

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

November 18, 2015
Department of Industrial Accidents
1 Congress Street, Suite 100
Boston, MA 02114-2017

Council Members Present: Mickey Long; Todd Johnson; Teri McHugh; Stephen Falvey; Frank Ruel; Bill Corley; Bernie Mulholland; Michael Kelley; Steve Joyce (by phone).

Also Present: Linda Edmonds Turner, Director; Omar Hernandez, Senior Judge; Bill Taupier, Deputy Director of Administration; John Riordan, Deputy General Counsel; Karen Fabiszewski, Trust Fund Director; Roody Herold, Manager, Information Technology; Marc Joyce, Senior Regional Services Manager; Robert Cronin, Director of Investigations; Alan Green, Deputy Director of Investigations; Melissa Butts, Program Coordinator, Council on the Underground Economy; Ellen Keefe, Worker's Compensation Rating and Inspection Bureau (WCRIB); Laura Mecurio, WCRIB.

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

Absent: John Regan; John Pulgini; Bill Corley; 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
- Update on Regulatory Review Process – Karen Fabiszewski, Trust Fund Manager
- Director's Update – Director Linda Edmonds Turner

Communications

Action Items

- Minutes – August 12, 2015
- Minutes – September 9, 2015
- Minutes – October 14, 2015

Executive Director Update – William Monnin-Browder

Health Care Delivery in the Workers' Compensation System and the Impact of Medical Fee Schedules

Dr. John Burress, Medical Director at the Boston Center, Department of Occupational and Environmental Medicine and Assistant Professor of Family Medicine at Boston University Medical School

Miscellaneous

CHAIRMAN'S WELCOME

Acting Chairperson Mickey Long welcomed everyone and asked Senior Judge Omar Hernandez to provide his Judicial Update.

DIA UPDATE

Judicial Update

Senior Judge Hernandez stated that the average wait times between conciliation and conference are approximately 2.5 to 3 months in all regions. He noted that the wait times are up slightly due to upcoming vacations around the holidays, but that he expects they will come down soon. The Senior Judge noted that the impartial physician roster has remained steady.

The Senior Judge stated that the recent tri-state conference was successful and that he has received very positive reviews from participants. He indicated that planning for next year's conference will begin soon and that they are hoping to expand the conference by including Connecticut.

Senior Judge Hernandez stated that two new stenographers have been hired for the Boston office. He noted that he is hoping to get another stenographer for the Worcester office, because one of the Worcester stenographers is transferring to the Springfield office.

On the appointment/reappointment process, Senior Judge Hernandez stated that the new administration is in the process of appointing members to the Nominating Panel. He stated that no timeframe has been set for interviewing candidates.

Vital Statistics

Bill Taupier updated Council members on the information contained within the DIA's vital statistics report for November 2015. He offered the following statistics: Conference Queue: 648; Hearing Queue: 546; Reviewing Board Inventory: 67; Impartial Exams for FY'16 (to date): 1,437 (28 waivers); Exam Fees Collected for FY'16 (to date): \$860,041; Impartial Medical Examinations in FY'15: 4,146 (94 waivers); and Exam Fees Collected in FY'15: \$1,967,550.

Before beginning the discussion of the investigations statistics, Mr. Taupier introduced Robert Cronin, the Agency's new Director of Investigations.

Mr. Taupier updated the Council on the Stop Work Order (SWO) and Caseload Statistics, including the following: SWOs issued in October: 183 (12 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'16 (to date): 774; fine collection for October: \$16,550; total fines in FY'16 (to date): \$292,557; SWOs issued in FY'15: 1,938; total fines collected in FY'15: \$1,188,541; compliance checks for October: 7,345; estimated number of workers now covered by workers' compensation insurance as the result of a SWO: 1,769 in FY'16 (to date).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in October 2015: 949; total cases filed in FY'16 (to date): 4,134; total cases filed in FY'15: 11,837; total First Report of Injury Forms (FRI) filed in October 2015: 2,631 (2,312 filed electronically: 88%); total FRIs filed in FY'16: 12,007; total FRIs filed in FY'15: 33,353 (29,290 online). In October 2015 the number of employee claims filed: 789; number of employee claims filed in FY'16 (to date): 3,507; number of discontinuances filed: 156; the total number of discontinuances filed in FY'16 (to date): 609; the number of third party claims filed: 4; total number of third party claims filed in FY'16 (to date): 18.

Bill Taupier proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY'16 (to date): 40; total amount of §65 claims paid by the Trust Fund in FY'16 (to date): \$2,045,202; total §65 claims filed in FY'15: 99; total amount of §65 claims paid by the Trust Fund in FY'15: \$7,620,855; total recovery efforts against uninsured employers FY'16 (to date): \$454,415; total recovery efforts against uninsured employers FY'15: \$1,556,069.

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'16 (to date): \$4,891,213; total amount paid on these claims in FY'15: \$30,682,389; total COLA reimbursements to insurers in FY'16 (to date): \$383,365; total COLA reimbursements to insurers in FY'15: \$14,344,261.

Mr. Taupier reported that as of October 2015, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 234 (180 DIA employees, 54 WCTF employees).

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY'16 (to date): \$1,123,366; total referral fees collected in FY'15: \$3,888,246; total assessment collections in FY'16 (to date): \$25,896,182; total assessment collections in FY'15: \$70,934,257.

Regulatory Review Update

Trust Fund Director Karen Fabiszewski noted that through Executive Order #562, Governor Baker directed all agencies to review, revise and simplify their existing regulations. She explained that the purpose of the review is to eliminate regulations that are no longer needed and insure that regulations do not exceed federal requirements or duplicate federal regulations.

Ms. Fabiszewski stated that the Agency reviewed existing regulations and is currently preparing a draft of revised regulations to be sent to Secretary Walker's office for further review. She added that once the Secretary's office has had an opportunity to review the regulations, they will go through the process to be promulgated. She explained that the public will have an opportunity to comment on the proposed regulations at that point.

Mr. Falvey noted one goal stated in Executive Order #562 is to ensure that state regulation will not exceed federal regulation. He stated that it was his understanding that the workers' compensation system is created by and unique to each state and asked if that provision would impact the DIA.

Ms. Fabiszewski stated that there are not really competing regulations in the area of workers' compensation, so that goal would probably more applicable to other areas of the regulations.

Mr. Kelley asked if the Council could see the draft that is sent to the Secretariat or if the Council would have to wait to see a draft after the Secretariat reviews it.

Mr. Long noted that once they file the report, it is a public document, so it should be emailed to any members of the Council who request it. He asked that it be circulated through the Executive Director once it is a public document. He also asked that Council members be kept informed of developments in the regulatory review process.

Circular Letter #348 Update

Ms. Fabiszewski stated that Director Turner asked her to update the Council on discussions regarding Circular Letter #348, which pertains to the assessment collection process. She stated that under the Director's direction, the Agency has formed a working group, which includes representative from the insurance industry, WCRIB, the Division of Insurance, and the DIA, to consider changes to the process.

Ms. Fabiszewski stated that the working group met two weeks ago to discuss some of the changes that the Agency proposed. She stated that they received some excellent feedback at the meeting. Ms. Fabiszewski noted that the Agency is in the process of looking at some of the suggestions to see how they can make the process work better for those that report, while also meeting the Agency's needs. She

explained that the working group has another meeting scheduled in December to discuss any outstanding issues.

Mr. Long suggested that this item be kept on the agenda to allow the Council to monitor developments.

Boston Office Lease Update

Council Member Teri McHugh stated that she had recently seen an article in the newspaper about the construction at the Government Center Garage site. She asked if there was any more information available about any impact on the Agency.

Director Turner noted that she planned to set up a meeting with the building management soon to discuss the issue, but has not received any information to this point. She noted that there is almost five years left on the Agency's lease.

DIRECTOR'S UPDATE

Director Turner welcomed new Director of Investigations Robert Cronin. She informed the Council that Mr. Cronin is a former Commissioner of the Alcohol Beverage Control Board and that he has extensive experience at looking at sites for compliance. She noted that his background makes him a perfect fit for the position.

Regarding Circular Letter #348, Director Turner informed the Council that she has appointed Ms. Fabiszewski to Chair the working group because of her extensive experience with assessments. She stated that the working group had provided valuable feedback and that the process is moving along well. She said she expects the process to be completed soon and that she would continue to update the Council accordingly.

EXECUTIVE DIRECTOR UPDATE

Executive Director Monnin-Browder noted that the Council's packets include a draft of the FY'15 Annual Report. The Executive Director asked Council Members to provide any comments on the draft by November 25th, so that changes could be incorporated in a new draft for the December meeting.

Mr. Monnin-Browder explained that he is in the process of preparing an Executive Summary, which has not been included in previous annual reports. He stated that the purpose of the Executive Summary would be to provide a short overview of the material provided in the report and also highlight some of the key metrics. Mr. Monnin-Browder also noted that the structure of the report changed a little bit to improve its organization. Mr. Monnin-Browder stated that the one substantive change is that new narrative on the Walk-In Lump Sum Program is included.

Mr. Long suggested a one page document articulating some of the historical milestones that have been discussed in recent meetings. He suggested that the document include charts detailing the changes. Mr. Long stated that if they see a standout chart of these impressive milestones it could generate good reviews for everybody responsible for the improvements to the system.

Mr. Falvey stated that he would also like to see a graphic showing the way the Agency is funded because people generally do not understand it.

Mr. Long suggested that “no general tax revenue is used to fund the Agency” be bold and capitalized in the Annual Report. He explained that for as long as he has been on the Council, people have misunderstood the Agency’s funding mechanism, so emphasis should be added to this fact in the report.

The Executive Director stated that Dr. Burress’ presentation would be rescheduled for a future meeting.

Meeting adjourned.

The next meeting of the Advisory Council is scheduled for Wednesday, December 9, 2015, at 9:00 A.M., at the Department of Industrial Accidents, 1 Congress Street, Suite 100, Conference Room #10-140, Boston, MA 02114-2017.