

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

October 28, 2022
10:00am-12:00pm

MLAC Members Present via Zoom:

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

Staff present via Zoom:

Theresa Van Winkle, MLAC Committee Administrator
Cara Filsinger, Senior Policy Analyst, Workers' Compensation Division (WCD)
Brittany Williams, MLAC Assistant

Agenda Item	Discussion
Opening (0:00:01)	Theresa Van Winkle opened the meeting and reviewed the minutes from the October 14,2022 subcommittee meeting.
(0:00:39)	Sara Duckwall moved to approve the minutes as presented, Matt Calzia seconded the motion. The motion passed by a unanimous voice vote in favor with no objections and no abstentions.
(0:055:00)	Theresa Van Winkle shared that there were no presentations scheduled for this meeting and moved on to a follow-up on information that the subcommittee had requested. Theresa Van Winkle shared a survey had been sent out by WCD to other states asking a set of questions from the subcommittee. A copy of the answers received is currently available on the subcommittee web page and a summary document is available . Theresa Van Winkle asked if any subcommittee members would like a walkthrough of the materials of anything. Matt Calzia responded that he is not opposed to walk through, but that he had reviewed the information and looked good to him.
(0:03:04)	Tammy Bowers agreed that she would like a walk through if possible. Margaret Weddell agreed with Tammy that a walk through would be helpful but not necessary.
(0:03:22)	Theresa Van Winkle responded that she available to answer questions related to the survey and will speak to the divisions about putting together a walk through before moving on to the stakeholder presentation of potential solutions to the defined problem statement portion of the agenda.

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- (0:04:36) Sara Duckwall began by explaining why the problem statement was refined and noted that the subcommittee would like to hear from stakeholders about their thoughts on potential solutions. Matt Calzia agreed.
- (0:05:42) Dustin Karstetter, Washington County Risk Management started by echoing the solution that was discussed by Tammy Bowers at the October 20, 2022 MLAC meeting which brought up closing the loop holes in the B-9 or “bug letter”. Dustin shared that from his perspective strengthening this letter would ensure that workers are getting reengaged with their care.
- (0:09:07) Tammy Bowers shared her support of asking stakeholders to address issues with the current effectiveness of the B-9 letters.
- (0:10:03) Elaine Schooler, SAIF spoke about the proposed solutions that SAIF has presented including a 30-day limit to time loss which has heard a lot of testimony about while it may be problematic for workers and providers. Another idea that was discussed at the last subcommittee meeting was ensuring that physicians must include an end date for time loss as opposed to a specific time limit. Elaine continued the conversation from the last subcommittee meeting about having MAC compile best practices related to time loss.
- (0:14:00) Matt Calzia asked Elaine Schooler for clarification about her comment about the limited success of the statute that she mentioned requiring physicians to submit information about follow-up appointments prior to receiving payment. Elaine Schooler responded that the statute is often ineffective as the provider will default back to the appointment information if they cannot get in contact with the patient.
- (0:15:17) Sara Duckwall asked Elaine Schooler about her perspective on making it mandatory to have providers provide end dates on time loss. Elaine Schooler responded that although this is an early suggestion but that she sees this as something that could be helpful and wouldn’t put an undue burden on the workers or providers, but could ensure engagement in treatment.
- (0:16:29) Dustin Karstetter voiced his support of option for having providers listing time loss end dates. Dustin Karstetter asked if there was anything that could be done from the state’s perspective to mandate the percentage of providers that must-see injured workers in order to address the lack of access to providers that has been identified as an issue.
- (0:20:11) Matt Calzia responded that Dustin Karstetter brought up a good point about the provider response to potentially withholding payment until an end date is provided and asked for comments from any providers on the
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call. Matt noted that an increased punitive measure may be more discouraging than an incentivized solution. Noting the example of potentially having providers who consistently provide end dates for time loss get a small bump in payment. He also noted that this could be a way to tie in best practice guidance from MAC.

- (0:22:32) Elaine Schooler responded that if the goal is to ensure that providers are following best practices then providers getting prompt payment would be the incentive while those providers that are not adhering to the best practices would have to rectify that before receiving payment.
- (0:23:52) Dave Barenberg asked Matt Calzia if his question about incenting provider's compliance is a bigger question of the system than what we are discussing.
- (0:25:51) Matt Calzia agreed that it may be beyond the scope of this discussion but that the is subcommittee is charged with continuation of care and that is not a static situation. Matt added that the situation from front line physicians is very overwhelming at that moment and some incentive may be helpful in assisting them to meet the goals of getting workers back to work as quickly as possible.
- (0:28:13) Paloma Sparks, Oregon Business and Industry spoke about the history of this issue and the promises that were made during the initial negotiations and stressed that all that is being requested at this time is that everyone come to the table and try to address these issues as there was a commitment to address open ended time loss.
- (0:31:04) Keith Semple, Oregon Trial Lawyers Association responded that the Oregon Trial Lawyers have been engaged in the conversations since the beginning and has encouraged evaluation about the usage of the current tools available for managing open ended time loss. He reiterated that OTLA has not been in support of having a hard time loss limit but would welcome discussion on other topics being proposed.
- (0:35:24) Sara Duckwall asked Keith Semple for his opinion about the solutions that she has heard in the discussion thus far during the meeting. She listed the solutions that she has heard proposed as going to MAC for best practices, closing loopholes about the B-9 letter, and looking at statutory changes for provider time loss requirements. Keith Semple responded that he saw the presented solutions as much more tailored solutions than the 30- or 60-day limits on time loss and is interested in engaging in the particulars for the proposed solutions.
- (0:37:02) Theresa Van Winkle asked for any providers in the meeting to provide feedback on the proposed solutions and noted that as there were not a lot of
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providers in attendance that she would reach out to some people in the medical community to provide feedback after the meeting.

- (0:38:42) Tammy Bowers responded to Keith Semple's comments about not recalling the agreement for renegotiating time loss when the legislation was passed and would like the minutes from that meeting to be certain about the agreements if necessary.
- (0:39:54) Elaine Schooler said that she would like to add to the potential solutions that Sara Duckwall had discussed as having a separate concept of having physicians include an end date on their time loss authorization separate from the fees and payment side of things.
- (0:41:06) Dustin Karstetter shared that he does not see why there would be disagreement about having a hard deadline, for instance 30- or 60-day deadlines for time loss. Dustin also addressed Matt Calzia's previous comments about punitive solutions and emphasized that something being punitive is in the eye of the beholder but that building in incentives on the provider side may be necessary to correct the current course of these issues.
- (0:44:33) Theresa Van Winkle called for stakeholder discussion before beginning committee discussion.
- (0:44:55) After hearing no further input from the present stakeholders Sara Duckwall began the subcommittee discussion. Sara praised the creativity that was presented today and suggested that stakeholders come together to discuss the proposed solutions and bring recommendations to the subcommittee at the next meeting. Matt Calzia agreed and asked what a timeline for the next meeting would look like. Sara Duckwall suggested that the stakeholders meet in the next few weeks and that the subcommittee meet prior to the next MLAC meeting. Matt Calzia agreed and Theresa Van Winkle confirmed that this would work as long as there was approval from then MLAC co-chairs.
- (0:48:31) Keith Semple agreed that the Oregon Trial Lawyers are happy to get some of their membership together to discuss the proposed solutions within the next week.
- (0:48:48) Dave Barenberg agreed that SAIF would be happy to meet and discuss this further as well.
- (0:49:01) Theresa Van Winkle asked for confirmation about what the stakeholders would be specifically discussing. She noted that consulting with MAC on best practices, looking at statutes for closing current loopholes in the bug letter, and statutes specific to billing practices. Matt Calzia added
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physicians putting time loss dates was also proposed. Theresa Van Winkle shared that she does have a current copy of the statues and rules that can be used that she will share.

- (0:50:50) Sara Duckwall requested a synthesized update from the stakeholders before she and Matt have to present to the full MLAC meeting on November 10, 2022.
- (0:51:50) Elaine Schooler volunteered to put together a summary of the discussion and circulate it when completed.
- (0:52:10) Sara Duckwall asked if it would be possible to get that completed by November 4, 2022. Elaine Schooler said that she feels that barring any major scheduling issues that would be doable, Keith Semple agreed via Zoom reaction of a thumbs up.

Meeting

Adjourned

The meeting was adjourned at 10:54 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>

