

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

November 10, 2022
10:00am-11:00am

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 (0:00:05)	Theresa Van Winkle began the meeting noting that review of the minutes from the October 28, 2022 meeting would be skipped as the minutes were not sent out for review prior to the meeting. A letter that was put together during stakeholder conversations was shared and is where discussion began.
(0:01:16)	Sara Duckwall introduced Sally Coen from Workers' Compensation in order to further discuss the bug letter process.
(0:01:43)	Sally Coen, WCD spoke about the development of the B-9 or "bug" letter and how it is rooted within the process of an administrative case closure. The need for this process developed when workers abandon their medical treatment including when their treatment is completed. The basis on how the current statute and rule are written, the use of the letter and process is pointed toward claim closure but the department is aware that the letter are used to prompt engagement of treatment.
(0:06:33)	Matt Calzia asked about the requirement of a statutory change in order to ensure that the letter is can and should be used as a way to direct continuation of care. Sally Coen responded that she is not certain about that would have to consult with lawyers before making that change.
(0:07:40)	Sara Duckwall asked if the subcommittee chose to address the use of the B-9 letter would it have to be done in a sperate statue as it has to do with claim closure as opposed to continuation of care. Sally Coen responded that she is not certain of that and would have to ask legal council before answering that.

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- (0:08:43) Tammy Bowers noted that after reviewing the [B-9 letter information](#) sent out she wonders if it could be as simple as having the insurance providers reword their letters in order to be stronger as the statute and rules do allow for this.
- (0:10:28) Matt Calzia asked for clarification from Tammy Bowers about if the individual provider's letters and what the changes to their letters might look like. Tammy Bowers responded that more specific response options of adding in the date of next treatment and not allowing for leaving the response open ended. Matt Calzia added that he believes that the letter that was shared by SAIF did have the option of adding in the date of next appointment. Tammy Bowers noted that in the example that she has there are only two response options, neither of which require specific information. She feels that would resolve the problem without a statutory change.
- (0:14:40) Matt Calzia asked for clarification about what a TPA is. Tammy Bowers responded that a TPA is a Third-Party Administrator that can be used by self-insured employers.
- (0:14:57) Sara Duckwall asked for confirmation that Tammy Bowers feels that the B-9 letter could be stronger in the TPA or insurer side but that as a statute for claim closure it does not address the larger problem statement. Tammy Bowers confirmed that she feels that there is already room in the rules for the necessary changes to strengthen the B-9 letters.
- (0:15:58) Matt Calzia noted that what he heard from Sally Coen is that there are people using the letter as a tool to prompt engagement but that this is not the purpose of the letter by the rules. He added that he is interested in seeing ways to formalize the use of the bug letter to prompt engagement.
- (0:17:10) Dustin Karstetter asked where he could find that information that Tammy Bowers was referring to. Tammy Bowers responded that she believes it was sent out to MLAC members but that she can forward it to him. Dustin Karstetter asked Tammy Bowers if she felt that there was language that could be entered in the letter that could strengthen it so that workers wouldn't fall through the cracks of not actively being engaged in treatment but not qualifying for an administrative closure. Tammy Bowers responded that she did feel that according to the rule that language can be addressed.
- (0:19:40) Sara Duckwall asked Sally Coen, WCD if she had an opinion on this issue. Sally Coen, responded that the rule is quite specific in the amount of follow-up information that can be requested and that it can be strengthened as discussed.
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- (0:20:35) Sara Duckwall asked Matt Calzia how he would like to proceed or if he had any further questions for the group. Matt Calzia responded that he does have the legal questions about the making the use of the B-9 Letter more official for prompting engagement in treatment as opposed to a secondary use.
- (0:21:02) Jennifer Flood, Ombudsman of Injured Workers responded that the B-9 letters are used in the industry to prompt treatment but that she does not have data on that. On the cases where the letter does not request the next appointment date being listed her office does recommend that that they do continue to make appointments. She voiced her concern of the B-9 letters being used to end time-loss payments without checking in with the worker to see why they are not engagement first.
- (0:22:20) Matt Calzia added he was not sure on where to go with this process as none of the stakeholders presented specific changes to the process, but he feels that it should be explored as the letters do have the secondary use of prompting engagement with care.
- (0:23:06) Sara Duckwall agreed with Matt Calzia about this concern and agreed that without any specific changes suggested that they should move on to the remainder of the items outlined in the agenda. Matt Calzia agreed.
- (0:23:51) Sara Duckwall moved on to items three and four from the [letter](#) that was compiled by Elaine Schooler after the stakeholder talks. Sara Duckwall asked Theresa Van Winkle to gather information about the subcommittee members attending the next MAC meeting to ask for guidance or to compile a list of best practices. She also thanked the stakeholders for their work but noted that they would no longer be entertaining input or discussion from stakeholders beyond this point.
- (0:24:48) Sara Duckwall noted that the stakeholders could not come to agreement on a proposed solution, so that subcommittee will present a solution to the entire MLAC, Matt Calzia agreed.
- (0:25:17) Theresa Van Winkle shared that she believes this is acceptable and that the way that the upcoming MAC agenda was drafted there didn't need to be revision to the agenda as the subcommittee work is included in the agenda with Sara and Matt being able to attend. The meeting will be in-person and audio only, Sara and Matt will need to reach out to Theresa to discuss the information that needs to be discussed and presented at that meeting.
- (0:26:16) Sara Duckwall asked Matt Calzia if he would be attending in person or via audio. Matt Calzia responded that he believes that he can attend in person.
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- (0:26:56) Margaret Weddell asked if the subcommittee has the authority to reach out to MAC without discussion or authority from the larger MLAC first. Sara Duckwall responded that the subcommittee will be offering their opinion and having discussion about it at the next MALC meeting. Margaret Weddell noted that she does have some concerns about going to MAC but that she will wait until the discussion occurs at the next MLAC meeting to voice them.
- (0:28:41) Theresa Van Winkle added that she will prep the MLAC co-chairs to continue the discussion at the next MLAC meeting happening later on November 10, 2022.

Meeting

Adjourned

The meeting was adjourned at 10:30 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>