

Approved: 1/26/94
Date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 24, 1994 in Room 123-S of the Capitol.

Members present: Senators Burke, Downey, Feleciano, Gooch, Hensley, Kerr, Petty, Ranson, Reynolds, Steffes and Vidricksen

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Jim Wilson, Revisor of Statutes
Bob Nugent, Revisor of Statutes
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee: George Gomez, Director, Division of Workers Compensation, Department of Human Resources
David Shufelt, Assistant Director, Division of Workers Compensation, Department of Human Resources
Kurt Carlson, Administrative Officer, Medical Review Section, Division of Workers Compensation, Department of Human Resources
Richard Thomas, Vocational Rehabilitation Manager, Division of Workers Compensation, Department of Human Resources

Others attending: See attached list

Consideration of appointments to Kansas Inc.

Senator Kerr moved and Senator Reynolds seconded to recommend Warren B. Schmidgall of Topeka to the Kansas Inc. Board of Directors for a term expiring June 30, 1997. The motion carried on a roll call vote.

Senator Gooch moved and Senator Ranson seconded to recommend Gregory A. Jones of Wichita to the Kansas Inc. Board of Directors for a term expiring June 30, 1997. The motion carried on a roll call vote.

Implementation report on the 1993 Workers Compensation bill

David Shufelt, Assistant Director, Division of Workers Compensation, Department of Human Resources, provided copies of the Medical Fee Schedule, dated July 1, 1993, to members of the Committee. The medical fee schedule has now been implemented. A delay in the implementation of the medical fee schedule was caused due to errors in the schedule which necessitated an additional public hearing. A copy of the Medical Fee Schedule is on file in the Legislative Research Department.

Mr. Shufelt testified a 90 day contract has been let with St. Francis Hospital of Wichita for utilization review, and the first case has been assigned for review. Peer review is also part of the contract. The Division has advertised for a long range contract.

Kurt Carlson, Administrative Officer, Medical Review Section, explained the maximum allowances on the Medical Fee Schedule were arrived at by the department collecting as much data as they could on procedures and treatments, maximum allowances by Blue Cross-Blue Shield, state self insurance fund data and medicare allowances. The average fee charged was determined and used in the medical fee schedule. The fee listed in the medical fee schedule is the maximum that will be paid. The state self insurance fund estimated they saved 12% on their medical bills by contracting with a company to review their medical fee schedule.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on January 24, 1994.

Mr. Shufelt distributed important information for injured workers in English and also in Spanish, see attachment 1, which emphasizes the 800 number for the Ombudsman Section. Injured workers are encouraged to contact the Claims Advisory Section. There are currently five ombudsman on staff and they are advertising for one more ombudsman. Some of the additional thirteen positions to be filled will be benefit review positions and some will be ombudsman positions. The additional ombudsmen and benefits review positions will be stationed in regional offices.

Richard Thomas, Vocational Rehabilitation Manager, Division of Workers Compensation, Department of Human Resources, said 2,500 to 3,000 calls a month are received regarding workers compensation. The ombudsman they are currently employing will be bilingual. The ombudsman is used in dispute resolution.

A committee member suggested a subcommittee might study the ombudsman and benefit review process.

George Gomez, Director, Division of Workers Compensation, Department of Human Resources, informed the Committee legislation is not requested at the present time. He preferred to wait and see if what they have now is going to work. The Chairman requested the Director to call a meeting of the Advisory Council created by the 1993 Legislature as soon as possible so that recommendations for changes in the law could be forwarded to the Legislature while it is in session.

Senator Ranson moved and Senator Steffes seconded to adopt the minutes of January 21, 1994. The motion carried on a voice vote.

The Chairman adjourned the meeting at 9:00 am.

The next meeting is scheduled for January 25, 1994.

GUEST LIST

COMMITTEE: SENATE COMMERCE COMMITTEE

DATE: 1/24/94

[illegible]

ATTENTION

IMPORTANT INFORMATION FOR INJURED EMPLOYEES

CLAIMS ADVISORY/OMBUDSMAN

DIVISION OF WORKERS COMPENSATION
800 SW JACKSON STREET STE 600
TOPEKA KS 66612-1227

TOLL FREE 1-800-332-0353

If you were hurt on the job and have any questions about Workers Compensation benefits contact the **Claims Advisory Section** at the Kansas Division of Workers Compensation. The Division of Workers Compensation has full-time personnel who specialize in aiding injured workers with claim information and problems. They can give information about benefits an injured worker is entitled to receive. They can help try to solve problems with benefits not being paid on time, with medical treatment, with unpaid medical bills, with questions about how to figure settlement amounts, etc. Spanish interpreters are available at the Division of Workers Compensation.

WHAT TO DO IF AN ACCIDENT OCCURS ON THE JOB:

1. Tell your employer that you were hurt on the job.
2. Follow your employer's instructions on getting medical aid and follow the doctor's instructions.
3. Within 200 days of the date of accident or the date of last payment of compensation for disability or authorized medical care, tell your employer **in writing** that you expect workers compensation benefits for your injury. Your employer might know you were hurt and compensation may be paid, however, you could lose all rights to future compensation if you do not tell the employer **in writing**. This is called a "**Written Claim**." Written claim may be served in person by taking it to the employer and getting a receipt for it or by mailing it to the employer by certified mail, return receipt requested. The post office receipt for the certified letter is generally sufficient proof that you sent written claim.

AVERAGE WEEKLY WAGE: A worker's "average weekly wage" is calculated by adding together the **base wage**, the **average weekly overtime** and the **weekly value of fringe benefits** that have been discontinued.

WEEKLY BENEFITS: Benefits are paid by the employer's insurance carrier or self-insurance program. Injured workers are not entitled to compensation for the first week they are

off work unless they lose three consecutive weeks. The first compensation payment is normally due at the end of the 14th day of lost time. An injured employee is entitled to a weekly amount of 66 2/3 percent of his average weekly wage up to a maximum of 75 percent of the state's average weekly wage. These benefits are subject to legislative changes. If the injury results in permanent disability, the Kansas compensation law provides for additional benefits.

MEDICAL BENEFITS: An injured worker is entitled to all medical services reasonably necessary to cure and relieve the worker from the effects of the injury. The employer has the right to select the doctor who will treat the injury. A worker may seek the services of an unauthorized doctor up to a limit of \$500. A worker may apply to the Workers Compensation Director to change the authorized treating doctor. Reimbursement for travel to obtain medical treatment is payable at a rate set by law for trips that are five miles or more.

RESPONSIBILITIES OF THE EMPLOYER:

1. Employers must report all employee injuries to the Division of Workers Compensation within 28 days from the date of injury, or the date the employer learned about the injury.
2. Employers must provide for the payment of workers compensation claims without any charge to employees.
3. Employers must post written notice of workers compensation insurance coverage in both Spanish and English.
4. Employers must pay compensation benefits regardless of insurance coverage.
5. Upon receiving notice of an injury, employers must provide the employee with written information to assist the injured worker in obtaining compensation.

EMPLOYERS MUST COMPLETE THE FOLLOWING INFORMATION FOR INJURED WORKERS:

YOUR CLAIM WILL BE HANDLED BY:

Company _____

Address _____

Contact Person _____

Telephone () _____

A T E N C I Ó N

INFORMACIÓN IMPORTANTE PARA TRABAJADORES LASTIMADOS EN EL TRABAJO

Llame a los: Consultivos de Reclamacion/Ombudsman

Llamada Gratis 1-800-332-0353

O Escriba A:
DIVISION OF WORKERS COMPENSATION
800 SW JACKSON STREET, SUITE 600
TOPEKA, KS 66612-1227

Si Ud. se ha lastimado a causa de su trabajo, y tiene algunas preguntas con respecto a los beneficios de la Compensación de Trabajadores, comuníquese con la SECCION DE CONSULTIVOS DE RECLAMACION/"OMBUDSMAN" del Departamento de Compensación Para Trabajadores de Kansas. Este departamento mantiene a su disposición algun personal que especializa en dar asistencia con los problemas de reclamación y en dar información sobre los reclamos, a los trabajadores lastimados a causa del trabajo. Este personal le puede informar sobre los beneficios que un trabajador lastimado tiene derecho a recibir. Tambien pueden asistirle en resolver los problemas con respecto a los beneficios que no se le estan pagando a tiempo, al tratamiento medico, a las cuentas de los doctores que aun no se han pagado, y tambien con preguntas respecto a la cantidad del arreglo de resolución llamado "settlement". Interpretes en Español están a su disposición en el Departamento de Compensación de Trabajadores.

QUE DEBE HACER SI LE SUCEDE UN ACCIDENTE A CAUSA DEL TRABAJO?

1. Avisele inmediatamente al patrón, o a su empleador, que Ud. se ha lastimado a causa de su trabajo. (DENTRO DE 10 DIAS DEL ACCIDENTE).
2. Siga las instrucciones del patrón, o el empleador, con respecto al tratamiento medico, y siga las instrucciones del doctor medico.
3. Dentro de 200 dias del accidente, o del ultimo dia en que le pagaron compensación por estar incapacitado, o en que recibio tratamiento medico autorizado, avisele al patrón o al empleador POR ESCRITO que Ud. espera recibir los beneficios de compensación de trabajadores, por su accidente. Aunque su patrón ya se haya informado del accidente, y ya le este pagando los beneficios, Ud. puede perder el derecho de recibir compensación en el futuro, si no le avisa al patrón o al empleador POR ESCRITO.

PROMEDIO DEL SUELDO SEMANAL: Para calcular un promedio del sueldo semanal "average weekly wage" del trabajador, se suman todos los siguientes: el sueldo basico, mas un promedio de las horas extras (overtime) que se trabajan por semana, mas el valor semanal de cualquier beneficio adicional que haya sido descontinuado.

BENEFICIOS SEMANALES: Los Beneficios se los paga la compañía o el grupo de Aseguración del Empleador, o el programa propio de Aseguración del Empleador. Los trabajadores que se han lastimado a causa del trabajo, no tienen derecho a recibir compensación por la primera semana en que estan sin trabajar a causa del accidente industrial, **A MENOS QUE** esten sin trabajar por orden del doctor. Un trabajador lastimado a causa del trabajo tiene derecho cada semana a una cantidad

equivalente al 66 2/3% por ciento del promedio de su sueldo semanal, hasta llegar a un maximo equivalente al 75% por ciento del promedio de sueldos semanales designado por el Estado de Kansas. Estos beneficios estan expuestos a cualquier cambio que ordene la legislatura del estado. Si el accidente resulta en una incapacidad de modo permanente, la ley de compensación en Kansas le da derecho a otros beneficios adicionales.

BENEFICIOS MEDICOS: Un trabajador lastimado a causa del trabajo tiene derecho a todo servicio medico razonable y necesario para curar y aliviar al trabajador de los efectos del accidente. El patrón, o el empleador, tiene derecho a escoger el doctor autorizado para darle tratamiento medico al trabajador. Aun asi, el trabajador tiene derecho de escoger los servicios de otro doctor que no sea autorizado hasta llegar al limite maximo de \$500.00 dolores. Un trabajador puede pedirle al Director del Departamento de Compensación de Trabajadores que le cambie el doctor autorizado. Tambien tiene derecho de pedir recompensación de la cantidad de gastos de viajes necasarios que haya hecho de mas de cinco (5) millas, para obtener tratamiento medico de un accidente industrial. El porcentaje que se puede recompensar se establece por ley.

RESPONSABILIDADES DEL EMPLEADOR (EL PATRÓN):

1. El empleador debe reportar cada accidente industrial de los trabajadores al Departamento de Compensación de Trabajadores, dentro de 28 dias de la fecha del accidente, o de la fecha en que el empleador se haya dado cuenta del accidente.
2. El empleador debe suministrar el pago de las reclamaciones sin cobrarle a los trabajadores que hacen los reclamos de beneficios.
3. El empleador debe exhibir **AVISOS POR ESCRITO** en Ingles y en Español, avisandoles a los trabajadores del Aseguración de Compensación de Trabajadores que tiene el empleador.
4. El empleador debe pagar los beneficios de compensación aunque no tenga aseguración.
5. En cuanto reciba aviso de un accidente, el empleador o patrón debe proporcionarle al trabajador información escrita, dandole asistencia al trabajador en la reclamación de los beneficios.

LOS EMPLEADORES (EL PATRÓN) DEBEN COMPLETAR LA SIGUIENTE INFORMACIÓN PARA CADA TRABAJADOR LASTIMADO A CAUSA DEL TRABAJO:

ESTA PERSONA NOMBRADA SE ENCARGARA DE SU RECLAMO:

La Compañía Es: _____

El Domicilio Es: _____

Pongase En Contacto Con Esta Persona: _____

Llame a Este Telefono: _____ () _____