

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

April 9, 2014

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

Council Members Present: Stephen Joyce, Chairman; John Regan, Vice-Chairman; Edmund Corcoran, Jr.; Mickey Long; Stephen Falvey; Bill Corley; Bernie Mulholland; John Pulgini; Antonio Frias (Ines Leonardo); Todd Johnson.

Also Present: George Noel, Director; Linda Turner, Deputy Director; Omar Hernandez, Senior Judge; William Tattan, General Counsel; William Taupier, Deputy Director of Administration; Robert Ford, Budget Director, EOLWD; Ray Marchand, Director of Investigations; John Riordan, Deputy General Counsel; Rex Gerlach-Brown, Deputy Secretariat Director of Diversity; Frank Ruehl, Raytheon; Ellen Keefe, Workers' Compensation Research and Inspection Bureau (WCRIB); Vince Massey, Attorney.

Advisory Council Staff: William S. Monnin-Browder; Evelyn Flanagan.

Absent: Teri McHugh; Dennis Hines; Mike Doheny, General Counsel, Executive Office of Labor and Workforce Development; Executive Office of Housing and Economic Development.

Agenda:

Chairman's Welcome

DIA Update

- Judicial Update – Omar Hernandez, Senior Judge
- Vital Statistics – William Taupier, Deputy Director of Administration

Action Items

- Minutes – November 13, 2013
- Minutes – January 8, 2014
- Minutes – February 12, 2014
- Minutes – March 12, 2014

Discussion of the Draft FY'13 Annual Report

Executive Director Update – William Monnin-Browder

Miscellaneous

CHAIRMAN'S WELCOME

Chairman Stephen Joyce began the meeting at 9:00 A.M. The Chairman asked Senior Judge Omar Hernandez to provide the judicial update.

DIA UPDATE

Judicial Update

Senior Judge Omar Hernandez stated that the conference queue was down to 8-14 weeks. The Senior Judge noted that the average wait time in Boston is four months; Fall River, Lawrence and Worcester are at three months; and Springfield is at one and a half months.

The Senior Judge stated that Judge Heffernan is not being assigned new cases and, instead, will be participating in the new walk-in lump sum program. The Senior Judge reported that he has received positive feedback about the new program.

Senior Judge Hernandez stated that there was recently a judges' training that included a number of physicians. He stated that he and Diane Neelon had spoken with some of them about joining the impartial physician list and that there had been some interest.

Regarding the judicial appointment/reappointment process, Senior Judge Hernandez informed Council members that all applications have been submitted. The Senior Judge noted that the Agency is waiting to hear from the Governor's Office about when the Agency should proceed with scheduling the Nominating Panel interviews.

Vital Statistics

Deputy Director of Administration Taupier updated Council members on the information contained within the DIA's vital statistic report for April 2014. He offered the following statistics: Conference Queue: 744; Hearing Queue: 826; Reviewing Board Inventory: 75; Impartial Exams for FY' 14 (to date): 3,263 (22 waivers); Exam Fees Collected for FY' 14: \$1,467,975; Impartial Medical Examinations in FY' 13: 4,838 (51 waivers); and Exam Fees Collected in FY' 13: \$1,771,021.

Mr. Taupier updated the Council on the Stop Work Order (SWO) and Caseload Statistics, including the following: SWOs issued in March: 211 (11 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY' 14 (to date): 1,777; fine collection for March: \$112,496; total fines in FY' 14 (to date): \$962,248; SWOs issued in FY' 13: 2,621; total fines collected in FY' 13: \$1,351,266; compliance checks for March: 8,537; estimated number of workers now covered by workers' comp. insurance as the result of a SWO: 4,651 (FY' 14).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in March 2014: 1,005; total cases filed in FY' 14 (to date): 8,829; total cases filed in FY' 13: 12,174; total First Report of Injury Forms (FRI) filed in March 2014: 2,610 (2,303 filed electronically; 88%); total FRI filed in FY' 14: (to date): 23,560; total FRI filed in FY' 13: 29,791 (11,937 online).

With regard to the "cases filed" slide, Council member Mickey Long requested a breakdown of the number of employee claims, as opposed to the insurers' discontinuances.

Mr. Taupier explained that, historically, employee claims are about 85%-90% of those received; insurers' discontinuances are probably around 10%; and the remainder is third party liens (a small percentage).

Council member Ed Corcoran asked if the chart could also note where the economy has been a factor during recent years.

Mr. Taupier proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY' 14 (to date): 78; total amount of §65 claims paid by the Trust Fund in FY' 14 (to date): \$5,936,233; total §65 claims filed in FY' 13: 126; total amount of §65 claims paid by the Trust Fund in FY' 13: \$5,920,979; total recovery efforts against uninsured employers FY' 14: \$830,797; total recovery efforts against uninsured employers FY' 13: \$1,368,849.

General Counsel William Tattan introduced Mr. John Riordan, who was recently promoted to the position of Deputy General Counsel.

Mr. Taupier proceeded with the vital statistics for the Second Injury Fund (§37/37A), stating the following: total amount of §37/37A petitions paid in FY' 14 (to date): \$17,885,830; total amount paid on these claims in FY' 13: \$26,761,907; total COLA reimbursements to insurers in FY' 14 (to date): \$7,741,031; total COLA reimbursements to insurers in FY' 13: \$15,483,043.

Mr. Taupier reported that as of March 2014, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 246 (192 DIA employees, 54 WCTF employees).

Mr. Bob Ford, Budget Director, EOLWD, stated that at next month's meeting he would provide the number of consolidated employees working on other accounts and charged back to the DIA.

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY' 14 (to date): \$2,851,127; total referral fees collected in FY' 13: \$3,971,991; total first report fines in FY' 14 (to date): \$92,350; total first report fines in FY' 13: \$55,758; total assessment collections in FY' 14 (to date): \$36,177,171; total assessment collections in FY' 13: \$60,111,617 (Consultant Cost = \$50,000); total SWO fines in FY' 14 (to date): \$962,248; total SWO fines in FY' 13: \$1,351,266.

ACTION ITEMS

A motion was made to approve the Fiscal Year 2013 Annual Report.

Motion seconded and carried.

A motion was made to approve the November 13, 2013 minutes.

Motion seconded and carried.

A motion was made to approve the January 8, 2014 minutes.

Motion seconded and carried.

A motion was made to approve the February 12, 2014 minutes.

Motion seconded and carried.

Council member Mickey Long raised a question with regard to the March minutes. Mr. Long stated that he was unable to attend the March meeting, but an issue had arisen at the February meeting regarding the disclosure of complaints filed with MCAD. Mr. Long noted that the March minutes suggest that MCAD's position is that such complaints are not public documents. Mr. Long asked for further clarification, including whether the DIA believed that complaints received by the Agency were subject to the public records law.

The Director stated that the General Counsel of EOLWD had spoken to the General Counsel of MCAD specifically about the information requested at the February meeting. He stated that MCAD was very clear that the matters should not be discussed by DIA while under investigation, nor should complaints be disclosed.

A motion was made to approve the March 12, 2014 minutes.

Motion seconded and carried.

EXECUTIVE DIRECTOR UPDATE

Executive Director William Monnin-Browder stated that the House recently passed An Act Relative to Work Reform, which primarily pertains to the minimum wage and unemployment insurance. He indicated that the legislation also includes a couple of workers' compensation provisions. Mr. Monnin-Browder stated that Section 62 of the bill would increase the burial allowance and index it to eight times the average weekly wage. The Executive Director said that Section 76 of the bill would remove the provision in M.G.L. c.152, §36 that limits recovery to scarring that appears on the hands, face and neck.

The Executive Director stated that it was unclear how the legislation will proceed, as the Senate has also passed an unemployment insurance reform bill and a minimum wage bill as well. The Executive Director stated that they would keep an eye on the bill.

The Executive Director stated that the House budget was scheduled to be released today. He indicated that staff would review the proposal and share any pertinent information with the Council.

MISCELLANEOUS

Chairman Steve Joyce noted that the stop work order list is being coded so that SWOs can be broken out by industry. The Chairman noted that he appreciated all the work that had been done. Chairman Joyce explained that for those who do not know, A&F produces a list of all people who are debarred from doing work with the Commonwealth.

Director Noel stated that he would like to give a lot of credit to Heather Rowe and the Joint Task Force for going through the list and doing the coding.

The Chairman stated that he would like to make a suggestion now that the Secretariat has a press person. Chairman Joyce stated that getting the message out to the public about the successes of this Agency, as reported in the Council's Annual Report, is important because, while we often hear the bad things in government, we ought to hear the good thing as well. The Chairman stated that he hoped that the Council can work with the Director and the Secretariat's Press Office on how best to get this message out.

A motion was made to adjourn the meeting.

Motion seconded and carried.

Meeting Adjourned.

The next meeting of the Advisory Council is scheduled for Wednesday, May 14, 2014, at 9:00 A.M., at the Department of Industrial Accidents, 1 Congress Street, Suite 100, Conference Room #10-140, Boston, MA 02114-2017.