

WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
Subcommittee on Worker Continuation of Care Meeting

September 16, 2022

10:00am-12:00pm

MLAC Members Present via Zoom :

Sara Duckwall, Duckwall Fruit

Margaret Weddell, Labor Representative

Matt Calzia, Oregon Nurses Association

Staff present via Zoom:

Theresa Van Winkle, MLAC Committee Administrator

Cara Filsinger, Senior Policy Analyst, Workers' Compensation Division (WCD)

Brittany Williams, MLAC Assistant

Jeffrey Roddy-Warburton, MLAC Assistant

Agenda Item	Discussion
Opening (0:00:08)	Theresa Van Winkle opens the meeting and shares details about the meeting format, procedures for those wanting to speak during the meeting, and details about the Zoom meeting being recorded and chat messages being public record.
(0:01:36)	Sara Duckwall and Matt Calzia introduced themselves as the MLAC management and labor caucus members serving on the subcommittee. Sara Duckwall moved to approve the minutes as presented from the August 25, 2022, subcommittee meeting, Matt Calzia seconded the motion. The motion passed with a unanimous voice vote with no objections and no abstentions.
(0:02:26)	Theresa Van Winkle called the roll of MLAC members, DCBS staff, and stakeholders present via Zoom. Theresa Van Winkle uploaded a handout from MHN/Caremark into the chat that had been provided before the meeting.
(0:04:20)	Sara Duckwall noted that the MLAC meeting previously scheduled for September 22 , 2022, will actually serve as a hold over subcommittee meeting so anyone not able to give testimony at this meeting can do so then.
(0:05:00)	Rachel Stappler, Oregon Society of Physician Assistants, spoke about her background as a physician assistant in Coos Bay where she has a large internal medicine practice of approximately 3,000 patients, works with area hospitals, and has served in a first responder role for the past six

years. She noted that she worked with the workers' compensation system in a previous career and is familiar with it and that the current rules with physician assistants being able to care for a percentage of the population is causing large disruptions in continuity of care, creating barriers for people, and enabling gaps in treatment and communication to occur. Rachel Stappler further explained that gaps in care and provider turn over creates large costs fiscally and can cause distrust and frustration for patients. As physician assistants make up a large part of the medical care work force in rural areas the decreased ability for continuity of care causes large problems as there are minimal Majoris Managed Care Organization providers in rural Coos County. She noted a number of the providers listed on the Majoris website have moved and the currently there are only two providers in that area accepting patients and they are each booked out three to six months for appointments.

- (0:08:21) Matt Calzia asked for clarification about which area Racheal Stappler is referring to when she said that that there are currently only two providers in that region. Rachel Stappler explained that she was referring to Coos County including Coos Bay, North Bend, Coquille, Myrtle Point and Powers.
- (0:09:19) Alisa Gifford, Oregon Society of Physician Assistants (OSPA), spoke about the difficulty in continuation of care, noting the [Workers' Compensation Attending Physician Status](#) handout that was shared in the meeting chat. Currently, "Type B" attending physicians including chiropractic physicians, naturopathic physicians, and physician assistants can only serve as an attending physician for a total of 60 consecutive days or 18 visits. Alisa Gifford explained that it is detrimental to force patients to switch providers and that OSPA plans to introduce a bill in the 2023 legislative session to address these concerns by addressing the amount of time physician assistants can treat patients in the workers' compensation system with the goal of increase continuity of care.
- (0:11:50) Matt Calzia asked if there was anything in the literature that suggests that patients with workers' comp claims benefit from seeing a physician versus a physician's assistant. Alisa Gifford replied that the transition in care does result in workers being the system longer. Matt Calzia clarified that he is curious if there is documentation of end outcomes in the type of provider that a patient sees. Alisa Gifford answered that she does not have that information but will look into it and provider that information back to the subcommittee.
- (0:14:15) Lisa Johnson, Majoris, began by outlining the three main questions that were asked of them when invited to speak at that meeting: how MCOs manage continuity of worker care, if they are taking direction from nurse care managers on continuity of care, and what the processes looks like on
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the MCO end. Lisa Johnson began addressing the first question as at Majoris each claim is assigned a person that has overview of the claim once it is filed but all of the medical based decisions are made by physicians. She noted that there are a few times when continuity of care can be brought into question, the first is at the time of enrollment, if the physician is out of network they are sent paperwork in order to be considered as a come along provider. The main issue that is being agreed to is that referrals for ancillary care are made to providers within the network and that the physician will follow reporting and certification guidelines. If a provider does not qualify or agree, the worker has 14 days to find a provider within the network, and there are a number of tools that Majoris provides to assist workers with this process. In the case that a worker needs to change providers after enrollment, the attending physician takes care of that by providing a referral to the new provider. She notes that Majoris can recommend what type of provider the worker should see but the choice of which specific provider the worker sees is up to them. She added that an advantage that an MCO offers for all of these situations is that the MCOs are constantly accessing their network and providing provider education on the importance of workers compensation. She empathized with the previous speakers and noted that the provider clinic and work flow can determine who in the clinic the worker sees; this can include physician assistants and nurse practitioners.

(0:22:43) Sara Duckwall asked what the expectations of the frequency that providers are seeing workers in this case are from MCOs. Lisa Johnson responded that the expectation is that providers make themselves available to see workers at least every thirty days for workers not released back to full time work and that the goal is for workers to have their next appointment scheduled when they leave the provider's office, if this does not happen, there are a few routes to take to ensure that workers are scheduling appointments including bug letters and reaching out to the worker. Sara Duckwall asked if Lisa sees any continuation of care issues with that that system, Lisa responded that currently their 30 day cadence is back in play and have not had any issues meeting that expectation.

(0:25:30) Matt Calzia asked for clarification, if the workers would be seeing the attending physician every 30 days or if they are seeing someone else within the clinic? Lisa responded that whether workers see the attending physician or someone else in their clinic is seeing the worker is dependent on the clinic. Adding that if there is an issue that dictates that the worker see the attending physician at the next appointment the MCO works the clinic to ensure that takes place.

(0:27:08) Matt Calzia asked if there was any action taken on the provider's end if a worker is not being seen every 30 days? Lisa Johnson responded that their

role is mainly on education and that usually when a worker is not being seen it is usually not the fault of the provider once care is established.

- (0:28:10) Sara Duckwall asked Lisa to expand on the administrative tools that are used in contacting workers who are not seeing their provider regularly. Lisa Johnson explained that the adjuster decides when to send out a bug letter as a notice to the worker that asks them to call and let the insurer know when the next appoint is scheduled, she noted that this is generally pretty effective and workers either call and respond with their next appointment date or they will discuss not pursuing treatment or changing providers. She added that adjusters can also schedule mandatory appointments.
- (0:31:04) Sara Duckwall asked Lisa Johnson to expand on the lack of providers in Coos County that was mentioned by Rachel Stappler earlier in the meeting. Lisa Johnson responded by saying that is one of the more geographically tricky areas of the state and that is part of a larger lack of access issue not just in the workers' compensation system.
- (0:32:16) Rhea Schnitzer of [MHN/CareMark](#) noted that she does not have a presentation but is open to answer questions if anyone has them.
- (0:32:45) Theresa Van Winkle asked for any additional questions or comments. Hearing none she explained processes and procedures for those wanting to speak at the next subcommittee meeting. She noted that the [minutes](#) from the last Medical Advisory Committee meeting, that were discussed at the last subcommittee meeting are available on the MLAC webpage.
- (0:35:44) Theresa Van Winkle reviewed the [current Workers' Compensation Attending Physician Status](#) and [Chronological Attending Physician Status](#).
- (0:41:02) Sara Duckwall asked if any MAC members could attend any subcommittee meeting to discuss their perspectives verbally rather than reading minutes. Theresa Van Winkle responded that that is the plan and that she can send an invitation to those committee members. Matt Calzia agreed that he would like to hear their perspective as well and Sara Duckwall mentioned a few names on the provided minutes that could be invited.
- (0:42:25) Sally Coen, Administrator, Workers' Compensation Division (WCD) answered that MAC meetings happen quarterly and the next one is scheduled for November 18th, but that her team will work on reaching out to members to ask them attend the next MLAC subcommittee meeting on September 22nd.
- (0:43:12) Sara Duckwall requested to hear from Elaine Schooler from SAIF to discuss the [written follow-up](#) that was provided following the
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subcommittee meeting on August 25th. Elaine Schooler explained each provision discussed in the document. Noting that the fourth provision in particular that discusses punitive measures against physicians for members not receiving treatment within 30 days and that they feel that this could result in providers leaving the system.

(0:48:30) Sara Duckwall asked if Elaine Schooler has had any experience with workers losing motivation to return to work because they are receiving open ended time loss benefits. Elaine responded that she cannot speak to the perspective of the workers but that they do have cases where there are prolonged gaps in treatment and it is unknown to the SAIF and adjuster why the worker is not. In her experience workers with ongoing problems need ongoing care and that those gaps in care can become problematic.

(0:49:56) Sara Duckwall asked for clarification about previous comments about insurers being hesitant to close claims when they are not engaging in treatment but require ongoing care to be able to return to work. Elaine Schooler confirmed these comments as this would not be the best interest of the worker.

(0:50:08) Matt Calzia asked Elaine Schooler what other tools would be necessary to minimize these gaps in care. Elaine responded that having expectations be clearly stated to everyone involved can be very helpful and that setting those expectations can be an added benefit to having a time dependent system. She added that gaps in care can occur when the time frame is reliant on appointments that may or may not have been scheduled in the first place and that this can create impediment for continuation of care as well.

(0:53:54) Jovanna Patrick, Oregon Trial Lawyers Association, noted that from their perspective that although one tool may not be effective in every situation, that various tools used in succession can be helpful in resolving these issues when they occur. She shared a few additional tools that insurance companies can use to increase continuity of care including bona fide job offers that are within the worker's restrictions can also be used as a tool to get workers back to work. The insurmountable behavior provision that can lead to a suspension of benefits, as well as enrolling workers in an MCO for increased hands on continuation of care is a tool that is available for use. She noted that in the MCOs testimony earlier, that even though they are more hands on with members treatment, there are still those gaps that occur in providers. Jovanna also addressed a few comments from SAIF's testimony discussing the difficulty of adjusters contacting providers and noted that workers would not be the appropriate people trying to make that contact if the insurance provider is having difficulty making that contact. She closed by stating the onus should not fall on the workers.

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- (0:58:34) Elaine Schooler, SAIF, addressed the bona fide job offer provision noting that she would be surprised if a provider released a worker to accept a job offer without meeting with the worker first. For the insanitary practices leading to suspension is a difficult situation to navigate. Enrollment in an MCO is also difficult depending on the worker's location and medical needs. She added that they are not requesting that workers are responsible for providers being responsive, they are requesting that workers are engaged in their treatment.
- (1:01:27) Matt Calzia asked the group what their process with bona fide job offer provision is, and shared an example of modified job duties in his field. Lisa Johnson, responded that a bona fide job offer is something that happens with the insurer and the worker and that the MCO is usually not directly involved. She noted that the offer is sent to the provider and they are asked for their opinion on the job offer based on their last interaction with the worker. She noted that this usually occurs when there are specific concerns over the job being offered or a disagreement between the provider and worker on their abilities.
- (1:04:57) Jovanna Patrick explained that she speaks with workers multiple times a week who have received a bona fide job offer who experience confusion about being taken off of work and then receiving a new offer. She noted that after speaking with the workers and explaining the situation that usually nearly 99% of her workers accept those offers and return to work. She added that she does not see many workers that go extended periods of time without seeing their providers on accepted claims.
- (1:06:15) Rhea Schnitzer, MHN/Care Mark, added that they do come across the situations where physicians change releases between appointments. In these cases the speak with the provider to ensure that revised work release accurately reflects the worker's demonstrated capacity.
- (1:07:28) Sara Duckwall asked Jovanna Patrick to clarify her previous statement about her experience with workers seeing their providers regularly but as often as every 30 days. Jovanna Patrick responded that the regular amount of time between appointments varies greatly depending on the doctor's office but that 30 to 60 days is the average amount of time with the exception of post-surgical and physical therapy appointments being longer.
- (1:08:48) Sara Duckwall also wanted to address the comments that Jovanna Patrick made earlier about only a small number of workers engaging in "doctor dodging" and asked if addressing this behavior would be helpful even if it is only a small amount of workers. Jovanna Patrick responded that the tools that exist are adequate or could be strengthened but that she does not feel that adding in a hard rule that affects all workers would do more harm
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than the few workers who have not been quantified that are not engaging with their care.

(1:10:15) Matt Calzia asked who the group would go to get the most accurate data about the frequency of provider visits, noting that none has been presented and that electronic medical records should make this easily accessible. Noting that the group has yet to hear concrete numbers about the percentage of workers not engaging.

(1:11:20) Jennifer Flood, Ombuds Office for Oregon Workers, added that the examples that Jovanna Patrick shared are things that her office sees regularly. Noting that communication is the main issue and if a provider is hesitant to release a worker that a bona fide job offer could be a good trigger to have an appointment scheduled. She added that she does not have the data but feels that it is a very small population of people who dodge the issues and that a broad rule would harm more workers than it would stop from not engaging in treatment. Jennifer Flood shared that her office sees post-operative appointments can easily take 30-60 days to schedule and that her office regularly sees this occur when workers are engaged in physical therapy or seeing providers other than their attending physician.

(1:15:06) Theresa Van Winkle shared that the invitation to MAC members is being drafted currently and that there will likely be additional provider groups presenting at the next subcommittee meeting.

(1:15:34) Sara Duckwall requested that the group work through the data tables provided by staff before doing a wrap-up and next steps.

(1:16:27) Theresa Van Winkle discussed potential data sources including information from the Workers' Compensation Research Institute (WCRI) that could help with the committee discussion.

(1:18:35) Sara Duckwall noted that these documents do not explore California's 45 day time loss limits or Oklahoma's benefit suspension after 60 days of non-engagement and that these would be helpful to have to understand what other states are doing. She asked if the information is available but not included. Theresa Van Winkle noted that was a fair question but she is not sure of the answer but that those questions can be asked of WCRI and other workers' compensation regulators across the country.

(1:20:19) Matt Calzia added that the sheets does not include California's rules of benefit termination and that would be helpful to have as well.

(1:20:50) Sally Coen responded that her staff provided that information from WCRI that had already been published and that her staff can work on refining this

information and ask any more specific questions that the subcommittee has.

- (1:21:30) Sara Duckwall asked Matt Calzia if they should discuss framing these questions now so that they can get that information in the next meeting. Theresa Van Winkle noted that she will compile the questions that she heard and will e-mail Matt and Sara to confirm them so that WCD can gather that information .
- (1:21:57) Matt Calzia noted that one question is there a requirement on frequency on visitation with attending physician and is there a consequence if this requirement is not met?
- (1:22:08) Sara Duckwall added how long can an attending physician authorize time loss benefits between medical appointments and can a physician authorize time loss benefits without an end date? If yes, is there an end date determined by any other measure or rule? If yes is there an action that terminate this authorization?
- (1:24:37) Theresa Van Winkle brought up a question that was brought up at the last subcommittee meeting about the number of bug letters that are sent out per year, Matt Calzia responded that he would like that data if it is available but believes that at a prior meeting it was stated that that data is not tracked.
- (1:25:04) Sally Coen answered that there is some data about notice of closures that were coded that way and will be able to provide that to the subcommittee.
- (1:25:56) Sara Duckwall asked if we could hear from the Small Business Ombud's Office. Caitlin Breitbach, Small Business Ombudsman, responded that she is in attendance at this meeting and that she will review the documentation and prepare to speak at next week's subcommittee meeting if requested.
- (1:26:48) Matt Calzia asked if someone from MAC would be present at the next meeting, Theresa Van Winkle confirmed that they will be invited to speak at the next meeting and what next steps are available to help with deliberations.
- (1:27:24) Sara Duckwall added that she feels it would be helpful to hear from members of MAC and feels that the provider's perspectives on this situation would be very helpful. Matt Calzia agreed.
- (1:28:22) Sara Duckwall thanked the group for their time, efforts, and energy in helping them do what is best for Oregon workers. Matt Calzia echoed her sentiments and thanked the group adding that he had nothing additional.
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(1:28:48)

Theresa Van Winkle called for final questions and reiterated that the next meeting will occur on Thursday, September 22nd at 10:00am via Zoom and that documents will go out as soon as possible via that usual channels.

Meeting

Adjourned

The meeting was adjourned at meeting at 11:31am.

*These minutes include time stamps from the meeting audio found here:

<https://www.oregon.gov/dcbs/mlac/Pages/subcommittee-on-worker-continuation-of-care.aspx>

**Referenced documents can be found on the MLAC Meeting Information page here:

<https://www.oregon.gov/dcbs/mlac/Pages/subcommittee-on-worker-continuation-of-care.aspx>