

Workers' Compensation Advisory Council (WCAC) Meeting Minutes  
July 9, 2014  
Kneip Building, Kneip Conference Room 3  
700 Governors Drive, Pierre, SD

**Members Present:** Chairman Matt Michels, Marcia Hultman, Guy Bender, Jeff Haase, Connie Halverson, Thomas Huegel, Carol Hinderaker, Randy Stainbrook

**Members Absent:** Glenn Barber

**Others Present:** James Marsh, Amber Mulder, Morgan Ness, Dawn Dovre, Patsy Mehlhaff, Merle Scheiber, Melisa Forest, Deb Martinson, Julie Johnson, Larry Klaachsen, Mindy Eddy, Shannon Fagenhug, Chris Specht, Jennifer Andnisersekle, Denise Geick, Darren Smith, Kaila Oakes, Jim Larsen, Dale Kiebach, Dan Thielsen

DDN Sites at the following locations:  
Aberdeen, Rapid City, Sioux Falls, Watertown

Chairman Michels called the meeting to order, and roll call was taken by Morgan Ness. A quorum was present.

Guy Bender MOVED to approve September 13, 2013, meeting minutes. Connie Halverson SECONDED. Motion carried.

Chairman Michels gave opening remarks.

DLR Secretary Hultman introduced herself, and thanked council members for their service.

The Director's Update was given by James Marsh. July 2014 to June 2015 average premium rates have dropped for voluntary and assigned-risk markets. There was no legislation in 2014, and Marsh does not anticipate drafting any for the 2015 session.

Marsh presented the NCCI Medical Data Report, which was also provided at all DDN sites. This report indicated South Dakota's average medical costs were much higher than countrywide in the mid-2000s, but has leveled off. South Dakota spends 30 percent of its medical costs on claims at least 20 years old, compared with roughly 10 percent nationwide. Marsh did not have an explanation for this; studies have shown workers over 60 do not have higher medical costs per claim than younger workers. South Dakota spends a smaller percentage of costs on physicians, more on hospitals, and less on ambulatory surgical centers than other states; the percentage of drug prescriptions and costs from non-physicians are half those in other states, and almost no drug payments come from repackaging compared with 11 percent nationwide.

Procedure costs are generally lower than regionally or nationally. Twenty-three percent of medical costs are paid to out-of-state providers.

Marsh presented the results of his implant cost study. He noted Dakota Truck Underwriters, a South Dakota workers' compensation insurer, provided billings showing the markup on implants averaged 350 percent, billings were between \$5,000 and \$30,000 each, and purchase costs were \$1,600 to \$5,000. Dakota Truck Underwriters recommended providers be required to include an invoice showing their costs when submitting a bill for implants, and a maximum fee be set based on cost plus a fixed percentage.

Marsh received written feedback from Mike Shaw, an attorney representing the Property and Casualty Insurers' Association, with comments from PCIAA indicating the current regulatory trend was to stay away from separate reimbursements for implants. Marsh referred to a recent Sioux Falls Argus Leader article in which a Physician-Owned Distributorship (POD) was formed to allow physicians to own the company selling implants to a local surgical hospital. He was concerned an implant rule would encourage the growth of POD-like companies, indirectly driving up implant costs.

Marsh concluded the cost impact of an implant rule would be less than .02 percent of system costs, based on NCCI's Medical Data Report, his review of DLR's data base information, and an NCCI supplemental report showing cost data for Revenue Code 278, commonly used for implants. The report showed South Dakota's implant costs are \$3,557 per procedure, about 23 percent higher than other states in the region, and his cost impact estimate assumed a rule would reduce implant costs by only .02 percent.

Chairman Michels questioned Marsh about whether the definition of implant Marsh used was broader than NCCI's. Marsh acknowledged it could be the case, but did not know how much they differed. Larry Klaahsen, from Dakota Truck Underwriters, expressed his concern he would have liked his attorney to have had an opportunity to provide its own review prior to the meeting. He reiterated his company has found implant charges a significant cost driver. Chris Specht, with Avera Workers' Compensation Fund, said he had looked at implant costs, but did not find a problem with the providers' markups in the billings he reviewed. The implant issue will be revisited at the next council meeting.

The On-site Consultation Program (OSHA) at South Dakota State University (SDSU) grant was signed by Secretary Hultman on July 7, 2014. This grant will help SDSU meet its state match requirement for their federal grant. This will have a significant impact on the services they can provide to the citizens of the state and worker safety. Several board members indicated they have used this program and found it valuable. Jon Puetz will be present at the next council meeting to discuss the OSHA/SDSU Extension Report.

Dale Kiebach of Harrisburg was present at the Sioux Falls DDN site. He spoke about his experience filing a workers' compensation claim. Kiebach felt laws should be written

to make insurers pay claims faster. Chairman Michels asked Marsh how South Dakota's laws compare with other states on requiring prompt bill payment, and Marsh will provide information at the next council meeting.

The Council scheduled the next meeting for September 10, 2014, for 1 p.m. (CDT) in Conference Room 3 of the Kneip Building, 700 Governors Drive, Pierre, SD.

Randy Stainbrook MOVED to adjourn the meeting. Guy Bender SECONDED. Motion carried.

Meeting adjourned at 2:05 p.m.