

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

September 22, 2022

10:00am-12:00pm

***MLAC Members Present via Zoom :***

Sara Duckwall, Duckwall Fruit  
Margaret Weddell, Labor Representative  
Matt Calzia, Oregon Nurses Association  
Lynn McNamara, Paladin Consulting  
Tammy Bowers, May Trucking

***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

<b>Agenda Item</b>	<b>Discussion</b>
Opening (0:00:08)	Theresa Van Winkle opened the meeting and discussed the minutes from the previous meeting, noting that the minutes with Sara Duckwall's edits have been circulated in preparation for this meeting.
(0:00:59)	Sara Duckwall noted that she does not have any additional changes that need to be made to the minutes. Matt Calzia responded that he did not have a chance to review the minutes and would like to defer voting on them until the next subcommittee meeting. Theresa Van Winkle agreed.
(0:01:16)	Theresa Van Winkle announced that there were three members of the Workers' Compensation Medical Advisory Committee (MAC) in attendance. She introduced Dr. Ronald Bowman, Dr. Jennifer Lawlor, and Lon Holston adding that they would be providing testimony and were available to answer subcommittee members questions.
(0:01:39)	Dr. Ronald Bowman, MAC Chairman, explained that MAC discussed open ended time loss benefits in May 2021. Dr. Bowman noted that there is selection bias among MAC members as everyone on the committee has an interest in workers' compensation and that the problem seemed to be a few attendings that were giving open ended time loss. Most of the committee was surprised that open ended time loss authorizations were allowed and that most of the committee agreed that a thirty-day limit seemed reasonable and not a hardship as in most cases patients are out on full time loss unless there is an issue with access. Typically, in

---

occupational medicine practices, patients are seen every two weeks. Dr. Bowman asked for clarification about what the purpose of the committee was, if they're hoping to move into rulemaking or prepare for new legislation?

- (0:04:16) Sara Duckwall explained that the subcommittee was charged from MLAC with a problem statement to investigate and address continuation of care and open-ended time loss in workers' compensation. The subcommittee is to address the problem statement to determine if there is a problem and to come up with potential solutions.
- (0:04:48) Dr. Bowman noted that he believes that with managed care organizations (MCO) there are limits and control written into the contract language. He noted that because of this he believes that it is non-MCO claims that can be problematic if there are open ended work releases coupled with the wrong personality of worker which would result in doctor dodging.
- (0:05:45) Matt Calzia asked Dr. Bowman if he often encounters patients that don't engage with treatment. Dr. Bowman responded that in his practice, they treat everyone the same, and that appointments are scheduled for patients at most 30 days later, before they leave their appointment. Work releases are then dated for authorization until the next appointment. Because of this, his office does not see those issues very often, but Dr. Bowman stated he can see how it could case problems if the patient is responsible for scheduling their next appointment on their own, especially if there are language barriers.
- (0:07:12) Matt Calzia asked if patients having to see the attending physician monthly would create a burden on the system as a whole. Noting that it doesn't seem efficient to have appointments where the worker is waiting for treatment or is engaging in ongoing treatment like physical therapy where they are regularly being seen but might not have a reason to see the attending until completion of physical therapy. Dr. Bowman responded that he has a business relationship with an occupational medical clinic in Salem and they remain the attending on the patients even when he performs surgeries and sees patients for six to nine months. Patients have different appointments to evaluate their work capabilities and releases. Noting that it is about having educated and interested attendings in the workers' compensation system so that they can time their appointments. He answered that patients having to start physical therapy but being delayed due to scheduling or waiting for authorization is unfortunately just part of the system. But that as long as workers know that they have to see their attending physician monthly it should not create any issues. Dr. Bowman answered that it is less efficient to see patients every 30 days even while waiting for surgery and that he would be in favor of streamlining that.
-

- 
- (0:12:08) Dr. Jennifer Lawlor, CareMark Comp, noted that at CareMark they do not have a 30-day appointment requirement. She added that it is important to see the patient consistently but that there is not a formal requirement.
- (0:12:50) Sara Duckwall asked if Dr. Lawlor or Dr. Bowman felt that there would be a benefit for having these regular check-in appointment requirements with patients.
- (0:13:06) Dr. Bowman responded that it could be beneficial, as he would not want to lose touch with patients and that a six-week interval would be sufficient but, in his practice, they have kept with the 30-day schedule. In his practice, when patients have shoulder surgery there can be complications early on that need to be addressed quickly and he would feel uncomfortable not having regularly scheduled follow-up appointments.
- (0:14:20) Sara Duckwall asked if there would be a benefit to attending physicians seeing patients for regularly scheduled appointments in addressing any issues that arise when workers are not progressing through the system in a timely manner.
- (0:14:44) Dr. Bowman asked for clarification about how the patient would not be moving through the system. Sara Duckwall gave an example of if physical therapy appointments are not getting scheduled. Dr. Bowman responded that a lot of the cases that are prone to having issues like that come with a nurse case manager to help move things along and that attendings that can do the same type of case management but that waiting for authorizations for things like physical therapy are part of the system and not much can be done about that.
- (0:15:46) Dr. Bowman added that in reviewing the [minutes](#) from the subcommittee's previous meetings he wanted to address something discussed at a previous meeting. For cases with patients that are waiting for treatment because of comorbidities, like a BMI over 60 that has to be lowered to under 50 before surgery, usually these patients continue to be seen every 30 days and as long as they are making progress time loss will continue. This could be a problematic area, if claims are closed for total disability when the issues may actually clear up if the proper treatment was given. Dr. Bowman referenced a case that was mentioned in a previous meeting where the patient had to quit smoking before undergoing surgery and that he assumes that they were prescribed treatment to help with that.
- (0:17:19) Sara Duckwall asked if in those instances, Dr. Bowman would continue to see those patients? Dr. Bowman responded that in cases such as patients trying to lose weight, his office will often send patients to other physicians that specialize in weight loss or if a patient's high A1C is the issue they are generally working with their general practitioner to lower that before
-

---

surgery. His office will continue to see them for at least three to four months as long as they are continuing to make progress.

- (0:18:27) Matt Calzia asked if the treatments for comorbidities are covered through workers' compensation for patients that may not have good access to general care or if in those cases, would he be able to refer a patient to anyone that could address those issues through workers' compensation.
- (0:19:44) Dr. Bowman responded that there is not, explaining that if a patient has a cardiac history workers' compensation will pay for a consult with a cardiologist to clear the worker for surgery but if that consult finds something that requires a treatment before surgery, then workers' compensation would not cover that treatment. Patients will sometimes have to use their private insurance for these appointments if they have that option. If they do not have that options, they are sort of stuck.
- (0:20:24) Sara Duckwall asked Dr. Bowman if there was research on outcomes when a worker regularly seeks treatment in aiding for recovery. Dr. Bowman responded that he did not do a literature review but that he could look into if outcomes were better with tighter management of post-operation appointment. He added that it is difficult to get solely workers' compensation research on literature reviews but that he will do a literature search on it.
- (0:22:14) Dr. Jennifer Lawlor, noted that she a newer member of MAC. While there is not a requirement that patients are seen every 30 days, there are times when CareMark will reach out to providers when they have gone extended periods of time without seeing a patient. Additionally, there are post-operation therapy pre-authorizations that can be done ahead a time to minimize the gap between patients having surgery and starting therapy. The issue about frequency of visits, right now is a fairly unusual time as there are large amounts of staffing shortages in the healthcare field that would make a 30-day limit not very practical in most instances. Dr. Lawlor agreed with Dr. Bowman that sometimes there is not a medical reason to see a patient on such a frequent schedule other than to check-in with the worker and ensure that they are engaged in treatment. She added that while most medical offices have policies and procedures for patients, including injured workers who miss appointments. She noted that insurance providers have the power to enforce these engagement policies but feels that they are rarely if ever used and she would like to know why that is. Adding that competing authorizations with a start and end date is a great practice but can be stressful for both the worker and the provider, Dr. Lawlor gave an example of a co-worker that gives authorizations at two-month intervals knowing that they will most likely be seeing the worker prior to that and it seems to be working in their practice.
-

- 
- (0:28:35) Dr. Bowman noted the different perspectives based on different types of practices, he added that he is a surgeon and typically sees new patients but doesn't have extended follow-up appointments in contrast to Dr. Lawlor who does have a practice that requires longer and more in-depth appointments.
- (0:29:40) Dr. Lawlor agreed and brought up how to treat cases where treatment is stalled out due to ongoing comorbidities. She explained that she has gone through the process where a patient is declared medically stationary with the understanding that the claim will be reopened at a later date. Adding that it is a messy process that happens on a case by case basis but is possible. Dr. Lawlor as spoke about continuity of care while patients see physician assistants. Dr. Lawlor stated that she is hesitant to reclassify the types of medical professionals can serve as attending physicians, she notes that training is different for physician assistants as opposed to doctors and while some have great experience this can be mixed. However, the access to care is a real problem especially in rural areas. She believes that trends are moving towards primary care being predominately physician assistants and nurse practitioners. She added that when she is reviewing cases for CareMark she notices that when a patient is seeing a physician assistant and a surgeon on alternating appointments there are often conflicting notes and opinions on the same record. It is essential that in Oregon workers' compensation that there are very clearly outlined roles and responsibilities for that attending physician and that it is important that all information can flow back through them. Dr. Lawlor spoke about specialized physicians being hesitant to take on the role of the attending physician as a barrier to care that also needs to addressed. She urged the committee to ensure that they have enough input from providers before making any decisions and that a surveying of providers is probably over-due.
- (0:35:30) Dr. Bowman added that there was a study done approximately 30 years ago in The Journal of Bone and Joint Surgery that detailed the difference in administrative costs for practices that saw workers' compensation patients and practices that did not. It noted a nearly 40% increase in administrative costs for the practices that saw workers' compensation patients. Dr. Bowman added that that added that that coupled with stagnant reimbursement has caused a lot of physicians to drop out of the system.
- (0:36:13) Dr. Lawlor added anecdotally that in speaking with fellow physiatrists she estimates a that at least 50% have reduced their workers' compensation case load or thought about reducing it further. Dr. Lawlor noted that she had noticed that employed providers especially are choosing to opt out of working with workers' compensation patients. Urging that group to ensure that they had adequate input from their provider base before making any type of decision.
-

- 
- (0:37:55) Matt Calzia asked if employed providers are less tied to the reimbursement end of choosing not to see workers' compensation patients. Dr. Lawlor confirmed and added that it is may not also be a decision based on reimbursement but also considering the amount of additional time and paper work that workers' compensation system requires.
- (0:39:17) Lon Holston, MAC member and former injured worker noted that he is speaking only for himself today. He noted that he has experience both inside and outside of an MCO and that as an injured worker, he relied on providers to manage his treatment and make that best decisions to get him back to work. He noted that in his experience, the majority of injured workers attend their appointments regularly. Additionally, he shared that after having surgery in 2012 he was recommended to begin physical therapy and it took almost six weeks to receive physical therapy approval. He also shared a number of difficulties that he faced in getting approval for medical devices pre-surgery. Mr. Holston noted that he believes that we are dealing with a very small pool of workers that dodge their doctor's appointments, adding that if he were an insurance company looking at HB 4138 he would look for solutions that include incentives as motivation including modified job offers, appointments for injured workers scheduled before the worker leaves the last appointment, physical therapy appointments being made through the doctor's office, and compensation for completed physician appointments
- (0:50:11) Matt Calzia shared that he had recently done a brief literature review on patient compliance on chronic illness that supports incentivizing compliance that included financial and social supports. He asked for the opinions of the physicians in the meeting about the incentivization of completion of care on the workers' compensation end.
- (0:51:15) Dr. Bowman responded that he is not aware of any literature on that topic that he is aware of in orthopedics.
- (0:53:05) Theresa Van Winkle asked Sara Duckwall if she would like to move into committee discussion, Sara Duckwall agreed. Sara Duckwall shared that they are waiting on research findings and would like to know when they can expect to receive those? Theresa Van Winkle answered that she will check on those and that now that the subcommittee has heard testimony from both sides, she will also need to speak with the MLAC chairs about how they would like to proceed with grouping resources together for review. Additionally, the subcommittee has heard from two of the four MCO's would they like Theresa to reach out to the remaining two to try and get written testimony for Matt and Sara to review while they deliberate?
-

- 
- (0:54:26) Matt Calzia answered that there may be benefit to having that information and that he is in support of that.
- (0:54:47) Theresa Van Winkle added after this meeting's conversation she thought that having a resource document about what is required for MCO enrollment versus what is required for practices based solely on the workers' compensation rules. She also added that there might be a need for counts of different provider groups broken out by type of positions. Matt Calzia answered that might be beyond the scope of the subcommittee, Sara Duckwall agreed and noted that they had hoped to review the problem statement during the meeting if there was time, Matt Calzia agreed.
- (0:56:42) Sara Duckwall pulled up the problem statement and Theresa Van Winkle shared the [sub-committee charge](#) in the chat.
- (0:57:01) Sara Duckwall added that as far as research goes she would like Theresa Van Winkle to follow-up on outcomes of when a worker regularly sees a provider in addition to the information on best practices and guidelines but agreed with Matt Calzia that the type A and type B provider information is beyond their scope as a subcommittee.
- (0:58:23) Sara Duckwall proposed that the subcommittee meet again after they have an opportunity to review the literature and they answers about what other states are doing to address these issues. Theresa Van Winkle agreed, Sara Duckwall noted that they had not heard from the Small Business Ombudman's Office or any other businesses that may want to give input.
- (0:59:06) Theresa Van Winkle agreed and shared that the next full MLAC meeting is scheduled for October 20, 2022 and there will need to be a status report from the subcommittee. Sara Duckwall agreed and said that she would like to meet prior to that so that they could accurately report back to that meeting; suggesting a meeting in mid-October.
- (1:00:05) Theresa Van Winkle agreed and added that she has not spoken to that co-chairs yet but that she believes that there may be additional information from stakeholders coming forward to start discussing their legislative concepts for the 2023 session and there may be additional information to be gleaned from those presentations.
- (1:03:00) Theresa Van Winkle called for final questions or comments from stakeholders present.
- (1:03:23) Dave Barenberg, SAIF added that there was discussion about doing a literature search about the correlation between follow-up care and recovery and wanted to ensure that someone would be completing that literature search.
-

- 
- (1:04:30) Matt Calzia asked for confirmation of his understanding that Dr. Bowman would be looking into that literature search.
- (1:04:49) Theresa Van Winkle confirmed that she believes that Dr. Bowman did charge MAC staff with completing that search and that MAC are present in the meeting to confirm that that search is on their list to complete.
- (1:05:05) Theresa Van Winkle called for any final questions or concerns, hearing none she reiterated that scheduling for the next subcommittee meeting would be as soon as possible and that all information would be sent out via the usual channels.
- 

**Meeting  
Adjourned**

The meeting was adjourned at 11:07 am.

\*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>