

BWC Board of Directors
Audit Committee
Thurs., Feb. 28, 2008, 4:00 P.M.

William Green Building
The Neil Schultz Conference Center
30 West Sprint Street, 2nd Floor (Mezzanine)
Columbus, OH 43215

Members Present: Kenneth Haffey, Chair
Philip Fulton
William Lhota

Members Absent: None

Other Board Directors in attendance were Robert Smith, Alison Falls and Larry Price.

Call to order

Mr. Haffey called the meeting to order at 4:07 PM and the roll call was taken.

Minutes of Jan 24, 2008

The minutes were approved on a motion by Mr. Haffey, seconded by Mr. Fulton with two amendments to subpart 2(b), paragraph 3 suggested by Mr. Fulton. The words “and attorneys” to be inserted after “medical professionals”, and an amendment from “Mr. Sico clarified” to “Mr. Sico stated”.

New business / Action items

1. Rule Review

Tom Sico, Assistant Legal Counsel, presented changes to eight rules in Chapter 4123-17 resulting from the passage of House Bill 100. The rules are amended to change references from the “Workers’ Compensation Oversight Commission” to the “Bureau of Workers’ Compensation Board of Directors”. Additionally, Rule 4123-17-03(F)(3) is stricken, Rule 4123-17-40 reference to paragraph (M) is replaced by paragraph (L), and correct misspelling of “advice” in two rules. These changes do not require JCARR or public hearing. Mr. Lhota moved to recommend approval of the proposed changes to the Board of Directors, seconded by Mr. Fulton. The motion was approved by unanimous roll call vote.

Discussion items

1. BWC Surplus Fund

In response to discussion at the January meeting with respect to a management letter comment from Auditor Schneider Downs, Tracy Valentino, Chief Fiscal and Planning Officer, presented an

Executive Summary concerning the Surplus Fund. ORC §4123.34(B) established the Surplus Fund in 1913. In 1980, the Attorney General opined that the Surplus Fund is not a separate and distinct fund, but is a statutorily defined account within the State Insurance Fund. There must therefore be a separate accounting for Surplus Fund credits and charges.

ORC §4123.34(B) provides as follows:

“Ten per cent of the money paid into the state insurance fund shall be set aside for the creation of a surplus until the surplus amounts to the sum of one hundred thousand dollars, after which time, whenever necessary in the judgment of the administrator to guarantee a solvent state insurance fund, a sum not exceeding five per cent of all the money paid into the state insurance fund shall be credited to the surplus fund. A revision of basic rates shall be made annually on the first day of July.”

Ms. Valentino explained that historically, BWC has interpreted “money paid into” the State Insurance Fund as premiums only. Pursuant to an inquiry from Mr. Price, Ms. Valentino stated that the annual July revision of rates referenced in 4123.34(B) is incorporated into the rate-making process. Charges to the Surplus Fund are defined by other sections of the Revised Code, such as handicap reimbursement and bankrupt employer claims. These are not charged to individual employer experience, but spread over all employers in the applicable manual class. While the funding mechanism created by 4123.34(B) is limited, the charges to the Surplus Fund are constantly changing and far exceed the statutory set-aside.

Mr. Fulton noted on several occasions that ORC §4123.34(B) is subject to multiple interpretations because the terms therein are not defined, and therefore disagreed with the various assumptions put forth by Ms. Valentino. Chief Legal Counsel James Barnes opined that the statute must be given plain meaning, that BWC is in compliance with the statute, and that any corrections must be instituted by the legislature. Counsel for the Board, Assistant Attorney General, John Williams agreed with Mr. Barnes’ opinion.

Discussion was had concerning an action plan for dealing with this issue. Ms. Valentino stated that an attempt in the last budget bill to provide statutory clarification was not accepted by the legislature. She also emphasized that the State Insurance Fund is not at risk and numerous options are being reviewed. Both BWC Legal and the Attorney General’s Office will assist in determining any appropriate statutory changes or clarification.

Administrator Ryan stated any proposed changes would more likely be brought in conjunction with the next budget bill rather than as a stand-alone proposal. Mr. Haffey closed by noting that Schneider Downs has said this item is “not a deal-breaker” and understands BWC is moving forward with its review.

2. FY 08 2nd Quarter Executive Summary

Joe Bell, Chief Internal Auditor, reviewed three subject areas of the summary: FY 08 2nd Quarter Comments issued, Outstanding Comments and updates to the Annual Audit Plan.

New areas of review/comment from FY 08 2nd Quarter initially focused on the Manager Selection and Funding Process. The objectives of the audit were met, controls were reasonable designed and placed in operation, and three minor recommendations were noted.

An audit of an MCO identified eight comments with the identification of a material weakness related to financial difficulties. Mr. Bell emphasized no degradation in service was found, but ongoing monitoring by BWC management is necessary.

An audit of Permanent Total disability (PTD) claims produced 11 comments, all of which were rated as significant. As this report is very recent, significant issues are ongoing and being addressed with management. These include policy/training/supporting documentation, IT fixes, and completion of a previous PTD clean up project. In response to a question from Mr. Fulton, Tina Kielmeyer, Chief of Customer Services, explained that the PTD cleanup took place from 2002 to 2005 and involved claims with PTD awards prior to 2002. Ms. Kielmeyer explained that in 1996 BWC began converting PTD payments to the V3 claim payment system and that prior to 1999 PTD rates were established by the Industrial Commission. At the time of system conversion BWC detected errors in some PTD rate calculations that had previously gone undetected. Hence BWC initiated the PTD cleanup project. BWC has already reviewed 29,000 claims and adjusted approximately 2000. Mr. Fulton asked how many and what types of claims were left to review and Ms. Kielmeyer stated that there are approximately 4,000 split PTD and active self insured claims remaining. Ms. Kielmeyer also stated that the Administrator has asked for a quality assurance review of previously reviewed claims from the cleanup. Mr. Fulton also asked how BWC will handle any resulting overpayments from this review of PTD claims, noting the financial difficulty that a PTD recipient would have in repaying an overpayment. Mr. Lhota recognized this concern, but pointed out that BWC will have to take into consideration its fiduciary obligation to the State Insurance Fund as it develops its course of action. Ms. Ryan noted that all these considerations will be factored in as BWC completes this project.

An audit of the Employer Payroll Reporting Process Audit found that objectives of the audit were met, controls are reasonably designed and placed in operation, and three minor recommendations were noted

Mr. Bell then reviewed outstanding comments, noting that 2003-2005 comments reflecting management's progress that decreased from 34 to 6 comments outstanding. Of the total 115 comments outstanding, 13% of outstanding comments are long-term (9 months or longer until implementation), but may have an actuarial or IT component which contributes to longevity. Mr. Bell also inquired of the Committee for feedback on what information is useful to the Board. Mr. Haffey and Mr. Lhota responded positively regarding both the level and quality of internal audit information, and its presentation. Mr. Bell noted the internal audit plan for FY 09 will be looked at in the next 6 weeks, and Audit Committee input is desired. Some internal audit process changes are being put on hold until the State of Ohio's outside review of internal audit is completed.

3. Office of Budget and Management, Internal Audit Update

Mr. Bell reviewed a handout regarding the “Office of Internal Auditing Transformation Project.” The State of Ohio Audit Committee is anticipated to be named in mid-March, with the future goal of presenting a statewide internal audit framework to the Controlling Board for approval. Auditors from Deloitte Consulting will meet with BWC management on March 12.

Mr. Bell also reviewed a handout from the Institute of Internal Auditors regarding “The Role of Auditing in Public Sector Governance.” This is a global document which points out some “best practices” for government audit activities and audit committees. Mr. Haffey noted that Mr. Bell was a Principal Author of this report.

4. Other Business

Mr. Haffey moved for recess to executive session, seconded by Mr. Lhota. The motion was approved by unanimous roll call vote. The Committee recessed to executive session at 5:40 for presentation of the Litigation Update by Mr. Barnes.

At 6:05, Mr. Haffey moved to conclude the executive session, seconded by Mr. Lhota. The motion was approved by unanimous roll call vote.

Adjournment

The next Audit Committee meeting is March 27, 2008 at 4:00 PM, to be held at OCOSH.

Mr. Haffey moved to adjourn the meeting at 6:05 PM, seconded by Mr. Lhota.

Prepared by Jill Whitworth, BWC Staff Counsel
March 3, 2008