

Workers' Compensation Advisory Council Meeting

January 27, 2009 9:30a.m. to 12:00p.m.

LABI Conference Center

Meeting began at 9:30a.m.

Chair and Members Present:

Chris Broadwater, Director, OWCA
Ken Hawkins
Charles Davoli
Jim Patterson
Denis Juge
Dickie Patterson
Clark Cosse
Dr. Mark Kruse
Dr. Joe Laughlin
Troy Prevot
Cherie Pinac
Julie Cherry
Greg Hubachek

In addition, attending from OWCA:

Sheral Kellar, Chief Judge, Hearings
Larry White, Systems Manager
Teresa Boeneke, Asst. to the Director

The meeting was called to order by Chris Broadwater, Director.

Presentation of Minutes from December 9, 2008 meeting

Jim Patterson made the motion to accept the minutes.
Dickie Patterson seconded the motion and the minutes were adopted without objection.

New Business

2nd Injury Fund – Chris Broadwater provided a status report on the fund.

The fund is currently managed by Pauline Williams. Improvements have been made in both response time and financial stability. We are moving in the right direction, but we still have a way to go. The fund is in better shape than it has been in a while and

continued improvement is expected. This improvement is largely attributed to two factors:

1. A concerted effort to address older claims and move faster;
2. Increased deductible 2 yrs. ago (La. R.S. 23:1378) to \$25,000.00 and 130 weeks.

While the Director is pleased with the direction the fund is headed relative to response time and financial stability, he questions whether or not Fund is achieving it's intended purpose. Therefore, his recommendation is twofold:

1. The Advisory Council should establish a subcommittee (led by Troy Prevot and Greg Hubachek) to work with Pauline Williams and Director to thoroughly evaluate the program and report back to the Advisory Council with recommendations for short and long term strategies.
2. Meanwhile, continue efforts to further strengthen the position of the fund in terms of financial stability and customer service.
 - a. Evaluate the pros/cons of implementing an electronic claims management system.
 - b. Recommend to the Legislature that the increased deductibles be extended for an additional two years.

Troy Prevot inquired whether recommendations by the sub-committees will be heard and by the Council and the Director stated that the Council will hear all recommendations by sub-committee.

Dickie Patterson moved to accept Director's recommendation to form 2nd Injury Subcommittee and to recommend to the Legislature that the increased deductibles be extended for an additional two years.

Ken Hawkins seconded motion

Motion was adopted and approved by unanimous vote of the Council.

Following the vote, Jim Patterson asked the Director what his projection for future Second Injury assessments will be. Chris Broadwater stated that he expects there to be no significant increase, if any, in the assessment level in the short term.

Cherie Pinac inquired about surplus funds that remain in the fund at the end of the fiscal year.

Chris Broadwater stated that if any such funds remain in the Second Injury Fund or the Administrative Fund, they are applied as a credit when calculating the assessment for the next fiscal year.

Establishment of fund to address return to work initiatives

Director recommends that the Council consider establishing a fund similar to the IWTP, with the goal that fund money be made available to target return to work grants that will assist small businesses in bringing injured employees back into the workforce. He suggests that it not be active for 3-5 years and in the interim develop a committee to promulgate rules for the administration of a fund.

Troy Prevot says other states are implementing similar programs, some of which provide a tax credit or a fund payout. It's being done in other states and is not a new concept.

Dickie Patterson asks what amount goes to Kids Chance. Chris Broadwater advised that civil penalties associated with a violation of La. R.S. 23:1208 as well as civil fines assessed by the court in connection with a finding of contempt.

Jim Patterson inquired how we could find out the number of penalties assessed on an annual basis.

Judge Kellar says that the District Judges could track penalties for one month, or more, and establish a projection of annual collections from penalties.

Director recommends that no action be taken today, just consideration. He will get with the Judges and get an update of money figures and will make a projection by the April Council meetings.

Electronic payment of indemnity benefits (L.A. R.S. 23:1201 and 1201.1)

Cherie Pinac provided a presentation as to the benefit of allowing electronic funds transfers. However, she indicated that there needs to be a legislative change to provide that such payment is an acceptable form of payment. She further stated that such payments will be in the form of a transfer to a debit card or direct deposit.

Chuck Davoli and Ken Hawkins stated they would need notification of deposit of money, possibly in a form of a quarterly report.

John Daniels, representative from Chase, indicated that the insurer would have access to these reports.

Chris Broadwater inquired whether there would there be any fees assessed against the injured worker.

John Daniels stated that this depends on the way that the program is set up.

Chuck Davoli indicated that some employees are already paying fees to cash the checks that are currently manually sent.

Troy Prevot inquired whether there would have to be security such as the issuance of a Pin # and John Daniels indicated that pin numbers can be provided.

Chief Judge Sheral Kellar asked about payment of attorney fees and power of attorney. John Daniels advised that a direct transfer could be made to the attorney's trust account.

Chris Broadwater stated that this should not be the only method, but an acceptable method of payment since some insurers may prefer to continue issuing checks manually.

The members discussed expanding this payment option to payment of medicals. Dr. Laughlin and Dr. Kruse indicated that an EOB should accompany the payment.

Dickie Patterson stated that we need to make sure that whatever we adopt works with existing processes and programs. He suggested that adding the medical payment component will take a fairly significant amount of time, but recommends that we pursue this as an option.

Chris makes the recommendation that Cherie Pinac work with Dr. Mark Kruse, Dickie Patterson, Ken Hawkins and Clark Cosse, to address concerns and come back to the council and present a proposal.

Chuck Davoli recommended that we discuss the establishment of an Uninsured Employers fund to pay claims for injured workers whose employers are uninsured. He also suggested we revisit HB 1083 (independent contractor control act) that was presented by Rep. Patricia Smith in the last general session.

Chris Broadwater advised that this item was not submitted for the current agenda. Therefore, he stated that he will include Chuck's issue on the agenda for the next Council meeting scheduled on Feb. 10, 2009.

Old Business

Premium Fraud

No report for the Council at this time. Cherie will continue to work with Chuck.

Certification/Specialization of W.C. attorneys (Chuck Davoli and Denis Juge)

Chuck Davoli distributed information on other states. He also included LSBA rules and procedures. He and Denis Juge will create a drafting committee outside the membership of the council to draft a proposal.

Revision of Hearing Rules (Chris Broadwater)

No report today. We will have revisions ready for a later meeting.

Public Comment

Gary Knoepfler, Co-chair of Kid's Chance, announces deadline for Kid's Chance scholarships is 2-28-09.

Jim Patterson moved that the meeting be adjourned. Dr. Kruse seconded motion.

The motion was adopted and passed without objection.

Meeting Adjourned 10:55 a.m.