

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

Wednesday, February 8, 2017
Department of Industrial Accidents
1 Congress Street, Suite 100
Boston, MA 02114-2017

Council Members Present: Todd Johnson, John Pulgini, Steve Joyce, Terri McHugh, James Steenbruggen, Steve Falvey; Bernie Mulholland;
Also Present: Linda Edmonds Turner, Director; Kevin O'Leary, Deputy Director/General Counsel; Omar Hernandez, Senior Judge; Bill Taupier, Director of Administration; Bob Cronin, Director Investigation; Aaron D'Elia, CFO;
Advisory Council Staff: Diane Walsh (temp)
Absent: Executive Office of Labor and Workforce Development; Executive Office of Housing and Economic Development: Mickey Long, John Regan and Frank Ruel

Agenda:

Chairman's Welcome

DIA Update

- Judicial Update – Omar Hernandez, Senior Judge
- Vital Statistics – Bill Taupier, Director of Administration
- Director's Update
- Potential Changes in Self Insured Excess Insurance

Communications

Selection Subcommittee

Action Items

- Minutes – January 11, 2017
- Minutes – February 8, 2017

Executive Director Update

Miscellaneous

CHAIRMAN'S WELCOME

Chairman Todd Johnson began the meeting at 9:00 A.M. Bill Taupier, Director of Administration provided the judicial update.

DIA UPDATE

JUDICIAL UPDATE

Bill Taupier has provided an update on the four remaining outstanding judgeships. Ninoska Rosado was sworn in on Monday, January 30, 2017. Judge Rosado is currently completing her two week training and will be assigned to the Lawrence Regional Office. Judge Joseph Spinale was to be assigned to the Lawrence Office; however, he is being transferred back to the Boston Office. At this time no new names have gone to the Governor's Council. The onboarding process to fill the remaining three outstanding

judgeships is ongoing. Currently a hold has been placed on hiring of Administrative Judges. Aaron D'Alia, CFO, added the judicial hold is due to the appellate tax raise. However, this should only be a temporary hold.

Bill Taupier also reported that the February, 2017 Conference queue is at 517 cases, which is up compared to the January figure of 436. Currently, the average waiting period for a conference is between 10 and 18 weeks. The February Hearing queue is at 625. This is down slightly compared to the January figure of 638. Currently the Hearing Queue is 2-4 months.

DIRECTOR'S UPDATE

Director Linda Turner provided an update on the selected candidate for the Director of the Worker's Comp Advisory Council position stating that the candidate met with Secretary Walker and that the transitional efforts for onboarding continue.

SELF-INSURED EXCESS INSURANCE

General Counsel Kevin O'Leary reports that he has received advice, counsel and input from solicited and unsolicited sources. He met with insurance representatives, attorneys, representatives for self-insurers, industry folks and Governor's legal counsel, both from his office and the secretariat levels. Through these meetings and discussions, it was decided that a permissible reading of Janocha is to limit the holdings in that case to the specific set of facts and circumstances presented there for Malden Mills and Polaroid, allowing us to issue self-insurer licenses as a matter of course and as we have in the past.

APPEAL FEE INCREASE

CFO, Aaron D'Elia reported that we have 135 contracts for medical rosters. Mr. D'Elia also provided a 6 month update on assessment rates leaving a 38% Trust Fund balance. From fiscal year 2012 – 2017 a 5 year projection indicates we are ahead on assessment rates and underspent funds from spending down revenue.

VITAL STATISTICS

Director of Administration Bill Taupier updated Council members on the information contained within the DIA's vital statistics report for February, 2017. He offered the following statistics: Conference Queue: 517; Hearing Queue: 625; Reviewing Board Inventory: 51; Impartial Exams for FY'17 (to date): 2,188 (40 waivers); Exam Fees Collected for FY'17 (to date): \$1,077,838; Impartial Medical Examinations in FY'16: 4,128 (71 waivers); and Exam Fees Collected in FY'16: \$2,128,638.

Mr. Taupier updated the Council on the Stop Work Order (SWO) and Caseload Statistics, including the following: SWOs issued in January: 177 (7 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'17 (to date): 1,134; fine collection for January : \$30,250; total fines in FY'17 (to date): \$611,160; SWOs issued in FY'16: 2,185; total fines collected in FY'16: \$1,107,030; compliance checks for December: 7,366; estimated number of workers now covered by workers' compensation insurance as the result of a SWO: 3,300 in FY'17 (to date).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in January : 861; total cases filed in FY'17 (to date): 6,646; total cases filed in FY'16: 12,263; total First Report of Injury Forms (FRI) filed in January: 2,385 (2,144 filed electronically: 90%); total FRIs filed in FY'17: 19,531; total FRIs filed in FY'16: 34,660 (30,559 online). In January the number of employee

claims filed: 711; number of employee claims filed in FY'17 (to date): 6646; number of discontinuances filed: 147; the total number of discontinuances filed in FY'17 (to date): 1,019; the number of third party claims filed: 3; total number of third party claims filed in FY'17 (to date): 21.

Mr. Taupier proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY'17 (to date): 72; total amount of §65 claims paid by the Trust Fund in FY'17 (to date): \$4,754,525; total §65 claims filed in FY'16: 129; total amount of §65 claims paid by the Trust Fund in FY'16: \$7,913,457; total recovery efforts against uninsured employers FY'17 (to date): \$1,427,118; total recovery efforts against uninsured employers FY'16: \$1,746,315.

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'17 (to date): \$10,901,292; total amount paid on these claims in FY'16: \$28,019,870; total COLA reimbursements to insurers in FY'17 (to date): \$3,295,040; total COLA reimbursements to insurers in FY'16: \$11,018,308.

Mr. Taupier reported that as of January, 2017, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 219 (165 DIA employees, 54 WCTF employees).

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY'17 (to date): \$2,193,970; total referral fees collected in FY'16: \$4,154,786; total assessment collections in FY'17 (to date): \$46,338,447; total assessment collections in FY'16: \$83,503,309.

SELECTION SUBCOMMITTEE REPORT

The final candidate's for the WCAC Executive Director position has met with Secretary Walker and the transitional efforts with HR for onboarding continue.

ACTION ITEMS

No Quorum – cannot vote on annual report

MMS

ACTING EXECUTIVE DIRECTOR UPDATE

Motion was made to adjourn the meeting.

MMS

Meeting adjourned.

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