

**Massachusetts Workers' Compensation  
Advisory Council Minutes**

September 11, 2002

Department of Industrial Accidents

600 Washington Street, 7<sup>th</sup> Floor

Boston, MA 02111

**Present:** Vice Chairman Edmund C. Corcoran, Jr. CM: Tom Jones; Alan S. Pierce; Carol Falcone;

**Also Present:** DIA: Commissioner Thomas J. Griffin; Senior Judge Dan O'Shea; Director of Administration, Jerome Shea; Paul Griffin, DIA Legal Counsel.

**Advisory Council Staff:** Denise Lucciola; Andrew Burton; Ann Helgran.

**Absent:** Chairman William H. Carnes; CM: Jeanne-Marie Boylan; Antonio Frias; Robert Banks; John Perry; Stephen Sampson; Frank Fanning; Bruce Cochrane; Department of Labor & Workforce Development; Department of Economic Development.

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**Agenda:**

DIA Update

Vocational Rehab Sub-Committee Update

Council Member Carol Falcone

Action Items

- Minutes - August, 2002

Executive Director Update

Miscellaneous

Vice Chairman Corcoran conducted today's meeting and asked for a moment of silence in recognition of those who died on September 11, 2001.

**DIA Update**

Senior Judge O'Shea updated Council Members on current judicial statistics. Conference Queue: 1,511; Hearing Queue: 1,866; Reviewing Board Inventory: 119; Impartial Exams: 662 (19 waivers).

Vice Chairman Corcoran referred to the letter in Council Members' packet that had been sent to Secretary Sullivan in support of an increase in the impartial fee structure. He then asked Council Member Jones if he would update the Council regarding this matter.

Council Member Jones informed Council Members that A & F had approved the increase which would include only the exam schedule fee, the no show fee, and the supplement report fee. He further noted that a public hearing would be held on October 3, 2002 and that a Circular Letter will be sent out by the DIA.

Both Council Member Jones and Senior Judge O'Shea thanked Council Members for their efforts and assistance in the support of an increase in the impartial fee structure.

Advisory Council Meeting - September 11, 2002 Vice Chairman Corcoran inquired as to the status of judicial appointments and Senior Judge O'Shea replied that there had been no new developments.

Discussion followed regarding judicial terms and it was suggested that the language of Chapter 23E be revised. Council Member Jones stated that Representative Koczera had spoken with him and expressed interest in legislation regarding judicial terms and the assistance of the Council in forming appropriate legislation. Vice Chairman Corcoran suggested that Council Member Jones arrange a meeting with Representative Koczera prior to the next Council Meeting.

Vice Chairman recognized several guest from Maine Employers' Mutual Fund (MEMIC) who were attending today's meeting: Mr. John F. Marr, Vice President of Claims and former Council Member, Mr. Matt Harmon, Unit Manager of the Claims Department and Mr. Ralph L. Rousseau, Director of Disability Management. Vice Chairman Corcoran thanked them for coming and for taking the time to attend the meeting.

#### Stop Work Orders

Mr. Shea updated Council Members on the stop work orders statistics. Total Investigations for August: 1,050; Total SWO's Issued: 123; Total Fines Collected: \$57,038; Total Fines Billed: \$22,500.

#### Personnel Issues

Mr. Shea referred to the personnel statistics, which were included in Council Members' packets. There were two vacancies in the month of August. Total DIA positions filled as of August 31, 2002 (290). The two vacated positions will be filled.

#### Budget

Mr. Paul Griffin, DIA Legal Counsel, updated Council Members. He stated that he and KrisAnn O'Herron, Budget Manager, have had ongoing meetings and that it appears that the Department will be level funded for fiscal year 2003 and fiscal year 2004. He further stated that the areas of elimination in the DIA's Budget would include out-of-state travel, paid internships, new contract positions and new subscription renewals.

## Assessment Audit

Mr. Paul Griffin, DIA Legal Counsel, continued to update Council Members regarding the status of the Assessment Audit. He informed Council Members that since their last meeting, a representative of MAIA and the representative of Eastern Casualty have agreed to join together in the collection of the remaining money that is owed the DIA. A meeting was also held with a representative of Arbella and progress is being made regarding their assessment. Vice Chairman Corcoran thanked members of the Department for their updates.

## Vocational Rehab Sub-Committee Update

Council Member Carol Falcone updated Council Members. Council Member Falcone informed Council Members that a meeting was held with members of the Department on August 29, 2002. The subcommittee met again with the Department to discuss the concerns of the Advisory Council regarding OEVR and a possible solution to the matter. Council Member Falcone noted that with the assistance of the DIA's Legal Counsel, Paul Griffin, they were continuing to move forward and asked if Mr. Griffin would like to add anything to the update.

Mr. Griffin stated that there were two areas that had been reviewed and that they were the implementation of computer training and the formulating of models for vocational rehab forms. He also stated that he would be attending an OEVR's staff meeting in September.

Council Member Falcone told Council Members that they had also discussed the increase in forms that had been developed since 1991 and that this will be a topic of review. In conclusion, Council Member Falcone stated that the subcommittee did get an update from the Director of OEVR, that they are accepting judicial referrals, and with the assistance of Mr. Griffin there is slow and steady progress being made.

Vice Chairman Corcoran thanked Council Member Falcone for her update.

## Action Items

Vice Chairman Corcoran stated that a vote on the August 2002 Minutes will be taken at the October meeting.

## Executive Director Update

Executive Director, Denise Lucciola updated the Council. Ms. Lucciola informed Council Members that on Monday, she and Andrew Burton met with Vice Chairman Rodrigues of the Joint Committee on Commerce & Labor, members of the DIA, and members of the insurance and corporate industries to discuss the passage of House Bill 4348. Council Member Jones also attended on behalf of AIM. She stated that the DIA had drafted Form 153 and asked Mr. Paul Griffin, Legal Counsel, if he would update the Council on this matter.

Mr. Griffin stated that because of the new law, Form 153 has been constructed and that it will allow corporate officers, who own at least 25% of the companies stock, the option of opting out of workers compensation. The DIA is asking that the corporate officers have the form approved by the DIA, send the form to their insurance carrier, and that a copy be sent on a yearly basis to the DIA. The DIA's regulations will be sent to the Secretary of State's Office within the next few days and a public hearing will be held to determine the final draft of the regulations. Council Member Jones applauded the DIA

for their participation in regard to this matter and Mr. Griffin credited Mr. Taupier for his involvement in the construction of the regulations.

Ms. Lucciola told Council Members that an RFR has been drafted for actuarial services to evaluate the workers' compensation rate filing and any other studies that may be needed by the Council. She will send a draft of the RFR to Council Members when Finance and Accounting approves the RFR.

Ms. Lucciola stated that she is still awaiting a final figure for the DIA's fiscal year 2003 budget. The last information received was that when the Governor sent her vetoes back to the Legislature at the end of July, the DIA's allocation was decreased by \$150,000 from their initial request of \$18,642,473. She is unsure if that reduction will remain with the Conference Committee allocation and she will keep Council Members updated.

Ms. Lucciola also informed Council Members that the fiscal year 2004 budget subcommittee would follow this meeting. KrisAnn O'Herron, Director of Finance and Accounting, will be providing Members with the most updated draft of the FY'04 budget and she would send the budget data to those who would be unable to attend the meeting.

Ms. Lucciola referred to an article that had been included in Council Members' packets that was published in The Journal of Workers' Compensation. The article "Workers Compensation: No Longer The Exclusive Remedy" was written by Council Member Pierce and published in their Summer 2002 edition.

Vice Chairman Corcoran thanked Ms. Lucciola and those who had participated in today's meeting.

#### **Miscellaneous**

Vice Chairman Corcoran asked about the start date regarding the electronic submission of forms using the Oracle system. Senior Judge O'Shea replied that it was ready to begin but was delayed due to complications in the State's firewall.

Vice Chairman Corcoran adjourned today's meeting 11:00 a.m. and noted that the Budget Subcommittee meeting would follow.

**The next regular meeting of the Advisory Council: October 9, 2002 at 9:00 AM, Division of Industrial Accidents, 7th Floor Conference Room, at 600 Washington Street, Boston, MA 02111.**