

House Committee on Commerce and Economic Development
H.645 Testimony - March 11, 2014
Steven Jeffrey, Executive Director and
Peggy Tucker, Workers Compensation Claims Manager
Vermont League of Cities and Towns

I. Overview of VLCT PACIF and Workers Compensation

- Introductions:
- Steven Jeffrey, Executive Director, Vermont League of Cities & Towns.
- Peggy Tucker, Workers Compensation Claims Manager with over 25 years claims handling experience. She has been with us for five years.
- VLCT Property and Casualty Intermunicipal Fund (PACIF) provides workers' compensation coverage to 300 Vermont municipalities. PACIF is a self-insured non-profit insurance association owned and governed by its membership of Vermont municipalities.
- VLCT PACIF has offered workers' compensation coverage since 1990.
- We put great emphasis on loss prevention and control, including many innovative programs.
- All claims are handled in-house here in Montpelier by VT licensed adjusters.

II. Review of Provisions of H.645

- VLCT is generally supportive of most provisions of the bill (Draft 1.1)
- Sections 1 and 2. Increase Burial and Funeral Expense from \$5,000 to \$10,000. VLCT has no objection to these changes.
- Section 3. Opioid Usage Deterrence. VLCT supports this section of the bill. Opioid pain medication addiction has been a problem with some of our long-term claimants. Sometimes the addiction becomes the primary reason the claimant does not improve. Best pain management practices often use non-prescription drugs and alternative therapies that are less problematic approaches to long-term pain management.
- Section 4. Vocational Rehabilitation. VLCT has no objection to this section.
- Section 5. Discontinuance of Benefits. VLCT supports this section of the bill subject to some suggested modifications.

This draft is an improvement over the bill that was originally filed. Our experience with the process for discontinuance of claims is that there is an unreasonably long time between the filing of the discontinuance with the Department and the issuing of a decision. In our experience, on average it takes 66 days from the time we file a discontinuance notice until a decision is issued by the Commissioner. This average is of a range from 23 days to 201 days. In at least one instance, a discontinuance filing was denied because one page, out of thousands, was missing from the filing. The discontinuance then needed to be refiled and the review process restarted from scratch.

As a result a claimant received additional benefits for a claim that was discontinued when the discontinuance was finally re-reviewed with the additional page. Perhaps a better solution would have been to contact the insurer to ask for a copy of the one missing page in order to complete the original review.

Currently the Department requires all "relevant" documentation be provided with the filing for a discontinuance of benefits. Due to the subjective interpretation of "relevant" carriers are forced to provide "all" medical documents within the file to avoid a possible rejection of the discontinuance based on another's opinion of what is relevant. Often these files are thousands of pages of documents filling multiple bankers' boxes. The proposed language could reduce this volume significantly by only requiring that "the employer shall file only evidence relevant to the discontinuance..."

Timely decisions on filings for discontinuance of benefits are important to both the employer and the claimant. For the employer it allows files to be closed and reduces the possibility of paying additional benefits to which the claimant is not entitled while the bureaucratic process grinds on. Additional costs from the slow process eventually translate to higher premiums and in the case of cities and towns higher property taxes.

The claimant benefits by having some finality on the claim. Currently this wait for a decision averages 66 days. Benefits are not paid while the Commissioner considers the filing for discontinuance. If it turns out that the discontinuance is denied, the claimant gets payment, but not until after the decision of the Commissioner. This is a long wait for someone who is relying on these benefits. Prompt knowledge that a discontinuance of benefits was approved allows the claimant to move on with their lives in a timely manner.

To rectify this situation, we suggest the addition of language limiting the time allowed for the Department to review the filing for a discontinuance of benefits. This language could be inserted on page 4, line 16 of the draft as follows:

"The Commissioner shall complete review of the proposed discontinuance and issue a finding within seven (7) days of receipt of the discontinuance filing. If the Commissioner does not issue a finding within seven (7) days the filing for discontinuance shall be deemed approved by the Commissioner."

- Section 6. Posting of Safety Records. VLCT has no objection to this section.
- Section 7. Cancellation of Insurance Contracts. VLCT has no objection to this section.
- Section 8. Notice of Intent Not to Renew Policy. VLCT has no objection to this section.
- Section 9. State Police Academy Study. VLCT supports this section of the bill. We suggest language be added to the end of this section as follows:
"(4) The study results shall be provided to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs no later than January 15, 2015."