

Ad Hoc Committee on Seasonal Farmworkers Minutes

Monday, September 19th, 2022

10:00 AM – 12:00 PM/Noon

Via MS Teams

Call to order: 10:00 AM CST

Meeting recorded via MS Teams at 10:00 AM CST

Roll Call taken by **Katie Mueller**

COMMITTEE MEMBERS PRESENT:

Erica Sweitzer-Beckman, Laura Waldvogel, Erica Kunze, Aimee Jo Castleberry

COMMITTEE MEMBERS ABSENT:

John Bauknecht and Kate Lambert

OTHER COUNCIL MEMBERS PRESENT:

Jose Martinez, Ben Obregon, Carolyn (Carrie) Flyte, Rep. Jodi Emerson

DWD STAFF PRESENT:

Katie Mueller (Section Chief – BJS), Dom Tervalon (Program & Policy Analyst – BJS), Jennifer Wakerhauser (DWD Chief Legal Counsel), Caitlin Madden (DWD Deputy Legal Counsel), Rosa Rosa Ortega (Employment and Training Analyst – BJS), Pedro Albiter (Employment and Training Specialist – BJS), Mark Kunkel (DWD Rules, Records and Policy Coordinator) Beatriz Contreras (Employment and Training Specialist – BJS), Angelica Vasquez (State Monitor Advocate – BJS), Luis Berrios Rosario, Terry Scheurman

AGENDA ITEMS

1. CALL TO ORDER:

The roll was taken by **Katie Mueller** at 10:00 AM.

No quorum taken at this point with only three committee members present.

New members for council

With no present quorum, **Erica Sweitzer-Beckman** suggested focusing on introductions. Asked if anyone from the Governor's Council on Migrant Labor who was not a member of the ad hoc committee was in attendance.

Representative Jodi Emerson (Eau Claire), Ben Obregon, and Carrie Flyte confirmed their presence.

Erica Sweitzer-Beckman welcomed additional introductions from non committee members.

Aimee Jo Castleberry joined at 10:03 AM which led to quorum.

Mark Kunkel, Caitlin Madden, Angelica Vasquez, Luis Berrios Rosario, Terry Scheurman, Pedro Albiter, Beatriz Contreras, and Rosa Ortega all introduced themselves.

2. APPROVAL OF AGENDA:

Erica Sweitzer-Beckman asked for a motion to approve the agenda for today's meeting.

Aimee Jo Castleberry moved with **Laura Waldvogel** seconding.

3. REVIEW AND APPROVAL OF MEETING MINUTES:

Erica Sweitzer-Beckman brought everyone's attention to the minutes of April 11th and May 25th sent from **Katie Mueller** via email.

Katie shared the April 11th minutes with the group to review.

Erica Sweitzer-Beckman asked if there were any changes/additions to the drafted minutes. With no changes **Aimee Jo Castleberry** made the first motion to approve the April 11th minutes. **Erica Kunze** seconded.

After the April 11th meeting minutes approved, focus was shifted to the May 25th minutes. **Erica Kunze** made the first motion to approve followed by **Aimee Jo Castleberry** seconding.

Katie Mueller mentioned that there's also a full quorum for the Governor's Council with at least 7 Council members present. It needed be noted that no votes can be made on any Governor's Council items today. **Caitlin Madden** supported **Katie's** comment on this matter.

4. DISCUSSION ON DWD 301 ITEMS:

Erica Sweitzer-Beckman started by asking if anyone had any questions or comments regarding 301.05 (8)(C).

- **Aimee Jo Castleberry** mentioned that questions were put forward on documents needed by Migrant Recruiters related to vehicle registration. There were challenges in dealing concerns over with inspections and insurance coverages. Aimee Jo also wanted clarification on WH 514 as it relates to proof of inspection and insurance. **Erica Sweitzer-Beckman** had a question regarding insurance coverage requirements for ag employers. **Aimee Jo Castleberry** confirmed Seneca Foods requires vehicle insurance is required. She just wasn't sure on the exact amount that her company has it set to. She'll be sharing that information with the committee in an upcoming meeting.
- **Erica Sweitzer-Beckman** stated that coverage for all workers would be the ideal final result. Federal requirements don't state when insurance coverages will apply. **Erica** noted that PPO insurance options used by some employers bundle coverages. However, they don't cover all labor contracting activities and aren't as effective in cases where accidents to workers occur. This leads to gaps in coverage and is a problem that needs to be addressed.
- **Jose Martinez** had a question on if there is a review process of vehicle insurance coverages that the state and/or federal government use to certify employers.
- **Erica Sweitzer-Beckman** felt it would be good to know the state's review process.
 - **Katie Mueller** shared the process used for Migrant Labor contractors which utilizes certification forms that require registration of employees in compliance with WH 1514 before official certification.
 - **Jose Martinez** asked about the requirements upon submittal of applications for review that highlight changes in policy holders and insurance companies for employers.
 - **Katie Mueller** answered that there was no current policy in place on providing changes. Notice of violation is currently implemented for possible uninsured vehicles. **Katie** mentioned that a contractor had concerns with USDOL also requiring registration for farm labor contractors. There were 3 different options for providing insurance for transporting migrant workers. One option involved having Worker's Compensation Insurance to cover vehicles in use. A contractor recommended that the Council should consider having the state implement this.
 - **Erica Sweitzer-Beckman** said that the Federal requirements aren't defined as the state's when it came to Worker's Compensation Insurance on vehicles. It was mentioned that if WC was the only thing covered that it could lead to a potential coverage gap. State Law under 103.97F notes that vehicle insurance is required. Changes to 301 would need to fall inline with that requirement. **Erica** also wondered if the second sentence for 103.97F addressed **Aimee Jo Castleberry's** concerns.
 - **Aimee Jo Castleberry** commented that it would be applicable with coverage details from an employer's perspective and addressing more questions related to migrant recruiters.

- **Erica Sweitzer-Beckman** had a question on if the Worker's Compensation Division of DWD would be able to answer insurance policy-based questions.
- **Katie Mueller** confirmed that working with Worker's Comp Division is being done in drafting updates to policies.
 - **Erica Sweitzer-Beckman** noted that cover requirements should be considered for review especially with damages and worker injuries.
- **Erica Sweitzer-Beckman** asked if any employers had questions or concerns regarding 301.06.
 - **Aimee Jo Castleberry** answered that there were no major concerns at the moment.
- **Erica Sweitzer-Beckman** stated that Legal Actions comments were extensive and confusing. Specifically when employers are looking at H2A works in compliance with Federal Law.
 - **Aimee Jo Castleberry** brought up the fact that there was no clarification on if migrant workers have a Worker's Compensation claim due to lost time from injuries. In this case, she wanted to know were any guarantees apply. Aimee Jo asked about the waiting payment for Worker's Compensation payments in alignment with guarantees.
 - **Erica Sweitzer-Beckman** shared that there's currently nothing in the regulations. It should be addressed as a question.
 - **Jose Martinez** requested clarification on **Aimee Jo Castleberry's** question. He wanted to know if it was specifically focusing on Worker's Comp payments in the first week.
 - **Aimee Jo Castleberry** answered that it was.
 - **Erica Sweitzer-Beckman** commented that it would be good for detailed information on periods of illnesses within the guarantee would be helpful.
 - **Katie Mueller** had a question regarding the state date on guarantees.
 - **Erica Sweitzer-Beckman** answered by referencing the statute that covers periods when the worker is notified by the employer on the date that worker reports to work and continues to termination.
 - **Aimee Jo Castleberry** suggested that flexibility with the start date would be great.
 - **Erica Sweitzer-Beckman** noticed a comment on multiple families within work agreements. She said this should be addressed especially with no compliance in the past.
 - **Erica Kunze** agreed.

- **Erica Sweitzer-Beckman** shifted discussion to Health & Sanitation asking for comments from employers. She asked for **Laura Waldvogel's** thoughts on this.
 - **Laura Waldvogel** stated that she didn't have time for review materials with Medical Director. She said she'd like the opportunity to do that and provide feedback. **Laura** did give credit to Legal Actions for their work on Health and Sanitation. **Laura Waldvogel** wanted to see provisions for communicable diseases besides just COVID. Also wanted to see provisions for illnesses outside of State of Emergency situations with employment on generalized language that falls in line with CDC and OSHA standards.
- **Katie Mueller** said that she could take any comments and follow up information via e-mail. This will all be taken into consideration when drafting.
 - **Laura Waldvogel** asked what the timeline of a draft release would be. **Katie Mueller** confirmed that DWD is working with DHS. Katie shared that a draft would be ready before the next committee meeting on October 17th with time for review. **Kaitlin Madden** is working to get this out ASAP while trying to gather as much additional information as possible for the draft.
- **Erica Sweitzer-Beckman** noted a big complaint of the amount of available washers and dryer.
 - **Erica Kunze** would like to see more available in order to meet the needs of workers.
 - **Aimee Jo Castleberry** agreed to looking at updating and improving the requirements regarding access to washers and dryers.
- **Erica Sweitzer-Beckman** moved the focus of the meeting to Labor Camp Standards covered under 301.07.
 - No employer or other comments provided at the moment.
 - **Erica Sweitzer-Beckman** shared that under OSHA regulations where infected workers need to be informed on the presence of variants.
 - **Jose Martinez** commented on H2A when looking at occupied housing in regards to best practices. He'd like to see alignment between H2A and non H2A.
 - **Erica Sweitzer-Beckman** mentioned that with preliminary responses that housing needs to meet Federal and State standards. H2A is covered by Wisconsin Migrant Law. Federal regulations aren't meant to replace states. Compliance need to be met between both especially if a state's regulation isn't included essential requirements covered by federal regulations.

- **Erica Sweitzer-Beckman** had a question on nitrate and water levels to Health Committee members. Some of the information seemed to have conflicted with updated DHS information regarding general nitrate affects.
- **Erica Sweitzer-Beckman** asked if anyone had comments regarding 301.09 Field Sanitation Standards.
 - **Erica Sweitzer-Beckman** brought up that Legal Action addressed section in committee comments looking specifically at OSHA best practices. There were concerns over heat exhaustion. Training should be considered.
 - **Aimee Jo Castleberry** revisited licensing and vehicle insurance policy discussion details. She noted that there was lots of grey area information that overlapped with OSHA regulations. **Aimee Jo** felt that it would be good to know the impact that this has on migrant recruiters. She asked if Erica Kunze had the same issues.
 - **Erica Kunze** agreed with **Aimee Jo**.
 - **Erica Sweitzer-Beckman** mentioned that advocate perspectives excluded full time employees under state and federal requirements.
 - **Aimee Jo Castleberry** believed that clarification would be helpful relating to this exclusion.
 - **Erica Kunze** agreed.
 - **Katie Mueller** stated that there were no questions from DWD at moment. **Katie** also clarified that other members of the council who aren't on the committee can make comments only that they can't vote.
 - **Erica Sweitzer-Beckman** said that DWD was working on drafting. Comments are encouraged and can be sent to **Katie Mueller** via email.
 - The draft will be shared at the next council meeting.

5. OLD BUSINESS

Erica Sweitzer-Beckman asked if updated could be shared on the Navigator Grant.

- **Katie Mueller** suggested that **Jose Martinez** take the lead on this update.
 - **Jose Martinez** mentioned that UMOS was closing on getting the MOU contract approved with DWD. Hoping for approval the week of September 19th – 23rd. Lots of work is being done in preparation of the contract once approval is official. Activities of the grant have been actively announcement of it's Facebook page and other social media. There's also a 1-800 number for information provided by staff. Forms have been finalized for capturing data, outreach and recruitment activities. The Navigator Grant website is also active.

Erica Sweitzer-Beckman asked employers when migrant workers will be returning home.

- **Aimee Jo Castleberry** answered between the end of October to January for Seneca Foods.
- **Erica Kunze** answered between mid-October to December for Lakeside Foods.

Erica Sweitzer-Beckman shifted discussion over to UI work search actions with reference to Statute 108.04 (2)(a)3; Admin Code 127 and the UI Handbook.

- Group is looking to develop suggestions for securing and improving employment status of workers. Also explore suitable training resources for workers.
 - **Aimee Jo Castleberry** is still reviewing especially in regards to math testing standards at Seneca Foods.
 - **Erica Kunze** had no current suggestions.
 - **Jose Martinez** noted that it would be good to utilized/consider skill enhancement opportunities that others states have. Just like those noted in a list of approved trainings and trainers that meet work search requirements.
 - **Aimee Jo Castleberry** liked **Jose's** suggestion.
- **Erica Sweitzer-Beckman** suggested getting new ideas ready for discussion at next meeting.
 - UI discussion will continue at next meeting on October 17th.

6. NEW BUSINESS

Erica Sweitzer-Beckman noted that membership to committee for additional appointments would be helpful.

- **Katie Mueller** said that the procedure is based on the bilaws. The Council has to vote on approval of new members. Emails for anyone who would like to join can be sent to **Erica Sweitzer-Beckman, Katie Mueller** or anyone on the committee.

7. ANNOUNCEMENTS/FUTURE ITEMS

Next Ad Hoc Committee of Migrant Seasonal Farmworkers on Monday, October 17th, 2022 at 10:00 AM & the Governor's Council on Migrant Labor in Wednesday, October 19th, 2022 at 10 AM

11. MEETING ADJOURNED AT 11:56 AM CST