

**Industrial Commission’s Advisory Committee
On Workers’ Compensation
Minutes
November 12, 2024**

Members Present

Andrew Marcham, Chairman
Kelli Segroves
Alex Garcia
Stephanie Butler
Matt Pappas
Cody Heiner MD
Brian Whitlock
James Arnold
Darin Monroe
Shellie Martin
Mark Peterson
Dave Anderson
Kelli Segroves
Kelly Paananen
Joe Maloney
Ex-Officio: Senator Kevin Cook

Members Absent

Ex-Officio: Rep. James Holtzclaw

Industrial Commission

Claire Sharp, Commissioner
Thomas Limbaugh, Commissioner
Aaron White, Commissioner
George Gutierrez, Director
Matthew Johnson, Analyst

Opening Remarks and Introductions:

Director George Gutierrez introduced Andrew Marcham as the new Chairman. Mr. Marcham led the meeting and opened the meeting at 9:00 a.m. Mr. Marcham reminded attendees to sign in and next requested introductions of Committee members and public attendees.

Minutes of February 8, 2024:

The minutes of the August 14, 2024, meeting were presented for review and approval. Upon the motion of Dave Anderson, seconded by Stephanie Butler, the minutes of August 14, 2024, were approved. The motion was carried by unanimous vote.

Introduction of New Members:

Mr. Marcham introduced new members. Kelli Segroves (SLHS), Kelly Paananen (Ada County), and Cody Heiner MD (SLHS). Alex Garcia (Teamsters Local 690) was unavailable.

Industrial Commission Report:

IRIS Modernization Update:

Ryan Linnarz provided the Committee with an update on the IRIS modernization project. Mr. Linnarz indicated that the IRIS workers’ compensation modules are all live and is actively working on the final module, the CVCP module, with a targeted go live date of early 2025. Mr.

Linnarz also indicated that they are actively working on the development for the web portals. The portal for the Benefits department is complete and will be used by attorneys who need to submit documents to the Commission. A soft launch of this web portal will take place in the upcoming weeks, an official go live will follow. Mr. Linnarz introduced Annie Hoffman to assist during the presentation of the Benefits Portal, its functionality, and how to navigate.

Mr. Linnarz opened for questions:

James Anderson – If I file a complaint, am I going to be notified that it has been filed or accepted.

Ryan Linnarz – When a document is submitted the individual submitting will receive an automatic notice via email.

James Anderson – Is that generated automatically or will someone generate that.

Ryan Linnarz – It is automatic.

Public Comment: Barbra Jordan – What kind of documents can be uploaded?

Ryan Linnarz – PDF only.

No further questions

Cancelation Fee – Dana Ryden: 15:50

Mr. Marcham introduced Dana Ryden to discuss cancellation fees for Mediations and Hearings. Ms. Ryden stated there has been an increase in late hearing/mediation cancellations which has caused the Commission to incur the costs associated (e.g. travel, court reporter fees, interpreter fees). These costs/fees can range anywhere from \$300 to \$1000. Because of this, the Commission will be adding language to the Notice of Hearing/Notice of Mediation stating if there is a late cancelation, the canceling party may be liable for the costs associated with last minute cancelations (language below). Additionally, the Commission has the authority to enforce this language under JRP 16.

“Requests to vacate a [hearing/mediation] with less than 24 hours’ notice may result in JRP 16 sanctions for the costs associated with late cancellation including Commission travel costs and court reporter/translator fees.”

Ms. Ryden opened for questions:

Mark Peterson – Is there any thought to addressing this issue to the parties so all parties involved incur cost. Can we have Rule 16 give this authority to IIC.

This is a policy because the Commission is incurring fees unnecessarily. Was there any thought to addressing this same issue by the parties? For example, if someone doesn’t show up to a deposition without giving notice, the claimant or defense are incurring costs for making an appearance, no shows for IMEs, there are multiple examples of when the parties are incurring fees unnecessarily without been given notice. I believe Rule 16 gives the Commission the authority to issue sanctions in those cases as well.

Dana Ryden – I think that is something we would have to look at on a case-by-case basis. This is only addressing Commission costs, but we could look into that on a case-by-case basis.

James Arnold – Did you say or are you planning to put this (*language*) in the notice?

Dana Ryden – Yes, it will be in the notices.

No further questions

NCCI Idaho Medical Data Report – Patti Vaughn

Mr. Marcham introduced Patti Vaughn to review the NCCI Data Report. Ms. Vaughn summarized the NCCI Medical Data Report, cost drivers and other various information within the report. Ms. Vaughn specified that Self-Insured Employer data are not included in the report and overall, the report is leaner than in the past and otherwise unremarkable.

Ms. Vaughn opened for questions:

James Arnold – If they (*injured worker*) see a Physician Assistants (PA), they are being billed under the Physician, is that correct?

Patti Vaughn – Its by code, it doesn't distinguish between provider type.

No further questions

2025 Proposed Legislation - Commissioner Limbaugh 25:15

Mr. Marcham introduced Commissioner Thomas Limbaugh who discussed the four proposed legislation.

RS31782 – This proposes changes to I.C. 72-713 Notice of Hearings.

Commissioner Thomas Limbaugh discussed the proposed change in this legislation retains the requirement that the Commission give at least 10 days written notice of hearing to the parties but eliminates the requirement that such notice be served to the parties via certified mail. Parties represented by attorneys shall receive notice by email, unrepresented parties (i.e. Pro Se) shall receive notice by certified mail but have the option to change their preferred method of service to email by providing written notice to the Commission.

Commissioner Limbaugh opened for questions.

No questions

RS31784 – This proposes changes to I.C. 72-436 Burial Expenses.

Commissioner Thomas Limbaugh discussed that the proposed legislation would increase the maximum allowable burial expenses for work related deaths from the current cap of \$6K to \$10K. This adjustment reflects the inflationary costs associated with burial and related services. Additionally, this amendment provides clear language that transportation costs of the deceased workers body is included in the covered burial expense cap and removes geographic limitations

on transportation of the body. Commissioner Limbaugh provided further insight into the average cost of burial throughout the state, in addition he referenced an NCCI actuarial analysis to show the proposed increase would have a negligible overall effect on workers' compensation system cost.

Commissioner Limbaugh opened for questions.

Public Comment: Barbra Jordan – The average is \$9K for funeral expenses now but that doesn't include transportation expenses?

Commissioner Limbaugh – The average costs are for funeral only. Typical transportation of a body is within a 50-mile radius. The expenses are when they need to transport out of state or out of country.

Public Comment: Barbra Jordan – So the change in the statute is if they are transporting beyond the state?

Commissioner Limbaugh – There is a lot that depends on funeral costs. For example, cremation or caskets.

Brian Whitlock – Over the last 5 years, how many burials has the Commission paid for?

Commissioner Limbaugh – I believe the average number of worker deaths in Idaho is about 27

Requested Patti Vaughn provide additional information

Patti Vaughn – Over the last 5 years the number of accepted fatality claims is roughly 27 but has increased this year.

Commissioner Limbaugh – I believe it is in 40s this year.

Brian Whitlock – What is the negligible fiscal note of 1/10th of 1%?

Commissioner Limbaugh – *Requested Todd Johnson to provide additional information*

Public Comment: Todd Johnson – The less than 1/10th of 1% represents all the workers' compensation costs within the Idaho system. Because there are relatively few (*fatality claims*) it is a negligible amount when compared to the whole system.

Brian Whitlock – What would your fiscal note be on this?

Commissioner Limbaugh – This legislation would have no impact on the state's general fund or any dedicated or federal funds. The additional cost would be covered by workers' compensation insurance companies at a rate of \$108K.

Public Comment: Barbra Jordan – The average our area is charging is \$9K. What has been the average that the Commission or insurance companies have paid out?

Stephanie Butler – I don't have the information with me but anecdotally I would say 50% do not reach the \$6K.

Public Comment: Chris Wagener – Intermountain is seeing more cremations which cost a lot less and the last fatality I had was roughly \$1700.

Darin Monroe – How are sureties treating transportation cost? Is it \$6K plus transportation cost or in addition to the \$6K.

Stephanie Butler – I believe different sureties adjust their policy over time.

Darin Monroe – It's not clear in the statute. Barbara mentioned there was a cap on it but there was already a cap, correct?

Commissioner Limbaugh – That's how we came to this version of the draft after meeting with the subcommittee. The sureties agreed to raising the cap from \$6K to \$10K but that includes transportation.

No further questions

RS31777 – This proposes changes to I.C. 72-102 & 72-212 Definition of a Family Member.

Commissioner Thomas Limbaugh discussed the proposed change in this legislation would move the definition of “members of an employer’s family” from subsection 5 of I.C. 72-212, relating to exemptions from coverage into the definition section of I.C. 72-102. The Commission believes that transferring the definition provides more clarity overall.

Commissioner Limbaugh opened for questions.

No questions

RS31776 – This proposes changes to I.C. 72-319 Failure to Secure Compensation.

Commissioner Thomas Limbaugh discussed that the proposed change in this legislation would clarify which individuals within a business are liable for obtaining workers’ compensation insurance and by adding the word ‘Member,’ it will align with legislative intent.

Commissioner Limbaugh opened for questions.

Andrew Marcham – I noticed the word ‘employee’ can’t that include several different positions?

Commissioner Sharp – That (employee) was in the original version.

Commissioner Limbaugh – The RS is correct, ‘employee’ is already in the statute and shouldn’t be underlined.

No further questions

2025 Workers’ Compensation ZBR Pending Rules – Commissioner Sharp

Commissioner Sharp provided an update on the workers’ compensation ZBR. Commissioner Sharp indicated the Commission had differed voting to provide more time to

consider comments received. Once voting has been completed, the rules will be submitted for publication and legislative approval during the next session.

Commissioner Sharp opened for questions

No questions

Pharmacy Benefit Manager HB596 – Commissioner Sharp

Commissioner Sharp summarized HB 596. The Commission has reached out to the Department of Insurance (DOI); after speaking to them, the Commission was told it will be business as usual for workers' compensation. DOI will be applying HB596 to group health plans and Pharmacy Benefit Managers. Workers' compensation is not considered a group health plan under federal law and is regulated separately under Title 72. Idaho's workers' compensation system has many of the principles identified in HB590 already in place through the medical fee dispute process, medical fee schedule, and NCCI data.

Commissioner Sharp opened for questions

Shellie Martin – We have brought up Doctors dispensing out of office and the extraordinary cost associated with it. Has that been addressed in this (HB590)?

Commissioner Sharp – No it would be addressed through our fee schedule and regulations.

Shellie Martin – Then you would use the NCCI data to determine if those costs are responsible?

Commissioner Sharp – No, we use the NCCI data on workers' compensation costs similar to how DOI will get data from non-workers compensation insurance companies and pharmacy benefits managers.

Patti Vaughn – We have the standard average wholesale price, anything that falls outside of that the burden is on the payer to show it was reasonable. I don't think the physicians are dealing with the PBMs and this will be on pharmacy.

Commissioner Sharp – How do we address the charges not being reasonable.

Patti Vaughn – In the ZBR process we made some changes to try to address things we received feedback on during the public meetings.

Shellie Martin – So it would be the sureties instead of the provider? Would the payee file a motion? How do we address those?

Patti Vaughn – A payer can always pay what they feel is a reasonable charge and if it is outside of the calculated fee schedule they have the option to submit it to the Commission in the form of a medical fee dispute and we will evaluate all the information provided by both the provider and the payer to try to resolve the dispute.

Stephanie Butler – Is there going to be something more formal stating this doesn't apply to workers' compensation?

Commissioner Sharp – We have asked for a written opinion from our DAG, but we were told that it would take a significant amount of time, and we aren't guaranteed to get a written opinion at this time.

Stephanie Butler – So it may or may not come?

Commissioner Sharp – I am not hopeful that it will come, and it might not come in time to be helpful before the DOI implementation. As far as I know DOIs DAG and our DAG agree and are telling us not worry, its business as usual. DOI is going to start their own system of regulating that will be separate from workers' compensation.

Mark Peterson – Is there anything we can get something in writing from the Commission that says that?

Commissioner Sharp – We will not be taking a position different then DOI.

James Arnold – House Bill 596 they are going to try and pass this?

Commissioner Sharp – It is already passed the reporting requirements and begin January 1st.

Senator Cook – HB 596 is passed and will take effect January 1st. As far as how it affects workers' compensation, I will have to work with the Commission.

Andrew Marcham opened for a proposal for a subcommittee – No Comment, tabled.

BREAK

Other Issues/Announcements

2025 Workers' Compensation Rates & State Advisory Information – Todd Johnson, NCCI

Andrew Marcham brought the meeting back into session and introduced Todd Johnson. Mr. Johnson is the Senior Government Affairs Officer with NCCI and discussed benefit pricing. Mr. Johnson discussed the different types of data used to identify trends that may impact the overall rate and structure. He informed the committee that there was a premium reduction over the last calendar year and an increase in claim frequency during the policy year, but it is nominal. Overall severity or cost of workers' compensation claims dropped for the identified policy year as well. Although, Idaho did see a 23.6% cumulative decline of the number of claims. Cost of indemnity claims dropped 3.3% from 2021 to 2022 and 4.6% lower for medical claims.

Mr. Johnson also discussed the filed workers' compensation rate that was placed with the DOI on August 02, 2024. He presented and summarized the State Advisory update. He also discussed the assigned risk market which only represents 1.7% of the polices in the state which is the lowest country wide. This is an indication of a healthy workers' compensation market in the state.

Todd Johnson opened for questions:

No questions

Preparations for Next Meeting:

New topics:

James Arnold – I am seeing more often where the adjusting company or adjustor is requiring a Physician to sign off for the Physician Assistant (PA) decisions which has caused delays. We think the PA falls within the description of Physician.

Andrew Marcham proposed a Subcommittee: James Arnold called, Darin Monroe 2nd.

Members:

Shellie Martin
Darin Monroe
James Arnold
Stephanie Butler
Matt Pappas
Cody Heiner MD
Chris Wagener
Shana Barrowclough
Andrew Marcham
Patti Vaughn

James Arnold - We feel like there is a gap between asking for an emergency hearing and having to wait six months a regular hearing. Particularly as it relates to getting surgeries i.e. qualifications or expanding what an emergency hearing is or having an expedited hearing.

Andrew Marcham proposed a Subcommittee: James Arnold called, Darin Monroe 2nd.

Members:

James Arnold
Darin Monroe
Shana Barrowclough
Commissioner Claire Sharp
Joe Maloney
Matt Pappas
Dana Ryden

Mr. Marcham reminded the Committee of the next meeting date and indicated the meeting would be at the Commission.

Next Meeting Date: February 12, 2025

Dave Anderson moved to end the meeting, seconded by Stephanie Butler. The motion was carried by unanimous vote. The meeting ended at 11:10am.