

WORKERS' COMPENSATION OVERSIGHT COMMISSION**MINUTES OF THE MEETING****MONDAY, MARCH 23, 1998****10:00 A.M.****CINCINNATI CONVENTION CENTER
FIFTH AND ELM STREETS
CINCINNATI, OHIO 45202**

Members Present: Neal Schultz, Chairman
George Forbes
Thomas Bainbridge, Jr.
William Burga
Senator Gary Suhadolnik
Representative David Hartley

Member Absent: Rachel Longaberger
Senator Alan Zaleski
Representative Richard Hodges

ROLL CALL

Mr. Schultz called the meeting to order and the roll call was taken.

MINUTES OF FEBRUARY 11, 1998

Mr. Burga moved that the minutes of the meeting of February 11, 1998, be adopted. Mr. Bainbridge seconded and the motion was approved by unanimous voice vote.

CHAIRMAN'S COMMENTS

Mr. Schultz stated that he was pleased to be in Cincinnati for the All Ohio Safety Congress and Exhibit. Members of the Oversight Commission introduced themselves to those in attendance.

ADMINISTRATOR'S COMMENTS

James Conrad, BWC Administrator, thanked those attending for traveling to Cincinnati and attending the 68th Annual Safety Congress. He stated that he was impressed with the number of exhibitors present and the demand for safety classes.

This meeting also marks the first anniversary of managed care in Ohio under the Health Partnership Program (HPP) and the Quality Health Plan (QHP). In January, the Managed Care Organizations (MCOs) met in Dayton to suggest changes they want to see in the system. A select number of BWC employees met during the week of March 16 to review these ideas. Stakeholders will meet later in March to provide their recommendations. This week, there will be regional meetings at hospitals to discuss billing problems. Other providers will meet in late May.

Open enrollment for HPP will occur during April and May. An additional tool for regulating compliance will be placing an MCO "at capacity" when it is not meeting the standards. This means, the MCO can no longer enroll new employers until it corrects its deficiencies. Employers are also prohibited from choosing an MCO. The MCO selection guide being distributed today to the Oversight Commission and to the public contains a report card to the public. It is also being mailed today to members of the General Assembly and employers.

Mr. Burga asked when would the stakeholders be meeting. John Romig, Assistant to the Administrator, announced that the stakeholders would meet on April 23 and 24. Mr. Burga asked was the survey of 12,000 injured workers made at random? Mr. Conrad replied that the survey was done at random and the statistical validity was verified by an outside consulting firm. The survey includes both lost time claims and those with medical only claims. Mr. Bainbridge asked if the survey applied to old and new injuries. Mr. Conrad replied that it applied only to those on or after March 1, 1997.

RULES FOR INTRODUCTION: INVESTMENTS

Robert Cowman, Chief Investment Officer, brought proposals concerning investments of the State Insurance Fund. The emerging managers firms are the last of those to be approved by the Oversight Commission. Emerging firms are those which are less established and have less than \$500 million in assets. BWC uses the same method in evaluating these applicants as it did for other managers, except that selection was done by BWC staff because no consultants had the necessary expertise to review the applications. The Requests for Proposal (RFP) responses were received in January. Forty-one firms were interviewed and those selected for final approval are contained on the list provided today to the Oversight Commission. Eleven firms are Ohio-based; ten are owned by women; and ten are minority-owned.

Mr. Bainbridge asked how many applicants were there. Mr. Cowman replied that there were 104 responses to the RFP. Mr. Bainbridge also asked if BWC had given approval to all forty-one interviewees. Mr. Cowman replied that the Administrator would select between twenty and twenty-five finalists. Mr. Conrad added that the distributed list has a recommended dollar allocation per firm.

Mr. Schultz asked if there were any particular problems in selection of firms. Mr. Cowman replied that there were three applicants which were Ohio firms with more than \$500 million in assets and were not considered "emergent" because they were long-established. Nevertheless, they met other guidelines.

Mr. Forbes moved that the Oversight Commission adopt Resolution 98-03. The Commission consents to adding these three management firms to the list of the emerging managers to be considered today for approval by the Oversight Commission. Mr. Burga seconded and the resolution was adopted by unanimous roll call vote.

Mr. Bainbridge moved the Oversight Commission adopt Resolution 98-04 on the investment policy. The resolution consents to the approved list of emerging investment managers as amended by earlier Resolution 98-03. Mr. Forbes seconded and the resolution was approved by unanimous roll call vote.

Mr. Cowman continued with the report concerning the approved brokers. BWC investment policy had originally prescribed that 60% of brokers be Ohio firms and 10% be minority firms. Thirty percent of the transactions could be conducted by brokers chosen at the discretion of the managers. However, it has proven too cumbersome to use an approved list for manager-chosen brokers because the managers are allowed wide latitude.

Mr. Forbes stated that this problem was the subject of much discussion in drafting the investment policy. All manager applicants were aware of the rules from the time of application and should not be permitted to revise those rules to use brokers from their "old-boy network." Mr. Cowman replied that BWC was not proposing a change in the percentage with which managers must comply. Mr. Conrad added that since these brokers could be out-of-state, BWC would not know and would have no concern about who made up the managers' 30%. However, monitoring those brokers would add more burdens to the BWC Investments Department than it should undertake.

Mr. Schultz stated that this issue had been very extensively discussed with BWC management. The Oversight Commission and BWC intend to make an example of any manager who deviates from the standards of the investment policy.

Mr. Bainbridge asked how hard would it be to enforce these standards. Mr. Cowman replied that all transactions involving the State Insurance Fund are reviewed daily by BWC staff.

Mr. Burga stated that approval of today's resolutions should also require further revision of the investment policy. John Annarino, Chief Legal Officer, replied that no further amendment of the policy is necessary.

Mr. Burga moved that the Oversight Commission adopt Resolution 98-05. The Oversight Commission hereby amends the investment policy so it need only approve the list of Ohio and minority brokers, but not manager-chosen brokers. Mr. Forbes seconded and the motion was approved by unanimous roll call vote.

Mr. Cowman continued with the report concerning revisions to the approved broker list. The information here adds four brokers to the approved list of Ohio brokers. Five firms are also added to the minority list. Another firm is removed from the minority list because two principals of the firm have left and the remaining owner is not a minority. There has also been elimination of a non-Ohio minority. Mr. Bainbridge asked what was the total amount for Ohio managers. Mr.

Cowman replied that it had increased from about twenty-five to thirty. Minority firms had been increased from about twenty to twenty-five. Managers may choose any broker to meet the 60%/10% goals.

Mr. Forbes moved that the Oversight Commission approve Resolution 98-06. The resolution approves the revised brokers list presented today to the Oversight Commission. Mr. Schultz seconded and the resolution was approved by unanimous roll call vote.

RULES FOR SECOND CONSIDERATION: RULE REVIEW PROJECT

Tom Sico, BWC Attorney, provided a report on Administrative Code rule revisions. House Bill 473 requires agencies to review their rules every five years. Forty-eight of BWC's Safety and Hygiene rules were submitted unchanged to the Joint Committee on Agency Rule Review (JCARR) and they were approved at its February meeting. Of the remaining rules, BWC has amended four of them to eliminate references to the Industrial Commission. Twenty-three of the other rules have been amended to eliminate conflicts with the Occupational Safety and Health Administration (OSHA) requirements.

The rules were filed in December and there was a hearing held at BWC in January. Two or three individuals testified at the hearing and requested more time for review. However, none of those testifying have provided any response on their concerns. Accordingly, the rules are submitted today for consent by the Oversight Commission and will proceed to JCARR for approval at its May meeting. Mr. Burga stated Tom Bell, AFL-CIO counsel, is retiring and would not be responding. He recommended that the Oversight Commission proceed with consideration.

Senator Gary Suhadolnik asked if this legislation was not similar to the executive order from Governor George Voinovich to reduce agency rules by 5%. Mr. Sico stated that the legislation and the executive order have the same concept: they require agencies to review the rules with the purpose of reducing their amount and updating their provisions.

Mr. Bainbridge moved that Resolution 98-07 in which the Oversight Commission consents to submitting the twenty-seven amended Administrative Code rules to JCARR for approval. Mr. Burga seconded and the resolution was adopted by unanimous roll call vote.

NEW BUSINESS: SERVICE OFFICE CUSTOMER IMPACT

Steve Dyer, Bill Bailey, and Steve Witterstaeter, Cincinnati Area Service Office Managers, provided a report on changes in customer service at their offices. Mr. Dyer, manager of the Fairfield Office, first reported on four programs he conducts. There is a monthly exchange of information between BWC and the MCOs. The Fairfield Office conducts metropolitan leadership meetings whereby BWC supervisors and managers of the three offices meet to ensure consistency in policies. Coordination is also obtained by meetings between BWC and the Industrial Commission. Finally, meetings are held with the claimants bar. Other internal initiatives include the Claims Board, made up of hearing officers, Law Section attorneys, and managers from Safety and Hygiene and Rehabilitation. This supplements the daily meetings of

the service office teams. Fairfield also conducts training institutes on such issues as subrogation and lump-sum settlements. Finally, Fairfield is a site for the pilot imaging project.

With respect to employers, initiatives include visits to the employer's places of business and counseling on programs such as Drug-Free Workplace. There are seminars conducted for injured workers and new managers of service companies.

Senator Suhadolnik asked what kinds of employers are identified for site visits. Mr. Dyer replied that these are based upon the consensus of BWC teams and are need-determined. The employers with a high number of claims and with claims appropriate for settlement meet these criteria. Mr. Forbes asked if any of these initiatives are conducted by other BWC service offices. Mr. Conrad replied that they are, generally, if the office is in a metropolitan area such as Cincinnati or Cleveland.

Mr. Bainbridge asked how does an injured worker get invited to a seminar. Mr. Dyer replied that these are open to individuals with new claims and newly granted temporary total disability benefits. The seminars focus upon rehabilitation. Injured workers are contacted by phone and letter, with about ten individuals attending per month. The responsibility for the seminar rotates between claims teams.

Mr. Conrad added that Cincinnati leads the state among regions in providing these services. Columbus region stopped injured worker seminars because of low attendance. However, the appointment of John Fish as overall supervisor of the service offices should give impetus to more widespread utilization.

Mr. Bailey continued with a report on his service office at Governor's Hill. In addition to the initiatives and programs provided in the Fairfield Office, Governor's Hill includes a preferred rehabilitation network. This brings together rehabilitation providers from Springfield, Fairfield, Dayton, and Cincinnati. Another program surveys employers on the effectiveness of MCO service and training of MCOs on coverage. Governor's Hill is one of the first service offices to use an index system. This attempts to match Ohio claims with similar claims in other states by social security account number, name, address, etc. This initiative assists in the detection of fraud and identification of claims for subrogation.

Mr. Witterstaeter continued the report, with some further details on the Cincinnati Service Office. In addition to serving several Ohio counties, it serves injured workers living in Northern Kentucky. Other programs not previously discussed include the injured worker job search assistance. This provides help in writing resumes and looking for work. Another program is the nurse liaison program, whereby nurses provide training and assistance to MCOs.

Mr. Witterstaeter reported that he began working for BWC in 1971 as a field auditor for the Risk Department. At the time, he was chiefly concerned with auditing payroll and getting appropriate payment of premiums. Today, he evaluates a wide spectrum of employer problems to enhance safety and management. On the claims side, BWC merely paid bills in 1971. It now utilizes managed care. In a recent visit to about five employer sites, he was surprised to find that all were positive about how well the system was working.

Mr. Forbes asked if a Kentucky resident would be eligible for Ohio workers' compensation. Mr. Witterstaeter replied that this sometimes occurs, and each injury must be evaluated on a case-by-case basis for eligibility.

Mr. Schultz asked how widely available was injured worker job assistance. Mr. Witterstaeter replied that it is available at all service offices.

Mr. Bainbridge asked if fraud investigation was conducted against only injured workers or also employers, also. Mr. Witterstaeter replied that all types of fraud investigation are conducted by the fraud specialists.

NEW BUSINESS: PUBLIC EMPLOYER RATE MODIFICATION

Terry Gasper, Chief Investment Officer, introduced William Darlage, Actuarial Director, and James Inkrott, Mercer and Associates. They provided a report on state agency rate changes. Upon advice of the Law Section, there is no need for Oversight Commission approval on these changes. Nevertheless, BWC will be coming before the Oversight Commission at the April meeting to get approval on percentage of increase or decrease of premiums to be made effective July 1, 1998.

Mr. Darlage reported that the first change would be the lowering of the minimum premium rate from \$0.15 cents per \$100 to \$0.05 per \$100. The change is because of the overall decline in expense in recent years. Individual agencies will be able to enjoy even greater savings than they have before. Also, BWC will be trending losses on individual agencies, rather than on all agencies. This is a more accurate method of setting rates and enables agencies to experience immediate incentives for good claims management.

The third change is that universities and university hospitals will have lump-sum settlement awards excluded from rates if they pay them directly. This provides an incentive to participate in the settlement process and reduces administrative costs. BWC plans to make this effective for other agencies beginning July 1, 1999. If rates go up for an agency as a result of the changes being implemented at this time, the agency will cap its workers' compensation premiums at the previous years' payments.

Mr. Burga asked if these changes affected only state agencies. Mr. Darlage replied yes and that local government rates already use this method. Mr. Burga asked if the rates are set too low what would be the effect on other employers. Mr. Darlage replied that there is no effect on other groups of employers, because separation of rate-setting is required by law at the present time.

Mr. Conrad stated that he had discussed these changes with Governor Voinovich. Currently all agencies are lumped together in the rate-making process. Governor Voinovich has urged that Ohio departments pay greater attention to accidental injury. For example, Jerry Manual, Director of the Department of Mental Retardation and Developmental Disabilities has implemented an aggressive program resulting in a decline in claims. This has led to a decrease in

costs. This incentive is needed by other departments as well and information will be available in the budget making process for this year.

OLD BUSINESS: HPP OPEN ENROLLMENT

Sandy Blunt, Chief of Customer Service, provided a report on the open enrollment period for HPP of April 1 to May 29. The emphasis of this for employers is "the choice is yours." Ads are being run in Ohio business journals. There will be editorial visits to the chambers of commerce and third-party administrators. The open enrollment guide with its forms offer three ways by which MCO selection may be made. Employers may also contact the MCO direct.

When an employer reaches "at capacity" the 1-800 number used for selection will roll the employer over to a customer representative for assistance. The prohibition against enrollment because of "at capacity" is then explained and employers are assisted in choosing another MCO. Automated selection by telephone will be available to employers from 6:00 a.m. to 12:00 midnight each day. After the end of the open enrollment period, providers will be given notice of any changes.

OLD BUSINESS: OHIO SAFETY CONGRESS

Kevin Kenney, Superintendent of Safety and Hygiene, welcomed the members of the Oversight Commission and the public to the 68th Annual Ohio Safety Congress. Mr. Kenney distributed badges for admission to the Congress. Mr. Kenney thanked Larry Whalen and the Safety and Hygiene staff for their assistance in putting together the Congress. The Congress opens on March 24 at 10:00 a.m. and will run through Thursday.

Mr. Kenney introduced regional managers of the Safety and Hygiene Division. Mr. Kenney stated that in his years of work in the private sector and the National Aeronautics and Space Administration, this is the best group of managers and safety experts with whom he has ever worked.

Concerning the Congress, all 230 of the exhibition spaces have been sold out. All sessions concerning the premium discount program were sold out. It is hoped that there will be more than 6,000 people attending the Congress.

ADJOURNMENT

Mr. Forbes moved that the meeting be adjourned. Mr. Burga seconded and the meeting was adjourned by unanimous voice vote.

PREPARED BY: Larry Rhodebeck, BWC Attorney

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April 7, 1998