**MONTANA SELF INSURERS’ ASSOCIATION**

**January 20, 2022 Board Meeting Minutes**

**11:00a Mountain**

**Zoom Meeting ID:** **892 4079 8445   
Passcode: 267559**

Members Present: A. Komac (Chair) MMIA, J. Haun (Vice Chair) Rosauers, M. Marsh(Sec’y/Treas) Midland Claims, D. Haeder Northwestern Energy, D. Walcheck Logan Health, P. Strauss (Exec Dir) ex-officio and non-voting.

1. **Approval of 12/16/2021 Board Meeting Minutes**

**Komac moved and Haeder seconded a motion to approve the 12/16/2021 Board Meeting Minutes as presented. Motion passed unanimously with no abstentions.**

1. **Director’s Report**:

**Financials**

Attached to the meeting invitation were the December 2021 monthly statements from First Interstate Bank, the DA Davidson Savings and Investment accounts and the most current fiscal year to date Financial Transactions spreadsheet, which is more up to date.

First Interstate Balance                               = $42,371.17

DA Davidson Bond Fund Balance        = $9,731.05

DA Davidson Investment Acct                   = $25,621.972

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In addition, we have the Valley Bank 12-month CD deposit of $10,240.

Strauss reported on the Association expenses incurred in December included only the website maintenance charge and the Google domain name charge for $55. We received the refund of the $100 NCSI virtual annual meeting fee and it was deposited back into the account.

Anticipated January expenses will include the domain name and web site maintenance fees our annual NCSI membership dues, calculated at $6 per employer member and the MT Society of Association Executives membership at $155. Strauss has have registered for the WCRI Annual Meeting in March 2022 at no cost, based on his relationship with the organization and he has booked the hotel room. We will have air travel, and associated expenses to cover for that meeting.

Strauss reported on his email conversation with Dawn Wrigg of Rudd & Co, accountants. Wrigg recommended filing an amended tax return reflecting the change from for profit to not-for-profit status granted by the IRS effective 2/4/2021.

The Board discussed our accounting needs and relationship with JCCS our current accounting firm.

**Marsh moved and Komac seconded a motion to retain Dawn Wrigg of Rudd & Co to be the accountant and accounting firm for MSIA. The motion passed unanimously with no abstentions.**

Strauss will follow up with Wrigg to make sure our filings are correct and current.

**Membership**

Strauss reported no change in our membership rolls this month. However he anticipates at least two Associate members, one new (MSQ) and one existing (Health-e-Systems) to provide membership dues in January. Strauss also reported he is in contact with Paradigm as another potential Associate member for January as well.

1. **Web Site**

The Web Site has been updated with the most recent MSIA Update.

1. **Workers Compensation Council of Montana**

The private group replacement for LMAC met for the second time on Tuesday, January 18. Strauss reported they went through the most recent information on the AMA Guides updates – Bill Wheeler of ERD reported that Dr. Cook-Shimanek reported to a group of Montana WC stakeholders that other states have the same concerns we have expressed. Wheeler also shared that he had the same kind of conversations at the IAIABC (state workers’ compensation regulators). The only other comment he shared was that a vendor at the IAIABC confirmed that subscription services were going to become the norm, versus hard-copy updates of information.

The WCCM determined they did not particularly have a position on the IC rules proposed by DOLI and therefore would not be taking a position. Similarly, with an explanation of the work the HB 495 Task Force is conducting, there is not much concern about potential impacts on workers’ compensation. Jean Branscum, Executive Director of the MT Medical Association shared that the focus of the task force is to bring the state agency forms into compliance with current law regarding references to PA’s and ARPN’s versus expanding their scope of practice. The biggest issues are with DPHHS forms and federal requirements for medicare and social security which still specifically require a physician signature, versus state law which more often permits a physician, PA or ARPN to sign off. ERD staff provided a briefing on the benefit structure in Montana in comparison with other states. The WCCM met by Zoom rather than in person as there were a number of people with last minute conflicts requiring them to stay home, testing positive or reporting recent contact with someone who has tested positive. As a result, our conversation was a bit more stilted than anticipated. Our next meeting, which will be in the later spring, will likely start discussions about the possibility of changing benefit levels. The business side will not consider those proposals without at least some level of quid-pro-quo. Strauss reported the business side will be discussing what we may want to see in terms of changes in exchange for different benefit level considerations.

The Board discussion was in response to the idea that the labor side, based on WCCM discussions, is expected to request increases in benefits. While there is nothing inherently wrong in the request, the Board felt strongly that such a discussion could not happen in a vacuum. There had to be an equal consideration of a quid-pro-quo in exchange for consideration of benefit increases, whether benefit changes are based on direct numbers (increases in SAWW percentage or the number of weeks of eligibility) or in the benefit structure, for example changing the SAWW to a spendable wage system, or some other process. The Board recommended MSIA lead an effort to have the business side create a “wish” list or identification of other items that could be considered in a quid-pro-quo effort for changes in benefits.

Along those lines, the Board discussed different ideas regarding potential changes to the Montana WC system. While the material ERD provided from WCRI indicated MT temporary benefits terminate at the end of the disability. However, the definition of the end of disability in Montana is more complex than in many other states. The *Coles* (now MCA 39-71-609) criteria for terminating temporary benefits requires a declaration of Maximum Medical Improvement (MMI), the approval of either release to work at the time of injury job or alternative job analyses (Alt JA’s) and then a 14 day notification can be provided to terminate the temporary benefits. Most other states, in Strauss’s experience terminate temporary benefits at MMI – without having to identifying potential jobs the injured worker could do AND having them approved by the treating physician. The Board also discussed how more efficient claims operations could potentially streamline the process. Even so, the Board agreed there were opportunities for delay in the process that may not be there in other state systems.

Along the same lines, the Board discussed the mandatory nature of vocational rehabilitation in the Montana system. Strauss identified the 2007 WCRI Montana Administrative Inventory identified that about 30% of indemnity claims in Montana had voc rehab payments, while the national average was about 3%. Further, Montana claim durations are longer than the national averages. Somehow, the Montana system has more voc rehab payments and longer claim durations. The Board discussed the current need for the Alt JA’s or treating physician approval of the time of injury job as part of the process, as well as claims that have voc rehab plans or benefits paid which do not result in the injured worker going to work in a different field or position.

The Board discussed that the Montana system provides impairment and disability benefits on indemnity claims with a wage loss. Since the enactment of HB 334, disability benefits have not been paid on injuries resulting in a Class 1 impairment, regardless of wage loss, which was a good start. Most other systems provide one of the two benefits, not both. As a result, the Montana system, paying both benefits, is a more expensive system, because it is paying both benefits. Changing to a system that provides only one of the benefits, instead of both could reduce costs in the system.

The Board also briefly discussed the complex calculation process in Montana of deriving the injured workers’ average weekly wage. Other state systems do not go through the gyrations of including housing in as complex a manner as MT does, nor are sides of beef required to be calculated. Some of this is based on the Montana culture. Again, the MT system is more complicated, and therefore more expensive, than other states.

The Board requested Strauss to follow up with a business caucus side meeting to determine potential quid-pro-quo positions regarding the MT system. For that matter, they might become business positions to which labor would have to respond, versus in response to proposals from labor. Strauss was requested to include hands-on claims management personnel in the business side caucus meeting.

1. **Old Business / New Business**

**Tax Filing** See above discussion regarding retaining Dawn Wrigg of Rudd & Co and requesting her to file a 990 tax form for the period 2/4 – 6/30 on behalf of the Association.

MSA Marsh brought up that the new Centers for Medicare and Medicaid Services (CMS) has issued a new User’s Guide for filing Medicare Set Aside agreements (MSA). Under the new advice, User Guide 3.5, according to Marsh, CMS is threatening to potentially stop payment on body part treatments unless the workers’ compensation benefit provider can prove that CMS approved the settlement of the WC claim. To this point, there was an assumption there were some settlements that did not require CMS approval, total costs under $25,000, or if the injured person was not considered to be medicare eligible. This change could be significant for future claim costs – including those claims already settled.

The Board then discussed the potential of creating an educational opportunity for members. Komac identified that Amber Worman of MMIA staff is recognized nationally as an expert on MSAs. Strauss identified the webinar, first identified by Marsh and hosted by Heather Sanderson was very good. Marsh also recommended Melissa zwilling with Carr, Allison as an excellent presenter on this topic. The Board requested Strauss create a webinar, for at least MSIA members on this, featuring at least Worman, as a member representative who has national standing. The Board discussed the later March or April time-frame as being best.

1. **Adjourn**

The next meeting is scheduled for February 17 at 11:00a Mountain.