



Washington Self-Insurers Association

## The WSIA Weekly, 3.15.19



Greetings from Spring Conference! Lee Caton, PT, Chief Operations Officer of Peoples Injury Network Northwest got things kicked off this morning in Bellevue, with colleague Nathaniel Duris. The duo showcased differences between physical therapy and occupational therapy as they relate to injured worker rehabilitation.

### **Latest Liaison Committee report available**

Last Thursday, WSIA's Liaison Committee met with L&I leadership for our bi-monthly meeting. This is our association's forum for airing concerns or raising questions as it relates to policy or practice at the Department, as well as hear important updates from the Department. [Click here](#) for the meeting notes and handouts (member login req'd), which span a long list of subjects from VDRO and CRSSAs to Audit, Rules Modernization, LEP work group, EDI updates, and more.

### **Latest draft of Rules Modernization forms and templates available for review**

As the Department continues to ramp up for implementation of Rules Modernization on July 1, it released to Spring Conference attendees today another round of revised forms and templates for eventual use in requesting orders and communicating claims actions to workers. [Click here](#) to see the new documents, and if you have any comments or concerns with any of the language, [let us know](#) ASAP to pass along to the Department. A final round of forms and templates is expected to be released next month based on our community's continuing feedback.

### **Legislative hearings next week on *Dolph* fix, first responder presumptions**

Among the workers' compensation legislation still moving through Washington's legislative session, [SB 5474](#), WSIA's request to fix the *Dolph* decision to allow service of department-issued closing orders, is set for a hearing in the House Labor & Commerce Committee Thursday morning at 8:00 a.m., having passed out of the Senate last week on a near-unanimous vote. In order to become law, the bill will have to be voted out of the House in the same form it passed the Senate, and next Thursday's hearing is the start of that process. Similarly, the Senate Labor & Commerce Committee will be hearing [HB 1913](#) on Monday morning at 10:00 a.m., which expands the presumptions of occupational disease for law enforcement officers and firefighters, and creates a WSIA-supported scientific review panel to make recommendations on future presumed conditions.

## **Federal budget proposal again contains provision to eliminate reverse offset for social security**

Since Washington is one of the few remaining "reverse offset" states, allowing the Department or self-insured employers to offset in many cases time loss or pension benefits by an amount of social security benefits an injured worker may be receiving, we always note when federal budget proposals would eliminate the reverse offset. President Trump's [FY 2019 federal budget proposal](#), released Monday, again proposes to do away with the reverse offset. This proposal has been a feature of budgets during the prior administration as well and has been continued in President Trump's FY 2020 budget as a savings to assist in reducing the overall deficit in the federal unified budget. WSIA is a member of UWC, a national advocacy group on unemployment insurance and workers' compensation issues, and we are working through UWC to note our opposition to such a measure, given the significant cost-shift to Washington self-insurers.

## **Interesting court decision discusses alleged injury during an IME**

Last week, the Court of Appeals in Tacoma published an interesting decision exploring whether an alleged injury to a worker during the course of an Independent Medical Examination can constitute medical malpractice or medical battery. In *Reagan v. Newton*, the plaintiff argued that an IME does not constitute health care and therefore the burden of proof for medical malpractice (as opposed to simple negligence) does not apply. The court disagreed, holding that IMEs do constitute health care and fall under the state's medical malpractice statute. Since the plaintiff did not present evidence of medical malpractice, dismissal of that claim was upheld; however, the court did allow the plaintiff to pursue a medical battery theory on remand. [Click here](#) to read the decision.