

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

April 13, 2016

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

Council Members Present: Steve Joyce; Steve Falvey; Bernie Mulholland; John Pulgini; Teri McHugh; Michael Kelley; Todd Johnson; Mickey Long.

Also Present: Linda Edmonds Turner, Director; Omar Hernandez, Senior Judge; Bill Taupier, Director of Administration; Karen Fabiszewski, Acting General Counsel; Marc Joyce, Senior Regional Services Manager; Pasqua Scibelli, Civil Litigation Manager; Robert Cronin, Director of Investigations; Alan Green, Deputy Director of Investigations; Bob Ford, CFO; Melissa Butts, Council on the Underground Economy; Christine Cronin, Workers' Compensation Rating and Inspection Bureau (WCRIB).

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

Absent: John Regan; Frank Ruel; 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 – Bill Taupier, Director of Administration
- Update on Regulatory Review Process – Karen Fabiszewski, Trust Fund Manager
- Director's Update – Director Linda Edmonds Turner

Communications

Action Items

- Minutes – March 9, 2016

Legislative Discussion

Executive Director Update – William Monnin-Browder

Miscellaneous

CHAIRMAN'S WELCOME

Chairman Steve Joyce began the meeting at 2:00 P.M. The Chairman stated that he would ask the Executive Director to take a poll to see what time is best for members to attend the next Workers' Compensation Advisory Council meeting.

The Chairman noted that today is Will Monnin-Browder's last meeting. He stated that he certainly enjoyed working with Will as he is sure everyone has. The Chairman explained that Will has a great opportunity to stay in the field and to do some exciting work. Chairman Joyce congratulated Will and stated that he would definitely leave a hole at the Council.

The Chairman then asked Senior Judge Omar Hernandez to provide his Judicial Update.

DIA UPDATE

Judicial Update

Senior Judge Omar Hernandez stated that the average wait times between conciliation and conference for Lawrence is approximately two and a half months, Springfield and Worcester are approximately three months and Boston and Fall River are three and a half months. The Senior Judge stated that with respect to the impartial roster they have sent out the new three year contracts with a three year renewal option. The Senior Judge explained that they have automated the process simplifying it for both the DIA and the physicians.

Senior Judge Hernandez stated that they are continuing to work on the Opiate Diversion Program and currently it is with the Administration and ready to go if everyone is onboard. The Senior Judge noted that later this month he has a meeting with the Suffolk County Sheriff's Department which expressed interest in the program. He stated that he will report back to the Council at the next meeting.

Senior Judge Hernandez stated that the DIA continues to work on the New England Workers' Compensation Seminar. The Senior Judge noted that Maine and Vermont are totally onboard but he is not sure if Connecticut will participate since they have been very busy with budget issues. He stated he will reach out to them one more time. The Senior Judge noted that they really have some great topics for this year's program.

Senior Judge Hernandez stated that with respect to the judges' appointments/reappointments he has spoken to Michael Doheny, General Counsel at EOLWD and he is taking it up with the administration level. He explained that it is on their radar and hopefully the DIA will hear a response soon.

Council members expressed concern regarding the judges' appointments/reappointments and discussed whether it was warranted to send a letter to Governor Baker. The Council suggested having the Executive Director draft a letter expressing their concern.

Senior Judge Hernandez provided the Council with a breakdown of the late hearing decisions. The Senior Judge explained that there were a total of 35 late hearing decisions ranging from six months to over 36 months. The Senior Judge noted that this number is down from the number of late hearing decisions from when he began.

Council members asked the Senior Judge to provide a more detailed breakdown of these late decisions by month as well as the number of employees that are not receiving benefits from the late hearing decisions.

Vital Statistics

Director of Administration Bill Taupier updated Council members on the information contained within the DIA's vital statistics report for April 2016. He offered the following statistics: Conference Queue: 746; Hearing Queue: 408; Reviewing Board Inventory: 99; Impartial Exams for FY'16 (to date): 3,106 (61 waivers); Exam Fees Collected for FY'16 (to date): \$1,560,063; Impartial Medical Examinations in FY'15: 4,146 (94 waivers); and Exam Fees Collected in FY'15: \$1,967,550.

Mr. Taupier updated the Council on the Stop Work Order (SWO) and Caseload Statistics, including the following: SWOs issued in March: 183 (13 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'16 (to date): 1,622; fine collection for March: \$114,837; total fines in FY'16 (to date): \$824,561; SWOs issued in FY'15: 1,938; total fines collected in FY'15: \$1,188,541;

compliance checks for February: 7,270; estimated number of workers now covered by workers' compensation insurance as the result of a SWO: 4,194 in FY' 16 (to date).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in March: 1,218; total cases filed in FY' 16 (to date): 9,139; total cases filed in FY' 15: 11,837; total First Report of Injury Forms (FRI) filed in March: 3,379 (2,969 filed electronically: 88%); total FRIs filed in FY' 16: 26,052; total FRIs filed in FY' 15: 33,353 (29,290 online). In March the number of employee claims filed: 1,027; number of employee claims filed in FY' 16 (to date): 7,691; number of discontinuances filed: 189; the total number of discontinuances filed in FY' 16 (to date): 1,420; the number of third party claims filed: 2; total number of third party claims filed in FY' 16 (to date): 28.

Mr. Taupier proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY' 16 (to date): 103; total amount of §65 claims paid by the Trust Fund in FY' 16 (to date): \$5,014,666; 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): \$1,035,437; 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): \$15,351,828; total amount paid on these claims in FY' 15: \$30,682,389; total COLA reimbursements to insurers in FY' 16 (to date): \$6,191,573; total COLA reimbursements to insurers in FY' 15: \$14,344,261.

Mr. Taupier reported that as of March 2016, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 233 (179 DIA employees, 54 WCTF employees).

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY' 16 (to date): \$3,060,179; total referral fees collected in FY' 15: \$3,888,246; total assessment collections in FY' 16 (to date): \$60,478,726; total assessment collections in FY' 15: \$70,934,257.

Director's Update

Director Linda Turner noted that she had another big announcement to make. The Director stated that Karen Fabiszewski has been selected for a Fellowship at Harvard. She explained that this is a very competitive program and Ms. Fabiszewski is one of the three chosen.

Director Turner stated that she has been trying to do more with customer service particularly through the web and the front desk. The Director noted that they recently had a Customer Service Training for employees and that in the future she would like to bring in some of them to talk about the sorts of phone calls and complaints the agency receives. Director Turner informed the Council that she would get together with the Chair to discuss when he would like to bring them in.

Director Turner noted that she was sad to be losing her dear friend Will Monnin-Browder. She stated that he has been an absolute joy to work with and being a new Deputy Director and Director Will has always been great at educating her to what has happened in the past and where we are now. Director Turner wished him all the best.

Regulatory Review Update

Acting General Counsel Karen Fabiszewski provided an update on the regulatory review process. She explained that the DIA draft regulations are with the Administration and Finance Agency. They are

reviewing the regulations and once the DIA gets the OK from them then they can start the formal promulgation process.

Circular Letter #348

Ms. Fabiszewski stated that with respect to Circular Letter #348, the working group is in the final stages of this process. She explained that they have completed the working group recommendations and at this point they are just reviewing the final recommendations and once that is completed they are going to send the recommendations to Director Turner for her review.

Executive Director Update

Executive Director Monnin-Browder stated that with respect to the legislative update, right before the meeting began the House Ways and Means budget came out and after taking a quick look at it their budget number for the DIA appears to be the same as what Governor Baker proposed.

The Executive Director stated that the bill the Advisory Council endorsed House Bill 1427 went to the Judiciary Committee and they have actually received an extension for that bill. He stated that the bill deals with contracting while debarred and they have until the beginning of May to report that bill out. He stated that they will continue to track everything.

The Executive Director thanked everyone for everything for the last 4.5 years.

Council member Mickey Long asked about the posting of the Executive Director position and the process. He stated that he imagines that whatever the process is the Council members would get 100% of the applications and the Council would be doing the screening.

Chairman Joyce explained that he was working with Director Turner on this and the correct HR procedure for posting the position.

Meeting adjourned.

The next meeting of the Advisory Council is scheduled for Wednesday, May 11, 2016, at 2:00 P.M., at the Department of Industrial Accidents, 1 Congress Street, Suite 100, Conference Room #10-140, Boston, MA 02114-2017.