



MAURA HEALEY
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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

September 13, 2023
Via WebEx

Present: Attendees: John Pulgini, Todd Johnson, Teri McHugh, James Steenbruggen, Michael Kelley, Bernie Mulholland, 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 Investigations Deputy Director Alan Green, DIA Vinnie Lopes, Maryann Brunton, Shamia Moore; Cara Toomey - WCRI/BMA, Roman Dolinski- WCRI, City of Boston Attorney Kerry Nero, Attorney Ryan Benharris, Attorney Alan Pierce, Attorney Maher Carey, Attorney Gary Orlacchio, Julie Bowler, 4 call-in users, and Maureen O'Connell.

Date: September 13, 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
- o FY'23 Annual Report

4. ACTION ITEMS

- o Minutes - July 12, 2023

5. COMMUNICATIONS

N/A

6. MISCELLANEOUS

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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, thanks to Dele Edebiri 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, 14, but Judges will be moving these cases through soon. 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 August, 433 cases were resolved (49.7% - down from last month)- 431 resolved and 438 were referred to conference. The average waiting period for a conference is 8-12 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. 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 1,532 (up from last month) with Conferences scheduled: 869, Hearings scheduled: 470, Orders issued: 312, and Appeals to reviewing board: 4. With respect to the pending hearing decisions, there were 14. Senior Judge Hernández mentioned this is a result of pending cases either due to surgery, agreements, ADR or pro-se cases. Review Board inventory: 119, Fee waivers granted: 12, Exam fees collected: \$0, Attorneys fees: \$15,675,229, 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 July were 2,949 (1,112 - 39% for sprain/strain, 270 - 10% for laceration/cut). 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 August 2023 was 1,011. Total cases filed for FY 2023 are 10,560. Cases filed by type: 1,871 total cases, 1,491 employee claims, 371 in Insurance discontinuances, and 9 third-party claims.

Mr. Taupier provided statistics on compliance letters for the month of August: 3,172, 6,610 field investigations, and 6,415 office checks, 73 employees covered under workers' compensation. Compliance/Stop Work Orders: 130 with 6 defaults - increase from last month. Fine collection for the month of August \$0. 14 uninsured by occupation: 5 laborer, 5 constructions. In payments against open claims there were \$767,863, zero recovered by the Civil Litigation Unit. **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.**

Council Member Stephen Falvey asked about the hiring of the Investigations Manager. Director Sheri Bowles mentioned that the process was still underway.

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.

The Second Injury budget is \$31,000,000 (budget increase since last month) and payments made were \$2,883,212. 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 \$288,398 with a \$9,700,000

budget - a budget increase since last month. 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 \$63,000,000 with a payment of \$0.

Personnel: **No change since last month** - 200 (67 Administration, 80 dispute, 15, 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 there was no quorum in the virtual room. Legislation is still pending in the Joint Committee on Labor and Workforce Development. FY'23 annual report process is ongoing.

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 9:17am.