

WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
Full Committee Meeting

March 5, 2021
9:00 a.m. – 10:00 p.m.

Committee Members Present:

Alan Hartley
Kimberly Wood, Wood Risk Management Services
Diana Winther, IBEW Local 48
Lynn McNamara, Paladin Consulting
Kathy Nishimoto, Duckwall Fruit
Scott Strickland, IOUE Local 701
Andrew Stolfi, DCBS Director, *ex officio*
Ateusa Salemi, Oregon Nurses Association
Kevin Billman, United Food and Commercial Workers

Committee Members Absent:

Jill Fullerton, Clackamas County Fire Department
Tammy Bowers, May Trucking

Staff:

Theresa Van Winkle, MLAC Committee Administrator
Jeffrey Roddy-Warburton, MLAC Assistant

Agenda Item	Discussion
Opening (0:00:00)	Diana Winther opens meeting at 9:05 a.m. Theresa Van Winkle does roll call. MLAC will hold off on approving meeting minutes until later in the meeting.
MCO Public Testimony (0:02:00)	Diana Winther states that public testimony on managed care organizations (MCO) will be limited to 10 minutes for each person so that everyone has a chance to speak. Diana Winther reminds the speakers that the goal of the public testimony is to speak to the particular topic we are discussing.
(0:07:00)	Dr. Woolley, MD Hand & Upper Extremity Surgery, Board Certified Orthopedic Surgeon gives his public testimony on MCOs and gives details about the letter he sent to the committee which he discusses some of his frustrations and flaws with the MCOs and workers' compensation system.
(0:18:00)	Diana Winther in regards to Dr. Woolley's testimony states that perhaps as an entity MLAC might be able to look into the subject matter and MLAC appreciates him coming and sharing his concerns about the MCO process.
(0:19:30)	Kimberly Wood asks if he has similar concerns working with Caremark as he does with Majoris. Dr. Woolley responds no he does not and Caremark

does not call him every week asking about notes because they know his track record and having the MCO call and ask what he did in the office for the patient is redundant because it is already in the notes that he sent in. Kimberly Wood encourages Majoris to reach out to Dr. Woolley so they can hopefully resolve the issue they are having. Dr. Woolley states that Majoris has reached out and it has not been helpful.

(0:24:30) Ramona St. George-Suing, former CEO of Majoris Health System and current Board Chair, gives her public testimony. Ramona St. George-Suing states that the goal of her testimony is to provide a history of the creation on MCOs and to give an overview of statistics regarding Majoris MCOs and put things into numerical perspective and the guidelines that MCOs have to meet.

(0:34:00) Diana Winther states that it might be helpful to the committee if Ramona St. George-Suing could provide the statistics she shared in writing. Ramona St. George-Suing responds that she can do that. Dr. Woolley states that the data on cost saving is critical information. Diana Winther reminds people listening that today's meeting is not a round table discussion and responses and questions need to be limited to the MLAC members only.

(0:36:00) Scott Strickland states that he too would like to see that data in writing. Scott Strickland asks a clarifying question and wants to know if the creation of the MCOs was from the Mahonia Hall reforms. Ramona St. George-Suing responds yes. Scott Strickland asks if the key purpose was to provide a layer in between medical providers and insurers so that disputes are resolved more collaboratively. Ramona St. George-Suing responds the process is that the MCO is responsible for the medical aspects of a claim, because a carrier cannot manage those issues except by contracting with an MCO. She adds the reason for the arms length between the carrier and the insurer is just in case an insurer owns an MCO there is no conflict of interest.

(0:38:00) Kimberly Wood thanks Ramona St. George-Suing for the information that she provided today and the statistics were very helpful to understand how things work, and she adds that she too would like to see the data in writing.

(0:39:00) Ateusa Salemi asks how do the networks and the specialists work together to make sure that there is adequate coverage, and at what point can somebody get to a specialist that isn't available to them or one that they know they want. Ateusa Salemi also states that in her own personal experience she has had family members get notes from a physician that would not be relevant to the problem and wants to know how that is covered in this process, because having IME providers who are not longer practicing can be problematic. Ateusa Salemi states that if Ramona St.

George-Suing can address that in the information she is going to send to the committee that is fine given the short time available at the MLAC meeting today. Ramona St. George-Suing responds that MCOs do not do IMEs that is solely an insurer prerogative, and for second surgical opinions we send patients to practicing physicians typically in the network unless it is something specialized that not many doctors do. In regards to Ateusa Salemi's question on adequacy Ramona St. George-Suing responds that it depends on demand, and if there are long wait times we would add providers in a specific category. She adds there are some requirements through the regulatory system that we have minimum of 3 of certain types of providers. If there isn't the minimum number of 3 of a certain type of provider in the geographical area the worker would be able to look else where.

(0:45:00)

Dr. Paul Armerding, Mid-Columbia Medical Center in The Dalles, OR gives his public testimony on MCOs and his mission as a doctor to have an injured worker achieve healing and relief of suffering so that can return to work. In regards to MCOs he states that he is having a difficult time understanding or seeing what their real mission is and where on their list is the priority of getting injured workers back to work. Dr. Armerding states that Majoris sees him as a difficult doctor because he won't "bend a knee" to a lot of their regulations.

(0:53:00)

Scott Strickland asks how much of the office related work is duplicated or increased in terms of being complying with whatever the MCO asks. Dr. Armerding responds he cannot put a number to it, but it is more like he will send in a referral and a week later Majoris will ask where the referral is like it got lost. Dr. Armerding adds why is this system in place because even if it works perfectly it is going to delay the process.

(0:55:20)

Kathy Nishimoto states that we have heard from doctors that state the MCO system doesn't work and that she would now like to hear from some doctors that think the MCO system does work. Diana Winther responds that we can put out the invitation for those doctors since it seems this conversation will not be a short one.

(0:56:00)

Kimberly Wood asks Dr. Armerding if he is experiencing these issues with other MCOs or just Majoris. Dr. Armerding responds that about 75% of his claims are with Majoris, and he has not had as much push back or harassment or delay with Caremark or Providence.

(0:57:00)

Kimberly Wood states that she is concerned that the meeting has felt somewhat like a "beat up" on Majoris day, which was not the intent of the meeting. The initial intent of the meeting was to talk about reasons for denial and a worker's process to appeal, and the meeting got a little beyond what we were looking for. Kimberly Wood states that moving forward we

will want to keep the meeting centered on what we are looking to find out because MLAC does not have authority over a singular MCO's practices.

(0:58:30) Diana Winther has a few questions for Sally Coen and states that she is not directing them towards specifically towards any one MCO, because she hears Kimberly Wood's concerns about the direction of the meeting and MLAC might need to reconsider how we discuss the topic moving forward. Diana Winther asks if WCD has a break down of the usage of MCOs by percent by the different MCOs.

(1:01:00) Sally Coen, Workers' Compensation Division Administrator, responds yes, we do have that information and we will provide that to MLAC. Diana Winther asks if WCD has data on how often MCOs overturn their own decisions on review. Diana Winther would also like more information on worker's limited access to representation and lack of opportunity for the workers attorneys to cross examine, as well as the internal process for appealing within the MCO as well as appeals to WCD. In regards to something that Ramona St. George-Suing stated about being able to treat outside the MCO, Diana Winther asks when someone is allowed to treat outside the MCO are they still enrolled in the MCO or are they then out. Sally Coen responds that WCD will put together that data and present it in a way that is easier to understand, to the enrollment question Sally Coen states she will defer to the Medical Resolution team manager Rob Andersen. Rob Andersen responds the provider just has to agree to provide services under the MCO's management so they do have to agree to all the things that the MCO normally does to manage the care for that worker, so yes, they do have to follow all the MCO requirements.

(1:04:00) Theresa Van Winkle states that there is a document on the MLAC website that members got in advance with some follow-up information from [WCD from the last meeting we had on MCOs, with background information on enrollment and attorney fees](#). Theresa Van Winkle states that Keith Semple put a comment in chat that will be reflected in the minutes (along with all other comments from chat).

MLAC CHAT

Steven Schoenfeld (to Everyone): 10:11 AM: Another issue with MCO's is that attys cannot get a copy of the provider contract. The MCO will sometimes allege that the provider violated the MCO but will refuse to divulge the contract itself. This makes representing claimant's who are in MCOs difficult.

Steven Schoenfeld (to Everyone): 10:11 AM: Please make this part of the record.

Diana Winther (to Everyone): 10:11 AM: Thank you, Mr. Schoenfeld.

Steven Schoenfeld (to Everyone): 10:14 AM: I have a letter dated 11/12/20 from Majoris I would like submit as part of the record. It approves PT on a

case from 10/30/20 to 11/10/20, but dated 11/12/20. My office received it on 11/16/20. This type of thing happens all the time as Dr. Armerding mentioned.

Paul T Armerding (to Everyone): 10:17 AM: Thank you for giving me the time for a few comments. I realize it seemed like many of my comments seemed directed specifically toward Majoris, but I wanted to communicate that I believe it is time for a review and perhaps re-defining of the mission of MCOs in general. To me they all have the net effect of delaying and disrupting care of injured workers, and in some cases actually preventing full recovery of conditions that have a critical window of treatment time to avoid permanent impairments. I would be happy to participate in any sub-committee that is charged with assessing what could be done better in the whole Worker's Comp system.

CHAT END

HB 2040
(1:05:00)

Diana Winther begins the discussion on [HB 2040 electronic claim reporting](#) and the [proposed -2 amendment](#). Theresa Van Winkle states that the -2 amendments were the concepts discussed at the February 19th meeting which corrects the form and style changes that were made to the original bill. Theresa Van Winkle adds that there is also some [follow-up information from WCD to questions that Keith Semple raised](#) in regards to retention claims and requirements and that the -1 amendment was presented at the last meeting as well.

(1:06:00)

David Barenberg, SAIF gives a brief overview of the changes that were made in the -2 amendment with the stylistic and language, so any changes that did not relate to the substance of the bill were removed and it incorporates the -1 amendment.

(1:08:00)

Kimberly Wood asks a clarifying question, by supporting the -2 amendment and the original bill we don't need to include the -1 amendment is that correct. David Barenberg responds yes, but to be clear it does not address the concerns that Keith Semple expressed.

(1:09:00)

Diana Winther in regards to WCD moving to an electronic format asks WCD does not intent to make documents inaccessible by coding them in a way that makes them unreadable and unprintable. Sally Coen responds that is absolutely correct and thank you for asking, it is not WCD's intent to allow carriers to keep records in an unreadable format of some sort. Our intent is to keep requirements in place that insurers and self-insured employers would be required to provide workers and other parties with usable, readable format type documentation and if we need to do additional rule making to strengthen that and to emphasize that we are certainly open to have those discussions. Diana Winther asks if WCD as well does not intend to make their documents unreadable. Sally Coen responds in the future when WCD does receive records electronically we likely will not

receive hard copies of documents, so in the mean time we are not making any plans to change what insurers have to provide the records they are currently required to provide to us but when we go to an electronic format their records will be reported in an electronic format as well. . Diana Winther asks if this is something that can be addressed in rule making. Sally Coen responds yes we can have discussions about what WCD's records will actually consist of and what insurers records will require to contain.

(1:13:00)

Kimberly Wood states that it sounds like the legal community has relied on WCD to provide some information that WCD isn't required to keep, and the legal community is concerned about losing that option. Kimberly Wood would like to know that do the rules say about the legal community getting the documents if an insurer is not providing them, and she does not expect they answer from WCD today but would like answer later. She also states that she doesn't want to create more paper work for WCD or change their process if it will be more work. Sally Coen responds that the February 25, 2021, memo submitted to Keith Semple to address his questions was also copied that to MLAC, and has an outline of the current statutory and rule requirements for carrier to keep records and make them available to requesters. WCD also has civil penalty authority to enforce these requirements. Sally Coen also states that if MLAC has additional questions she is happy to address those.

(1:14:30)

Diana Winther asks for a motion for a recommendation on HB 2040. Kimberly Wood moves the committee to support HB 2040 with -2 amendment. Alan Harley seconds the motion. MLAC members unanimously votes to support HB 2040 with -2 amendment (Jill Fullerton and Tammy Bowers excused). WCD will draft the letter to move that forward.

(1:16:30)

Theresa Van Winkle begins discussion on MLAC meeting minutes for February 5, 2021 and February 19, 2021. Scott Strickland has a few edits on both minutes to clarify things he stated in those meetings. Diana Winther asks for a motion to approve the February 5, 2021 and February 19, 2021 minutes with Scott Strickland's edits. Lynn McNamara moves to approve, Kathy Nishimoto seconds. February 5, 2021 and February 19, 2021 MLAC minutes both unanimously approved (Jill Fullerton and Tammy Bowers excused)..

**Meeting
Adjourned**

Diana Winther adjourns the meeting at 10:24 a.m.

*These minutes include time stamps from the meeting audio found here:
<https://www.oregon.gov/dcbs/mlac/Pages/2021.aspx>

**Referenced documents can be found on the MLAC Meeting Information page here:
<https://www.oregon.gov/dcbs/mlac/Pages/2021.aspx>