

BWC Board of Directors

Friday, September 26, 2008, 8:00 a.m.
William Green Building
Neil Schultz Conference Center
30 West Spring Street, 2nd Floor (Mezzanine)
Columbus, Ohio 43215

Members Present: William Lhota, Chairman
Charles Bryan,
David Caldwell
Alison Falls,
Kenneth Haffey
James Harris
James Hummel
Thomas Pitts
Larry Price
Robert Smith

Members Absent: Jim Matesich

CALL TO ORDER

Mr. Lhota called the meeting to order at 8 a.m.

ROLL CALL

Roll call was taken by the scribe. All members were present except for Mr. Matesich.

AUGUST 28, 2008, AUGUST 29, 2008 MEETING MINUTES

Motion was made by James Harris, seconded by Charles Bryan, to approve the minutes, with changes as follows: on page two of the August 28 minutes in the reconvening section, to read: "following a roll call vote, all members were present including Mr. Caldwell." With regard to the August 29 minutes, to read: upon motion by Mr. Price, seconded by Caldwell, the resolution regarding Mr. Philip Fulton was approved 11-0. Further, with regard to motions and amendments concerning Rule 4123-6-08 the minutes should read: "following discussion, all movers and seconders agreed to withdraw all motions and amendments." Roll call was taken and the motion to approve the minutes passed 10-0.

The meeting agenda was reviewed. It was determined that there was no need for executive session. The Directors agreed that the chairman would be permitted to recess the meeting as needed.

COMMITTEE REPORTS:

ACTUARIAL COMMITTEE

Charles Bryan presented three motions from the Actuarial Committee. The first addressed the statutory requirement that the Board submit an actuarial study to the legislature on proposed legislation that would have a “measurable financial impact on the workers’ compensation system”. At the time BWC is notified of pending legislation, the BWC will convene a committee consisting of the Chief Operation Officer, the Legislative Liaison, the WCC liaison, Legal Counsel and the Chief Actuarial Office to consider the level of analysis and the appropriate response. If this committee determines that a detailed actuarial analysis is necessary, they will engage the consulting actuaries.

Motion was made by Mr. Bryan, seconded by Mr. Hummel as follows: that the Workers’ Compensation Board of Directors should adopt the recommendation of the Actuarial Committee for Actuarial Analysis of legislation as outlined in the memorandum of the Bureau’s Chief Actuarial Officer dated September 15, 2008. Roll call was taken and the motion passed 10-0.

There was a second reading of the reserve analysis by Oliver Wyman, with consideration of assumptions and methods on an ongoing basis.

Motion was made by Mr. Bryan, seconded by Mr. Hummel, as follows: that the Workers’ Compensation Board of Directors should adopt and approve the release of the actuarial reserve audit to the Workers’ Compensation Council and the standing committees of the House of Representatives and the Senate with primary responsibility for Workers’ Compensation legislation. Roll call was taken and the motion passed 10-0.

Motion was made by Mr. Bryan, and seconded by Mr. Hummel as follows: that the Workers’ Compensation Board of Directors should adopt the recommendation of the Actuarial Committee to approve the Bureau’s proposed adjudicating committee policy. Roll call was taken and the motion passed 10-0.

There was a first reading of the public employer rates. A report was made by John Pedrick, Chief Actuarial Officer, concerning staffing. Progress with regard to group rating procedures was also discussed.

AUDIT COMMITTEE

Kenneth Haffey presented the Audit Committee report. The committee discussed audit matters in executive session with external auditor Joe Patrick of Schneider Downs. The audit report will be filed with the State Auditor on September 30, 2008. Comments concerning the executive quarterly summary are being cleared. There was a first reading of an inpatient hospital fee schedule by Bob Coury, Chief of Medical Services and Compliance. There was a second reading of rules pertaining to fire fighting. Motion was made by Mr. Haffey, seconded by Mr. Pitts, as follows: that the Bureau of Workers’ Compensation Board of Directors should approve the Administrator’s recommendations on the five year rule review of seven fire fighting safety rules of chapter 4123:1-21 of the Administrative Code. The motion consents to the Administrator amending the seven fire fighting rules of Chapter 4123:1-21 as presented at the Audit Committee. Roll call was taken and the motion passed 10-0.

Due to a client relationship Mr. Haffey recused himself, and left the board table during a discussion of provider fee schedules. The discussion was led by Mr. Smith. Mr. Haffey

did not participate. Mr. Lhota noted that based upon research, it has been determined that with nine directors present, five votes would be needed to approve motions. Motion was made by Mr. Smith, seconded by Mr. Bryan, as follows: that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend rule 4123-6-08 of the Administrative code, "Bureau Fee Schedule," to adopt the provider fee schedule effective January 1, 2009. The motion consents to the Administrator amending rule 4123-6-08 and enacting appendix A to the rule as presented at the Audit Committee. Motion was made by Mr. Harris, seconded by Mr. Caldwell, to amend the motion as follows: to strike the language "Administrator's recommendation" and instead adopt the "other approach" noted in BWC's recommendations. Roll call was taken on the motion, as amended and passed 9-0.

Marsha Ryan, Bureau Administrator, indicated there was a discussion of approaches for changes in fee schedules. There is more information to be developed, taking into consideration board concern over decreasing fees. The Bureau shall continue to examine performance measures and fee schedules. Larry Price commended Ms. Ryan and the Bureau staff for the excellent materials prepared with respect to conversion factors. Mr. Price was impressed with the fair compromise he believed the materials to represent. Mr. Harris commended the Bureau staff, emphasizing his appreciation for Ms. Ryan's explanation and comments. Mr. Lhota noted that he would have supported the original recommendation, but is now prepared to vote for the motion as amended. Mr. Smith supported the amendment, but would like to see benchmarking. Mr. Pitts stated this sends providers the message that Bureau intends to provide them fair compensation. Roll call was taken on the motion as amended and passed 9-0.

After the vote, Mr. Haffey returned to the board table.

INVESTMENT COMMITTEE

Mr. Smith presented the Investment Committee report. Mr. Smith noted that there was a full discussion of a number of issues that would be reflected in the Investment Committee minutes. Mercer Consulting discussed the practice of setting investment objectives, as well as the importance of diversification and active versus passive management. The BWC portfolio is down 3.7% for the month to date; however, this is good under the current market conditions, and compares favorably with the state pension funds. There have been some realized and unrealized losses with BWC's passive management approach to investment in stocks and bonds.

GOVERNANCE COMMITTEE

Ms. Falls presented the Governance Committee report. Discussion was made of Administrator Ryan's objectives for 2008 and 2009. Discussion was made of the governor's flexible performance agreement and board objectives, including measurable goals and objectives. The Board supports Administrator Ryan in whatever way we can to help her achieve the performance goals. The key principles are restoration of operational excellence. The committee concurs with the 2009 performance objectives. Motion was made by Ms. Falls, seconded by Mr. Price, as follows: that the Workers' Compensation Board of Directors adopt the recommendation of the Governance Committee and approve the new objectives for the Administrator for the evaluation period 2008-2009. Roll call was taken and the motion passed 10-0. Discussion of the calendar was made, as the Board is moving towards the annual review of Committee charters and the Governance Guidelines.

MONTHLY FINANCIAL REPORT:

The enterprise report was presented by Tracy Valentino, Chief of Fiscal and Planning. Ms. Valentino noted in the top half of page three of the Enterprise report, explaining changes to beginning numbers, and the impact of these adjustments. The official audit report release by the Auditor of State should be during November 2008.

Ms. Valentino and Mr. Bryan discussed operating expense adjustments. There was further discussion of all financial statements included in the enterprise reporting package. Ms. Falls inquired as to what money market fund cash is invested in. Ms. Valentino indicated JP Morgan. Mr. Haffey commended Ms. Valentino on the enhanced reporting and highlighting of the most important information contained within the enterprise reporting.

NET ASSET POLICY:

A power point presentation on this topic is incorporated by reference into the minutes. Ms. Ryan introduced Ray Mazzotta, Chief Operating Officer, and John Pedrick, Chief Actuarial Officer, as the presenters on developing a net asset policy. The presentation included information from last month's report from Deloitte, especially the information concerning a funding ratio. It was noted that examples in the presentation were intended to be merely examples, and not representative of actual data, with no particular policy implication. There is no assumption that there is only one answer. The presentation focused on connecting concepts, financial metrics, and the consequences and implications of decisions. Financial soundness and operational soundness was emphasized. Mr. Pedrick discussed leverage ratios, noting small changes in liabilities can lead to large changes in net assets. Ms. Falls inquired about different measures of leverage. Mr. Mazzotta and Mr. Pedrick discussed the different measures at length. Mr. Bryan inquired as to whether or not the Bureau has ever been in a negative net asset position. The answer is yes, according to Mr. Pedrick. In order to eliminate an actuarial deficit, there must be a loading of rates as a deficit reduction factor. Mr. Pitts inquired as to whether external factors were considered. Mr. Pedrick and Mr. Mazzotta noted yes. Discussion was made of the variables involved in the analysis which are unique to the Bureau. Mr. Price inquired as to whether the Bureau was taking on greater risk than its peers. Mr. Mazzotta indicated yes. Mr. Price inquired as to whether the risk levels for investment were taken into consideration with respect to premium stability. Mr. Smith replied that the ongoing evaluation of investment policy considers premium stability. Mr. Pitts emphasized the importance of greater stability in rate making. Mr. Pedrick indicated that this analysis is designed to achieve greater stability in rate making. Ms. Falls and Mr. Pedrick discussed correlating assets and liabilities.

There was discussion of slippage and judicial rulings as it pertained to the net asset analysis. There was further discussion of events that could have a negative impact on the balance sheet. Mr. Pedrick discussed the possibility of catastrophic events and its potential impact on liabilities and reserves. There was continued discussion of Deloitte recommendations with regard to the funding ratio. Ms. Falls inquired as to what confidence factor was utilized for risk model results. Mr. Pedrick stated that a specific confidence factor was not used. Examples utilized a confidence factor range from between ninety five percent and ninety seven and one half percent. Mr. Smith noted that 1.25 funding ratio was good ratio risk assessment. Ms. Falls emphasized the importance of a high level of confidence in assets in order to pay future claims. A robust discussion of risk modeling continued. Mr. Mazzotta noted that the biggest driver of reduced costs is fewer claims. Safety programs can drive down rates. Ms. Falls would

like to see a comparative analysis between the Bureau, the Washington State Fund, and a couple of property & casualty insurers. Discussion was made of the Bureau funding ratio history from 2000 to 2008. Mr. Smith confirmed that this information has been shared with Mercer Consulting. Mr. Pedrick indicated that targeting analysis in the middle area achieves balance in the analysis. Ms. Falls noted that modeling is a tool; the focus needs to be on policy issues. Modeling is needed for an entire set of assumptions and a timeframe. It is important to focus on key assumptions and the timeframe and less on managing the results of the model.

Mr. Lhota recessed the meeting at 9:50 am. The meeting was reconvened at 10:05 am.

ADMINISTRATOR BRIEFING:

Ms. Ryan briefly discussed the windstorm from last week. Some bureau offices experienced temporary power outages and closures but minimum damage. The Bureau internal response, led by Tina Kielmeyer, Chief of Customer Services, to the storm was excellent. Ms. Ryan discussed the success of Workers Compensation University, and thanked Mr. Pitts and Mr. Hummel for their participation and attendance at Workers' Compensation University. Total attendance at the 6 events was five thousand one hundred. The number of sites this year represented a reduced number of locations, and there were increased online course offerings.

Ms. Ryan discussed the regulatory reform forums. The legislative staff had arranged for a meeting with Clark Price of the Ohio Society of CPA's. It was an excellent meeting. There were relatively few comments on workers' compensation during the forums, with the few concerns raised arising out of matters from some time ago. The Ombuds attended the meeting as well. Briefs were filed in the *San Allen* case September 19, 2008, in the Cuyahoga Court of Common Pleas. Personnel changes were briefly discussed: Tom Woodruff is serving as the Interim Director of the Self Insured Department, and the Bureau's new Medical Director, Dr. Robert Balchick, was in attendance at the meeting. Mr. Price requested discussion of the self insured forum. Mr. Price noted that it provided opportunities to address complaints within the system, as well as an opportunity to follow up on concerns raised at the forum with respect to claims and the employer services division of the BWC.

Ms. Ryan highlighted achievements of the Special Investigations Unit. Based upon an allegation of signature forgery, the unit investigated a third party administrator, Burk & Associates with respect to the allegation. The results of the investigation were turned over to the Attorney General's office, where an officer of the firm entered a guilty plea to charges. The unit's pursuit of this form of fraud lends credibility and fairness to the Bureau's process for pursuing all forms of fraud against the system. Ms. Ryan mentioned another case whereby the unit successfully obtained a \$100,000.00 repayment for a provider inappropriately billing the Bureau. The Special Investigations Unit handles a broad spectrum of fraud matters. Mr. Haffey inquired as to the staffing of the unit. Ms. Ryan noted that it has been stable and is a hard working group. Mr. Harris commended Ms. Ryan's report. Mr. Pitts inquired about the new compliance unit. Ms. Ryan noted that its' focus is on the forensic evaluation of compliance prior to actions reaching the level of fraud having been committed. Mr. Pitts noted that the self insured forum was extremely valuable, and appreciate participant comments. Mr. Lhota noted that all forums were available on DVD.

ADJOURNMENT

Upon motion by Mr. Smith, seconded by Mr. Caldwell, the Board adjourned at 10:25 am. Roll call was taken, and the motion passed 10-0.

Prepared by: Thomas Woodruff, Staff Counsel