

# CCSF WORKERS' COMPENSATION COUNCIL

## MINUTES

Regular Meeting

December 4, 2017

9:00 a.m.

ROOM 408, CITY HALL

1 Dr. Carlton B. Goodlett Place

### **CALL TO ORDER**

9:00 a.m.

### **ROLL CALL**

Micki Callahan, Human Resources Director	Present
Melissa Whitehouse, Budget Director	(Represented by Kelly Kirkpatrick)
Naomi Kelly, City Administrator	(Represented by Elizabeth Fitzgerald)
Norm Nickens, Retirement Board Secretary, Retirement System	Absent
Todd Rydstrom, Deputy Controller, Controller's Office	Present
Lorenzo Donati, Deputy City Attorney	Present

### **PUBLIC REQUESTS TO SPEAK ON ANY MATTER WITHIN THE JURISDICTION OF THE WORKERS' COMPENSATION COUNCIL APPEARING ON THE AGENDA (Item No. 1)**

Speaker: Micki Callahan

Public Comment: None

### **APPROVAL WITH POSSIBLE MODIFICATION OF MINUTES (Item No. 2)**

**Action:** Minutes approved for the meeting on September 11, 2017.

## **REPORT FROM THE WORKERS' COMPENSATION DIVISION**

Discussion Items: **(Item No. 3)**

**Speaker: Peggy Sugarman, Deputy Director, Workers' Compensation Division**

### **Reported on Claims: Claim Costs, Frequency & Fiscal Year Results**

Peggy starts by talking about the first quarter results for claim filing frequency as compared to the first quarter last fiscal year. As seen on the chart for the top ten departments, there is a slight decrease at the police department. For Juvenile Probation, there was a large increase in the percentage of claims but this is only a small number of actual claims. There was an increase in the Sheriff's Department and Human Services Agency. In both departments, we are working with them to identify the reason for the increase. Human Services Agency is looking to add a position within their department to deal with safety issues. Overall, there was an 8% increase in indemnity claims and an 11% decrease in medical only claims. Indemnity claims are generally lost time injuries or they are denied claims where Workers' Compensation knows they are going to have to examine the case further and that payment is possible for indemnity purposes.

Micki asked if Juvenile Probation had an incident which caused the increased number of claims for the quarter. Peggy answered that she was not aware of anything happening.

Peggy talked about the claims filed per employee. The slide shows for the past six years the number of claims filed, the number of non-unique social security numbers on claims and the percentage of claims with non-unique social security numbers. The report shows that there is fairly steady percentage ranging from 64 to 58 percent of claims which had a prior injury filed within the same period.

Micki commented that she was surprised that the numbers are so high. It seems counter-intuitive that claims are filed by someone with a prior claim. She then asked if this is typical, what CWCI has to say about the numbers, and was it driven mainly by Police and Fire. Peggy answered that the numbers were driven a lot by Police and Fire but they are not the only ones. The other high ones she can recall are Human Services Agency and Public Health. She felt like it was pretty standard across the city. Also, she does not know if it is typical. Micki also asked about what the implications might be for how we deal with or manage injured workers.

Todd went back to the first slide to ask how the medical and indemnity cases reflected in the claims filed per employee numbers.

Peggy continued with the Claims Denied slide. The percentage of claims denied ranged from 9 to 18 percent with a historical average ratio of 16.6 percent.

Micki commented that this showed we were fairly steady for the number of denied claims. Peggy responded to judge it this was typical that she asked Dan Roach how this compared to the Municipal Transportation Agency and he felt that for our type of work it was fairly typical but Peggy would do some further research. Peggy explained that unsupported denials carry a

hefty penalty with the state so we are very careful to have a legal basis to deny a claim. Also, if a claim is denied and then later accepted, it must still carry the denial designation in the file.

For expenditures, the report shows a significant decrease, but this is due to the new bill review company starting on September 1<sup>st</sup>. Due to the substantial system integration issues, we were unable to export files for payments to medical providers for a while, which was fine as we have 60 days to pay providers. We are not caught up on these payments, which will be reflected in the next quarter's report. This integration did not interfere with our ability to pay employee's disability payments.

Peggy discusses claims costs by category. Temporary Disability continues to inch up. While the rates are increasing every year, she feels that is not the only reason for the increase, so she has convened a group to look into what is causing these increases and how to work with the medical providers to help ensure they are treating and releasing the injured worker in a timely manner to either temporary transitional or full duty work.

Permanent Disability down 22% as compared to the first quarter of last fiscal year. There is a concern with the hospitalization costs being up considering there was a period where payments were not made.

Micki asked if there is a way to distinguish between rate increases and increases due to the severity of injuries. Peggy answered that she felt it would be difficult to work that out. Micki mentioned that you could use the medical rate of inflation. Peggy agreed and said that we could benchmark our cost in our CWCI data. Micki and Peggy talked about the CWCI data and the fact that they back into number of days missed, which would be very helpful in understanding the costs incurred.

Peggy continues to report on the Top 5 departments in terms of open claims stratification by severity. The charts show open claims for SF Police Department, SF Fire Department, Sheriff's Department, Department of Public Health and Recreation & Parks Department. Incurred expenses include paid expenses and the projection of what might be paid over the life of the claim.

Micki asked about the large dollar claims in Recreation and Parks. The answer is that these claims are from the 90's. One was a 1996 injury and another was a 1999 injury where the cases are 100% permanent disability and we continue to pay at the temporary disability rate and we are paying future medical costs.

Peggy continues to discuss the Top 10 Claim Causes by Frequency For the First Quarter and the Top 10 Claim Causes by Severity for All Open Claims for the Top 5 Departments: SF Police Department, SF Fire Department, Sheriff's Department, Department of Public Health and Recreation & Parks Department. This will allow us to look at causes from quarter to quarter to see if there is some on-going reason employees are being injured. For the Police Department the highest frequency for claims is physical assault while the highest severity is bodily reaction which includes heart and cancer cases.

Peggy moved on through the slides for the Fire Department, Sheriff's Department and Department of Public Health.

Todd asked what a Fall Same Level as compared to Slip/Trip would include

Kelly asked specifically what Personal Injury/Illness represented. Julian Robinson responded that it would be something personal which was aggravated by work, such as asthma.

Todd asked that a definition sheet for terms be included for individuals who might be using the slides outside of the context of the meeting.

Peggy mentioned that she and Stanley Ellicott were working on putting together information for injury rates by departments per FTE.

Peggy moves on to discuss the Organizational Initiatives.

- Bill Review/Utilization Review Update  
EK Health launched effective 9/1/2017.  
It was a large system integration as all of the adjusters use the system and there is a lot of electronic data exchange. Things are going well.
- SFMTA/DHR Third-Party Administrator Contract is complete.
- Nurse triage/injury advice hotline launched October 12, 2017 citywide in response to the North Bay fires. The nurse can not only give direction on how to treat the injury, but they can help make an appointment with a Medical Provider Network physician, get the injured worker a claim form and then the departments and Workers' Compensation will get a report of what has occurred and will allow Workers' Compensation to get the information sooner.
- Workers' Compensation is scheduled to launch the Pharmacy Benefit Management Program on 12/11/2017 and covers MTA as well. Adjusters can decide to give an injured worker a pharmacy benefit card to ease the approvals of prescription drugs. This will use the new state formulary which starts January, 2018. Prescriptions will be pre-approved if they are within the formulary. This will also reduce the work adjusters have to do to deal with the different pharmacy aggregators as it will be handled by the program.
- External claims audit was completed as of September 1<sup>st</sup>. The original report had errors, the revisions have been completed and Peggy should have the completed report by December 6<sup>th</sup>. Micki asked if the audit was in preparation for the upcoming state audit. Peggy responded that yes this was the case. The state audit is scheduled every 5 years and 2018 is the year for our audit so she wanted to ensure we were ready.
- Electronic Deposit/Pay Card in collaboration with Treasurer's office and US Bank is continuing. The reason this is so difficult is the remittance advice which has to go to medical providers is very complex. There are bill payment standards by the state which include adjustment reason codes per transaction and invoice. US Bank is underwriting the development cost. We are finalizing a contract with our software vendor for a nominal cost to ensure staffing and that the data transferred will be in a format US Bank can accept.

Micki asked if this would be for payments not only to vendors but also to claimants. Peggy answered that yes, it would be for both by electronic deposit.

Micki also asked who else does this type of deposit. Peggy answered this is not something done by anyone else nationwide on this scale according to US Bank. The reason is the complexity of the remittance advice. The ANSY specification for this type of remittance advice alone is around 300 pages. Micki followed up with the question that this would free us up from sending the information out of state for the checks to be printed and mailed. Peggy explained that July 1 is her target date and there is long term savings expected.

- Peggy continues by discussing the Worker's compensation 'carve-out' negotiations. The 'carve-out' program is an alternative dispute resolution program that is bargained between the city and a specified union to deal with workers' compensation disputes outside of the statutorily required dispute resolution system, mainly through the use of an ombudsman person, mediation and arbitration. Many municipalities are doing this now and the savings are expected to be worth doing. Fresno has had this with their police department for a couple of years now and the second year savings are even better than the first. It has also been shown to smooth relationships between unions and their municipalities. They started with the Deputy Sheriff's Association and are now in talks with the Police and Fire unions, who have verbally stated they are on-board.

Kelly asked if this was to set up the parameters under which you would operate a carve-out system and when was the expected implementation of the program. Peggy answered that the start of the program would be at the start of a quarter and it will depend on when the agreement is signed. There is an agreement being looked at by the Deputy Sheriff's Association at this time. Once they agree to it, Board of Supervisor's approval would be needed. Micki mentioned that these programs work best with a fairly homogenous group of employees, so Public Safety is good place to work with. This takes the form of a labor agreement which is approved by the Board of Supervisors but is independent of the MOU.

Todd asked about the target date for the go live on the Deputy Sherriff's carve-out. He thought the original go live date was January 1<sup>st</sup>. Micki answered that with the elections within the union they decided to put a hold on the negotiations. So using the same carve out guidelines, the Police and Fire unions have been contacted. Micki and Peggy feel that the major discussions will be what to do with the savings, as the unions will want to have a piece of them.

- Juvenile Probation Department temporary transitional work program project is scheduled to launch before the end of the month. The consultants have identified all the transitional work tasks for the counselors and probation officers and they have someone in place to manage the program. Workers' Compensation is now making sure that the medical providers understand that there is temporary transitional work available
- The audit for Section 111 Medicare reporting processes for compliance is in progress. Peggy will be meeting with the auditor. The purpose of the Section 111 reporting is to ensure that Medicare if not paying for any medical cost which should be associated with a workers' compensation claim.
- Peggy said that development of the Office Electronic Learning Management-based ergonomic training partnership with the Department of Public Health, the Work Force Development team in the Department of Human Resources, and Health Service System.

We are looking to launch this in January.

- Peggy explained that AB44 takes effect 1/1/2018 which required claims administrators to assign a nurse case manager to employees who are victims of domestic terrorism.

Micki asked if we didn't already have nurse case managers. Peggy explained that we did but we would be required to assign them to these types of cases. The legislation states that this is in direct response to how the San Bernardino claims were handled. Not to say they did anything wrong, but during utilization review there was denial of care which cause some political issues.

Micki asked if currently we would only assign a nurse case manager if we felt it was indicated. Peggy responded that was so. It is generally for catastrophic cases and employees who have been off work for way to long, etc.

- SB 1140 has a piece which becomes effective 1/1/2018 that removes utilization review from the first 30 days of treatment for common treatments, consistent with evidence-based guidelines.

Micki asked if this is not effectively what we are doing with the fast track approvals which we currently use. Peggy responded that we actually do more by allowing approved, common treatments for the first six months with our clinics. This new law will apply to all of our MPN providers.

- SB 1140 also sets out new State Formulary rules for pharmacy benefits, which the new Pharmacy Benefit Management Program follows.

Public Comment: None

## **REPORT FROM THE SFMTA WORKERS' COMPENSATION DIVISION**

Discussion Item: **(Item No. 4)**

**Speaker: Dan Roach, Municipal Transportation Agency**

Dan begins his presentation by reporting on claim volumes. This is a rolling 12 month report through the end of the fiscal year.

Fiscal year 16-17 was a good year for the program. They were trending down in virtually every category. So Dan was expected a little bit of a rebound effect in this year, but it has not been the case so far in every category.

For Claim Volumes, which is the frequency of new claims filed, there is a remarkable number. In the monthly average, there were 48 indemnity, 6 medical only and 2 first aid. The remarkable number is the medical only claims. SFMTA rolled out the injury reporting hotline six months ago with a major goal being to improve the timeliness of reporting. In October they had 11 medical only claims reported, which is the highest number compared to indemnity he has seen since he joined the program. Having more medical only claims means the claims are

being reported more timely and they are being accommodated more quickly, they are being treated more quickly, and they are ultimately costing less.

For claims closed, closures are down a little bit with the program. They are averaging 92% closing ratio. Their goal is 100% with the claims administrator. Dan does expect they will meet or exceed that goal by the end of the fiscal year. Claims pending at the end of the quarter are up slightly at 1,622, which is still a reduction from prior years.

Dan continues to report on Financials. The expenditures for the prior quarter was \$7.387 million and for this quarter they are at \$7.6 million which is less than a 4% increase. Since they categorically trended down during the last year, Dan does not feel this is a reason for alarm. Recoveries were down significantly which did impact their bottom line.

Reporting on Stratification by Severity, the chart demonstrates the number of high exposure claims showing paid plus reserve numbers. The main focus of the program is to proactively address these claims and adjust them well. There is still 18 claims over a million dollars. They have had results in resolving some of these high exposure claims in cooperation with the City Attorney's Office.

Micki asked if these high dollar claims are similar to the Recreation and Park claims which are long term claims with a lot of future medical. Dan replied most of them are. He believes there are 3 or 4 claims from 2015 where operators were hit by cars. The majority of the claims are long standing cases. Not all of them are catastrophic cases to begin. Some of them are benign cases that turn wrong. Someone could get a Mersa infection or a back strain could end up with multiple failed surgeries. There are several scenarios where claims can go south despite the best management.

For litigation statistics, they are trending up slightly at 39 percent. SFMTA categorize all claims with attorney involvement in this number. The number of cases with active litigation is much lower.

Dan discusses Cause Analysis by Frequency. The number which stands out is the physical assault claims continue to trend up sharply. The second most frequent type of injury is continuous trauma and vehicle accidents remain one of the higher causes.

Cause Analysis by Severity for the past 12 months pretty much mirrors the frequency report. Assault claims cost the agency \$1.5 million, Continuous Trauma, \$1.3 million, Vehicle Accident nearly \$1 million.

Micki asked if stuck by a moving object include an operator being struck by a vehicle. Dan responded that in his opinion it would be a vehicle accident, but when the claims are reported, there is a narrative description of the incident which is interpreted by administrative staff and put into these categories. The categories are mandated by the state. Sometimes they are changed by the claims administrator as more information comes in but they are very subjective.

Todd asked that SFMTA also add a definition sheet at the end of the presentation. Also, if Dan could report on the level of training on the reporting of vehicular verses non-vehicular, specifically on stuck by a moving object verses vehicle accident.

Dan continued with Cost Analysis, the slide shows the average cost per claim by main cause description. The most important number he would point out is the average total cost per claim is \$33,835 which compared to most state benchmarks is a very good result. Another very important metric they pay attention to is if you are proactively managing your claims, providing the benefits timely, and moving them to resolution, you are closing your claims as soon as possible to mitigate costs and facilitate recovery. The average claim in the state runs about 3 years. Right now our average claim runs 22 months. So our claims are being proactively adjusted and we continue to try to drive that number down.

Micki asked if there were metrics available for these numbers which could be used for comparison. Dan answered that a lot of the benchmarks were industry standard benchmarks which apply across the board to every employer and adjusting agency. Occasionally they have been able to get very specific comparison data with other transportation agencies, which is their preference. SFMTA is going to look at the CWCI data when it becomes available for the City of Los Angeles to see how their numbers compare. Dan said that he is certain our numbers are below industry average benchmarks. They are even below BART.

The injury rate per 100 employees is at about 11.21, which is a very good number for a transportation agency. They were slightly lower than last year. The exposure and risk for a transportation agency is generally higher than most types of occupations, so that is a pretty good result.

Micki asked if in the future if Dan would have access to how many claims are filed by people who already have claims. Dan responded that he was aware of the fact there where people who have filed multiple claims, including some who have filed over 50 claims, which would skew your numbers and administratively those are difficult to deal with. Dan said that he would review his numbers and try to get something meaningful for the council. Micki mentioned that she was surprised by the high percentage of people with prior claims in the police and fire departments and she would be interested in comparing it to transit. Dan replied that he did not think they were that high, but it was in the ballpark. He mentioned that there were a couple of people with 50 or more claims, and quite a number of people with 20 claims or more.

Reporting on Claims Denied, Dan states there were 25 claims denied in October. Their average is a bit higher than the rest of the city. Their percentage is generally in the low 20 percent range.

Division Statistics are self explanatory.

Reporting on Current Initiatives, Dan mentioned that they have been trending up in operator assaults and overall assaults for some time. Some good things are happening to mitigate these claims. All new buses, of which there is quite a few, are coming in with barriers around the cockpit for the operator. The barriers are very good things because it keeps the operator physically separated from the passengers. They will also be retrofitting the older buses with enclosures which are on order. The trolleys already have enclosed cabs for the operators and Dan does not think there will be any enclosures for the cable cars.

Micki mentioned that she had the impression that the parking enforcement employees had a high rate of assault. She asked if there was anything being done to help mitigate their risk.



Dan responded from studies the number one thing they can do to reduce assaults is training. It is found that a significant number of assaults are caused or contributed to by the employee. They already provide training to reduce confrontations, they have an RFP to bring in a vendor for a comprehensive training program to teach employees how to deescalate situations, how to mitigate risk and how to communicate and cooperate with people to lower that type of incident. Dan feels that another strong contributor to the problem is that members of the public who assault employees are not prosecuted which is pretty common knowledge. Until the District Attorney's office prosecutes the perpetrators of the assaults they act with impunity.

Todd asks that before the slides are posted that we update the formula on page 24 in the claims closed in FY 17-18 monthly average as it is incorrect.

Peggy added to her report to say that George Whittaker has been promoted to Workers' Compensation Supervisor position. She also thanked Kathy Hermanson and Elizabeth Angelini for coordinating the meeting.

Public Comment: None

#### **OPPORTUNITY TO PLACE ITEMS ON FUTURE AGENDAS**

Discussion Item: **(Item No. 5)**

Council Comment: None

#### **OPPORTUNITY FOR THE PUBLIC TO COMMENT ON ANY MATTERS WITHIN THE COUNCIL'S JURISDICTION**

Discussion Item: **(Item No. 6)**

Council Comment: None

**NEXT REGULAR MEETING: Meeting date is March 5, 2018**

**ADJOURNMENT**