

Workers Compensation Advisory Council Summary

On Tuesday, the Workers Compensation Advisory Council (WCAC) held an informal hearing to discuss three workers' comp proposals, two of which are of potential interest to MDLA members. Commissioner Robertson stated the purpose of the meeting was strictly to update WCAC members with conversations at the Legislature. There were no votes on either bill.

Senator Jason Isaacson (DFL-Shoreview) presented his bill, [SF 2955](#), which would create a reimbursement fund for eligible employees who filed COVID-19 claims between January 1 and February 3, 2022. These claims fall between the expiration of the original COVID presumption in 2021 and the new presumption signed into law on February 3, 2022. This one-time funding from the state's general fund would address the so-called donut-hole in the current statute, which does not apply the presumption retroactively. The proposal operates outside of the Workers' Comp system and there was discussion and comparison of the current application and review process as to how it compares to the proposed changes. One council member brought up concerns regarding long-COVID and if an individual was approved under the new legislation, the potential for ongoing payments as a result of their ongoing symptoms. Senator Isaacson committed to working on this particular issue further. Members also questioned the fiscal note and Senator Isaacson estimated the price tag would be between \$500,000 and \$1 million. This is based on the approximately 1,500 workers who filed claims in that time period. The prospects for passage by the Legislature are unclear since it is not included in budget bills at this point.

Both Representative Jamie Long (DFL-Minneapolis) and Senator Jeff Howe (R-Rockville) spoke on their bills, [HF 4026](#) / [SF 3943](#), which would create a PTSD treatment requirement for police officers and firefighters who make PTSD claims. The original bill created new requirements within the Workers' Comp system, but the bill was subsequently amended to apply to only PERA Disability claims. Representative Long commented on the action needed by the State to address the high number of claims and the cost to public employers, while Senator Howe focused his comments on identifying and addressing the traumatic events causing these claims. One key detail to work out is the timeline for a PTSD diagnosis. The proposed language would extend this period longer than the current timeline for making a claim. Supporters applauded the fast action of the bill, as well as the financial reimbursements to employers. Opponents argued the bill would be more detrimental to employees by not addressing the approval rate of claims, as well as extending the diagnosis and application process. Supporters emphasized the immediate need for this bill, while opponents were concerned with the hurried process to meet the Legislature's adjournment on May 23rd. There does appear to be consensus that there are changes that need to be made, but it will be difficult for these changes to be agreed upon by the end of the current legislative session.

Workers' Compensation Advisory Council Hearing Notes

Tuesday, April 12 2022

1:00pm

Agenda:

- I. Announcements – Roslyn Robertson, commissioner

- II. Meeting minutes and agenda – Roslyn Robertson, commissioner
 - a. Approval of Feb. 1, 2022 minutes
- III. Agenda Items
 - a. [HF 3165 \(Wolgamott\)](#) / [SF 2955 \(Isaacson\)](#): Workers compensation COVID-19 presumption reimbursement establishment and appropriation
 - b. [HF 4026 \(Long\)](#) / [SF 3943 \(Howe\)](#): Duty disability timeline determinations modifications
 - c. [HF 4538 \(Kiel\)](#) / [SF 4343 \(Johnson\)](#): Agriculture employee wage calculation modification
- IV. Adjournment

Meeting Documents:

- [Agenda](#) (updated)
- [Association of Minnesota Counties, Minnesota Inter-county Association and Minnesota Sheriffs' Association to DLI and WCAC](#)
- [League of Minnesota Cities to DLI and WCAC](#)
- [Minnesota Chiefs of Police Association to DLI and WCAC](#)

Meeting materials from past meetings

- [Archive of meeting materials](#)
- [Summary of 2020 Workers; WCAC legislation: HF 19 and SF 27](#)

Announcements – Roslyn Robertson, commissioner

- No vote today, the meeting is to update members on the workers compensation conversations at the Legislature
- Wants to hear all three proposals and then will discuss and ask individual questions

Meeting minutes and agenda – Roslyn Robertson, commissioner

Agenda Items

[HF 3165 \(Wolgamott\)](#) / [SF 2955 \(Isaacson\)](#): Workers compensation COVID-19 presumption reimbursement establishment and appropriation

Sen. Isaacson:

- Concern was how to fix a loophole in COVID workers comp
- Does not create a new or replace the current workers comp presumption
 - Establishes a COVID-19 presumption reimbursement fund for certain frontline workers
- One-time funding from general fund
- SF 2955 will receive a DE

[HF 4026 \(Long\)](#) / [SF 3943 \(Howe\)](#): Duty disability timeline determinations modifications

Rep. Long:

- Bill is to combat the extremely high number of PTSD claims

- Bill is aimed to prevent and treat PTSD while giving financial support to local governments
- Bill puts treatment first since PTSD is treatable

Sen. Howe:

- Discussion should be around what is the reason for a PTSD diagnosis
- After the traumatic event can be identified, then treatment and help can be more effective
- There is a way for employers to preventatively treat PTSD

[HF 4538 \(Kiel\)](#) / [SF 4343 \(Johnson\)](#): Agriculture employee wage calculation modification

Bruce Kleven, Lobbyist:

- Bill would allow ag employees to either choose their weekly wage or workers comp when injured

Questions/Comments:

Dan Greensweig, LMC: These PTSD claims put a strain on cities across the state, and impacts the health of the state. There needs to be deeper conversations when public safety departments lose officers and have to consolidate/merge with other cities and counties. The current workers comp system does nothing to support PTSD and other long-lasting mental illnesses.

Gary Thaden, MNH Mechanical Contractors Association: The dept. has looked at workers comp before and is appreciative of Rep. Long's bill

Maggie Hobbs, Patterson Companies Inc.: How would workers comp payments be paid retroactively? What is the process of reimbursement?

Sen. Isaacson: There would more reimbursements than expected had the presumption been in place. This is an attempt to help people regain what they would have lost. Some people got screwed because the Legislature had incorrect dates

Hobbs: If these are workers comp claims, there could potentially be issues if COVID causes long-term issues. If the state recognizes these claims, then there could be no cap in the future

Sen. Isaacson: Only about 4 people tested would be positive for long-term symptoms

Doug Loon, MN Chamber of Commerce: What was the experience of the claims that went through review or rebuttal? What were the circumstances when these claims were denied?

Comm. Robertson: Don't have that specific data yet. Claims take a long time to get through the system and there are many outstanding claims

Loon: What is the fiscal note for this proposal?

Sen. Isaacson: There is an estimation but not an official fiscal note. Approximately less than \$1 million, close to \$500,000

Bernie Burnham, AFL-CIO: Are you talking about changing the number of days for filing a claim?

Sen. Howe: The bill doesn't necessarily change the number of days but personally believes it should be 45 days. The focus should be on the first reported day for the traumatic event. Treatment needs to happen on the front-end

Sen. Isaacson: Happy to stay in contact as this bill moves forward. Is open to talk more and answer questions if they come up

Edward Reynoso, Local Teamsters: This PTSD bill does not have support from the working men and women in the field. The current system isn't helping but this bill could be worse. Is glad there is no vote today since this bill deserves much more conversation. This bill isn't helpful to both the employers and employees, it hasn't been thoroughly vetted

Rep. Long: We don't have the luxury of waiting 2-3 years for this legislation to happen. There is an issue now and a solution needs to happen immediately. This is not the first conversation you've been a part of for this bill, and has been involved in many other meetings and committee hearings

Reynoso: I was invited to other meetings but received the wrong address and was not included in other conversations. This should have been moved last year rather than focusing on it with only 5 weeks left in the session

Burnham, AFL-CIO: What about the other workers needing PTSD? How do we expand to include all workers?

Sen. Howe: The conversation needs to be continued but something needs to be done. If people are committed to getting this done, it can happen in the next few weeks

Lindsey Rowland, Meuser, Yackley, & Rowland: Nearly 100% of PTSD workers comp claims are denied. The proposed legislation does nothing to address this issue. There is no reason to believe employers will offer the additional support required in the bill. The easiest solution would be to accept the workers comp claims. The proposed legislation adds barriers esp. requiring employees an approved workers comp claim before receiving treatment for PTSD,

Nick Zerwas, Jacobson Law Group: There was an unanimous vote to include the PTSD statute originally. The workers comp claims have been nearly 100% denials despite the change in statute. Believes rushing in something to complicated in the last few weeks of session would tear apart the statute that was voted with 100% approval

Rep. Long: Not touching the disability presumption and wants to clarify that individuals receiving treatment would still receive benefits. This is not being rushed, there have been over a years' worth of meetings and it has been publically discussed for the past five months

Greenswid, LMC: There is not a 100% denial, many initial claims did not reach the minimal requirements of PTSD claims. There is an obligation to spend state funds in accordance with state rules and laws. Certainly supports further conversations but pushing the bill off would be extremely harmful to officers and fire fighters

Rowland, Meuser, Yackley, & Rowland: The timeline to administer the benefits is extremely long. Nothing in the legislation would change the current ineffectiveness of benefits administration

Comm. Robertson: The council will continue to track the progress of these bills and will keep the advisory council updated. The next meeting will be June 8.

Meeting is adjourned