

**Workers' Compensation Advisory Council  
Meeting Minutes  
August 21, 2008  
Kneip Building Conference Room #3  
Pierre, SD**

The Workers' Compensation Advisory Council met on Thursday, August 21, 2008, at the Kneip Building Conference Room #3 in Pierre, South Dakota.

**Members Present**

Dennis Daugaard, Chair  
Paul Aylward  
Randy Stainbrook  
Carol Hinderaker  
Connie Halverson  
Paul Kinsman  
Pam Roberts

**Members Absent**

Guy Bender  
Jeff Haase  
Chris Lien

**Others Present**

James Marsh  
Scott Brener  
Andrew Fergel  
Randy Moses  
Rob Senger  
Mitch Richter  
Patsy Mehlhaff  
Paul Bachand  
Teresa Boe  
Merle Schreiber  
Mike Shaw  
Jake Fischer  
Donna Leslie  
Fern Johnson  
Theresa Spry  
Deb Mortenson  
Dawn Dovre  
Tyler McElhaney  
Mark Anderson (SF DDN)  
Cheryl Chamberlain (SF DDN)  
Larry Klaahsen (SF DDN)  
Carol Pavel (RC DDN)  
Doug Pavel (RC DDN)  
Katie Pavel (RC DDN)

Chairman Daugaard called the meeting to order and roll call was taken by Secretary Sarah Trebesch. Paul Aylward MOVED approval of the minutes from the May 27, 2008, meeting. Carol Hinderaker SECONDED. Motion Carried.

The first agenda item was a presentation from Scott Brener, Vice President of SFM Mutual Insurance Company, on medical escalation. The Council discussed having the Department of Labor (DOL) start a work group and do more research on this topic.

The second agenda item was a presentation by the Department of Revenue and Regulation, Division of Insurance, on the Classification and Rating of employees covered by workers' compensation.

The third agenda item was a presentation by Dawn Dovre, Public Information Officer with the Department of Labor, who gave an update on the new e-lets subscriptions service available on the DOL website for anyone interested in the workers' compensation system.

The fourth agenda item was an overview from James Marsh, Director of the Department of Labor Division of Labor and Management, on the time frame and process to remediate a workers' compensation case.

A public hearing was held. Public testimony was given by Mr. Doug Pavel from Rapid City. Mr. Pavel testified about the death of his son caused by a work related injury. Mr. Pavel proposed the Council look into four issues: (1) Changing the law to allow benefits to nondependents, (2) Requiring training for insurance representatives, (3) Mandating reimbursement/compensation for nondependent family when an employee is seriously injured or dies, and (4) Increasing the \$5,000 allowance for burial expenses.

Issue (1) No further comments or suggestions were made.

Issue (2) James Marsh gave an overview of the general requirements for insurance adjusters in South Dakota. In South Dakota there are no specific requirements for training for adjusters. Paul Aylward MOVED to propose a penalty for employers or insurance companies that fail to respond to a claimant. Randy Stainbrook SECONDED. Council members discussed the motion and decided by consensus to defer action until the next meeting so public testimony could be heard. The Department will further research this topic.

Issue (3) Mr. Pavel testified he would like the law amended to allow nondependent family members to receive payment when a deceased worker has no dependents. Carol Hinderaker MOVED to ask the DOL to make a recommendation with regard to this issue at the next meeting. Connie Halverson SECONDED. Motion carried.

Issue (4) Paul Aylward MOVED to recommend the maximum burial expense allowed in SDCL 62-4-16 be increased from \$5,000 to \$7,500. Glenn Barber SECONDED. Motion Carried.

Fern Johnson and Cheryl Chamberlain gave testimony on changing the AMA guidelines to the 5<sup>th</sup> Edition. James Marsh gave an overview on the AMA guidelines used for measurement of permanent impairment. Council members discussed the issue and decided to put this item on agenda for the next meeting. The DOL will provide more information at the next meeting on how many other States have adopted the fifth edition.

Mitch Richter gave public testimony on a bill brought forth by professional fire fighters to establish a presumption regarding occupational disease disabilities of certain fire fighters. Rob Singer, a firefighter, EMT from Aberdeen, gave testimony. Tyler McElhaney, a firefighter EMT from Watertown also gave public testimony. Council members further discussed the issue and decided to put this issue on the agenda for the next meeting, so the public has more time to research and to make comment.

Fern Johnson testified in favor of mandated term limits for the Workers' Compensation Advisory Council members. After discussion, the Council did not take action to make a recommendation to change the law.

Mark Anderson from Sioux Falls brought forth two new issues to the agenda. Council advised they would add his proposals to the agenda for 2009, so they and the public would have more time to review. Mr. Anderson agreed.

The next meeting date was scheduled for September 23, 2008, at 1:00 p.m.

No other items were brought forth by the Council and no other public testimony was provided.

Chairman DAUGAARD declared the meeting adjourned.