

Workers' Compensation Advisory Committee (WCAC) Meeting
Labor and Industries, Tumwater, WA
Meeting Notes
September 27, 2018

Business Representatives:

Mike Roozen, Washington State Farm Bureau
Sheri Sundstrom, Washington Self-Insurers Associations
Bob Battles, Association of Washington Business
Tammie Hetrick, Washington Retail Association (*via phone*)

Labor Representatives:

Brenda Wiest, Teamsters Local 117
Neil Hartman, Washington State Building and Construction Trades Council (*for Mark Riker*)

Labor and Industries:

Joel Sacks, Director
Randi Warick, Deputy Director
Vickie Kennedy, Assistant Director for Insurance Services

Board of Industrial Insurance Appeals (BIIA):

Linda Williams, Chair

Court Reporter:

Milton Vance, Excel Court Reporting

Recorder:

Sarah Battin (*present*)

Guests: Karen Peterson, Jessica Nau, Veronica Bronkema, Casey Tozzi, Bill Vasek, Jeff Day, Coreen Urrutis, Kevin Neubauer, Lauren Gubbe, Tom Kwieciak, Keith Bingham, Jessica Gallardo, Lloyd Brooks, Mark Phillips, Amy Reynolds, Kim Contris, Donna Egeland, Kris Tefft, Leigh Haley, Karen Jost, Logan Bahr, Scott Dilley, and Marie Fiore.

Welcome & General Updates: Joel Sacks, Vickie Kennedy, and Mike Ratko

Meeting started with introductions of the committee members and the audience. Following introductions, Ms. Kennedy mentioned the committee members receiving the draft minutes from April and June 2018 meetings and asked for any feedback or corrections. Asked for move to approve the minutes, minutes approved and will be posted. Joel Sacks, Director, presented the safety message on "The Dangers of Driving While Drowsy".

Ms. Kennedy continued on with updates. She reminded the members there were several pieces of legislation passed last session. The two discussed in the meeting were the bills that involve presumptive coverage. SB 1723, the Hanford Presumptive bill, is now codified in RCW 51.32.187, and SSB 6214, the PTSD Presumptive bill, is now codified in RCW 51.08.142 and RCW 51.32.185. L&I is receiving and processing claims under both bills (see claim data below). L&I has provided

an FAQ document for the Hanford Presumption (see link below), and has been communicating with the U.S. Department of Energy (DOE), the Hanford Workforce Engagement Center (HWEC), the Self-Insurance Ombuds and other affected parties, to help facilitate implementation of this legislation.

The following are Self-Insurance numbers:

Hanford Presumption Claim tracking totals:

Received: 45

Allowed: 12

Pending: 29 (pending means L&I is in the process of reviewing, or L&I has given the employer time to provide additional information)

Rejected: 4 (one of these was rejected as State Fund covered)

PTSD Presumption Claim tracking totals:

Received: 8

Allowed: 1 (allowed as injury due to specific incident)

Pending: 6

Rejected: 1 (Claim filed prior to effective date of legislation – under protest)

The following are State Fund numbers:

Hanford Presumption Claim tracking totals:

Received: 5

Allowed: 0

Pending: 5 (4 cancer) (pending means L&I is in the process of reviewing, or L&I has given the employer more time to provide additional information)

Rejected: 0

PTSD Presumption Claim tracking totals:

Received: 12

Allowed: 0

Pending: 10 (2 death/survivor benefits)

Rejected: 2 (1 claim rejected as not being filed prior to effective date of legislation. Claim currently under appeal.)

Here's the link to the FAQ provided for the Hanford Presumptive law (SI and SF staff collaboratively created this):

<http://www.lni.wa.gov/ClaimsIns/Insurance/SelfInsure/WhatsNew/Default.asp#HanfordFAQ>

Mr. Sacks gave an update on budget. L&I has submitted its proposed budget to the Governor's office. Mr. Sacks explained the budget process. Our proposed budget submittal consisted of us considering our strategic plan and agency goals, where we think the biggest impact on continuing to improve the services we're providing to workers and employers.

Focusing on people, process and technology:

On the people side, working with the legislature last session, we identified two areas where we need to increase staffing, DOSH and State Fund claims managers (which was approved last biennium). We will also increase staffing in programs where we've seen an increase in workload. Front counter staff across the state, in our Employment Standards program, and in our Prevailing Wage program.

A couple of examples on the process side: we've asked for funding to increase research on prevention and expand the amount of outreach we do. There was a bill passed during last session for the crime victims program setting the expectation that we pay providers at the same level as the worker's comp system. The law that includes a provision to address funding deficits, dropping payments to 70%. Based on our forecast, we dropped to 70% and will raise the issue to the Governor and legislature that if we're going to be at 100%, we need additional funding.

For technology, replacement of our workers' comp system is on the agenda for later today. A couple other technology asks are:

1. Funding to complete the provider credentialing system project
2. Elevator safety inspection software

Mr. Ratko gave an update on the self-insurance rule modernization effort. Group convened to look at the rules that haven't been looked at in many years, some as many as ten years. Spent time to ensure rules align with statutes. Proposed new rules are now in comment period through October. Handouts are provided in your packets and if you're interested in more information please reach out to program staff at Self Insurance (K.C. Wilkerson, contact info provided, or Mr. Ratko, or Jim Nylander).

Mr. Sacks stated the proposed workers' compensation premium rate change for 2019 will be a decrease of 5%. Will talk more about the details in how this was reached after the break.

Business Transformation: Website Redesign: Kim Contris and Ron Langley

Project started in 2017, we're a little more than half way through.

Accomplishments thus far

- New site design – presented
 - Old site was developed in 2003 and updated in 2010
 - Over 70% of customer interactions happen on-line on this site
 - 2017 had 42 million page views
 - Updates made based on customer research/feedback
 - Need fewer menus, more streamlined site, easy to navigate, and search feature that works
 - Need to ensure the site is easily viewable on mobile devices (i.e. tablets, phones, etc.)
 - New site meets ADA standards
 - Testing that was conducted included 300 employers, 200 workers, and ~240 providers

- Question from Bob Battles: With the employers, do you feel like you got a good cross-section? Answer: Yes, there was a broad range of industries.
 - Bob: What about size, do you have a way of comparing the size of those employers (i.e. small business, large business, workers comp, self-insurance etc.). Answer: No exact details, it was a broad range.
- Three (3) types of tests were conducted:
 - Pie Tree – baseline study of existing site
 - Pie-Tree - updating of navigation
 - Modified Task Analysis
 - Once tests were concluded the results of what you were searching for and whether the right information pulled up more than doubled.
- Before the launch on June 30, 2019, next steps
 - Another round of testing
 - Outreach to major stakeholder groups, we don't want to catch people off-guard with the new site
 - Advance messaging to distribution lists
 - Training for customer services staff and others
 - Listen to the feedback and conversations
 - We have to be sure we're listening to customer feedback to be sure the site is working as intended and if not, fix it
- Question: Bob's question about business size in user testing for our website redesign

Answered via email: At yesterday's meeting, Bob asked how L&I and our consultant were ensuring responses from both large and small businesses, in appropriate proportions, as we gather their input for the redesign of our website (not our web portals through which various stakeholders are able to access various information specific to them).

Ron Langley followed up with the consultants. According to the navigation expert, broadly speaking, most users react similarly to general tests and situations, which is what we were doing right now. At this point in the site development, the tests seek to identify high-level navigation patterns rather than content details, so small or large business identification likely doesn't influence their responses.

We've also developed customer profiles to assist us. As we get into specific content, small business vs. larger firms will matter. For example, larger firms tend to have more people who we would consider "specialists" (and we have a profile to represent these folks) while the needs of small employers might put them in the category of a "vulnerable".

Business Transformation: Workers' Compensation Replacement Plan: Joel Sacks

- Why are we proposing to replace it? Many reasons, one reason is systems are complicated for employees to navigate and take too much time, making it difficult to engage with customers to meet their needs.
- What progress have we made so far?

- #1 - Our intent of visiting and speaking with other organizations and jurisdictions was to learn from their mistakes and gain their insights of what worked well and what didn't. This will help ensure L&I doesn't make the same mistakes.
 - Example: Issuance of orders. Every decision we make can be protested or appealed. We rely on the date of the order to identify the decision being protested or appealed. If there's a series of decisions, staff issue one each day until all are done. We've learned these could all be done on the same day with an identifier to each one.
- #2 - Our system has over 104 systems and over 500 interfaces and are more complex because we support many lines of business that the comparables do not have. L&I is responsible for a lot more than workers' comp.
 - L&I has more systems and more interfaces to analyze and either develop or retire. Knowledgeable programming staff who are well versed in these programming languages are becoming more difficult to find. This presents a challenge to understand how some of the legacy programs were built and to effectively determine how best to replace them with current technology.
 - There are over 500 interfaces to untangle.
- #3 - We've looked outward, inward, and forward. We have to go slow to go fast. Want to appropriately test things

Our timeline

- ✓ #1 - How did we get to seven years? We are more complex than other systems and organizations replacing a 40 yr old system. Based on analysis of two major comparables, which we spoke about last time (Ohio and Toronto) and based on Linea's experience with similar very large public sector transformation projects, we estimate 7 years. Ohio and Ontario took 4-5 years; however, L&I is larger and more complex, and is replacing a 40 year old system. Ohio and Ontario were replacing much more modern applications.
- ✓ Ours is more complicated than the other implementations because of the need to connect to other systems and manage the interfaces.
- ✓ #2 - During the research and planning contained in the business case, we determined that a phased implementation approach best suits the agency's needs, follows industry best practices, and provides the greatest possibility for success. We have identified 6 go-lives spread over the 7 years so that staff and customers realize benefits along the way. That being said, once the COTS implementer has been selected some of the timeline may change.
- ✓ #3 - Based on the comparable projects and lessons learned, we are specifically addressing common project risks such as:

- L&I staff's jobs will change a lot and, therefore, we are emphasizing the importance of change management, which focuses on the people side of large business transformation projects like this. We know that staff will be heavily impacted by this project, that the project itself will be disruptive, and will require large numbers of staff. For example, manual processes that staff perform today will be automated in the future through workflow, customer web portals, and integrated imaging. This means that some time-intensive manual tasks, will go away. That's good, but it is disconcerting for the staff members who feel their jobs are at risk – staff need to know that (a) they still have something valuable to contribute to the agency and (b) L&I has a clear sense of the new work that they will be responsible for. These are the types of issues change management is concerned with – staff will not fully buy into and contribute to the project if they are worried about their future role in the organization.
- Governance – L&I must establish a solid foundation and partnership between business and IT with clearly defined roles and responsibilities.
- Backfill key resources – L&I must have a well thought-out hiring and resourcing plan to bring in additional staff to make sure the organization can maintain customer service while the project is ongoing. This work is complex and must begin sooner rather than later because, for example, a claim manager takes 22 months to train.
- ✓ Estimated cost and timeline
 - 19-21 Biennium - ~\$82 million
 - Total project estimated cost - ~\$309 million
 - Total budget request - \$299.4 million

Proposed Premium Rates: Joel Sacks

Over the past five years, we've been focusing on certain principles to drive our rates. Now that we are in a place of maintaining our reserves rather than building them up, we are positioned to adopt rates at or below the indicated actuarial break-even rate.

Increased investment income and operational efficiencies have resulted in reduced costs to the workers' compensation system that can be passed along to employers and workers in the form of reduced rates.

2019 Proposal: overall rate reduction of

- 5% on an hourly basis, or
- 8.2% on a payroll basis.

This represents biggest rate decrease in over a decade.

Why the proposed 'mix' between the accident and medical aid funds?

- Goal was to maintain the worker portion at or around 25%

- Protect against raising rates next year

Why the 8.7% increase to the Supplemental Pension Fund?

- For the last few years the statewide average annual wage has been growing at a higher rate (4.8% in 2016 and 5.0% in 2017—the last two years available.). This has increased the cost of living adjustments (COLAs) for injured workers, which are funded by Supplemental Pension Fund premiums. The Supplemental Pension Fund rate increase reflects the strong wage growth in the last several years.
- The Supplemental Pension Fund increase is equivalent to about \$17 per FTE per year, split 50-50 between employers and employees. (The SPF rate will increase from about \$197 per FTE to about \$214 per FTE).

Rate changes have been less than inflation in most of the recent years. This is the first time in a long time where rates are below zero.

The 2019 rate levels will be approximately 1.5% lower than the 2011 rate levels on an hourly basis. (On a payroll basis, the 2019 rates will average more than 25% lower than the 2011 rates.)

The Statewide Average Annual Wage increased by 24% from 2011 to 2017 (the last year available from ESD), but is anticipated to continue increasing in both 2018 and 2019. We currently expect the average wage in 2019 to be about 34% higher than in 2011.

In terms of dollars the contingency reserve is at an all-time high, even after reducing the discount rate to 4.5%.

The goal is to maintain appropriate reserves. What's a good level to have?

If you look at the volatility in our system, when bad times hit, our reserves have dropped by 20 percent.

The contingency reserve is at 25.1% of total liabilities. We have decreased from last quarter's all time high of 30.0% because of the additional liability for decreasing the discount rate to 4.5%.

Our contingency reserve as a percent of total liabilities is at 25.1%. This is getting closer to our peers which are all higher.

Big thanks to Joshua, my favorite actuary, who updates this slide.

From 2012, had our stated liabilities continued at the projected 4.5% growth rate, our benefit liabilities for 2018 would have been \$13.3B.

Instead, our current projected benefit liabilities are \$13.1 B despite three significant one-time adjustments that were made totaling \$1.3B.

Had we not taken these one-time adjustments our benefit liabilities would be approximately \$11.7B.

It is also important to note that during this same period (2012 through 2017) wage inflation increased 20% and medical inflation increased 10%.

What is the estimated decrease in net premiums earned attributable to the rate decreases for the last six months of FY18 when compared to the last six months of FY17?

\$44 M reduction due to rates for the last six months of FY18 (this is for standard premiums earned and ignores the impact of retrospective rating).

Currently in the public comment period, be sure to relay your comments either in writing or at a public hearing so they can be on record.

Insurance Services Dashboard – Help Injured Workers Heal and Return to Work: Vickie Kennedy

Ms. Kennedy stated we’re not going to go through every slide. Ms. Kennedy walked through the dashboard.

As you can see in this summary of key measures, results are overwhelmingly positive.

Dashboard summary

Measure	Change from 2012 (unless otherwise noted)		Highlights
Long Term Disability – share that received a TL payment in the 12 month post injury	Down 21 %	↓	Lowest since 2002
Persistence – Ratio: claims with a TL payment in the 6 th month to those with payment in the 3 rd month	Down 4.9%	↓	
Resolution rate – time-loss claims at 6 months	Up 5.1%	↑	
Auto adjudication of claims	Up 77% from 2014	↑	Highest since 2002*
High risk claims – share return to work at 12 months	Up 7.0%	↑	
Median time-loss days paid at 1st AWA referral	Down 70.2%	↓	Lowest since 2002*
% RTW outcomes when 1 st AWA referral made by 90th day of TL	Up 56% since 2014	↑	
% RTW outcomes - all first AWAs	Up 125% since 2014	↑	
WSAW participation	Steady utilization	↔	
COHE utilization	Up 84%	↑	Highest since 2002

* Earliest year for which measurement is available

Ms. Kennedy walked talked through slides 36-49.

Industrial Insurance (State) Fund Financial Overview: Rob Cotton

Mr. Cotton talked through slides 51-63.

Board of Industrial Insurance Appeals (BIIA) Update: Linda Williams

Ms. Williams talked through slides 66-71.

The Board will be getting more judges and staff with the Hanford presumptive coverage legislation.

We had predicted some retirements and are actively hiring judges. If anyone knows of candidates with workers' compensation in their background or a lot of trial experience and a good command of the rules of evidence or appellate work, please ask them to apply.

Frank Fennerty – Labor Member – Retiring at the end of his term (June 2019)

Our chief judge is retiring as well, she extended her retirement date out for the transition of the new labor member.

Closing Comments & Adjourn:

Director Sacks closed the meeting.

Meeting Adjourned.