



**MAURA HEALEY**  
GOVERNOR

**KIM DRISCOLL**  
LIEUTENANT GOVERNOR

## **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**

May 10, 2023

Via WebEx

**Present:** Attendees: John Pulgini, Todd Johnson, Teri McHugh, Michael Kelley, 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, WCTF Director Holly Anderson, DIA Attorney Timothy Foley, DIA Vinnie Lopes, Shamia Moore, Maryann Brunton, Meghan Orio; Cara Toomey - WCRIBMA, Christopher Stark - Mass Insurance Federation; Roman Dolinschi- WCRI, Kerry Nero - City of Boston, Attorney Alicia DelSignore, Attorney Lori Favata, Attorney Patrick Francomano, Attorney Gary Orlacchio, Attorney Steven Bolognese, Attorney Ryan Benharris, Attorney Sheila Amada Carey; Julie Bowler, one call-in user, and Maureen O'Connell.

**Date:** May 10, 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, Interim Director

#### **3. EXECUTIVE DIRECTOR'S UPDATE**

- o 2023-24 Legislative bills

#### **4. ACTION ITEMS**

- o Minutes - April 12, 2023

#### **5. COMMUNICATIONS**

N/A

#### **6. MISCELLANEOUS**

Future medical rates discussion

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 well resolving cases, thank you to Dele Edibiri and his team. The numbers are consistently over a 50% resolved rate. The conference queue is low, but the time between conciliation and conference is too quick, and I've made adjustments thanks to your feedback. With respect to the hearing queue, came down a lot and is in a good place. Everything is working well in the dispute resolution unit with judges, the numbers reflect this. With respect to the pending hearing decisions, the judges are writing decisions and it is now in the single digits (8) - for comparison, 10 years ago this chart used to reflect 80-90 pending hearing decisions, commented Senior Judge Hernández.

Senior Judge Hernández mentioned that the reviewing board had high numbers - one case had 80+ board numbers. Judge Fabiszewski and Judge O'Leary are doing well through their transitions to the board. Attorneys fees are in good shape.

Lastly, Senior Judge Hernández wanted to share a report completed by Cora Roelofs - UMass Lowell researcher, on the opioid program. Cora and her team studied data from the opioid program and it shares the process of how attorneys and injured workers are guided through the system. The results will be published soon and a copy of the report will be placed on the DIA website next week. And the DIA Worcester Office is looking to replace a stenographer (as one just relocated to federal court) so if you know of anyone that would be interested let me know.

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

With respect to conciliations, In April, 547 cases were resolved (0.7%) and 531 were referred to conference (an increase from last month). The average waiting period for a conference is 6-12 weeks (down from the previous 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. In addition, during FY 2023 attorneys have requested a total of 6,684 continuances. For FY 2022, there were 6,860 continuances.

With respect to the hearing queue, there are 1372 with Conferences scheduled: 516, Hearings scheduled: 268, Orders issued: 281, and Appeals to reviewing board: 8. With respect to the pending hearing decisions, there were 8 (a decrease from the 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: 106, Fee waivers granted: 61, Exam fees collected: \$1,078,489, Attorneys fees: \$78,173,798, 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: 119, 1 defaults (SWOs decreased from last month). The DIA compliance unit sent 1,632 compliance letters in the month of April 2023, up from last month. Fine collection for the month of April was \$75,325, an increase from last month with a FY 2023 total of \$647,594.

Council Member Stephen Falvey asked about the leadership opening in the Office of Investigations - has that been filled. Mr. Taupier mentioned that the interviews are ongoing. Director Sheri Bowles added that they are in the interviewing process and will be making a decision shortly.

The DIA conducted 5,981 total compliance checks and 279 field investigations in April, an increase from previous month. In addition, since the beginning FY 2023, DIA has conducted 51,928 compliance checks with 3,740 employees now covered by workers' compensation insurance. There were a total of 60,435 compliance checks and 2,506 employees newly covered in FY 2022.

First Report of Injury (FRI) filings for April were 2,329, a decrease from previous month. Total FRIs filed for FY 2023 are 27,351. The total FRIs file for FY 2022 were 35,644. The number of Cases filed for April 2023 was 853, a decrease from last month. Total cases filed for FY 2023 are 8,715. Cases filed by type: 8,715 total cases, 7,023 employee claims, 1,676 in insurance discontinuances, and 16 third-party claims. Total cases 853, and 10 manual with 843 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.

There are 79 new Section 65 injuries for April 2023 - an increase from the previous month, (Example: **Uninsured Claims by Occupation:** 20 laborer, 9 carpenter, 4 home health aide, and **Uninsured Claims by Industry:** 36 construction, 5 healthcare, 4 landscaping. As of the end of last month, payments against open claims in FY 2023 stands at \$5,602,451. Recovery efforts: \$727,270, same as previous month. 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 \$21,420,130 - an increase 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 \$5,232,505 with a \$6,000,000 budget. 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 \$3,074,914 - same as previous month. Assessment collection budget is \$63,000,000 with a payment of \$53,158,152 - same as last month.

Personnel: 199 (67 Administration, 80 dispute, 15, legal, 27 WCTF, and 10 finance). Slide deck has been adjusted to reflect breakdown of personnel. *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 Interim Director Sheri Bowles.

Director Bowles reported a few updates since last month's meeting. Interviews will begin for the General Counsel position next week, and a final decision is being made for the Director of Investigations position. That is all I have for updates, Director Bowles said.

Vice Chair Todd Johnson asked for an update on the medical rates process that started some time ago and The Boston Globe article raising concerns about the medical bill rate as it relates to injured workers. Are we any closer to adjusting the medical rates, asked Vice Chair Johnson. The Executive Office of Labor and Workforce Development and Governor Healey's administration is aware of The Boston Globe article, and I'm not sure exactly sure when the decision will be made to make any further adjustments to the rates at this time, replied Director Bowles.

Without questions for Director Bowles, Chairman Pulgini directed the floor to Executive Director Maureen O'Connell.

Executive Director Maureen O'Connell provided her update. Since we last met, there have been no changes to the legislative spreadsheet. If you would like a copy of the spreadsheet and today's report card, please email me after the meeting and I'd be happy to send those along.

Without questions for Director O'Connell, Chairman Pulgini asked the guests if they had any comments or concerns.

Without questions from the guests, and without a quorum, Chairman Pulgini ended the meeting at 9:16am.