

**Massachusetts Workers' Compensation
Advisory Council Minutes**

January 12, 2005

Department of Industrial Accidents

600 Washington Street, 7th Floor

Boston, MA 02111

Present: Chairman Paul Byrne. CM: Jeanne-Marie Boylan; Mickey Long; John A. Pulgini; Carol Falcone; Kenneth J. Paradis, Jr.; Joan Lenihan, Department of Labor & Workforce Development; Peter Scantalides, Department of Business & Technology.

Also Present: DIA: John Chapman, Commissioner; Jack Tynan, Deputy Commissioner of Administration; Daniel O'Shea, Senior Judge; Richard Morris, First Deputy Director of Administration; William Taupier, Deputy Director of Administration and EDP; Victoria Carter, WCRIBMA.

Advisory Council Staff: Andrew Burton; Evelyn Flanagan.

Absent: Vice-Chairman Thomas M. Jones; CM: Mickey Long; Robert Banks; Edmund Corcoran; Tony Frias.

Agenda:

Chairman's Welcome

DIA Update

Judicial Update - Daniel O'Shea, Senior Judge

Stop Work Orders - William Taupier, Deputy Director of Administration & EDP

Budgetary Matters - Jack Tynan, Director of Administration

Action Items

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Executive Director Update

Miscellaneous

Chairman's Welcome

Chairman Paul Byrne conducted today's meeting. He congratulated Senior Judge Daniel O'Shea on his recent nomination to become associate justice of the Wrentham District Court. Chairman Byrne requested that Senior Judge O'Shea update the Council Members.

DIA UPDATE

Judicial Update

Senior Judge O'Shea updated Council Members on the information contained within the DIA's vital statistic report (see attached). Conference Queue: 445; Hearing Queue: 1,398; Reviewing Board Inventory: 135; Impartial Exams: 2,240 (53 waivers).

Senior Judge O'Shea stated that if he is appointed as an associate justice to the Wrentham District Court, he expects that the transition from his current position as Senior Judge to associate justice will take place quickly. The Senior Judge explained that he will work with the Commissioner to expedite this process. Commissioner Chapman confirmed that the transition will move quickly. The Commissioner stated that he will welcome the participation of the Governor's Office in the selection process.

Stop Work Orders/Caseload Statistics

Mr. Taupier updated Council Members on the Stop Work Order (SWO) and Caseload Statistics (see attached report). Total compliance investigations completed: 1,724 (SWO compliance is 100%); Total Stop Work Orders issued: 8; total number of SWOs issued for FY'05: 89; total fines collected for December 2004: \$26,889; total fines collected in FY'05: \$126,925; total SWO fines collected in FY'04: \$343,528. Mr. Taupier noted that the Investigation Unit has experienced full compliance with all of their SWOs issued and with the collection of all fines.

Mr. Taupier continued his update of the monthly vital statistics. Total number of cases filed for December 2004: 1,365. Total number of cases filed for December 2003: 1,239. Total number of cases filed for fiscal year 2005: 7,636. Total number of cases filed for fiscal year 2004: 16,394. Total number of First Report's of Injury filed for November 2004: 3,136. Total number of First Report's of Injury filed in FY'05 (to date): 17,719.

Total number of First Reports of Injury filed in FY'04: 36,739. Total number of on-line filings in December 2004: 540 (17.2% of total filings). Total number of online filings to date: 2,063 (11.6%). Mr. Taupier noted that the number of online filings continues to climb.

Mr. Taupier reported that the number of cases filed for FY'05 continues to track below FY'04 levels. Mr. Taupier explained that the year-end figure is projected to be approximately 15,200 cases filed (seasonal adjustments have not been factored).

Mr. Taupier proceeded with his uninsured claims (§65) update. Estimated §65 claims filed for fiscal year 2005: 108 (with 88 actual uninsured injuries). Uninsured claims paid by the Trust Fund for fiscal year 2005: \$2,831,992. Total number of §65 claims filed for fiscal year 2004: 213. Of those cases, 194 were actual uninsured injuries. Total number of uninsured

claims paid by the Trust Fund for fiscal year 2004: \$4,415,278. Mr. Taupier noted that the newly established Civil Litigation Unit utilizes the courts to recoup money paid on uninsured claims.

Mr. Taupier offered the vital statistics for the Second Injury Fund. Number of §37/37A petitions filed in fiscal year 2005: 163. Number of §37/37A petitions paid in fiscal year 2005: 321. The amount paid on these claims in fiscal year 2005: \$13,433,388. Number of §37/37A petitions filed in fiscal year 2004 (to date): 365. Number of §37/37A petitions paid in fiscal year 2004: 460. The amount paid on these claims in fiscal year 2004: \$19.7 million. COLA reimbursements to insurers in FY'05 (to date): \$1,007,063. COLA reimbursements to insurers in FY'04: \$19,806,728.

Deputy Commissioner Jack Tynan reported that all insurance carriers should contact the Deputy General Counsel, Yvonne Vieira-Cardoza, for all questions concerning COLA reimbursement calculations and procedures.

Budget/Personnel Issues

Deputy Commissioner Tynan stated that the Personnel statistics for the month of December were the same as November with the exception of one new temporary employee within the Workers' Compensation Trust Fund (WCTF). As of December 2004, the total number of positions filled by full-time employees at the DIA (including the WCTF) was 280 (248 DIA employees, 32 WCTF employees). As of this report, the DIA has no contract employees and seven temporary employees are being utilized.

Chairman Byrne congratulated Mr. Tynan on his new appointment to Deputy Commissioner. Commissioner Chapman stated that he had recently promoted both Jack Tynan and Greg White to serve as Deputy Commissioners. Commissioner Chapman stated that they will both continue to serve their respective roles to the agency as well as sharing the duties of Deputy Commissioner.

ACTION ITEMS

Chairman Byrne asked for a motion to accept the Minutes for December 15, 2004.

Motion made to accept the Minutes for December 15, 2004.

MMS - passed.

EXECUTIVE DIRECTOR UPDATE

Executive Director Burton announced that he was scheduling a subcommittee meeting to take place to review the stop work order fine structure. The Executive Director offered the following dates for this meeting: Monday, January 24th or Tuesday, January 25th. The Executive Director requested that anyone interested in attending this meeting should contact him.

The Executive Director referred to the Advisory Council's Fiscal Year 2004 Annual Report that each member received. He thanked Ms. Flanagan and the Council members for all the hard work they put into the report. Mr. Burton explained that on numerous occasions he had been told that the Commerce and Labor Committee had used this document as a resource when reviewing workers' compensation matters.

The Executive Director referred to a membership survey, which was placed in each member's packet. Mr. Burton asked each Council Member to complete the survey so that the Advisory Council staff can get feedback and better serve the Council's needs.

MISCELLANEOUS

There were no other matters to be discussed at this time.

Chairman Byrne adjourned the meeting at approximately 9:40 a.m.

The next regular meeting of the Advisory Council is scheduled for February 16th, 2005 at 9:00 AM, at the Division of Industrial Accidents, at 600 Washington Street, 7th Floor, Boston, MA 02111.