



MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL

MAURA HEALEY
GOVERNOR

KIM DRISCOLL
LIEUTENANT GOVERNOR

LAFAYETTE CITY CENTER
2 AVENUE DE LAFAYETTE
BOSTON, MASSACHUSETTS 02111
(857) 321-7379 | mass.gov/wcac

JOHN A. PULGINI
CHAIR

TODD R. JOHNSON
VICE-CHAIR

MAUREEN O'CONNELL
EXECUTIVE DIRECTOR

MINUTES

October 9, 2024

Via WebEx

Present: Attendees: John Pulgini, Todd Johnson, Stephen Joyce, Stephen Falvey, and Bernie Mulholland; Sheri Bowles - DIA Director, Bill Taupier – DIA Director of Administration, General Counsel Philip Imbrescia, WCTF Director Holly Anderson, Jeanne Natale - DIA Director of Operations, Shamea Monroe - DIA Fall River; Roman Dolinschi- WCRI; Christopher Stark - Federation MaryBeth McGrath - Human Resources Division; Attorney Lori Favata, Attorney Patrick Francomano, Attorney Kerry Nero; Julie Bowler; Emily Spieler; call-in user, and Maureen O'Connell.

Date: October 9, 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. Director's Update - Sheri Bowles, Director
- B. DIA Judicial Update - Senior Judge Omar Hernández, Senior Judge
 - o Conference/Hearing/Reviewing Board Queue
 - o Impartial Medical Exams/Physicians
- C. 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

3. EXECUTIVE DIRECTOR'S UPDATE

- o 2023-24 Legislative bills
- o Council Member Appointments

4. ACTION ITEMS

- o Minutes - June 12, 2024
- o Minutes - Sept 11, 2024

5. COMMUNICATIONS

N/A

6. MISCELLANEOUS

N/A

Chairman John Pulgini began the meeting at 9:02am.

The agenda was reordered and Director Sheri Bowles presented first. Director Sheri Bowles. DIA Director Sheri Bowles mentioned there was no status update on the medical rate, Health and Human Services (HHS) is still reviewing. Also, no news on the impartial process. Later in the presentation, Holly Anderson, Director of the Workers' Compensation Trust Fund and Phil Imbrescia, General Counsel/Deputy Director will provide an update on the numbers in the WCTF.

Without questions for Director Bowles, the floor was directed to Senior Judge Omar Hernández. Senior Judge Hernández mentioned that the conciliation numbers look great, thanks to Dele Edibiri and his team. Judge Maher is back online, numbers look good, and timelines are down. With respect to the pending hearing decisions, Senior Judge Hernández is not concerned with these numbers.

Council Member Stephen Joyce asked about the hearing decision over the two-year mark, Senior Judge Hernández confirmed that this case will resolve soon and the Judge will be writing the case soon and this case should be off by next month.

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

Mr. Taupier presented the Monthly Statistical Report Card slide deck for the Department of Industrial Accident (DIA) units.

With respect to conciliations, in October 492 cases were resolved and 476 were referred to conference (50.8%). The average waiting period for a conference is 12-18 weeks (down 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 1,102 (up from last month) and 1,847 (down from last month) in the hearing queue (these are a rolling total, not a cumulative total). As of September, 2024 the number of conferences scheduled: 571, hearings scheduled 385, orders issued 190, and appeals to reviewing board: 2.

With respect to the pending hearing decisions, there were 8 (same as last month) - a section was added to reflect 1, 2 and 3 year post hearing. Review Board inventory: 23, Fee waivers granted: 16, Exam fees collected: \$208,450, Attorneys fees: \$21,311,409, Referral fees: \$758,402, 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.*

Chairman Pulgini asked what judges were offline, Senior Judge Hernández confirmed Judge Preston was not seeking re-appointment, and Judge Maher was back online.

First Report of Injury (FRI) filings for FY'25 were 7,966, 2,575 for the month of September. The number of Cases filed was 830. Cases filed by type: 2,584 total cases, 2,111 employee claims, 433 in Insurance

discontinuances, and 40 third-party claims.

Council Member Joyce asked for clarification on the number of injuries (and seriousness of injuries) on slide 6 of the presentation and worth keeping an eye on it. Diagnostic testing could be a reason asked Chairman Pulgini, Mr. Taupier mentioned that this data comes from the first report of injury form.

Mr. Taupier provided statistics on compliance and enforcement for FY'25: 5,121 compliance letters, 11,945 field checks, and 9,763 office checks. In September, there were 6,852 compliance checks, 254 field investigations conducted, 216 more employees newly covered by workers' compensation for a FY'25 total of 2,442 workers now covered by workers' compensation insurance who were not previously covered by a policy. There were 94 Stop Work Orders, this includes 3 defaults - 324 SWOs issued year-to-date, and fine collection was \$1,158,659. There were 29 uninsured injuries, with 14 laborer (occupation), 7 all other occupation, while 8 were in the construction industry, and 16 were in other industries.

Regarding the Workers' Compensation Trust Fund, out of a budget of \$9,800,000 there were \$1,897,769 in payments against open claims and there was \$19,454 recovered by the Civil Litigation Unit (no change since 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. 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 and payments made were \$5,481,898. 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 \$211,744 with a \$16,000,000 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 \$20,892,302.

Personnel: there were 200 employees, two new attorneys were hired (66 Administration, 80 dispute, 16 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 Executive Director Maureen O'Connell.

Good Morning, everyone. Executive Director O'Connell provided a status on the FY'24 WCAC Annual

Report, process has begun and will share report for edits / feedback in the next few weeks, report will then be submitted to DIA Director / Senior Staff with a copy for edit / feedback to EOLWD. Expect Council Members to vote on report at the December 11th meeting. Regarding Council Member appointments, if you hear from anyone regarding your appointment, please forward your appointment letter to me to keep with our records.

Without questions for Executive Director Maureen O'Connell the floor was directed to General Counsel Phil Imbrescia. General Counsel Imbrescia provided an update on the Arrowood case (copy of case provided to Council Members by email in July and September 2024). This case was overturned and is a longstanding case about assessments, continue to pay assessments that has far reaching impacts that are concerning. Further appellate review is underway at the SJC, awaiting results, and will update the Council.

Without a quorum present, Council Members could not vote on June 12, 2024 or September 11 minutes, and Chairman Pulgini ended the meeting at 9:15am. Holly Anderson, Director of the WCTF did not present as the meeting ended (will provide update in November).