

WORKERS' COMPENSATION
MEDICAL ADVISORY COMMITTEE

January 23, 2023
1:00 p.m. – 2:30 p.m.

MAC Committee Members Present: Ronald Bowman, MD; Brad Lorber, MD; Lon Holston (Worker Representative); Constantine Gean, MD (Insurer Representative); Ryan Weeks (Employer Representative); Jennifer Lawlor, MD (MCO representative)

DCBS Staff Present: Sara Kessler, Juerg Kunz, Cara Filsinger

MAC Committee Members Absent: Eric C. Hubbs, DC, FCBP, CCST, CIA; Tom Williams, P.T.; Julio Ordonez, MD

Agenda Item	Discussion
Welcome, Introductions (0:00:00)*	Dr. Bowman called the meeting to order at 1:00 p.m.
Administrative discussion (00:00:17)	Review and approve minutes for December 18, 2022 MAC Meeting Dr. Bowman motions to accept meeting minutes. The committee agrees and minutes are approved.
MLAC Request Letter (00:01:00)	Dr. Bowman confirms that the Management Labor Advisory Committee (MLAC) Request Letter is about open-ended time loss. He then asks Juerg Kunz to explain the responsibility of the Medical Advisory Committee and whether it includes, besides clinical issues, administrative issues. Juerg explains that the statute says that the Medical Advisory Committee advises the director on medical issues. It does not mention anything about administrative issues. An example is, if there is treatment that is excluded from compensability, the committee would review the literature and use their knowledge about the subject area to make a recommendation. [Inaudible content]
(00:03:00)	Dr. Bowman asks if this [open-ended time loss] is an administrative issue or medical issue. He states that this seems to be an administrative issue where they [MLAC] are wanting MAC to create a best practices model, which is not a medical issue. Dr. Bowman asks what is the nature of the feedback that MLAC wants from MAC on this issue.
(00:04:05)	Cara Filsinger responds and states that the MLAC subcommittee did not come to a consensus on the specific solution that they could recommend that was in the Workers' Compensation Law. However, they felt that there were some

providers that could benefit from guidance on best practices about authorizing time loss and seeing workers on a regular basis. They felt like it was within MAC's wheelhouse to offer some input. Cara then poses two questions; Does MAC think a best practices statement would be useful? If so, could they help outline advice for providers who do not know what to do?

(00:05:42)

Dr. Lorber responds that he feels the best practices statement for this topic is more administrative and is not in MAC's purview. It feels like it is more of an insurance or MCO type of issue to set the rules.

Dr. Bowman agrees. He states that he wasn't aware that open-ended time loss was a thing. He believes the issue should be between the person receiving the time loss benefits and the insurer. Anything that penalizes providers will drive them away from the system. Dr. Bowman believes that it's not too much to ask the injured worker to go in once a month or every six weeks as a requirement to get their compensation.

(00:08:26)

Lon Holston states that he sympathizes with SAIF, however, he feels there is not enough data to support that this is a problem. He believes SAIF could have the resources to put data together to show the scope of the issue. Lon suggests that if they do find this to be a big issue they could take it to the legislature and attempt to make a change in the law that would encompass the standardization they would like to see. Lon feels like writing something, even a guideline to practitioners could have adverse effects. Additionally, Lon questions that if MAC provided a best practice statement it could end up in a court of law over a dispute of a statute or clarification issues. In turn the committee could potentially find themselves testifying over the intent of the statement, which he finds problematic. Lon goes on to state that MAC is not a political entity. MAC studies other issues that are important to the director and he feels like there is a clear dividing line there. MAC is available to give advice on medical issues, but Lon does not feel like ordering practitioners on what their guidelines should be, falls within that scope.

(00:12:26)

While Dr. Bowman admits that he doesn't know the arena for insurance companies signing up employers for insurance, he wonders if there is some type of requirement that can be put into the contract language so that it's done on that end. Dr. Bowman agrees that if there is a physician responsibility in this it may not go under medical malpractice and the physician could be brought into court and have to pay their own attorney bills. Just the perception of that could drive the borderline providers out of the workers' compensation arena.

(00:14:06)

Dr. Gean adds that by authorizing and not authorizing to some degree we are giving our stamp of approval to certain things. Overall, he agrees with the views the committee has presented.

- (00:14:38) Dr. Lorber states that he thinks everyone is in agreement that a position statement it is not in MAC's purview.
- (00:15:07) Dr. Lawlor introduces herself. She adds that as someone who is newer to the committee she had the understanding that the committee is more clinical as opposed to policy. That being said she also had some of the same concerns.
- Dr. Bowman shares an example that MAC's primary responsibility is that someone can bring to them, from industry or wherever, a new treatment and they would determine if it is experimental, outdated, etc. They will then use their experience as physicians to make a judgement on that.
- (00:16:45) Dr. Bowman asks if we have an idea on how big this [open-ended time loss] problem is. Cara Filsinger replies that they don't and that's why the MLAC subcommittee is on hiatus for the time being. They have asked for more data about the scope of the problem. There were anecdotal examples given during MLAC but there wasn't sufficient data to identify the scope of the problem.
- (00:17:11) Dr. Bowman states that he imagines if the worker was given unending time loss and was incommunicado for a couple of years, they could legitimately claim full time loss benefit during that time. This is not right but it is a legal/legislative thing.
- (00:17:45) Lon Holsten makes a motion to table this. Dr. Lorber seconds. However, Dr. Bowman concludes that MAC is not in favor creating a guideline. Cara Filsinger states that she will convey this feedback to MLAC.

Platelet Rich Plasma (PRP) Injections
(00:19:50)

Dr. Lorber, Dr. Bowman, Dr. Gean, and Dr. Hubbs will be working on reviewing PRP articles. Juerg Kunz is still working on the meta analyses. Juerg Kunz added that the studies collected are from 2018 through August 2022.

(00:22:30)

Dr. Bowman asks if we have any feedback from what other states are doing. Juerg Kunz responds that they have a few and he will put them together and send them out. Dr. Gean states some states like Texas follow ODG (Official Disability Guidelines.)

Updates
(00:25:30)

Juerg Kunz expects the proposals and fee schedules will be published next week. Expect an email with the information.

Sara Kessler announces that we are still looking for replacement for Dr. Rischitelli. There are also a few members whose terms are expired, she is working with them to renew their terms. Juerg Kunz added that there are other vacancies that have been vacant for a while. He states that it would be great to get another occupational medicine doctor, but that we could also use more

family physicians. If anyone knows any family physicians, they should reach out. Juerg also thanked everyone on the board for their time and expertise.

Updates
(00:28:42)

Dr. Bowman adds that meetings has been changed to the afternoons in the same location.

(00:29:00)

Dr. Bowman adjourned the meeting.

*The audio files for the meeting minutes and public testimony (both written and audio) can be found here: <http://wcd.oregon.gov/medical/mac/Pages/mac-meetings.aspx>