

Retro Advisory Committee (RAC) Meeting

Labor and Industries, Tumwater, WA

Meeting Minutes

9/14/2023

Virtual (Zoom)

Trade Association Representatives:

Lauren Gubbe, Associated General Contractors
Victoria Montrose, Washington Hospitality Association
Tim Lundin, Archbright
Maria McClain, Association of Washington Business
Rose Gundersen, Washington Retail Association

Individual Firm Representatives:

Luis Sanchez, Grant County Public Utility District No. 2
Tom Walrath, T.E. Walrath Trucking, Inc.
John Cichosz, DJ's Electrical

Labor and Industries:

Jessica Nau, Retrospective Rating Program Manager, *Committee Chair*

Court Reporter:

Ryan Nolan, Capitol Pacific Reporting

Recorder:

Melissa Morales (*present*)

Guests:

Alicia Milani, Amy Earley, Bambi Sotak, Brad Williams, Brandon Dion, Brian Ducey, Brian Padgett, Casey Sparber, Chris Ristine, Cindy Kropp, Dan Beaty, Dan Plunkett, Debra Brown, Emily Gillis, Eric Wood, Greg Kabacy, Gwen Perkins, Herbert Atienza, Ian Payne, Ibis Meyer, Janee Cantu, Jeaneil Brown, Jeff Lutz, Jenn Kavanaugh, Jennifer Porter, Jessica Nau, Joshua Ligosky, Julie Osterberg, Kaylynn Wollen, Keith Bingham, Kevin McDaniel, Krista Glenn, Lauren Gubbe, Leslie Qunell, Lisa Sullivan, Lisa Vose, Lori Gruber, Maria McClain, Mark Phillips, Matt Carrithers, Michael Ratko, Michelle O'Brien, Mike Williams, Morgan Young, Nichole Runnels, Nikki Mills, Rachelle Bohler, Rose Gundersen, Rose Kohler, Ruark Bohonos, Ryan Moore, Ryan Nolan, Ryan Rautio, Sarah Crain, Sarah Fishback, Sean Phillips, Shannon Elliott, Sharla Case, Sheila Parker, Tara Withrow, Tim Lundin, Tom Kwieciak, Tricia Gullion, Tyler Langford, Vanessa Hughes, Victoria Montrose, William Vasek

Welcome, call to order, and approval of minutes

Ms. Nau opened the meeting with a welcome and reminders about virtual meeting procedures. Ms. Nau called the meeting to order and invited introductions from the committee members present. After introductions, Ms. McClain made a motion to approve the minutes from the May 18, 2023 meeting. Ms. Gubbe seconded the motion. The motion passed unanimously. Ms. Nau reviewed the agenda.

Safety Message: Tyler Langford

Mr. Langford presented slides 5-7.

Legislative Updates: Michael Ratko

Mr. Ratko presented slides 8-9.

Regarding Workers' Comp Incentives to RTW, **Amy Earley, Association of Washington Business**, asked **via Zoom chat** if the portion employers pay into SAW for premiums will increase as well to cover the additional reimbursement. **Mr. Ratko responded** yes and that it comes out of the medical aid fund.

Regarding vocational services and retraining, **Lauren Gubbe, Associated General Contractors**, asked **via Zoom chat**, "What fund will be used to pay for the basic skills offered here are both during vocational recovery and can be for voc training, such as ESL? Since the service providers are receiving payment as opposed to the worker, it would not be the accident fund. For the bonus to the worker of one month of timeloss upon taking the job and then again another bonus after completing 6 weeks, what fund will that be paid out of? It should not be the accident fund as this would penalize the employer in their rates and retro for providing light duty. Is it the Stay at work program? Also, basic skills development, why would the Department not allow for the basic skills acquired to help with determination of transferable skills IF APPROPRIATE by a voc counselor? It seems like it should be said that the acquisition skills MAY OR MAY NOT be a reason for being found employable as able to work. This language would give the Department more options and not hamstringing IF the case could be able to work in the determ." Mr. Ratko responded that the basic skills are during VOC but couldn't remember for sure and will have to get back to Lauren.

Ms. Earley asked via Zoom chat "Can we ask that with the changes to VR that you add that workers be required to participate in this level of VOC? **Mr. Ratko responded** that he will need to look into it and get back to Amy.

Ms. Earley stated "The concern we have with VR is that there is no non co-op that happens in VR, so it's all completely voluntary by the worker. And I love the idea of doing some basic English skills but I think the concern that we still have with VR is that the worker are not required at all to participate in VR. If we're going to have these additional services or you're going to go to back to the legislature, can we at least put some teeth in this that they need to participate in that? **Mr. Ratko responded** that is was a good point and will need to circle back with Amy on this matter.

Rose Gundersen, Washington Retail Association, asked "Did you talk about the pilot project portion on this bill? In regard to pension?" **Mr. Ratko responded** that we have pulled that.

M Sanders asked via Zoom chat "The CC has the ability to return something for VOC when review correct?" This question was not addressed during meeting.

Maria asked via Zoom chat "Can we get Mike's proposed legislation in written documentation". **Jessica Nau, Retrospective Rating Program Manager** responded that she captured that request and will let Maria know.

Secure Application Programming Interface (API): Matt Carrithers

Mr. Carrithers presented slides 10-11.

Annual Review of Loss Development Factor Relativities: Bill Vasek, FCAS

Mr. Vasek presented slides 12-20.

In regards to data captured during adjustments, **Ms. Gubbe asked** when the data starts to be captured and whether computer-generated reserves are being used. **Mr. Vasek responded** that it could have some computer-generated reserves but that they use the first, second and third adjustments. Ms. Nau added that there are no early case reserves on indemnity claims, only for medical only. She also added that any claims with an early case reserve are still under the \$20,000 to \$25,000 threshold.

In regards to the increase in TPD and Time-loss relativities, **Ms. McClain asked via Zoom chat** "What trend is driving TPD & TL increases now...is there anything that stands out?" **Mr. Vasek responded** that they are seeing an increase in wages and in duration, however, the increase in wages is larger and medical trends are not that high.

Ms. Nau responded that if you are wondering if the increase is due to a frequency or cost issue, that the takeaway is the cost. Higher pension amounts could also be the driving factor.

Ms. McClain asked are you also seeing more serious claims or more serious injuries? **Mr. Vasek responded** that it's not a loss development issue. There has been a decrease in medical-only claims and none of these trends are extreme yet.

In regards to vocational rehabilitation costs, **Ms. Earley asked via Zoom chat** "How much is all the new voc costs contributing to the higher claim costs?" "Are you seeing that voc costs are going up with what we're seeing out here and is that a contributor to a lot of claims being thrown out for voc?" **Mr. Vasek responded** that no, voc costs are small and the trend in the early voc costs ended a year or more ago. There is a trend of doing voc earlier and earlier where claims may not have voc before and they are now.

Ms. Earley asked that since the voc gets opened but never closed by the claims managers, can that be looked at specifically for voc duration to see how long these referrals stay open compared to three or four years ago, and is that what's driving up these medical-aid costs? **Ms. Nau responded** that there may be additional information later in the meeting and that she captured this question as a takeaway.

Jeaneil Brown asked via Zoom chat "Are we seeing an increase in frequency of PPD awards?" This question was not addressed during the meeting.

Ms. Gubbe asked in Zoom chat "Can you please confirm which fund the early voc costs are being paid out of?" **Mr. Vasek responded** that it's mainly the medical-aid fund.

Return to Work Services Update: Kirsta Glenn, Chief of RTW Partnerships

Ms. Glenn presented slides 21-28.

Regarding information on slide 26, **Ms. Gubbe asked via Zoom chat** "Please advise what is included in "Other"? Are these potential pensions?" **Ms. Glenn responded** that some of them are services unlikely or retraining unlikely to be helpful and a referral to review for pension.

Ms. Earley asked via Zoom chat “I think the biggest concern I see is that when the emp RTW is ruled out, there are no return to work options but worker is NOT MMI – we are getting billed for VR and the reports are not changing month to month. Can you look at getting more teeth for TPA’s to get those VR referrals closed out when AWA is not yet appropriate?” **Ms. Glenn responded** that she will follow up with Amy after the meeting.

Maria McClain, AWB asked via Zoom chat “Were many of these that were delayed or “complicated” medical issues only or did you see workers represented by attorneys or legal issues?” **Ms. Glenn responded** that there were no legal issues brought up by the vocational firms during a 12 month review. If the attorney is limiting vocational counselor access to the worker, then that moves out of VR into AWA quickly.

Ms. Gubbe noted via Zoom chat “There is no incentive for the voc counselor to close out the VR if AWA is not appropriate and there is nothing for the voc counselor to do at that point...” Ms. Glenn responded that they are working on incentives to close and simplifying the AWA letters.

In regards to Mr. Ratko’s legislative update, **Chris Ristine, Washington Retail Association, asked via Zoom chat** “As part of the follow-up on Mike Ratko’s legislative update and, specifically, the vocational skills topic, if those costs are indeed coming out of the WSAW fund (which it appears is the case, per proposed RCW 51.32.090(7)), does that mean the employer will not be directly charged for them (just as employers are not directly charged for WSAW reimbursement costs)? Thank you.” **Mike Williams, L&I, responded** that he captured her question for follow up after the meeting.

In regards to Chris’ statement regarding Mr. Ratko’s legislative update, **Ms. Gubbe noted via Zoom chat** “That was my understanding, Chris. I also read it where the basic skills would be paid out of stay at work; thus charged to the base rate of the risk class not the employer’s own experience rate. That said, I just want to be sure on the bonus paid directly to the worker. Stay at work benefits in place don’t get paid to the worker nor would the basic skills services proposed. But it is the bonus I am concerned about since that does get paid directly to the worker and benefits paid directly to the worker like timeloss and travel are out of the Accident fund. In which case this bonus of 30 days of timeloss at the acceptance of the job and then again after 6 weeks that goes to the worker in the proposed legislation is a concern to me as to which fund...i.e. you would not want it to be the accident fund where it would impact employer rates and retro since the employer is accommodating the worker it would have to be paid out of the stay at work to make sense.”

Behavioral Health Interventions: Megan Lemon, Healthcare Policy and Payment Methods Supervisor

Ms. Lemon presented slides 30-36. Dr. Young presented slides 37-45.

In regards to the employer groups, **Ms. Gundersen asked via Zoom chat** “Are employer groups involved in this project?” **Ms. Lemon responded** that yes and this was why they were presenting today was to bring employer groups into the MLT pilot.

Ms Gubbe noted in Zoom chat “We’d like to see the draft policies after they have been vetted internally with LNI and are ready for public comment. Thank you.” **Ms. Lemon responded via Zoom chat** “Thanks

Lauren, the policy will be posted on December 1, 2023, and any comments or concerns can be sent to us at HPPM@Lni.Wa.Gov".¹

Ms. Gundersen asked via Zoom chat "Is the guideline to initiate a BHI referral part of the policy to be published on 12/1/23?" **Dr. Morgan Young, Office of the Medical Director responded** that it's really up to the provider.

Ms. Earley noted via Zoom chat "BHI Group – We are seeing attorney's send secure messages to claims managers and the claims managers authorizing BHI with no AP input, can someone take this as a take away and address this. Ms. Lemon responded that they can that back to our partners in Claims. Dr. Young responded that it is supposed to be authorized through the attending provider and that they will look into this.

In regards to Ms. Earley's comment, **Ms. Gundersen noted via Zoom chat** "I believe guidelines would be appropriate to minimize arbitrary practices.

In regards to CR-102 for MLT Pilot, **Ms. Gubbe asked via Zoom chat** "Do you have an idea of what % of overall claims go through this?" **Dr. Young responded** that it is a relatively small number.

Ms. McClain asked via Zoom chat "What are the avg costs on claims for 16 visits?" Ms. Lemon responded that it is \$2,200 give or take. Dr. Young responded that only about 20% of claims get to 16 visits.

Brad Williams, Brown & Brown, asked via Zoom chat "Dr. Young, on the prior slide you stated that the numbers fluctuated, but it appeared they were only climbing. Can you clarify that? Also, in the survey, were there only 39 responses." Dr. Young responded that the fluctuations are relatively small and that the number of mental health evaluations has actually decreased. Only 75 therapists participated in the pilot, with about half getting back to the department on the survey.

Early Return to Work Consultation: Peggy Halstead, ERTW Program Manager and Laura Kase Nagai, ERTW Management Analyst

Ms. Halstead presented slides 65-68; 78-82. Ms. Kase Nagai presented slides 69-77.

In regards to RTW services, **Ms. Gubbe noted via Zoom chat** "I wondered if part of your service could be, if we wanted a call from L&I to the doctor, to expedite things?" **Ms. Halstead responded** that their program is not supposed to be working on active claims but that the department is looking into it.

Ms. Earley noted in Zoom chat "Love Lauren's idea. Any help getting providers to cooperate would be so helpful!"

¹ Comments/concerns can also be sent to: MLT@LNI.wa.gov

RAC Workgroup Updates: Tim Lundin, Archbright and Maria McClain, Association of Washington Business

Mike Williams, L&I Retro Program Lead, presented slides 46-48. Ms. McClain presented slides 49-51.

Retro Updates: Jessica Nau, Program Manager for Retrospective Rating, Leslie Qunell, Financial Incentive Coordinator and Tyler Langford, Operations Manager for Retrospective Rating

Ms. Nau presented slides 52-53, 55-56. Ms. Qunell presented slide 54.

Ms. Nau gave an update on retro staffing as well as appreciation for the team and Ms. Qunell for her hard work on the Insurance Tables Study.

Regarding the pre-meeting discussion, **Ms. Gubbe shared** that there a lot of concerns brought up about IME's and the delay in worker's benefits. She had notes and would share after the meeting.

Brad Williams, Brown & Brown stated in Zoom chat that L&I appears to be changing their KOS standards related to policy 5.12. Is there any information that can be provided as to the department's new interpretations of paragraph 1. "The employer must pay the worker's wages: On regularly established paydays at no longer than monthly payment intervals." To mean "no break in in payroll"? This new interpretation does not appear to align with paragraphs 2 & 3 that allows an employer to KOS time loss that has not become final and binding." This question was not addressed during meeting and noted as takeaway.

Meeting adjourned.