

# MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

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

*Council Members Present:* Steve Joyce; Steve Falvey; Bernie Mulholland; Michael Kelley; Todd Johnson; Teri McHugh; Frank Ruel; John Pulgini; James Steenbruggen.

*Also Present:* Linda Edmonds Turner, Director; Kevin O'Leary, Deputy Director/General Counsel; Omar Hernandez, Senior Judge; Bill Taupier, Director of Administration; Alan Green, Deputy 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. Steve Joyce; Mickey Long

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## *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

Executive Director Update

Miscellaneous

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## **CHAIRMAN'S WELCOME**

Chairman Tod Johnson began the meeting at 9:00 A.M. Chairman Johnson asked Senior Judge Omar Hernandez to provide his judicial update.

## **DIA UPDATE**

### Judicial Update

Senior Judge Omar Hernandez has updated that the Conference Queue is seven judges short; however, three new judges have on boarded in January, 2017; two Administrative Judges, Honor Segal and Joseph Spinale and one Administrative Law Judge, Martin Long. The new judges are completing their two week training and two will be permanently assigned to the Boston Office, while one will be assigned to the Lawrence Office. The on boarding process to fill the remaining four outstanding judgeships is ongoing.

The Senior Judge also reported that the January, 2017 Conference queue is at 436 cases, which is down compared to the December figure of 554. Currently, the average waiting period for a conference is between 10 and 18 weeks. The January Hearing queue is at 638. This is down compared to the December figure of 736. Currently the Hearing Queue is 2-4 months. The Senior Judge also reported that Conferences and Hearings are down due to year end employee vacation requests along with some judges requiring to use their “use or loose” time. Use or Loose Time can be a combination of personal and vacation time an employee has accrued. Employees earn personal days each year which must be used by end of calendar year; however, vacation time can be accrued.

Senior Judge Omar Hernandez stated that the time between conciliation and conference is in good shape with Boston at 2.5 months; Lawrence and Worcester are at 3 months, Springfield is at 3.5 months and Fall River is at 4 months. The Senior Judge stated that the four reappointments have been confirmed and the Governor’s Council has interviewed three new appointments. The Senior Judge stated that they are still working out some issues with the impartial roster but it is moving along. He stated that with respect to the hearing decisions it has bumped up a little bit but they are still in good shape.

### **DIRECTOR’S UPDATE**

Director Linda Turner thanked the former Chairman Steve Joyce and Former Vice Chairman John Regan for their dedication and service to the Advisory Council and congratulated Chairman Todd Johnson and Vice Chairman John Pulgini for their new roles on the Advisory Council.

Director Turner then added that she, Senior Judge Omar Hernandez and General Counsel Kevin O’Leary would be excusing themselves from this meeting at approximately 9:45 to attend the Governor’s Council Interview Proceeding for existing DIA Counsel II, A Ninoska Rosado which is scheduled for 10:00am.

### **Self-Insured Excess Insurance**

General Counsel Kevin O’Leary stated that he is working feverishly on this issue and will provide an update within one week to the council members.

### **Vital Statistics**

Director of Administration Bill Taupier updated Council members on the information contained within the DIA’s vital statistics report for January, 2017. He offered the following statistics: Conference Queue: 436; Hearing Queue: 638; Reviewing Board Inventory: 66; Impartial Exams for FY’17 (to date): 1,675 (36 waivers); Exam Fees Collected for FY’17 (to date): \$1,023,460; 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 December : 103(5 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY’17 (to date): 957; fine collection for December: \$55,200; total fines in FY’17 (to date):548,260; SWOs issued in FY’16: 2,185; total fines collected in FY’16: \$1,107,030; compliance checks for December: 6,320; estimated number of workers now covered by workers’ compensation insurance as the result of a SWO: 2,587 in FY’17 (to date).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in December: 890; total cases filed in FY’17 (to date): 4,895; total cases filed in FY’16: 12,263; total First Report of Injury Forms (FRI) filed in December: 2,519 (2,186 filed electronically: 87%); total FRIs filed in FY’17: 17,146; total FRIs filed in FY’16: 34,660 (30,559 online). In December the number of

employee claims filed: 742; number of employee claims filed in FY'17 (to date):4,895; number of discontinuances filed: 146; the total number of discontinuances filed in FY'17 (to date):872; the number of third party claims filed: 2; total number of third party claims filed in FY'17 (to date): 18.

Mr. Taupier proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY'17 (to date): 62; total amount of §65 claims paid by the Trust Fund in FY'17 (to date): \$4,016,561; 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): \$1,150,509; 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): \$9,206,772; total amount paid on these claims in FY'16: \$28,019,870; total COLA reimbursements to insurers in FY'17 (to date): \$1,312,455; total COLA reimbursements to insurers in FY'16: \$11,018,308.

Mr. Taupier reported that as of December, 2016, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 227 (171 DIA employees, 56 WCTF employees).

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY'17 (to date): \$1,976,447; total referral fees collected in FY'16: \$4,154,786; total assessment collections in FY'17 (to date): \$45,287,193; total assessment collections in FY'16: \$83,503,309.

### **SELECTION SUBCOMMITTEE REPORT**

The final candidate's information for the WCAC Executive Director position has been submitted to EOLWD HR for next steps and review by Secretary Walker.

### **ACTION ITEMS**

Motion was made to approve the December minutes.

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, February 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.**