

BWC Board of Directors
Audit Committee
Thursday, August 28, 2008 4:00 P.M.
William Green Building
Neil Schultz Conference Center
30 W Spring St, 2nd Floor (Mezzanine)
Columbus, OH 43215

Members Present: Kenneth Haffey, Chair
William Lhota
James Harris
James Matesich (arrived at 4:10)
Robert Smith

Members Absent: None

Other Directors Present: James Hummel, Thomas Pitts, David Caldwell, Alison Falls
and Charles Bryan

CALL TO ORDER

Mr. Haffey called the meeting to order at 4:05 PM and the roll call was taken.

MINUTES OF JULY 24, 2008

The minutes were approved without further changes by unanimous roll call vote on a motion by Mr. Lhota, seconded by Mr. Smith.

NEW BUSINESS / ACTION ITEMS

1. Proposed Rules 4123-3: Claims Procedure

Tom Sico, Assistant General Counsel, and Kim Robinson, Director of Claims Policy, presented proposed changes to the claims procedures rules, Section 4123-3. Mr. Sico reviewed the changes, amendments and rescissions. Specifically, 13 rules were unchanged, 13 rules were amended to conform to current policy, and 3 rules were rescinded. The rules are not up for approval this month, as BWC has asked the Ohio State Bar Association and Ohio Association for Justice for feedback. Mr. Haffey requested that the Board be given as much notice as possible of any further changes to the rules.

Mr. Harris led an extensive review of specific rule provisions. Substantive changes were addressed as follows by Mr. Sico and Ms. Robinson:

Rule 4123-3-09(B)(2). The provision for scheduling hearings no later than 45 days from appeal conforms to an Industrial Commission rule. Mr. Sico will address the timeliness of hearings with the IC.

Rule 4123-3-09(C)(5)(ii) (rescinded). Mr. Sico clarified this was an older process which was changed by statute. BWC no longer issues tentative orders with respect to injured worker examinations requested by the employer. If there is a conflict between statute and rule, the statute controls. Mr. Pitts recommended there be some process for an injured worker to object to an employer exam.

Rule 4123-3-09(F)(3). Neither BWC nor the IC utilizes sworn statements, so evidence need not be presented under oath.

Rule 4123-3-16. A motion cannot be a substitute for an untimely appeal. Format, such as a handwritten document, would not be a bar to a timely-filed appeal.

Rule 4123-3-18(A)(10). Per statute, this provides that compensation payment shall commence on the dates the employer receives the order. BWC actually pays compensation more quickly than this date. Mr. Haffey suggested the rule should be revised to cover all applicable payment dates.

Rule 4123-3-25(D). What is “appropriate evidence” for a change of occupation allowance? BWC took this language from the IC rule. Mr. Sico will provide further explanation.

Rule 4123-3-35(A)(1). Handicap reimbursement for arthritis is not supported by evidence of degenerative disc disease, spondylosis, or spondylolisthesis. This is the long-standing opinion of several IC and BWC medical directors. Due to the overwhelming volume of handicap applications, BWC wishes to have a more specific definition to ensure all applications are valid.

Mr. Lhota proposed that all rules be gender-neutral. He also asked why the 3-year time period for injurious exposure to radiation in Rule 4123-3-08(D)(5)(f) was stricken. Mr. Pitts and Mr. Sico explained this was based upon a statutory change.

2. Proposed Rules 4123-1-21: Fire Fighting

Mr. Sico, Don Bentley, Interim Director, Division of Safety & Hygiene, and Mike Ely, Safety Technical Advisor, presented a summary of changes which were provided to the Committee on disc. These 7 rules involve 900 pages of text and were last updated in 2003. The changes are based upon National Fire Protection Association standards and were prepared by a bipartisan committee, including representatives from the Ohio Association of Professional Fire Fighters, Ohio Fire Chiefs Association, and Ohio State Fire Fighters Association. The focus was on addressing safety concerns while

acknowledging the allocation of financial resources. There were 323 rule changes, 178 of which involve personal protective equipment.

Mr. Smith asked if any controversy was engendered by the proposed changes. The biggest issue was cost consideration because of limited resources in smaller volunteer organizations, and care was taken not to inflict a great deal of cost. Mr. Lhota asked how long fire departments have to comply with new rules. Mr. Sico stated BWC chooses an effective date with such considerations in mind. Going through the JCARR rule approval process will also create extra time for compliance.

3. Medical Fee Schedules

Robert Coury, Chief of Medical Services, and Judy Brabb, Medical Policy Supervisor, presented a follow-up review on proposed 2008 provider fee schedules. They will be incorporated in an Appendix to OAC Rule 4123-6-08.

The guiding principle is to “ensure access to high-quality medical care by establishing an appropriate Benefit plan and Terms of service with competitive fee schedule which, in turn, enhances medical provider network.” Mr. Coury and Ms. Brabb again reviewed the methodology, computation process and conversion process based upon the Medicare model for paying Current Procedure Terminology (CPT) codes, which make up 85% of BWC spending in this area. BWC received 253 comments regarding the proposed revisions. After further evaluation, it was determined that the figure of \$50/work unit, as opposed to Medicare’s \$35/work unit, remained valid. This figure is applicable to all service classes except surgery, which remains at \$79.10/work unit. Although there has been no increase in 10 years, nothing indicated an increase was needed for radiology, anesthesia, chiropractic and physical medicine services.

Further discussion was had regarding specific categories of chiropractic care and physical therapy. Mr. Coury noted 93% of chiropractors are certified by BWC to provide care, a much higher percentage than other categories. Although there is a national and state issue regarding attracting qualified physical therapists, BWC has not experienced a lack of access. BWC will continue to closely monitor the situation so it does not become a problem. The schedules will be modified annually to capture changes and prevent loss of patient access.

Mr. Smith moved to recommend approval of the 2008 provider fee schedules to the Board of Directors, seconded by Mr. Lhota. The motion was approved by a 4-1 roll call vote, Mr. Harris dissenting.

4. FY 2010/2011 Biennial Budget

Tracy Valentino, Chief Fiscal and Planning Officer, summarized the biennial FY 2010 / 2011 budget, which runs from July 1, 2009 through June 30, 2011. The proposed \$328M figure is consistent with current appropriation authority from the General Assembly, while providing flexibility for future projects. Ms. Valentino noted that \$295M is for “must-have” items such as payroll. The figures also incorporate proposed legislative changes.

Mr. Smith commented that the figures seemed very conservative, while Mr. Haffey added that as Committee Chair, he was very comfortable with the budget figures.

Mr. Smith moved to recommend approval of the proposed final FY 2010/2011 budget to the Board of Directors, seconded by Mr. Harris. The motion was approved by unanimous roll call vote.

DISCUSSION ITEMS

All agenda discussion items, including the FY 08 4th Quarter Executive Summary, were moved to the September meeting due to time constraints.

ADJOURNMENT

The next Audit Committee meeting is September 25, 2008 at 4:00 PM.

Mr. Smith moved to adjourn the meeting at 6:12 PM, seconded by Mr. Harris.