

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

May 13, 2015

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

Council Members Present: John Regan; Bill Corley; Mickey Long; Todd Johnson; Frank Ruel; Bernie Mulholland; John Pulgini; Teri McHugh; Michael Kelley.

Also Present: Linda Turner, Acting Director; Omar Hernandez, Senior Judge; Bill Tattan, General Counsel; Bill Taupier, Deputy Director of Administration; Marc Joyce, Sr. Regional Services Manager; John Riordan, Deputy General Counsel; Karen Fabiszewski, Trust Fund Director; Alan Green, Acting Director, Investigations; Melissa Butts, Program Coordinator, Underground Economy; Ellen Keefe, WCRIB.

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

Absent: Stephen Joyce; Stephen Falvey; 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
- Director's Update – Director Linda Edmonds Turner

Action Items

- Minutes – April 8, 2015

Legislative Discussion

Executive Director Update – William Monnin-Browder

Miscellaneous

CHAIRMAN'S WELCOME

Acting Chairman John Regan welcomed everyone and asked Senior Judge Omar Hernandez to provide his Judicial Update.

DIA UPDATE

Judicial Update

Senior Judge Hernandez stated that the conference queue is at an appropriate level. He explained that the average wait time in Boston is at 3.5 months; Fall River is at 2 months; and Springfield, Lawrence and Worcester are at 3 months.

The Senior Judge noted that three judges had previously notified him of their intention to take advantage of the Employee Retirement Incentive Plan (ERIP), if the program applied to the DIA. He explained that

in light of the determination that DIA employees are not eligible for the program, two of the three judges have indicated that they plan to remain at the DIA. The Senior Judge explained that the other judge expects to retire on June 30, 2015.

Senior Judge Hernandez stated that with respect to the judicial applications, the DIA has received about 40 applications as of yesterday's close date. Senior Judge Hernandez explained that they would begin reviewing the applications and then forward them to the Nominating Panel for voting.

Senior Judge Hernandez informed the Council members that a conference with judges and practitioners from New Hampshire, Rhode Island and Massachusetts has been scheduled for Friday, October 23, 2015 at Gillette Stadium. The Senior Judge stated that he plans to meet with his counterparts in the other states in June to finalize the topics that will be covered at the conference.

Council member Mickey Long suggested an employer-side fraud component be part of the conference's agenda, particularly because Massachusetts leads the nation on its employer-side antifraud mechanisms. He suggested inviting someone from the Workers Compensation Rating and Inspection Bureau or the Insurance Fraud Bureau to participate.

Vital Statistics

Bill Taupier updated Council members on the information contained within the DIA's vital statistics report for May 2015. He offered the following statistics: Conference Queue: 723; Hearing Queue: 643; Reviewing Board Inventory: 76; Impartial Exams for FY'15 (to date): 3,339 (85 waivers); Exam Fees Collected for FY'15 (to date): \$1,597,658; 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 April: 177 (13 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'15 (to date): 1,696; fine collection for April: \$174,589; total fines in FY'15 (to date): \$973,875; SWOs issued in FY'14: 2,345; total fines collected in FY'14: \$2,018,883; compliance checks for April: 7,087; estimated number of workers now covered by workers' comp. insurance as the result of a SWO: 4,500 in FY'15 (to date).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in April 2015: 1,241; total cases filed in FY'15 (to date): 10,017; total cases filed in FY'14: 11,960; total First Report of Injury Forms (FRI) filed in April 2015: 3,210 (2,837 filed electronically; 88%); total FRIs filed in FY'15: 28,220; total FRIs filed in FY'14: 31,384 (11,937 online). In April 2015 the number of employee claims filed: 1,016; number of employee claims filed in FY'15 (to date): 8,390; number of discontinuances filed: 215; the total number of discontinuances filed in FY'15 (to date): 1,585; the number of third party claims filed: 10; total number of third party claims filed in FY'15 (to date): 42.

Council member Mickey Long stated that Mr. Taupier had reported last month that the Trust Fund has had the fewest cases in its history thus far and is trending toward a historic low. Mr. Long recommended that the next Annual Report reflect that cases filed and trust fund cases filed are trending lower. He also suggested that the report note that Massachusetts has among the lowest employer premium costs in the country.

Acting Chairman John Regan observed that the Massachusetts economy has been changing. He explained that there are far fewer heavy manufacturing jobs than there once was, and those were the type of jobs where people were exposed to risky situations. Mr. Regan noted that the manufacturing jobs here are now high tech and less risky.

Mr. Regan noted that it would be interesting to know if the other states participating in the regional conference track their anti-fraud efforts in the same way that the DIA does. He suggested that this information could be part of the conference and might be an interesting point of comparison.

Bill Taupier proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY'15 (to date): 81; total amount of §65 claims paid by the Trust Fund in FY'15 (to date): \$6,173,637; 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): \$1,301,510; total recovery efforts against uninsured employers FY'14: \$1,013,557.

Council Member Michael Kelley observed that there had been a significant jump in Trust Fund claims in April, with 19 new claims filed.

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): \$20,978,199; total amount paid on these claims in FY'14: \$28,467,448; total COLA reimbursements to insurers in FY'15 (to date): \$7,732,920; total COLA reimbursements to insurers in FY'14: \$15,744,268.

Mr. Taupier reported that as of May 2015, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 236 (182 DIA employees, 54 WCTF employees).

Council member Bernie Mulholland mentioned that he had heard there might be departures among the stenographers and asked whether the Senior Judge planned to hire additional stenographers.

Senior Judge Omar Hernandez stated that they are pushing to get more stenographers. He noted that there had been a hiring freeze in place. The Senior Judge stated that now that the summer months are coming and people are going on vacation, they have worked out an agreement with the Union which allows him to use temporary workers.

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY'15 (to date): \$3,10,322; 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): \$54,361,550; 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 Linda Turner informed Council members that the Executive Office of Labor and Workforce Development had hired a new Communications Director, Colleen Quinn. Director Turner stated that she hopes that the DIA will get more coverage of all the good things done at the Agency.

Director Turner reported that she has a meeting on June 3rd with Karen Holt from the Workers' Compensation Research Institute (WCRI). The Director stated that Ms. Holt would be bringing someone with her to review WCRI's most recent research on the Massachusetts system.

Director Turner stated that she is honored to have been given the opportunity to serve as Director of the DIA and looks forward to working with the Advisory Council in her new role.

MISCELLANEOUS

Council member Teri McHugh asked if the DIA has any new information about when the Agency might need to vacate its Boston office.

General Counsel Bill Tattan stated that he had spoken to DCAM yesterday and there has been no official notice to the DIA or to DCAM about the DIA vacating the premises at any time.

ACTION ITEMS

A motion was made to approve the April 8, 2015 minutes.

Motion seconded and carried.

LEGISLATIVE DISCUSSION

Acting Chair John Regan noted that Council members had been provided bill summaries for workers' compensation-related legislation filed this session. Mr. Regan asked members to review the pending matters and be prepared to vote on positions at the next meeting.

EXECUTIVE DIRECTOR'S UPDATE

Executive Director Will Monnin-Browder stated that if anyone had any questions about the bills they should not hesitate to contact Advisory Council staff.

The Executive Director stated that meeting packets contain the FY'14 Annual Report, which he also hand delivered to the Governor, Lieutenant Governor, the Secretaries of Labor and Workforce Development and Housing and Economic Development, key members of the Administration, and the Legislature. He noted that he had also sent an email out to all legislators notifying them that the report was available on the Advisory Council's website.

The Executive Director stated that the Senate Ways and Means released their version of the budget yesterday. He explained that they proposed a little over \$19.8 million for DIA operations, which is the same amount that Governor Baker proposed in his House 1 bill. The Executive Director noted that the Senate will debate the bill next week and that he will continue to monitor it.

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, June 10, 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.