

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

July 13, 2011
Department of Industrial Accidents
1 Congress Street, Suite 100
Boston, MA 02114-2017

CM Present: Chairman Mickey Long; Vice-Chairman Edmund C. Corcoran, Jr.; John Regan; Stephen Joyce; Stephen Falvey; Teri McHugh; Bernard Mulholland; John Pulgini; Antonio Frias (Ines Leonardo); David Powell (Kevin Hurstack).

Also Present: Director Philip L. Hillman; William Tatten, General Counsel; Reuben Kantor, Director of Operations; William Taupier, First Deputy Director of Administration; Jack Defina, CFO; Maydad Cohen, Chief of Staff for the Executive Office of Labor and Workforce Development (EOLWD); Ellen Keefe, Workers' Compensation Rating & Inspection Bureau of Massachusetts (WCRIB); Aram Kalashian, AIM Mutual Insurance Company; Peter DiNardo, Provider Insurance Group, Inc.

Advisory Council Staff: Evelyn Flanagan

Absent: CM: William Corley; John Pulgini; Dennis Hines; Peter A. Cook, Sr.; Department of Business Development.

Agenda:

Chairman's Welcome

DIA Update

- Judicial Update – William Taupier, Deputy Director of Administration
- Vital Statistics - William Taupier, Deputy Director of Administration

Action Items

- Minutes – June 8, 2011

Workers' Compensation FY' 12 Budget Discussion

Miscellaneous

CHAIRMAN'S WELCOME

Chairman Mickey Long began today's meeting at 9:00 a.m. The Chairman stated that he noticed there is still no Senior Judge and asked the DIA for a judicial update on the progress of filling this position.

DIA UPDATE

Judicial Update

Director Philip Hillman explained that five names have been forwarded to the Governor's office for consideration. He noted that they expect the final decision to be made before the end of summer.

Vital Statistics

Mr. Bill Taupier updated Advisory Council members on the information contained within the DIA's vital statistic report for July 2011 (see attached). Conference Queue: 618; Hearing Queue: 603; Reviewing Board Inventory: 54; Impartial Exams for FY' 11 (to date): 4,295 (48 waivers); Exam Fees Collected for FY' 11: \$1,560,963. In fiscal year 2010 there were 5,069 Impartial Medical Examinations (64 waivers); Exam Fees Collected in FY' 10: \$1,792,626.

Mr. Taupier informed the members that one of the reasons for the increase in the Hearing and Conference queues was that there are two judges off-line at this time.

Mr. Bill Taupier updated Advisory Council members on the Stop Work Order (SWO) and Caseload Statistics. The DIA issued 210 SWOs in June (22 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'11 (to date): 2,762. Fine collection for June 2011: \$89,700; total fines in FY' 11 (to date): 1,228,525; SWOs issued in FY' 10: 3,421; total fines collected in FY'10: \$1,110,125; compliance checks for June 2011: 4,783; estimated number of workers now covered by workers' compensation insurance as the result of a SWO: 7,384 (FY'11).

Mr. Taupier continued the update of the monthly vital statistics. Total number of cases filed in June 2011: 1194; total number of cases filed in FY' 11 (to date): 12,589; total number of cases filed in FY'10: 12,940; total number of First Report of Injury Forms (FRI) filed in June 2011: 2,832; total number of FRI filed online in June 2011: 871 (31%); total number of FRI filed in FY' 11 (to date): 30,820 (9,482 online); total number of FRI filed in FY'10: 30,443 (8,934 online).

Mr. Taupier proceeded with his update on uninsured claims (§65). Total number of §65 claims reported in FY' 11 (to date): 118; total amount of §65 claims paid by the Trust Fund in FY'11 (to date): \$6,899,534; total number of §65 claims filed in FY' 10: 137; total amount of §65 claims paid by the Trust Fund in FY'10: \$6,508,487; total recovery efforts against uninsured employers FY' 11: \$1,329,919; total recovery efforts against uninsured employers FY' 10: \$709,946.

Mr. Taupier proceeded with the vital statistics for the Second Injury Fund (§37/37A). Total amount of §37/37A petitions paid in FY'11 (to date): \$18,749,302; total amount paid on these claims in FY'10: \$22,877,653; total COLA reimbursements to insurers in FY'11 (to date): \$14,311,449; total COLA reimbursements to insurers in FY'10: \$11,767,228.

Mr. Taupier reported that as of June 2011, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 252 (203 DIA employees, 49 WCTF employees). The DIA is authorized to have 283.2 payroll positions (including all full and part-time positions).

Mr. Taupier informed the Council members there was now a full complement of regional managers since all four regional manager's positions have been filled, plus one additional IT person has been hired within the last month.

Mr. Jack Defina explained that approximately 18 positions have been eliminated. He stated that there are eight open positions (back-fills). Mr. Defina also noted that there are ten pending positions that are either being filled or waiting to be filled. Mr. Defina provided a breakdown of the positions: four positions are located in the Trust Fund, one of which is an attorney (Civil Litigation Manager); one program coordinator position in administration; one investigator position; one position in accounting; the Senior Judge's position; the Executive Director and the Civil Rights Officer position.

Vice-Chairman Corcoran stated that the positions in the Trust Fund are very important. The Vice-Chairman asked that it be noted that there are deep concerns at what is happening in the Trust Fund and that six months down the road we may see the impact of these unfilled positions.

Mr. Taupier presented the accounting and finance statistics. Total referral fees collected in FY' 11 (to date): \$3,730,233; total referral fees collected in FY' 10: \$3,863,852; total first report fines in FY' 11 (to date): \$137,905; total first report fines in FY' 10: \$109,700; total assessment collections in FY' 11

(to date): \$80,881,208; total assessment collections in FY'10: \$75,002,051; total SWO fines in FY'11 (to date): \$1,836,225; total SWO fines in FY'10: \$1,597,919.

ACTION ITEMS

A motion was made to approve the June 8, 2011 minutes.

Motion Seconded and Carried.

ARTICLE 87 CONSOLIDATION PLAN

Ms. Evelyn Flanagan explained that on March 3, 2011, the Budget Subcommittee discussed Governor Patrick's proposed Article 87 Reorganization Plan to streamline the Executive Office of Labor and Workforce Development (EOLWD). She stated that at that time the subcommittee inquired about the effects of Section 160, which requires the DIA and the Department of Labor Relations to transfer employees, proceedings, rules and regulations, property, and legal obligations to EOLWD. Ms. Flanagan noted that the DIA explained that this section was inserted at the urging of the State Comptroller to maintain consistency among reporting agencies for the Mass. Management Accounting & Reporting System (MMARS). The DIA assured the subcommittee that there would be no sweeping of agency funds or changes in the operation of the agency.

Chairman Mickey Long requested that the DIA provide an update on the Article 87 Consolidation Plan, noting the recent move of the DIA's Human Resources (HR) division to the Executive Office at the Hurley Building. Chairman Long stated that he was interested in the funding of these DIA employees and asked if there would be future charge backs to the DIA for services provided.

Chief of Staff Maydad Cohen stated that HR had always been centralized and as part of the overall structure change, EOLWD was clarifying to each agency that the consolidation allows each agency to do more. Chief of Staff Cohen explained that with the elimination of the Department of Labor the DIA now reports directly to EOLWD. The Chief of Staff explained that EOLWD is currently working out the details of how any chargebacks would be implemented as part of the Article 87 Reorganization. Chief of Staff Cohen noted that EOLWD takes this issue seriously and the Executive Office recognizes that they have this pocket of money that cannot be used except for a particular agency. The Chief of Staff explained that the federal government is the same way and that the Department of Unemployment Assistance (DUA) is completely federally funded and it would be a violation of federal law if those federal funds were used for other purposes.

Chief of Staff Cohen offered to have a representative from the Executive Office come and speak to the Advisory Council and provide more details. The Chief of Staff stated that the agency will see no change in how it operates on a day to day basis and that HR was a perfect example of consolidation since it had already been centralized and that Article 87 just formalized the consolidation.

Vice-Chairman Corcoran expressed concern. He stated that there is an assessment process and the employers are required to pay the assessment to fund the Special Fund. Vice-Chairman Corcoran explained that the Council wants to make sure that if they see 252 people on the DIA payroll, that all of the employees are all doing DIA work.

Chairman Long asked if the managers at the DIA could be assured that the DIA employees that are not housed in this building are only doing DIA work.

Council Member Stephen Joyce explained that HR performs other duties than just hiring and executive functions. He voiced concern that employees would not have access to the things they need if HR is housed somewhere else.

Chief of Staff Cohen reported that there would be specific hours when someone from HR would be physically in this building during the week and that has been communicated to the employees. At this time he noted that the people who are doing DIA work are the same people that had been doing it so there is some familiarity with employees.

Chairman Long suggested that this subject be placed on the agenda for the next meeting. Chairman Long requested that the Council members email Ms. Flanagan with any questions or comments they have. Chairman Long stated that Ms. Flanagan would email the information on Article 87 Reorganization that was discussed at today's meeting so there will not be any surprise questions for people and that way EOLWD will have a clear understanding of what the Council's concerns are.

MISCELLANEOUS

FY'12 Assessment Rate for Private Employers

CFO Jack Defina reported that the private employer assessment rate has been calculated to be 5.930% of standard premium, a decrease of 12.9% from last year. Mr. Defina explained that this reduction is due to the fact that the DIA has kept expenses level or below their budget. He informed the Council that the amount that is left over in the Private Trust Fund and the Special Fund are over 35% which played a part in the calculations. Mr. Defina noted that the \$8.0M is calculated into how much is needed to cover the operating expenses at the DIA.

Mr. Defina explained that although the employer does not get a return of that money, the money stays in the fund and the employer gets a decrease in their assessment.

FY'12 Budget

Ms. Flanagan stated that on Monday, July 11, 2011 Governor Deval Patrick signed the fiscal year 2012 budget. She reported that the total amount appropriated to the DIA's line item [7003-0500] was \$19,106,544. Ms. Flanagan noted that although the DIA is to submit a safety grant report to the House and Senate Ways & Means by February 1, 2012, the line-item did not designate a specific amount for the agency to expend on the Safety Grant Program.

ACTION ITEMS

A motion was made to have Ms. Flanagan draft a letter to Secretary Joanne Goldstein presenting the Advisory Council's recommendation for the Executive Director position.

Motion Seconded and Carried.

Ms. Flanagan stated that she would draft the letter for approval to Secretary Goldstein with the Chairman and Vice-Chairman's signature.

A motion was made to adjourn the meeting. Motion Seconded and Carried.

The next meeting of the Advisory Council is scheduled for Wednesday, August 10, 2011, at 9:00 AM, at the Department of Industrial Accidents, 1 Congress Street, Suite 100, Conference Room #10-140, Boston, MA 02114-2017.