# REPORT OF NEW MEXICO'S RETURN-TO-WORK SUMMIT
# September 7, 2006

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# The Story of New Mexico's 2006 Return to Work Summit

by Summit Planner Kathy Diaz, PhD, Restaurant Owner and
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**The Status Quo:** Phurbis, a cook's helper at a local restaurant, sustained a back strain at work while lifting a heavy trash bag into the dumpster. The doctor he was seeing, Dr. Fixemup, provided good medical care and advice. But when Dr. Fixemup told Phurbis he could go back to work at light duty after that first visit, Phurbis told the doc that there was no "taking it easy" at HIS job. After all, he's never seen the boss reward anyone for slacking at work. Fixemup, a compassionate soul, wrote Phurbis a release from work and sent him home to rest. Months later, the restaurant owner believes Phurbis has disappeared and abandoned the job. Phurbis thinks it's pretty cool to get paid for not working, and Dr. Fixemup wonders why Phurbis isn't responding to treatment like most patients.

Where did it go wrong? That's a question asked by employers, doctors, injured workers, and judges every time a relatively minor injury becomes the monster that consumed Tokyo. Obviously, better communication from the start among all those involved could have helped to avoid most of the problems evidenced in this all-too-common scenario. So, the real question is – "How do we get all the parties in a WC claim communicating effectively so we can get injured workers back on the job?" I've asked that question thousands of times – mostly to myself – and been frustrated with the lack of response.

**A New Message:** Then I received the ACOEM paper on "Preventing Needless Work Disability by Helping People Stay Employed". My heart sang! This was the message I'd been waiting to hear, but not from the usual sources – neither the "heartless, penny-pinching employer" nor the "cynical, paper-pushing claim adjuster". NO! The Stay-at-Work/Return-to-Work message came from DOCTORS! Doctors are all about healing and reducing pain and advocating for the patient. They can't be accused of only caring about saving money or of not caring about the worker's well-being. This message had to be shared with all concerned. And it had to come directly from the source – Dr. Jennifer Christian. (It's ALL about credibility!)

So the idea of holding a "Summit" type meeting in New Mexico was born out of discussions about how to disseminate the ACOEM paper. Certainly a meeting of some type was needed. In order to make the meeting effective, we considered the following questions:

1) Q. Why is the SAW/RTW message important?

   A. Because keeping an injured worker productive is fundamental to the healing process and is the basic goal of all Workers' Compensation activities and benefits. Simply put, SAW/RTW is why we do what we do.

2) Q. Who needs to hear the SAW/RTW message?

   A. All the stakeholders.
      - Doctors, who make determinations about what is medically best for the worker and frequently believe that "giving them a nice, long rest" is best.
      - Employers, who worry about making the injury worse and don't understand what "light duty" looks like.
      - Insurers or Claims Handlers, who act as facilitators between workers, employers, and doctors in the SAW/RTW process and suffer severe frustration while doing so.
      - Attorneys, who advocate for one side or the other as they maneuver through the SAW/RTW process – and ought to know what they're talking about.
      - WC State Regulators, who monitor employers' behavior toward injured workers and the provision of benefits.
      - WC Mediators and Judges, who settle disputes about whether or not an injured worker can or should go back to work.
      - Injured Workers, who mostly want to go back to work but hear conflicting messages from all of the above. (Workers who don't want to go back to work have other issues and need to be re-directed by the doctors, employers, regulators, mediators, and judges.) Frankly, we decided that injured workers would only deal with this issue for their own claim and would hear the message as filtered through all the other stakeholders. We did not include them in our summit for this reason.

3) Q. How do we get the stakeholders to attend a summit meeting about SAW/RTW?

   A. By making the topic important to each of them – and making each of them important to the process! Initial invitations to and notifications about the upcoming summit were made by personal contact. For doctors, claims handlers, and attorneys, offering education credits toward re-certification was helpful. For regulators and judges, tying the summit topic to state political initiatives (creating business-friendly environment, etc.) encouraged attendance. For employers, offering to make a scary topic understandable made the difference.

4) Q. How do we keep everyone awake and interested during the summit?

   A. By:
      - creating a hospitable environment (food, beverages, pleasant & important atmosphere – not a boring conference room with folding chairs),
      - enabling discussion between the various types of stakeholders (small group and panel discussion, shared tasks)
      - inviting candid comments (know the stakeholders real issues and plant someone to voice them), and
      - empowering an inspired Summit Leader (get Dr. Jennifer Christian)!

5) Q. Finally, how do we make it all worthwhile with lasting impact?

   A. By formatting the summit content and activities toward developing action items for each stakeholder group – and inspiring each participant to carry out their assigned actions. (Again – get Dr. Jennifer Christian)
      - Get the group to identify what needs to be done to improve the chances that an injured worker will continue being productive during and after recovery.
      - Encourage direct requests from one stakeholder group to another for help in getting the message out.
      - Help to clarify suggestions, comments and discussion by the stakeholders so that the final action statements are specific, behavioral, measurable.

Our SAW/RTW Summit in New Mexico was considered a worthwhile experience by all who attended. Each participant left with a short list of activities or actions they agreed needed to be done – and the knowledge that they were THE PERSON to do it. But follow-up is critical to ensuring lasting effects, and that will be on-going for some time. Having someone local who is seen to be the "carrier-of-the-torch" (for everyone to report their successes to) is important. Since our summit, New Mexico's WC agency has published a new booklet for employers and workers about the importance of SAW/RTW. Several doctors are collaborating on providing CME coursework focused on SAW/RTW programs and other WC issues. Insurance carriers are re-directing their claims handling practices toward facilitating SAW/RTW from start of a claim. Workshops on SAW/RTW are being planned for employers across New Mexico. Organizations like the WC Association of New Mexico have committed to making SAW/RTW the focus of conferences and regional seminars.

We've had much success already in improving the outcomes for injured workers and reducing needless work disability! More needs to be done, but the impetus for all the recent actions taken was our SAW/RTW summit with Dr. Jennifer Christian and ACOEM's position statement.

# Findings of the New Mexico RTW Summit:

## Introduction

The first New Mexico RTW Summit was held September 7, 2006 in Albuquerque, co-sponsored by the NM Workers' Compensation Agency and the Food Industry Self-Insurance Fund (FISIF). Approximately 65 attendees participated, among them roughly equal numbers of employers, payers, healthcare providers and regulatory or legal professionals. Dr. Jennifer Christian from Webility Corporation was the featured speaker and facilitated the rest of the workshop. Attendees worked in small groups to develop concrete proposals for how to implement the recommendations made in a new Guideline entitled "Preventing Needless Work Disability by Helping People Stay Employed" from the American College of Occupational & Environmental Medicine. A four-person panel commented on the small groups' proposals and applicability of the ideas in the Disability Prevention Guideline for the stay-at-work and return-to-work (SAW/RTW) process in New Mexico. Panel members included Ed Linderman, chair of FISIF's board of directors; Dan Stock, head of claims for Builders Trust of New Mexico, another self-insurance group; Dr. David Lyman, medical director for Concentra in New Mexico, and Abelino Montoya, Jr., Assistant Director of the Workers' Compensation Agency.

The report that follows first summarizes the consensus achieved at the end of the Summit, laying out a set of general statements that were informally approved by the whole group during the last few minutes of the meeting. The report then describes the findings and recommendations made by the small groups, along with the reaction and discussion of the whole group to each small group's contribution. Lastly, this report documents the local stakeholder panelists' reactions to the small groups' recommendations -- and the general session discussion that followed, which led up to the development of the consensus statements that began this report.

## Consensus of the Whole Meeting – Overall Recommendations

(These recommendations are the text of some Powerpoint slides that Dr. Christian developed in the afternoon and modified during the general discussion while all attendees were participating at the end of the day.)

**Cross-Fertilize More and Spread These Ideas Within Stakeholder Groups**

- Hold more meetings like this statewide and on an on-going basis
- Encourage employers/payers to visit providers and vice versa
- Disseminate evidence on benefits of staying active during recovery AND evidence of effectiveness of early proactive approach to employers, employees, unions, providers, etc.
- Train employers on RTW
    - Figure out what will make them actually take the training.

**Educate claims managers**

- Institute continuing educational requirement on disability management for adjustors as condition of licensure
- Establish quality requirements for the training so it doesn't turn into a boondoggle for the training companies
- May require statutory changes

**Support Injured Workers**

- Use state ombudsmen program to help resolve RTW issues
- Appoint internal ombudsmen within employers and tell them what to do
- Involve injured worker in resolving RTW issues
  - Find out their point of view and what they need
  - Ask them to help design the modified duty

**Pay doctors for the extra time they spend on disability prevention activities**

- Educate them about available CPT codes
- Offer to pay for extra time spent on SAW/RTW activities
- CME training for providers on WC and RTW
- What will make them actually take it?
- Incentives or consequences are required

**Unite to teach providers about:**

- The evidence on benefits of disability prevention
- The basic facts about NM workers' comp
- The role of the doctor in RTW
- Psychosocial aspects of disability
- HIPPAA in workers' comp
- Standardized job classifications
- What work ability means

**Either Make Training A Requirement for Providers or Create Positive Incentives For It**

- Make training a requirement for participation in workers' compensation system.
- Make training a requirement for medical licensure and other professional licenses
- Reward doctors who do take training.

**Manage Communications with Doctors within "Church case" Constraints on ex parte communications**

- Create and adopt a standardized form for providers and employers to use to communicate re: ability to work
- Teach doctors about your program ahead of time
- Use standardized forms and brochures
- Use consents routinely
- Use three-way communications as SOP

**Find a Solution to Treatment for Psychiatric Conditions**

- Issues are both primary and secondary conditions, also co-morbidities.
- Consider limiting psychiatric treatment to that which is evidence-based and demonstrated to be effective (will not work unless payers enforce it.)
- Demedicalize normal human reactions and coping difficulties – but address them.

**SEND FEEDBACK**: kdiaz@fisif.com or jennifer.christian@webility.md

**JOIN** the (free) Work Fitness & Disability Roundtable email discussion group at www.webility.md

## Results of Small Group Work Sessions

## Group 1

### Group 1's assignment was to find a way to implement this recommendation: Need to Increase Awareness of How Rarely Work Disability is Medically-REQUIRED

1. HOW could this recommendation be implemented HERE?
   - Have legislative requirement of Disability Management CEUs for employers, payers and providers.
   - Continue to press for legislative modification of Church Amendment.
   - Require CME for providers in disability management (MD, DO, NP, PA).
   - Have state board require work comp. providers to do training in case management.
   - Provide SAW/RTW seminars around the state.
   - Approach state to adopt evidence based guidelines

2. What impact would that have?
   - Increase provider awareness.
   - Increase communication between providers and employees/employed.
   - Increase company/payer awareness of provider constraints.

3. How could obstacles be avoided/overcome?
   - How to move process through legislature, medical board
   - Tour facilities – employers invite medical providers
   - Provide CME around the state.
   - Provide interdisciplinary seminars around the state.

4. What's a CONCRETE next step – or two?
   - Contact work comp administration and medical board.
   - Work with legislators, lobbyists
   - Set up seminars for stakeholders.

5. If it can't be implemented, suggest an alternative.
   - Continue to provide training in seminars – medical school and residency programs while pushing legislative.
   - Provide seminars like this one around the state for all stakeholders; employers, payers, medical providers.

## Group 1 – Report and Large Group Discussion

Education is key…..for employers, providers and through peer support. Provide communication across the company. Have a PR program to get the info out. Let the employee feel he/she is a player. Concrete steps: Adopt the best SAW/RTW concepts; select guidelines that don't conflict with HIPAA or state legislation. A legislative approach is the most pragmatic. Provide education to providers and provide CEUs. Involve the Medical Board and require disability management education for all providers and provide CEUs. Provide SAW/RTW education as well as evidence-based guidelines around the state. Increase provider awareness of disability management. Set up seminars around the state like the one today.

## Group 2

## Group 2's assignment was to find a way to implement this recommendation: Urgency is Required Because Prolonged Time Away From Work is Harmful

1. HOW could this recommendation be implemented HERE?
   - Develop return to work programs
   - Prevent disability/Shift focus: communicate with employee initially and communicate through process with all involved
   - Shorten response time: put policy & procedures in place

2. What impact would that have?
   - Employee feels valued with reduced anxiety
   - Change mind set
   - Reduced guilt for employee

3. How could obstacles be avoided/overcome?
   - Work comp carrier vs. employer communication
   - Training for supervisors, managers, all involved with "preventing" disability
   - Show concern

4. What's a CONCRETE next step – or two?
   - Help educate owners/managers understanding costs of disability
   - Training programs for managers/supervisors handling injuries
   - Improve communication about work related injuries through seminars (mandatory).

5. If it can't be implemented, suggest an alternative.

## Group 2 – Report and Large Group Discussion

Develop RTW programs by communicating with the employee immediately and throughout the process. Employers should revise their new hire process to include information about benefits. The employee would feel valued. It would change the mindset of supervisors and there would be less guilt for the employee. The WC carrier and the employer would work in tandem with the employee. Provide supervisor/management training. Get the top leaders of the company to buy-in to this new culture. This is very important so that the employee isn't harassed. Show concern at all levels so the employee will know he is supported. Educate the employee as to the cost – but who should do it??? Provide training for managers and supervisors through seminars, but who is going to do it? Employers should buy their insurance from companies who encourage education on SAW/RTW.

Roughly ½ those who have a chronic medical problem also have a psychiatric condition. That's also often the reason why employees' recovery is delayed. Provide psychiatric care "as an aid to cure" for 8-12 weeks and say you will continue to pay for it as long as we get reports and can see progress. Beware, however. This has not been successful in the State of Washington because payers haven't been willing to stop paying when they don't get reports or see progress.

Use psychology wisely and stop encouraging waste with psychiatric referrals.

Develop a state form with a letter that states the doctor will be paid for completing the form. It's not ex-parte communication if the form is required by the state, is it? Church's clarification - Any communication with the physician without the worker being included is ex-parte communication. The worker needs to participate in the communication and consent to the communication. It's not a question of privileged communication. Church's decision is a very peculiar case. It has to do with the communication from an employer to the provider and the issue arose out of concern that the employer was influencing the provider.

Contact at the WCA for the IW. Is it a good idea? Yes, but define the responsibility of the person. Administer the SAW/RTW process. Coordinate the process. Every workplace – even small ones – has a RTW administrator – it's the BOSS. BUT, frequently the supervisor is the problem. The employee needs a place to go when they need help other than the supervisor or boss. It's a good idea but not concrete enough.

How could we make it be so that in more workplaces the employee has a place to go for help or clarification? Their adjuster should be on top of it, you need to start there, then with HR. Between HR and the adjuster you should be able to get that person back to work. Best practice is face to face meetings between the employee and the supervisor. You need to know what the employee's issue is related to returning to work. How will you know that if you don't communicate with them? One person says that wc administrator shouldn't care whether the employee is happy. We can't legislate that. It's not the WCA's responsibility to make a happy work place. We already have a state ombudsperson. But there's no rule or requirement around RTW in place so the ombudsperson is limited as to what they can do. There are other remedies outside the WC arena. What does this situation need? You need to make sure that the employee's reasonable needs are known and that you try to meet them.

## Group 3

### Group 3's assignment was to find a way to implement this recommendation: People's Normal Human Reactions Need to Be Acknowledged and Dealt With

1. HOW could this recommendation be implemented HERE?
   - Educate the team (the employee-patient, the employer process, adjuster and physician) on employee's needs and responsibilities. Educate on modified duty.

2. What impact would that have?
   - Less time missed
   - Better morale
   - Decreases costs through retention
   - Earlier return to full duty.

3. How could obstacles be avoided/overcome?
   - Through better communication. Convince stakeholders how RTW benefits everyone. Increase awareness of physicians who practice outside larger cities.

4. What's a CONCRETE next step – or two?
   - Invite Dr. Christian to present at WCA conference
   - Educate – see #1
   - Advertise to employers, extend message to associations
   - Extend WCA role to go out to smaller communities

5. If it can't be implemented, suggest an alternative.
   - WCA goes to organizations with concept…Life goes on…educate patient about this reality. Ask how do they want to live their life?

## Group 3 – Report and Large Group Discussion

Invite Dr. Christian to present at the WCA conference. Present to employers, adjusters and providers to spread message from our Summit to a bigger audience. Advertise to employer groups – use the Associations to get the message out. Get WCA to go out and talk to the providers (in urban and rural areas). Have WCA take more of an educational initiative.

## Group 4

## Group 4's assignment was to find a way to implement this recommendation: Investigate and Address Social and Workplace Realities

1. HOW could this recommendation be implemented HERE?
   - Enhance communications
   - Feedback loop – self insurance – HR program guinea pigs
   - Train physicians in psycho social
   - Evidence-based medical practice

2. What impact would that have?
   - Increase awareness
   - Change behavior of employer, worker, medical provider, adjuster and claims manager

3. How could obstacles be avoided/overcome?
   - Psychosocial issues not typically addressed by medical community
   - Doctors not paid to do this (medical fee schedule)
   - Healthcare selection

4. What's a CONCRETE next step – or two?
   - Seminar for docs and employers and both represented and unrepresented labor
   - Incentives

5. If it can't be implemented, suggest an alternative.

## Group 4-a (Second group): Investigate and Address Social and Workplace Realities

1. HOW could this recommendation be implemented HERE?
   - Improve employer feedback in the employee evaluation process
   - Have the self insured groups do a pilot project

- Develop a community resource guide statewide to help employers and employees deal with personal and family issues

2. What impact would that have?
   - Help employees find resources to avoid the temptation of claims prolongation and abuse

3. How could obstacles be avoided/overcome?

4. What's a CONCRETE next step – or two?
   - Legislative recommendation – give job to Dept. of Health

5. If it can't be implemented, suggest an alternative.

## Groups 4 and 4a – Report and Large Group Discussion

Employer-worker recommendations should extend to work related and non-work related injuries.

1) Develop a tool to provide feedback and have two of the self-insured employers in this room to implement it. Improve employee feedback to allow them to evaluate their workplace and supervisor at the same time. Request that a couple of the SI groups present today try this!
2) For non-work related – develop a community resource guide (example: child or aging parent care) so that HR directors have accurate information, are knowledgeable and can guide employees to resources.
3) Legislative – assign to NM Dept. of Health.
4) For the doctors - train the docs in psychosocial and work related issues. Demonstrate how these issues affect outcome. Ask the docs in this room to help get the process started. Develop seminars started by the docs in this room. Educate the team on responsibilities (the patient, employer's process, adjuster and physician). Educate on modified duty.
5) Work Comp Administration should create a rule requiring employers to have a contact person for IW.

## Groups 5, 6, and 7

**Group 5:** Report not submitted
**Group 6:** Report not submitted
**Group 7:** Report not submitted

# Group 8

## Group 8's assignment was to find a way to implement this recommendation: Increase Availability of On-The-Job Recovery or Transitional Work Programs

1. HOW could this recommendation be implemented HERE?
   - New position within WCA that targets employers re: what is currently available?
   - Be able to educate employer and employee on what the pay off is for SAW/RTW

2. What impact would that have?
   - Reduce WC premiums
   - Reduce lost work/wages

3. How could obstacles be avoided/overcome?
   - Educate employers on the financial impact – positive and negatives on utilizing a SAW/RTW

4. What's a CONCRETE next step – or two?
   - Contact employers directly
   - On-site workshop with lunch
   - Mentoring program
   - State sponsored grants
   - Forms for providers
   - Modified work job descriptions-have in advance.

5. If it can't be implemented, suggest an alternative.

## Group 8-a (Second Group): Increase availability of On-The-Job Recovery or Transitional Work Programs

1. HOW could this recommendation be implemented HERE?
   - Pre-arrange light duty for each job description, department and company
   - Educate employers on the advantages of RTW/light duty programs
   - Financial incentives – transitional work program, adaptive equipment reimbursement
   - Require employers to establish a return to work program

2. What impact would that have?
   - Reduction of premiums
   - Reduction of lost wages

3. How could obstacles be avoided/overcome?
   - Convince/educate employers on the financial benefits and impact of loss of productivity
   - Cost-financial incentives-grant $ to implement RTW programs

4. What's a CONCRETE next step – or two?
   - Legislation – stated funded grants
   - Legislation – compliance assurance
   - Educate - supervisors/management on benefits of RTW
   - WCA - employee outreach to small business on current incentives
   - Campaign to educate employers on RTW, outreach and OSHA
   - Mentor small businesses

5. If it can't be implemented, suggest an alternative.
   - Facilitate communication between treating providers
   - Prepare documentation internally

## Groups 8 and 8a – Report and Large Group Discussion

Establish a new position within WCA. Tell employers about things that already exist that can help them. Educate them on why RTW is good and about the resources that already exist. Go out to companies and give them lunch. Develop a mentoring program so that companies can share. Provide state sponsored grants to give employers money if they need to buy equipment. Encourage employers to have modified or light duty job descriptions to give to the provider at the employee's 1st appt.

## Groups 9, 10

**Group 9:** Report not submitted
**Group 10:** Report not submitted

## Group 11

## Group 11's assignment was to find a way to implement this recommendation: Devise Better Strategies to Deal with Bad Faith Behavior

1. HOW could this recommendation be implemented HERE?
   - Employers should establish internal advocacy or grievance procedures or ombudsman program.
   - Expand the state ombudsmen program to an internal ombudsmen program (advocacy or grievance procedure within employer organization)

2. What impact would that have?
   - Empowers the employee and gives the employee an avenue to gain information and understand his or her responsibilities and his or her rights and allows the employee to avoid the need to seek legal representation.
   - Positive attitudinal change in the workplace toward injured worker and injury claims

3. How could obstacles be avoided/overcome?
   - Listen to employee and value the injured worker and give benefit of doubt at the outset. All parties involved should educate the employee up front that there is a process the case will go through and make clear the employee's responsibilities as the case proceeds.

4. What's a CONCRETE next step – or two?
   - TPA, Insurer or Employer should provide to injured worker in written form, a description of the workers comp process, available services with phone numbers, reference to policies and procedures, informative flow chart. "Tools of information" in appropriate language(s).
   - Change in legislation to provide some but not complete (more open) communication between health care professionals and all parties involved in the process.
   - Make presentation to WCA, IAIBC and all affiliated organizations.

5. If it can't be implemented, suggest an alternative.

## Group 12

### Group 12's assignment was to find a way to implement this recommendation: Educate Physicians on How to Play their Role in Preventing Disability

1. HOW could this recommendation be implemented HERE?
   - Legislatively mandate or implement a policy change for work comp similar to pain management guidelines.
   - Require CME course to include education on evidence based medicine, basic of WC practice, provision of standards and payment schedule for disability prevention and SAW/RTW support activities

2. What impact would that have?
   - Decrease intimidation factor for treating work comp patients
   - Increases doctors knowledge in treating work comp
   - Improves doctors comfort level in treating these clients

3. How could obstacles be avoided/overcome?
   - A major obstacle is MD resistance to education
   - Pay for performance similar to HMO
   - Give system CME credits

4. What's a CONCRETE next step – or two?
   - Legislative intuitive or rule change – partnering WCA and NM Medical Board

5. If it can't be implemented, suggest an alternative.
   - Corporate sponsorship for CME
   - Gain support from a well respected powerful voice.

## Group 13

### Group 13's assignment was to find a way to implement this recommendation: Disseminate Evidence on the Benefits for Recovery of Staying Active and At Work

1. HOW could this recommendation be implemented HERE?
   - Educate employers, workers and health care providers at an appropriate educational level (linguistic competence) about
     - AMA Guidelines for RTW
     - General RTW issues (chart)
     - User friendly health care provider guide to NM work comp (PDA, disc, smaller booklet).

2. What impact would that have?
   - Lower disability rates
   - Lower costs (trend analysis)
   - Increased productivity & worker satisfaction
   - Need assistance from WCA & insurers to chart trends
   - In house trend analysis by employer

3. How could obstacles be avoided/overcome?
   - By educating up front
     - when become a member of w/c associations
     - provide points of contact
     - Examples:
       1. HIPAA does not apply
       2. Provide health care provider work categories & job descriptions
       3. Inform about Church's release
       4. Educate employers health care providers re: workers resistance

4. What's a CONCRETE next step – or two?
   - Publications/educational materials ex: when someone applies for membership with WC Association
   - Point of initial contact or worker orientation
   - Offer safety incentives

5. If it can't be implemented, suggest an alternative.

## Group 13 – Report and Large Group Discussion

Disseminate information that is easy to read, whether at orientation or at some later point. The information should be given at the level they understand (7th grade level and culturally specific) Look at information given to providers who treat these patients – is it communicating what needs to be communicated? Give CME credit to providers for being trained on the information. For example, give the provider manual that was developed to primary care providers and allow them to access the manual online. Demand that these providers be trained if they are going to treat our employees. In the training -

1) Talk about how HIPAA isn't applicable to workers comp
2) Train on terminology, such as sedentary, light, medium and heavy. Too often we see "allow employee to lift 20 lbs at sedentary" (that's not sedentary!) The provider needs to understand the terminology that is used and what it means. This includes all terminology with which the provider might not be familiar.
3) Educate ALL providers and require if you are going to deliver care then you need to understand these things (HIPAA, Church's, strength levels, meaning of "workability" and the WCA book, "Health Care Provider Guide to Work Comp".
4) If you receive the training, then you are eligible for DM fees. (What about competency?)

**Explanation of Church's decision** – the context in which doctors, payers, providers work today. There can be no communication between the employer and the employee without the knowledge, complete consent and participation of the worker. If you want to have communication, you can get the consent of the IW. New Mexico is not the only jurisdiction that has this requirement. Can we figure out a way to be successful in spite of this ground rule? How can we be successful with this being the ground rule? Find a way to be honest and truthful all the time with the worker.

# Group 14

## Group 14's assignment was to find a way to implement this recommendation: Improve and Standardize Methods of Information Exchanged Between Employers/Payers and Medical Offices

1. HOW could this recommendation be implemented HERE?
   - Workers Comp Administration develops form – a Functionality SAW/RTW Assessment Form
   - Employer has employee hand deliver form to doctor for appointment
   - Employee takes form back to employer
   - Discussion between employee and employer regarding what the form ssays

2. What impact would that have?
   - Standardize form regardless of payer
   - Familiarize physician, payer and employer with form

3. How could obstacles be avoided/overcome?
   - Need for education of form and process
   - Requires employee to be responsible for some communication

4. What's a **CONCRETE** next step – or two?

5. If it can't be implemented, suggest an alternative.

## Group 14 – Report and Large Group Discussion

This recommendation goes directly to Church's decision. Enhance communication, it's almost identical to group 15. Develop and adopt a form that is filled out by every provider. It's standardized. All insurers and all payers know about the form. You can see the progress made by the employee. The employer provides or the employee takes that form to the doctor at the 1st visit. It comes back to the employer after the 1st visit. North Carolina has a similar form, but the doctors don't fill out the form. Why? There's no incentive to complete the form. If you fill out the form, you should get paid for your time in completing. You have to develop the incentives to get the form completed. The State of Washington has created Centers of Occupational Excellence. The doctors get an extra amount if they get the form back within 2 days. Pay the doctor for getting at the psychosocial aspects of the injury. Don't use the statement "we are paying you for completing the form" Instead, say "we are paying you for your thinking and expertise."

# Group 15

## Group 15's assignment was to find a way to implement this recommendation: Improve and Standardize the Methods and Tools that Provide Data for SAW/RTW Decision-Making

1. HOW could this recommendation be implemented HERE?
   - Early form letter from employer or payer regarding desire for disability prevention sent to doctor
   - Provide job descriptions and or modified job descriptions (light duty) on first regular visit– more detailed 1st visit with doctor with job descriptions and or modified job descriptions (light duty)

2. What impact would that have?
   - Early return to work – if the information is used – know early what type of patient

3. How could obstacles be avoided/overcome?
   - Job description promptly to doctor.
   - Dr. to review additional information promptly.
   - Patient to believe he/she can return to work.
   - Fee to complete the report? Financial incentive

4. What's a CONCRETE next step – or two?
   - Create form- promulgate by regulation
   - Research forms from other states and jurisdictions
   - Schedule conference and coordinate with docs, employers, insurance and regulators re: key info for RTW, design form and see how it can work!!

5. If it can't be implemented, suggest an alternative.
   - Legislative change to rewrite Churchs – can speak with doctors
   - Encourage conferencing with doctor and employer/employee about RTW

## Group 15 – Report and Large Group Discussion

Recommend a new form letter to address the issues about RTW and in what role. Employer should provide the employee's job description on the 1st regular doctor's visit. If the information is used, then this should result in the employee's RTW.

Schedule a conference where parties can develop the form. WC Admin could research forms form other jurisdictions such as Texas (they have one that needs to be completed on each IW). Rules and regulations should require that the RTW form be completed and that the doc be paid for completing the form. Look to the states that have the fewest problems. Utah is an example. They have a form for specialists. They also have to

demonstrate progress as a result of treatment in order to have more treatment authorized. You have to show that the treatment is working.

## Group 16

## Group 16's assignment was to find a way to implement this recommendation: Increase the Study of and Knowledge about SAW/RTW

1. HOW could this recommendation be implemented HERE?
   - By educating and diversifying the audience
     - Risk management
     - DOL/workforce training and development
     - Self insured providers
     - WC Advisory Committee
     - Chambers of Commerce

2. What impact would that have?
   - Recognize positive impacts among the injured worker
   - Increase productivity
   - Raise awareness: importance of stay at work understood

3. How could obstacles be avoided/overcome?
   - How to get psych interested
   - More succinct message
   - Have efficiency
     -Work group to determine how to get people interested
     - CME Conference with NM and WCAdmin.

4. What's a CONCRETE next step – or two?
   - Statute requiring annual safety inspection and training seminar
   - Use new Stay at Work booklet (yet to be implemented)
   - Public acknowledgment of success

5. If it can't be implemented, suggest an alternative.

## Group 16 – Report and Large Group Discussion

How do we get those community providers to be brought to the table to learn? We need the missing people (stakeholders) to hear this message too. For example, the missing people are State Risk Management, Chambers of Commerce from the various communities, more healthcare providers and probably more that we haven't thought of.

Concrete steps – we need a new WCA booklet that's focused on SAW/RTW. We could have a conference with WCA with CMEs for providers. We can bring in other employers, unions, labor and broaden the audience. ***BUT***, we don't know how to get those people there who don't want to come.

We should provide public acknowledgement and success stories. Could we do some sort of pilot study to show success by using these methods (of SAW/RTW)? Does anyone want to do this? Awareness drives behavior and behavior drives outcomes. Currently, no money is being spent on determining the effectiveness of workers comp treatment, but there is on the Medicare/Medicaid side. We pay for it but currently no one is real curious about how to achieve the best results for what we spend on workers compensation.

## Panelist Reactions to Small Group Recommendations

**Panelist Members:**

- Employer Representative - Ed Linderman is Vice President of Verlander Enterprises (Village Inn and Applebee's in Las Cruces)
- Payer Representative - Dan Stock is Claims Manager for Builders Trust of New Mexico, the state's largest workers' compensation self-insured fund.
- Provider Representative - David M. Lyman MD, MPH-Regional Medical Director for Concentra Medical Centers
- Regulatory Agency Representative - Abelino Montoya, Jr., Assistant Director, State of NEW Mexico Workers' Compensation Administration

Each panelist was asked to respond briefly to recommendations.

Employer – Ed Linderman – I heard two things that are key to the small to mid size employer 1) we fight the battle to get supervisors to bring people back to work and 2) we follow the law, the rules and the regs. We have a hard time to create "make work" jobs. We are totally self insured which means we write a check to the employee for them to stay at home. I like the direction I heard today to make rules and regs that support creation of a form that is developed by all parties and for the form to facilitate communication. We were audited by work comp administration a few years ago. We got on board, distributed the manuals and got communication going to prevent injuries. So maybe that's the way to go for SAW/RTW.

Jennifer Christian - Training supervisors makes a difference. What do you think about employers training their employees?

Ed Linderman – It depends on the size of the employer. We will use the survey at work that you did with us today.

Jennifer Christian – The strategy in NM needs to recognize that most of the employers are small and not very sophisticated and you are calling for an appropriate role for government (especially if a lot of employers are unwittingly harming their employees).

Kathy Diaz - Almost half of the employees in the state are covered by the self insurers. We began to work with those small employers from the point of injury. A lot don't even understand light duty. We would rather say modified duty, so if we can get the restrictions worded in the right way we can get them back to work. What part of your job can you do? Okay then we can help you do what you can't do.

Payer- Dan Stock- Recommendation #6 was covered in several of the groups - paying health care providers to get the doctor to go more in depth regarding other issues that may be impacting RTW (family issues, divorce, co-morbidity). Pay the provider for their additional time. Feedback survey? Maybe have an HR association work on this, but I don't know if it's our responsibility. Training supervisors – at Builders Trust, we have provided mandatory training for example OSHA and specific training for scaffolding, trenching. People didn't come and the training was free and the training was required by their union? Pulling people away from their job sites to attend training doesn't seem feasible. Doctors who see a high volume of cases already understand the issues [Editor's note: do they?] But for those whose practices where work comp cases are only 1-2%, they won't attend. They won't care. Group 15's recommendation to create a new ACP form letter is a great idea. Suggest a separate form; a uniform form would be helpful to providers. It would be great if we can get all the payers together to agree on ONE form that makes sense. Group 13's recommendations- I'm not opposed to disseminating information, but this needs more flushing out - recommend standardized information. One other thing that came out of the SAW/RTW paper that I think is really critical (I really like the work that the doctors of this paper have done) is the statement about kindness. Paraphrasing from the paper: "In most instances, a simple formula of kindness, straight forwardness, common sense, good claims management etc. will make the difference between a person who comes back to work and one who doesn't." This doesn't require a monumental solution. It just requires you to treat people nicely. Workers assume that it's going to be a fight. Something happens along the way that leads them to hire an attorney.

Jennifer Christian – Would like to challenge the assumptions that docs who see a large number of work comp patients know and understand their role. They don't have an in-depth understanding of shortening the length of disability. They don't realize their job isn't done by just releasing the employee back to work.

Provider -David M. Lyman, MD, MPH - Dr. Christian is right. Even most of the docs at Concentra don't "get" their role in preventing disability. For Concentra, offering CMEs is not enough. You have to tie it to an ability to do occupational health and disability management. Go to the medical board and request that a certain # of CME credits in disability management be required in order to treat the injured employee. Tightening requirements in this state would be good. Church's may not go away so let's communicate proactively. We need to be creative in how we communicate (forms). We

need to invite each other into our disciplines; payers to providers; providers to employers. Example, sometimes payers may not understand why we want to provide physical therapy after the employee has returned to work or while the employee is working to prevent them from leaving work. The employee is working but they are a walking disaster. In order to keep working they need the therapy to help them through. Occupational health is a preventive specialty. We prevent additional injuries by helping the employee get stronger. Pay providers for DM so that they are getting paid for their thinking. We should get paid for thinking. Push for legislation and forms that are standardized. This SAW/RTW document is radical and necessary.

Abelino Montoya, Jr. - We are dealing with the same things we did in 1989; getting involved right when the injury occurs. Bottom line is the employee, not the money. The education should start when the policy is sold, but employers don't know how to run a WC program or choose a doc. Ask an employer, where do you want to be in 2-3 years? What's your goal? If you have injuries, here's a RTW program you can use. It's been 20 years and people in NM still don't know what work comp is. We brought employers in last year and a large number of employers didn't even know they had to have coverage for work comp. We need to educate providers. Do you know what kind of an impact you as a doctor are having if you don't send that employee back to work? In a small community, it's a large economic impact. Bringing workers back to work is critical. WCA is willing to educate. We have worked with SBA throughout NM and we have been trying to educate people. They have seven safety folks to reduce severity. We have a 5K program that promotes safety awareness. But we keep having a problem with education. We started working with the Mexican consulate to focus on Spanish-speaking workers. We created very simple, wallet sized cards with rights and responsibilities on them. Brown bag seminars were hosted by Judge Griego.

Jennifer Christian -Many of the recommendations today had WCA's name on them, what's your reaction?

Abelino Montoya, Jr. - We are already getting information out through BPO – business productivity outreach. We only have 100 employees and we need more. Legislative issues go through our advisory committee and then to the legislature which meets only 60-80 days.

At what point does a new business learn about work comp? When they apply for a business license and then when they get their information from a group or pool. Some businesses don't know they should pay taxes, unemployment insurance and work comp…they just open their doors.

What about RTW? Dr. Christian was here two years ago and as a result we created the booklet.

Jennifer Christian - What does your system look like from your constituencies' point of view? (employees etc.). These packets imply adversity, hostility and complication. Need to emphasize and describe the ideal way for the system to work. There's avoidance

in teaching workers about the system, but workers who know come back to work sooner. Employers may have persuaded WCA not to educate employees.

Abelino Montoya, Jr. - We have a worksite where people can give us suggestions. You can also find out whether your competitors have work comp. If they don't you can report them.

Pam – We should have little booklets for employers and employees together; one for employer and one for employees. Write them with concern for the literacy levels. Do they tell the employee what should happen? The booklets shouldn't just talk about outliers. The booklets should tell the employee if you want to get back to work as quickly as possible, here's what you do.

Anthony –The biggest issue for the employee is "when do I get paid?" Employers don't know that benefits don't start for 7 days. Another issue for employers – the doc may need more testing to give accurate diagnosis – so possibly 14 days out – some have said if it's under a certain dollar amount it will be approved anyway. The authorization process slows the provider down in preventing release to regular duty

Dan Stock - There's confusion over the authorization process. If you are the authorized treating physician, my opinion is you shouldn't have to call us. Anthony agrees but he's had treatment denied, even emergency treatment and we can't get tests approved which delays RTW. Dan – you shouldn't have to get authorization for PT. If someone isn't paying then WCA has a department that handles health care provider disputes.

Jennifer and Kathy completed the wrap-up. Jennifer summarized the recommendations on PowerPoint. Kathy encouraged participants to email her with feedback and an evaluation of today's session.