

Council on Worker's Compensation  
Meeting Minutes  
201 E. Washington Avenue, Madison, WI  
GEF-1 Building, Room F305  
Madison, Wisconsin  
December 11, 2018

The Department of Workforce Development (DWD) provided public notice of the meeting under Wis. Stat. § 19.84.

**Members present:** Ms. Frank, Mr. Fugina, Mr. Kent, Mr. Gunderson, Ms. Johnson, Mr. Lasee (Chair), Mr. Nettum, Mr. Reader, Mr. Redman and Mr. Tindall

**Excused:** Ms. Bloomingdale, Mr. Buchen, Mr. Schwanda and Ms. Thomas

**Staff Present:** Mr. Aiello, Mr. Gennrich, Ms. Halsey, Ms. Lake, Ms. McCormick, Mr. Moreth and Mr. O'Malley

1. **Call to Order/Introductions:** Mr. Lasee convened the Worker's Compensation Advisory Council (WCAC) meeting at approximately 10:00 a.m. in accordance with Wisconsin's open meetings law. Members of the WCAC, the audience, and Worker's Compensation Division (WCD) staff introduced themselves.
2. **Approval of the Minutes:** A motion was made by Mr. Reader to approve the minutes of the February 5, 2018 meeting. Mr. Kent seconded the motion. The minutes were unanimously approved without correction.
3. **Presentations:** Mr. Brian Hayes, Division Administrator, Division of Hearings and Appeals (DHA), offered an overview and update of the work performed by the Office of Worker's Compensation Hearings (OWCH) on behalf of the Division of Worker's Compensation, DWD. Mr. Hayes explained that 2015 Wis. Act 55 allows DHA to promulgate its own administrative rules for worker's compensation. A public hearing relating to the proposed rules was held on September 5, 2018. Pursuant to 2015 Wis. Act 55, mediation duties were transferred from DWD to DHA. When DHA transitions to new technology, those changes will be brought to the WCAC.
4. **Correspondence:** Mr. O'Malley reviewed the correspondence received since the last meeting.

A letter dated November 20, 2018 was received from Mr. Ed Maher from ATI Physical Therapy. The letter expressed objection to the implementation of a medical fee schedule.

An email dated November 27, 2018 from Ms. Lynn Grinsell, Vice President of State Affairs, Government and Industry Affairs at Zurich North American. The email requested that the WCAC change or amend DWD 80.61 of the Wisconsin Administrative Code to allow the contractor of a wrap up project to sponsor the wrap up project and have the policy issued in the contractor's name, just like an owner of a project is currently allowed to do.

A letter dated November 30, 2018 from Mr. Steve Schneider, American Insurance Association, Mr. Mark Johnston, National Association of Mutual Insurance Companies, Mr. Jeff Junkas, Property and Casualty Insurers Association of America and Andy Franken, Wisconsin Insurance Alliance. The writers affirm their organizations' commitment to the agreed upon bill process of developing legislation through the WCAC process. The writers suggest that some scrutiny be given to the increasing medical costs associated with claims. It is also suggested that an end date be established for permanent and total disability benefits.

A letter dated December 3, 2018 from Mr. Brian Dake, Legislative Director for Wisconsin Independent Businesses. The letter points out that Wisconsin has no meaningful medical cost containment measures and that since 1989, medical costs have risen while indemnity payments have decreased. The letter requests that DWD be required to develop a medical fee schedule.

A letter dated December 3, 2018 from Attorney John Edmondson. In his letter, Attorney Edmondson proposes three statutory changes:

- Increasing the dollar cap under s. 102.57, Wis. Stats., from \$15,000 to at least \$25,000 in 2019. He suggests that the percentage under this section be increased when an injury results in death.
- Develop a law that requires a carrier to repay a medical provider any written off medical expenses that were due to the acceptance of payments from Medicare or Medicaid.
- Elimination of the five percent interest credit pursuant to s. 102.32(6m) Wis. Stats.

A letter dated December 3, 2018 from Tracy Euler, Manager of Advocacy and Compliance, Healthsystems, LLC included the following recommended changes:

- Limit opioids for short-term use only in the acute phase following severe injury or surgery, at the lowest effective dose of an immediate release opioid for shortest duration possible with the treatment to be evaluated weekly.
- Incorporate a 50-morphine equivalent dose (MED) threshold for the treatment of acute and chronic pain and establish a supply limitation of seven days.
- Designate Medi-Span as the average wholesale price (AWP) source in s. 102.425, Wis. Stats.
- Create s. 102.425 (3) (am), Wis. Stats., covering charges for repackaged drugs using the same language as contained in 2014 AB-711.
- Set reimbursement for convenience packs and kits based on the fee schedule rate applicable to the individual products contained therein.
- The WCAC should limit physician dispensed medications to a one time seven-day supply at the initial visit within the first 10 days of the injury.
- Preauthorization should be required for all physician dispensed and compounded medications.

A letter dated December 3, 2018 from Julian Roberts, President, American Association of Payers, Administrators and Networks included the following recommended changes:

- The WCAC should set parameters around physician dispensing of drugs and where an injured worker may obtain a prescription.

- Establish a prescription drug formulary.
  - Create rules at limiting the morphine equivalent dose (MED) of drugs prescribed for work-related injuries.
  - For drug compounding place reimbursement limits per script or per ingredient, cap the number of ingredients or the total cost per script or require prior authorization.
5. **Discussion of Public Hearing:** Mr. Lasee explained that a public hearing was held on November 12, 2018. The hearing was conducted in an afternoon and evening session. Remote hearing locations were present throughout the state. Although a number of people appeared at the public hearing to observe, no one appeared to give testimony to propose law or rule changes.
  6. **Discussion of Maximum Allowable Charges:** Mr. Lasee suggested that the WCAC consider putting a bill forward that uses the phrase maximum allowable charges in relation to medical charges. Wisconsin is one of three states that has no medical fee schedule and no employer directed medical care. Ms. Johnson stated that cost containment measures are long overdue.
  7. **Discussion of Proposed Administrative Rules – DWD 80:** Mr. O'Malley explained that most of the proposed administrative rules pertain to the self-insurance program. The Statement of Scope has been approved by the Governor's office. A hearing draft has been proposed, but a public hearing still needs to be held.
  8. **Discussion of Senate Bill 884:** Mr. O'Malley explained that the proposed amendment to section 227.01(3m) (a), Wis. Stats. will have an affect on many state agencies including the Worker's Compensation Division. The guidance documents used by the agency are numerous and if the bill is signed, it could affect how the Worker's Compensation Division conducts business in the future. Mr. Reader commented that this reform may give departments a little extra work, but it will hopefully address agencies implementing policies contrary to the legislators' intent.
  9. **Next Meeting:** February 12, 2019
  10. **Motion to Express Appreciation:** Mr. Reader moved that the minutes reflect the WCAC's appreciation of Mr. Lasee's service to the WCAC and his hard work in bringing forward ideas and helping the Council navigate the process. Mr. Kent seconded the motion. The motion passed unanimously.

**Adjournment:** A motion was made by Mr. Redman to adjourn the meeting. The motion was seconded by Mr. Reader. The motion passed unanimously. The meeting was adjourned at approximately 10:58 a.m.

The Worker's Compensation Advisory Council's next meeting is scheduled for Tuesday, February 12, 2019.