**MONTANA SELF INSURERS’ ASSOCIATION**

**February 17 Board Meeting Minutes**

**1:30p Mountain**

**Zoom Meeting ID: 872 2623 7241**

**Passcode: 964003**

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

1. **Approval of 1/20/2022 Board Meeting Minutes**

**Marsh moved and Komac seconded a motion to approve the 1/20/2022 Board Meeting Minutes as presented. Motion passed unanimously with no abstentions.**

1. **Director’s Report**:

**Financials**

Attached to the meeting invitation were the January 2022 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                               = $39,816.17

DA Davidson Bond Fund Balance        = $9,654.94

DA Davidson Investment Acct                   = $24,664.86

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

Strauss reported the Association expenses incurred in January included the usual website maintenance charge and the Google domain name charge for $55, the MT Society of Association Executives annual membership of $155 and a stamp for a total of $210.58. We also paid our NCSI dues of $114 by check and mailed it in – that transaction is in the Financial Transactions Spreadsheet.

Anticipated February expenses will include the domain name and web site maintenance fees, the $50 registration for the BBER Economic Outlook Seminar and parking and coffee with a potential member for $7. Strauss has registered for the WCRI Annual Meeting in March 2022 at no cost, based on his relationship with the organization and has booked the hotel room and air travel but those charges have not come through yet. We will have associated expenses to cover for that meeting including driving to Bozeman, where the flight cost was about half the cost of flights in and out of Helena.

Strauss repoted we still do not have a definitive answer as to whether we have to file an amended tax return for 2/4 – 6/30 (the period the IRS awarded our tax exempt status last year). Strauss has traded some emails with Dawn Wrigg of Rudd & Co. and hopes to have an answer soon.

**Membership**

Health-e-Systems has paid their January based annual dues and USI has joined and paid as a new Associate member also with a January annual start date. MSQ promises to join in July. Paradigm informed Strauss they are processing the application for membership. Strauss intends to focus a bit more on employer members during this second half of our fiscal year.

We have set the week of March 21 as the target date for the first MSIA webinar, on the MSP issues. Amber Worman, from MMIA and Ciara Koba of Allan Koba Compliance Solutions will be our guest presenters. Koba is a recognized speaker and a leader in the National MSP Network. More information on her can be found at the firm’s website, [**www.allankoba.com**](http://www.allankoba.com)**.** As we discussed at the last meeting, Worman is an emerging national leader in this area and can provide a specific Montana application to the issues. Worman and Koba did a podcast for the first NMSPN podcast in their Set Aside Some Time series, [Set Aside Some Time: An MSPN Podcast (transistor.fm)](https://mspnetwork.transistor.fm/). Worman and Koba have agreed to abide by the Strauss rule of free speech (that is, we are not paying them).

The Board discussed that this first webinar will be for our email distribution list only which primarily includes members and MT WC regulators. Strauss shared it is his expectation, particularly for this first webinar to use his Zoom account as the platform for the webinar. We secure the presentation package from the speakers and make it available, after the webinar. Strauss will pursue getting CE credit for the webinar from the Department of Labor.

Strauss anticipates creating a regular MSIA series of webinars on topical issues and interesting speakers for which members can join in for free and non-members would pay a nominal fee.

Strauss reported that he is meeting with Worman and Koba the following day and will nail down the details of the webinar, getting CE credits and the date and time of the webinar.

1. **Web Site**

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

1. **Workers Compensation Council of Montana**

As the Business Chair of the WCCM, Strauss called for a meeting of the business coalition for the day prior to our Board meeting, Wednesday 2/16. The Caucus discussed potential items business would like to see addressed within the workers’ compensation system. The expectation is that labor will request we discuss benefit levels. We have already discussed the benefit structure – that is the basis for benefits – without discussing the levels of benefits. We have concluded that the Montana benefit structure fits nicely within the other states in the country.

Of course, the issue is not the benefit structure, but the level of benefits. With lower than average wages and fewer people to absorb the cost of benefits within the overall workers’ compensation system, our benefit levels are lower than average, and our costs are higher than average. As well, the Montana system, somehow generates more claims and provides higher benefits actually paid per claim than the national averages (based on NCCI information).

***If*** we are willing to discuss changing either benefit levels of the benefit structure, business should be prepared for what we would like to see in return. I have proposed we look at four issues:

Subrogation – we agreed that this would stay on our list of items, but would not be a high priority given the constitutional language on the issue. Changing the law to try to find a way to get to subrogation could anger the Court, which has consistently interpreted the WC aspect of subrogation to be unconstitutional until the injured worker has been made whole.

Eliminate Mandatory Voc Rehab – most states either never adopted mandatory voc rehab or eliminated it during the 90’s reform efforts. The 2007 WCRI Administrative inventory identified MT has voc rehab payments on about 30% of our indemnity claims, while the national average is at about 3%. MT also has among the longest claim durations in the country. What are we buying with this benefit?

Eliminate Disability benefits – the research Strauss has completed based on WCRI material is that with the 2011 enactment of disability benefits limited to Class 2 impairments and above, greater than a $2 per hour lost wage, we have largely addressed this issue.

Replace the *Coles* criteria with declaration of MMI – *Coles*, it seems to me, provides another friction point in the system. We’re likely to have the same arguments over declaration of MMI and the transition to the next phase of benefits, but with the elimination of *Coles*, we may be able to have them sooner and with fewer issues to disagree on. The business caucus suggested a hard stop at 104 weeks to see if that would address the issue more efficiently. At the least, it would provide a set date to argue over the next stage of benefits, instead of waiting for MMI, then JA approvals, etc.

The business caucus wanted to review potential changes to the concurrent employment law particularly in light of the recent Barnhart decision at the WCC level.

The business caucus also wanted to review the potential of changing the definition of wages – particularly as it includes housing benefits. The current law interpretation provides for a housing allowance that should be limited to the agricultural applications and should be limited to permanent type housing as opposed to the cost of a hotel room for workers who will move on or move back home after the specific job is finished.

We will need to determine the value of making these three changes in the workers’ compensation system. However, if we are going to discuss changing the benefit structure or changing benefit levels, we should look to other issues that make a difference in our system. Making these changes should also have an impact on our frequency issue. As the actuarial studies have demonstrated, increasing benefits has an impact on frequency – so does decreasing benefits levels – or in this instance – benefit access.

1. **Old Business / New Business**

**Tax Filing** As discussed above, we do not yet have a definitive answer about filing an amended return reflecting our tax exempt status retroactive to February 4, 2021. I will keep you apprised of what we will be required to do. There will be a professional accounting firm charge.

**NCSI request for support in opposition to HR 3114** – the Longshore and Harbor Workers’ COVID-19 Compensation Act of 2021. NCSI is seeking signators for a letter in opposition to this federal legislative proposal to provide presumptive coverage for workers covered by the LHW workers’ compensation laws if they contract COVID. At least the CA Self Insurers are not taking a position as they do not have members with significant exposure. The Board agreed, without making a specific motion to pass on taking a position on the issue as our members do not particularly have exposure and this is not an issue for the Association.

1. **Adjourn**

The meeting adjourned at 2:05p. The next meeting is scheduled for March 17 at 11:00a MDT.