

CCSF WORKERS' COMPENSATION COUNCIL

MINUTES

Regular Meeting

March 4, 2019

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
Kelly Kirkpatrick, Acting Budget Director	(Represented by Laura Busch) Present
Naomi Kelly, City Administrator	(Represented by Peter Goldstein) Present
Caryn Bortnick, Deputy Executive Director, San Francisco Employee Retirement System	Present
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: Todd Rydstrom

Public Comment: None

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

Action: Minutes approved for the meeting on December 3, 2018.

REPORT FROM THE WORKERS' COMPENSATION DIVISIONS

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

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

Reported on Accomplishments and Initiatives, Performance Quick Facts, Claim analytics and Financials.

Peggy begins by discussing the Accomplishments and Initiatives for the Workers' Compensation Department.

- Tentative agreements were signed on 12/17/2018 with SF Police Officer's Association and the Firefighters Local 798 on a "carve-out"/alternative dispute resolution program. This is the same program with both unions and where signed at the same time.
- Agreements were approved by the State Division of Workers' Compensation Administrative Director on 1/31/2019 and by the Board of Supervisors on 2/26/2019.
- A Joint Labor Management Committee was established, which has representatives from both unions and 2 meetings have occurred.
- The ADR Director and the Ombudsperson were approved by the Joint Labor Management Committee. Also, mediators and arbitrators were selected and approved
- A list of physicians for independent medical evaluations were approved by the Joint Labor Management Committee and will be on going.
- The implementation date is currently July 1, 2019. The work has just begun on the training of the workers' compensation teams as to what is involved. Peggy thanked Julian Robinson for all of his hard work on this initiative.
- A pilot program with the PUC for a data reporting dashboard which will allow access to the iVos system to look at claim causes, trends and costs was launched on 2/7/2019.
- The banking modernization program for the electronic deposit of injured worker's disability benefits is to start in May. This was pushed back from April 9th due to ensuring that the transfer of private information in the file sent to the bank did not require a separate business associate agreement.
- Peggy said that the Office Electronic Learning Management-based ergonomic training partnership with the Department of Public Health is about to be launched for all city employees. While there will still be a limited number of in-person classes, this program will be available on an ad-hoc basis. Special thanks to Karen Heckman for all of her work on this program.
- The audit for Section 111 Medicare reporting processes for compliance has been completed with the help of the Risk Management Program. The purpose of the Section 111 reporting is to ensure that Medicare is not paying for any medical cost which should be associated with a workers' compensation claim. The audit revealed some deficits in the reporting we are currently doing. We are working to develop clear workflows and train our staff on the requirements. We are also examining the potential for external organizations to partner with us to improve compliance by integrating with the iVOS claims system.

- Nurse Triage Injury Reporting continues to be rolled out. We are currently working the Police and Fire to ensure that their employees know they can use this line for injury reporting. Other departments are currently using it and we are continuing to promote the use of this injury reporting tool.
- We have a Medical Provider Network Committee which actively reviews MPN physician performance and identifies new physicians for inclusion in the network.
- There was an administrative filing with the City Attorney's Office for exposure to carcinogens based on working in or around Building 606 in the Naval Shipyard. There were 365 potential claimants and the City Attorney's Office advised us that this was a workers' compensation issue and that we needed to provide the claimants with the DWC1 claim form. The forms were sent out in record time and currently we have had 3 claims actually filed as a result of this exposure. We are continuing to work with the City Attorney's Office to address any litigation which might arise.

Peter asked if there was a need for a reserve to be set up for possible claims? Peggy responded that it was way too early to tell because the claimants would have had to have some type of injury or disability based on the exposure.

Peggy continues by talking about performance quick facts for the second quarter. Included in the numbers is a benchmark which is the five year historical average of the number given.

Fiscal Health, which measures how well we budgeted overall, currently for fiscal year 2019 we spent 109.3% of the budgeted amount. We will see in the upcoming slides that there are some departments which are going to be well over budget for the year.

Laura asked what was driving the overage. Peggy responded that there has been a large increase in medical spending related to the catastrophic injuries which have occurred this year.

Claim Volume, which is the count of new claims in a period, we had 403 indemnity claims and 273 medical claims. Historically for this quarter, we had 401 indemnity claims and 275 medical claims.

Claim Cost, which is the average cost of claims closed in period including 4850 disability pay, shows a historical average of \$15,637 per indemnity claim and \$611 per medical claim. During this quarter, the average was \$13,887 per indemnity claim and \$782 per medical claim.

Duration, which is the average number of days open for the claims closed in this period, shows that we are closing claims in 249 days compared to a historical average of 324 days.

Peggy continued by talking about claim analytics. The slide shows a comparison of the claim filing frequency between the past three years and the current fiscal year quarter. For this quarter there was a zero percent change which indicates we are flat in terms of claim filing frequency.

The next slide shows the Number of Claims Incurred per 100 Full Time Employees. The rate has been steady citywide at 11 per fiscal year for a number of years. Last year it went up to 12 but has come back down to 11 for the 2019 estimate. The numbers are higher for Police and Fire due to the nature of their work

Peter asked how that rate compared to other California cities. Peggy replied it was about the same. When she looked at places like Oakland they have about the same rate.

Todd asked if these numbers included the salary continuation pay for the police and fire fighters. Peggy explained that this was just the number of claims filed which does not include disability pay.

The next slide shows a line graph of claims incurred per 100 FTE for the top ten departments and a general citywide number. Included is an estimate of claims for the fourth quarter of Fiscal Year 2019.

The next slide shows the same Claims Incurred Per 100 FTE in table form.

Peggy continued with the Claim Cause Distribution in the second quarter for new claims. This gives you the claim causes for the city with the top five departments separated to allow you to see who has the majority of those claims. The slides in Appendix 1 show how these larger groupings were achieved.

The next slide shows open claim stratification for claims which are projected to incur costs of \$100,000 dollars or more. The graph is color coded to show the top five departments and then all other departments. This shows that the Police Department does have the highest dollar amount for claims but there have been several catastrophic claims.

The next slide gives the same information in a pie chart format.

Peggy continued with Litigation Statistics. Citywide 43% of our claims become litigated at some point. This does not mean we are going to trial on all of these, but that there has been an application filed with the Workers' Compensation Appeals Board.

Micki asked about the high percentage of litigation with in the Water Pollution Control department. She said that this was probably not appropriate for a "carve-out" program but she was wondering if there could be a deeper dive as to why these numbers are so high and did Peggy have an idea as the reason behind these numbers. Peggy responded that she was not sure of the reason, but it could be looked into and reported upon.

For expenditure trends, the report shows a projected significant deficit for the Police Department due to the catastrophic claims. We have been working with the department letting them know that this was occurring due to ongoing catastrophic claims. We are also projecting a deficit for the Fire Department, which is unusual as the Fire Department has not had a deficit for the last few years. Both Human Services and the San Francisco Airport are projected to have a small deficit. Citywide, we are projecting a deficit of approximately \$292 thousand, which is not significant when you look at the total budget, but something will have to be done with the Fire and Police Department.

Todd asked if the good budget news at places like Recreation and Parks, Public Works and Juvenile Probation could be replicated in other departments. Peggy responded that Recreation and Parks has rolled out in a big way the Nurse Triage Hotline. They were one of the first departments to use the Hotline so the reduction in costs cannot be directly tied to that program but that is one thing which can be seen. The other change which has occurred is that the administration of the Recreation and Parks claims has been brought back in house from the third party administrator but it is too early to tell if that has made a difference or not.

Micki asked if there were any thoughts about Juvenile Probation's cost decrease. Peggy responded that we had worked on an early return to work program. Also, Juvenile Probation had hired an industrial hygienist. We will continue to look into what changes have been made to reduce costs and how they might be used in other departments.

The next slide shows where the money is being spent by category. Included are the fiscal year 2018 actuals, fiscal year 2019 actuals through the second quarter, and the estimated actuals through the end of the year. It is estimated that temporary disability will be slightly lower but permanent disability will be up by 10.8%. The two conclusions from this are that in 2013 the law changed to increase permanent disability benefits by 40%. Now that claims from that time frame are being settled out, the same

permanent disability rating is now 40% more costly for dates of injury on or after 1/1/2013. The other conclusion is that our closing ratio is higher and when you close claims more quickly and use more compromise and release settlements so that claimants cannot come back for new and further, the permanent disability amounts will go up. The biggest increase of 12.7% was in medical which can be tied to the catastrophic claims which have occurred.

Todd asked if the increase could be all due to the rate. Peggy responded that it was a combination of the rate change and the increase in the number of claims settled.

Todd asked for clarification on the 40% increase in permanent disability benefits. Peggy responded that for claims with a date of injury on or after 1/1/2013, for the same permanent disability rating, the claimant would receive 40% in benefits compared to someone injured before 1/1/2013.

Peggy continues by talking about Medical Costs in Focus. We drilled down more into medical costs. Page 20 shows the number of bills which have been received. This shows that the number hospital bills, both for inpatient and outpatient procedures have greatly increased. The three periods shown are for the first half (1H) of 2017, the second half (2H) of 2017, and the first half (1H) of 2018.

The next slide shows the average allowance per bill which has stabilized at the first half of 2017 levels. There has been a rise in skilled nursing costs.

Micki asked what ASC stands for under Special Facility costs. Peggy responded that it stands for Outpatient Ambulatory Surgery Centers

Continuing, the next slide shows the actual allowance for medical costs.

Peggy continued by talking about our Workers' Compensation Future Liability. She thanked Stanley Ellicott and his team for all of the work they did in compiling financial information and creating the slides. This slide shows the actuarial analyses of our total future liability and what the trends are. The average has been 3.3% year-over-year for the last five years. Peggy had been hoping for a decline in this trend due to the high closing of cases but it did not happen.

The next slide shows the ultimate severity and frequency of claims. The ultimate severity, as defined by the average cost per claim is increasing, whereas the ultimate frequency, defined by claim incidence per one million dollars of payroll is declining.

Peter asked if the last series of bars for cost coincided with the permanent disability rate increase. Peggy responded that the rate increase was a factor in the cost increase shown.

Peter then asked if the rate change was retroactive. Peggy responded that it was not, it only applied to injuries which occurred on or after 1/1/2013 which take a while to develop and settle out which is why we are seeing the increase now.

Micki asked how cumulative trauma claims which crossed that line were handled. Peggy responded that it goes by date of last exposure so filing the claim after 1/1/13 would trigger the increased rate.

Peggy explained that in 2005 the Administrative Director adopted a change to the permanent disability rating schedule which slashed benefits by more than half. This gave employers a big drop in their permanent disability expenditures but also greatly reduced the benefits to the employees. The 2013 rating schedule was designed to correct that decrease in benefits.

Peggy's final slide illustrates the financial pressures which can affect workers' compensation costs. Upward pressures include a growing employee population, and above average incidence of high exposure and catastrophic claims, increased activity to settle and close medium-to-high exposure

claims and growth in the state annual assessment which has increased by 10% annually in recent years. The current assessment was at about \$3.5 million which is an assessment on all employers in California which goes to fund the State Division of Workers' Compensation, CalOsha, the Labor Commissioner's Office and anything that the Department of Industrial Relations thinks that they need to do and employers pay 100% of their budget. The only piece of good news is that we got a notice from the state saying that they overcharged us by \$274 thousand dollars and we will be getting a refund. Downward pressures include the alternative dispute resolution program which should lower claim and litigation costs, an expanded fast-track, formulary and other pre-authorization programs which deliver benefits faster and with lower utilization review costs, negotiated savings in document retrieval services contracts, and banking modernization which will lower banking fees.

Micki asked if the two departments which are going to be participating in the alternative dispute resolution program as of July, 2019 going to have their budgets reduced at all to reflect the anticipated savings. Peggy responded not at this time due to the fact we are currently dealing with deficits in those departments and there will be existing claims which will continue to drive costs. If existing claims get moved into the program is up to the employee. Moving existing claims into the program depends on a number of factors. We are hoping to move a number of claims but we don't have a lot of control over that.

Micki asked is we will be notifying people of their ability to opt-in. Peggy responded that we would be doing so. She also let the council know that in the January and February Police Association Journal, which is available on-line, there where full page articles regarding the program.

Todd asked if Peggy could address how the alternative dispute resolution program integrates with Labor Code 4850 and does it matter at all and how much. Peggy responded that the overlap would be reducing costs only to the extent that we will be handling claims faster and getting people back to work faster. This is where many of the savings occur.

Micki asked that Peggy describe Labor Code 4850 in a sentence. Peggy responded at safety officers in certain categories receive full pay for up to a year. This also applies to what is called disability pay for police and fire employees as they do not fall under Labor Code 4850 because of San Francisco's Charter which gives them the same benefits.

Todd had a comment about the Updates slide (page 6) and the ergonomics training with the Department of Public Health. The Department of Public Health is one of the largest users of the ELM - SF Learning platform with over 42,000 completions and they just enrolled approximately 5,000 contractors for UCSF. Will those contractors as well as the Department of Public Health employees be going through this training as well as all city departmental employees? Peggy responded that Workforce Development will be putting up the ELM program. We currently do not have any plans to make it available to contractors but it will be available to all city employees. Todd asked if they would be using the SF Learning platform. Peggy responded that she did believe so. Once the program is approved, it will be available to everyone. Todd responded that if they needed any help making employees aware of its availability, to please let him know, as this is the first program which will be citywide. Peggy gave kudos to all the people who worked on this program including the Department of Public Health, Workforce Development, Carlos Torrez from Workers' Compensation, and the department Safety Directors, who vetted the slides.

Micki commented that this should become part of on-boarding for new employees and should look at it every year or two to ensure they are staying safe.

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.

For Claim Volumes they are roughly flat with last year. There has been an increase in indemnity claims and a decrease in medical only claims. Medical only claims do tend to cost less than indemnity claims. There are a couple of factors which are contributing to this trend which they are continuing to work on but the overall claims frequency is almost the same as last year.

The next slide shows the re-opened claim, closed claims, and the closing ratio which is an important performance metric for the program. Currently, they are slightly below their goal of 100% for claim closing ratios. They are at 93% but will be working with Intercare to get that number back up to at least 100% if not better. The closing rate impacts the claims pending which is at 1,653 total open claims where last year ended at 1,615 claims.

Dan continues with a lag time report which has moved up slightly. This number continues to be inflated by cumulative trauma filings and a few outliers which continue to push up the number. The overall lag time they are focusing on is 22 days which needs to be a lot less. A reduced lag time is one of the benefits of the Claim Reporting Hotline. If that call is made at the time of injury that reduces the lag time to zero because when the injury is reported to the hotline it is entered into iVos at that point in time. Currently, absent the outliers they are at 14 to 15 days. The lag time can take medical only claims and turn them into indemnity claims when the employee is released to modified duty which cannot be accommodated if the claim is not report timely.

Micki asked if they were working with the Cable Car and Rail Systems and Parking Authority division supervisors to drill down into why there is such a high lag time for reporting. Dan answered that they do conduct on-going training but these lag times are more due to later administrative filings by the claimants or their representatives as opposed to the supervisors not meeting the reporting expectations.

Micki asked if it was a common for someone to not report something at the time of the injury, but they do report it later. Dan responded that he believed the most common scenario is an injured worker has a specific acute injury. Then, after some period of time, the employee decides to retain an attorney. The attorney, to protect their client's interests, will file a subsequent cumulative trauma claim.

Dan continues by reporting on Financials. Temporary disability is increasing by almost 8%. He feels like the driver for this is the shift back to more indemnity claims from medical only claims. When they are able to improve move the trend back to more medical claims they should see the temporary disability costs go down. Permanent disability has decreased by just over 27%. The driver here was there where fewer large claim settlements in the past seven months than where settled last year where they had several high exposure claims settle. So overall, due to the decrease permanent disability, total indemnity costs are down by 6.48%. There is still a small vocational rehabilitation cost which was reduced by \$7,815. And for medical, similar to the rest of the city, they are seeing a significant increase of 34.67% with the majority of that due to hospitalization charges. There has been some significant injuries requiring hospitalization and subsequent after care. Expenses have increased 42.25% but the

recoveries have increased by 463.33%. Thus for the program overall, there has been an increase of 4.96% or \$663,648.

Reporting on Stratification by Severity, the chart demonstrates the number of high exposure claims showing paid plus reserve numbers. They have 17 high exposure or catastrophic claims which is roughly the same amount as the rest of the city combined.

Peter asked is that number of high exposure claims is a new phenomenon for them or has it been creeping up over time. Dan responded that the number has stayed around 17 for years. They would settle some claims and then incur some new claims. The claims are generally motor vehicle accidents of some type involving operators.

For litigation statistics, they are just over 37% currently which is down from fiscal year 2013-2014 when it was almost 51%, so they are making ongoing progress in driving down litigation.

Micki congratulated Dan on the reduction. She asked if Dan has been able to compare this litigation rate to other transit agencies. Dan said that he has not completed a benchmark study of litigation. He has looked at frequency and severity and other cost drivers. He does know the environment here in San Francisco with it being completely unionized tends to facilitate litigation with union representatives and other employees suggesting the injured worker would do better with an attorney. Dan has found emphasizing the wellness program for all employees, offering wellness services right at the point of injury, and making sure there is good, constant communication between the claim administrators and the employees helps to drive down litigation. And lag time hurts that. The injured worker needs to hear from Intercare right away, find out what the benefits are, find out what they are going to get and direct and managed medical care. All of these things help to make the injured worker feel more comfortable that they will get assistance for their injury without the use of a lawyer.

Dan discusses Cause Analysis by Frequency has been pretty consistent for the most part. Repeated motion and pulling/pushing injuries are up over the last 12 months. Struck by a moving object seems low at 25.

The next slide shows Severity as opposed to Frequency shows that struck by a moving object is still a significant cost driver which ties into the previous discussion about catastrophic claims and drivers being struck by vehicles. Assault claims continue to be the top cost driver. There is a tendency for multi body parts to be included which may be impacted by the benefits of the city charter.

Micki asked if this was for battery pay. Dan responded that was correct.

Dan continued with Cost Analysis, the slide shows the average cost per claim by main cause description. The average total cost per claim is \$35 thousand and the average duration open is 32.73 months.

The injury rate per 100 employees is at 11.32 percent, which seems pretty close to the rest of the city. In November, 2013 they were at 11.73 percent for approximately 5,000 employees. The increase in claims roughly corresponds to the increase in employees which is currently approximately 6,000 employees

Reporting on Claims Denied, Dan states that this reflects their ongoing effort to evaluate the compensability of each claim. Their goal to provide what is due as timely as possible yet continue to dispute what is not due and/or deny it is that is appropriate. So, in April of this year, 15 claims were denied.

Division Statistics show the frequency and severity of claims by division. The Transportation Division continues to be the most significant contributor to claims frequency. This division is many comprised of the operators.

The next slide shows a drilling down of the number of claims for their transportation division which encompasses all of their operators. The larger numbers in places like Potrero Electric Trolley Transportation, Woods Motor Coach Transportation Union, and Flynn Motor Coach Transportation Unit reflect the larger number of employees which work out of those units.

Todd asked the good work for the Nurse Triage Program at Parks and Recreation is something that could be used more at the Municipal Transportation Agency. Dan responded that the injury reporting hotline has been in use at the agency for nearly two years now. The transit division, where the majority of the employees are, has resisted using the injury reporting hotline. Their reasoning for that is that they already have to immediately report all injuries to the command center. And while the command center does several things, the one thing they don't do is report the injury to workers' compensation. So there has been some resistance to adding an additional step to their reporting requirements. Dan has been meeting with the new manager of transportation and the new management and he has agreements that they will be using the injury reporting hotline and they are working on adding that into their procedure. Unfortunately, there is a slight trend down in the usage of the hotline by the other divisions even though they are continually training on the use and benefits of the hotline.

Micki asked if the Injury Reporting Hotline has the same elements as the Nurse Triage Program. Dan answered that it is the same program. The nurse does triage, helps the employee decide if it is a first aid, maybe medical only, or an indemnity, will send them to the right medical care, can answer questions they might have, and give some reassurance. They can even get a physician live on the phone if needed depending on the nature of the injury.

Todd mentioned Golden Gate Transit and their alternative dispute program and asked if the Municipal Transit Authority has considered this type of program. Dan responded that he did talk to Golden Gate Transit about their program which was implemented recently and he has shared that information within the agency. He also talked with Micki and Peggy when they started out their alternative dispute program. Upper management at the agency took a wait and see approach. He is getting copies of documents from the Department of Human Resources to share with his management so as to revisit the topic.

Peggy wanted to add a shout out to Recreation and Parks for their reduction of claim filing frequency by 31% due to their safety efforts.

Also, the ergonomics on-line training was also sponsored by the Health Services System. So it was a collaboration between Health Services System, Department of Human Resources, Workers' Compensation, DHR Workforce Development, the Department of Public Health and all the Safety Directors.

One final comment about the alternative dispute resolution program. It has to be put forward by the unions. We can offer it to the unions but it is their decision as to whether they want to go forward with it or not. They actually have a requirement to go and seek permission from the state administrative director in order to begin negotiations.

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 June 3, 2019

ADJOURNMENT