

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

January 11, 2012
Department of Industrial Accidents
1 Congress Street, Suite 100
Boston, MA 02114-2017

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

Also Present: Philip L. Hillman, Director; Omar Hernandez, Senior Judge; Reuben Kantor, Director of Operations; William Tattan, General Council; Jack Defina, CFO; William Taupier, First Deputy Director of Administration; Ray Marchand, Director of Investigations; Yvonne Vieira-Cardoza, Deputy General Counsel; Mark Joyce, Senior Regional Services Manager; Katherine LaGrassa, Workers' Compensation Trust Fund Legal Intern; Bob Ford, Budget Director, Executive Office of Labor and Workforce Development; Dan Crowley, Workers' Compensation Rating & Inspection Bureau of Massachusetts; Michael Kelley, AIM Mutual Insurance Company.

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

Absent: John Regan; Dennis Hines; Todd Johnson; 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 Trust Fund Backlog

Action Items

- Minutes – December 14, 2011

Executive Director Update – William S. Monnin-Browder

Miscellaneous

CHAIRMAN'S WELCOME

Vice Chairman Edmund Corcoran began the meeting at 9:00 A.M. Vice Chairman Corcoran asked the Senior Judge to provide the judicial update.

DIA UPDATE

Judicial Update

Senior Judge Omar Hernandez reported that the Judicial Nominating Committee will interview 26 candidates on January 23rd, 24th and 25th. The Senior Judge stated that there are currently five sitting Judges looking for reappointment. He noted that four of the sitting judges are Administrative Judges (AJs) and one is an (ALJ). The Senior Judge explained that, although one of the AJ's appointments is not up until July, the judge had decided to put in his application early.

Senior Judge Hernandez informed the Council that Secretary Goldstein would be holding a stakeholders' forum in Lexington on January 12, 2012, from 3:30 to 5:00 p.m. to discuss the DIA, its processes, and any questions or concerns of stakeholders. He stated that the Secretary had announced that she would hold such a forum at a recent MCLE conference. The Senior Judge noted that the Administration is hoping to get feedback concerning the DIA's dispute resolution system and the agency as a whole. The Senior Judge indicated that, while this is a one of a kind event, it is possible that there might be follow up events.

Vital Statistics

Mr. Bill Taupier updated Council members on the information contained within the DIA's vital statistic report for January 2012. He offered the following statistics: Conference Queue: 493; Hearing Queue: 880; Reviewing Board Inventory: 47; Impartial Exams for FY' 12 (to date): 2,166 (25 waivers); Exam Fees Collected for FY' 12: \$762,238; Impartial Medical Examinations in FY' 11: 4,295 (48 waivers); Exam Fees Collected in FY' 11: \$1,560,963.

Mr. Taupier updated Council members on the Stop Work Order (SWO) and Caseload Statistics, including the following: SWOs issued in December: 146 (9 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY' 12 (to date): 1,281; fine collection for December: \$87,750; total fines in FY' 12 (to date): \$661,087; SWOs issued in FY' 11: 2,972; total fines collected in FY' 11: \$1,228,525; compliance checks for December 2011: 4,365; estimated number of workers now covered by workers' compensation insurance as the result of a SWO: 4,612 (FY' 12).

Mr. Taupier continued the update of the monthly vital statistics by offering the following statistics: total number of cases filed in December 2011: 879; total number of cases filed in FY' 12 (to date): 6,164; total number of cases filed in FY' 11: 12,589; total number of First Report of Injury Forms (FRI) filed in December 2011: 1,844; total number of FRI filed online in December 2011: 681 (37%); total number of FRI filed in FY' 12: (to date): 14,532; total number of FRI filed in FY' 11: 30,820 (9,482 online).

Mr. Taupier informed members that, as of this week, the DIA had completed construction of the EDI batch submission system for FRI filings and was now in the testing phase. He indicated that the Massachusetts Human Resources Division is the DIA's first partner in this system. He also noted that an invitation had gone out to insurers by email inviting them to participate in the system.

Director Philip Hillman stated that at the December meeting, Council members requested that he look into the process by which the Department of Unemployment Assistance (DUA) requires online filing. The Director explained that online filing at the DUA is not mandatory, but rather, strongly encouraged. He indicated that DIA will consider ways in which it can encourage online submission.

Mr. Taupier proceeded with his update on uninsured claims (§65), offering the following numbers: total number of §65 claims reported in FY' 12 (to date): 59; total amount of §65 claims paid by the Trust Fund in FY' 12 (to date): \$3,283,499; total number of §65 claims filed in FY' 11: 118; total amount of §65 claims paid by the Trust Fund in FY' 11: \$7,666,940; total recovery efforts against uninsured employers FY' 12: \$498,042; total recovery efforts against uninsured employers FY' 11: \$1,329,919.

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' 12 (to date): \$7,644,030; total amount paid

on these claims in FY' 11: \$19,582,396; total COLA reimbursements to insurers in FY' 12 (to date): \$2,193,356; total COLA reimbursements to insurers in FY' 11: \$14,917,381.

Director Hillman indicated that, since the last Council meeting, the DIA has made solid progress addressing some of the challenges affecting the Trust Fund by addressing personnel issues and looking at other ways the DIA can do business more effectively. Director Hillman stated that the Trust Fund Manager had been transferred into another position at DIA. He indicated that posting and hiring for the Trust Fund Manager position has been fast tracked and that he hopes to get someone in place as soon as possible. Director Hillman noted that the Trust Fund has two additional open positions that, when filled, should help alleviate the processing backlog in the Trust Fund.

General Counsel Bill Tattan added that the Trust Fund has temporarily placed a DIA attorney into the Trust Fund Manager's position.

Mr. Taupier discussed an additional development with regard to Trust Fund operation. He explained that the DIA has developed an online COLA submission system for insurers seeking reimbursement. Once completed, the end user will log into the system using a password provided and fill out the necessary forms online. Mr. Taupier indicated that the end user will still be required to submit documentation necessary for reimbursement. Mr. Taupier reported that testing began on the system last week and that it was expected to be completed in a month or so. Mr. Taupier stated that by the end of the next quarter, the DIA should be able to go live with the new system.

General Counsel Tattan stated that placing the COLAs online should make a big difference. He noted that Attorney Vieira-Cardoza has worked very hard to perfect this online filing form. The General Counsel explained that the online system should reduce some of the user mistakes that caused delays, since the online form only allows the submission of correct information.

The Director noted that in the next two or three months the Council should see the impact of these changes on the numbers. Director Hillman explained that the DIA does not expect that the numbers will exceed the amount budgeted, but they will be close to the amount budgeted.

Director Hillman asked the Council to provide direction as to when it would like to bring in Deloitte to explain in the assessment process.

Mr. Taupier reported that as of December 2011, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 246 (195 DIA employees, 51 WCTF employees). The DIA is authorized to have 258 payroll positions (including all full and part-time positions).

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY' 12 (to date): \$1,623,833; total referral fees collected in FY' 11: \$3,730,233; total first report fines in FY' 12 (to date): \$51,800; total first report fines in FY' 11: \$137,905; total assessment collections in FY' 12 (to date): \$43,766,470; total assessment collections in FY' 11: \$80,880,887; total SWO fines in FY' 12 (to date): \$661,087; total SWO fines in FY' 11: \$1,836,225.

ACTION ITEMS

A motion was made to approve the December 15, 2011 minutes.

Motion Seconded and Carried.

EXECUTIVE DIRECTOR UPDATE

Executive Director Will Monnin-Browder informed the Council members that on December 26, 2011, Senate Bill 927, pertaining to scarring, was reported favorable by the Joint Committee on Labor and Workforce Development and has been referred to the Senate Ways and Means Committee.

The Executive Director stated that the Nominating Panel is expected to meet on January 23rd, 24th and 25th, meaning that the Council will need to rate candidates the following week. The Executive Director reminded the Council that they will have a limited amount of time to interview the applicants once the Nominating Panel forwards their list of candidates to the Council.

Mr. Monnin-Browder informed the Council members that the Governor's Fiscal Year 2013 Budget will be released at the end of the month. The Executive Director suggested the Council form a budget subcommittee soon.

Mr. Monnin-Browder stated that an email had gone out soliciting volunteers for the construction subcommittee that the Council had voted to form at the previous meeting. Mr. Monnin-Browder reported that he had received a few responses, but that anyone else who would like to be on the subcommittee they should let him know. The Executive Director indicated that he would work with the Chairs to schedule a meeting of the subcommittee.

MISCELLANEOUS

Council Member Stephen Joyce stated that during last year's budget discussion, comments and issues came up after the Governor filed his budget. Mr. Joyce noted that at that time, the subcommittee had discussed talking about the budget issues prior to the filing of the budget instead of after. Mr. Joyce asked if the DIA expected any issues to come up that the Council should be aware of in the budget.

Budget Director Bob Ford stated that it does not appear that the DIA is going to be impacted in terms of year to year comparisons.

Vice Chairman Ed Corcoran stated that the potential large volume of judicial candidates recommended to the Council may pose a challenge. The Vice Chairman noted that, historically, the Council has looked at paper reviews for sitting judges, but that it had determined that face to face interviews are important. Vice Chairman Corcoran suggested that the Council choose the days for the interviews at this time, since the process must be completed by February 2, 2012.

Chairman Mickey Long asked the Council to set aside Monday, January 30th and Tuesday, January 31st with each day starting at 8:00 a.m. for judicial interviews. He also asked the Executive Director to see if it would be possible for the Council to obtain an extension in the amount of time it has to rate the candidates.

Chairman Long asked all members to email their proxy to the Executive Director if they are unable to make the judicial interviews. Chairman Long thanked everyone for coming and reminded them that the next meeting is scheduled for Wednesday, February 8, 2012.

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

The next meeting of the Advisory Council is scheduled for Wednesday, February 8, 2012, at 9:00 AM, at the Department of Industrial Accidents, 1 Congress Street, Suite 100, Conference Room #10-140, Boston, MA 02114-2017.