

## Advocates and Advisory Groups

Injured workers and employers often find the workers' compensation system confusing or inaccessible. Oregon has recognized that the comprehensibility of and access to the system are essential features of success. Therefore, a number of advocates and advisory groups provide services and recommend policy.

### Ombudsman for Injured Workers

The 1987 Legislature created the Office of the Ombudsman for Injured Workers as an independent advocate for injured workers, assisting workers by accepting, investigating, and attempting to resolve complaints concerning matters related to workers' compensation. Recognizing the value of the office, the Legislature increased the staff during the 1990 special session. Legislation passed in 2003 clarified the supervision and control of ombudsman services and required that quarterly reports be submitted to the governor. The office consists of the ombudsman and seven staff members.

In 2011, the office recorded about 9,500 inquiries; the number of inquiries has decreased about 18 percent over the past two years. About 88 percent of these inquiries were from injured workers. Inquiries also came from attorneys, insurance companies, employers, and others. The issues that prompted the most inquiries were claims processing, medical benefits, and accurate and timely benefits.

### Small Business Ombudsman

The Office of the Small Business Ombudsman for Workers' Compensation was created during the 1990 special session to serve as an advocate for and educator of small businesses. The SBO is the resource center for employers needing information about the workers' compensation system. It helps resolve disputes between employers and insurers, provides educational seminars and trade shows, and assists all parties. The office had about 770 inquiries, and more than 1,000 subsequent contacts, in 2011.

### Medical Advisory Committee

The members advise the director on matters relating to medical care for workers. In 1999, SB 222 revised the

composition and duties of this statutory committee. The statute allows the director to appoint medical providers that most represent the health care services provided to injured workers, which may include representatives of insurers, employers, and managed care organizations.

#### Recent Medical Advisory Committee Projects

- Worked to establish guidelines and best practices for the management of patients receiving opioid analgesics; in 2012 the committee published a Position Statement on Opiate Pain Medications.
- Studied issues affecting access to and continuity of care for injured workers in the system.

### Management-Labor Advisory Committee

In recognition of the success of the governor's labor-management committee in crafting the 1990 reforms, the Legislature created the Management-Labor Advisory Committee (MLAC). This committee reaffirms that labor and management are the principal parties in the workers' compensation system. The committee advises the department on workers' compensation matters such as administrative rules and legislation.

In 1995, SB 369 reduced the membership of MLAC from 14 members to 10 members and included mandatory reporting on several issues: court decisions having significant impact on the workers' compensation system, the adequacy of workers' compensation benefits, medical and system costs, and the adequacy of assessments for reserve programs and administrative costs. In 2003, the Legislature removed the requirement that MLAC review temporary rules that establish disability-rating standards for individual claims.

- Recent Management-Labor Advisory Committee Activities
- Recommended that the department have the ability to take administrative action against a person or company that is actively managing the care of workers when that person or company is not certified as a managed care organization (HB 2093 passed).

Recommended that the department have the ability to delay of the reconsideration process for up to 45 days when the parties are actively engaged in settlement negotiations that include reconsideration issues and both parties agree to delay the process. This gives the parties more time to reach an agreement, without extending the department's time to complete the reconsideration process if the negotiations are not successful (HB 2094 passed).

- Recommended that podiatric physicians and surgeons have the ability to serve as attending physicians without limitation (HB 2743 passed).

- Senate Bill 173 recommended a change to the process for settling unpaid medical bills related to the claimed condition as part of the disputed claim settlement process. This allows a worker to pay a higher reimbursement rate for his or her unpaid medical bills directly out of his or her settlement. If the worker does that, the medical providers must accept this as payment in full and not balance-bill the worker for any charges that exceed the workers' compensation medical fee schedule (SB 173 passed).

The Workers' Compensation Research Institute (WCRI) has recognized Oregon's workers' compensation system as a model that could provide lessons for other states. The study "Lessons from the Oregon Workers' Compensation System" provided four key lessons. One of these lessons is the cooperation between management and labor that is embodied in the Management-Labor Advisory Committee.

WCRI listed six factors in the design and operation of MLAC that are associated with its effectiveness in bringing about orderly and lasting change in the Oregon system

- *Labor and management, not other interest groups, influence but do not control the system through MLAC.* MLAC is composed of five voting representatives from business and five from labor; the DCBS director is an ex-officio member.
- *The governor vows to veto any workers' compensation bill that does not gain advisory committee (i.e., labor and management) endorsement.* This feature has been the cornerstone of Oregon's advisory-committee process. In making such a vow, the governor has effectively said no to other interest groups unless management and labor have approved.
- *The Legislature usually defers to MLAC.* The advisory committee enjoys the support of legislators. Legislative caucus leaders and committee chairs generally understand that workers' compensation bills should first be vetted by MLAC.
- *The state agency actively supports MLAC by conducting studies and drafting legislative proposals.* Most MLAC members said it is critical that the state agency conduct special studies to provide input to their deliberations.
- *Public input is encouraged through testimony at MLAC meetings and other mechanisms.* This enables all parties to express concern, advocate, raise questions, and voice opposition.
- *Subcommittees are often used to hear testimony, narrow issues, and consider changes to legislative proposals.* This enables the advisory committee to draw on technical experts on technical issues, and it allows for the division of labor among MLAC members, who are volunteers.