

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

June 8, 2011
Department of Industrial Accidents
1 Congress Street, Suite 100
Boston, MA 02114-2017

CM Present: Vice-Chairman Edmund C. Corcoran, Jr.; John Regan; Stephen Joyce; Stephen Falvey; John Pulgini; Antonio Frias (Ines Leonardo); David Powell (Kevin Hurstack).

Also Present: Director Philip L. Hillman; Senior Judge William McCarthy; Reuben Kantor, Director of Operations; William Taupier, First Deputy Director of Administration; Jack Defina, CFO; Ray Marchand, Director of Investigations; Maydad Cohen, Chief of Staff for the Executive Office of Labor and Workforce Development (EOLWD); Paul Meagher, Workers' Compensation Rating & Inspection Bureau of Massachusetts (WCRIB); Michael Kelley, AIM Mutual Insurance Company.

Advisory Council Staff: Evelyn Flanagan

Absent: CM: Chairman Mickey Long; Teri McHugh; William Corley; Bernard Mulholland; Dennis Hines; Peter A. Cook, Sr.; Department of Business Development.

Agenda:

Chairman's Welcome

DIA Update

- Judicial Update – Philip L. Hillman, Deputy Director of Administration
- Vital Statistics - William Taupier, Deputy Director of Administration

Action Items

- Minutes – May 11, 2011

Workers' Compensation Selection Subcommittee Discussion

Miscellaneous

CHAIRMAN'S WELCOME

Vice-Chairman Edmund Corcoran began today's meeting at 9:00 a.m. The Chairman asked that Director Hillman provide the Judicial Update.

DIA UPDATE

Judicial Update

Director Philip Hillman stated that as of this date the Senior Judge's position has not been filled, although all five candidates have been interviewed as part of the judicial process. Director Hillman explained that an additional step has been added to the process. Currently, the Governor's office is weighing in on this addition.

Director Hillman informed the Council Members that the DIA had received approval to begin the process of interviewing for new judges. He noted that an advertisement has been placed in Lawyers Weekly, as well as on the DIA website. Director Hillman stated that they are looking for a total of five judges, three Administrative Judges (AJs) and two Administrative Law Judges (ALJs).

Vice-Chairman Corcoran introduced Maydad Cohen, Chief of Staff at EOLWD. The Vice-Chairman asked those who have not met Attorney Cohen to provide a brief explanation of who they are and what they do.

Attorney Cohen thanked the Vice-Chairman. He informed the Council members that he believed that he would be the designee for EOLWD at future meetings.

Vice-Chairman Corcoran requested that once a new Senior Judge is in place, that the Senior Judge periodically provide a report updating Council members on judges are falling behind in their decisions writing and an explanation of why. The Vice-Chairman explained that he was concerned that the Council has not received the reports and that the report be kept alive and provided every quarter to Council members.

Vital Statistics

Mr. Bill Taupier updated Advisory Council members on the information contained within the DIA's vital statistic report for June 2011 (see attached). Conference Queue: 469 Hearing Queue: 549; Reviewing Board Inventory: 56; Impartial Exams for FY'11 (to date): 3,811 (45 waivers); Exam Fees Collected for FY'11: \$1,441,748. In fiscal year 2010 there were 5,069 Impartial Medical Examinations (64 waivers); Exam Fees Collected in FY'10: \$1,792,626.

Mr. Bill Taupier updated Advisory Council members on the Stop Work Order (SWO) and Caseload Statistics. The DIA issued 278 SWOs in May (33 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'11 (to date): 2,762. Fine collection for May 2011: \$101,200; total fines in FY'11 (to date): 1,138,825; SWOs issued in FY'10: 3,421; total fines collected in FY'10: \$1,110,125; compliance checks for May 2011: 5,237; estimated number of workers now covered by workers' compensation insurance as the result of a SWO: 8,943 (FY'11).

Mr. Taupier continued the update of the monthly vital statistics. Total number of cases filed in May 2011: 1,050; total number of cases filed in FY'11 (to date): 11,395; total number of cases filed in FY'10: 12,940; total number of First Report of Injury Forms (FRI) filed in May 2011: 2,287; total number of FRI filed online in May 2011: 715 (31%); total number of FRI filed in FY'11 (to date): 27,988 (8,611 online); total number of FRI filed in FY'10: 30,443 (8,934 online).

Mr. Taupier informed the Council members that they were planning on beginning beta testing. Mr. Taupier explained that this is a push to electronic filings. Mr. Taupier stated that the initial phase would include three companies. He noted that AIM was one of the companies and that once they are sure the system is stable, they would begin including more companies.

Mr. Taupier proceeded with his update on uninsured claims (§65). Total number of §65 claims reported in FY'11 (to date): 109; total amount of §65 claims paid by the Trust Fund in FY'11 (to date): \$5,744,410; total number of §65 claims filed in FY'10: 137; total amount of §65 claims paid by the Trust Fund in FY'10: \$6,508,487; total recovery efforts against uninsured employers FY'11: \$1,310,596; total recovery efforts against uninsured employers FY'10: \$709,946.

Mr. Taupier proceeded with the vital statistics for the Second Injury Fund (§37/37A). Total amount of §37/37A petitions paid in FY'11 (to date): \$16,969,409; total amount paid on these claims in FY'10: \$22,877,653; total monies recovered by the Trust Fund in FY'11 (to date): \$990,733; total monies recovered in FY'10: \$709,946; total COLA reimbursements to insurers in FY'11 (to date): \$14,145,239; total COLA reimbursements to insurers in FY'10: \$11,767,228.

Mr. Taupier reported that as of May 2011, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 248 (200 DIA employees, 48 WCTF employees). The DIA is authorized to have 283.2 payroll positions (including all full and part-time positions).

Vice-Chairman Corcoran asked if the DIA was intending to add personnel.

CFO Jack Defina stated that the DIA was in the process of filling fifteen positions. Mr. Defina explained that the positions to be filled covered the Trust Fund, with four positions; Administration, with one position; Accounting and Finance with one position; one new investigator and two new Regional Managers.

Mr. Bill Taupier informed the Council members that the DIA's Document Management System (DMS) was about to hit a milestone. He stated that two years ago the agency began to make this happen, with the help of the Office of Claims, Central Scheduling, the Regional Offices and Accounting and Finance. Mr. Taupier added that a new module had been worked on in conjunction with Accounting and Finance. Mr. Taupier explained that the agency will be storing their one millionth (1,000,000th) document which equals approximately 20 million pages of paper. This has allowed the agency to save a significant amount of money and freed up space. Mr. Taupier reported that they would be expanding the system to include the impartial physicians. Mr. Taupier explained that everything would be done online and the security system will only allow parties to the cases to see what they are supposed to see.

Mr. Taupier presented the accounting and finance statistics. Total referral fees collected in FY' 11 (to date): \$3,363,027; total referral fees collected in FY' 10: \$3,863,852; total first report fines in FY' 11 (to date): \$126,705; total first report fines in FY' 10: \$109,700; total assessment collections in FY' 11 (to date): \$77,975,054; total assessment collections in FY' 10: \$75,002,051; total SWO fines in FY' 11 (to date): \$1,737,643; total SWO fines in FY' 10: \$1,597,919.

Mr. Taupier provided a brief update on the Office of Education and Rehabilitation (OEVR). Mr. Taupier reported that the queues have remained stable. Mr. Taupier stated the DIA will be sending one Rehabilitation Officer (RO) to the Fall River Regional Office to help out with the case load. Mr. Taupier noted that the agency is also in the process of filling one RO position.

ACTION ITEMS

Vice-Chairman Corcoran asked for a motion to approve the May 11, 2011 minutes.

Motion made to approve the minutes for May 11, 2011. Motion Seconded and Passed.

WORKERS' COMPENSATION SELECTION SUBCOMMITTEE DISCUSSION

Vice-Chairman Ed Corcoran presented an update on the June 3, 2011 Selection Subcommittee Meeting. He noted that the meeting was made easier since members provided their information and everything was in front of the members that attended. Vice-Chairman Corcoran stated that they had reached their goal and identified eight candidates to be interviewed from 1:00 p.m. to 3:00 p.m. on June 23rd. Vice-Chairman Corcoran added that one of the applicants (Ms. Martine Ortiz) would be on vacation on June 23rd and it will be necessary to reschedule her.

Vice-Chairman Corcoran informed the Council members that the Executive Office of Labor and Workforce Development (EOLWD) is strongly encouraging the Selection Subcommittee to include Mr. Donald Ziniti to the list of candidates to be interviewed. Mr. Ziniti is a certified veteran and including him would make the pool of applicants more diverse. Vice-Chairman Corcoran suggested that both Ms. Ortiz and Mr. Ziniti be interviewed on the same day. He recommended that the Council try to find a mutually agreed upon date for the interview. Vice-Chairman Corcoran stated that if a new date could not be agreed upon by the majority of Council members, that the interviews would take place at the next Advisory Council meeting (July 13th) beginning at around 10:00 a.m. Vice-Chairman Corcoran proposed that other Council members provide their viewpoint.

Council member Steve Joyce recommended that the Council come up with a date before the meeting in July. He suggested that the Council meet in Executive Session after the interviews. Mr. Joyce stated that the dates for the interviews be as close as possible.

Vice-Chairman Corcoran requested that Ms. Flanagan identify a few dates and bring the available dates that the majority of Council members could agree upon and bring it together for the second round of interviews.

Council member John Regan asked what the expectation was when the process was over. He wanted to know if it was possible to forward our recommendations to the Secretary at the end of the interviews.

Chief of Staff Maydad Cohen proposed that the process include at least two candidates from a diverse group of applicants to be forwarded to Secretary Goldstein for approval. He explained that there were issues to be discussed with the candidate, including the need to come to an agreement on money. Attorney Cohen noted that by forwarding more than one person's name to the Secretary it would insure that if the first choice cannot come to an agreement, the Council would have a back-up candidate in place.

Vice-Chairman Corcoran suggested that the Council rank the candidates to fit the needs of the members. The person must be able to work with the Council. He recommended that the Council consider forwarding the top three candidates to the Secretary in case the first or second choice is not available. Vice-Chairman Corcoran stated that the Council members should attempt to come to some sort of agreement on what qualities the strongest candidate should have.

Council member Steve Falvey suggested that a common question be forwarded to the applicants in advance. Mr. Falvey stated that this would provide Council members with a writing sample. He added that the answer be limited to no more than one page. Mr. Falvey stated that if any Council member has a question they would like to include that they should forward the question to either him or Ms. Flanagan.

MISCELLANEOUS

Council member Steve Joyce reported to the Advisory Council members that, on behalf of the Council, he had testified at the May 19, 2011 Joint Committee on Labor and Workforce Development Hearing. He stated that he had testified on the bills endorsed during the May 11th Advisory Council meeting. Mr. Joyce added that at the Hearing the Attorney General had also testified on the bill which increases criminal penalties.

Vice-Chairman Corcoran made a motion to adjourn the meeting. Motion Seconded and Passed.

The next meeting of the Advisory Council is scheduled for Wednesday, July 13, 2011, at 9:00 AM, at the Department of Industrial Accidents, 1 Congress Street, Suite 100, Conference Room #10-140, Boston, MA 02114-2017.