

WORKERS' COMPENSATION  
MANAGEMENT-LABOR ADVISORY COMMITTEE

**Full Committee Meeting**

August 1, 2024

10 a.m.–noon

***Committee members present:***

Scott Strickland, Sheet Metal Workers Local #16

Patrick Priest, Citycounty Insurance Services

Lorne Bulling, IronWorkers Local 29

Sara Duckwall, Duckwall Fruit

Ryan Hearn, Roseburg Forest Products

Stacy Lewallen, Fortis Construction, Inc.

Sarah Merrick, City of Salem Fire Department

Kim Schlessinger, Samaritan Health Services

Margaret Weddell, Labor Representative (**Absent**)

Andrew Stolfi, DCBS Director, *ex officio* (**Absent**)

***Staff:***

Teri Watson, MLAC Committee Administrator

Baaba Ampah, MLAC Assistant

Megan Parsons MLAC Assistant

<b>Agenda Item</b>	<b>Discussion</b>
Opening (00:00:18)	Patrick Priest called the meeting to order, and Teri Watson called the roll of members. A quorum was not present.
(00:02:13)	<b>Public comment</b> Patrick Priest received no public comments.
(00:02:59)	<b>Review minutes from June 6, 2024, meeting</b> The minutes from the June 6 meeting were not able to be presented at this time due to no quorum being present. Patrick Priest stated that the minutes would be revisited if quorum was met later.
(00:03:48)	<b>Department updates</b> <b>Workers' Compensation Board (WCB) case law updates – Lauren Eldridge</b> Lauren Eldridge, WCB interim managing attorney, presented updates to two rule amendments the board is proposing: <ul style="list-style-type: none"><li>• OAR 438-005-0055 requires specific language regarding a worker's appeal rights to be included in a workers' compensation claim denial.</li></ul>

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The amendment is intended to simplify and improve the readability of the appeal language. At the July 30 public meeting, the board voted to adopt rule amendments to the required appeal language. Adopted amendments will be effective Nov. 1, 2024. Board staff research showed the amendments improve readability of the rule from an 11th grade reading level to a 6th grade level.

- The other proposed amendment was regarding the board’s rule to set caps on attorney fees that can be awarded out of the proceeds of a disputed claim settlement or claim disposition agreement. The proposed amendment removes the 10 percent cap for proceeds over \$50,000 and allows as awardable an attorney fee of up to 25 percent of the total settlement. The amendment was approved to allow attorneys to receive up to 25 percent of the proceeds of a total settlement agreement. Adopted amendments will become effective Sept. 3, 2024.

**Workers’ Compensation Division (WCD) update – Teri Watson**

(00:07:16) Teri Watson emailed the [managed care organization \(MCO\) memorandum](#) to committee members from the last MLAC meeting. Memorandum with [Bulletin 247](#) explains MCO requirement to present quarterly on all providers they have. Bulletin 247 explains all information in document, how many providers each MCO has, their [geographical locations](#) (map), certified [MCO contact information](#), and the [WCD MCO enrollment page](#).

**Spanish website update – Teri Watson**

(00:10:09) The translation has been done and final edits are expected Aug. 12. The website build will start that same week.

**MLAC calendar update – Teri Watson**

(00:11:00) Co-chairs and Teri Watson discussed what the MLAC meeting calendar should look like when the next session starts and if quarterly meetings should be held in person. [Draft Meeting Schedule 2025](#) was designed. Teri opened the floor for thoughts from the group.

The group discussed in-person versus virtual meetings and decided that having the flexibility of hybrid meetings was preferred during the 2025 legislative session. One-hour hybrid meetings could be cancelled if not needed. Teri asked the group to be aware that last-minute meetings could be added to discuss pending legislation. Bi-weekly or weekly placeholder meetings may be added once the next session calendar is received in September 2024. Teri will finalize the calendar. The first meeting of 2025 would be scheduled for Jan. 9. The committee will start with a 2025 session preview.

According to group consensus, Teri Watson agreed to add quarterly in-person meetings in January, April, July, and October 2025. Because the July meeting was cancelled, the August meeting would shift to an in-person meeting. Teri is

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waiting for the next interim legislative session calendar before drafting the final MLAC calendar, which should be available at the end of September.

(00:18:23) Scott Strickland arrived to the meeting. A quorum was present. Patrick Priest asked for a motion to approve the minutes for the June 1, 2024, meeting.

(00:18:54) Stacy Lewallen moved to approved the minutes, Sarah Merrick seconded. All in favor signified by saying aye. None opposed. The minutes were approved unanimously.

**Ombuds Office for Oregon Workers 801 video update – Barbra Anderson**

(00:19:28) Barbra Anderson, ombuds for Oregon workers, gave an update on worker-friendly items on the ombuds’ website:

- The video on how to fill out an 801 has been completed and will be available in Spanish soon.
- Work is underway to make the website more user-friendly.
- There will be additional information on the website regarding Oregon OSHA safety and health requirements.
- Additional information about how workers can participate in rulemaking will also be available.

Once the 801 video is completed, it will be sent to MLAC members. Currently, the training video is only accessible on YouTube and is not yet on the WCD website. A link would be provided if requested.

(00:22:58) Finalized [801 video](#) played for group.

(00:32:19) Scott Strickland asked if there are other options on the form for gender listing per State of Oregon requirements.

(00:32:49) Matt West addressed the gender question from Scott Strickland. There was an Oregon Court of Appeals case in 2020 that ruled a person may legally change their gender to non-binary. The current computer system only accepts male or female options. Once the system is updated, discussion with the industry will occur to update the form to accept other gender values.

(00:35:23) Patrick Priest asked if a paper form of the 801 is required to be submitted, or if electronic form is acceptable.

(00:35:27) Matt West confirmed either form is acceptable and either physical or electronic signature is acceptable.

(00:36:54) Stacy Lewallen asked if there was a plan to create an employer video in the same format.

Barbra Anderson said there was not yet a plan in place, but she would take the suggestion back to her team to discuss.

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(00:37:11)

Patrick Priest recognized David Waki to add a comment. David Waki, former small business ombudsman, made a note to discuss the employer portion of 801 with Caitlyn Breitbart to begin a project to address.

(00:38:27)

### **Work plan updates**

#### **National Institute of Occupational Safety and Health (NIOSH) firefighter cancer presumption report – Teri Watson**

(00:39:20)

Teri Watson and Sarah Merrick met the previous week and found nothing to update on. There is a registry for firefighters. Teri Watson received a call from Carl Koenig, lobbyist for state firefighters, who agreed there is nothing to report. Teri Watson noted, with everyone's permission, she would like to leave this on the workplan until there is something to report.

(00:40:27)

Patrick Priest asked if there are any comments from the group. No comments were provided.

(00:40:52)

Teri Watson sent out the [work plan](#) and [list of topics](#) to the group for review after the last meeting.

(00:41:23)

Sara Duckwall said she reviewed the minutes from the last meeting and read a comment from Scott Strickland about adding a regulatory update. She wanted to know if it was translated or added to the workplan.

(00:41:40)

Teri Watson confirmed she did put the regulatory tour update under Educational Sessions on Topics on page 2 of the workplan.

(00:43:24)

#### **Mental health claims data update – Teri Watson**

Teri Watson presented the [mental health information](#) for the requested information from the last meeting regarding all accepted disabling claims versus accepted disabling mental health claims.

(00:43:21)

Sara Duckwall commented that mental health claims are still a very small portion, even in first responders, in all claims.

(00:43:33)

Teri Watson presented [workers' compensation claims characteristics](#) to address questions regarding cost of claims and what's getting injured. She noted that every year WCD publishes claims characteristics and this is a good way to share this information. Unfortunately, the information for calendar year 2023 will not come out until the fall. Teri Watson shared the 2022 claims characteristics report to the committee. It contains the most common claims, how people are getting hurt, the event, the source, and other information. The report does not address the cost of the claims.

Sara Duckwall asked if the new report could be sent out to the group when it is available in the fall. Teri agreed.

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(00:45:05) Ryan Hearn asked if the data is gathered by third-party administrators (TPA) and sent to the department. Teri Watson confirmed the information comes from the Oregon OSHA and WCD systems. Ryan Hearn noted, from working with TPAs in the past, he sometimes worries about the accuracy of the information. Teri Watson noted that a majority of the information being entered is by human data entry. With the upcoming modernization project, the data will be much cleaner and more accurate.

(00:45:17)

Scott Strickland asked if there is any kind of degree of certainty that the report is capturing the entirety of information. Teri Watson noted the data in the report is only regarding accepted disabling claims and there is a great deal of injuries that are not reported.

(00:46:32)

Matt West commented that the report is just regarding accepted disabling claims, which are the bulk of claims. Once modernization is complete, all injured worker data would be captured electronically.

(00:48:00)

Scott Strickland commented that when going through COVID data, there was the question of the number of people who weren't reporting claims because they didn't know they could, employers who were intimidating workers or throwing away claims. He asked if there is a way to figure out how many non-reported injuries there are, and if it makes up a certain percentage of data. Matt will take the question back to the research team to see what they can come up with.

(00:48:53)

Stacy Lewallen commented that it is interesting to see the severity of disabling claims that has increased since the pandemic.

Sara Duckwall asked if all the information in the report will be posted on the MLAC website. Teri Watson noted the information is always posted after the current meeting and will be posted on the MLAC website once the current meeting is concluded.

(00:49:52)

Patrick Priest asked if anyone present has a compelling reason to meet at the Sept. 5, 2024, otherwise the meeting will be cancelled. There was consensus that the meeting can be cancelled. No vote needed. The next meeting will be an offsite meeting in The Dalles. Training on travel reimbursement would be provided after the current meeting.

(00:50:41)

(00:51:25)

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**(00:52:43)** Scott Strickland adjourned the meeting.

\*These minutes include time stamps from the meeting video found here:  
<https://www.youtube.com/watch?v=B4Ngucr42J4&feature=youtu.be>

\*\*Referenced documents can be found on the MLAC Meeting Information page here:  
<https://www.oregon.gov/dcbs/mlac/Pages/2024-meetings.aspx>