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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

July 12, 2023

Via WebEx

Present: Attendees: John Pulgini, Todd Johnson, Stephen Joyce, Teri McHugh, James Steenbruggen, Michael Kelley, Bernie Mulholland, Patrick Walsh, Stephen Falvey; Sheri Bowles – DIA Director, Bill Taupier – DIA Director of Administration, Senior Judge Omar Hernández – DIA Senior Judge, Acting General Counsel Gerard Pugsley, DIA Investigations Deputy Director Alan Green, DIA Vinnie Lopes, Maryann Brunton, Shamia Moore; Cara Toomey - WCRIBMA, Daniel Judson - WCRIBMA; Frank Rivera - Massport; Roman Dolinschi- WCRI, City of Boston Attorney Kerry Nero, Attorney Stacie Sobossik, Attorney Ryan Benharris, Attorney Lori Favata, Julie Bowler, and Maureen O'Connell.

Date: July 12, 2023
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

4. ACTION ITEMS

- o Minutes - July 12, 2023

5. COMMUNICATIONS

N/A

6. MISCELLANEOUS

LAFAYETTE CITY CENTER

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Chairman John Pulgini began the meeting at 9:02 am and asked Senior Judge Omar Hernández to provide an update on judicial activity.

Senior Judge Hernández indicated that the conciliation unit is doing incredible work resolving cases, moving cases along, thank you to Dele Edibiri and his team. The hearing queue is up a bit, perhaps due to vacation, conference queue is low. With respect to the pending hearing decisions, 10, up two (6-9 months - hit the 180 days) a few old cases that involve ADR, surgery, out of our control, but the department is in good shape. Reviewing board, 87 board numbers, this is why this number is high (108). Everything in dispute resolution is moving well, credit to everyone, getting the injured workers the treatment they need, happy with the 5 judges.

Without any questions for Senior Judge Hernández the floor was directed to Bill Taupier, Director of Administration.

With respect to conciliations, In July 1,506 cases were resolved (49.8% - up from last month)- 531 resolved and 536 were referred to conference. The average waiting period for a conference is 8-10 weeks. 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. In addition, during FY 2023 attorneys have requested a total of 7,354 continuances. For FY 2022, there were 6,860 continuances.

With respect to the hearing queue, there are 1,506 (down from last month) with Conferences scheduled: 435, Hearings scheduled: 251, (48% conferences with 110 filed, 90% without 110 and 77% hearing with 110 filed and 83% without 110). Orders issued: 307, and Appeals to reviewing board: 2. With respect to the pending hearing decisions, there were 10 (same as previous month). Senior Judge Hernández mentioned this is a result of pending cases either due to surgery, agreements, ADR or pro-se cases. Review Board inventory: 109, Fee waivers granted: 78, Exam fees collected: \$1,504,226 - no change since last month, Attorneys fees: \$94,666,107, 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.

Mr. Taupier provided statistics on Compliance/Stop Work Orders: 81 - decrease from last month, and 6 defaults. The DIA compliance unit sent 1,375 compliance letters in the month of July 2023. Fine collection for the month of July \$225,850, an increase from last month with a FY 2023 total of \$936,757.

Throughout the entire presentation from Mr. Taupier his microphone was malfunctioning, the sound was muffled, and it was difficult to hear. Minutes will reflect information from the monthly report card prepared by Mr. Taupier and from the meeting.

The DIA conducted 6,117 total compliance checks and 209 field investigations in July. In addition, since the beginning FY 2023, DIA has conducted 64,506 compliance checks with 4,356 employees now covered by workers' compensation insurance due to the efforts of the investigations unit.

Council Member Stephen Falvey asked about investigations and in the drastic drop in SWOs. New investigators are on boarding and with vacations attribute to the numbers, it is not a drop in the DIAs efforts.

First Report of Injury (FRI) filings for July were 2,645. Total FRIs filed for FY 2023 are 32,803. The total FRIs file for FY 2022 were 35,644. The number of Cases filed for July 2023 was 861, a, increase from last month. Total cases filed for FY 2023 are 10,560. Cases filed by type: 10,560 total cases, 8,545 employee claims, 1,990 in insurance discontinuances, and 25 third-party claims. Total cases 864, and 848 manual with 16 web online filing. Total cases in July 2022 (beginning of FY '23) 841, with 827 manual and 14 web online filings.

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 audio presentation by Mr. Taupier continued to cut in and out during the Trust Fund presentation.

Vice Chair Todd Johnson asked Mr. Taupier about the Trust Fund claims and what was driving those numbers. We've talked about this in the past, but it may be worthy of another snapshot. Is there a way to give us an inventory of active claims, and what are we paying for medical cases that have been resolved.

There are 95 new Section 65 injuries for June 2023 (Example: **Uninsured Claims by Occupation**: 24 laborer, 9 carpenter, 9 driver, and **Uninsured Claims by Industry**: 41 construction, 5 healthcare, and 4 landscaping. As of the end of last month, payments against open claims in FY 2023 stands at \$7,726,621. Recovery efforts: \$1,061,271. The WCTF issued \$6,924,993 in payments against open claims during FY 2022. *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.*

The Second Injury budget is \$28,000,000 and payments made were \$28,933,821 - an increase from last month, and over budget. 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 \$7,944,669 with a \$6,000,000 budget - we are above budget, but have funds to handle this - trending higher than expected. The budget for the COLA reimbursements have been reduced. 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.* Referral fees were \$3,964,110 - up from previous month. Assessment collection budget is \$63,000,000 with a payment of \$75,030,740 - up from last month and over budget.

Personnel: **No change since last month** - 199 (67 Administration, 80 dispute, 14, legal, 28 WCTF, and 10 finance). Slide deck has been adjusted to reflect breakdown of personnel. A few new hires not reflected in this slide: OEVR review officer and two new investigators coming on board in Springfield area, those numbers will be reflected in next month's slide with a pending retirement in June. *Staff are paid from either the General Appropriation Account or the WCTF depending upon their job. These number 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 mentioned that the microfilm project that the DIA is working on to digitize, scanning is completed, whoever needs access can reach out the Public Information Unit to coordinate. Phase Two of the project is underway, once it is completed it will be online. General Counsel and Director of Investigations interviews have been completed, hopefully we will have these folks in the positions within the next month and it is in the HR process now.

Without questions for Director Bowles, Chairman Pulgini directed the floor to Executive Director Maureen O'Connell. Executive Director O'Connell mentioned that Council Member Stephen Joyce was in attendance and there was a quorum to vote on April, May, and June 2023 minutes. A motion was made and seconded and the minutes for April 12, May 10, and June 14, 2023 minutes were approved.

Executive Director Maureen O'Connell provided her update. The FY'23 Annual Report process has begun and I'll be reaching out to Council Members next month with a rough draft of the annual report.

Without questions for Director O'Connell, Chairman Pulgini asked the guests if they had any comments. Without questions from the guests, Chairman Pulgini ended the meeting at 9:19am.

Webex meeting recording: 2023 - July 12 | Advisory Council Meeting-20230712 1241-1

Password: ZsghW6xx Recording link: <https://maureenocconnell.my.webex.com/maureenocconnell.my/jdr.php?RCID=c3a4cf-f7c8e5af623b46b3578631c031>