

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

February 11, 2015

Department of Industrial Accidents
1 Congress Street, Suite 100
Boston, MA 02114-2017

Council Members Present: Stephen Joyce; Frank Ruel; Bernie Mulholland; Todd Johnson; Stephen Falvey; Teri McHugh; Michael Kelley.

Also Present: George Noel, Director; Linda Turner, Deputy Director; Omar Hernandez, Senior Judge; Bill Tattan, General Council; Bill Taupier, Deputy Director of Administration; Marc Joyce, Sr. Regional Services Manager; John Riordan, Deputy General Counsel; Bob Ford, Budget Director, EOLWD.

Advisory Council Staff: William S. Monnin-Browder; Evelyn Flanagan.

Absent: John Regan; Mickey Long; John Pulgini; Bill Corley; Dennis Hines; Lisbeth Hosford-Walsh; Executive Office of Housing and Economic Development; Executive Office of Labor and Workforce Development.

Agenda:

Chairman's Welcome

DIA Update

- Judicial Update – Omar Hernandez, Senior Judge
- Vital Statistics – William Taupier, Deputy Director of Administration
- Directors Update – George Noel, Director

Action Items

- Minutes – January 14, 2015

Executive Director Update – William Monnin-Browder

Miscellaneous

CHAIRMAN'S WELCOME

Chairman Stephen Joyce began the meeting at 9:00 A.M. The Chairman asked Senior Judge Omar Hernandez to provide the judicial update.

DIA UPDATE

Judicial Update

The Senior Judge stated that the conference queue has decreased, but, due to the weather, may increase. He informed members that the average wait times between conciliation and conference in all regions is between six and eight weeks.

The Senior Judge stated that one of the things he would like to address this year is the time between conference and hearing. The Senior Judge noted that the Agency is working on developing a status conference to be held after the impartial report becomes available. He indicated that this is a major project that involves IT, but that he hopes that it can be done this year. He noted that the status conference would help with the resolution of cases and reduce the hearing queue.

Senior Judge Hernandez stated that the three new judges are on board and that outstanding decisions of the departing judges have been reassigned. He noted that some of the reassigned cases have settled and that others will go through a new hearing since a new judge will have to hear some live testimony. He explained that the judge can then make a decision using both the new and old testimony.

Budget Update

Budget Director Bob Ford stated that there is currently a hiring freeze in place and that no one has been hired since the new Secretary arrived. Mr. Ford indicated that the Secretary will entertain proposals for positions that are federally funded or, as in the case of the DIA, positions that are funded by assessments. Mr. Ford also noted that the Secretary will honor any offers made before he took office.

Regarding the additional 9C cuts, Mr. Ford noted that state funding is only about 13% of the Secretariat the rest is from federal funding and the trust fund. He explained that in the state funding there was a \$1 million reduction for the Secretariat.

Mr. Ford stated that the FY'16 numbers are continually changing. He noted that in FY'15 the DIA was reduced by \$300,000 ending up with \$19.5 million and for FY'16 the DIA will probably get a \$300,000 increase which will go from \$19.5 million to \$19.8 million so the DIA will probably have to live with a staff of about 245. He explained that right now the staff, including the new judges, is at 244.

Director's Update

Director Noel stated that during last month's meeting there was a discussion about proposed changes to the DIA's regulations. The Director noted that the DIA would be working with a group of stakeholders, including members of both the claimant's and insurer's bars, judges, and others to consider the proposed changes. He explained that this approach is similar to how regulatory changes have been developed in the past. The Director stated that the DIA would keep the Advisory Council informed of future developments.

The Director noted that the Senior Judge is looking at a better way to deal with the problem of opioids in workers' compensation and that he is working with attorneys on both sides to see if there are ways for improving the way the Agency and, specifically, its dispute resolution process, responds to the issue.

Vital Statistics

Bill Taupier updated Council members on the information contained within the DIA's vital statistics report for February 2015. He offered the following statistics: Conference Queue: 337; Hearing Queue: 660; Reviewing Board Inventory: 74; Impartial Exams for FY'15 (to date): 2,186 (57 waivers); Exam Fees Collected for FY'15 (to date): \$1,221,739; Impartial Medical Examinations in FY'14: 4,376 (22 waivers); and Exam Fees Collected in FY'14: \$2,018,883.

Mr. Taupier updated the Council on the Stop Work Order (SWO) and Caseload Statistics, including the following: SWOs issued in January: 120 (3 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'15 (to date): 1,093; fine collection for January: \$80,979; total fines in FY'15 (to date): \$669,396; SWOs issued in FY'14: 2,345; total fines collected in FY'14: \$2,018,883; compliance checks for January: 5,976; estimated number of workers now covered by workers' comp insurance as the result of a SWO: 3,380 in FY'15 (to date).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in January 2014: 818; total cases filed in FY'15 (to date): 6,897; total cases filed in FY'14: 11,960; total First Report of Injury Forms (FRI) filed in January 2015: 2,474 (2,159 filed electronically; 87%); total FRIs filed in FY'14: 31,384 (11,937 online). In January 2015 the number of employee claims filed: 669;

number of employee claims filed in FY'15 (to date): 5,819; number of discontinuances filed: 145; the total number of discontinuances filed in FY'15 (to date): 1,058; the number of third party claims filed: 4; total number of third party claims filed in FY'15 (to date): 20.

Bill Taupier proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY'15 (to date): 48; total amount of §65 claims paid by the Trust Fund in FY'15 (to date): \$4,598,524; total §65 claims filed in FY'14: 107; total amount of §65 claims paid by the Trust Fund in FY'14: \$8,663,080; total recovery efforts against uninsured employers FY'15 (to date): \$1,000,603; total recovery efforts against uninsured employers FY'14: \$1,013,557.

Bill Taupier provided a new slide showing the Trust Fund claims by industry. Construction FY'15 to date: 20 (45.5%); FY'14: 53 (46.9%); FY'13: 66 (49.6%). Transportation: FY'15 to date: 8 (18.2%); FY'14: 18 (15.9%); FY'13: 26 (19.5%). Retail/Manufacturing FY'15 to date: 6 (13.6%); FY'14: 4 (3.5%); FY'13: 6 (4.5%). Home Services FY'15 to date: 5 (11.4%); FY'14: 4 (3.5%); FY'13: 6 (4.5%). Restaurant/Food FY'15 to date: 3 (6.8%); FY'14: 7 (6.2%); FY'13: 9 (6.8%). Landscaping/Tree Service: 2 (4.5%); FY'14: 10 (8.8%); FY'13: 6.8%. Services/Misc. FY'15 to date: 0 (0.0%); FY'14: 17 (15.0%); FY'13: 11 (8.3%). Total FY'15 to date: 44; FY'14: 113; FY'13: 11.

Mr. Taupier proceeded with the vital statistics for the Second Injury Fund (§37/37A), stating the following: total amount of §37/37A petitions paid in FY'15 (to date): \$14,096,633; total amount paid on these claims in FY'14: \$28,467,448; total COLA reimbursements to insurers in FY'15 (to date): 5,255,306; total COLA reimbursements to insurers in FY'14: \$15,744,268.

Mr. Taupier reported that as of January 2015, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 243 (188 DIA employees, 55 WCTF employees).

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY'15 (to date): \$2,209,318; total referral fees collected in FY'14: \$3,612,740; total first report fines in FY'15 (to date): \$18,775; total first report fines in FY'14: \$129,474; total assessment collections in FY'15 (to date): \$34,115,562; total assessment collections in FY'14: \$50,224,950; total SWO fines in FY'15 (to date): \$104,720; total SWO fines in FY'14: \$1,327,628.

Council member Todd Johnson asked the DIA to provide an update on the situation with the Boston office's lease.

Director George Noel stated that there was nothing new to report. He explained that he was expecting to receive something in writing but they have not received anything yet from DCAM because DCAM has not received anything in writing yet either. He explained that until the Agency receives something in writing, there is nothing to report.

The Chairman noted that one of his concerns with moving the office has to do with technology, since it took a lot of time, energy and resources to get everything up to date in the current office. He suggested that any arrangement with the current landlord should take technology into account.

EXECUTIVE DIRECTOR'S UPDATE

Executive Director William Monnin-Browder mentioned that, immediately following the regular meeting, there will be a subcommittee meeting to discuss whether there are ways of expediting the dispute resolution process for injured workers.

The Executive Director informed the Council that the new legislative session has begun. He explained that the bill filing deadline has past, but bill text was not yet available. He informed Council members that staff would review and summarize the legislation as quickly as possible after its release.

MISCELLANEOUS

Meeting adjourned.

The next meeting of the Advisory Council is scheduled for Wednesday, March 11, 2015, at 9:00 A.M., at the Department of Industrial Accidents, 1 Congress Street, Suite 100, Conference Room #10-140, Boston, MA 02114-2017.