



July 7, 2020

TO: Co-Chairs Winther and Wood; Members of the Management and Labor Advisory Committee (MLAC)

FR: Shaun Jillions, Executive Director, Oregon Manufacturers and Commerce

RE: Identification of problems or gaps in the worker's compensation system and education about current opportunities for workers to file claims if they contract COVID-19 at work

Thank you for the opportunity to provide comments to the Management Labor Advisory Committee (MLAC) regarding possible gaps in the workers' compensation system and education opportunities. Oregon Manufacturers & Commerce (OMC) is an association dedicated to promoting, protecting, and advancing Oregon manufacturers and their allied partners. From the silicon forest to forest products, fabricated metals, machinery, paper, rail cars, aerospace and food and beverage products, our members are in communities across our state, providing living-wage jobs to our friends and neighbors.

We appreciate the approach that MLAC is taking to make data driven policy decisions related to Oregon's exemplary workers' compensation system. The data provided to MLAC by the [Department of Consumer & Business Services \(DCBS\)](#) and [SAIF](#) clearly illustrate that Oregon's workers' compensation system is working as it should; changes are not warranted at this time.

Since Governor Brown first declared a state of emergency in March 2020, Oregon employers have taken unprecedented steps to prevent the spread of COVID-19 in the workplace. This is a priority among OMC members and is reflected in the policies our members have adopted to support workplace safety.

We conducted an informal survey of our membership, many of whom are self-insured, to better understand the possible gaps in coverage and have summarized the results below.

As outlined in the [July 1 memo](#) from DCBS, manufacturers have seen very few claims related to COVID-19 exposure in the workplace. According to OMC members that provided responses, they have seen no claims to date. One OMC member recounted a possible work-related exposure, and the employer paid for both a doctor's visit and an expedited COVID-19 test for the employee. However, no claim was filed.

When asked about possible gaps in benefits or workers' compensation, our members responded with the policies they provide to cover employees who have tested positive or who have been quarantined due to COVID-19. As the Committee is aware, the Families First Coronavirus Response Act (FFCRA) directs employers with fewer than 500 employees to provide two weeks of emergency paid sick time to employees, paid at 100% of the regular rate of pay, related to COVID-19 exposure. In addition to



requirements outlined in the FFCRA, many OMC members provide a disability program or other paid time off benefit package.

For workplaces that do not fall under FFCRA, many responded that they are providing an additional 80 hours of COVID-19 related leave or a short-term disability program, or both, to cover employees who are quarantined and those who tested positive for COVID-19. Nearly all OMC members are covered by the Oregon Family Leave Act (OFLA), which has been expanded temporarily to ensure workplace protections related to COVID-19 in workplaces with 25 or more employees.

Even though OMC members have not seen claims related to COVID-19 exposures in the workplace, we support an employee's right to pursue a workers' compensation claim should a workplace exposure occur. However, the data presented to MLAC does not support an automatic presumption for such claims. Presumption runs counter to current workers' compensation standards and would require all COVID-19 cases to be covered claims unless an employer can prove that an exposure did not occur at work. And given the nature of the virus and how it spreads—oftentimes through contact with an asymptomatic person—a workplace presumption for COVID-19 claims would be nearly impossible to disprove.

We appreciate the opportunity to help inform the discussion of possible gaps or problems with Oregon's workers' compensation system related to COVID-19. OMC trusts the MLAC process will balance the viewpoints and data provided to ensure fairness, adequacy of benefits, affordability, efficiency, and the stability of Oregon's renowned workers' compensation system.

Thank you,

Sincerely,

Shaun Jillions  
Executive Director  
sjillions@oregonmanufacturers.org