



WORKERS' COMPENSATION
ADVISORY COUNCIL MEETING
October 24, 2019

Members Present:

Sheral Kellar
Shannon Dartez
Vincent Forte, MD
Philip Hunter
Marc Zimmermann, Ph.D.
Charles Davoli
Kevin Darr, MD
Julie Cherry [Late]
Shannon Lindsey [Late]
Larry Stokes, Ph.D. [Late]
Michael Morris [Late]
"Bray" Williams [Late]

Members Absent:

Maria Losavio
Edwin Murray
Alejandro Perkins
Mark Kruse, D.C.

MINUTES

- I. WELCOME** start at 9:35 am
- II. MINUTES**
 - a. September
 1. Passed until quorum
- III. RFP FOR MEDICAL FEE REIMBURSEMENT SCHEDULE**
 - a. Pauline Williams, OWCA
 - b. –Passed–
- IV. BARBER WRIT DENIED**
 - a. "Skip" Philips, esq.
 1. Trial court ruled some provisions unconstitutional
 2. Court of Appeal reversed trial court & upheld validity of Act
 3. Supreme Court denied review
 4. U.S. Supreme Court was appealed to on federal unconstitutionality
 - Filed on May 2019
 - State didn't respond
 - Declined application on Oct. 7th
 5. Court of Appeal ruling stands
 - State already addressed case evaluation & complaints

- b. **Chairman Sheral Kellar**- back to status quo; update on evaluations of judges
 - 1. **“Skip” Philips**- case management study which was originally misinterpret
 - 2. Judges handling cases was solved via rule
- c. **Chairman Sheral Kellar**- MTG was found to be constitutional
 - 1. **“Skip” Philips**- variances, deemed denial, medical director process, & procedures not covered by guidelines
- d. **Shannon Lindsey**- What about the meeting on revising that were going on in 2017?
 - 1. **Chairman Sheral Kellar**- will notify parties when 2715 meetings start again

II. *(Revisit)* MINUTES

- a. **Shannon Dartez**- motion
 - i. **Julie Cherry**- Second
 - ii. All in Favor

V. VOC REHAB TASKFORCE

- a. **Shannon Dartez, esq.**- handout of suggested language change to §1226
 - 1. Members are: Larry Stokes, Bob Gisclair, Julie Cherry, Todd Delcambre, & Shannon Dartez
 - 2. Discussed issues in February 2019
 - Rehab is meaningful, counselors do their job, statute allow with undue detriment to employee (EE) or employer (ER)
 - Narrowed to four areas
 - Voc Rehab has hearings put back
 - Remove hierarchy
 - Time & promptness
 - Choice
 - 3. After assessment, voc rehab should be one to make recommendation
 - 4. Discuss elevating education if required with duration of up to 52 weeks, additional may be granted by ER or by order of court.
 - 5. Added quality of services
- b. **Philip Hunter**- good work
- c. **Shannon Lindsey**- commend taskforce on level of balance; question regarding expedited hearing? Will amend 23:1314? Timeframe to set hearing following appropriate procedure?
 - 1. **Shannon Dartez**- allow hearing before cutting off benefits
 - 2. **Chairman Sheral Kellar**- sometimes “refusal” from EE is because they don’t have a ride
- d. **Chairman Sheral Kellar**- Did you look at EE having choice on counselor?
 - 1. **Shannon Dartez**- yes but then you have to look at having a list, who & how to get on the list, how does EE confirm they got licensed, etc. Instead we allowed a change if question of quality
- e. **Chairman Sheral Kellar**- Considered having a Voc Rehab assessment after certain period of time?

1. **Shannon Dartez**- was discussed but decided to leave at case-by-case basis since injured workers ended up in different stages of medical treatment after initial assessment
- f. **Chairman Sheral Kellar**- says list approved by office but office hasn't kept list in 15 years but district offices maintain their list.
 1. **Larry Stokes**- board examiners sends list to OWCA & then sent out to districts. It is also on their website
 2. **Shannon Dartez**- since limited to licensed counselors, we left it up to their licensing boards
 3. **Larry Stokes**- some only provide services in public sector and not private
- g. **Kevin Darr**- doesn't speak about physician's role?
 1. **Shannon Dartez**- wasn't typical of 1226 & wasn't discussed
 2. **Chairman Sheral Kellar**- circuits split on physician's role on signing off on suitable employment. "Banks" decision
- h. **Kevin Darr**- how does physician get process going?
 1. **Philip Hunter**- why not let doctor request it?
 2. **Larry Stokes**- nothing says doc can't
 3. **Philip Hunter**- let doc be interested party so it has teeth if it can go to hearing.
 4. **Shannon Lindsey**- physician should be included. Not quite agree with physician having right to expedite hearing.
- i. **Shannon Lindsey**- Q1: Assessment happens before EE released by doctor & labor market survey goes against MMI, what happens? Q2: Suspension happens when?
 1. **Shannon Dartez**- To Q1: can't fix every issue but have to rely on license counselor following code of ethics. To Q2: allow judicial interpretation back
 - **Shannon Lindsey**- allow cause to specifically state "no suspension take place" until...
- j. **Philip Hunter**- 1009 & 1010 allow physician say
- k. **Michael Morris**- states are horrific on getting EE back to work. Maybe offer form for doctor to give clear restrictions
 1. **Vice- Chairman Charles Davoli**- agree with specifications for release; however, sometimes ER don't want to make modifications to get worker back
 2. **Kevin Darr**- can counselor help ER create modifications?
 - **Shannon Dartez**- yes but ER may be resistant
 - **Chairman Sheral Kellar**- you have FCE & jobsite (work) evaluation
 3. **Philip Hunter**- Social Security has form for disability
 - **Chairman Sheral Kellar**- look at promulgating form

VI. CHRONIC PAIN GUIDELINES

- a. Public Hearing Date was requested
 1. 9:00am on October 30th at LWC- 4th floor A/O building

- b. Can send written comments until end of Oct. 30th
- c. **“Bray” Williams**- webcast?
 - 1. **Chairman Sheral Kellar**- no

VII. **TELEMEDICINE**

- a. Dr. Jarred Fabre, Chief Clinical Officer, Prime Occupational Medicine
- b. It is being used in many places like:
 - 1. Hospital systems
 - 2. Primary Care
 - 3. Psychiatric
- c. Workers’ compensation needs access to care
- d. Laws allow as long as certain criteria is met
 - 1. i.e. consent, appropriate scenarios
 - 2. Can just be audio as long as physician is comfortable that evaluation will be accurate
- e. Everyone is comfortable with some initial evaluation
- f. **Chairman Sheral Kellar**- currently used by Exxon & has equipment?
 - 1. **Jarred Fabre**- yes. Phone can be used or purchase software. We have certain equipment that uses a HIPPA compliant program
- g. **Philip Hunter**- how fits in choice of physician?
 - 1. **Jarred Fabre**- it allows to remain on site but EE still has to consent
- h. **Kevin Darr**- open; is it considered an office visit?
 - 1. **Jarred Fabre**- medical record same but different charge
- i. **Kevin Darr**- What about liability?
 - 1. **Jarred Fabre**- laws spell out what is appropriate
- j. **Chairman Sheral Kellar**- wouldn’t affect choice of physician since its same as if current procedure & EE still has to send form

III. *(Revisit)* **RFP FOR MEDICAL FEE REIMBURSEMENT SCHEDULE**

- a. Still at preliminary stages
 - i. Look at writing up a “statement of work”
 - ii. Will let stakeholders review

VIII. **OTHER BUSINESS**

- a. New division judge- Paula Murphy
 - 1. Lafayette
 - 2. Promoted from mediator
- b. Vacancy in Lafayette office for mediator
 - 1. **Shannon Dartez**- How long to apply?
 - **Chairman Sheral Kellar**- Hope to have filled by end of November; Caroline Minor will handle in interim

IX. **PUBLIC COMMENT**

- a. None

X. NEXT MEETING DATE

- a. January 23, 2020
- b. No further meeting this year but may be called regarding L.A.C. 40:2715

XI. ADJOURNMENT at 10:57am

- a. **Julie Cherry-** motioned
 - 1. **Michael Morris-** Second
 - 2. All in favor