

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

September 10, 2014
Department of Industrial Accidents
1 Congress Street, Suite 100
Boston, MA 02114-2017

Council Members Present: Stephen Joyce; John Regan; Frank Ruel; John Pulgini; Stephen Falvey; Bernie Mulholland; Teri McHugh; Todd Johnson; Dennis Hines; Executive Office of Labor and Workforce Development.

Also Present: George Noel, Director; Linda Turner, Deputy Director; Omar Hernandez, Senior Judge; William Tattan, General Counsel; John Riordan, Deputy General Counsel; Ray Marchand, Director of Investigations; Paula Lyons, Deputy General Counsel, EOLWD; Melissa Butts, Joint Task Force, EOLWD; Michael Kelley, Hub International, NE; Ellen Keefe Workers' Compensation Inspection Bureau (WCRIB); Edmund Corcoran.

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

Absent: Mickey Long; Bill Corley; Executive Office of Housing and Economic Development.

Agenda:

Chairman's Welcome

DIA Update

- Judicial Update – Omar Hernandez, Senior Judge
- Vital Statistics – Omar Hernandez, Senior Judge

Action Items

- Minutes – May 14, 2014
- Minutes – June 11, 2014
- Minutes – August 13, 2014

Executive Director Update – William Monnin-Browder

Miscellaneous

CHAIRMAN'S WELCOME

Chairman Stephen Joyce began the meeting at 8:15 A.M. The Chairman introduced the two new voting members of the Council. The Chairman stated that Todd Johnson is now the self insurer representative on the Council and Frank Ruel from Raytheon is now in the manufacturing position. The Chairman asked Senior Judge Omar Hernandez to provide the judicial update and vital statistics.

DIA UPDATE

Judicial Update

The Senior Judge stated the conference queue is down slightly while the hearing queue has moved up a little bit.

The Senior Judge reported that Judge Lynn Brendemuehl was confirmed by the Governor's Council and is scheduled to be sworn in on October 14, 2014, as a judge in Framingham. The Senior Judge stated that Judge Brendemuehl is a great judge and that she will be missed. Senior Judge Hernandez informed the Council that Judge Cardoza would move to the Fall River office from Worcester starting the week of September 22, 2014.

Senior Judge Hernandez stated that Judge Williams would be traveling down to Fall River to take Judge Vendetti's place while she is out for four to six months for medical reasons. The Senior Judge noted that he is hopeful that a new judge will be assigned to Boston, who will be able to take on some of Judge Williams' cases.

Senior Judge Hernandez stated that with respect to the impartial physician roster, the Agency had recently added four or five new physicians.

Vital Statistics

Senior Judge Omar Hernandez updated Council members on the information contained within the DIA's vital statistic report for September 2014. He offered the following statistics: Conference Queue: 925; Hearing Queue: 660; Reviewing Board Inventory: 33; Impartial Exams for FY'15 (to date): 306 (8 waivers); Exam Fees Collected for FY'15: \$212,823; Impartial Medical Examinations in FY'14: 4,376 (22 waivers); and Exam Fees Collected in FY'14: \$2,018,883.

The Senior Judge updated the Council on the Stop Work Order (SWO) and Caseload Statistics, including the following: SWOs issued in August: 177 (16 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'15 (to date): 415; fine collection for July: \$107,280; total fines in FY'15 (to date): \$212,000; SWOs issued in FY'14: 2,345; total fines collected in FY'14: \$2,018,883; compliance checks for August: 8,479; estimated number of workers now covered by workers' comp. insurance as the result of a SWO: 1,111 (FY'15, to date).

The Senior Judge continued the update of the monthly vital statistics offering the following: total cases filed in August 2014: 877; total cases filed in FY'15 (to date): 2,018; total cases filed in FY'14: 11,960; total First Report of Injury Forms (FRI) filed in August 2014: 2,782 (2,424 filed electronically; 87%); total FRI filed in FY'14: (to date): 31,384 (11,937 online). The Senior Judge stated that they have added a new screen showing the breakdown of the kind of cases being filed. In July there were 965 employee claims filed; 173 discontinuances and three third party claims. In August 738 employee claims were filed; 136 discontinuances and three third party claims. FY'15 (to date) total employee claims filed: 1,703; FY'15 (to date) total discontinuances: 309; FY'15 (to date) third party claims: 6.

Senior Judge Hernandez proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY'15 (to date): 13; total amount of §65 claims paid by the Trust Fund in FY'15 (to date): \$872,246; total §65 claims filed in FY'14: 107; total amount of §65 claims paid by the Trust Fund in FY'14: \$8,648,776; total recovery efforts against uninsured employers FY'15 (to date): \$248,646; total recovery efforts against uninsured employers FY'14: \$1,013,557.

The Senior Judge proceeded with the vital statistics for the Second Injury Fund (§37/37A), stating the following: total amount of §37/37A petitions paid in FY'15 (to date): \$1,609,091; total amount paid on these claims in FY'14: \$28,413,548; total COLA reimbursements to insurers in FY'15 (to date): \$59,704; total COLA reimbursements to insurers in FY'14: \$14,509,275.

Senior Judge Hernandez reported that as of August 2014, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 245 (190 DIA employees, 55 WCTF employees).

Senior Judge Hernandez presented the following accounting and finance statistics: total referral fees collected in FY'15 (to date): \$798,035; total referral fees collected in FY'14: \$3,612,740; total first report fines in FY'15 (to date): \$18,775; total first report fines in FY'14: \$129,474; total assessment collections in FY'15 (to date): \$12,411,594; total assessment collections in FY'14: \$50,224,950; total SWO fines in FY'15 (to date): \$104,720; total SWO fines in FY'14: \$1,327,628.

Director's Update

Director George Noel stated that he wanted to welcome the new appointees of the Council. He stated that he would also like to take a moment to acknowledge Tony Frias, Ines Leonardo and Ed Corcoran for their years of service to the Council.

Mr. Ed Corcoran noted that, while the work was challenging at times, he had really enjoyed his time on the Council. Mr. Corcoran stated that he was on the Council for 24 years, and that it has been the most effective labor/management group he has seen. He noted that this Council speaks with one voice and he was proud to be one of the voices.

ACTION ITEMS

A motion was made to approve the May 14, 2014 minutes.

Motion seconded and carried.

A motion was made to approve the June 11, 2014 minutes.

Motion seconded and carried.

A motion was made to approve the August 13, 2014 minutes.

Motion seconded and carried.

EXECUTIVE DIRECTOR UPDATE

Executive Director William Monnin-Browder informed the Council that Ms. Melissa Butts from the Joint Task Force was kind enough to supply their Annual Report which is included in the member's packets.

MISCELLANEOUS

The Chair asked Frank Ruel to provide a bit of background on himself to the Council.

Council member Frank Ruel stated that he had started as a claims adjuster and eventually went to Raytheon. Mr. Ruel stated that he wanted to take a minute to thank Mr. Corcoran for being a tremendous leader and mentor and he really appreciated it.

Chairman Steve Joyce asked Ms. Butts to give a brief overview of the work of the Joint Task Force on the Underground Economy and Employee Misclassification (JTF).

Ms. Melissa Butts provided a brief description of the JTF. She indicated that the JTF works for workers' rights. Ms. Butts explained that they are also attempting to level the playing field for legitimate

employers who are being underbid because some businesses are not putting into the system for unemployment, workers' compensation and taxes.

Ms. Butts informed the Council that the task force has had a number of great successes this year and that the task force was recently codified into law. She stated that beginning in March 2015 they will be called the Council on the Underground Economy.

A motion was made to enter into Executive Session to interview and rate judicial candidates.

Motion seconded and carried.

The Council met in executive session.

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, October 8, 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.