LETTER FROM THE PRESIDENT

Dear Friends and Colleagues,

Today’s challenges in the workers’ compensation arena may also serve to be tomorrow’s opportunities. The Pennsylvania Self-Insurers’ Association is a forum for discussion, direction and debate about issues facing us all, and together, we will create a strong voice and critical forum through which these issues can be addressed.

With our annual and regional meetings, our website, our newly-revised newsletter and growing self-insurers community, we will focus on areas impacting the workers’ comp industry such as technology and innovation, or the lack thereof; wage and salary stagnation which will prevent the needed premium growth to cover costs; workplace safety, an area of the workers’ comp system that has seen tremendous change over the past 30 years; and marijuana in the workplace, to name a few.

While many in the workers’ compensation community discuss the aging workforce and obesity as huge factors affecting the bottom line, other advisors target the younger generation as a growing concern due to their lack of participation in the labor force. People talk about the aging baby boomers putting pressure on the workers’ comp system when in reality we need to be concerned with middle aged workers. The creation of the mobile workforce, once known as telecommuters, has grown by nearly 80 percent since 2005, presenting both challenges and opportunities for self-insured businesses.

The Affordable Care Act will most certainly have impact. ACA advocates indicate that affordable care will create a healthier workforce. However, we all know that the ACA could lead to more people filing for non-work related injuries through the workers’ comp system. There is not enough experience with ACA to determine whether its impact will be positive or negative, but whatever the outcome, we will face it together as the voice of self-insurers.

As a member of a self-insured company in Pennsylvania, PSIA will provide a community of colleagues and resources to help you conquer the challenges and champion the opportunities. I look forward to working with all of you!

Regards,

Barbara Ritz
PSIA President
WCAIS UPDATES & REMINDERS

1. **Organizational Associations** - Known as Parent-Subsidiary Affiliations and Business Units, these associations will make managing multiple locations and subsidiary organizations in WCAIS simpler and ensure that correspondence is sent to the appropriate subsidiary or business unit address. In addition, parent organizations will now be able to manage their subsidiaries/locations through a single WCAIS login.

2. **Medical Fee Review Improvements** - A new self-service Dashboard in WCAIS will allow Insurers, TPAs, and Self-Insured Employers to access and track the progress of Medical Fee Reviews. The Dashboard allows these users to provide additional information requested by the Department to process the Med Fee. Performing these actions within WCAIS will help reduce the processing time for receiving a determination for a Medical Fee Review.

3. **Inadvertent Submission of a Document** - If you inadvertently upload a document to the Actions tab of a claim in WCAIS or use the forms generation feature to submit a document in error, please contact our EDI unit at RA-CMDEDI@pa.gov. Once a document is filed with the bureau, it is part of the legal record, so we cannot delete a document from the claim. However, if the document type (NCP, NCD etc...) doesn’t match the form submitted, or if the claim-specific data (claimant name, DOI, or SSN) doesn’t match the claim it was uploaded onto, we will re-index the document to the correct document type or claim. If both the document type and claim-specific data matches the form and claim it is housed in, we will not delete or re-index the document. In this situation, you must upload a written explanation stating that you created the document in error. You must then send this document to the claimant as well as upload the document to the Documents and Correspondences tab of the claim in WCAIS as a miscellaneous document. To make the purpose of the document clear, it is helpful to include a brief sentence to describe the intent of the document. For more information about EDI and important EDI notices, visit the EDI Alerts/Updates page.
WCAIS Reminders

Records Requests - Please note that if you are a registered user of WCAIS and are listed in WCAIS as an interested party on a claim, you can access and print the records directly by accessing the claim through the WCAIS System on demand. By viewing and printing your documents through WCAIS, you can access the requested information 24 hours a day, seven days a week. If you are not registered to use the WCAIS system, you can register by visiting the WCAIS website at www.portal.state.pa.us/wcais. Click the “User Registration” tab.

Attorneys Filing UEGF Notices of Claims - In addition to filing your UEGF LIBC-551 Notice of Claim online, you must also submit hard copies to the Department containing the Claimant’s original signature. Department policy requires that notice to the Department be provided by mail, as set forth in 34 Pa. Code § 123.802, which states: “Notice to the Fund shall consist of completing and mailing the [Notice]...” and “[t]he Notice will be deemed filed as of the date of the Notice’s deposit in the United States Mail... ” Notices filed solely online will not be processed if hard copies containing the Claimant’s original signature are not also filed with the Department. Mail hard copies to the addresses listed on the Notice of Claim.

WC Forms Notice - The workers’ compensation forms listed on the Department of Labor & Industry website are provided for your immediate use. However, the Bureau of Workers’ Compensation and the Workers’ Compensation Office of Adjudication require their use on the effective dates noted on the website. Previous versions of these forms submitted after their effective dates will not be accepted and will be returned to the filing party.

Utilization Review Announcement - A Utilization Review Request may now be filed online through WCAIS. When filing, it is important to remember that the request must be filed within 30 days of the receipt of the bill and report that pertain to the start date of the treatment submitted for utilization review. If filing by paper, please use the LIBC-601 (REV 11-13).

The Bureau of Workers’ Compensation has published the final version of the Electronic Data Interchange (EDI) Claims Implementation Guide and its supporting documents on the Workers’ Compensation Automation & Integration System (WCAIS) project website at www.dli.state.pa.us/wcais. The final version of the guide provides technical information, procedures and explanations to help claims administrators prepare and navigate future EDI processes.
Within the last year, the Commonwealth Court of Pennsylvania decided the case of Marazus v. WCAB (Vitas Healthcare Corporation). This case was chosen for the case law update because it shows the unique and often difficult side of the workers’ compensation process for employers.

The facts of this case are particularly interesting. Claimant was employed as a driver and technician for the employer. He would deliver and pick up medical equipment. Following a weekend where claimant was on call, he reported to work at the employer’s premises to obtain his daily route. When claimant was provided with his list of assignments, he was unhappy with the amount of assignments he was given. He requested that some of the assignments be removed from his itinerary, but his manager refused. Claimant then quit his job. He provided his keys and phone to his manager and told him specifically that he quit. His manager then informed him that he needed to remove his personal belongings from his work vehicle. The manager escorted claimant to his truck to remove his belongings, pursuant to the employer’s policy. After these belongings were removed, claimant tripped over a pallet jack while walking to the warehouse on employer’s premises. He sustained injuries as a result of the fall, which was witnessed by the manager.

Claimant then filed a Claim Petition alleging that he sustained injuries within the course and scope of his employment. The WCJ awarded benefits to claimant. The employer appealed to the WCAB, arguing that claimant terminated his employment prior to sustaining the injury, so his injury was not covered under the Pennsylvania Workers’ Compensation Act. The WCAB remanded the matter to the WCJ to assess whether claimant was within the scope of employment at the time of his injury. On remand to the WCJ, evidence
was admitted including a civil complaint filed by claimant in the Court of Common Pleas against the employer. Additionally, the employer’s Answer and New Matter were also admitted, which acknowledged that claimant was an employee and noted that the Act provided an exclusive remedy. On remand, the WCJ found that claimant quit his employment prior to his injury. However, the WCJ still found claimant was within the scope of his employment when he fell. The WCJ found that claimant was furthering employer’s interest at the time of the injury because the employer had directed him to perform a specific task.

Employer again appealed the WCJ’s decision finding a work related injury and awarding benefits. The WCAB reversed the WCJ and found that claimant quit his employment before he fell; therefore, taking him out of the scope of employment. Claimant then appealed to the Commonwealth Court of Pennsylvania.

Several issues were raised by claimant on appeal, including judicial estoppel, based on the employer’s admissions in response to claimant’s civil suit, that claimant was an employee. Ultimately, the Commonwealth Court found that judicial estoppel did not apply. However, the Commonwealth Court found that claimant was acting within the scope of employment at the time of his injury. The court noted that there was no dispute that claimant’s injury occurred on employer’s premises. Additionally, the Commonwealth Court focused on the fact that claimant was acting at the employer’s direction and under the manager’s supervision, to perform the required task of cleaning out his truck when he fell. Based on the fact that claimant was performing a requested task at the employer’s direction, he was found to be engaged in furtherance of the employer’s business or affairs.

This case highlights the delicate issues that employers face in the workers’ compensation context. In this instance, claimant clearly quit his job prior to his injury; however, he was found to be in the scope of employment and still received workers’ compensation benefits. This case highlights the somewhat illogical results that we see on a frequent basis, based on the humanitarian purposes of the Pennsylvania Workers’ Compensation Act. Given this case, it is important to review your internal policies regarding how employees are to handle certain issues following a separation from employment. It is recommended that employers refrain from directing a prior employee to perform any task, but rather that this should be handled by the employer directly. Additionally, this case highlights the importance of open communication and teamwork when a civil suit is filed against an employer along with a workers’ compensation claim. In this particular instance, the fact that the employer defended the civil suit on the grounds that claimant was an employee certainly appeared to impact the outcome of this case. Therefore, if you are faced with a workers’ compensation claim and a civil suit against the employer, it is important to make sure that the proper parties communicate to ensure that in each claim, nothing is done that would negatively impact the other.
PSIA MEMBER FEATURE

Cheryl M. LaPotin has been a mainstay with PSIA since 1990. She has served and participated in various capacities, including Program Chair, Vice President, and from 2008 through 2012, President of the Pennsylvania Self-Insurers’ Association. During her tenure as President, PSIA continued its leadership of self-insureds in the Commonwealth of Pennsylvania. One of her most significant achievements was establishing the close level of contact between PSIA and the Commonwealth of Pennsylvania Department of Labor and Industry. The establishment of these closer ties has only served to further highlight PSIA’s standing in the industry.

Cheryl was also a driving force for the successful PSIA conference in Nemacolin, Pennsylvania in the fall of 2012. The program was highlighted by an excellent educational program focusing on the complex medical issues, and the annual gala dinner.

Cheryl is currently the Executive Director of the School Districts Insurance Consortium. She has been in this role since 2001, and during her tenure, SDIC has maintained a 95% confidence level in licensure and reserving. In 2003, Cheryl helped establish the School District Service Corporation, a non-profit organization to further enhance the level of service and benefit to the insurance consortium.

Prior to becoming the Executive Director of SDIC, Cheryl was the Director of Workers’ Compensation for the School District of Philadelphia. While at the School District, she supervised and implemented the automation of a workers’ compensation system for the dispensing of indemnity benefits and medical payment for individuals employed through the School District. This successful implementation of a self-administered program led to significant stride in the School District’s rating and standing in the self-insured community.

Cheryl is a graduate of Penn State University with a Degree in Industrial Psychology and German. While still an undergrad, Cheryl was awarded a scholarship at Middlebury College in Vermont for a focused intern program for language. She is fluent in German. Cheryl also has a Master’s Degree in Industrial Psychology and Education.

On a personal note, Cheryl, and her husband Paul reside in Skippack, Pennsylvania. They have two beautiful daughters, Katie and Dena. In her spare time, Cheryl loves to cook and has a “killer” recipe for low fat burgers on the grill!

When asked for her words of wisdom for future generations of PSIA members, Cheryl quickly responded, “Grow slowly and take everyone with you.” This quote speaks volumes about Cheryl’s character, her sense of inclusiveness for all members, and her dedication to PSIA.
Annual Workers' Compensation Conference (a Grand Celebration)

The 14th Annual Workers' Compensation Conference took place at the Hershey Lodge and Convention Center in beautiful Hershey, PA on June 1 and June 2, 2015. This year's conference, celebrated the 100th anniversary of the Workers' Compensation Act, the “Grand Bargain” that had been established on June 2, 1915. On that date, Governor Martin G. Brumbaugh approved the Workman’s Compensation Act, as it was then called, and had Pennsylvania adopt a no-fault system providing wage and medical compensation for those individuals injured on the job.

This year’s conference sought to highlight the progress that has been made since the implementation of the Act, both with the amendments to the laws, and the use of modern technology, including the recently implemented Workers’ Compensation Automatic and Integrated System to assist with the processing in litigation of workers’ compensation claims.

The current Act, while still promoting the concept of the “Grand Bargain,” emphasizes four basic objectives. These include the broad coverage of employees for work related injuries, providing income to injured workers while they are disabled, providing sufficient medical and rehabilitative care to injured workers, and promoting safety issues within the workplace. The Conference offered a variety of topical and interesting programs covering these issues, such as case law updates, handling complicated medical issues, and the use of social media in the context of workers’ compensation claims.

This year’s program also honored Patricia Raskauskas, who has been a participant in the Workers’ Compensation Conference Committee since 2010. Pat was honored for her work with the Committee to ensure that each conference presented valuable topics through interesting speakers. This conference also culminated in the Workers’ Compensation Gala, which was hosted by the Pennsylvania Bar Association Workers’ Compensation Section Committee. The Gala celebrated the 100th Anniversary of the Act, with numerous dignitaries and speakers, all of whom play an integral part in the workers’ compensation system.

The program also offered welcoming and opening remarks from Acting Secretary for the Department of Labor and Industry, Kathy Manderino and Business and Labor, Gene Barr, President of the Pennsylvania Chamber of Business and Industry, and Richard W. Bloomingdale, President of the AFL-CIO.

Next year’s workers’ compensation conference will be held May 16-17, 2016 at the Hershey Lodge and Convention Center in Hershey, PA.
BUREAU CORNER

“PATHS” Your No-Fee Safety Training Resource

The Pennsylvania Bureau of Workers’ Compensation, Health & Safety Division’s PATHS (PA Training for Health and Safety) training is enjoying an ever-expanding impact on providing safety information with 134 topics, including the timely “Heat Related Injuries and Illnesses,” now offered free of charge. The popularity numbers of this extraordinary FREE resource initiative continue to increase, with 18,772 individuals trained as of June 1, 2015, compared to 7,045 as of June 1, 2014. Employers and employees from 41 states and four countries have taken advantage of this program! You, too, may take advantage of this outstanding free resource by going to PATHS at www.dli.state.pa.us/PATHS or by contacting the Health & Safety Division by phone at 717-772-1635. You may also reach us via email at RA-LI-BWC-PATHS@pa.gov.

We have even more good news to report – you can now catch us on Facebook! Go to www.facebook.com/BWCPATHS and meet the trainers, read all about us, get good safety tips and ENJOY!