



CHARLES D. BAKER
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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

October 12, 2022

Via WebEx

Present: Attendees: John Pulgini, Todd Johnson, Mickey Long, Stephen Joyce, Teri McHugh, James Steenbruggen, Michael Kelley, Bernie Mulholland, Patrick Walsh, Stephen Falvey; Sheri Bowles – DIA Interim Director, Bill Taupier – DIA Director of Administration, Senior Judge Omar Hernandez – DIA Senior Judge, Kevin O'Leary – DIA General Counsel, WCTF Director Holly Anderson, Shamia Moore, Vinnie Lopes, Maryanne Brunton; Virginia McCarthy - WCRIB, Dan Judson - WCRIB, Christopher Stark - Mass Insurance Federation; Roman Dolinschi- WCRI, Attorney Kerry Nero - City of Boston, Attorney James Ramsey, Kerry Nero, Ryan Benharris, Ana Mari DeGaravilla, Lori Favata, Patrick Francomano, David O'Connor, Julie Bowler, Maryann Calnan, Alicia Delsignore, Frank Rivera - Massport, and Maureen O'Connell.

Date: **October 12, 2022**

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

3. EXECUTIVE DIRECTOR'S UPDATE

- Legislative update
- Open Meeting Law
- Council Member terms of appointment

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4. ACTION ITEMS

- o Minutes - August 10, 2022
- o September 14, 2022

5. COMMUNICATIONS

N/A

6. MISCELLANEOUS

N/A

Chairman John Pulgini began the meeting at 9:03am and asked Senior Judge Omar Hernandez to provide an update on judicial activity. Senior Judge Hernandez indicated that the unit is resolving cases and perform at a high level, thank you to Dele Edibiri, even with the short staff in his unit (retiring or leaving the unit). With respect to the conference and hearing queue, both trending downward and in great shape. Credit to the Judges and full complement of judges help drive the queues down. A few cases are pending 12-36 months (ADR), agencies are running behind. Review board inventory: 18-19 for the past year. Impartial fees are within normal range. Waiting for a decision from the Executive Office about in-person conciliations.

Administrative Bulletin #13 was issued recently. An all-staff meeting is happening later this month.

With respect to conciliations, 526 cases were resolved (48.6%) and 557 were referred to conference. Regarding dispute resolution, in FY '23 attorneys requested 1,787 continuances, in FY '22 three were 6,860. The average waiting period for a conference is 10-16 weeks. Conferences scheduled: 866, Hearings scheduled: 499, Orders issued: 328, and Appeals to reviewing board: 4. With respect to the pending hearing decisions, there were 5 (a decrease from the previous month).

Review Board inventory: 25, Fee waivers granted: 10, Exam fees collected: \$362,275, Attorneys fees: \$22,410,761, and Section 7/8 penalties: 0.

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

Mr. Taupier provided statistics on Compliance/Stop Work Orders: 121 (down from the previous month), 9 were defaults. In the month of September, 1,484 compliance letters were issued. Fine collection for the month of September was \$56,780 and a total of \$195,480 in FY '23. With respect to Compliance & Enforcement, 5,419 total compliance checks were completed by the DIA and 274 field investigations were conducted in September. Since the beginning of the fiscal year, DIA conducted a total of 15,745 compliance checks and 1,179 uninsured employees are now covered under workers' compensation insurance.

With respect to cases filed, 916 were filed in September, 2,960 first report of injury filed, and the total number of FRIs in FY '23 is 8,983. Cases filed by type: 2,661 total cases, 2,221

employee claims, 435 in insurance discontinuances, and 5 third-party claims. With regard to Covid-19 FRIs: 127 were filed in September. Healthcare and Medical labs: 11,791 FRIs (73%), 1,161 in Social Services (7%), and 390 in Corrections (2%). Lump sum agreement: 90 (increase from last month), Section 19 agreement: 50, Withdrawn prior to conciliation: 30, Hearing scheduled: 15, and Withdrawn by moving party: 15.

With respect to the Workers' Compensation Trust Fund, there are 86 new Section 65 injuries (same for August and September). Refer to the chart below. Payments made against open claims in FY '23 - \$1,365,547 with a \$8,200,000 budget. Recovery efforts for the month were \$100,797.

The Civil Litigation Unit make every effort to recover monies owed by utilizing the authority of MGL Chapter 152 to recover money paid on uninsured claims through legal action against the employer in question.

Workers' Compensation Trust Fund Uninsured Claims	Occupation	Industry
	6 - Laborer	8 - Construction
	2 - Delivery Driver	7 - Parcel delivery
	3 - Carpenter	1 - Landscaping
	1 - Trainer	1 - Agriculture

The Second Injury budget is \$28,000,000 and payments made were \$4,408,691. Second Injury Fund and Payments (Section 37/37A) - these are claims filed by insurers who are seeking reimbursement of up to 75% of benefits paid for a second injury per the statute.

COLA reimbursements were zero. Referral fees were \$865,048. Assessment collection budget is \$63,500,000 with a payment of \$5,516,966.

Personnel: 198 (69 Administration, 76 dispute, 15, legal, 28 WCTF, and 10 finance). Slide deck has been adjusted to reflect breakdown of personnel.

Vice Chair Todd Johnson had two questions: With respect to the WCTF, Vice Chair Johnson wanted to know how many claims that are being worked on, this will be helpful to the Council and the bigger picture, what is the exposure. Mr. Taupier said that he'd work with the WCTF to gather that information. The second question is about the COLA and Vice Chair Johnson wanted to commend the DIA and staff. The gap is getting closer and the budgeting effort is getting more accurate with the Second Injury Fund. Is there any observations from the budget staff. It all effects the assessment process.

Without questions for Mr. Taupier the floor was directed to Interim Director Sheri Bowles. Director Bowles had no updates for the Council.

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

Executive Director O'Connell updated the Advisory Council on the annual report process which is underway. Outstanding financial data and Office of Safety and Claims Administration is pending and will receive in early October. Director O'Connell has contacted the Executive Office about Advisory Council reappointments and will update the Council Members on their appointments when Boards and Commissions approves the reappointments.

With a quorum, Advisory Council voted on minutes for August 24 and September 14, 2022. All in favor for both months, the minutes were approved.

Chairman Pulgini concluded the meeting at 9:16 am.