

BWC Board of Directors

**GOVERNANCE COMMITTEE**

**Thursday, February 19, 2009, 8:30 A.M.**

**William Green Building**

30 West Spring Street, 2nd Floor (Mezzanine)

Columbus, OH 43215

Members Present: Alison Falls, Chair  
Larry Price, Vice Chair  
James Hummel  
Bill Lhota  
Thomas Pitts

Member Absent: None

Other Directors Present: Ken Haffey, James Harris, James Matesich, and Robert Smith

Counsel Present: John Williams, Assistant Attorney General

**CALL TO ORDER**

Ms. Falls called the meeting to order at 8:30 a. m. and the roll call was taken.

**MINUTES OF JANUARY 22, 2009**

Mr. Harris requested that his comments on page 5 be corrected from “provide for a safety award” to “provide for an additional award.” Mr. Hummel asked that his remarks be corrected to show that “his companies must adhere to OSHA regulations.”

Mr. Price moved that the minutes of January 22, 2009, be approved as corrected. Mr. Lhota seconded and the corrected minutes were approved by a unanimous roll call vote.

## **AGENDA**

Ms. Falls clarified that only Ohio Administrative Code Rule 4123-6-16 was under consideration for a first reading and not the other rule following it in the packets for the Workers' Compensation Board. Ms. Falls also requested that the committee add to the agenda an update by Marsha Ryan, BWC Administrator, on a potential new hire for the position of Superintendent of Safety & Hygiene.

Ms. Falls moved to accept the agenda as amended. Mr. Price seconded and the amended agenda was approved by a unanimous roll call vote.

## **NEW BUSINESS/ACTON ITEMS**

### **DISPUTE RESOLUTION FOR HEALTH PARTNERSHIP PROGRAM MEDICAL ISSUES, OHIO ADMINISTRATIVE CODE RULE 4123-6-16 (FIRST READING)**

Robert Coury, Chief, Medical Services and Compliance, recommended amendment of Ohio Administrative Code Rule 4123-6-16 to change procedures for appeals of medical treatment issues in the Health Partnership Program (HPP). The changes were prompted by the initial review of business processes undertaken by Ms. Ryan when she first took office and a report from the Internal Audit Division.

Ms. Falls asked if the inefficiencies were caused by internal processes or identified by expressions of customer dissatisfaction. Mr. Coury replied that inefficiencies were identified from both internal review and external sources. The inefficiencies arose because of delays in processing paper medical reports. Also, the report from Deloitte Consulting LLP recommends removing two levels of appeal at BWC. Given that scrutiny, BWC formed a review team of Managed Care Organizations (MCOs) and other stakeholders. Also, unions and the Industrial Commission were kept apprised. The four goals for reform include: facilitate resolution of medical treatment disputes in a timely, effective, and efficient manner; ensure fairness and due process; ensure robust quality control of treatment decisions; and improve the parties' satisfaction.

Mr. Harris asked if the MCOs supported the change. Mr. Coury replied yes, with one exception. The major concern of the MCO's was the need for a new electronic interface between the MCOs and BWC. However, the target is to install the interface by June or July and streamline BWC order creation. Mr. Harris asked which unions supported the work group. Mr. Coury reported Local 1199 of the Service Employee International Union (SIEU) was continuously apprised as the review and recommendations unfolded.

Freddie Johnson, Director, Managed Care Services, described the current process of the two levels of dispute review of the MCOs and BWC before reaching the Industrial Commission for further appeal. He noted that BWC agreed with the MCO assessments on 98% of the disputes. The change will be to eliminate the BWC review. This reduces disputes from 21 to 37 days of processing, or from 67% to 90% of the waiting time.

Mr. Harris asked what caused the 98% concurrence rate by BWC. Mr. Johnson responded the high rate arose because of the close partnership of and staffing of cases by BWC nurses and the MCOs, use of the Occupational Disability Guidelines (ODG) by both, and by close MCO compliance with overall HPP policy.

Mr. Price asked the intent of revising the rules. Mr. Coury replied that the intent is to expedite reviews, provide quicker treatment to injured workers, and reduce litigation. The intention of the HPP appeals process is to mediate disputes between injured workers and MCOs. However, medical decisions are either correct or incorrect and not susceptible to compromise.

Mr. Johnson reviewed the three changes: MCOs will now have the ability to get an alternative perspective review. Medical reviews will not only be able to be done by peers of the physician submitting the initial treatment request, but also by more specialized providers. Second, the processing time-lines will be suspended in the event where the MCO recommends an independent medical exam (IME). Third, BWC will issue orders based on MCO recommendations and draft order which must be submitted within two days of an MCO final determination.

Mr. Coury reviewed the implementation time frame. He believes that BWC will complete the Joint Committee on Agency Rule Review (JCARR) review process by June or July. Workflow and IT changes are also targeted for completion at that time.

Ms. Falls asked when the rule would be presented to the Board for approval. Mr. Coury reported it would be presented at the March meeting.

Mr. Price asked who among stakeholders was objecting. Mr. Coury reported the Chiropractor Association expressed some concerns on who would guarantee a fair consideration from the MCOs, but they offered their cautious support. However, a 98% concurrence by BWC shows the MCOs are compliant with ODG guidelines and HPP policy. Accordingly, BWC nurses will be devoted to auditing ADR issues.

Mr. Price requested that stakeholder concerns be placed in writing when the rule is brought to the Governance Committee for a second reading. Ms. Falls asked that the input from stakeholders be noted in a separate section in the executive summary for this and all other rules.

Mr. Pitts stated his concern was not with the process, but the perception by providers that the ODG's act as rules and not as guidelines. Second, he had concerns with the disparity between the records of the MCO and those available on Dolphin. He asked how BWC would implement the new order provision. Mr. Coury replied the MCO will submit its recommendation in the form of a BWC draft order. BWC publication of the order addresses the legal concerns of state action.

Mr. Harris asked how many independent medical exams (IMEs) are performed per day per physician. Pat Philips, IRN Administrator, replied that for ADR IMEs, there would be two per day. Also, physicians may perform two file reviews per day. Mr. Johnson reported the cost was \$450 per IME and \$30 per ten minutes for each file review, up to a \$360 maximum.

## **RULE REVIEW CALENDAR**

Donald Berno, Board Liaison, stated that he and BWC Rules Committee had met with the Safety & Hygiene Division and Medical Division on forthcoming rules. Everything on the rule-calendar is on time for completion.

Ms. Falls noted that two items on the calendar are from 2008 and date of completion is still "yet to be determined." Mr. Berno replied that the rules on workshops and factories are now scheduled for completion in October. At the request of the Governance Committee, the external review be completed by July, and a first reading scheduled for August.

## **DISCUSSION ITEMS**

### **CALENDAR**

Ms. Falls reported that several changes had been made to the Governance Committee calendar and the corrected version will be included in the Committee report to the Board tomorrow, February 20. The Governance Committee will meet most months throughout the year and most meetings will include rules on the agenda.

## **SUPERINTENDENT OF SAFETY & HYGIENE**

Ms. Ryan reported that interviews for the new Superintendent of Safety & Hygiene division have been complete. An outstanding candidate has been selected and an offer extended, contingent on passing state background checks and the advice and consent of the Board. Mr. Harris, who participated in the interview process, reported that he supported the recommendation of the Administrator.

## **ADJOURNMENT**

There was a motion to adjourn by Ms. Falls and second by Mr. Pitts. The motion was approved by roll call vote of five ayes and no nays; Mr. Lhota was not present at the conclusion of the meeting.

Prepared by: Larry Rhodebeck, Staff Counsel  
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February 26, 2009