

**Workers' Compensation Advisory Council  
Meeting Minutes  
September 29, 2009  
Kneip Building Conference Room #3  
Pierre, SD**

The Workers' Compensation Advisory Council met on Tuesday, September 29, 2009, at the Kneip Building Conference Room 3 in Pierre, South Dakota.

<b><u>Members Present</u></b>	<b><u>Members Absent</u></b>	<b><u>Others Present</u></b>
Dennis Daugaard, Chair	Carol Hinderaker	James Marsh
Paul Aylward		Nathan Lukkes
Randy Stainbrook		Mary Weischedel
Connie Halverson		Phil DeGreff
Jeff Haase		Deb Mortenson
Glenn Barber		Mike Shaw
Dennis Daugaard		Susan Vos
Guy Bender (SF DDN)		Judi Hammer
Chris Lien (RC DDN)		Naomi Cromwell
Paul Kinsman		Lynn Job
Pam Roberts		Patsy Mehlhaff
		Merle Scheiber
		Teresa Boe
		Paul Bachand
		Doug Pavel (RC DDN)
		Carol Pavel (RC DDN)
		Suzanne Vogel (Aberdeen DDN)
		Jim Larson (SF DDN)
		Cheryl Chamberlain (SF DDN)
		Larry Klaahsen (SF DDN)
		Sue Simmons (SF DDN)
		Bob O'Connell (SF DDN)
		Mark Anderson (SF DDN)
		Brad Wilson (SF DDN)

Chairman Daugaard called the meeting to order, and roll call was taken by secretary, Sarah Trebesch. Pam Roberts MOVED approval of the minutes from the July 29, 2009, meeting. Connie Halverson SECONDED. Motion Carried.

The first agenda item discussed was on SDCL 62-4-16 burial and transportation expenses paid when death results from injury. In 2008, the Council recommended the maximum burial reimbursement set in SDCL §62-4-16 be increased from \$5,000 to \$7,500. The 2009 Legislature adopted this change. Council member Aylward proposed the Council look at recommending increasing this maximum to \$10,000.

Paul Aylward MOVED that the Council recommend increasing the maximum burial reimbursement to \$10,000. SECONDED by Randy Stainbrook. Motion carried unanimously.

The second agenda item discussed was training for insurance adjusters. Merle Scheiber, Director for the South Dakota Division of Insurance, testified that The National Association of Insurance Commissioners (NAIC) discussed a Guideline for adjuster licensure in the Fall of 2008. Only one state has adopted the Guideline. Doug Pavel renewed his concern that adjusters need mandatory training, and the families of workers who suffer workplace fatalities need access to correct information about workers' compensation benefits. Scheiber encouraged Pavel to request the Division of Insurance investigate his complaints.

The Council unanimously agreed further action should await the Pavels' situation being investigated by the Division of Insurance, to determine what occurred, and whether it is an unusual situation among state insurers or one that requires corrective action. The Division will also work with the workers' compensation carriers doing business in South Dakota and provide the Council with an overview of how a claim is typically handled.

The third agenda item discussed was regarding a letter sent by Susan Simons with Davenport, Evans, Hurwitz & Smith Law Firm in Sioux Falls. Susan Simons, a Sioux Falls attorney speaking on behalf of Risk Administration Services and Dakota Truck Underwriters, proposed an amendment to §62-7-8 which would declare a medical fee excessive which exceeds the maximum amount allowed by the fee schedule of the state where service was provided. Cheryl Chamberlain, speaking on her own behalf, expressed concern fees charged in excess of the fee schedule would be balance-billed against the employee. It was explained DOL rules currently prohibit balance-billing for workers' compensation claims and there would be no negative impact to an injured worker.

The Department of Labor, by rule authorized by SDCL §62-7-8, determines the amount beyond which charges for workers' compensation medical services are excessive. The law does not specifically grant DOL the authority to set maximum reimbursements for out of state providers. It has been proposed the law be clarified and DOL apply the fee schedule used in the jurisdiction where the medical services were performed.

Glenn Barber MOVED the Council support amending SDCL §62-7-8, unless it were demonstrated employees would be adversely impacted by the proposal. SECONDED by Connie Halverson. Motion PASSED unanimously.

The last agenda item discussed was the 2009 Annual Report to the Governor. Changes were made to reflect items discussed during the meeting. The Council scheduled a conference call to review and approve the final draft on October 7, 2009, at 2:00 p.m. CDT/1:00 p.m. MDT.

Paul Aylward MOVED to adjourn. Connie Halverson SECONDED. Motion Carried.