

**RULEMAKING ADVISORY COMMITTEE MEETING
WORKERS' COMPENSATION RULES**

May 30, 2018, 2:00 p.m.

Multi-language help page

Committee members attending:

David Barenberg	SAIF Corporation
Larry Bishop	Sedgwick CMS
Bin Chen AAL	Reinisch, Wilson, Weier
Jeanette Decker	Providence MCO
Jennifer Flood	Ombudsman for Injured Workers
Jaye Fraser	SAIF Corporation
Cindi Jayubo	Propel Insurance
Ann Klein	Majoris Health Systems Oregon, Inc.
Kathy Nishimoto	Duckwall Fruit
Claudia Ordonez	Greater Portland Neurosurgical Center, PC
Jesus Quintero	Consulate of México
Dan Schmelling	SAIF Corporation
Elaine Schooler	SAIF Corporation
Ben Swanson	Providence MCO
Henry Vera	Providence

**Department of Consumer and Business Services and Workers' Compensation
Board staff attending:**

Cathy Ostrand-Ponsioen
Fred Bruyns
Joy Dougherty
Ruth Kemmy
Sally Coen

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BEFORE THE WORKERS' COMPENSATION BOARD OF

THE STATE OF OREGON

RULEMAKING ADVISORY COMMITTEE

WORKERS' COMPENSATION DIVISION RULES

The proceedings in the above-entitled matter were held in Portland, Oregon, on the 30th day of May 2018, before Fred Bruyns, Administrative Rules Coordinator for the Workers' Compensation Division.

1 TRANSCRIPT OF PROCEEDINGS

2
3 00:19: So thank you very much for coming today. My name's Fred
4 Bruyns, I've been in touch with all of you and really appreciate you taking your time
5 to come down here. This is a new location for us, maybe you can give us some
6 feedback on that when we're all done. We were in Durham one of our recent
7 meetings and it was a real big hit with people, I suppose, from driving down to
8 Salem. On the other hand, if you live in Salem, I suppose it was not a hit, so there's
9 always that.

10 If you don't have a copy of the agenda, we have lots of extra copies
11 down here, but we'll be going through the--I'll be reading some of it actually
12 verbatim, so if you're on the telephone with us and you don't have a copy of the
13 agenda, you should still be able to follow along. We do have the agenda posted to
14 our website as well if you want to go on there to our meetings and hearings page
15 and you should find it. We've drafted some fiscal impact estimates onto our agenda,
16 but those are really just kind of the world according to us at this point and we need
17 the information from you folks in terms of what you think the actual cost impacts
18 would be on you, since there are definitely some costs associated with any kind of
19 an additional insert or piece of paper, if it is a piece of paper, that you would need to
20 provide if that's the direction this goes, so please keep that in mind.

21 If you're on the telephone with us today, please do not put us on hold
22 at anytime. You may leave and rejoin the conference as often as you'd like, but if
23 you put us on hold, we'll probably get your background music and there's no--there's
24 no way for us to turn that off, so I've introduced myself. I'd like us to go around the
25 table, but first ask the folks on the telephone to introduce yourselves to the commit--

1 if you're on the telephone with us today, please introduce yourself.

2 02:14: Good afternoon, everyone, I am Jesus Quintero and I'm with
3 the Mexican Consulate and nice to be here, thank you for the invitation.

4 02:23: Okay. You're welcome, Jesus. Anyone else?

5 02:28: Yes, this is Cindi Jayubo from Southern Oregon calling from
6 Propel Insurance, I'm anxious to hear the results of this meeting, thank you.

7 02:36: Okay. Thank you for joining us, Cindi. Anyone else?

8 02:46: I am Claudia Ordonez, I'm from Greater Portland Neurosurgical
9 Center.

10 02:51: Bin Chen, defense attorney with Reinisch, Wilson, and Weier,
11 also chair of the Access to Justice Committee, this rule comes actually
12 (unintelligible) from my committee, so...

13 02:58: Ben Swanson, Providence MCO.

14 03:01: (unintelligible) Vera, Providence MCO.

15 03:06: Joy Dougherty, I'm with the Workers' Compensation Board, I'm
16 just here to observe.

17 03:13: Jennifer Flood, ombudsman for injured workers.

18 03:16: (unintelligible) for the Department of Consumer and Business
19 Services.

20 03:22: Sally Coen, Workers' Compensation Division.

21 03:25: I'm Cathy Ostrand-Ponsioen, Workers' Compensation.

22 03:28: Dan Schmelling, SAIF Corporation.

23 03:30: Elaine Schooler, SAIF Corporation.

24 03:32: David Barenberg, SAIF Corporation.

25 03:34: Jaye Fraser, SAIF Corporation.

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03:36: (unintelligible) services.

03:38: I am Kathy Nishimoto with Duckwall Fruit.

03:41: I'm Ann Klein with Majoris Health Systems MCO.

03:44: Larry Bishop with Sedgwick.

03:46: Welcome to you all again, and before we launch into our agenda, do you have any questions before we begin about the process or? Okay. Then we'll begin at agenda item number one. So most claim-related documents sent to workers are prepared in English, so the question would be should important notices be accompanied by a separate notice in multiple language? The Access to Justice Committee of the Workers' Compensation Section of the Oregon State Bar in a document sent to the Workers' Compensation Division June 5, 2017 described the problem. All documents sent by insurers, WCB, and WCD, that's the Workers' Compensation Board and Workers' Compensation Division, injured workers are in English. Those who do not read English are not being made aware of the importance of these documents and not being advised as to where to turn for assistance. According to the ombudsman for injured workers, she receives 700 inquiries from injured workers per month and 23 to 26 percent of calls are from non-English-speaking workers. Subsequent to that, I guess the numbers of non-English-speaking calls dropped off a little bit, but it's still very close. The Workers' Compensation rules include at least 135 circumstances when insurers or vocational rehabilitation organizations must send written notices to workers, several additional notices are issued by managed care organizations as well as the Workers' Compensation Division.

So the proposed solution by the Access to Justice Committee, they asked the Workers' Compensation to adopt a rule that would require certain

1 documents sent to injured workers which are in English be accompanied by a
2 separate notice in multiple languages, Spanish, Russian, Vietnamese, and Chinese,
3 advising workers of the importance of the document and where to turn for
4 assistance. Our vision is that this notice would be included with any document that
5 contains a deadline and affects a substantial legal right, including but not necessarily
6 related to claims denial, acceptances, closure notices, and orders from the WCB and
7 WCD. Again the Access to Justice Committee said it is our belief that the proposed
8 rule concept will provide greater access to justice to injured workers in the State of
9 Oregon and facilitate speedy, fair, and impartial resolution of disputes, so some
10 options for this committee to consider, and there may be additional options that
11 we've not included here, but require by rule that all notices that include a deadline or
12 affect a right to a benefit include a multi-language help page, content is to be
13 determined and that'll be a different issue where we actually talk about the content,
14 require by rule that a multi-language help page be provided to workers at certain key
15 points in the life of the claim, such as acceptance, denial, closure, and reopening, or
16 require by rule that a multi-language help page be provided to workers once at or
17 before acceptance or denial of a claim or of course other possible timeframes could
18 apply.

19 There's some information, kind of background information on our best
20 estimate of fiscal impacts, in some cases it's not really quantifiable by us and
21 insurance companies in particular would probably have a better understanding of
22 what the cost would be. The actual printing cost we don't think are going to be that
23 high system-wide, it's just a piece of paper. It's more a matter of the handling of that
24 paper, and there's also the possibility that for some mailing, you know, items,
25 packets, it would push it beyond one ounce if it was close and that would be a

1 significant cost increase for the carrier, but I welcome your input on any of that fiscal
2 impact, so I'll just open it up now for discussion in terms of, I guess, kind of the--this
3 is the larger concept of whether there should be such a multi-language page that
4 would be--would accompany important notices to the worker.

5 08:04: Well--

6 08:04: The issue is where do you stop with the different languages?

7 08:09: Well, that's actually going to be, I think, issue number two,
8 we're actually going to talk about which languages to include, so--

9 08:15: Oh--

10 08:15: --yeah, that's something we definitely need to consider, I think
11 the original recommendation from the Access to Justice Committee was for those
12 four languages, but I attended a Workers' Compensation Board meeting last Friday
13 and I think there was probably more discussion that it would be maybe, you know,
14 10 languages, if there's room on the page, in other words, why just not provide a
15 little more information, I guess, but that's--we will talk about that with agenda item
16 number two, for sure.

17 08:48: So I will speak. Since the concept originated from my
18 committee, what was contemplated from, you know, the options listed on page two
19 of agenda, I think what was originally contemplated was option number two, which is
20 for a multi-language help page to be, you know, an insert and to be affixed to certain
21 documents that have a--that are time-sensitive and have an appeal deadline, so
22 acceptance was nothing that we contemplated; really it was more, you know, in line
23 with claim denial, you know, where there's an appeal deadline, claim closure, where
24 there's an appeal deadline, also Order on Reconsideration and a, you know, any
25 Director's order, that's what really we as a committee contemplated, we didn't mean

1 to be all-inclusive. That's one thing we're very, very cautionary about, so, yeah,
2 certainly, you know, we never intended for all notice to accompany, you know, this
3 help page, but just very limited number of, you know, documents that have an
4 appeal deadline, so, you know, so the notice would help call attention to the
5 importance of document, so...

6 10:03: Thank you, Bin.

7 10:04: Uh-huh.

8 10:08: (unintelligible) over here.

9 10:08: Oh, okay.

10 10:12: Questions we had was would this notice be sent out--we'd be
11 giving notices to absolutely all workers or would you try to say these are the workers
12 that identify that they have a preference other than English and sent to them, our
13 preference would be, well, rather just all workers so we don't even have to make that
14 call.

15 10:35: Yeah.

16 10:36: Yeah, that came up last week at the board meeting and that's
17 the conclusion they reached as well.

18 10:40: And include English as well in the language (unintelligible)--

19 10:43: Right.

20 10:44: Okay. Because making a simple statement, that's something
21 folks may not be (unintelligible)

22 10:54: Yeah, the first paragraph in most of these notices that we've
23 seen is in English and Jennifer makes a good point that we can't assume that all
24 English-speaking workers are going to understand the information they receive, so
25 there may be real value in their reaching out to the ombudsman's office as well to

1 get some help. But thanks, Dan, for that, is--and that we didn't have that on as a
2 separate agenda item, so if anyone else has any thoughts on that as well, we can--
3 we can definitely accumulate that advice now on whether it ought to be, you know, a
4 notice that goes to all workers for a given type of notice or whether the carriers
5 should have the option of saying, well, no, no, we know that Fred speaks fluent
6 English, even though my last name may not indicate that I do, that kind of thing, so
7 we're not going to send it to him. Does anybody want to go that way? No--

8 11:52: Not here--

9 11:53: It's more of (unintelligible) issue (unintelligible)--

10 11:54: Yeah, I mean, how would we even segregate it in our system--

11 11:56: Yeah--

12 11:57: Okay--

13 11:57: For the MCO, we don't have, I mean, it's even more
14 complicated for us to track some of that, so my cons--we'd probably end up
15 defaulting to everybody anyways.

16 12:07: Yeah. Okay--

17 12:08: Well, I think because even if we had a way to do it, that the
18 actual any programming that you would have to do in your system, keeping track of
19 it is actually more expensive than the paper associated (unintelligible)--

20 12:20: Yeah (unintelligible) benefit kind of thing--

21 12:22: Okay. Thanks, well, thank you very much--

22 12:23: (unintelligible) in English as well on a (unintelligible) maybe last
23 year it's kind of like a plain-language summary and of course (unintelligible) with the
24 Justice Committee was there any discussion about sort of like reading level and so if
25 you had a help page, what language or what level it's written at so that the target

1 language as well as English, it's understandable by the majority of folks receiving it.

2 12:49: That's my concern at Duckwell, we have six different dialects of
3 Spanish and I don't speak Spanish, so I don't go anywhere in the plant without
4 someone, and I know who I need--if I have to go talk to Jorge Reese, I'm going to
5 take my assistant because they're from the same area and he speaks that dialect, so
6 I don't know if the other languages that we're talking about have such a diverse
7 dialect as Spanish, but, you know, our folks, you know, when I wrote our employee
8 handbook, I sent it out for a Spanish translation and got it back and nobody knew
9 what it was.

10 13:31: We ran into that (unintelligible)--

11 13:33: Yeah, so--

12 13:33: --formal translations--

13 (Crosstalk not transcribed.)

14 13:36: --don't understand it.

15 13:38: Because (unintelligible) to try to guess what's going to be the
16 broadest range, most likely these are going to be the type of readers and there is
17 even now we have to do some of that guessing; not guessing; estimation.

18 13:53: I would say if it is Spanish, there's really something that the
19 majority that uses it, whoever does, they might be able to get some of it, enough to
20 kind of say this is a number that I need to call.

21 14:09: And that's where like in my office with the my folks that do
22 speak Spanish, I used to have three, I only have two right now, but they all three
23 have different languages that they use, but between the three of them they can
24 figure out stuff, but sometimes if they've got a Spanish-speaking person on the
25 phone that's a different dialect, we had to use the language link for those as well, but

1 they know enough Spanish to know that they're not understanding what they're
2 saying, you know what I mean, and so really picking through all those dialects, but if
3 we could have some simple language that will hit the majority of them to know, hey,
4 this is important, don't throw it away, this might impact my benefits.

5 14:49: Right, keep it simple, I think that's the key.

6 14:51: Yeah.

7 14:51: The first point--

8 14:55: I can't remember the name of the organization, I wished I'd
9 looked it up, but I think that on average most things should be written at something
10 like a second- or third-grade reading level to capture the largest audience possible.

11 15:06: Right.

12 15:09: What is WCB standard, what is WCB (unintelligible)

13 15:15: I don't know.

14 15:17: Do you know (unintelligible)

15 (Crosstalk not transcribed.)

16 15:27: Thanks very much for this, it's not something that we had
17 actually considered very much, but we'll try to keep it as simple as possible.

18 15:33: Right, well, you have samples from, for example, the
19 Employment Department, who already have what they call Babel notice, so, you
20 know, I have one that you can go in here and we can pass it around, but, you know,
21 they keep it pretty simple as, you know, full audience, so, of text, so...

22 15:48: And then each language is provided in there (unintelligible)

23 15:51: Yeah, there--they--there's a bunch of them on there, I'm not
24 sure we need to go that far.

25 15:57: So Kaiser, my mom has Kaiser coverage and when they get--

1 when she gets a notification, she gets a separate page that has about 15, 20
2 languages that have, I don't know what it says actually, and it's just (unintelligible)
3 phone number.

4 16:16: That's pretty common to get it with health insurance
5 information--

6 16:18: Yeah.

7 16:18: --I've noticed.

8 16:21: They need to be in compliance (unintelligible) regulations.

9 16:24: And I don't want to speak for you, Jesus, you're with the
10 Mexican--or the Consulate of Mexico, I think. I know we have some advice from the
11 consulate and it's actually here on the table, it's also posted to our website, and the
12 advice, as I understood it, was that the multi-language help page be included with
13 everything that goes to the worker, with the point made that everything is important
14 for the worker to understand, and so there was starting to be kind of a general
15 consensus around the table here that it would be for key, certain key documents that
16 are sent out during the life of the claim, but I didn't want to kind of, you know, go past
17 that, since we do have some advice that would say, you know, no, send it with
18 everything, so I just want to throw that out there to see, you know, what you all think
19 as opposed to, you know, certain key points, so...

20 17:21: Yeah, we said in the email we sent you about the issue number
21 one, we understand that these will mean like a greater cost and sometimes the
22 benefit may be one (unintelligible) we--that you might want, but in Spanish, in the
23 Spanish language, we know that there are a lot more people that speak Spanish,
24 right, and sometimes you might think they don't; they do. And this case, I mean, you
25 can--you can think what you can do in the Spanish case, but when it comes to minor

1 people like maybe if they're here or for something like that, I think that has to be
2 handled different because of the necessities of the population, but, yeah, I agree that
3 the most important thing is like saying in the document that this is important, don't
4 throw it away, in the most important documents in the life of the claim, I think we
5 agree on that.

6 18:25: Okay. Thank you very much. Any additional thoughts on issue
7 number one before we move along? I don't think that--I definitely am not hearing
8 anyone who says don't, you know, don't require a notice. I guess the Board asked
9 this question, so I'll ask it as well. Is this something that you think we do need to
10 require by administrative rule? And I think that question more or less came up at the
11 Board meeting whether there could just be a practice, you know, and--so...

12 19:01: I would just add that from claimants Bar and one of the key
13 policy reasons for having this rule is to reduce number of good-cause litigations.
14 Oftentimes you have a claimant will miss the 60-day appeal deadline on a denial,
15 they go to hearing arguing, you know, really there was a good reason for not
16 appealing the denial on time. It's less of an issue for the Department, but still, you
17 know, I think both sides of the Bar kind of agree this is a good rule to have, so...

18 19:30: Well, and I think, Fred, my recollection is that the discussion
19 with the Board was the question of whether to have a rule or not was more
20 associated with the translation of documents--

21 19:42: Yeah, I think right, you're right, you're right--

22 19:43: I don't think there was any agreement that there may be
23 (unintelligible)--

24 19:46: That's because of the--that's because of the court case and--

25 19:48: Yeah, right.

1 19:48: --that a lot of people are just complying with that--
2 19:50: Right.
3 19:50: --now, okay, yeah, okay, my mistake. Yeah, if something is
4 going to happen system-wide, it probably won't happen without a rule is what I--
5 20:02: And that (unintelligible) consistency just like the what happens
6 if I'm hurt on the job and, I mean, everybody knows we sent them out whole, but we
7 have that little rule to make sure that everybody knows that it needs to go out--
8 20:12: Right.
9 20:13: --but on issue one, I'm not sure that we had a--did we have a
10 full conversation I missed it about at what point the notice needs to go?
11 (Crosstalk not transcribed.)
12 20:28: That's a good point--
13 20:29: Because so many documents get generated--
14 20:31: Yeah.
15 20:31: --that affect the benefit or impact the claim, so the frequency
16 with which it needs to go out is an important part of it, too, so that workers aren't
17 (unintelligible) receiving it with every single (unintelligible)--
18 20:45: Right, and you start (unintelligible)--
19 20:46: Right.
20 20:47: --impact--
21 20:47: Yeah--
22 20:48: --another just a small point, thank goodness, a small point, but
23 also addressing that when communication is going to a widow beneficiary in a
24 fatality situation, that having that type of notice could be extremely helpful.
25 21:08: And let me ask the question, would one category of documents

1 be anything that had appeal rights?

2 21:17: I would think anything with appeal rights should be included.

3 21:20: I'd agree.

4 21:23: Yes.

5 21:26: Well, and be mindful, speak selfishly for a minute, of

6 programming because our systems are so automated because certain point in a life

7 of a claim and stuff just goes out, so, I mean, I--in some ways it would almost be

8 easier, Dan, help me, tell me to shut up, if it went out with everything, but I don't

9 know that that's the answer, and the other question that I have then is whether there

10 should be something that goes from the Department to workers at certain points in

11 the claim as opposed from an insurer or self-in--

12 22:13: Well, I would think that--

13 22:14: Director's order will be one of them, right--

14 22:15: Yeah.

15 22:15: Anything from the MRT--

16 22:18: Right.

17 22:18: --ARU--

18 22:20: Anything that has (unintelligible) appeal right--

19 22:22: Right, right.

20 22:22: Yeah.

21 22:23: Because the Department issues closed claim--

22 22:24: Right.

23 22:25: --appeal rights--

24 22:25: Right.

25 22:28: How about anything with a deadline? In other words, there are

1 also warning letters that go out, and if the worker does not take heed, they could
2 lose benefit, and I don't know that warning letters always include appeal rights.

3 22:43: Well, I think this goes to what Jennifer talked about at the WCB
4 meeting is, you know, I think, I think this goes to the content of the notice, which is I
5 think one thing we talk about is do we really want to remind the worker to seek
6 assistance of counsel if it's just a warning letter, you know, so--so I'm not sure if
7 warning letter doesn't have, you know, an appeal deadline, I'm not sure we need it,
8 so...

9 23:07: But a warning letter could impact their benefits--

10 23:10: Right.

11 23:10: --and just, since this is recorded, not that a worker shouldn't
12 seek counsel; it's just that not to say--because one of the suggestions was, too, that
13 the worker needs to promptly seek legal advice, and my concern with that is the fear
14 factor, I mean, I don't know, have you ever gotten those things in the mail where it's
15 like, oh, there's this class suit thingy, blah blah blah blah, and you go that's just too
16 much of a hassle? I don't want it to scare people away from understanding what it is
17 that they actually received if they didn't, you know, if they don't really understand it,
18 but I'm concerned about it going out too often because then it's just like with our
19 EOBs that we get--

20 23:59: Yeah.

21 24:00: --(unintelligible) just toss it--

22 24:00: Absolutely.

23 24:03: And the other thing I was going to share today was that if our
24 rules require maybe a limited amount of the communication, that doesn't prevent an
25 insurer from saying, you know what? I'm going to send this out with this one, I'm

1 going to send this out--
2 24:16: Right.
3 24:17: --with this one, and then we could look at it and see if we need
4 something more (unintelligible)
5 24:23: Right.
6 24:23: Maybe track those good cause--
7 24:24: Yeah, yeah.
8 24:25: --appeals--
9 24:25: Right.
10 24:26: --maybe as a way to see if it--we're solving the problem.
11 24:29: Yeah, because there are letters we send with good cause
12 requirements that don't have appeal rights, and, you know, good cause is going to
13 be argued if they can't read it.
14 24:36: Right. Well, but IME appointment notice, I mean, you have the
15 right to object to location and timing of the IME, I mean, do (unintelligible)--
16 24:43: That's a really short timeframe--
17 24:44: Yes.
18 24:45: Six business days, right?
19 24:46: Seven.
20 24:46: Seven--
21 24:47: Yeah.
22 24:47: Yeah.
23 24:48: Oh, I don't know, I might be wrong, Bin.
24 24:51: So I guess appeal rights in the broadest sense, so if you want
25 to object to something, you have a limited amount of time to actually object, that

1 would--that would fall into that category in the broadest sense of maybe appeal. And
2 I heard consensus around that one, that anything that had like an appeal timeframe,
3 yeah, that would--that would be one that should include this notice, and maybe not
4 quite consensus on warning letters, but any other thoughts on warning notices? I'm
5 thinking of in the case of vocational assistance, someone's not attending training as
6 often as they should, and they get a warning letter from their counselor perhaps.

7 25:33: I guess I'm with Larry on what is a warning letter and we send
8 out call-your-adjuster letters because we're not hearing from the worker and there is
9 a veiled threat in there that it could lead to a request for suspension and a request
10 for suspension could result in claim denial and on and on and on and on, and at
11 what point does it become (unintelligible) and isn't it (unintelligible) notices is that
12 you don't act on this notice (unintelligible) away, if you don't act on this denial, any
13 chance of getting a benefit is going away if you don't act on this, benefits are going
14 away, and that's where I would want a notice on it.

15 26:22: Any other categories of notices that maybe we haven't talked
16 about?

17 26:27: How do you define that (unintelligible)

18 26:32: Talk to (unintelligible) not to jump head ,but that's where I think
19 if it's in the rule it needs a bulletin and the bullet needs to say, but--

20 26:37: Yeah.

21 26:38: --(unintelligible) it says, that way us as insurers have a laundry
22 list we can go to and go if we're going to be in compliance here, the notice is first
23 going through all of the various chapters of rule and saying what's in 120, what's in
24 60, what's in 30, we should have one stop shopping on that.

25 26:57: That's one of our agenda items actually, whether there ought to

1 be a bulletin, and it does seem like going to be a really convenient thing for people to
2 have, one place to look, in addition to a rule of course. Okay. Any additional
3 thoughts before we move on to agenda item number two? That was really good.
4 And thank you for stopping me before I moved on because it would have been too
5 soon.

6 So now we're up to what languages should a multi-language help page
7 include? And I put a little data here from the US Census Bureau. It is for Oregon, it
8 may not be representative of injured workers, I checked with our IT folks and we
9 don't have data or reliable data on the language, the primary language of workers
10 who are injured on the job. It's just not something that we collect on our forms.
11 They used to have a language preference indicator on the 801, but again I don't
12 even know how often it was filled out and whether it was reliable data. So I won't
13 read through all of this, you can see the list of the most-spoken languages, and it's
14 going to include the ones that Dan, that the Access to Justice Committee sent to us
15 at least, and so I guess it would be a matter of kind of where we draw the line,
16 whether we just include as many on a page, possibly even front and back, I don't
17 know, a lot of them--a lot of them are, as there is room for just to cover all the bases,
18 or if you want to make it a little more limited and, you know, more white space on the
19 page, whatever it would be just to maybe make it stand out a little more, I appreciate
20 your input on that and your directions.

21 29:00: I think if you--

22 29:01: Well, on that I have some data I'm going to pass around. We
23 have from the Workers' Comp Board the most frequent language requests by the
24 Board for WCB hearings from January 2014 through July 2016, I'll pass that around.
25 Then we have also data from Kathryn Olney from SAIF, this census data for what

1 languages are spoken most often in every county in the State of Oregon, so I'll pass
2 that around.

3 29:34: If you happen to have those like digitally, I mean, just like your
4 originals or whatever, if you could send me it electronically that would be great--

5 29:40: I will, I will when we're done, so, thank you.

6 29:43: And because I did have a copy that you passed around at the
7 Board, but I don't know that scanning would really do justice to that pie chart.

8 29:49: Yeah.

9 29:50: And what were the lines that you see (unintelligible) languages
10 (unintelligible) Access to Justice--

11 29:54: It's--yes.

12 29:56: Fred's got it.

13 29:58: Yeah, it--

14 29:59: It's Spanish, Russian, Vietnamese, and Chinese.

15 30:08: Again looking at SAIF, when we looked at--in our claims, Dan
16 did and from May of 2017 to April 30th, so the last basically year, and it's
17 overwhelmingly in English obviously, but then Spanish is much--I mean, that sits
18 right there, Russian, Vietnamese, and then we have a group of (unintelligible) people
19 who haven't filled out the haven't information for us, but that was only (unintelligible)
20 didn't respond, so those are (unintelligible) those languages.

21 30:51: Yeah, and actually Vietnamese were (unintelligible)--

22 30:53: Yeah, there was a (unintelligible) definitely small percentage.

23 30:57: (unintelligible) the same.

24 31:02: So we learn from the Employment Department that they have
25 all vital documents translated to Spanish, Russian, and Vietnamese, so Chinese is

1 not necessarily one, but--

2 31:09: They translate the actual document?

3 31:11: Right, right, right, but again, you know, you see there actually
4 the help language notice, that's a very comprehensive list.

5 31:18: Yeah.

6 31:19: So, yeah, yeah.

7 31:22: So would there any--does anyone see the value in limiting the
8 number of languages if there's room, I guess, would be a question. Would we--

9 31:33: (unintelligible) language--

10 31:34: Yeah, I do think one page would be the limit, yeah.

11 31:38: (unintelligible) page (unintelligible)

12 31:44: Agreed.

13 31:45: Okay. So you don't want to do front and back, right? Maybe--

14 31:48: No.

15 31:49: --the back page is going to get ignored?

16 31:51: Yeah.

17 31:51: Okay.

18 31:56: Well, and for us, you know, we translate all documents into
19 Spanish if the worker asks, says that that's their preference for communication, so
20 that, I mean, we've already taken care of a lot of it, but recognize not everybody
21 does that, but then on the--when you say one page, also the font size needs to be
22 legible--

23 32:33: Right.

24 32:33: --shouldn't have to get out a magnifying glass.

25 (Crosstalk not transcribed.)

1 32:27: So it's not like the 801 notices?

2 32:30: Yeah.

3 32:31: Well, and I think some level of white space, because when you
4 get that stuff that's the all crammed in, I think it starts to do that, uh, I don't know
5 what that is, so having that balance of it doesn't make you cringe, because otherwise
6 it's not going to add any value.

7 32:49: Okay. It's all good. So I think the consensus is one page in
8 descending order of languages spoken in a large-enough font, we obviously don't
9 want to do six or seven or probably not eight, definitely not eight, so--and if probably
10 some white space on the page, too, to separate them so that they stand out a little
11 bit rather than to really crowd them together. I think our goal would probably not
12 meet with fit as many on the page as possible if that actually diminishes the
13 likelihood that they're going to help anyone, so... Additional thoughts?

14 33:38: I think that it would matter for the person who doesn't speak if
15 you only translated for six languages, if you're not in one of those target groups,
16 you're getting, you're still receiving a notice and a plain language summary that don't
17 understand either, and so I know that you are going to be limited by size certainly,
18 but I know the PHP notice or trying to remember (unintelligible) receives it is it is
19 front and back, so it is busy, but I know that in Charity Care we've translated, we
20 have plain language summaries in 25 target languages that's not something that's
21 spelled out, it is available online.

22 34:17: And even though the one that the health plan uses at this point,
23 you know, it's a one-page front and, I think, three quarters of the back (unintelligible)
24 you know, still it's legible and there is white space, I mean, it's not like one after the
25 other (unintelligible)--

1 34:31: Right, right (unintelligible)--
2 34:33: --yeah, and it's (unintelligible) yeah, something like that, so it's
3 very (unintelligible)--
4 34:38: Just thinking about it from the committee on justice perspective
5 if you're making it accessible to non-English speakers, how many languages is
6 equitable?
7 34:57: I mean (unintelligible) on four, but, you know...
8 35:00: You're not opposed to more.
9 35:01: Right, I'm not opposed to more.
10 35:03: Okay.
11 35:04: Well, and some of that can be balanced by if you keep the
12 notice more simple and more brief and succinct, you open it up to having more
13 space to say it more times, and I think simply letting them know that there's an
14 option that this is important and here's where you go, you don't have to go into more
15 details and finding, I think that's the way to balance it between those two.
16 35:29: I agree with (unintelligible) and employers can (unintelligible)
17 even though we are going to be sending a notice (unintelligible) languages, why not
18 use both sides like (unintelligible) all the--all the insurance companies are doing?
19 And for what I know is last year in WCB, if we had--they had 31 languages being in
20 (unintelligible) meeting in the professional services, so there is the need for the
21 language, and if I proceed (unintelligible) it not being an English speaker and I speak
22 whatever language that it is, I will ignore the other ones that I don't know, that I'll just
23 go and find my language and see what they have sent me, that's from my
24 perspective of not being an English speaker, so, and my mother doesn't speak any
25 English, and when she gets these notices, she (unintelligible) say can you read this

1 what they are saying? So if we just, I think with non-English speakers, that helps a
2 lot and if you're going to be sending one page with just five languages, why not have
3 the other pay--the other languages on the same page?

4 37:14: Well, if your language on the back of the notice, are you going
5 to flip it over and look for it? You know, I don't know if I would.

6 37:22: And we're not saying limit it to five--

7 37:23: Right, we're saying, we're trying to, yeah, fill the page, there,
8 yeah, I have no problem with that.

9 37:28: And I think it's, you know, and maybe I'm (unintelligible), but we
10 send so much, I wish, I wish there was a workers attorney here because we, I mean,
11 we send so much information out and I continually hear from workers attorneys that
12 their clients come in with bags of stuff that they have not opened, so, you know,
13 because we send, I mean, we're required to send volumes, way more than some
14 insurers are, and so you just worry that, I mean, your point's well (unintelligible), I
15 mean, about the number; I just think certainly wouldn't want to see it go onto multiple
16 pages--

17 38:05: Not multiple pages at all, just (unintelligible) more than five, the
18 five languages that we're talking about, I'm saying that why not use some more
19 languages so (unintelligible), that's just my point.

20 38:26: I think there's, you know, there's valid arguments for either kind
21 of approach and so we don't have to come to consensus in everything. I think we're
22 just going to need to figure it out, I think it's actually--I think it's actually a good segue
23 into our next issue where we're going to be talking about the content of the notice
24 because the simpler it is, the more translations we could do comfortably in a large
25 font in something that would stand out for the worker, so issue number three is all

1 about content, what information should the multi-language help page include? So
2 limited English proficiency may currently be a barrier to understanding and obtaining
3 Workers' Compensation benefits. A multi-language help page may serve to reduce
4 that barrier by providing a source of help and the ombudsman for injured workers
5 has offered to be the source of help listed. In the appendix we have included some
6 draft notices as well as some samples from other government agencies. Obviously
7 those other government agency notices are not on point as to the actual content of
8 what we would have necessarily. Additional important elements of the notice include
9 statements about the importance of the enclosed document and that it may include a
10 deadline, so if we could look together at the appendix, there's a couple of samples, A
11 and B are actually pertinent to Workers' Comp, and then it moves on to some other
12 government agencies, the kind of notices that they have. And, you know, it may be
13 that even in A and B there is more information than there needs to be, I notice a lot
14 of the ones from the health insurers in particular are very brief, although the one
15 from the Employment Department, they have some real substance in their notice, so
16 there's some good arguments for providing some richness of information there, too.
17 And I don't know if you've had a chance to look at these or develop kind of your
18 favorites, but that's what we're here to talk about, so let us know about content in
19 terms of what you think maybe what should be put in and maybe what should be left
20 out.

21 40:42: I think there should be some, if we're going to do this and the
22 point is to avoid things, good cause and that sort of thing, there should be something
23 commenting on there's a deadline here that may impact your benefits, and that
24 would probably be slightly informed on exactly what we settle on for what triggers
25 these being sent out, but again knowing that they get inundated with information,

1 calling it out that this is--there's a deadline, to prompt them to reach out for
2 assistance sooner rather than later--

3 41:12: Okay.

4 41:13: But something shorter, I have concerns, Jennifer already
5 mentioned it previously, about suggesting seeking legal advice; that implies that
6 there's more to it than simply not being able to read the notice and adds some
7 additional layers that I think would actually cloud rather than assist in providing
8 clarity.

9 41:33: Well, and actually (unintelligible) thinking on that is that
10 because the issue did come from the Access to Justice and that concern about
11 workers having access to legal representation, I didn't--I don't want to take away
12 from where the Access to Justice Committee was really bringing the issue forward,
13 because I can--I can see where that concern really is tied to workers knowing that
14 they can have access to legal representation. What's morphed into what we all deal
15 with every day is workers ain't going to understand what they receive in the mail,
16 okay, so I don't know that I'm saying that so well or articulating it very well, but there
17 are times where, yeah, they, I mean, if they call our office and they have a denial
18 and they want to go and appeal it, we're going to strongly recommend legal
19 representation. My other part in my head was like, well, if we say, hey, if you don't
20 understand this, contact an attorney, there may be some attorney firms that aren't
21 willing to go and get somebody that speaks Chinese to help the worker understand
22 what they received in the mail, so that--I don't--I'll leave it at that.

23 42:58: I think (unintelligible) would be the reference to the ombudsman
24 because we know that you will refer people to an attorney (unintelligible) they need
25 it, which we would certainly think is the right thing to do, but there are times where in

1 the life of a claim, what the worker really needs to do is to talk to his or her adjuster
2 and that will take care of it.

3 43:22: Agreed.

4 43:23: So I think our--I sort of like a combination of B and C, I like the,
5 you know, attention, if you don't speak English, language assistance services free of
6 charge are available to you, I like telling people that, so I think it's more than just
7 calling the ombudsman; like you can get help with language services.

8 43:47: I would just want it to be that we're not going to translate--

9 43:50: Oh, yeah.

10 43:50: I understand there's a difference between interpretive services
11 and translation services, my people aren't certified in either, we just provide
12 assistance to injured workers, and again I've said this umpteenth thousand times, I
13 am not trying to strum up business, but I do want workers to be able to understand
14 what their rights and responsibilities are also.

15 44:14: Look, claimants attorney again will call from workers saying,
16 hey, I have this IME notice and I can object to the location and the time of the IME
17 and I need your help with this, and I'll be kind of annoyed, so... I agree, so...

18 44:33: And this kind of raises an issue that's not on the agenda, but I
19 did hear it at the Board meeting last week, the question of whether a uniform notice
20 should be used across the entire system. The Board had this issue to weigh in
21 terms of Chapter 438 of their rules, we have it to weigh in terms of Chapter 436, and
22 there was--there was general consensus, I think, that it ought to be the same notice,
23 regardless, used across the system, but there was one mention that there could be
24 some difference in the nature of the type of information the worker receives, let's
25 say, from the--from the Board or from the Hearings Division when they receive their

1 order. At that point in the life of a claim, the worker may be, if they're unrepresented
2 at that point, they might be in need of legal counsel in terms of what they're
3 receiving, so there was that discussion, just kind of for full infor--everybody has the
4 same information. And I don't think that turned anybody around on the issue of
5 whether uniform or not, but it was mentioned, and so I will ask you about that in
6 terms of consistency. Do you see this notice, the content being the same,
7 regardless of the type of notice sent and no customization; in other words, just one
8 notice across the entire--

9 45:51: (unintelligible) better.

10 45:51: Yes.

11 46:00: Any additional thoughts? I've been writing some of this down
12 and of course we'll have the transcript made of this, of the recording of this meeting,
13 so...

14 46:10: Well, I think I have the same--

15 46:11: Well, I like--

16 46:13: Go ahead.

17 46:13: --one consistent form is helpful because workers, people,
18 employers talk to each other, and then if they're talking about a similar standard
19 form, that might just get the discussion started in the right direction of calling
20 ombudsman or calling your adjuster or calling your insurer versus going out and
21 trying to get legal representation off the get-go when it can be handled much quicker
22 and easier.

23 46:45: Okay. Thank you for that. Any additional thoughts on content
24 before we move along? Issue number four, should a multi-language help page be
25 provided in a specific format to make it stand out and may it be provided

1 electronically? Some background. Workers receive many documents related to
2 their claims and an additional page may be overlooked. Multi-language help pages
3 are often printed on colored paper. Other options, such as colored fonts, could
4 make the information more noticeable, though any option that cannot be generated
5 on white paper--on white paper from a one-color black-and-white printer could be
6 incompatible with notice-generating equipment and processes. The Workers'
7 Compensation Division is committed to removing barriers whenever feasible to
8 electronic forms of communication, the Division requests the committee advice on
9 how a help page could be provided electronically and how to describe a help page
10 requirement that does not inappropriately limit how the document is delivered, so
11 some alternatives for the committee to consider are whether to require the language
12 help be--page be printed in a specific color, whether to require the use of certain font
13 sizes and colored paper in generating the help page, specifying by rule that the help
14 page may be provided electronically, or ensure the wording of any rule or rules does
15 not preclude electronic (unintelligible) of the document. And of course there could
16 be other options to consider as well in terms of making it stand out in some way so
17 that it's not just one document among many and perhaps ignored--

18 48:29: So it is a separate document what we've been talking about, a
19 separate page--

20 48:32: Right.

21 48:32: --(unintelligible) notice on, so what would be different color
22 about it? It's a whole separate page.

23 48:40: Well, and I think that the conversation at the Board, Larry, was
24 that it would--by having it be a separate color, it would stand out in the pile of
25 papers, but--

1 48:49: But I tell you this, we cannot print colored paper from the
2 system that we have, so...

3 48:55: Well, and I think the more I thought about it and, Fred, thank
4 you so much to the Department for thinking about electronic communication
5 because I think that's, we all recognize that that is more and more useful and
6 actually requested and by our workers, regardless of their language, so I--you know,
7 I worry a little bit about requiring something to be in a specific format.

8 49:23: In a color?

9 49:25: Yeah, color, font.

10 49:28: Size is important--

11 49:29: Size.

12 49:29: --size is important.

13 49:31: I suppose font would be okay--

14 49:32: Yeah, because like six-point doesn't work.

15 49:34: But actually, you know, I guess it occurs to me as I'm sitting
16 here and maybe if you get a piece of--you get a piece of--either a piece of paper or
17 you see it electronically and it's a piece of paper that has multiple languages on it,
18 it's going to look different anyway, am I--

19 49:53: That's all (unintelligible) I'm just saying, you know, it's clear in
20 evidence that (unintelligible)--

21 49:58: Yeah, because it (unintelligible)--

22 50:01: It was printed in bold, the Kaiser notice was in bold, so
23 (unintelligible) yeah, it's in different language, too.

24 50:10: It's the color paper and color font is not compatible with the way
25 we print, and to require color printing or color paper will be a manual process and

1 will increase our costs considerably, so (unintelligible)--

2 50:25: And when our cost expense go up, so do our policyholders.

3 50:30: So maybe we just stick with white paper and a good-size font,

4 multiple languages on one sheet of paper.

5 50:35: But can't (unintelligible)

6 50:38: Yeah.

7 50:40: With white space, yeah.

8 50:42: Are there--are there any concerns? Please feel free to express

9 your concerns if you--because I know there were some backers of colored paper.

10 (Crosstalk not transcribed.)

11 50:51: Goldenrod was wonderful back in the day (unintelligible)--

12 50:53: (unintelligible)--

13 50:55: --used to do that, folks that are so old remember that--

14 50:57: I think (unintelligible) one claimants attorney actually pointed

15 out that color paper may not actually call attention, may not have, may have the

16 opposite effect, so (unintelligible) legal documents on one paper, that's the one you

17 keep, there's some in color, you actually just toss it away.

18 51:12: Yeah--

19 51:12: Ad--

20 51:13: So--

21 51:13: Ad--

22 51:14: Flyer--

23 51:14: Right, right--

24 51:14: Yes, so--

25 51:15: --right, so--

1 51:15: Yes--
2 51:15: Yeah--
3 51:15: Yes, I think--
4 51:16: Yeah--
5 51:16: --I think in your (unintelligible) just comes up that
6 (unintelligible)--
7 (Crosstalk not transcribed.)
8 51:24: Right, there's paper about renewal by energy, it's always--
9 (Crosstalk not transcribed.)
10 51:31: Well, and then you have to discuss which color.
11 51:33: That's true.
12 51:35: Goldenrod.
13 51:36: Okay.
14 51:37: And again, I mean, if we're going to rely on a rule, though, if
15 somebody chose to send it out in color, then could certainly do that.
16 51:43: Right, right, right, yeah.
17 51:45: If we just don't say anything about color, then people will be
18 able to--
19 51:48: (unintelligible) right--
20 51:48: --and we could specify a font, a minimum font size, however, it
21 seems like people were onboard with, you know, definitely not allowing, you know--
22 51:55: (unintelligible) medical that have sent (unintelligible) that
23 requirement (unintelligible)
24 52:02: We do, we do in our rules--
25 52:03: Yeah.

1 52:04: That's pretty small.

2 52:05: That is pretty small.

3 52:05: Yeah.

4 52:08: Any additional thoughts on--well, in terms of electronic notice, I
5 guess, I want to make sure that that's still an option, in fact the--in the discussions at
6 the Board meeting, I think they were looking to, they have their portal system for
7 filing hearing notices and they have a kind of a two-way, I think some kind of
8 interactive system, and I think they were looking to do some of the language notice
9 in, you know, just basically posting it to their--to their website so it would be
10 viewable, so--

11 52:42: On the Division site, too, right?

12 52:45: So if--we will need to be careful in drafting the rule not to refer
13 to a sheet of paper, I guess--

14 52:53: Yeah.

15 52:53: --or to limit it in that way.

16 52:57: So it's really, the really important thing is that notice is provided.

17 53:03: And whether that's a PDF or some other format that could--I
18 don't know that that would make any difference, so long as the worker has agreed to
19 communicate that way and actually wants to receive information by a secure email
20 or...

21 53:17: When you mentioned PDF, Fred, when I was talking to our IT
22 department, their preference would be to provide the form in a PDF format, they
23 pointed out that the characters in the Chinese language and some other languages
24 might not be compatible with some insurers who print, but--

25 53:38: So have the Department do a PDF?

1 53:39: But if the Department provides a PDF document, says this is
2 the official document and we receive that in PDF, then it makes our life a whole lot
3 easier in delivering that.

4 53:53: So it'd be like a form, a bulletin page, a form, a form bullet--

5 53:55: Yeah, I think we--that's a routine thing for us anyway is to
6 provide a PDF--

7 53:59: Simply providing an image of that, we're not doing anything to
8 it, we're not changing the color, the font size; it's simply an image.

9 54:10: Okay. Okay. Thank you for doing that research.

10 54:14: Yeah, and that way we're all doing the same thing, too.
11 Everybody gets, everybody has the same--

12 54:18: It's like the brochures (unintelligible)

13 54:25: Any last thoughts on issue number four? That was
14 (unintelligible), thank you very much. Number five. Other than electronic forms of
15 notice, who should be responsible to print a multi-language help page? Senders
16 would need to preprint supplies to include certain notices to workers, especially if the
17 help page must be printed on colored paper, and we've already gone past that, I
18 guess, so, or otherwise in a way to make it stand out. Producing these in-house
19 could require significant staff time and professional printing would be costly on a per-
20 unit basis unless large quantities were ordered. The Workers' Compensation
21 Division currently prints and provides publications such as "What happens if I'm hurt
22 on the job?" and Form 827, it's the first medical report, to insurers and healthcare
23 providers, respectively. The Division could print the help pages in large quantities at
24 a relatively low unit cost and provide to insurers upon request. This would be
25 optional because some senders may have the capacity to produce help pages in the

1 required format at the same time they produce related notices, so for your
2 consideration, the party issuing the notice would produce the language help page,
3 party issuing a notice would have the option to produce it or to ask for supplies from
4 the Workers' Compensation Division, or some other option. And again under the
5 fiscal impacts, we just think we could do it at a lower unit cost because someone
6 gave me some pricing, if you were to go down to Office Depot and have some
7 copies made versus when we send it to our State print plant, the difference was like,
8 you know, threefold different, it was just, it's just a fraction of what you would pay if
9 you were getting a small number done.

10 56:15: I think if we add on the second option, not just supplies, but the
11 PDF option, because really the PDF piece of not having to program that in and figure
12 out the translation and picking the right language and then getting the characters to
13 work would almost be more of a concern to me than the actual printing.

14 56:34: Right, and all those publications are available online now, so
15 the brochure, (unintelligible), all the forms.

16 56:40: You do your own 1502s--

17 56:41: (unintelligible) that's our (unintelligible)--

18 56:42: Right?

19 56:43: Yeah--

20 56:43: Huh?

21 56:43: You do your own 1502s and 3s, right?

22 56:45: Yeah, and we get those off the website, so they're preset and
23 all we have to do is load them in.

24 56:54: So I'm not hearing much of an interest in having the Division
25 print supplies and shipping them to you--

1 56:58: Well... So, but the brochures are available for those who don't
2 have the sophisticated system like we do that we scan it, put it in, and it prints it for
3 us, you know, so who else here--

4 57:10: You scan and print brochures?

5 57:13: Yes, (unintelligible) side by side and they're color and they go
6 onto the (unintelligible) packet, yes.

7 57:16: I'm impressed.

8 57:19: So they'll (unintelligible) so how many (unintelligible) people
9 stuff things into envelopes here? Close to half, but there's still something to
10 (unintelligible) I mean, again, you know, it's nice to be able to get those brochures
11 from the Division for those who do stuff, but the rest of us get it off the portal page
12 and then we reproduce it ourselves as PDFs--

13 57:42: And since you're here, you're a TPA, and we're an insurer, I
14 don't know what other insurers--

15 57:52: So (unintelligible) smaller folks (unintelligible) smaller
16 (unintelligible) processors--

17 57:55: --or other self-insureds might need to do--

18 57:59: Yeah.

19 58:00: --I don't think we should throw the idea out--

20 58:02: No--

21 58:02: No--

22 58:03: --it's something that we--

23 58:03: --(unintelligible) paper (unintelligible)--

24 58:05: --could rather cheaply do and just now it's in the bulletin that if
25 someone wants to get their supplies that way, they could; it sounds like the larger

1 carriers and service companies would want to generate their own--

2 58:17: Well, yeah, no, we don't want to generate, we want to get the
3 PDF file--

4 58:22: Right, I understand, yeah--

5 (Crosstalk not transcribed.)

6 58:23: --but that's just an image and that's I wouldn't say it's free, but it
7 comes as close to that as possible, so...

8 58:32: Don't make it a TIFF file.

9 58:34: I got it, PDF, okay?

10 58:40: They will definitely be available in PDF.

11 58:44: How about Word?

12 58:46: Okay. Any other--any other thoughts on this item? Issue
13 number six, which is actually our last issue, should a language help page
14 requirement be created by adopting one rule of general applicability for
15 OAR Chapter 436 or by amending each rule that has an affected notice? By way of
16 background, Division 1, 436-001, procedural rules, rulemaking hearings, and
17 attorney fees, includes rules of applicability that are applicable through Chapter 436,
18 such as attorney fees and the processing of refunds. However, Division 1 is
19 probably referenced infrequently by claims examiners. Depending upon the number
20 of notices that must be accompanied by a multi-language help page, adding the help
21 page requirement to each relevant rule could involve much duplication. Division
22 could issue a bulletin listing the occasions to send the multi-language help page and
23 providing the translated statements. The requirement would still have to be
24 established by rule, but the bulletin might be a more convenient vehicle for claims
25 examiners. So for your consideration, adopt, should we adopt one rule applicable to

1 Chapter 436 specifying the types of notices that must be accompanied by a multi--

2 10:0:03: A list--

3 1:00:03: --language help page--

4 1:00:04: --we'll take a list, a list--

5 1:00:05: A list?

6 1:00:06: Make a list.

7 1:00:07: The English text that must appear on a help page and that a
8 full translated language help page is available on the Division's website either as a
9 standalone document or as part of the bulletin. That would be one approach.

10 Amend existing rules for each of type of notice that must be accompanied by a
11 help--the help page. And then in addition to rulemaking published bulletin, as we've
12 described, with any requirements for the notice would some extent repeat the rule,
13 but it would be a convenient place presumably to go. And--

14 1:00:42: (unintelligible) presented an industry notice to (unintelligible)
15 all that communication helps.

16 1:00:51: Okay. Okay. So your thoughts in terms of--I guess this
17 fundamental question is should it be one rule change, one place, one time, or should
18 we amend every rule that would have an associated requirement to include the help
19 page?

20 1:01:10: One (unintelligible)--

21 1:01:11: (unintelligible) bulletin with everything, and then if we, you
22 know, frankly if it becomes a problem, you know, if we think you're overly broad or,
23 you know, have a problem with something, you know you'll hear from us and, I
24 mean, and then that would be an opportunity maybe to engage on additional
25 rulemaking if we think we need it, but (unintelligible)--

1 1:01:32: Since the rule would have to specify all the occasions when it
2 would have to included, then people could actually provide testimony on that--
3 1:01:39: Yes.
4 1:01:40: --and we would basically consider that testimonies.
5 1:01:43: You know, that's right, is this going to apply to MCOs as well
6 in the (unintelligible) worker would have a (unintelligible) thinking how broadly it
7 would apply (unintelligible) carriers (unintelligible)--
8 1:01:55: I would think so, if the MCO's sending a notice that gives the
9 appeal right, that's my--that's my opinion--
10 1:02:03: I think so.
11 1:02:05: Yeah, based on just even the basic conversation where it's
12 really looking more at deadline or we've been brought into potentially some types of
13 warning, any of that, as long as we have a clear definition, is going to guide the
14 MCO as well, I've got an appeal language or I have a deadline or whatever, and I
15 think it would be difficult for us to think that ours didn't count--
16 1:02:25: Do you think (unintelligible) yeah, we would have done
17 prepared to (unintelligible)
18 1:02:31: And vocational providers as well, I think they issue some
19 kinds of notices.
20 1:02:38: (unintelligible) provided to do that (unintelligible)--
21 1:02:40: I thought adjusters did it (unintelligible)--
22 1:02:42: Right, yeah, the insurer--
23 1:02:43: Oh, okay.
24 1:02:43: --does it (unintelligible)
25 1:02:45: Okay.

1 1:02:46: Well, that (unintelligible)--
2 1:02:47: The insurer does it, but.
3 1:02:48: Oh, okay.
4 1:02:49: Depends on--
5 1:02:50: They have their letterhead--
6 1:02:51: (unintelligible) doing it, so--
7 1:02:52: Oh, okay. Okay, that makes sense. If you're interested, I've
8 gone through Chapter 436, and the particular task that I was given was just to
9 identify every occasion when the insurance company has to send a notice to a
10 worker during the life of a claim, and a lot of these are one-off situations that would
11 never occur in most claims, but I found 135--
12 1:03:13: Oh, my God, wow--
13 1:03:14: --occasions when a worker might have to be notified or would
14 have to be notified if the situation required it, so you're welcome to pick one of those
15 up if you're interested or that could just be...
16 1:03:30: So would you like (unintelligible)--so (unintelligible) this
17 meeting, would you like--would you like our input on this (unintelligible) rule
18 (unintelligible)--
19 1:03:40: Oh, this was not, this was not a recommendation to; this was
20 just by way of background, yeah, this would definitely not be, this would not be the
21 list that we would give you based upon the direction that you provided earlier today.
22 1:03:55: And are we talk, I know we're talking about notices that go
23 specifically to workers, but WCD issues other types of things that may not go to a
24 worker (unintelligible) employer that would have an appeal right, are we talking
25 about these, that too, or are we focused on just the worker?

1 1:04:13: Workers, workers.

2 1:04:14: Well, based upon the Access to Justice Committee

3 recommendations, it was--it was focused on the worker, but...

4 1:04:22: That's true, no, that's the true, the notice would (unintelligible)

5 1:04:24: You're not going to get (unintelligible) noncomplying

6 employers (unintelligible)

7 1:04:31: Yeah (unintelligible) represent to defend themselves.

8 1:04:43: That would be it would be a different notice if there was a

9 (unintelligible)--

10 1:04:45: Would be a different notice--

11 1:04:46: Yes--

12 1:04:46: I was thinking that there are other non-English speakers out

13 that there we deal with.

14 1:04:50: That is true.

15 1:04:51: Notices with timeframes and appeal rights, yeah, so...

16 1:04:57: That is certainly something to keep in mind, but it's not

17 something that I had on our agenda, but...

18 1:05:02: Right, and that could be something that we take

19 (unintelligible)--

20 1:05:05: And like with those are generally generated out of the

21 department--

22 1:05:09: Yes.

23 1:05:10: --you could take the one as a template and change the

24 number. Use White-Out. White-Out (unintelligible)

25 1:05:24: Okay. Any additional thoughts on issue number six? It

1 seems like there was a general consensus that there would be one rule, one time,
2 and a bulletin. And I didn't hear anything that said (unintelligible) than that. Is there
3 anything else at all that you'd like to discuss about the multi-language help page,
4 things that we didn't consider? We tried to think of every possible question that
5 might come up, and then when I attended the Board meeting on Friday I heard a
6 couple that I had not thought of, which I think I have mentioned, but now would be
7 our last--well, not our last chance, but now would be our opportunity. If you think of
8 things after this meeting, you're welcome always to pick up the phone or send me an
9 email and we'll fully consider it, but anything else at all?

10 1:06:24: (unintelligible) think of such (unintelligible)--

11 (Crosstalk not transcribed.)

12 1:06:34: If not, then with that I want to thank you very much, you were
13 really a wonderful group and so helpful, I really appreciate it, and have a safe drive
14 or, if you live here in Portland, then, so, you have a safe drive, too, I guess--

15 (Crosstalk not transcribed.)

16 1:06:48: --or a safe walk.

17
18 (WHEREUPON, the proceedings were adjourned.)

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