

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

November 12, 2014

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

Council Members Present: Stephen Joyce; Mickey Long; Frank Ruel; John Pulgini; Stephen Falvey; Todd Johnson.

Also Present: George Noel, Director; Linda Turner, Deputy Director; Omar Hernandez, Senior Judge; John Riordan, Deputy General Counsel; Karen Fabriszewski, Trust Fund Director; Gerry Pugsley, Legal Counsel; Dennis Johnson, Diversity Director, EOLWD; Michael Kelley, Hub International, NE; Ellen Keefe, Workers' Compensation Inspection Bureau (WCRIB); Jim Dunlop, Mass Bay Self-Insurance Group.

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

Absent: John Regan; Teri McHugh; Dennis Hines; Bill Corley; Bernie Mulholland; Executive Office of Housing and Economic Development; Executive Office of Labor and Workforce Development.

Agenda:

Chairman's Welcome

DIA Update

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

Action Items

- Minutes – October 8, 2014
- Minutes – October 28, 2014

Discussion of the Draft FY'14 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

The Senior Judge stated that the average wait times between conciliation and conference have decreased. He noted that wait times in Boston and Lawrence are 3.5 months; Fall River is 2.5 months; Springfield 1.5 months; and Worcester is 3 months. Senior Judge Hernandez stated that to address the conference queue, he had added one week of conferences for all judges in December. The Senior Judge noted that the hearing queue will increase as a result of this added conference week.

The Senior Judge stated that he did not have an update with respect to judicial appointments and reappointments.

Senior Judge Hernandez informed the Council that the joint conference with Rhode Island judges and practitioners was very successful. He stated that he had met with the Rhode Island's Chief Judge to discuss next year's meeting, which they hope will include New Hampshire. He indicated that they hope the meeting will eventually include judges and practitioners from all New England states.

Vital Statistics

Bill Taupier updated Council members on the information contained within the DIA's vital statistic report for November 2014. He offered the following statistics: Conference Queue: 557; Hearing Queue: 744; Reviewing Board Inventory: 60; Impartial Exams for FY'15 (to date): 1,263 (24 waivers); Exam Fees Collected for FY'15: \$608,050; Impartial Medical Examinations in FY'14: 4,376 (22 waivers); and Exam Fees Collected in FY'14: \$2,018,883.

Mr. Taupier updated the Council on the Stop Work Order (SWO) and Caseload Statistics, including the following: SWOs issued in October: 182 (13 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'15 (to date): 789; fine collection for October: \$62,960; total fines in FY'15 (to date): \$391,262; SWOs issued in FY'14: 2,345; total fines collected in FY'14: \$2,018,883; compliance checks for September: 8,270; estimated number of workers now covered by workers' comp. insurance as the result of a SWO: 2,265 (FY'15, to date).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in October 2014: 961; total cases filed in FY'15 (to date): 4,139; total cases filed in FY'14: 11,960; total First Report of Injury Forms (FRI) filed in October 2014: 3,138 (2,741 filed electronically; 87%); total FRI filed in FY'14: (to date): 31,384 (11,937 online). In October the number of employee claims filed: 1,059; number of employee claims filed in FY'15: 3,518; number of discontinuances filed: 169; the total number of discontinuances filed in FY'15: 610; the number of third party claims filed: 3; total number of third party claims filed in FY'15: 11.

Bill Taupier proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY'15 (to date): 28; total amount of §65 claims paid by the Trust Fund in FY'15 (to date): \$2,603,545; total §65 claims filed in FY'14: 107; total amount of §65 claims paid by the Trust Fund in FY'14: \$8,663,080; total recovery efforts against uninsured employers FY'15 (to date): \$504,102; total recovery efforts against uninsured employers FY'14: \$1,013,557.

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'15 (to date): \$8,508,348; total amount paid on these claims in FY'14: \$28,467,448; total COLA reimbursements to insurers in FY'15 (to date): \$659,295; total COLA reimbursements to insurers in FY'14: \$15,744,268.

Mr. Taupier reported that as of October 2014, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 243 (190 DIA employees, 53 WCTF employees).

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY'15 (to date): \$1,457,502; 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): \$18,510,710; 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 Noel noted that the conference queue decreased as a result of the Senior Judge's adjustments to the schedule. He stated that once judges get reappointed and appointed, he expects that the queue will continue to decrease.

Director Noel explained that the Agency is currently working with the administration on the upcoming transition.

Director Noel stated that the Director of Investigations position would be posted soon and that Alan Green is currently serving as Acting Director of Investigations.

DRAFT FY'14 ANNUAL REPORT

Executive Director William Monnin-Browder informed the Council that each packet includes a draft of the Annual Report and an outline of the Concerns and Recommendations section. The Executive Director asked the Council members to review this in the next couple of weeks and get any feedback to him so it can be incorporated. He stated that he hopes to have a draft incorporating the Council's comments for the December meeting.

Council member Steve Falvey suggested that the Council address the findings of the Auditor's Report in the Concerns and Recommendations section. He explained that one thing that jumped out for him was that the Agency only audits large insurance companies and medium and small companies are not tracked or audited on a regular basis.

Director Noel stated that Bob Ford has done quite a bit of work on that and has brought on a couple more auditors to address this situation. The Director stated that he expects Mr. Ford to discuss the issue at next month's meeting.

Council member Todd Johnson suggested that it would be good to address the impact of opioids in workers' compensation in the Annual Report, since there has been such an increase in the use nationally. Mr. Johnson noted that although opioids are not unique to our system they are a huge issue and definitely have an impact on the length of disability in our system.

The Chairman asked members to email the Executive Director if they have any other suggestions or ideas for the Annual Report.

MISCELLANEOUS

Meeting adjourned.

The next meeting of the Advisory Council is scheduled for Wednesday, December 10, 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.