

Workers' Compensation Advisory Council (WCAC) Meeting Minutes  
September 10, 2014  
Kneip Building, Kneip Conference Room 3  
700 Governors Drive, Pierre, SD

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

**Members Absent:** Glenn Barber, Guy Bender, Randy Stainbrook

**Others Present:** James Marsh, Amber Mulder, Morgan Ness, Patsy Mehlhaff, Merle Scheiber, Melisa Forest, Myrna Gilland, Roy Wood, Frank Marnell, Dwight Neuharth, Jerry Diamond, Spence Hawley, A.J. Franken, Bob Mercer, Dan Thielsen, John Maglothin, James Osanski, Laurie Benson, Larry Klaahsen, Linnae Spiering, Brad Wilson, Chris Specht, Mark Anderson

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.

Connie Halverson MOVED to approve September 13, 2013, meeting minutes. Jeff Haase SECONDED. **Motion carried.**

Director James Marsh gave an update on the review of prompt payment laws. In 2007, the council recommended legislation requiring benefit payers to pay, deny, or request additional information on a "properly submitted" medical bill within 30 days after receipt. A \$500 fine would be imposed on payers who did not meet the requirement. These proposals became law on July 1, 2008 as SDCL §§62-4-1.1 and -1.2, and DLR was permitted to create a rule establishing the definition of a properly submitted bill (ARSD 47:03:09:01). DLR polices this and the fine goes to the provider.

Marsh found South Dakota to follow very closely with neighboring states. For our surrounding states, Minnesota and Nebraska use 30 days, Montana and Wyoming use 60 days, and Iowa and North Dakota do not have a time limit. Montana fines between \$1,000 and \$2,000, Minnesota uses a combination of interest and a flat penalty of undefined amount, Nebraska denies a hearing on the amount of reimbursement, and Iowa, North Dakota, and Wyoming have no penalty.

Spence Hawley, House Representative for District 7, discussed premium assessments for subcontractors. Hawley proposed South Dakota implement a self-certification affidavit. This affidavit would exempt independent contractors from carrying workers' compensation insurance. General and subcontractors would sign the affidavit stating

they fall within the guide lines. Then the affidavit is notarized and filed with DLR. Kansas currently is using this method.

Insurance companies are and have been auditing independent contractors and fining them for not having workers' compensation; even if they truly are independent. Insurance companies say they need to receive a premium from them. Merle Scheiber, director of the Division of Insurance (DOI) stated DOI has had numerous complaints on the growing issue of these audits taking place. This would not solve all problems but would greatly help.

Representative Hawley will proceed to draft for legislation. DOI and Labor and Management will work with the drafters as needed.

At the next meeting, via conference call, the council will make a motion on what the next action will be on the issue.

With the amendment of adding the independent contractor affidavit to the 2014 annual report; Connie Halverson MOVED to approve the 2014 annual report draft. Jeff Haase SECONDED. **Motion carried.**

Connie Halverson MOVED to adjourn the meeting. Jeff Haase SECONDED. **Motion carried.**

Meeting adjourned at 1:37 p.m.