

**Workers' Compensation Advisory Committee (WCAC) Meeting**

Labor and Industries, Tumwater, WA

Meeting Notes

December 11, 2023

Hybrid – L&I Auditorium and Zoom

**Business Representatives:**

Bob Battles, Association of Washington Business

Sheri Call, Washington Trucking Association

Jon DeVaney, Washington State Tree Fruit Association

Kelly Early, ESD 113

**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

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 (*present*)

**Guests:**

Kathy Petruzzelli, Bob Battles, Sheri Call, Joe Kendo, Holly Kessler, Mike Ratko, Mark Riker, Joel Sacks, Sheri Sundstrom, AJ Johnson, Alicia Milani, Amy Early, Andrea Clevenger, Beth Vandehey, Bill Vasek, Brenda Wiest, Brian Helmholz, Cameron Van Dyck, Cari Anderson, Celeste Monahan, Cherell Fisher, Cheri Ward, Dan Beaty, Debra Hatzialexiou, Donna Egeland, Julie White, Susan Abolafya, Herbert Atienza, Paulette Avalos, Kari Bagnelli, Sarah Battin, Dan Beaty, Candice Book, Becky Bogard, Rachelle Bohler, Jerry Bonagofsky, Bowman Curran, Christin Brewer, Veronica Bronkema, Lloyd Brooks, Kathleen Buchli, Janice Camp, Kelli Carson, Tim Church, Kim Clauson, Sarah Clifthorne, Robert Clyne, Shellene Cook, John Cox, Adeline Crinks, Scott Dille, Joshua Ligosky, Julie Black, Julie White, Keith Bingham, Kelly Early, Kelly Leonard, Kim Hurley, Kim Wallace, Kirsta Glenn, Knowrasa Patrick, Lauren Gubbe, Leigh Haley, Lisann Rolle, Liz Evans, Maria McClain, , Meenu Thapar, Michael Harris, Mike Williams, Michelle Trowbridge, Nichole Runnels, Rose Gunderson, Ryan Guppy, Sarah Etue, Sarah Crain, Scott

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Bradly, Sheryl Divina, Suzyn Daniel, Taylor May, Thomas Feller, Tom Kweciak, Tricia Daniel, TVW Streaming, Tyler Langford, Brenda Heilman

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

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 September 28, 2023 meeting. There was no opposition to the motion. The minutes were approved.

**Mr. Ratko introduced Cari Anderson**, Assistant Director for Occupational Safety and Health, who presented the safety message.

### **General Updates:** Mike Ratko, Brenda Heilman, Elizabeth Smith, Joel Sacks

Mr. Ratko talked through slides 14-15 giving an update on the current status of COVID-19 claims. **Ms. Heilman explained** that there is going to be a difference in the number of claims that are allowed or denied due to COVID now being treated like an occupational disease because the presumption no longer applies. Meaning that a non-first responder worker who used to be presumptively covered now would not have a presumption. The threshold for proving occupational disease has to be met for their claim to be allowed. Previously a first responder working with a patient could cite a specific patient who had COVID that they were exposed to and be able to file an allowable claim.

**Ms. Smith** talked through slide 16 about the current status of the Workers Compensation System Modernization.

**Mr. Ratko introduced Brenda Heilman**, who gave an update on Rulemaking and IME Recordings. She explained that the agency's initial rulemaking efforts are focused on what's directed in the legislation about notification of intent to record process. There has been a lot of feedback and interest in doing extended rulemaking on other topics related to IME recording. Ms. Heilman talked through slides 18-21, explaining that the overall number of cancelled exams remained stable, but after the law passed in July there was a spike in the recordings, but slowly decreased to historic norms in the following months. **Mr. Battles asked** if this increase in IMEs are being investigated to whether the law caused the spike or if there was another reason behind it. Ms. Heilman explained that the percentage increases are being looked into to see what caused changes in the number of requests and what the impact is on the cancellation rate.

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**Ms. McClain asked** Ms. Heilman if there is a way to determine if more requests are coming from claimants who are represented by attorneys. **Ms. Heilman plans to gather more information and data from initiatives that come up during the legislative session to share at future meetings.**

**Operational Health Dashboard:** Mike Ratko

Mr. Ratko talked through slides 22-29. **Mr. Battles asked** in terms of general shifts in industry trends is there certain industries that are more likely to have higher pensions. **Mr. Ratko agreed to gather that information for next quarters meeting.**

**Mr. Ratko explained** that currently there are 36 active operational measures in Insurance Services and each metric has its own goal. **Mr. Kendo asked of those 36, which are the six that are behind the goal? Mr. Ratko agreed to report on that during the next meeting.**

**PTSD Deep Dive:** Brenda Heilman

Ms. Heilman presented an overview of PTSD claims data, impacts on Rates and the Agency's efforts in claim management. **Mr. Battles asked if more information could be provided on claims that are received specifically for PTSD and claims where there's a physical injury, which causes PTSD to develop.**

**Ms. Heilman announced** that the Office of the Medical Director hired a new Psychology Associate Medical Director that specializes in rehab and is dedicated to working on our PTSD efforts.

Mr. Ratko stated that a PTSD subcommittee is in the works and plans to begin meeting after legislative session.

**Industries and Risk Classifications Eligible for Ergonomics:** Dr. Jennifer Marcum

**Mr. Ratko introduced Dr. Jennifer Marcum** who talked through slides 46-62. Dr. Marcum discussed the recent analysis that was conducted as a result of the recent ergonomics rulemaking law that passed. Specifically, explaining that the law requires Labor and Industries to annually publish a list of industries and risk classes eligible for future rulemaking. **Mr. Sacks**

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**explained** that the law says the Department cannot adopt more than one rule a year, so the plan going forward is to identify either a risk class or industry to focus on each year.

**Program Spotlight – Return to Work Partnerships:** Kirsta Glenn

**Mr. Ratko introduced Kirsta Glenn**, the Program Manager of Return to Work Partnerships program (RTW). Ms. Glenn spoke through slides 64-81 explaining that Return to Work Partnerships oversees the purchase of return to work services from the private sector (just as HSA oversees the purchase of medical services from physicians). The program does this because workers who miss time off work are at risk of developing barriers to returning to work that cannot be addressed through medical treatment.

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

**Mr. Ratko introduced Kim Hurley**, interim Chief Accounting Officer for Financial Services, who talked through slides 82-95 which provided the financial results for fiscal year 2023 (July 1, 2022– June 30, 2023).

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

**Mr. Ratko introduced Ms. Holly Kessler**, BIIA Chair, who talked through slides 68-74. Ms. Kessler explained that the total number of appeals granted each quarter are gradually increasing, which is what was expected after COVID. In addition, the average time for hearing judges to produce their proposed decisions and orders are decreasing in time. Lastly, Ms. Kessler announced that the judicial survey went out in December.

**Closing Comments & Adjourn:** Mike Ratko and Joel Sacks

**Mr. Sacks thanked** committee and reminded them if there are any topics they'd be interested in discussing in future meetings to please reach out.

**Mr. Ratko thanked** the attendees and presenters.