



FOREMEN'S UNION

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Bulletin

NOVEMBER 2013

STOP WORK MEMBERSHIP MEETING THURSDAY, NOVEMBER 7, 2013

7 PM AT THE CRUISE TERMINAL

Daylight Saving Time: At 2:00 AM Sunday, November 3, 2013 all clocks are to be moved back one hour. If you are working the 2nd shift or the 3rd shift Saturday night you will not set your clocks back until after the shift ends. Sunday, November 3 dayshift will begin at the adjusted Pacific Standard Time.

Veterans Day: Monday, November 11, 2013 is a Paid Holiday and any work performed on that day will be paid at the overtime rate of pay.

Thanksgiving Day: Thursday, November 28, 2013 is a Paid Holiday. As per section 5.313 of the PCWB&FA you must work or be available two of the five days, Monday through Friday (exclusive of the holiday).

Auto Jobs: SSA has asked for our help in their "Zero" Damage campaign for the month of December at the Toyota dock LB – 83. These jobs are very important to the ILWU and we would appreciate your efforts to keep them safe and as damage free as possible so that these jobs would remain in our ports.

The effects of the Patient Protection and Affordable Care Act on multiemployer health plans:

Several Labor Unions have been provided affordable, high-quality health care coverage for workers through multi-employer health plans. Working jointly as labor and management through the collective bargaining process, we have strived to offer competitive living wages and benefits to employees and their families nationwide. Unfortunately, these plans are in jeopardy. The Patient Protection and Affordable Care Act (ACA) is threatening the multi-employer health plan coverage of 26 million Americans.

About Multi-employer Health Plans: Multi-employer health plans are operated and administered by a board of trustees (ILWU/PMA joint Trustee) comprised equally of representatives from labor and management. Most of these plans are self-insured in order to reduce employer cost and increase benefits to participants. Across all industries, the current multiemployer plan system provides affordable, high-quality health care coverage to millions of American workers, retirees and families. Participating in a multiemployer plan allows businesses to spread risk across a larger, more diverse pool of individuals, which reduces premium costs.

The ACA's Effect on Multiemployer Health Plans: the ACA threatens the viability of multi-employer health plans in four ways: 1. The high employee threshold of the employer mandate, 2. The reinsurance fee, 3. The definition of qualified health plans, and 4. The lack of multiemployer specific administrative guidance. We believe it may be impossible to reverse the damage done to these plans if these issues are not resolved. Labor Unions cannot afford to sit on the sidelines as the ACA threatens to harm our members by dismantling multiemployer health plans.

High Employee Threshold for ACA Requirements: The ACA begins a race to the bottom with respect to benefits. Employers contributing to multiemployer health plans will be forced to choose whether to provide healthcare benefits for their employees or remain competitive. Although the exact type of healthcare coverage that will be available through the exchanges is unknown, it is likely that it will not be comparable to that available through multiemployer health plans. In addition the premiums of the exchange plans will vary for individuals based on income, age, family size, and other factors. This means that to employees working in the same job with identical responsibilities could pay different amounts for health care coverage through an exchange. Calculating and tracking these costs variances would make it very difficult for an employer to provide healthcare coverage through an exchange.

The Reassurance Fee: Beginning in 2014 and continuing until 2016, either the Department of Health and Human Services or individual states will assess a fee for everyone enrolled in a plan outside of the exchanges. Health insurance carriers will pay the fees on behalf of employers who sponsor fully insured plans. Presumably, the carrier will pass this cost and any additional fees onto the employer or employee through increased premiums. For self-insured plans, which include the majority of multiemployer health plans, the plan administrator will be responsible for paying the assessment. In multiemployer plans, trustees set the benefits, corresponding contributions, premiums, and employee co-pays. Just like fully insured plans, self-insured plans will recoup the

expense of reinsurance fees by increasing the employee and employer contribution amounts. This means collective bargaining agreements between unions and their employers will need to be renegotiated. This creates an opportunity for the multiemployer health plan structure to change, shifting more individuals into the exchanges and leaving fewer dollars to fund ACA provisions. As individuals leave multiemployer plans, there will be fewer people to shoulder the reinsurance fees – resulting in higher per person costs and forcing even more individuals into the exchanges.

Defining Qualified Health Plans: As currently structured, the ACA does not include multiemployer health plans in the definition of a qualified health plan. As a result, employees do not qualify for the subsidy to offset the cost of healthcare coverage and employers do not qualify for the tax credit for contributions to self-insured multiemployer plans. In order to fix this problem, the implementing regulations should deem all multiemployer health plans as qualified health plans. Doing so will alleviate a major problem with the ACA. Assuming union members meet all other qualifications, the ACA individual subsidy to offset the cost of health care coverage would be available to them. This disparity in treatment between collectively bargained plan contributions and their contributions to other health plans will create another competitive disadvantage for employers who have been providing quality coverage for their employees for years. Failure to deem a multiemployer health plans as qualified health plans will force employers to reconsider participation in multiemployer health plans in order to remain competitive.

The Lack of Specific Guidance for Multiemployer Health Plans: Despite many efforts by the National Coordinating Committee for Multi-employer Plans (NCCMP) and other groups, application of the ACA to multiemployer health plans remains unclear. In several cases, multiemployer health plans have been addressed through transitional rules. An example is the transitional guidance in place until 2014 for the pay or play penalty. However no clear guidance has been given with respect to the effect of other provisions, such as the 90 day limit on waiting periods before an individual is covered by the plan. The proposed rule issued by the Department of Treasury, Labor, and Health and Human Services addresses "variable hour employees" which seemingly covers participants in multiemployer health plans, but a final rule has not yet been issued (Example Casuals). It is important to keep in mind the reporting differences for multiemployer health plans. Due to the nature of several industries, work hours are often unpredictable. Most plans are funded, and eligibility is determined, on a pay per work hour basis. Multiemployer health plans do not receive information on hours worked until at least one month after the hours were worked. This makes the requirements associated with providing notices to employees and paying ACA required fees more complex for these plans. For example, the notice required by the Department of Health and Human Services regarding availability of exchange coverage contains a section where the employer must indicate whether the employee will qualify for health care coverage within 90 days. Because of the way work hours are reported for multiemployer health plan participants, employers will not know whether an employee qualifies for coverage within this time frame. So far this problem has not been addressed by any of the agencies responsible for implementing ACA provisions. It is not clear how multiemployer plans will comply with portions of the ACA or fit into the new healthcare insurance system beginning in January 2014. Further administration guidance is needed.

As a Reminder of our Tri-party LRC agreement: The three Locals 13, 63, and 94 met on February 21, 2012 to discuss some safety protocols and a method of discharge for 20' containers. The parties agreed to the following: In the event that on deck 20' containers are offset of the abreast container stack, the following protocol shall be used:

Duties of Foremen/Supercargo

1. Supercargo shall identify and **note on the Bay Plan** whenever on deck 20' containers are abreast of 40' containers.
2. Supercargo shall inform/notify the Ship Boss of such bays, prior to the start of the shift.
3. Ship Boss shall notify all Foremen and all Longshore personnel working such bays.

Method of Discharge is recommended by Local 13, 63, and 94

The following protocol shall be used:

1. Offset 20' containers, abreast of 40' containers, that cannot be twinned off shall never have more than a two (2) tier height differential when being discharged.

“ The Life You Save May Be Your Own “

In Solidarity:

Daniel G. Miranda
President

Edward Alexander
Vice President

Mike Trudeau
Secretary – Treasurer