

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

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

Council Members Present: Todd Johnson, Terri McHugh, James Steenbruggen , Mickey Long, Steve Falvey; Bernie Mulholland and Michael Kelley

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 (temporary)

Absent: Executive Office of Labor and Workforce Development; Executive Office of Housing and Economic Development: John Regan, Stephen Joyce 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

Communications

Selection Subcommittee

Action Items

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

Executive Director Update

Miscellaneous

CHAIRMAN'S WELCOME

Chairman Todd Johnson let's call the meeting to order and he began the meeting at 9:00 A.M. Teri McHugh has emailed me stating she is in traffic, but will be attending the meeting. I know Steve Joyce indicated he could not be here. I have not heard from any other members; but, obviously, we don't have a quorum, so we will have to avoid any vote taking.

JUDICIAL UPDATE

Judge Hernandez, as I understand, is at the Governor's Council Meeting this morning for a 9:00AM meeting to attend the interviews of two judicial candidates for the Department of Industrial Accidents administrative judgeships. I believe the two candidates are Peg O'Neill and Lauren Bergheimer, so we will await final word.

In my conversation with Judge Hernandez last week he mentioned that if these two appointments go through, that would leave one final opening to fill and that will be specifically for the Springfield Office of the Department. They have made a lot of headway and progress in terms of filling those judicial vacancies that we started not too long ago.

Chairman Todd Johnson then stated that in normal course we'll ask Bill Taupier to provide us an update on affairs here at the Department.

Bill Taupier, Director of Administration provided the DIA Update as follows:

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: 580; Hearing Queue: 505; Reviewing Board Inventory: 67; Impartial Exams for FY'17 (to date): 2,578 (42 waivers); Exam Fees Collected for FY'17 (to date): \$1,172,257; 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 February : 150 (13 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'17 (to date): 1,284; fine collection for February : \$66,015; total fines in FY'17 (to date): \$677,175; 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: 3,845 in FY'17 (to date).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in February: 887; total cases filed in FY'17 (to date):7,533; total cases filed in FY'16: 12,263; total First Report of Injury Forms (FRI) filed in February: 2,827 (2827 filed electronically: 100%); total FRIs filed in FY'17:22,358; total FRIs filed in FY'16: 34,660 (30,559 online). In February the number of employee claims filed: 743; number of employee claims filed in FY'17 (to date): 7,533; number of discontinuances filed: 137; the total number of discontinuances filed in FY'17 (to date): 1,019; the number of third party claims filed: 7; 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): 81; total amount of §65 claims paid by the Trust Fund in FY'17 (to date): \$5,249,876; 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): \$1,515,105; 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): \$14,350,000; total amount paid on these claims in FY'16: \$28,019,870; total COLA reimbursements to insurers in FY'17 (to date): \$3,919,875; total COLA reimbursements to insurers in FY'16: \$11,018,308.

Mr. Taupier reported that as of February, 2017, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 220 (165 DIA employees, 55 WCTF employees).

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY'17 (to date): \$2,567,944; total referral fees collected in FY'16: \$4,154,786; total assessment collections in FY'17 (to date): \$64,218,595; total assessment collections in FY'16: \$83,503,309.

Bill Taupier 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.

GENERAL COUNSEL'S UPDATE

Kevin O'Leary, General Counsel stated that he has started the process of replacing two attorneys that have advanced to the other side of the building as administrative judges. Kevin also stated that Honor and Nino were both very good at what they did and did a great job at wrapping up what they could before their prospective moves.

Kevin also commented on Karen Fabiszewski and her availability to either come into the office or be readily available via email or conference call. Karen will be coming back in either June/July. We'll all be happy to have her back. Karen is truly a class act.

Council Member Mickey Long asked General Counsel Kevin O'Leary if he could provide a list of companies that owe the Commonwealth, specifically the DIA, because of non-compliance of workers compensation insurance coverage. We have asked in the past for a list but it has not yet been provided, Kevin we realize you have only been here a few months but we would appreciate if you would look into this issue. As Gen The Trust Fund has a responsibility The reason is that because of the lack of insurance by these companies the Trust Fund covers the cost of

DIRECTOR'S UPDATE

Director Turner also wanted to follow up with item sent to all regarding Governor Rayner of Illinois remarks in his State of the State Address made that Illinois is really hurting in a lot of areas but they need to have a worker's comp system similar to Massachusetts. Governor Rayner also said to bring good jobs to Illinois we must fix labor regulations, liability costs and property taxes the cost of Workers' Comp is the biggest and if we stay like Massachusetts we can grow more careers at higher wages.

Another communication shout out belongs to Senior Judge Hernandez. He spoke at the Workers' Compensation Research Institute last Thursday and Friday (March 2 & 3) at their annual conference here in Boston and he spoke on the new alternative opiate. In fact some other states, specifically New York, are wanting the senior judge to speak in their states because he has so much passion about what he does.

SELECTION SUBCOMMITTEE REPORT

The final candidate's for the WCAC Executive Director position has met with Secretary Walker and HR has finalized all the paperwork. She should be able to onboard within the next 6 weeks

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, April 19, 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.