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MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL

LAFAYETTE CITY CENTER
2 AVENUE DE LAFAYETTE
BOSTON, MASSACHUSETTS 02111

JOHN A. PULGINI
CHAIR

TODD R. JOHNSON
VICE-CHAIR

MAUREEN O'CONNELL
EXECUTIVE DIRECTOR

MINUTES

February 14, 2024

Via WebEx

Present: Attendees: John Pulgini, Todd Johnson, Stephen Joyce, Teri McHugh, Michael Hess, Samuel Larson, Michael Kelley, and Patrick Walsh; Sheri Bowles – DIA Director, Bill Taupier – DIA Director of Administration, Omar Hernández - Senior Judge, General Counsel Philip Imbrescia, Alan Green - Deputy Director of Investigations, DIA Vinnie Lopes, Shamia Moore; Cara Toomey - WCRIBMA, Daniel Judson - WCRIBMA; Roman Dolinschi- WCRI; Christopher Stark, MA Insurance Federation; Attorney Kerry Nero - City of Boston, Attorney Patrick Francomano, Attorney Maryann Calnan, Attorney AnaMari DeGaravilla; Mary-Beth McGrath - Commonwealth of MA HRD; Isabel Hernandez - HealtheSystems, and Maureen O'Connell.

Date: February 14, 2024

Location: Department of Industrial Accidents - via WebEx
Lafayette City Center
2 Avenue de Lafayette, Boston, MA 02111

Time: 9:00 A.M.

Notice: All meetings are voice recorded to aid in preparing "hard copy" minutes.

1. CHAIRMAN'S WELCOME

2. DIA UPDATE

- A. DIA Judicial Update - Senior Judge Omar Hernández, Senior Judge
 - o Conference/Hearing/Reviewing Board Queue
 - o Impartial Medical Exams/Physicians
- B. DIA Vital Statistics - Bill Taupier, Director of Administration
 - o Cases Filed with DIA
 - o Workers' Compensation Trust Fund
 - o Personnel Update
 - o Enforcement and Compliance
- C. Director's Update – Sheri Bowles, Director

3. EXECUTIVE DIRECTOR'S UPDATE

- o 2023-24 Legislative bills
- o FY'23 Annual Report
- o Open Meeting Law

4. ACTION ITEMS

- o Minutes - December 13, 2024
- o Minutes - January 10, 2024

5. COMMUNICATIONS

N/A

6. MISCELLANEOUS

N/A

LAFAYETTE CITY CENTER

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Vice Chair Todd Johnson began the meeting at 9:00am. With two new Advisory Council Members appointed to the Council since our last meeting, Vice Chair Johnson asked Michael Hess - AFL-CIO and Samuel Larson - Associated Industries of Massachusetts (AIM) to give a brief bio to the members and guests of the February 14, 2024 meeting.

Council Member Hess has worked as an Ironworker from 2000-2016, and elevated to Business Manager in 2023, and is now the Eastern Regional Director of Impact since June of 2023 doing contractor trainings, servicing Delaware, Kentucky, and Michigan.

Council Member Larson shared his experience: as Vice the President of Government Affairs and Legal Counsel at the Associated Industries of Massachusetts I am the member of the government affairs team responsible for employment law, taxation and budgetary policy issues. Prior to joining AIM, Sam was the Research Director for the Committee on Labor and Workforce Development in the Massachusetts State Legislature. In 2018 Sam was a staffer for the "Grand Bargain" negotiations which led to several employment law reforms. Sam served as a committee staffer for Chairs Scibak, Brodeur, and Cutler and as a legislative aide to Representative Gordon. Sam received his B.A. in History from Gettysburg College and a Juris Doctorate from New England Law Boston in the evening program.

Senior Judge Omar Hernández provided the statistical update on the dispute resolution unit. The numbers look great, and this is a credit to Dele Edibiri and his team. Conference and hearing queues are strong, timeframes between conciliation and conference are great, in good shape. Slight increase in the Lawrence region as Judge Preston has taken a winter vacation.

Mr. Bill Taupier, Director of Administration presented the slide deck for the Department of Industrial Accident (DIA) units.

With respect to conciliations, in December, 443 cases were resolved and 415 were referred to conference (51.6%). The average waiting period for a conference is 10-18 weeks - up from last month. ***Dispute Resolution: fluctuations in the conference & hearing queues will depend upon number of cases being referred from conciliation, conference order appeals, judges scheduling cycles, continuance requests and regional variations.***

With respect to the conference queue, there are 745 (up from last month) with conferences scheduled: 403, Hearing queue: 1,796 and hearings scheduled: 262, Orders issued: 253, and Appeals to reviewing board: 4. Form 110 filed 49% of conferences and no 110 filed 92% while hearings were 78% with a Form 110 filed and 86% without a Form 110 filed. With respect to the pending hearing decisions, there were 9, down one from last month. Review Board inventory: 26, Fee waivers granted: 40, Exam fees collected: \$788,500, Attorneys fees: \$52,727,864, and Section 7/8 penalties: 0. ***Note: Attorneys fees are not paid by the DIA, these fees are paid by the insurer to the claimant's counsel at certain stages of the dispute resolution process.***

First Report of Injury (FRI) filings for December were 2,558, up from last month. The number of Cases filed for February 2024 was 873 (up from last month). Cases filed by type: 6,092 total cases, 5,009 employee claims, 1,063 in Insurance discontinuances, and 20 third-party claims.

Mr. Taupier provided statistics on compliance and enforcement for FY'24: 10,068 compliance letters, 21,414 field checks, and 21,229 office checks. In January, there were 7,817 compliance checks, 266 field investigations, 1,642 compliance letters, and 2,210 employees covered by workers' compensation insurance. There were 118 Stop Work Orders (SWOs) this includes 3 defaults, and fine collection for the month was \$783,239. There were 69 uninsured injuries, with 23 laborer (occupation) and 22 other occupation, while 29 were in the construction industry, and 26 were other industries.

Council Member Stephen Joyce asked about the debarment list and the industry codes for construction, tobacco, and nail salons. Deputy Director Alan Green said that he would look into it and get back to Council Member Joyce.

Out of a budget of \$7,500,000 there were \$3,439,882 in payments against open claims and there was \$757,247 recovered by the Civil Litigation Unit, up from last month. ***Please note, the claims paid in the current fiscal year may have occurred in the prior fiscal year. The Civil Litigation Unit make every effort to recover monies owed by utilizing the authority of M.G.L. Chapter 152 to recover money paid on uninsured claims through legal action against the employer in question.***

With respect to the Workers' Compensation Trust Fund, these slides have been revised. For comparative reasons, the left hand side is benefits side with budget, and on the right hand side is civil recovery. ***Please note, claims may be determined to be insured or underinsured after they've been filed.***

The Second Injury budget is \$31,000,000 (budget increase) and payments made were \$11,258,156, up from last month. Chart shows dollars paid for Sec. 37 /37A Claims (including quarterly payments and interest) by Fiscal Year. Sec. 37/37A claims are filed by insurers who are seeking reimbursement up to 75% of benefits paid for a second injury per the statute. In addition, the numbers indicate final payments have been registered in the state accounting system known as MMARS. ***Additional payments may be in process and are not yet registered in MMARS at the time of this publication.***

COLA reimbursements were \$4,420,095 (**no change** since last month) with a \$8,700,000 budget. These numbers lag throughout the fiscal year. ***The dollar amounts indicate the final payments that have been registered in the state accounting system known as MMARS. Additional payments are often in process that have not yet registered in MMARS at the time of this publication.***

Assessment collection budget is \$79,000,000 with a payment of \$39,480,737, up from last month.

Personnel: **One resignation since last month** - 197 (65 Administration, 80 dispute, 14, legal, 28 WCTF, and 10 finance). Slide deck has been adjusted to reflect breakdown of personnel. ***Staff: paid from either the General Appropriation Account or the WCTF depending upon their job. These numbers reflect full-time and part-time employees as of the close of the month.***

Without questions for Mr. Taupier the floor was directed to Director Sheri Bowles.

Director Bowles provided an update on the Fall River lease with DCAMM, and reported that the Health Care Services Board finalized the knee treatment guidelines.

Council Member Michael Kelley asked Director Bowles about the Fall River lease and whether they will remain at the same office location, Director Bowles confirmed that the location is the same and they will be signing a 10-year lease and making modifications to the space.

Vice Chair Johnson asked Director Bowles about the Director of Investigations position and whether that process was ongoing. Director Bowles confirmed that the position was still open and the process was ongoing, it's advancing but not a rapid rate.

Vice Chair Johnson directed the floor to Executive Director Maureen O'Connell.

Thank you, Vice Chair. The WCRIBMA filed for an 8.3% rate reduction on policies effective on or after July 1, 2024. With respect to legislation, approximately 20 bills have left the Joint Committee on Labor and Workforce Development; HB 1880, HB1897, and SB 1159 An Act relative to permanent and functional loss and disfigurement under the Workers' Compensation Act - Legislative Session has resumed after their winter break and Director O'Connell mentioned that she'd follow along to see if there are any new hearings. Lastly, with respect to 10 bills were about remote meetings and how the public can access meetings - these bills were granted extension orders for July 1, 2023; 4 bills were about defining the relationship between companies and app-based drivers; SB 1176 Occupations Presumption and Covid-19 accompanied a study order.

The monthly statistical Report Card will become available on the WCAC website beginning this month. All Report Cards for January 2024 moving forward will be on the [Advisory Council website](#) under Publications.

The Prescription Drug Pricing Protocol public meeting is in the process of being rescheduled to March. Once I have more information, I will forward as this may spark conversation on how this will impact the workers' compensation industry.

With respect to Council Member appointments, there are two members operating in expired terms, one vacancy under Business Representatives (seat previously held by Frank Ruel of Raytheon), and two terms that will expired in June 2024. When you are appointed, please forward your appointment letter so that I can keep with our records.

Still waiting for an update on the FY'23 Annual Report and when it can be published, will keep you updated.

Council Member Kelley asked Director O'Connell if she could provide an update in writing of Council Member appointments and their terms. Director O'Connell confirmed that she will email Council Members a copy after the meeting.

Should you need a copy of the legislative spreadsheet or Report Card, please email me after the meeting. Thank you.

With a quorum, Council Members motioned and seconded for a vote on the December 13, 2023 and January 10, 2024 minutes. Without any objections, both minutes were voted on.

Without questions from the guests, Vice Chair Johnson ended the meeting at 9:25am.

Webex meeting recording: 2024 | Feb 14 Advisory Council meeting-20240214 1429-1

Password: aSHYbT33

Recording link: <https://maureenococonnell.my.webex.com/maureenococonnell.my/jdr.php?RCID=81bf56e6c1339778402aec1d7e919683>