

Management and Labor Advisory Committee (MLAC) Co-Chairs
Diana Winther and Kimberly Wood
Members of the Committee

July 15, 2020

We appreciate the opportunity to comment in response to the work being conducted by the Management-Labor Advisory Committee (MLAC) regarding a review of the workers' compensation system related to the COVID-19 pandemic.

The Associated General Contractors Oregon-Columbia Chapter (AGC) represents 830 member companies and serves as the voice of the commercial construction industry. Since 1922, we've provided our members unmatched products and services improving businesses and enhancing the professionalism of the construction industry. AGC offers training, education, advocacy, human resources, labor relations, safety, and retirement programs, along with health insurance, and most importantly, an innovative workers' compensation program that has dramatically reduced workplace injuries over the last two decades.

AGC believes workers' compensation covers COVID-19 when exposures occur in the workplace. The basis of Oregon's workers' compensation system is that workers receive medical care and salary replacement when injured at work.

Over the last few weeks, MLAC has received data from the Department of Consumer & Business Services (DCBS) and SAIF illustrating a workers' compensation system that is working and functioning as it should. We commend the work being done by MLAC to thoroughly understand the problem, if any, within the current workers' compensation system before making a recommendation to the governor. MLAC has and continues to play an invaluable role in solving problems and seeking balanced and appropriate solutions.

Calls for dramatic changes to the system (such as a presumption related to COVID-19) do not appear to be supported by the data presented. Oregon's workers are filing claims. Those claims are investigated and either accepted or, in a limited number of cases, denied. If a worker's claim is denied, they may appeal that denied claim as with any other denied claim.

A presumption would shift costs to the workers' compensation system that aren't related to workplace injuries. These costs weren't anticipated or built into workers' compensation rates. Consequently, these actions would place a burden on the system. To simply declare that a worker, who contracts COVID-19, did so while at work is an unnecessary change. Our current system investigates and makes a determination on the merits of each claim.

Instituting a presumption which is more of a guarantee, would mean all cases would be accepted and covered by the workers' compensation system unless the employer proves the

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exposure did not happen in the workplace. Proving with 100 percent certainty that an employee's exposure did not occur in the workplace is a near impossibility.

While many elements of this virus remain unknown, health experts have repeatedly stated that COVID-19 can and does spread through asymptomatic carriers. The existing system provides for an investigation of each claim so that a decision may be made based on available information from each individual who has filed a claim.

AGC and our members, in concert with the Oregon Home Builders Association, stepped up as soon as the governor issued a state of emergency in March to ensure worker safety and limited exposure of the virus in our industry and on construction worksites.

The construction industry used the experience that comes with being a safety sensitive industry to put any and all additional safeguards into place to protect employees and their workplaces. Our safety team was the first to draft job site safety and health guidelines and distribute those in the field within the first week while working in coordination with OR-OSHA. Those materials were adopted by state and local agencies as well as nationally and by other associations.

In addition to workers' compensation there are a number of other programs established to provide additional resources to workers. 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. For workplaces that do not fall under FFCRA, many 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. Just yesterday, Oregon's Emergency Board approved \$30 million for workers who contract or were exposed to the virus but don't qualify for traditional sick leave.

It is our view that Oregon's nationally recognized workers compensation system is working as intended while continuing to serve workers exposed to COVID-19 on the job.

Thank you,

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