

**Massachusetts Workers' Compensation
Advisory Council Minutes**

August 12, 2009

Workers' Compensation Rating & Inspection Bureau (WCRIB)
101 Arch Street, 5th Floor Conference Room
Boston, MA 02110

Present: Chairman Mickey Long.

CM: Stephen Joyce; Stephen Falvey; John Regan; Antonio Frias (Ines Leonardo); John Pulgini; David Powell; Peter A. Cook, Sr. (Melody Barlow); John Boyle (Teri McHugh); George Noel, Department of Labor.

Also Present: Suzanne Bump, Secretary, Executive Office of Labor and Workforce Development; Tim McMahon, Deputy Commissioner of Administration; William Tattan, Deputy Commissioner and General Counsel; William Taupier, First Deputy Director of Administration; Ray Marchand, Director of Investigations; Doug Sears, Deputy Director of Dispute Resolution; Tom Jones, Department of Labor; Ellen Keefe, WCRIB; Paul Meagher, WCRIB; Chris Timbone, WCRIB; Michael Kelley, AIM Mutual Insurance Company; Will Monnin-Browder, JCLWD; Kate Flanagan, JCLWD; Ryan Whalen, JCLWD.

Advisory Council Staff: Andrew Burton; Evelyn Flanagan.

Absent: CM: Vice-Chairman Edmund C. Corcoran, Jr., John Pulgini; William T. Corley; Dennis Hines; Kenneth J. Paradis, Jr.; Department of Business Development.

Agenda:

Chairman's Welcome

Proof of Coverage (POC) Application Demonstration - Chris Timbone, CIO, WCRIB

Workers' Compensation Legislative Discussion - House Bill 1838

Action Items

- Minutes - June 24, 2009

DIA Update

- Vital Statistics - William Taupier, Deputy Director of Administration

Executive Director Update

Miscellaneous

CHAIRMAN'S WELCOME

Chairman Mickey Long began today's meeting at 9:00 a.m. The Chairman thanked WCRIB President, Paul Meagher, for hosting today's Advisory Council meeting. Before beginning the POC demonstration, the Chairman asked the Executive Director to provide the Advisory Council with a brief overview of how the application came about.

Executive Director Andrew Burton explained that the POC project dates back to an Advisory Council "Concern & Recommendation" in the Fiscal Year 2006 Annual Report. In this report, Council Members recommended that the DIA form a partnership with the WCRIB in developing an online tool that allows the public to verify whether a specific company has workers' compensation insurance. The Executive Director explained that in the spring of 2009, Commissioner Paul Buckley and WCRIB President Paul Meagher agreed to work together in building this online application. Mr. Burton stated this is a perfect example of how a public/private partnership can come together to develop a product that can benefit both parties.

Executive Director Burton briefly explained how the POC application will benefit homeowners, general contractors, and the medical community. He noted that 36 other states have implemented similar online POC applications. The Executive Director recognized the WCRIB for both financing and developing the POC application. Mr. Burton introduced Mr. Christopher Timbone who serves as the Chief Information Officer at the WCRIB.

PROOF OF COVERAGE APPLICATION DEMONSTRATION

Mr. Chris Timbone provided the Advisory Council Members with a detailed demonstration on how the POC application will function when it goes into operation. Mr. Timbone stated that the POC application was designed to be user friendly. In addition to verifying workers' compensation coverage in the voluntary market and the assigned risk pool, the application will also link to a self insurer database and a self insurance group database, which will be maintained by the DIA. He noted that all voluntary market and assigned risk pool policy information will be updated on a daily basis. Mr. Timbone explained that the POC application will also contain various useful links such as an online referral form, a stop work order debarment list, a frequently asked question page, and an educational page on the workers' compensation requirements.

Chairman Long explained that earlier in the year, the Advisory Council had created an Information Exchange Subcommittee that recommended the POC application display the Governing Class Code listed on each policy.

WCRIB General Counsel, Ellen Keefe, recognized the subcommittee's recommendation but noted that the WCRIB's Governing Committee did not believe displaying classification information would be appropriate for various reasons. She also clarified that the Bureau Producer Advisory Group had come to the conclusion that the Governing Classification Codes would serve no benefit if the purpose of the tool was to determine whether or not a company has coverage.

President Paul Meagher stated that because an insurance policy is a contract between two parties, the Governing Committee believed there were some privacy issues that might prevent the display of classification information to the public.

Chairman Mickey Long asked about the launch date for the POC application and whether or not a press strategy had been put together to get the word out to the public.

Chris Timbone stated that the WCRIB has thoroughly tested the POC application and that it is ready to be launched upon DIA approval.

Secretary Suzanne Bump thanked the WCRIB and the DIA for providing today's demonstration and stated that she believed this application would be a tremendous tool for the public.

WORKERS' COMPENSATION LEGISLATIVE DISCUSSION

Chairman Mickey Long asked for a Motion to remove from the table discussion on House Bill 1838.

Motion made to remove House Bill 1838 from the table. Motion Seconded and Passed.

Council Member Stephen Joyce introduced House Bill 1838. He stated that the bill, which was presented by Representative Pam Richardson, would require the DIA to electronically publicize all industry codes associated with workers' compensation insurance policies. Mr. Joyce reported that Florida would soon be including the class code and payroll information online to help identify fraud. He stated that there is a need for transparency in the system and by providing class code information, this would level the playing field and ensure that everyone is playing by the same rules.

Discussion followed.

Council Members requested that more time be allowed to discuss this bill at a future meeting. It was suggested that the Advisory Council form a subcommittee to gather interested parties to discuss employee misclassification and find ways to resolve the problem.

Executive Director Andrew Burton stated that he would work with all parties to find a date that would be convenient for everyone to come together to discuss this matter.

Chairman Long asked if there was a motion to table House Bill 1838 until the September Advisory Council meeting.

Motion made to table House Bill 1838 until the next Advisory Council meeting. Motion Seconded and Passed.

ACTION ITEMS

Chairman Long asked for a motion to approve the minutes for June 24, 2009.

Motion made to approve the minutes for June 24, 2009. Motion Seconded and Passed.

DIA UPDATE

Judicial Update

Mr. William Taupier updated Advisory Council Members on the information contained within the DIA's vital statistic report for August 2009 (see attached). Conference Queue: 273; Hearing Queue: 663; Reviewing Board Inventory: 155; Impartial Exams for FY'10 (to date): 500 (4 waivers); Exam Fees Collected for FY'10: \$129,100. In fiscal year 2009 there were 5,069 Impartial Medical Examinations (64 waivers); Exam Fees Collected in FY'09: \$1,789,076.

Stop Work Orders/Caseload Statistics

Mr. Bill Taupier updated Advisory Council Members on the Stop Work Order (SWO) and Caseload Statistics (see attached). The DIA issued 324

SWOs in July (22 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'10 (to date): 324. Fine collection for July 2010: \$82,300; total fines in FY'10: \$82,300; SWOs issued in FY'09: 3,484; total fines collected in FY'09: \$885,980; compliance checks for July 2009: 3,298; estimated number of workers now covered by WC insurance as the result of a SWO: 855 (FY'10).

Mr. Taupier continued the update of the monthly vital statistics. Total number of cases filed in July 2009: 1,291; total number of cases filed in FY'10 (to date): 1,291; total number of cases filed in FY'09: 13,806; total number of First Report of Injury Forms (FRI) filed in July 2009: 2,764; total number of FRI filed online in July 2009: 771 (28%); total number of FRI filed in FY'10 (to date): 2,764; total number of FRI filed in FY'09: 31,216; total number of FRI filed online in FY'09: 8,048 (26%).

Mr. Taupier proceeded with his update on uninsured claims (§65). Total number of §65 claims processed in FY'10 (to date): 5; total amount of §65 claims paid by the Trust Fund in FY'10 (to date): \$0; total number of §65 claims filed in FY'09: 162; total amount of §65 claims paid by the Trust Fund in FY'09: \$6,800,322.

Mr. Taupier proceeded with the vital statistics for the Second Injury Fund (§37/37A). Total amount of §37/37A petitions paid in FY'10 (to date): \$0; total amount paid on these claims in FY'09: \$24,078,327; total monies recovered by the Trust Fund in FY'10 (to date): \$47,719; total monies recovered in FY'09: \$1,410,782; total COLA reimbursements to insurers in FY'10 (to date): \$99,920; total COLA reimbursements to insurers in FY'09: \$34 million.

Budget/Personnel Issues

Mr. Taupier reported that as of July 2009, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 282 (231 DIA employees, 51 WCTF employees). There are no contract employees currently working at the DIA.

Office of Education and Vocational Rehabilitation (OEVR) Update

Mr. Taupier presented the OEVR statistics. Total referrals to OEVR in FY'10 (to date): 241; total referrals to OEVR in FY'09: 2,334; total mandatory meetings in FY'10 (to date): 186; total mandatory meetings in FY'09: 1,913; total Determinations of Suitability (DOS) in FY'10: 129; total DOS in FY'09: 1,286; total referrals to insurers in FY'10 (to date): 57; total referrals to insurers in FY'09: 627; total Individual Written Rehabilitation Plans (IWRP) approved in FY'10 (to date): 38; total IWRPs approved in FY'09: 404; total number of Return to Work (RTW) in FY'10 (to date): 6; total number of RTW in FY'09: 106; total number of IWRPs completed with no RTW in FY'10 (to date): 20; total number of IWRPs completed with no RTW in FY'09: 107.

Office of Accounting and Finance

Mr. Taupier reported that the amount collected due to Recovery Efforts in FY'10 (to date): \$47,718.96; Recovery Efforts for FY'09: \$1,410,782.

EXECUTIVE DIRECTOR UPDATE

Executive Director Andrew Burton stated that a memo regarding the Fiscal Year 2010 assessment rate for private employers had been included in today's packet. Mr. Burton noted that the assessment rate has been calculated to be 7.2% of standard premium, representing a 15% increase from last year. The Executive Director explained that the increase to the assessment rate is a result of several factors. First, there has been a significant reduction to the workers' compensation base as a result of the severe economic downturn which has forced many of the Commonwealth's employers to reduce the size of their payroll. Second, there has been a continued rise in Trust Fund expenses, especially payouts to insurance carriers for COLA and Second Injury Fund reimbursements.

Mr. Burton introduced Kate Flanagan, Will Monnin-Browder and Ryan Whalen from the Joint Committee on Labor and Workforce Development (JCLWD). Mr. Burton indicated that in all probability, the JCLWD would not hold a public hearing on workers' compensation legislation until sometime in late September or early October. Mr. Burton suggested that JCLWD staff work with the Advisory Council to set up a meeting between the Chairs of the Advisory Council and the Chairs of JCLWD.

MISCELLANEOUS

Chairman Long thanked everyone for attending today's meeting.

Motion made to adjourn the meeting. Motion Seconded and Passed.

The next regular meeting of the Advisory Council is scheduled for Wednesday, September 9, 2009, at 9:00 AM, at the Department of Industrial Accidents, 600 Washington Street, 7th Floor Conference Room, Boston, MA 02111.