



WORKERS' COMPENSATION
ADVISORY COUNCIL MEETING
July 26, 2018

Members Present:

Sheral Kellar
Charles Davoli
Marc Zimmermann, Ph.D.
Shannon Dartez
Michael Morris
Jennifer Marusak
"Bray" Williams [Late]

Members Absent:

Julie Cherry
Shannon Lindsey
Edwin Murray
Jerry Jones, PT
Mark Kruse, D.C.
Pierce Nunley, MD
Alejandro Perkins
Maria Losavio
Arielle Collins, Pharm.D.

MINUTES

- I. **WELCOME** start at 9:37am
- II. **MINUTES** (time stamp 10:08:38)
 - a. April & June
 - 1.No quorum
- III. **BROADSPIRE FOLLOW-UP** (time stamp 10:08:54)
 - a. Cease & Desist Letter (no submission)
 - b. Rich Eason, esq.
 - 1.History of issue since it has been several ongoing months
 - 2.Submitted handouts
 - Revised Letter
 - Consent Form
 - Affidavit of Dr. Paul Hubbell
 - 3.Address key issues raised by council
 - c. **Charles Davoli** [*council*]- read paragraph 3 from page 1 "Affiant does further state that pharmacogenetic..." from Hubbell's affidavit.
 1. No problem with efficacy of test
 2. Problem with letter is "authorized physician" could mean SMO since not invasive test
 3. "probability" could lead to cost containment argument
 - d. **Bray Williams** [*council*]- several problems still.
 1. No current guidelines for this test
 - Variance hard to be approved

2. Different company name on consent form than original
3. Monetize the genetic data
4. Don't want physician signing off of knowing "no adverse consequences"
5. Why patient selected? No way to protect privacy rights
- e. **Shannon Dartez** [*council*]: need alternative treatment options if testing used for cost containment and to deny medicine
 1. **Charles Davoli** [*council*]: what about chronic pain?
- f. **Sheral Kellar** [*council*]: Hubbell doesn't speak for MAC.
 1. How selection made? "Blanket" requirement?
 2. How long specimens being kept?
- g. Rich Eason can meet with anyone
 1. **Charles Davoli** [*council*]- Rich has reached out
 2. **Sheral Kellar** [*council*]- you can submit memo explaining answers to questions

IV. GAME-ON OVERVIEW: MISCLASSIFICATION OF EMPLOYEES (time stamp 10:47:51)

- a. Renita Williams, Assistant Secretary of Unemployment Insurance
- b. John "Ricky" Masaracchia, Deputy Assistant Secretary of Unemployment Ins.
- c. **Sheral Kellar** [*council*]- gave history of taskforce
- d. Renita Williams- Power point presentation
 1. Slide 1 Explain taskforce
 2. Slide 2 Statistics/studies i.e. 1992 study
 3. Slide 3 Impact on worker
 4. Slide 4 Impact on business
 5. Slide 5 Impact on government
- e. Ricky Masaracchia-
 1. Slide 6 Computer chose audit prior to 2011
 - i. 80% of employers are mom & pop with 10 or less employees
 - ii. Now have a more target process
 - iii. Compare information
 - Example- Issuing a lot of 1099s and not registered with state
 2. Slide 7 Every worker is employee unless employer proves otherwise
 - i. R.S. 23:1473E- "three-fold test"
 - ii. In 2014- L.A.C. 40 Part IV Section 375
 3. Slide 8 Penalties
 - i. First, warning with explanation (can appeal); Second, \$250/worker; Third, \$1000/worker or Jail for 90days
 - Each misclassification is a separate offense
 - ii. Not required to give warning if purposeful misclassification and barred from state contract opportunities for 3 years
- f. **Sheral Kellar** [*council*]- results from last year audit?
 1. UI did 1000 audits, found over 3,000 misclassified workers, and \$1-2 millions
 - i. Required to audit 1% of employers a year

2. GAME-ON completed 19 audits, found 1,100 misclassified workers, \$18.4 million in unreported wages, \$5.5million in taxable wages, and \$130,000 in additional taxes due
- g. **Sheral Kellar** [*council*]- what about recent audits done by GAME-ON?
 1. Renita Williams- do unannounced audits. Did one in April 2018 and four more in July. Use informants on site
 - i. Labor broker cause problems
- h. **Darrick Lee** [*OWCA*]- discussed penalties, process and creating MICS cases
- i. **Bray Williams** [*council*]- List of employers caught?
 1. WC not really public record. UI confidential but those reported to DOA could be published with them to bar from contract work
 2. In January, LDR did a press release
 - i. Depend on laws of various agencies
- j. **Sheral Kellar** [*council*]- confidentiality = WC 23:1293 & UI 23:1663
 1. **Darrick Lee** [*OWCA*]- criminal records
- k. **Charles Davoli** [*council*]- looking at gig employment
- l. **Michael Morris** [*council*]- 2 independent contractor laws that still cover

V. 2019 PROPOSED LEGISLATION (time stamp 11:32:19)

- a. Taskforce assignments
 1. Michael Morris chair of HB257
 2. HB828
 - Julie Cherry, Maria Losavio & Kevin Cunningham
 - UI got the opt-in & opt-out passed recently
 3. Bray Williams to chair SB180
 4. Charles Davoli chair on Medical Marijuana HB579
 5. Hearing Loss HB790
 - Shannon Dartez/ Shannon Lindsey
 6. SB 536 (1002)
 - Bray Williams chair

VI. OTHER BUSINESS

VII. PUBLIC COMMENT (time stamp 11:39:14)

- a. none

VIII. NEXT MEETING DATE (time stamp 11:39:28)

- a. August 23rd
 1. LaSalle Building

IX. ADJOURNMENT at 11:08am

- a. No quorum