

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

WORKERS' COMPENSATION REVIEW COMMITTEE

Wednesday, September 16, 2015
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Nicole Poolman, Chairman, called the meeting to order at 1:00 p.m.

Members present: Senators Nicole Poolman, Ralph Kilzer, George Sinner; Representatives Bill Amerman, George Keiser, Dan Ruby

Members absent: None

Others present: See [Appendix A](#)

Chairman Poolman welcomed committee members and called on Legislative Council staff to review the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#) and the memorandum entitled [Workers' Compensation Review Committee - Background Memorandum](#).

In response to a question from Senator Kilzer, Legislative Council staff distinguished the roles of the Legislative Audit and Fiscal Review Committee and the Workers' Compensation Review Committee. Specifically, she clarified that the Workers' Compensation Review Committee's receipt of the Workforce Safety and Insurance (WSI) performance evaluation differs from receipt of an audit of WSI, and she does not perceive there to be a conflict between the activities of the two committees.

WSI OVERVIEW AND PERFORMANCE EVALUATION

Chairman Poolman called on Mr. Bryan Klipfel, Executive Director, Workforce Safety and Insurance, to make a presentation ([Appendix B](#)) regarding the status of implementation of the *2014 Workforce Safety and Insurance Performance Evaluation* and to provide an overview of WSI and WSI trends ([Appendix C](#)).

Performance Evaluation

In response to a question from Representative Keiser, Mr. Klipfel said although he does not know which, if any, states conduct performance evaluations of their workers' compensation programs, he can research this matter and provide the committee with additional information.

In response to questions from committee members regarding details of how WSI has addressed the *2014 Workforce Safety and Insurance Performance Evaluation* recommendations classified as "in progress," he said he can provide the committee with a more detailed report on the status of the performance evaluation.

In response to a question from Senator Sinner, Mr. Klipfel said of the initial 29 high priority recommendations, WSI concurred with 22 recommendations, partially concurred with 4 recommendations, and did not concur with 3 recommendations.

Legislative Council staff said she would provide committee members with an electronic version of the [2014 Workforce Safety and Insurance Performance Evaluation](#).

Trends

In response to a question from Senator Sinner, Mr. Klipfel said he will provide additional information regarding the average work time lost by an injured employee who files with WSI.

Mr. Klipfel said WSI currently has 260 full-time equivalent (FTE) positions, plus an additional 35 temporary employees. He said because these temporary employees do not qualify for the state employee benefit package, WSI has increased their wages and makes an additional payment to cover the cost of a single health plan. Overall, he said, this approach has worked well, and it is not uncommon for WSI to hire the temporary employees as FTE positions open.

In response to a question from Senator Sinner, Mr. Klipfel said a claims adjuster who serves as a temporary employee earns approximately \$23.50 per hour. He said he can provide additional information regarding the pay for other temporary employees.

In response to a question from Representative Amerman, Mr. Klipfel reported on the status of the WSI security breach. He stated that in May of 2015, the Information Technology Department (ITD) became aware of unusual activity on the ITD server with WSI's information and therefore shut down the server. He said ITD notified WSI of this event on June 10, 2015. He said WSI was notified WSI incident reports and online employer reports from 2006 to 2015 may have been accessed in the breach. Although it appears none of the information was downloaded in the course of the breach, he said that in order to be cautious, WSI entered a one-year contract with a company that repairs credit. He said WSI notified parties that may have been affected and informed them of the availability of the credit repair services for one year. Overall, he said, he thinks WSI went above and beyond what was required, but thinks it is important to err on the side of caution.

In response to a question from Representative Keiser, Mr. Klipfel said under this contract it appears the credit repair provider will assist with credit repair for this one-year period, regardless of the source of the cause.

2015 LEGISLATIVE REVIEW

Chairman Poolman called on Ms. Jodi Bjornson, General Counsel, Workforce Safety and Insurance, to make a presentation of 2015 legislation relating to the state's workers' compensation system ([Appendix D](#)).

In response to a question from Representative Keiser, Ms. Bjornson said under the WSI scholarship program, there is not an appeal process for applicants. She said this is not the lone instance of a nonappealable determination made by WSI, citing WSI's continuing jurisdiction power as another example.

In response to a question from Chairman Poolman, Ms. Bjornson said the eligibility criteria for the scholarship and educational revolving loan fund programs are established by administrative rule. Ms. Robin Halvorson, Return-to-Work Services Manager, Workforce Safety and Insurance, stated the scholarship program is administered by WSI and the educational revolving loan program is administered by the Bank of North Dakota. Ms. Halvorson said WSI typically follows the Bank's recommendation regarding eligibility. Ms. Bjornson said she can provide the committee with additional information regarding WSI's scholarship and educational revolving loan programs.

In response to a question from Senator Sinner, Ms. Bjornson said the changes made to the volunteer firefighter law are intended to clarify the law and reinforce what has been the practice at WSI regarding determining benefit amounts. She said this change in statutory language came about following an administrative ruling that interpreted the law differently from the interpretation that had been made by WSI.

In response to a question from Senator Sinner, regarding whether WSI supported any unsuccessful legislation during the 2015 session, Ms. Bjornson said WSI supported the bill that would have expanded workers' compensation coverage to include certain instances of posttraumatic stress disorder, but that bill did not pass.

REPORT

Chairman Poolman called on Ms. Halvorson to provide a report on WSI's current rehabilitation services pilot programs, as provided under North Dakota Century Code Section 65-05.1-06.3. She said WSI is implementing a collaborative vocational support pilot program for claimants. She said the focus of this program will be to provide funding to assist claimants at the onset of the vocational rehabilitation process in order to access counseling and financial services. She said WSI has contracted with two counselors to help claimants deal with coping strategies and with a firm of financial planners to assist claimants with financial stability.

Ms. Halvorson said under this pilot program, a claimant will qualify for up to six visits with the counselors and up to four visits with the financial planners. She said the sessions are confidential, with the exceptions of situations for which there is the potential for harm to the claimant or harm to WSI.

Ms. Halvorson said WSI will be regularly meeting with the contractors and surveying claimants who have participated in the program in order to assist WSI in improving the program. She said 58 claimants have been offered the program and 11 claimants are currently participating in the program.

In response to a question from Chairman Poolman, Ms. Halvorson said although they have not yet received much feedback from claimants who have completed the program, one comment has resulted in WSI evaluating the best timing for offering the program to claimants in the vocational rehabilitation process.

CLAIM REVIEW PROCESS

Following review of the claim review forms and process used during the previous interim, the committee discussed how to move forward this interim. The committee members discussed the importance of notifying the public of the opportunity for claim review. Representative Keiser discussed the possibility of notifying claimants who had completed the WSI Decision Review Office review during an identified period of time such as two years, three years, or five years.

In response to a question from Senator Kilzer, Legislative Council staff stated Section 54-35-22(2) specifically states the WSI records of the injured worker whose case is reviewed by the committee are confidential; however, the records may be discussed by the committee members and WSI at the committee hearing. She said the committee's meetings are open meetings, which include a recording and minutes.

In response to a question from Representative Keiser, Legislative Council staff said Section 54-35-22 does not authorize the committee to hold the committee's review of WSI claims in a closed meeting.

In response to a question from Representative Ruby, Mr. Klipfel said as a result of activities of this committee, WSI has created a forms committee to review the readability of WSI's forms and WSI's forms and correspondence have been improved as a result. This activity did not require any legislation.

COMMITTEE WORK

It was moved by Representative Keiser, seconded by Representative Ruby, and carried on a roll call vote that the committee continue to use the forms and process used during the previous interim and that the committee send the application packet to claimants who have completed the Decision Review Office process during the last three years. Senators Poolman, Kilzer, and Sinner and Representatives Keiser, Amerman, and Ruby voted "aye." No negative votes were cast.

No further business appearing, Chairman Poolman adjourned the meeting at 2:55 p.m.

Jennifer S. N. Clark
Counsel

ATTACH:4