

**Industrial Commission's Advisory Committee
On Workers' Compensation
Minutes
August 15, 2012**

Members Present

Mike Haxby John Greenfield
Gardner Skinner Rian Van Leuven
Roy Galbreath Clay Atwood
Jasen Carrier Paul Collins
Susan Veltman Steve Millard
James Arnold James Alcorn
Representative Jeff Nessel (via teleconf.)

Members Absent

Senator John Andreason

Industrial Commission

Chairman Thomas E. Limbaugh
Commissioner Thomas P. Baskin
Commissioner R. D. Maynard
Director Mindy Montgomery

Opening Remarks:

Chairman Jasen Carrier opened the meeting with a moment of silence for the recent passing of Janis Smith and Thomas Munson who were both long time members of the workers' compensation community. Chairman Carrier then asked for introductions of members and public attendees.

Minutes:

The Minutes of May 9, 2012 were reviewed. Upon motion by Roy Galbreath, seconded by Rian Van Leuven, the Minutes were approved as written.

Subcommittee Reports:

§72-432, Attorney Fees – James Arnold - Mr. Arnold reported that after several meetings over a long period of time, the subcommittee members reached consensus that attorney fee issues that arise in obtaining authority or payment on small medical claims for injured workers is already provided for in §72-804. Mr. Arnold recommended that the subcommittee be dissolved. The Advisory Committee reached consensus to dissolve the Attorney Fee subcommittee. Mr. Skinner and Mr. Haxby applauded Mr. Arnold's hard work and effort in leading the Attorney Fee subcommittee.

HealthCare – Steve Millard - (Steve Millard Chairman, James Alcorn, Commissioner Limbaugh, Director Mindy Montgomery, Patti Vaughn, Mike Haxby, Woody Richards, Therese Cirelli, and Larry Tisdale.) Mr. Millard reported that the subcommittee's first meeting started out with a conference call to Senator Dan Schmidt, a physician in Lewiston, who stated his intent to present a resolution to the Idaho Medical Association's House of Delegates to compress the current workers' compensation medical fees by increasing the lower conversion fees and

decreasing the higher conversion fees to relieve some of the disparity between specialties with a goal towards a single conversion factor. Since that time, the IMA's House of Delegates recommended adoption of Senator Schmidt's resolution to work towards a single conversion factor for all medical care. Mr. Millard noted that discussions of a single conversion factor by IMA members were generally favorable, and the proposed resolution will be presented in October to the IMA's Board of Trustees for adoption.

Mr. Millard reported that the Healthcare Subcommittee members discussed updates to the current conversion factors that have to be reviewed annually, and discussed what indices would work best for an adjustment, but no decision was made. The Healthcare Subcommittee reached consensus according to Mr. Millard on the following motions affecting physician and hospital reimbursement, and recommends approval by consensus of the Advisory Committee members:

- The conversion factor for surgery group one be changed from \$140 to \$135.
- Implement a 2.1% increase in physician reimbursement, to be applied in the aggregate and distributed to advance the goal of reducing or eliminating the disparity in physician reimbursement conversion factors.
- Surgery categories 2 (currently \$129) and 3 (currently \$113.52) be collapsed into category 4 at the category 4 rate of \$88.54 that includes the proposed 2.1% increase.
- No adjustments at this time for hospitals as more history is needed from the last hospital reimbursement changes.

Mr. Van Leuven asked if the proposed changes had been vetted by the medical community. Mr. Millard responded that at the IMA meeting, discussions were held with physicians regarding a move towards a single conversion factor for all medical care, and believes the medical community is aware of that goal. Dr. Collins stated that he agrees with the changes, and as a physician, sees the need for an increase in reimbursement for primary care doctors.

Mr. Haxby wanted to know if the Commission had received any complaints about the disparity in conversion factors for primary care physician reimbursement. Commissioner Limbaugh responded that Senator Dan Schmidt is the only person we have heard from this year, and it appears he is moving forward in promoting a single conversion factor. Commissioner Limbaugh explained that if the Commission had been given more time in the beginning of the medical fee schedule process, the Commission would have had an opportunity to vet many of the proposed changes we are currently dealing with today. However, since we only had a few months to establish a fee schedule instead of at least a year, the Commission continues to move towards a more equitable system which may take several years to accomplish.

Chairman Carrier asked for consensus on the above recommendations of the Healthcare Subcommittee. Consensus was reached.

Mr. Arnold suggested that now may be a good time to establish caps in the medical fee schedule for deposition fees, testimony fees, and independent medical evaluation fees charged by physicians. In spite of efforts to educate physicians around the state on the importance of maintaining reasonable fees for these items, outliers are still out there according to Mr. Arnold.

Commissioner Limbaugh noted that the Healthcare Subcommittee will be ongoing, so capping fees for these services could be a topic of discussion going forward. The changes to the medical fee schedule will be submitted to the legislature by month end.

Paul Collins, Susan Veltman, and Thomas Howell were added to the Healthcare Subcommittee.

Updates:

Benefit Notification Letter – John Greenfield – Mr. Greenfield reviewed the proposed changes to the benefit notification letter that is sent to injured workers by the Commission after a first report of injury is received. Mr. Greenfield suggested that a more thorough explanation of the one year and five year statute of limitations should be included in the letter. Susan Veltman noted that one issue in the letter, the 4 week investigation by a surety, should be modified to coincide more clearly with the statute. Ms. Veltman will meet with Mr. McDougall and Mr. Greenfield to finalize the changes. The final draft version of the letter will be presented at the next meeting.

Adjusting Clarification - Alan Gardner reported that the Commission staff met with several representatives from Third Party Administrators (TPA's) and insurance companies to discuss their concerns regarding the audits, enforcement items, attitude and tone of correspondence by the Claims and Benefits Department of the Commission. These issues were discussed with great input from all the parties and it was felt that the issues were resolved which will be tested moving forward according to Mr. Gardner.

Claims and Benefits Manager Scott McDougall explained that discussions with the representatives of the TPA's and insurers resulted in some changes such as preliminary audit findings being sent only to the local adjuster and the final findings letter copied to the associated insurer. Mr. McDougall reported that another change is letters sent for late reporting and inquiries for additional information on summary of payments will no longer be required by the Claims and Benefits Department. A tentative follow-up meeting was scheduled for November 7, 2012.

Mr. Haxby inquired as to the possibility of the Commission receiving a majority of the paper documentation via electronic submission. Mr. McDougall responded that the Commission is working towards receiving documents via electronic submission with the implementation of the EDI 3 release. Mr. McDougall stated that online reporting to the Commission will be mandatory in the next one to one and one-half years, however, there will be a long implementation timeline which will include input from sureties, TPA's, and self- insurers.

Lump Sum Settlement Template – Scott McDougall – Mr. McDougall presented the new lump sum settlement template that the Commission hopes will streamline the lump sum settlement process. Mr. McDougall stated that beta testing has been done online with feedback from several attorneys using the template and some adjustments have already been made. Mr. McDougall reviewed some of the changes that were made to the template. According to Mr. McDougall the new online lump sum settlement template and attorney fee memorandums will be

submitted electronically directly to Claims and Benefits staff resulting in more immediate access to these forms that should reduce processing time.

Susan Veltman noted that listing medicals without itemization and sending information via a disc were most helpful and great time savers for her personally. Ms. Veltman stated that it appears using the new forms and formats has generated higher scrutiny by the Claims and Benefits staff. Mr. McDougall replied that these new submissions have been scrutinized more because it is a beta test, but that should diminish as everyone becomes more accustomed to using the forms.

John Greenfield voiced his concern regarding certain information requirements in the new Claimant Counsel Summary form, particularly the requested information to determine what the attorney did to primarily and substantially affect securing benefits for the claimant. After a lengthy discussion and submission of a letter authored by previous Commissioner Stephen Lord, Commissioner Baskin stated that revisions to the lump sum settlement form were very thoroughly and seriously considered. The forms have been tested by several attorneys, changes were made, and the Commission believes it is important to move forward as planned.

Election:

Introduction of Nominees – Mr. Larry Kenck (Worker Representative nominee) Angela Harter and James Alcorn (Insurance Industry nominees), Jamie Haun and Susan Rhoades (Employer Representative nominees), and Steve Millard (Hospital Representative nominee) were introduced by Chairman Jasen Carrier, and each spoke briefly about their work background. Nominations Subcommittee Chairman Rian Van Leuven announced that Employer Representative Roy Galbreath has agreed to be a nominee for Chairman of the Advisory Committee. Chairman Carrier asked if there were any other nominees, and there were none.

Election of Advisory Committee Members – Ballots were handed out and Chairman Carrier explained that the nominees who receive the most votes by the voting members of the Advisory Committee will have their names submitted to the Commissioners for approval at their next Administrative meeting. Notices will be sent to all the nominees and committee members shortly after that meeting announcing the results.

Industrial Commission Report:

Industrial Commission Chairman Thomas Limbaugh reported that every three years legislative auditors visit the Commission. For Fiscal Year 2009, 2010 and 2011, the conclusion of the legislative auditors was that there were no significant conditions or accounting controls of the Commission that were not in compliance and therefore, no audit findings were noted. The Commission even made the local newspaper about this feat.

Chairman Limbaugh noted that the Commission's Medical Fee Schedule Analyst, Patti Vaughn, is handling issues on the new hospital reimbursement rules that became effective in January of this year, and the Commission and Patti are also working on creating a pharmacy fee schedule to be included in the proposed medical fee rules. Commissioner Limbaugh stated

that when the rules changes are completed and adopted by the Commission, the Commission will send the proposed rule changes to the Advisory Committee members for comment.

Commissioner Limbaugh reported that Financial Officer Jane McClaran is working through the first new reports filed with Fiscal as a result of the rule changes to IDAPA 17.02.10 and 17.02.11 that went into effect in 2011. Mr. Haxby asked about the amount of documentation now needed to satisfy the requirements of the Commission for those with excess insurance policies. Chairman Limbaugh replied that currently the Commission is accepting the certificate of insurance as sufficient documentation for excess insurance policies.

Preparation for Future Meetings:

Susan Veltman announced that the Industrial Commission will be holding their Annual Workers' Compensation Seminar on October 25th, and encouraged everyone's attendance. Ms. Veltman will be presenting Case Law Review at this year's seminar.

Advisory Committee Chairman Jasen Carrier posed the question of whether the Commission may want to consider medical certification for physicians to treat injured workers. Chairman Carrier stated that he has found five other states that currently require certification and was wondering if that type of system would work in Idaho. Members responded that certification would be an onerous project and the Commission would have to head that up. Others stated that it would be too complex and too difficult to deal with. It was also noted that of all the states, Idaho is 49th in the number of physicians per population, and limiting it even further could be disastrous. Discussion was held, but no action to proceed was taken.

Rian Van Leuven informed the members that he attended a seminar in Chicago and some of the discussions were about workers compensation issues. Mr. Van Leuven discovered that Idaho is leaps and bounds ahead of some of the other states in dealing with a lot of issues that other states are just now beginning to address, and the Commission should be commended for that.

The members thanked Jasen Carrier for the good job he has done this past year as Chairman of the Advisory Committee.

The next Advisory Committee meeting is scheduled for **November 8, 2012.**

There being no further business, the meeting was adjourned.