

## Workers' Compensation Advisory Committee (WCAC) Meeting

Labor and Industries, Tumwater, WA

Meeting Notes

March 28, 2024

Hybrid: L&I HQ Auditorium and Zoom

### **Business Representatives:**

Bob Battles, Association of Washington Business

Sheri Call, Washington Trucking Association

Jon DeVaney, Washington State Tree Fruit Association

Kelli Early, ESD113

### **Labor Representatives:**

Joe Kendo, Washington State Labor Council

AJ Johnson, Washington State Council of Firefighters

Mark Riker, Washington State Labor Council

Brenda Wiest, Teamsters Local 117

### **Labor and Industries:**

Joel Sacks, Director (*not present*)

Mike Ratko, Assistant Director for Insurance Services

### **Board of Industrial Insurance Appeals (BIIA):**

Holly Kessler, Chair

### **Court Reporter:**

Andrea Clevenger, Capitol Pacific Reporting

### **Recorder:**

Cristina Gaffoglio

**Guests:** Ali Ishaq, Amy Earley, Alicia Milani, Andy Nicholas, Amy Early, Autumn Music-Schmitz, Angelique Guppy, Ben Hollar, Beth Covert, Brenda Heilman, Cameron Van Dyck, Cari Anderson, Cassandra Mann, Celeste Monahan, Celia Nightingale, Cherell Fisher, Cherie Wagaman, Christine Brewer, James Cranall, Daniel Peveto, Dave Bonauto, David Kennerud, Donna Egeland, Ciara High, Emily Stinson, Gary Franklin, Herbert Atienza, Ian Payne, Jeanine Keeseey, Jeff Gosda, Jennifer Chatwood, Jennifer Jute, Jennifer Marcum, Jessica Gallardo, Jessica Nau, Joshua Ligosky, Julie Black, Kaethe Long, Karen Peck, Katherine Hoffman, Ken Neilson, Kim Clauson, Kim Wallace, Kristen McCoy, Kim Hurley, Kirsta Glenn, Lisann Rolle, Leigh Haley, Lori Gruber, Luke Sampson, Lynda Ducharme, Maggie Leland, Maria McClain, Mark Phillips, MATT Corwin, Michelle O'Brien, Nichole Runnels, Rachelle Bohler, Richard Goggins, Rose Gunderson, Sarah Fishback-Duran, Scott Bradley, Shawn Wright, Sheri Sundstrom, Sheryl Divina, Ryan Guppy, Sarah Battin, Thomas Feller, Tom Kwieciak, Wes Carter, Kris Tefft, Mark Phillips, Llyod Brooks

### **Welcome and Introduction: Mike Ratko**

The meeting began with a brief overview of the agenda and introductions of the committee members.

Mr. Ratko moved to approve the minutes from the March 28, 2024 meeting. There was no opposition to the motion. The minutes were approved.

Mr. Ratko introduced Kirsta Glenn, Chief of Return to Work Partnerships, who presented the safety message.

### **General Updates: Mike Ratko, Elizabeth Smith**

Ms. Smith talked through slide 15 about the current status of the Worker's Compensation System Modernization. Mr. Kendo asked if an end date has been identified and Ms. Smith replied that the majority of the technology and transition work is 6 to 10 years; starting with Claims and employer payments, billing, and provider work.

Mr. Ratko talked through slides 16-18, updating the audience about the new WCAC PTSD Subcommittee and Staffing and Caseload Levels.

Mr. Kendo asked if there is a national baseline for caseloads and Mr. Ratko indicated that the industry average is between 140 and 150.

Mr. Battles asked how many open caseloads are ideal from an agency standpoint and what the plan is for that ideal. Mr. Ratko explained that currently, the agency is identifying the areas with the most delays and how to shift less important work from claim managers so that they may focus on more complex issues and claims. In addition, the agency is considering a decision package to bring on more adjudicators to provide some relief. Currently we are looking for efficiencies and continuing to fill our vacancies. The long-term goal of the agency is to incorporate new systems and processes.

### **Legislative Updates: Brenda Heilman**

Ms. Heilman talked through slide 20. Specifically, addressing the six Workers' Compensation bills that were passed during the legislative session and two Proviso Funding bills. Mr. Battles asked how the department will be working with stakeholder groups for Proviso Funding and Ms. Heilman explained early stakeholders are being identified to establish the process.

### **IME Recordings: Brenda Heilman**

Ms. Heilman discussed IME Recordings from slides 20-34. Brenda reminded the committee that the Legislature passed Substitute House Bill 1068 into law effective July 23, 2023. This legislation

amends RCW 51.36.070, giving workers the right to record independent medical examinations (IMEs) ordered under that section, RCW 51.32.110.

Referencing slide 23, Maria McClain asked if the number of IMEs declining is due to too many consultations currently being requested by CM. Ms. Heilman explained that IMEs requested have declined since 2018 due to Bill 6440, which addressed how often and under what circumstances a claim manager could request an exam; from 22,000 in 2018 to 12,000 to 13,000 IMEs, meaning more consultations are occurring.

Ms. Heilman shared data showing the number of IMEs with a request to record continues to increase and has doubled from about 60 in August 2023 to over 120 in February 2024. The cancellation rate for these IMEs is between 30 to 40 percent.

On slide 24, Mr. Kendo asked the reasoning for IME cancellations, and Ms. Heilman stated that the most common reason for cancelling is due to providers declining to have the appointment recorded. Ms. Heilman further explained that there is a significant impact on workers' benefits delays when examinations are rescheduled following a request to record versus IMEs where the workers do not request to record exams.

Lauren Gubbe requested the Department acquire another legal opinion regarding whether the worker has to agree to be recorded by the IME providers if they will record the exam. Ms. Heilman informed Ms. Gubbe that the Department is committed to improvements by having conversations with their AAG and scheduling discussion groups with all parties to identify best practices and solutions in the future.

Ms. Heilman shared that department continues to work on reducing delays associated with IMEs that are cancelled or rescheduled as a result of the worker's request to record. Best practice guidelines have been created for the IME panels, some technology enhancements are being implemented and additional training for claim managers is occurring.

### **Operational Health Dashboard: Mike Ratko**

Due to lack of time, Mr. Ratko did not present the Operational Health Dashboard, slides 35-50, and informed the committee that a copy of the slides and a detailed document with the talking-points would be sent out after the meeting.

### **Ergonomic Rulemaking Update: Beth Covert, Maggie Leland**

Ms. Covert talked through slides 52-65. Detailing specifics of the project's current process of implementing the new program and rules to regulate certain industries with high incidences of workplace musculoskeletal disorders (WMSD).

Mr. Battles asked why there has not been a written document outlining the factors and criteria of the narrowed-down list of NAICS; requesting more details on the departments' process for

developing this list. Ms. Covert explained that a comprehensive list of factors will be a part of the legislative report. Maggie Leland expanded on Ms. Covert's answer, stating that the agency took a holistic approach versus following a specific formula to narrow down the list because no case is identical; some have higher claims than others, but some have recognizable solutions that are known for the type of hazards that are in that workplace, etc.

Ms. Covert and Ms. Leland ask the advisory committee to provide their input in the decision-making process to pick the NAICS or Risk Class for the first rulemaking.

**Program Spotlight – Self-Insurance: Knowrasa Patrick**

Mr. Ratko introduced Knowrasa Patrick, Self-Insurance Program Manager, who talked through slides 67-78.

**Industrial Insurance State Fund Financial Overview: Kim Hurley**

Mr. Ratko introduced Kim Hurley, interim Chief Accounting Officer for Financial Services, who talked through slides 79-90, which provided the financial results for the fiscal year 2024 (July 2023– December 2023).

**Board of Industrial Insurance (BIIA) Update: Holly Kessler**

Mr. Ratko introduced Holly Kessler, Chair for the Board of Industrial Insurance Appeals, who talked through slides 91-95.

**Closing Comments & Adjourn: Mike Ratko**

Mr. Ratko asked the committee to send any topic ideas his way so they can be incorporated into future agendas.

Mr. Ratko thanked the presenters for their time and effort putting together their presentations. Meeting adjourned.