She also stated the Lt. Governor may write a letter of acknowledgement.

XI. WorkSafe MT Update – Robyn Morrison

Robin advised of the WorkSafeMT Governor's Safety Achievement Award presented to Helena Sand and Gravel by the Lt. Governor at the Havre SafetyFest. She stated the award recognizes safety and there can be more than one winner if they meet the thresholds set. The next SafetyFest is in Kalispell in January 2015.

XII. LMAC Work Plan and Follow UP – Anne Wolfinger, Diana Ferriter

Discussion involved topics on the work plan. It was agreed to remove U & T, DLI IMR process, settlement of future medical benefits, and voc rehab proposal from the plan.

Next steps were reviewed and the meeting was adjourned.