

CCSF WORKERS' COMPENSATION COUNCIL
MINUTES

June 1, 2020

9:00 a.m.

Meeting Held Virtually via Webex

CALL TO ORDER

9:15 AM

ROLL CALL

Micki Callahan, Human Resources Director	Present
Kelly Kirkpatrick, Acting Budget Director	(Represented by Anna Duning) Present
Naomi Kelly, City Administrator	(Represented by Peter Goldstein) Present
Caryn Bortnick, Deputy Executive Director, San Francisco Employee 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 March 2, 2020.

REPORT FROM THE WORKERS' COMPENSATION DIVISION

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

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

Reported on Accomplishments, Initiatives and Challenges, Covid-19, Performance Quick Facts, Claim Analytics and Financials.

Peggy began by discussing the Accomplishments, Initiatives and Challenges for the Workers' Compensation Department.

The Division of Workers' Compensation has taken a front and center role due to the possibility of the Coronavirus becoming a compensable injury.

Our Division is successfully working remotely except for limited rotation of staff performing critical functions in office. Such functions include incoming mail and fax processing and assigning individual files to begin claim review. She thanked the Claims Assistants and Document Processing Team for taking care of these critical functions.

In March, the Nurse Triage Injury Hotline was expanded to include responses to Covid-19. The Hotline answered questions surrounding isolation requirements for close contacts, as well as injury and illness. The Hotline was also expanded to better serve law enforcement and first responders of Police and Fire. The Hotline provided early insight into Covid-19 injuries and illness and any potential Workers' Compensation claims that were filed. Thank you to Nonie Devens who managed the extension of the Nurse Triage Injury Hotline to accommodate the needs of city employees.

Workers' Compensation staff have been trained on the Governor's Executive Order declaring Workers' Compensation Presumption of Compensability for Covid-19. This Order, issued May 6th, 2020, covers employees who are required to report to work and then are found to test positive for the Coronavirus.

All financial activities are operating as usual. Electronic invoice approval guidelines have been deployed for claim accounts payables. We now use DocuSign for routing contract invoices, agreements, and other critical documents. Some of our paper-based systems have moved to electronic systems to ensure our bills are paid properly while working remotely. Thanks go to Stanley Ellicott and team for implementing this change so quickly.

Our office has also been supporting the development and launch of the CityTestSF Covid-19 testing site at Piers 30-32. Our Finance team accesses results from this site as well as the Soma testing site and confidentially distributes test result data on a daily basis to departments, personnel officers, and claims teams. Since April 8th, we have distributed over 3,500 positive and negative test results totaling 679 reports to departments Citywide. Employees who test positive are notified they may be eligible to file for review of Workers' Compensation benefits.

Micki Callahan said it has been her impression that there have not been many positive test results of city employees from CityTestSF Covid-19 testing. Peggy agreed that this is correct. There will be an upcoming slide with details to support a low number of positive test results.

The Workers' Compensation Division identified a need for additional resources early in the pandemic. On May 11th, 2020, Fiona Wilson, MD joined the Workers' Compensation Division to serve as the Department of Human Resources Health and Safety Liaison. Her position supports citywide clinical and safety programs in response to the Covid-19 pandemic. Welcome, Dr. Wilson!

We have recently finalized a very large contract extension with EK Health. EK Health will continue to provide bill review and utilization review services for the Workers' Compensation Division, as well as San Francisco Municipal Transit Agency.

Peggy then introduced Dr. Fiona Wilson and invited her to discuss her background and say a few words. Dr. Wilson worked for UCSF for about twenty years and most recently served as the Chief Medical Officer for Brown and Toland Physicians. Dr. Wilson shared that this is an exciting time to be helping the City both in the Covid-19 response, and in keeping employees and the public healthy and safe. Dr. Wilson is pleased that San Francisco has aggressively adopted preventative activities leading to a reduction in positive Covid-19 test results. She is proud to be participating with the City of San Francisco during this time.

Peggy explained we are fortunate to have Dr. Wilson's expertise as a liaison to the Department of Public Health. Dr. Wilson will contribute to the development of policy guidelines, including workflows for clinical and safety support. She will also fill the role of department physician for those departments who do not have a physician for employees who may test positive for Coronavirus.

Micki welcomed Dr. Wilson. She commented that Dr. Wilson ultimately can help with health and safety items that are not Covid-related.

Peggy continued by discussing Initiatives. The first of which is to sustain operations during Shelter-In-Place to include long-term telecommuting for the Workers' Compensation Division.

A major technology initiative is the upgrade of our claims system, iVOS Claims Enterprise. This upgrade will be a focus throughout the balance of this year. The most current release will provide us with more functionality. New modules allow for enhanced reporting for Medicare and electronic payments to medical providers.

A Request For Qualifications (RFQ) to extend our contracts for Special Investigation Services has been produced.

The Alternative Dispute Resolution Program also known as "Carve-Out" for Police and Fire personnel, in partnership with the Labor Unions, is running smoothly. Julian Robinson will share more information later in the discussion.

We continue to identify efficiencies and program cost reductions to improve the budget.

Workers' Compensation continues to contribute to the development of HR policy guidance, including creating workflows for clinical and safety support.

We launched a Telehealth Initiative as a response to access problems with our Occupational Healthcare Clinics during Shelter-In-Place. The Telehealth Project identifies optional access to medical care for employees who have new or existing Workers' Compensation injuries.

Peggy introduced Nonie Devens, Workers' Compensation's Occupational Health Nurse, to further discuss the Telehealth Initiative.

Nonie explained that regulations regarding the providing of telehealth, which come from the Center of Medicare and Medicaid Services, have been relaxed during this pandemic. Providers are now encouraged to contact their patients and provide consultation, diagnosis, and treatment through audio or video platforms.

Very early on, Workers' Compensation identified 40 physical therapy providers who could provide remote services. Our telehealth list provides a resource of providers to nurse case managers, adjusters, and our five Occupational Health Clinics.

The Telehealth Initiative will survey and identify doctors on the Medical Provider Network who are providing telehealth. We will then work to recruit and educate additional providers regarding the changes in Telehealth guidelines. Expanding the Medical Provider Network is an ongoing project to broaden patient access. Telehealth will continue to benefit those who may live outside of San Francisco, or may not have transportation to visit a clinic, even once restrictions for Shelter-In-Place are lifted.

Nonie shared that we are also developing an FAQ document for claims adjusters and providers, so colleagues receive the most current guidelines from the Center of Medicare and the Division of Workers' Compensation.

Micki and Peggy thanked Nonie Devens for her presentation on this important initiative which will take on a much more significant role for medical care going forward. Peggy added that Dr. Wilson is credentialed to provide Telehealth services in twenty states and, along with Nonie, will serve as an expert in moving the Telehealth project forward.

Moving on to Challenges, Peggy mentioned that medical facility access had been disrupted by Covid-19. The Division of Workers' Compensation responded by expanding access to telehealth.

Peggy reported that she expects the State to adopt regulations in 2020 governing the State Medical-Legal Fee Schedule which will significantly increase costs. This will further stress our expenditure budget, resulting in at least a 30% increase in Medical Legal Fees. We are looking at what we can do to resolve claims expenditures without going through the Medical Legal process, while maintaining quality care.

The Office of Self Insurance Plans received approval for adoption of significantly expanded Public Self Insurer Annual Report requirements, including provision of new claim and financial solvency information, effective 7/1/2020. We are required to send in our data by October 1st.

Peggy continued with a Covid-19 Report which explains further Governor Newsom's Executive Order N-62-20. This order creates a rebuttable presumption that Covid-19 is related to work under qualifying criteria. To be eligible for coverage under the order, employee must:

- Be directed to report to a worksite that is not in the employee's home on or after the 3/19/2020 Shelter-In-Place order.
- Test positive or be diagnosed with Covid-19 within 14 days of reporting to work at the employer's direction.
- If first diagnosed by a physician, employee must test positive within 30 days of diagnosis.
- Exhaust paid sick leave benefits specifically available for Covid-19 before temporary disability benefits or salary continuation benefits apply. This is different from what we have seen before. We are working with the different departments to make sure qualified law enforcement officers receive Temporary Disability and/or Labor Code 4850 benefits if they should run out of Covid-19 sick leave and are still unable to return to work.
- This presumption applies unless rebutted by information (i.e., employee was not directed to be at work).
- We have a reduced timeframe for acceptance or denial of the claim. The previous time frame was up to 90 days, and it has been reduced to 30 days for these claims.
- This order extends only for 60 days from enactment and will sunset in July. We will be keeping an eye on whether it is going to be extended, or if legislation will replace the Executive Order.

Peggy continued with Covid-19 Claim Statistics. The bulk of the claims were filed in March, primarily with Police, Sheriff, SFMTA, and Department of Public Health. There were a few claims from the Human Services Agency, and only two claims from the Fire Department in March. Most were exposure claims, where individuals were quarantined and wanted to make note of the exposure. We saw fewer claims in April and saw a dramatic drop to total claims in May.

Regarding expenditures, early data suggests moderate cost impact. We are happy that, to date, total expenses are minimal.

There are eight accepted and 40 denied claims to date. The denied claims were mainly due to no positive Covid 19 test results.

Micki clarified: Individuals who had a claim denied, who had close contact exposure, are not going on unpaid leave. They may use available leave including Covid-19 sick leave, City provided sick leave, and Paid Administrative Leave. Peggy confirmed this is correct.

Peggy continued by discussing the Workers Compensation Insurance Rating Bureau (WCIRB) assessment of the pandemic. The WCIRB issued a research brief on 5/28/20 estimating injury rates and cost for the state based on the Governor's Order which has a duration of only four months.

Peggy summarized Quick Facts and Fiscal Health.

For third quarter performance, we are only at 93.4% of our budget. You will see we are projecting a surplus.

Our claim volume is a bit higher than benchmark for indemnity claims, which will be addressed shortly. Included is the average claim cost comparison of CCSF to SFMTA. Our average duration of days to close a claim shows us below our four-year benchmark.

Next, Claims Manager Julian Robinson discussed Claim Analytics. We had an increase of 11% in indemnity claims citywide in the last quarter. Police had 15 Covid-19 claims in March. Medical claims increased in the District Attorney's Office, as well as Water Pollution Control, part of the Public Utilities Commission.

Citywide, the rate of Claims Incurred per 100 FTE has dropped down to 10 this quarter. Fewer people in the office has resulted in fewer claims. Police and Sheriff rates have decreased, while Fire and Public Health rates have held steady. The fourth quarter will show how the pandemic may affect filings.

The next slide shows the same information in a graph format.

Julian continued with Claim Cost Distribution by Frequency. The top cause group remains to be Bodily Motion, followed by Exposures, such as hazardous materials, possibly cancer, and exposure of blood borne pathogens. Covid-19 is a separate category and does not fall into Exposures, nor is it currently in one of the top ten cause groups.

The next slide shows open claim stratification for claims which are projected to incur costs of \$100,000 or more. The graph is color coded to show the top five departments and then all other departments. Police and Fire have a majority of claim cost due to presumptions entitled by law.

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

Julian continued with Litigation Statistics. Currently, about 43% of claims are represented by council. Whereas, 35% of claims are litigated. *Represented claims* are those who are managed by an attorney but may or may not have filed an application with the Workers' Compensation Appeals Court. Litigated claims have filed an application with the court and are proceeding towards hearing or trial. Litigated claims may or may not be represented by an attorney.

Next, we see the average total cost of litigated versus non-litigated claims. Police, Sheriff and Fire claims tend to be higher than the citywide average over time.

Julian continues with the Alternative Dispute Resolution litigation statistics. Non-litigated claim costs are substantially lower than represented claims. Our Alternative Dispute Resolution (ADR) Program focuses on trying to get the numbers down.

Micki advised that litigation may not be the only reason a claim is more expensive. She explained that people who have what they think is a larger claim would be more likely to retain counsel. Julian agreed this happens more often when the claim is serious or challenging to self-manage.

Looking at ADR Statistics, Police have historically had about 47% in represented claims, but in the ADR program the represented number is down to 24%. Fire claims have historically had about 46% but so far only 25% of Fire claims are represented in the ADR program. The litigated numbers are far lower, and we have currently had no mediations or arbitrations.

Julian continues with the ADR updates. We have had 18 Opt-Ins through the third quarter of 2020. These claims are still represented by counsel but see the benefit of going through the Alternative Dispute Resolution Program. We anticipate significant savings for police and fire, and the slide shows a significant surplus, partially due to the Carve-Out. We continue to have frequent Joint Committee Meetings, moving from monthly to every other week during the pandemic in order to troubleshoot issues relating to Covid-19 in real time. These meetings continue to strengthen our partnership with the Labor Unions.

Micki congratulated Julian on the progress of the ADR, stating she is excited to see this progress so far.

Stanley Ellicott, the WC Finance Manager, presented the information on the Division's financial status and advised we are expecting some very healthy savings for the end of this fiscal year against our current revised budget.

For Department Expenditure Trends, our ten-month actual statistics show a decline in claim filing as well as expenditure activity, particularly in April and May. This will likely benefit the general fund as well as non-general fund departments. For the current year, we are projecting a \$2.4 million-dollar surplus for Police, and nearly a \$1 million-dollar surplus for Fire. The ADR is likely having a big impact on these claims. Budget carried over from Fiscal Year 2019 also increased available resources for both departments.

The Department of Public Health has a modest deficit of about \$350,000. The Sheriff Department had a deficit of about \$500,000 which has improved significantly since earlier projections.

We are seeing a cost increase in expenditures by transaction type. We are seeing a slight increase across the board for Temporary Disability. Like other trends, we are seeing a decline here in month 11. There seems to be a behavioral change in claim filing of temporary disability benefits. Permanent disability is declining quite significantly prior to Fiscal 2019 results. Notably our medical expense also has declined, partially due to lack of available access to services due to Shelter-In-Place. Overall, we are projecting \$54.15 million in benefit expenditures for the year.

Peggy reiterated her appreciation for Stanley Ellicott, Julian Robinson, and the ADR Program. The Joint Labor Management Committee has been an opportunity to get serious concerns regarding Covid-19 exposures under control and addressed in a real-time, ongoing manner.

Peggy concluded her presentation by talking about cost saving strategies. We continue to monitor and identify cost-saving strategies while preserving access to high-quality care and benefits. The cost saving initiatives that are already in place include the ADR Program; ACH Payment Program; Medical Bill and Utilization Review Program; Pharmacy Benefit Cost Reduction program; and State Formulary for Prescription Drugs.

Effective June 1, 2020, Optum Pharmacy Network will reduce costs resulting in approximately 16% estimated savings, or \$286,609 annually.

We are also considering expansion of Fast Track pre-approval program of medical care with trusted providers to reduce utilization review costs.

Dr. Wilson will be helping develop standardized guidance on long-term care agreements and medical services for which no official medical fee schedule applies.

We plan to re-examine service contracts to identify potential savings or elimination of important, yet non-essential services.

Public Comment: None

REPORT FROM THE SFMTA WORKERS' COMPENSATION DIVISION

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

Speaker: Dan Roach, Municipal Transportation Agency

Dan began his presentation by reporting on claim volumes.

Claim Volumes are roughly flat with last year. We expect a drop in claim volume due to employees working remotely. This is shown by the dip in April. We expect to see this trend remain as we move forward.

Dan continued by reporting on Financials. Temporary disability increased about 37%. Permanent disability increased by just over 20%. This is due to an increase of assault claims. While there were no catastrophic claims, the increase of assault claims drives disability claims. Also, the city charter provides up to one year of salary continuation, which is an incentive for workers to stay out of work for as long as possible. Finally, as a priority of the program, there has been an increase settling claims. A consequence of clearing out these settlements, such as for EDD liens, is increased number of disability payouts.

Total indemnity costs are up by 32%. Medical costs increased by 2.4% within reasonable variation. Expenses decreased by 12.7%, while recoveries decreased by 58%.

Dan discussed Cause Analysis by Frequency which has been consistent for the most part. Battery claims were the number one cause of injury. The agency continues to work on mitigating assault claims.

The injury rate per 100 employees is at 11.21%, which seems close to the rest of the city. This is trending down slightly from 11.7%.

Covid-19 claim quantity has been better than expected, due to proactive steps taken by city. Two claims have come in, which is much fewer than expected.

Claim cost management: Regarding Covid 19 issues, most employees are not seeking active medical treatment, only telehealth treatment, resulting in stagnant claim levels.

Dan said the Division is continuing to move claims to their resolution.

Regarding the Wellness program, there was overlap between SFMTA Workers' Compensation and HR Wellness, in order to prevent injuries and to improve recovery. However due to revenue interruption, a decision had been made to terminate the SFMTA wellness contract. Unfortunately, it is no longer in operation after over 10 years.

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

ADJOURNMENT:

10:26 a.m.

NEXT REGULAR MEETING: Meeting date is September 14, 2020 at 9:00 a.m.