

**Industrial Commission's Advisory Committee
On Workers' Compensation
Minutes
November 9, 2016**

Members Present

Susan Veltman (*Chairperson on
Behalf of Craig Mello*)
Dave Anderson
James Arnold
Connie Barnett (via conference call)
Dr. Paul Collins
Mike Haxby
Dane Higdem
Larry Kenck
Gardner Skinner
John Greenfield
Aaron White
Brian Whitlock

Ex-Officio: Senator Jim Patrick

Members Absent

Craig Mello
Roy Galbreath
Ex-Officio: Representative Greg Chaney

Industrial Commission

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

Opening Remarks and Introductions:

Susan Veltman opened the meeting, on behalf of Chairman Craig Mello who could not attend today's meeting; and led with introductions of Committee members and public attendees.

Minutes:

The Minutes of August 10, 2016 were presented for review and approval. Mr. Whitlock moved to approve the minutes of August 10, 2016 as written, seconded by Dr. Collins. The minutes were adopted as written.

Subcommittee Reports:

➤ **Prompt Claims Payments Regs. & Statutes (Mike Haxby)** (Subcommittee Members: *Mike Haxby, Chairperson; Aaron White; Brad Eidam; Gardner Skinner; Holly Alderman; James Arnold; Jeanne James; John Greenfield; Mike McPeek; Woody Richards; Paulette Boyle; Teresa Cirelli; Commissioner Tom Baskin; and Scott McDougall*)

Mr. Haxby reported on the October 12, 2016 Subcommittee meeting convened based on the recommendation of the August 10, 2016 Advisory Committee meeting, for the Subcommittee to further vet the draft rules changes on prompt claims servicing, specifically the (28) day notice language for acceptance or denial of a worker's compensation claim. Subcommittee members were able to compromise, resulting in slight adjustments in the language. The Subcommittee proposed moving forward with the rules changes and recommendation to the full Committee for recommendation to the Commission to pursue approval of the temporary rules.

Mr. Haxby thanked all the Subcommittee members for their input and for a good, productive meeting.

There were no comments of the public.

Industrial Commission Report:

Update: Prompt Claims Servicing (See Handouts provided in the meeting packet – IDAPAs 17.02.04.281; 17.02.08.061.01; 17.02.10.09; and 17.02.11.09). Commissioner Baskin thanked Mr. Haxby for his leadership on the Prompt Claims Servicing Subcommittee; and summarized the additional changes in the draft rules language. These changes are reflective of the Subcommittee's last meeting held on October 12, 2016; and specifically address the arbitrary time period of 28 days for the making of an initial decision to accept or deny the claim (IC §72-304); and the calculation for TPD payments to be based on the pay period of the injured worker. Essentially, the change in language accommodates the injured worker so the issuance of the payments is made no later than seven (7) days following the date the employee is ordinarily paid for the pay period. This Subcommittee vetted the changes and reached consensus on this language for a recommendation to the full Advisory Committee.

After further vetting of the draft language, Mr. Arnold moved for full Committee consensus to recommend that the Commission move forward with temporary draft IDAPA rules on prompt claims servicing, as presented. The motion was seconded by Dr. Collins.

The full Committee reached consensus and recommendation to the Commission to move forward with the temporary rules on prompt claims servicing.

For the Committee's information, Commissioner Limbaugh summarized the rulemaking process for adopting a temporary rule and the process for negotiated rulemaking next year.

Update: EDI Release 3.0.

Patti Vaughn, Benefits Administration Manager for the Commission, reported on the status of EDI Release 3.0 for implementation effective July 1, 2107. The request for proposal was issued in May 13, 2016. To date, the Commission has no vendor information available for public release. The Commission issued a notice letter on November 8, 2016 (*see* handout in meeting materials) to all worker's compensation carriers, third party claims administrators and self-insured employers on the status of Idaho EDI Claims Release 3.0 and requested organizations to provide contact information of their EDI project lead to the Commission so technical information can be promptly distributed. The IAIABC EDI standard materials are available for trading partners to use; and the trading partner tables have been posted to the website. The Commission's top priority will be training for trading partners.

(Public comment.) St. Luke's representative Jeanne James thanked the Commission for meeting with St. Luke's in explaining the process further and reviewing the tables and guidelines. State Insurance fund representative Paulette Boule asked if there was an alternative procedure or options if the contract, once selected, were to fall apart; and expressed

concern there could be a lack of resources at the Fund in the event there is no contract reached before Release 3.0 is implemented.

Ms. Vaughn further reported the Commission has been working diligently to have a contract in place and is confident the contract will be completed timely and the web portal operational for trading partners. The implementation date will not be affected by the process. The Commission's IT Manager Robert Butler and IT System Analyst Mary Stumpp are available to share their time and resources if problems arise.

There were no further questions of Members or public attendees.

Med Fee Request For Proposal ("RFP").

Patti Vaughn, Benefits Administration Manager for the Commission, informed the Committee the Commission is commencing with issuing a Request for Proposal for a medical fee study through the services of an actuary. The purpose for the study is to assist the Commission in its annual review of the med fee schedule by benchmarking the IIC fee schedule to commercial carrier rates. On September 1, 2016 a Request for Information ("RFI") for a scope of work was issued. The Commission received three responses to the RFI. Unfortunately, the cost of the project exceeded the spending authority. Any spending authority is, of course, subject to legislative review. The Commission currently intends to continue pursuing the med fee study.

(Public comment.) Commissioner Limbaugh called on Nick Landry, the Commission's Financial Officer, to summarize the budget submissions process. The project was included in the Commission's budgetary request for FY17; however, the information available was based on prior information; the funds will be available in July next year.

Ms. Vaughn had no further report.

(Break taken.)

Updates:

Industrial Special Indemnity Fund. Mr. Kile introduced Kim Murphy from the ISIF to give the update on the Fund. Ms. Murphy provided a brief summary of the Second Injury Fund projections: (a) the Fund continues to be aggressive in its defense of the Fund; (b) the number of complaints filed has increased 130%; (c) the cases continue to be more complex due to an aging workforce; claimants are ranging in age from 34 to 77 years; (d) overhead expenditures are expected to increase; (e) assessments for next year are expected to decrease 16%; and (f) the 2017 Average Weekly State Wage increased a percent to for a total weekly wage calculation of \$728.

Because of the natural aging process for older workers who would be more prone to injury, Senator Patrick inquired how compensation for the older worker would be calculated. There was lengthy discussion about 'offsets' of Social Security and the impact, if any, to the Second Injury Fund.

Ms. Murphy has no information available of the intent of the Social Security Administration with regards to these disability claims for older workers. She emphasized the ISIF has a fiscal responsibility to the State on its lump sum settlements.

(Public comment.) Mr. Richards asked for clarification on the expected projection of a 16% reduction in assessments, if complaints being filed have increased 130%. Ms. Murphy reported the projections were based on the first four months of the fiscal year; expenditures are being worked on.

Mr. Kile and Ms. Murphy will have a more detailed report for the Advisory Committee at the February meeting. Mr. Kile reminded attendees decisions of the ISIF can take a year to two years before a decision is made and impacts the fiscal budget.

Mr. Kile and Ms. Murphy had no further report.

Other Issues/Announcements:

- Woody Richards reminded members of NCCI's Idaho Forum that is scheduled for November 30, 2016; and extended an invitation for members to register for the event. The Forum allows for discussion of changes in rates and trends on injuries and costs.
- Ms. Veltman thanked the Commission for another good Annual WC Seminar.
- Mr. Arnold inquired when there will be an opportunity, upon the receipt of a FROI, for parties' to access electronically the case docket for viewing and copying purposes only. Ms. Vaughn reminded members, by statute, claims records are available to the parties to a claim; the case file copies would be available through a request for records.
- 2016 Oregon Workers' Compensation Premium Rate Ranking Summary. Mr. Whitlock requested some information about the 2016 Oregon Workers' Compensation Premium Rate Ranking Summary that was provided in the meeting materials. Ms. Vaughn reported it is a bi-annual report illustrating the standardized premium rates for certain class codes. Over the last several cycles, Idaho had moved from 9% above median down to 14% on the ranking, a positive for Idaho. Commissioner Maynard reported the Oregon Premium Rating report began in 2004.
- Change in Meeting Start Time. Committee members discussed changing the meeting start time from 9:30am to 9:00am for CY2017. There was general consensus reached by members to begin the Advisory Committees at 9:00am. Commission Secretary Beth Kilian will distribute calendar invitations to reflect the new 9:00am meeting start time.

Preparation for Future Meetings:

Topics for Discussion at the Next Meeting

- Update: Status of EDI Implementation. Ms. Vaughn will update the Committee on the EDI Claims Release 3.0 at the next meeting.

- Nominations Subcommittee – New Appointees. Mr. Haxby reported that a few members of the full Committee, who also serve on the Nominations Subcommittee, have terms up for election next year (2017). He requested the topic be included on the agenda for the February Committee meeting for the Commission and Committee members' consideration.

- Subpoenas Issued by Attorneys in Worker's Compensation. Mr. Arnold requested the Commission take under consideration allowing attorneys to issue subpoenas in worker's compensation cases, similar to what is allowed under the rules for civil cases. He opined it would benefit parties in a worker's compensation case; making the process quicker and easier for attorneys. Commissioner Baskin informed Committee Members the Commission is taking the issue under advisement since learning of the issue from the Commission's Referees. The Commission will provide an update on the issue at the next Committee meeting.

Ms. Veltman reminded members to email Commission Secretary Beth Kilian of other issues or topics they want included on the next meeting agenda.

Next Meeting Dates: February 8, 2017;
May 10, 2017;
August 9, 2017; and
November 8, 2017

Mr. Higdem moved to adjourn, seconded by Mr. Anderson.

There being no further business, the meeting adjourned at 11:00am.