

**BWC Board of Directors**  
**Medical Services and Safety Committee**

**Thursday, February 25, 2010**  
Level 2, Room 3 (Mezzanine)  
30 West Spring St.  
Columbus, OH 43215

Members Present: James Harris, Chair  
James Hummel  
Thomas Pitts

Members Absent: None

Other Directors Present: Charles Bryan, David Caldwell, Alison Falls, Kenneth Haffey, William Lhota, James Matesich, Larry Price, and Robert Smith.

**CALL TO ORDER**

Mr. Harris called the meeting to order at 12:38 PM and the roll call was taken. All members were present.

**MINUTES OF JANUARY 21, 2010**

Mr. Harris had one proposal for changes to the minutes of January 21, 2010. On page 10, second paragraph, fourth line, Mr. Harris proposed the word “top” be inserted before the word “management.”

With no other changes proposed, Mr. Hummel moved to have the minutes of January 21, 2010 be approved, as amended, and Mr. Pitts seconded the motion. The motion passed with a 3-0 unanimous roll call vote.

**REVIEW AND APPROVAL OF AGENDA**

Mr. Harris opened the floor for any proposed changes to the agenda. With no changes proposed, Mr. Pitts moved to have the agenda approved, and the motion was seconded by Mr. Hummel. The motion passed with a 3-0 unanimous roll call vote.

**NEW BUSINESS/ACTION ITEMS**

**1. Motions for Board Consideration**

**A. For First Reading**

**1. Drug Free Safety Program (DFSP) Rule 4123-17-58**

Mr. Abe Al-Tarawneh, Superintendent of the Division of Safety and Hygiene, and Ms. Tina Kilmeyer, Chief of Customer Services, presented the first reading of the Drug Free Safety Program (DFSP) Rule 4123-17-58.

Ms. Kilmeyer noted last year there were several recommendations made on the current Drug Free Work Place (DFWP) program, primarily on eligibility. A complete analysis was completed with stakeholders. The goal is to update the DFWP with the proposed rebranded and retooled DFSP for the July 1, 2010 policy year.

Mr. Al-Tarawneh noted the Deloitte study made a recommendation to combine the DFWP and the Drug Free Work Place-EZ program and to evaluate credits and discounts associated with those programs. He presented the proposed DFSP rule, which would rescind and replace Rule 4123-17-58 (the DFWP program) and rescind Rule 4123-17-58.1 (the DFWP-EZ program). The previous rules were each twenty pages, and the proposed rule is seven pages. Mr. Al-Tarawneh noted the common sense business regulation was taken to heart in simplifying the policies and other information, thereby making it easier to disseminate the information to employers and for employers to comply with the rule.

The copy of the rule with all documents was provided to all individuals who participated in the stakeholder meetings, so feedback could be received for the March meeting and a comprehensive interested parties matrix could be completed.

Mr. Al-Tarawneh noted proposed DFSP has many improvements from the previous programs. The proposed DFSP has a wider reach with expanded benefits to recipients. Mr. Al-Tarawneh noted the five year participation limit DFWP is removed. Next, the DFWP and DFWP-EZ program, with three levels of participation in each program, has now been combined into the proposed DFSP, which has two levels, basic and advanced. Additionally, Mr. Al-Tarawneh noted the application process has been streamlined and designed to have measurable results. The proposed DFSP took to heart the goal of safety and loss prevention that could be customized to each employer's individual safety needs. The proposed DFSP would be structured to have more accurate data analysis and drug testing with online reporting requirements. Finally, Mr. Al-Tarawneh noted the proposed DFSP also focused on actuarial soundness, which would be discussed further in the Actuary Committee meeting with Deloitte discussing the pricing component in more detail.

Mr. Al-Tarawneh noted there are six elements for the proposed DFSP at both levels. The first element is safety, including assessment, accident training, and accident reporting. The second element is a written drug and alcohol free workplace policy. This requirement is similar to the previous program. Mr. Al-Tarawneh noted the third and fourth elements are employee and supervisor training. The fifth element was drug and alcohol testing. Under the proposed basic DFSP, pre-employment, post-accident and post injury testing are required. Under the proposed advanced DFSP, the testing resembles the current level three program with twenty-five percent projected random drug testing of employees. Finally, the last element is employee assistance. Under the proposed basic DFSP, there is a requirement of providing community resources when needed. In the proposed advanced DFSP, participating employers would have to provide for assessment, and employers could not terminate an employee for a first time positive test.

Mr. Al-Tarawneh then went through paragraphs D, E, and F in the proposed DFSP. Under the proposed DFSP, Mr. Al-Tarawneh said first there was no participation limit, and continuous participation was not required, which are improvements over the current rule. Next, the two program levels, basic and advanced, would have the same elements.

Finally, Mr. Al-Tarawneh noted there would be streamlined safety components based on employers' unique needs.

Mr. Al-Tarawneh then reviewed paragraph G of the proposed rule, which contains reporting and renewal requirements. Under the proposed DFSP, there are provisions for online accident analysis, online drug and alcohol testing, and annual renewal. Mr. Al-Tarawneh noted the proposed DFSP changes here would identify whether the DFSP was serving its purpose in deterring abuse in the workplace and assisting employees with an abuse problem.

Mr. Al-Tarawneh then discussed the program benefits and grants under the proposed paragraphs I and L. Under the proposed DFSP, employers would receive a four percent benefit for the basic DFSP and a seven percent benefit for the advanced DFSP. The benefits would run continuously as long as the employer was in the program. For group experience employers, Mr. Al-Tarawneh indicated employers would receive a three percent benefit for participation in the advanced program. Mr. Al-Tarawneh indicated current drug free grants would be redesigned to assist with start up costs. Mr. Al-Tarawneh noted the pricing issues would be discussed in the Actuarial Committee meeting.

Mr. Al-Tarawneh indicated paragraph N of the proposed rule concerned compatibility between the proposed DFSP and other Bureau programs. Under the proposed DFSP, participating DFSP employers to also receive benefits with safety council programs; small deductible programs; group experience (under the advanced DFSP); and salary continuation programs on claims with dates of injury prior to January 1, 2011.

In conclusion, Mr. Al-Tarawneh noted the proposed DFSP will be: easier to implement; have measurable results; and be actuarially sound.

At this point, Directors Matesich, Hummel, Caldwell and Harris asked a number of questions inquired terminations on the first positive drug test under the advanced DFSP. Mr. Matesich understood while the first positive itself cannot lead to a termination, what would happen if the positive drug test is concurrent with other employment issues. Mr. Al-Tarawneh replied, for the Bureau's purposes, the DFSP would continue as it existed under the previous DFSPs; i.e., each case is evaluated on a case by case basis. Mr. Al-Tarawneh noted if the employer establishes that other circumstances led to the termination, that termination should not be a problem under DFSP for the employer.

Ms. Kilmeyer responded to these concerns. Ms. Kilmeyer noted, in this program, there are work rules and policies in place, which would indicate there would be no termination for a first time positive drug test. The entire situation would be reviewed in order to make a decision if the termination was due to the injured worker having a first positive drug test. The situation would also be evaluated by whether the employer offered assistance to the employee who tested positive. The no termination rule for first time positive drug tests in the advanced DFSP is a social policy for employers to address; however, employers are equally concerned the individual who tests positive will injure themselves or others. There are other exceptions that employers may terminate an employee if the employee refuses to take the test, or the test is defrauded. Ms. Kilmeyer noted policy

would need to address some of Mr. Matesich's concerns, and the same concerns were also discussed by the interested parties during their meetings.

Directors Caldwell, Harris and Matesich next inquired about stakeholder feedback regarding post accident drug testing. Mr. Al-Tarawneh replied whether an employer decides to test post accident or not is subject to an employer's decision and also dependent on what happened. Mr. Al-Tarawneh noted post accident testing is not a requirement for all accidents in the DFSP.

The next series of questions concerned post-accident drug testing. Directors Matesich, Harris and Caldwell raised several issues. Mr. Al-Tarawneh replied that the Bureau was leaving that issue to the employer to define the type of accident that would require post accident testing. The Bureau would not expect the employer to test after every accident, and the Bureau would expect the employer to test if there was some nature, or reasonable suspicion, by the employer that alcohol or drugs may have contributed to the accident.

Ms. Kilmeyer replied to the comments. She noted there was a definition in the old rule that clarified the term "accident," and it was predicated on unexpected occurrence. Ms. Kilmeyer noted the term would be clarified in Bureau policy, and that policy would provide more clarity and standardization. However, given the uniqueness of each employer, Ms. Kilmeyer said the Bureau wanted to give employers some flexibility in the standard.

She noted there is a corresponding cost for drug testing, and the Bureau requires the policies have to be published and shared.

Ms. Kilmeyer noted employers have to adhere to their respective policies. She noted liability by the employer is certainly an issue.

Mr. Al-Tarawneh noted many issues were discussed regarding what should be in the drug free policies of employers. The Bureau recommended employers have their policies reviewed by an attorney. The Bureau is more concerned that employees had full knowledge of the drug free policies, and a large portion of the requirement was describing the policies; notifying the employees of their rights; and making sure employees' rights are not abused.

Mr. Pitts reminded the Board of Director members present that the support staff was presenting the rule, and the Board of Directors were voting on whether the program should be created or not. One of the criteria for the program was post accident and other drug and alcohol testing. The guidelines are made by the Bureau and published. Each employer may create unique rules that must be given to all employees, and the employer thereby reinforces its ability to engage in testing. Mr. Pitts noted testing was a right of an employer as long as the testing was done legally. Mr. Pitts noted he had several clients who have lost their position of employment on pretexts, and this area of discussion is always subject to abuse. The primary issue is that employees need to know their employers policy on these issues.

Administrator Ryan responded to Mr. Caldwell's concerns about inconsistent application between employers of the rule, and employers using subjective judgment. She noted that in workplaces, there is a wide spectrum of drug free and safety/accident policies. The Bureau simply cannot dictate the realm of these policies for each employer. Administrator Ryan said the Bureau did require a drug policy by participating employers in DFSP, and these employers must also meet other minimum criteria. Administrator Ryan noted that any disparate treatment by an employer is up to the employee or manager on site to make that determination. While the policies may be enforced by an employer indiscriminately, the Bureau cannot enforce these policies. Administrator Ryan noted the importance is that there is a drug policy. She also said that if there was no post accident testing in the rule at all, she would be against the rule. Administrator Ryan noted the drug testing policy, even if discretionary, made more sense than not to have the policy present at all and not address the underlying issues.

Mr. Al-Tarawneh noted if there was a fatality with alcohol involved, the Bureau would certainly like to know this information. The point of DFSP and drug testing policies is to deter the use and abuse of drugs, at least during work hours. If drug testing is expanded to random and pre-employment situations that are not punitive to the employee, there will be further deterrence of employees from using alcohol or drugs during work hours or in the work place. Mr. Al-Tarawneh noted that a drug free program that works needs the six elements he discussed, one of which is testing, including follow-up, post accident, reasonable suspicion and, in the advanced DFSP, random testing. Mr. Al-Tarawneh noted that drug testing is required for the program to work, and the drug testing must be taken seriously.

Mr. Hummel inquired if an employer can determine the type of accident that requires an employee to be tested. Administrator Ryan responded that it is appropriate that managers determine when to post accident drug test. Mr. Hummel inquired if the employee could be tested because the employee is in a union, or if it was because the employee liked the University of Notre Dame. Mr. Harris noted the policy of the employer would have to be applied equally. Mr. Harris added, however, that disparate treatment will always be a potential issue absent collective bargaining.

Mr. Matesich remarked that, in his opinion, the Bureau needs to provide guidelines on how to draft the key elements of the policy. Mr. Matesich noted that his remarks in this discussion in no way indicated he was an advocate of no post accident drug testing.

Mr. Pitts echoed the remarks of Directors Caldwell, Price and Matesich. Mr. Pitts agreed the Bureau needs to ensure the DFSP has fair policies for the Bureau to suggest the policies. Ms. Kilmeyer offered to supply the Board of Directors the Bureau's information on how employers can develop the drug testing policies. Ms. Kilmeyer noted the information would have many explanations and information.

Mr. Hummel inquired if the Bureau will instruct employers on how to complete a safety assessment. Mr. Al-Tarawneh replied in the affirmative. Mr. Al-Tarawneh added that the Bureau will tell the employers how to fill out the form and complete answers that will help the Bureau in helping the employer, if the employer needs help. Further, the Bureau is assisting the employers in completing the safety assessments, so the Bureau may be able to identify larger issues in the employer's trade, industry, or community. Finally, Mr.

Al-Tarawneh noted in the advanced DFSP, the Bureau will provide the employer an action plan which would streamline what milestones the employer should be striving towards. The next topic of discussion was the eligibility of group experience rated employers to receive discounts for participation in the program. Directors Falls, Harris, Smith, Pitts and Matesich raised a number of issues. Three hundred fifty-one employers were receiving the twenty percent discounts, which was less than five percent of the total number of employers participating in the current DFSPs.

Mr. Smith believed the group rating incentive was so significant that it overrode any other safety discount. Ms. Falls replied that the focus on the incentive was safety. Administrator Ryan noted groups say they are safer because they do drug free programs, and at a level that exceeds normal employers. Ms. Falls noted that if groups were self styled and safer than other employers that may not be an issue; however, actuarial data shows that not to be true. Consequently, she was opposed to not allowing group employers from receiving the benefit. Administrator Ryan asked for clarification to what Ms. Falls was advocating, such as whether safety requirements should be removed from a group requirement. Ms. Falls said she was advocating for safety across the board both in group employers and non-group employers. Mr. Pitts noted there was no bar from an employer setting up a DFSP. Ms. Falls noted employers would be reluctant to do so without an incentive. Mr. Pitts noted the issue was there was no carrot, i.e., no discount, but there was also no prohibition to setting up a DFSP. Ms. Falls noted employers would not participate if the employer did not receive an incentive, and Mr. Pitts inquired why not. Mr. Smith again stated the group discount was so significant it overrode any consideration of any other incentive. Mr. Matesich understood Ms. Falls' concerns. He noted an employer could be kicked out of a group because of a serious violation of someone else. The incentive would go away because of the group maintaining injury status. However, Mr. Matesich also noted the issue of being removed from a group would create motivation to employers to keep safe workplaces. Mr. Bryan believed that one of the group requirements was to have safety programs, and group employers receive a discount for doing so. In his opinion, giving group employers the same discount as non-group employers would be double counting the same benefit. Mr. Bryan noted groups do not receive discounts because the Bureau liked them; rather, their collectivity in education, safety and industries lowers costs to the Bureau system. Mr. Bryan indicated the group discount would have to be cut further to make the DFSP available to all employers. Ms. Falls asked if groups could show they exceeded the new basic level, the discount for their employers would be justified. She believed this was an open question of whether it could be proven that groups provided no different level of safety than a non-group employer. Mr. Smith said the data has shown groups are safer; the groups are just not that much safer to warrant as much of a discount they currently receive.

Mr. Al-Tarawneh noted one of the biggest differences between the basic DFSP and advanced DFSP is the required random drug testing of twenty-five percent of employees. Mr. Al-Tarawneh noted any employer who has a viable safety program at the present time and is currently one of the DFSPs would not have to make significant changes or revamp policies to be eligible for the advanced DFSP. If employers keep their Drug Free Work Place and safety programs in effect, there would not be that much more the employers would have to do to be eligible for the advanced DFSP seven percent premium discount if the employer is removed from group. Further, Mr. Al-Tarawneh said

continuing the safety programs and utilizing safety services provided by the Bureau will help employers stay in group rating programs and minimize the chance the employer would be removed from group rating. Finally, if an employer is not in group, the safety programs and safety services provided by the Bureau will help employers improve their safety record and become eligible for a group.

Mr. Hummel noted that employers paying salary continuation could not participate in the proposed DFSP after January 1, 2011. Ms. Kilmeyer responded in the affirmative. The proposed DFSP is the only program where an employer will not be eligible to pay salary continuation after January 1, 2011.

Mr. Matesich noted the proposed DFSP was better than what the Bureau had before. Mr. Matesich did inquire why the proposed DFSP requires employers to pay for drug testing. Mr. Matesich asked what if a collective bargaining agreement says an employee has to contribute some de minimus amount. Ms. Kilmeyer indicated she had never heard that question raised, but even under the old DFSPs, the employers have always had to pay for the drug testing. Administrator Ryan, as a basis of why employers have to pay for drug testing, provided an anecdotal example of a temporary service agency requiring a temporary employee to pay for a \$110 drug test up front. Mr. Lhota noted it was an important point that employers have to pay for the testing. He agreed collective bargaining could have some requirement that an employee would have to pay that would supersede the requirements of the proposed DFSP. For example, Mr. Lhota noted that an employer may have to pay health insurance for its employees, but collective bargaining allows the employer to collect ten percent of the premium from the employees.

Mr. Price asked for a summary of the stakeholders who commented on the testing issues. Ms. Kilmeyer replied that two hundred persons were distributed the proposed rule, and the Board of Directors will receive the list. Mr. Harris asked who in organized labor participated. Ms. Kilmeyer noted American Federation of State, County and Municipal Employees, Communications Workers of America, and the American Federation of Labor Congress of Industrial Organizations were all examples of labor organizations who participated.

Mr. Harris thanked Mr. Al-Tarawneh and Ms. Kilmeyer for their presentation.

## **2. Claim Procedures subsequent to allowance Rule 4123-3-15**

Ms. Kilmeyer and Ms. Kim Robinson, Director of Policy, presented two first readings of rule proposals. Ms. Kilmeyer noted the two recommendations were meant to streamline benefits to injured workers, and the recommendations were developed through spending time with interested parties.

Mr. Harris interjected that the Common Sense Business Regulation form listed the Ohio Association of Justice and the Ohio State Bar Association Workers' Compensation Committee. Mr. Harris inquired if organized labor was presented with the rule proposal, even though the Ohio State Bar Association Worker's Compensation Committee has some injured worker attorneys as members. Ms. Kilmeyer noted the organizations that were provided the rule proposal was much broader and not listed on the form.

The first change was Ohio Administrative Code Sec. 4123-3-15(A). The rule, according to Ms. Robinson, currently defines an inactive claim as one that has not a payment made in thirteen months. Ms. Robinson noted the rule previously had twenty-four months; when the Bureau started using the MIRA system in 1997, the period became thirteen months to be tied to MIRA reserving at that time. Now that the MIRA II system is being implemented by the Bureau, claim inactivity will have no impact on reserving.

Ms. Robinson believed increasing the inactivity period to twenty-four months would decrease cost, improve efficiencies, and eliminate unnecessary paperwork. Ms. Robinson noted the thirteen month period was denying access to follow-up care because the claims were going inactive prematurely. The Committee was provided a summary of statistics showing the number of reactivation requests in different time periods.

Statistics showed ninety-seven percent of reactivation requests were near the thirteenth month, and the number of reactivation requests after thirteen months greatly diminished. By twenty-four months, Ms. Robinson noted there would still be a minimal number of requests, but those requests would truly need to be reviewed. Ms. Robinson noted Senate Bill 7 decreased the life of a claim to five years from the date of last payment of compensation or medical, and expanding the relevant time period from thirteen months to twenty-four months serves as a halfway checkpoint. Ms. Robinson noted the Bureau receives 5,000 reactivation requests per year; by increasing to twenty-four months, the number of reactivation requests would decrease to a little less than 1,000 per year, thereby saving administrative resources.

Ms. Robinson reported that on February 17, 2010, the proposed rule was sent for stakeholder feedback and review. The change was viewed, overall, positively. A matrix with all responses will be provided next month.

Ms. Robinson noted a second change in the rule under section (B)(2). Ms. Robinson noted if an employer was no longer in business, the Bureau would no longer be sending mail for notification purposes. This change paralleled other rule revisions.

Mr. Pitts noted that although the change may appear small, it was a very salutary change. Mr. Pitts noted the change enables injured workers, who have to live with a problem for a while, easier access to the medical care they need.

Mr. Harris commented the change was well received by injured workers and their attorneys.

### **3. Scheduled Loss Payment Rule 4123-3-37**

Ms. Kilmeyer addressed the Medical Services and Safety Committee concerning the Scheduled Loss Payment Rule 4123-3-37.

Ms. Kilmeyer noted that scheduled loss compensation is a form of compensation that comes under many names, such as loss of use, scheduled loss, paragraph (B) compensation (formerly paragraph (C) compensation), and amputation awards. The compensation is payable to injured workers for loss of body parts, vision and hearing.

The compensation is available to eligible injured workers in addition to medical benefits and lost wage benefits.

Ms. Kielmeyer noted the scheduled loss compensation is payable by a schedule multiplying the Statewide Average Weekly Wage for a year of injury by a corresponding number of weeks. As examples, Ms. Kielmeyer said loss of thumb corresponds to sixty weeks; a loss of arm corresponds to two hundred and twenty-five weeks; and loss of an eye corresponds to one hundred twenty-five weeks.

Ms. Kielmeyer reported the Deloitte study determined our scheduled loss statute was consistent and aligned with other jurisdictions. That study did not identify any calculation issues, only how the award was being paid. Under the current structure, the scheduled loss award is paid in weekly installments based on the number of weeks for the body part subject to the award. Ms. Kielmeyer noted that injured workers, at their option, may opt out of the weekly installment plan by filing for lump sum advancement. The lump sum advancement reduces the award under a present value factor into a lump sum.

There were nine hundred fifty-four claims with a scheduled loss being paid and the awards total about \$22 million annually. In terms of breakdown by type of loss, Ms. Kielmeyer reported: sixty percent of the awards were based on amputations; less than one percent of the awards were for hearing loss; one to two percent of the awards were for vision loss; one to two percent of the awards were for paralysis; and thirty-seven percent of the awards were for ankylosis, reflex sympathetic dystrophy or "RSD," and other types of loss.

The rule proposal will pay the injured worker the full value of the award at once, and there would be no need to file a lump sum advancement or reduce the award to its present value. Ms. Kielmeyer noted two references in Ohio Admin. Code Sec. 4123-3-37, notably paragraphs (A) and (C)(1), had to remove the lump sum advancement wording. Ms. Kielmeyer noted the proposal was beneficial to injured workers as they receive compensation for their tragic losses in full at the time of the award.

Mr. Bryan understood that it may be unusual for this type of compensation to be paid into the future, but he inquired as to the Bureau's motivation in making the proposal. Ms. Kielmeyer replied that the Bureau examined how the award was being paid, subject to a reduction under the lump sum advancement. The law was discretionary in how the Bureau could discharge the payments because the law did not specifically state that the benefits had to be paid into the future. Ms. Kielmeyer believed the recommendation would streamline the payments to the injured workers.

Mr. Harris inquired, if he understood the issue correctly, that injured workers had to apply for the lump sum advancement if the injured worker wanted payments on the front end. Under the rule proposal, the injured workers would automatically receive the payments on the front end. In response, Mr. Pitts noted there was a very long history with respect to scheduled loss awards and the wording for payment has been quite troublesome. From his perspective, the accrual of the compensation comports with the statute, and the issue would be clearer if Ohio Rev. Code Sec. 4123.57(B) was modified to indicate all compensation was payable. Overall, Mr. Pitts believed the Bureau's proposal was very salutary to injured workers. He noted, his clients did not understand why they had to take

the lump sum at a discount. Mr. Pitts commended the Bureau for this proposal; he believed this proposal was a small economy to prevent the Bureau from having to tracking payments, which may last up to eight hundred fifty weeks, or thirteen years, in the case of a quadriplegic.

Mr. Haffey inquired about the listed payee on scheduled loss awards. Ms. Kielemeyer replied that injured workers are the payees. Mr. Pitts added that, if an injured worker authorizes, an attorney may receive the check. Mr. Pitts replied that Mr. James Barnes, Chief Legal Officer, has just issued a letter that checks made payable to an injured worker must be endorsed by the injured worker. Mr. Haffey questioned whether or not it was a good idea to have injured workers receive all of the money in these awards up front, but he understood the Bureau's perspective. Mr. Pitts reported he had clients where he had recommended they not take the lump sum advancement; in response, a client might say, for example, that his car needs a new muffler. While Mr. Pitts would request the lump sum advancement on behalf of his client, as that is the choice the client wanted, Mr. Pitts would also recommend the client seek out a financial advisor to assist him/her in managing the funds.

Mr. Lhota asked if the current award is paid by lump sum, whether there is a present value discount to the award. Ms. Kielemeyer responded in the affirmative. Mr. Lhota asked if this provision under the rule proposal is changed, and Ms. Kielemeyer responded in the affirmative. Ms. Kielemeyer noted today that the payments in lump sum advancements would be subject to a discount rate, as noted by Ms. Robinson, of 4.5%. Under the rule proposal today, the payment would be done in one check without setting up any payments into the future and also paying the funds without a discount. Ms. Kielemeyer noted that Section 4123-3-37 treats the compensation subject to lump sum advancement.

Mr. Pitts noted that, since 1986, the compensation is not tied to the injured worker's wages; rather, the compensation is based on the Statewide Average Weekly Wage. This law change gives the same value to all injured workers with these types of claims. Mr. Lhota noted that, for scheduled loss compensation, the Statewide Average Weekly Wage applies to all injured workers as of today.

Mr. Bryan, as a point of order, noted that the Actuary Committee would start their meeting at 2:45 PM.

Mr. Price noted he we would like to discuss the statute and the rule further.

Ms. Robinson noted that present value discounting was never documented in the rule, but the present value discounting was in the Bureau's policies and procedures.

## **DISCUSSION ITEMS**

### **1. Update to MCO-Voc Rehab Referral Report**

Mr. Freddie Johnson, Director of Managed Care Services, appeared before the Medical Services and Safety Committee to provide an update on the status of the MCO-Voc Rehab Referral Report.

Mr. Johnson noted the presentation has been pending since December, 2009, and by January, 2010, the report was to be formally presented to the Medical Services and Safety Committee.

Mr. Johnson said his team was still reviewing the data, methodology and conclusions arrived in the analysis. The following stakeholders are being contacted either in person or by phone regarding the report: Managed Care Organization League; managed care organization representatives; Ohio Association of Rehabilitation Facilities; Ohio Association of Rehabilitation Professionals; and the Labor Management Government (LMG) Committee, including the subcommittee formed to address this topic.

Mr. Johnson noted one of the largest managed care organizations has provided a significant amount of data, which is being compared to BWC data. Mr. Johnson believed this sharing of data was an effective engagement with a stakeholder.

Mr. Johnson believed his team will have the refinements to the report completed by March 15, 2010, at which time the report will be distributed to all interested parties, including the LMG Committee, to discuss. Mr. Johnson expects that a formal presentation will be made to the Committee with Mr. Robert Coury, Chief of Medical Services and Compliance, at the April, 2010 meeting.

## **2. Committee Calendar**

Mr. Donald Berno, Liaison for the Board of Directors, appeared before the Medical Services and Safety Committee to discuss the committee's calendar.

Mr. Harris inquired if the rules with first readings presented today would have their second readings at the March meeting. Mr. Berno replied in the affirmative.

Mr. Harris agreed with Mr. Johnson's recommendation the MCO-Voc Rehab Referral Report be placed on the April meeting agenda.

## **ADJOURNMENT**

Mr. Pitts moved to adjourn the meeting at 2:36 PM, seconded by Mr. Hummel. The meeting adjourned with a 3-0 unanimous roll call vote.

Prepared by Michael J. Sourek, Staff Counsel  
March 3, 2010