

**Workers' Compensation Insurers' Task Force**  
**Nov. 16, 2011**  
**Minutes**

**Members present**

Charles Bierman  
Karen Clayton Ebert  
Robert Farber  
Mike Johns  
Meg Kasting  
Laurie Simonsen  
Cori Wentzlaff

**Members absent**

Mary Abraham  
Bruce Baker  
Jodie Connor  
Robert Johnson  
Clarie McCoy  
David Oertli  
Susan Pilon  
Cindy Van Eyll  
Jerry Walthour  
Gary Westman

**Visitors present**

Rob Rangel

**Staff members present**

Ralph Hapness  
Mike Hill  
Karen Kask-Meinke  
Pamela McLaughlin  
Phil Moosbrugger  
Jessica Stimac  
Dee Torgerson  
Jim Vogel  
Lisa Wichterman

**Call to order and introductions**

The meeting was called to order at 9:15 a.m. by co-chairperson Karen Clayton Ebert. Members and visitors introduced themselves. Jim Vogel, director of Compliance, Records and Training (CRT), made the announcements.

Cori Wentzlaff was introduced to the task-force members. Dennis Ballenger retired in June 2011 and Cori has taken over his position at Western National Mutual Insurance, as the director of Workers' Compensation No Fault Claims. Cori has applied to become a member of the Workers' Compensation Insurers' Task Force. Meg Kasting recommended Cori's WCITF appointment be forwarded to Commissioner Peterson. Jim Vogel, as representative for Commissioner Peterson, appointed Cori as new member and welcomed her to the table.

**Approval of agenda and March 16, 2011 meeting minutes**

No quorum was met. The agenda was accepted as presented with no changes. The approval of the March 16, 2011 meeting minutes was tabled.

## New business

- Role of the ombudsman – Phil Moosbrugger provided information about the Office of Workers’ Compensation Ombudsman, which was established by Commissioner Ken Peterson on Sept. 1. The ombudsman reports to DLI Deputy Commissioner Kris Eiden. The ombudsman’s primary role is to resolve issues faced by employees and employers in the Minnesota workers’ compensation system. In February 2009, the Minnesota Office the Legislative Auditor studied the dispute-resolution process and issued a report that encouraged the establishment of an ombudsman position to help those overwhelmed by the workers’ compensation process. A copy of a story published in DLI’s *COMPACT* newsletter was distributed to the members. Services to injured workers and small businesses include providing information about their rights and how to pursue a claim or what to do when an employee makes a claim; contacting claims adjusters and other parties to resolve disputes; making appropriate referrals to other agencies; and responding to questions pertaining to employers’ responsibilities under Minnesota’s workers’ compensation laws. This program supplements other units within the department (Alternative Dispute Resolution; Compliance, Records and Training). The ombudsman has a dedicated phone line – (651) 284-5013, toll-free at 1-800-342-5354 – and a dedicated email address – [dli.ombudsman@state.mn.us](mailto:dli.ombudsman@state.mn.us).
- Role of the Vocational Rehabilitation unit – Dee Torgerson is the director of the Workers’ Compensation Division’s Vocational Rehabilitation unit (VRU). A PowerPoint presentation accompanied Dee’s report and copies were distributed to the members. Before 1979, all workers’ compensation rehabilitation was provided by one state agency, the Minnesota Department of Rehabilitation Services. Rehabilitation services for injured workers were mandated Oct. 1, 1979. Private-sector rehabilitation and qualified rehabilitation consultants (QRCs) emerged. In 1983, the Legislature changed the workers’ compensation law, adding Minnesota Statutes §176.104, thus creating VRU as a “safety net” for employees with disputed benefit claims. VRU became a part of DLI in 1991. VRU has two main offices, in St. Paul and St. Cloud, with other offices located in Bemidji, Mankato and Rochester; it has 12 QRCs, in addition to a manager and a supervisor. A major percentage (80 to 90 percent) of cases handled by VRU consist of rehabilitation services prior to the determination of liability by a workers’ compensation judge. VRU is given commissioner-ordered consultations and provides consultations there also. Private QRCs are able to withdraw from denied cases and refer them to VRU. Ten to 20 percent of cases are insurers or employees who request consultations directly with VRU, which are the typical, billable, accepted claims. DLI has two in-house job placement coordinators, one in St. Paul and one in St. Cloud, in addition to vocational rehabilitation technicians who assist in job placement. A vocational evaluator helps with pre-placement assessment, vocational testing and evaluation. A legislative grant has been set up with Vinland National Center for client services that supplement what DLI offers, as well as additional services such as: housing assistance, psychiatric consultations, grief and loss support, therapeutic exercise and transportation to facilities. This grant is very helpful in dealing with injured workers who are in crisis situations or who need more specialized services.

### 2011 performance measure summary

- VRU handled about 5 to 6 percent of all rehabilitation plans
- Injured workers are contacted within 1.5 days of a referral
- 357 open plans a month
- 985 referrals have been handled during the past year
- 258 plans were completed in an average of 321 days, at an average cost of \$5,104 a plan, which is lower than the overall QRC average (approximately \$8,000)
- An average of 93 percent of date-of-injury wage is restored

- Average in-house placement time is 120 days, at a cost of \$1,016 and 74 percent wage replacement
    - An average of 39 percent of rehabilitation plan costs recovered on interventions
  - Dee clarified VRU handles disputed primary liability cases only, after a claim petition has been filed. The percent of disputed primary liability cases that are served by VRU hasn't been run for five years (5 to 10 percent). Dee agreed to run those numbers and report back to the task force.
- Role of Rehabilitation Review Panel – Rehabilitation Policy Specialist Mike Hill is a liaison with the Rehabilitation Review Panel (RRP). The panel was created in 1979; *see* Minnesota Statutes §176.102: To offer advice and recommendations to the commissioner about aspects of vocational rehabilitation care impacting work-related injuries or illnesses. RRP is composed of 14 members representing employers, insurers, rehabilitation and registered health care providers, labor representatives, a chiropractor and a nonvoting commissioner's designee. The role of the panel is to: review and make determinations with respect to appeals from DLI orders, based on Minnesota Rules 5220, which all rehabilitation providers need to follow; QRC and job-placement vendor registration approval; and vocational rehabilitation issues. RRP provides education to the provider community about workers' compensation. It has the authority to sanction rehabilitation providers regarding unprofessional conduct and registration issues. If the department brings an issue that the rehabilitation provider disagrees with (regarding a violation), it would then go to the Office of Administrative Hearings, where a judge will review the information and make recommendations (not an order) to RRP, which will make a determination. That determination can be appealed to the Workers' Compensation Court of Appeals, which can be appealed to the Supreme Court. RRP is advised by the Minnesota Office of the Attorney General. The panel meets quarterly or more often as needed to resolve issues. The meeting schedule is posted on DLI's website, as are the agenda and meeting minutes.
- HIPAA update – Lisa Wichterman, medical policy specialist, discussed whether Minnesota workers' compensation should be covered under the federal HIPAA laws, as well as state laws for standardized transactions. Currently, Minnesota workers' compensation is required to comply with some of these standardized transactions, per Minnesota Statutes §62J.536 (electronic transactions). Medical claim attachments from the provider to the payer are a major issue and some of the requirements do not apply to workers' compensation. Electronic funds transfer will be discussed later today. DLI would like to see more flexible and improved standards set up in workers' compensation. On Nov. 18, the National Committee on Vital and Health Statistics, Subcommittee on Standards is holding a hearing of the Affordable Care Act. Lisa is scheduled to testify about Minnesota's use of standard electronic transactions within workers' compensation in Washington, D.C. Livestreaming of the hearing will be online at [www.ncvhs.hhs.gov](http://www.ncvhs.hhs.gov).
- Open discussion, strategies for reducing medical costs in workers' compensation, Jim Vogel/Lisa Wichterman – Commissioner Peterson has asked for ideas about how to reduce medical costs in workers' compensation, such as implantable devices, fusion surgeries, spinal stimulators, chronic pain medication and medical termination dates. Mike Johns stated the fastest-growing costs involve chronic pain prescription abuse. He would like to see enforcement of patient testing completed by doctors to ensure medications are being used as intended, to improve the injured workers' quality of life. Lisa responded that she, Dr. Bill Lohman, Assistant Commissioner Gary Hall and General Counsel Kate Berger are drafting treatment parameters (a narcotic contract) to address that issue. Mike Farber clarified that problems have been with the injured worker who is not taking medications properly, if at all, or is selling the drugs. It was asked whether DLI could conduct outreach presentations to the community (doctors, insurers, legal organizations) to educate, foster cultural change and further open discussions with all parties, to reduce rising cost issues. Charlie Bierman stated a research study was completed by the Mayo Clinic that shows health care costs are reduced

when consumers are responsible for a copay or deductible. DLI will compile a list of suggestions. Members are to email ideas to Jim Vogel and co-chairpersons Karen Clayton Ebert or Gary Westman.

- Electronic benefit check cashing, Jim Vogel – Is the industry able to conduct electronic fund transfers of benefit checks? The rules require this function, but there has been a terminology question, specifically, *direct deposit vs. EFT*. If the process is mandated, will insurers be able to handle it and, if not, how do we make it useful? Jim stated the original proposal was for this process to be used at the request of an employee, for routine checks, with regular payments, not lump-sum settlements. It is expected most public entities will be able to process these requests with no problem. Mike Johns confirmed Target, a self-insurer, has successfully processed EFT payments; smaller self-insurers may have trouble because monies are transferred. Karen Clayton Ebert stated Minnesota counties pay employees via EFT; however, it was necessary to hire additional staff members. Jim asked that member ideas be emailed to him at [jim.vogel@state.mn.us](mailto:jim.vogel@state.mn.us).
- Examiner/adjuster licensing CEU credits, Mike Johns – When DLI conducts seminars in the future, adding continuing education unit credits is recommended.

### **Reports/meeting schedule**

- The 2012 WCITF meeting schedule was included in member packets. Meeting dates for 2012 are: March 14, May 16, Sept. 19 and Nov. 21.
- The August/September 2011 edition of *COMPACT* is online at [www.dli.mn.gov/WC/Compact.asp](http://www.dli.mn.gov/WC/Compact.asp).
- The WCITF meeting schedule, agenda and minutes are online at [www.dli.mn.gov/wcitif.asp](http://www.dli.mn.gov/wcitif.asp).

The meeting adjourned at 10:25 a.m.

Respectfully submitted,

*Pamela McLaughlin*

Executive Secretary

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