

## **Notes from Workers' Compensation Administration (WCA) RTW Town Hall**

**11/14/2019 1:30PM-3:30PM at WCA Albuquerque office**

Speaker/moderator – Jessica Sanchez – WCA Return-to-Work (RTW) Coordinator

Panel was introduced –

Michael Hamsing – representing Insurers

Dr. Ritchie – an orthopedic surgeon representing Health Care Providers (HCPs)

Christopher Elmore – attorney representing Employers

Veronica Dorato – attorney representing Workers

Loretta Lopez – WCA Director

In attendance in the audience was a representation of attorneys, employers, HCPs, insurers, WCA staff members from different bureaus and other interested parties.

Speaker acknowledged the meeting will be on Facebook Live.

Speaker went through the handouts –

1. Early RTW Initiative flier
2. Providers report of physical ability (PROPA form)
3. Feedback form to be turned in after the RTW Town Hall

Slides showed the workers' compensation structure in New Mexico. There is currently no program connecting WCA Workforce Solutions and Department of Vocational Rehabilitation.

The Speaker reviewed three models that are successful in other states –

1. Oregon
  - Employer reimbursements like the Employer-at-Injury Program in Oregon: <https://wcd.oregon.gov/rtw/Pages/eaip.aspx>
  - Voluntary Employer of Injury RTW program
    - Special government fund pays for wages, adaptive equipment, other costs of RTW
2. Washington
  - COHE: Centers of Occupational Health and Education
    - Health Care Provider supports like the Center of Occupational Health & Education (COHE) model in Washington <https://lni.wa.gov/patient-care/health-care-incentive-programs/centers-of-occupational-health-education-cohe>
    - Washington has a state funded system, premiums pay for the program

- Certain aspects may be difficult to administer in a privately funded system like NM
3. Idaho: Field Consultant program
- Worker advocate model like the Field Consultant program in Idaho: <https://iic.idaho.gov/rehabilitation-services/information-for-injured-workers/>

Speaker explained how vocational rehabilitation services were taken out of the workers' compensation statute in 1992.

General questions from speaker to the panel and audience members –

1. How do we bring it all together?
2. How do we track RTW?

Speaker opened the discussion by the panel and audience using questions on feedback form –

1. Speaker asked, by a show of hands, "Would you like to see expanded RTW Services at the WCA?"  
About half of the audience raised their hands
2. Speaker first asked panel and then the audience, "In your experience, can you give examples of RTW successes that could be expanded upon by the WCA as a statewide program or process"

The responses included:

- a. It's considered a setback that employers don't know how to handle the situation
- b. Communication between parties is the key
- c. Adjusters can provide education – explain the benefits to have an employee RTW
- d. The employee not being involved and engaged in the process causes issues
- e. Workers have better outcomes with quick and efficient delivery of medical care that is accepted and approved
- f. Ask the doctors what works best for them. HCPs see more paperwork and have less time. More staff is needed
- g. Discussion was had on whether a Church's "fix" should be looked at (referring to Church's Fried Chicken No. 1040 v. Hanson, a NM Court of Appeals decision).
- h. HCP explained how the adoption of the ODG guidelines was meant to be used to help but feels it isn't being used properly, used to limit care instead
- i. Audience members asked if the WCA could adapt a central digital depository for medical records. This is the reason for so many delays are not getting everyone the past history and notes of cases

- j. HCP said communication and getting data is important for providers because if there are no records provided re previous treatment, they must start in the dark and may duplicate tests which may then get denied
- k. Audience member commented WCA RTW Services could mirror the same accommodation requirements as those under the American Disabilities Act (ADA)

3. Speaker asked panel and the audience re NM adapting idea of employer reimbursement –

The responses included:

- a. There are aspects of the Act that already encourage RTW such as usage of TPD
- b. Risk assessment needs to be done
- c. What about the budget??
- d. Small vs large employers is an issue – should it be for everyone?
- e. Ask employers what incentives would work for them?
- f. What about long term vs short term? How long for reimbursement?
- g. Maybe a discount on fees or premiums would be better
- h. Adjusters usually explain the effect of RTW on lowering claim costs but smaller employers who are not subject to the experience rating are less likely to RTW as medium/larger employers. Speaker commented that injured worker (IW) of small employers in some ways are penalized by the current system.
- i. Representatives from NCCI in the audience commented on premium pricing and safer employers in general gets lower premiums under current rating process

4. Speaker asked panel and the audience re NM adapting idea of HCP supports like those of the COHE

The responses included:

- a. Too many rural areas in NM so would be hard to do
- b. HCP brought up the idea of a state Medical Director/practicing physician overseeing medical care such as what Colorado currently has
- c. A panel of medical directors might be an option
- d. Discussion was had on the IME process and how too many are being asked for. Other states adjudicate sooner with IME's and it works. Some feel this is too expensive even now and not always by the appropriate provider specialist doing the IME's. Could open up to providers not qualified. Can we make IME's binding as it was before so they are not being done over and over again
- e. Discussion was had on allowing more 3<sup>rd</sup> party peer reviews that are done more in other states. HCP brought up this being an onerous process for HCPs and you have situations like OBGYNs reviewing orthopedic surgeons

5. Speaker asked panel and the audience re NM adapting idea of Field Consultant model like that in Idaho

The responses included:

- a. Nurse Case Management was brought up as helpful to moving cases along and perhaps should be utilized more
  - b. If it is a truly neutral process, then it could be very helpful
  - c. Some concern too many people involved, seems like adding more parties in the mix
  - d. Some felt that streamlining the process would help
  - e. Someone asked if the WCA could offer an option – but how do we fund that?
  - f. Make it optional not mandatory
  - g. Coordinate with all agencies in NM to assist to retrain, as resources to the IW.
  - h. There are gaps in services in NM
  - i. What about having social workers help the IW before and after they reach MMI?
  - j. Who would fund this?
  - k. This is yet another person in the mix of worker, employer, adjuster, NCM, attorneys, health care providers
6. Speaker asked panel and the audience re making RTW form, Providers Report of Physical Ability - should it be mandatory?

The responses included:

- a. HCP said he has found that physicians are uncomfortable asking some of the questions. These should be questions physicians should be asking.
  - b. No need for forms when these already exist in EMR's ( electronic medical records)
  - c. Over detailed – burden of extra paperwork on HCPs
  - d. It would be helpful if everyone had a system like WorkLink such as what NM Ortho has – maybe helping other HCPs set up a version of WorkLink would be helpful
  - e. Feels like this is equivalent to an FCE
  - f. We already ask these questions on the Form Letter to HCP which is currently charged with an Evaluation & Management code of about \$160 per the current fee schedule. HCP said that form letter needs revision. The speaker stated the idea is that this Providers Report of Physical Ability perhaps replace the Form Letter to HCP down the road as the Form Letter is filled out later in the claim at the time of mediation and doesn't give RTW info right away to employers to accommodate.
7. Speaker asked panel and the audience what suggestions they had for funding

The responses included:

- a. Many voiced concern that WC money going to Dept. of Workforce Solutions (DWS) when it should stay with the WCA to help fund some of these pilots
- b. Maybe we can make DWS work for the funds we provide them by asking for their assistance with IWs.

8. Speaker asked panel and the audience what they saw as next steps for the WCA after this Town Hall meeting.

The responses included:

- a. Form work group(s) and continue the discussions
- b. Reconstitute the Business and Labor Coalition
- c. Gather all the feedback and present the scope of needs and wants to the Advisory Counsel
- d. Representative from Advisory Council said they were interested in this program

Final remarks were given by WCA Director Loretta Lopez who expressed the WCA will likely cherry-pick items we can work with, and we have to start somewhere. The panel and audience were thanked and RTW Town Hall was concluded.