

BWC Board of Directors
BOARD MEETING
Friday, October 22, 2010, 8:00 A.M.
William Green Building
30 West Spring St. 2nd Floor (Mezzanine)
Columbus, Ohio 43215

Members Present: William Lhota, Chair
James Harris, Vice Chair
David Caldwell
Alison Falls
Ken Haffey
James Hummel
Jim Matesich
Thomas Pitts
Larry Price
Robert Smith

Member Absent: Charles Bryan

Counsel Present: John Williams, Assistant Attorney General
James Barnes, BWC Chief Counsel

Staff Present: Marsha Ryan, BWC Administrator
Tracy Valentino, Chief of Fiscal and Planning
Shadya Yazback, Policy Development and Analysis

Scribe: Larry Rhodebeck, Staff Counsel

CALL TO ORDER

Mr. Lhota called the meeting to order at 8:00 a.m. and the roll call was taken. Mr. Lhota reported that ten members were present and constituted a quorum.

MINUTES OF SEPTEMBER 24, 2010

Mr. Pitts requested that on page 9, paragraph 6, and “suggests” be changed to “suggestions”. Mr. Lhota requested that on page 6 a sentence be added prior to the “Monthly Enterprise Report” stating, “Mr. Matesich left the meeting at 9:08 a.m.”

Mr. Matesich moved to adopt the minutes of September 24, 2010, as amended. Mr. Hummel seconded and the amended minutes were approved by a roll call vote of ten ayes and no nays.

AGENDA

Mr. Lhota stated that he reserved the right to call a break at any appropriate time.

Mr. Pitts moved to adopt the agenda. Mr. Haffey seconded and the agenda was adopted by a roll call vote of ten ayes and no nays.

CHAIRMAN'S COMMENTS

Mr. Lhota thanked all directors for attending committee meetings on October 21. At the four committee meetings of October 21, there was 91% attendance and participation by directors. Mr. Bryan was unavailable because of a previous commitment.

COMMITTEE REPORTS

ACTUARIAL COMMITTEE

Mr. Matesich reported that the Actuarial Committee met on October 21, and had two action items. Liz Bravender, Director, Actuarial Services, provided an overview of the mortality and annuity tables. As Mr. Bryan stated at September 23 meeting, the annuity factors help BWC develop reserves for permanent total disability and death claims, and, in the long-run provide another tool for reserving of the State Insurance Fund.

Upon the recommendation of the Actuarial Committee, Mr. Matesich moved that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Rule 4123-16-60 of the Administrative Code, "Annuity Factors." The motion consents to the Administrator amending the rule as presented at the Actuarial Committee. Mr. Hummel seconded and the motion was approved by a roll call vote of ten ayes and no nays.

Mr. Matesich reported that the second action item was approval of the rate change for public employer taxing districts. Jon Turnes, Manager of Reserving, provided an update for the overall rate reduction recommendation of 5.5%, effective January 1, 2011. There were minor changes to rate levels of the three employer classes (group, non-group, and retro rated), but the overall rate reduction remains unchanged.

Upon the recommendation of the Actuarial Committee, Mr. Matesich moved that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation concerning the public employer taxing district (PEC) employer premium rates effective January 1, 2011. The Resolution consents to the Administrator fixing public employer taxing district employer rates to achieve an overall decrease of five point five percent (5.5%) in the total collectible premium from the previous year, and consents to the Administrator preparing rate rules consistent with this policy. Mr. Pitts seconded and the motion was approved by a roll call vote of ten ayes and no nays.

Mr. Matesich further reported there was a first reading on the PEC rate rules led by Terry Potts, Supervisor of Rates, with illustrations on how the rate changes affect industry groups. The rate rules will be placed before the Workers' Compensation Board at the November meeting. The second discussion led by Don Berno, Board Liaison, concerned the Actuarial Committee Charter with minor changes to wording. The Actuarial Committee voted to forward the revised charter to the Governance Committee for review and approval. The Charter will be returned to the Actuarial Committee in November for final approval and forwarded to the Workers' Compensation Board.

Mr. Matesich reported that Ms. Bravender delivered the “Chief Actuary Report.” BWC is progressing on a split experience rating plan which will be presented to the Workers' Compensation Board in January. The Actuarial Department is reviewing the one-claim program and group rating plan for presentation in the spring of 2011. A project to review base rate methodology will be presented in January. The public employer state agency (PES) rates are on the calendar for January 2011. The chief actuary has identified eight completed projects as of September which Deloitte Consulting LLP had provided consultation and eight others to be completed by January 2011.

Mr. Matesich reported that Marsha Ryan, BWC Administrator, provided late-breaking news that there was release of a new Oregon workers' compensation rate study which shows Ohio has improved in its national ranking of workers' compensation rates.

AUDIT COMMITTEE

Mr. Haffey reported that the Audit Committee met on October 21, but had no action items. Mr. Berno and Ann Shannon, Legal Counsel, conducted a discussion on the Audit Committee Charter and suggested wording changes. The Charter was forwarded to the Governance Committee for review and approval.

Caren Murdock, Chief of Internal Audit, delivered the Fiscal Year 2010 Annual Report for the Internal Audit Division. Management accepted all of the findings for audits completed during the fiscal year. Customer satisfaction for FY 2010 was 96%. There were comments from clients which improved division procedures, e. g. in having biweekly status meetings on audits and consultations. Ms. Murdock also conducted a discussion of budgets, staffing, and training. In an open discussion, there was review of the audit plan. Two audits are in the planning phase; six audits in the fieldwork phase; and two are in the final phase. The Division provided about 1,000 hours to the external audit conducted by Schneider Downs, which is equivalent to previous years. Concerning staff resources, the external audit took the most time with the risk assessment project creating a bottle-neck for the timely completion of current scheduled audits. The Audit Committee entered executive session to hear the quarterly litigation update.

INVESTMENT COMMITTEE

Mr. Smith reported that the Investment Committee met on October 21, and has two action items to present to the Workers' Compensation Board. As of October 20, the value of the BWC portfolio stood at \$20.499 billion, consisting of 68.7% in bonds, 30.0% in equities, and 1.3% in cash. For the first three months of fiscal year 2011, the investment portfolio return was 6.6%. October performance through October 20 shows an increase of \$230 million in market value of equities and bonds largely because of strong performance in equity investments.

Mercer Investment Consulting, Inc., led a discussion on the abrupt decision of its parent Marsh McLennan to discontinue advising public sector clients. The Investment Committee is sorry to see this happen. The irony is that the Workers' Compensation Board is about to issue a Request for Proposal (RFP) for a new investment advisor to begin in June 2011. The announcement by Marsh will require that the RFP evaluation process to proceed on a faster schedule.

Mr. Smith moved that the Workers' Compensation Board of Directors adopt and approve the recommendation of the Investment Committee to authorize the Administrator to issue a request for proposals ("RFP") for the services of a full service investment consultant to advise the Investment Committee and the Board, and further, to direct the Administrator to consult with the Chief Investment Officer regarding the scope of services to be defined in the RFP and to incorporate in the RFP the term of the consultant's engagement as outlined in the memorandum of BWC's Chief Investment Officer dated October 13, 2010. Ms. Falls seconded and the motion was approved by a roll call vote of ten ayes and no nays.

Mr. Smith further reported that the Investment Committee approved the annual investment report required by the Ohio Revised Code. Mr. Smith moved that the Workers' Compensation Board of Directors adopt the recommendation of the Investment Committee to approve the annual report on the performance and value of each investment class, as prepared by the Chief Investment Officer and submitted October 13, 2010, and to submit the report to the Governor and legislative leaders in fulfillment of the Board's obligation under Revised Code § 4121.12(F)(12). Ms. Falls seconded and the motion was approved by a roll call vote of ten ayes and no nays.

Mercer reported on real estate as an investment. The report answered the concerns from the first presentation at an earlier meeting.

The Investment Committee reviewed the memorandum of Bruce Dunn, Chief Investment Officer, on investment-related strategy priorities for the next year. The Committee directed the CIO to develop a calendar with priorities for future decisions.

MEDICAL SERVICES AND SAFETY COMMITTEE

Mr. Harris reported that the Medical Services and Safety Committee had a second reading led by Robert Coury, Chief of Medical Service and Compliance, and Mamta Mujumdar, Director of Medical Research, on approval of the Health Care Provider Quality Assurance Advisory Committee rule.

Upon the recommendation of the Actuarial Committee, Mr. Harris moved that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to rescind existing Rule 4123-6-22 and adopt new rule 4123-6-22 of the Administrative Code, "Stakeholders' Health Care Quality Assurance Advisory Committee," to advise the Administrator and Chief Medical Officer on issues involving health care for injured workers. Mr. Hummel seconded and the motion was approved by a roll call vote of ten ayes and no nays.

Mr. Harris also reported that the Medical Services and Safety Committee had a second reading by Freddie Johnson, Director of Managed Care Services, and John Hanna, Pharmacy Program Director, on approval of the 2011 Inpatient Hospital Fee Schedule. BWC is updating this fee schedule.

Upon the recommendation of the Medical Services and Safety Committee, Mr. Harris moved that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Rule 4123-6-37.1 of the Administrative Code,

“Payment of Hospital Inpatient Services.” The motion consents to the Administrator amending Rule 4123-6-37.1 as presented at the Medical Services and Safety Committee. Mr. Pitts seconded and the motion was approved by a roll call vote of ten ayes and no nays.

Mr. Harris reported that the Medical Services and Safety Committee had a discussion on the report from The Ohio State University/BWC on use of Opioids Use led by Ms. Mujumdar and Mr. Hanna. Opioids are used by injured worker as prescribed by their attending physician in 13.6% of workers' compensation claims during the study period.

QUARTERLY UPDATE ON HB100 COMPREHENSIVE REPORT RECOMMENDATIONS

Marsha Ryan introduced Shadya Yazback, Policy Development and Analysis, who delivered the “Quarterly Implementation Progress Report” of October 8, 2010. Ms. Yazback has a master’s degree in public administration from the University of Michigan and her Juris Doctor degree from Case Western Reserve University. She is a former associate with the law firm of Bricker and Eckler, and a former analyst with the Federal Reserve Bank in Cleveland.

Ms. Yazback reported that BWC had completed nine more recommendations during the third quarter of 2010 and rendered five “no-action” determinations. As of now, exactly one-half of the recommendations have been completed. BWC will proceed more slowly in fiscal year 2011 because many of the remaining recommendations require substantial resources and staff time. For example, in the Subrogation Program, the Legal Division is working with Infrastructure and Technology to improve identification of claims where there is third-party fault. BWC is also implementing a system of performance metrics for Managed Care Organizations (MCO) which will improve treatment decisions, case decisions, and return-to-work services. Severity trends are leading to an analysis of indemnity compensation.

The page 2 “Implementation Progress” bar chart shows a decline in recommendations in “evaluation” stage and increase in recommendations “completed”. The historical progress table shows the number of recommendations “in place.” Since October 2009, the number of “in place” has increased from twenty to fifty-five in October 2010. The chart on pages 3—6 titled “Recommendations in Process, August – October 2010” red checks signify change in status from the last report. For the group rating recommendations on page 4, it is not clear which of the recommendations will be used, but all are under consideration. Page 8, Appendix B has the “no action” items and explanation of how the decisions were reached. This was added to the report per the request of Mr. Matesich. Pages 9—10 discusses alternative actions taken to recommendations, or recommendations not followed because they were financially prohibitive. Pages 12—15 is a summary of the stages of implementation on all recommendations.

Mr. Harris thanked Ms. Yazback for her presentation and update.

Ms. Falls noted that we use the term “specialty funds” rather than “ancillary funds” when referring to the Disabled, Marine and Coal Funds, and asked that future reports reflect this change. Appendix B is a terrific enhancement. She asked if the proper group for

discussion of Appendix B is the Actuarial Committee. Some are obvious changes, others should be reviewed. Mr. Matesich stated he will bring up this recommendation at the next conference call between Mr. Pedrick and Mr. Bryan.

MONTHLY ENTERPRISE REPORT

Tracy Valentino, Chief of Fiscal and Planning, delivered the "October Enterprise Report." Net assets increased by \$437 million in September resulting in net assets of \$4.9 billion at September 30, 2010, compared to \$4.5 billion at August 31, 2010. During the month of September, final year-end adjustments were recorded to fiscal year 2010. This was the true-up of premiums collected and shows a slight decrease. The adjustments resulted in a \$44 million decrease to the beginning net asset balance for fiscal year 2011. Subsequently, net assets at August 31, 2010, are now \$4,495 million, compared to the previously reported \$4,539 million.

Premium and assessment income of \$155 million along with other income of \$5 million, net of a \$6 million provision for uncollectible accounts receivable and net of \$0.5 million in ceded reinsurance premiums, resulted in operating revenues of \$154 million in September. The accrual of ceded reinsurance premiums is netted against earned premiums in the Statement of Operations. Other income is primarily penalties billed to private employers for the late filing and payment of premiums that were due on August 31. Premium and assessment income in September included reductions of \$9 million for safety council participation credits granted to over 2,800 employers. Eligible employers participating in the BWC Safety Council program earned a 2% premium discount.

Benefits and compensation adjustment expenses of \$213 million along with other expenses of \$10 million resulted in operating expenses of \$223 million. Benefit payments issued in September included three bi-weekly payment cycles. September MCO administrative payments are lower due to quarterly performance payments being made in August.

A \$445 million increase in the fair value of the investment portfolio in September along with interest and dividend income of \$62 million for the month, resulted in net investment income of \$507 million for the month after investment expenses. The increase in the fair value of the portfolio is comprised of \$23 million in net realized gains and \$442 million in net unrealized gains. Cash and cash equivalents include \$134 million in money market holdings in the outside investment manager accounts. These funds are committed to covering a \$72 million net investment trade payable for transactions that will settle in October.

Premium and assessment receipts of \$69 million were collected in September, compared to \$88 million in September 2009, a slight decrease. An average 12% rate decrease for private employers and timing differences in the payment of premiums by employers contributed to this decline.

BWC total net assets have increased by \$1.1 billion for fiscal year-to-date 2011 resulting in net assets of \$4.9 billion at September 30, 2010. This compares to \$3.8 billion at September 30, 2009.

Mr. Matesich asked about the timing differences related to premium payment. Ms. Valentino replied if the last day for payment falls on the month's week-end, the payment is processed in the following month. Mr. Matesich also asked if reporting delays led to an increase in collections. Ms. Valentino replied that would change the timing of posting. Finally, Mr. Matesich asked if there is a decline in payroll. Ms. Valentino answered that the decline in payroll can be seen in the year-to-date reports on page 17.

Ms. Valentino continued, reporting that BWC premium and assessment income for fiscal year-to-date 2011 is \$488 million compared to \$567 million for fiscal year-to-date 2010. This reflects decreased premium rates for private and state agency employers, effective July 1, 2010, and, for public employer taxing districts, effective January 1, 2010. Benefit and compensation adjustment expenses increased by \$38 million for fiscal year-to-date 2011 compared to prior fiscal year-to-date expenses. BWC net investment income for fiscal year-to-date 2011 totaled \$1,262 million, comprised primarily of \$938 million in net unrealized gains and \$153 million in net realized gains, along with \$171 million of interest and dividend income. Declines in private employer premium rates have contributed to premium collections being \$76 million less than prior fiscal year-to-date collections.

Approximately 19,300 employers participating in the 50/50 payment program will be paying \$132.5 million in premiums by December 1, 2010, to maintain active coverage. These numbers are down from 22,000 employers that participated in the last collection cycle that owed \$146 million for the second installment. As of October 8, 2010 employer accounts with estimated premium of \$11.8 million remained in a lapse status for failing to report payroll for the January through June 2010 policy period. This compares to 24,600 accounts that were initially billed estimated premiums of \$24.6 million on September 21, 2010. Accounts that have still failed to report payroll will be certified to the Ohio Attorney General's office for collection on October 25. This means BWC was able to resolve 5,000 employer accounts by obtaining reported payroll, or through policy cancellation. Mr. Haffey added that 20% of accounts are responsible for most of the collections.

For the combined funds portion, the net assets at the end of the period are \$4.9 billion, of which the State Insurance Fund comprises \$4.3 billion. In the Statement of Investment Income, actual and projected bond interest is derived by commingling of accounts. Fiscal and Planning will work with Mr. Dunn so there is less variation in reports by change in projections.

BWC Administrative Cost Fund expenses for September 2010 are approximately \$6.7 million (9.6%) less than budget and approximately 1.5% more than last fiscal year. Decreases in payroll from September 2009 to September 2010 are due to a decrease in staff as a result of hiring controls. The decrease was partially offset by the use of fewer cost savings days through September 2010 than through September 2009. Through September 2010 journal entries BWC staff have taken 57,000 (32%) of the available 177,360 hours for a savings of approximately \$1.5 million. Usage is expected to increase during November and December due to the holidays.

The timing of the receipt of invoices for payment in fiscal year 2011 contributed to actual expenditures being less than the amount budgeted through September and greater than fiscal year 2010 expenses. Identification of additional costs savings and evaluation of approved projects led to a reduction in the fiscal year 2011 budget. BWC current fiscal

year 2011 budget is approximately \$57 million (17%) less than appropriated by the General Assembly. The biennial budget for fiscal year 2012 and 2013 will be submitted on November 1, and will be on time as required by law.

Ms. Valentino reported that page 10 sets out the administrative costs paid from the State Insurance Fund. Operating transfers to agencies include the Ohio Department of Natural Resources from the Coal Workers' Pneumoconiosis Fund and the Ohio Inspector General for services rendered for BWC and the Industrial Commission. There were no transfers to the Workers' Compensation Council. The statement of cash flows shows cash and cash equivalents of \$506 million at the end of the period, whereas the projected amount was \$512 million. In the Statement of Net Assets, the reserve for compensation and compensation adjustment expense is \$19,871 million with net asset standing at \$4,932 million. The undiscounted amount is \$32 billion and is broken down on page 13 by fund. On page 14, the Funding Ratio of the State Insurance Fund is 1.29 and is within the guidelines. The Net Leverage Ratio is 3.72, also within the guidelines.

ADMINISTRATOR BRIEFING

Ms. Ryan delivered her monthly report. She thanked Ms. Valentino, Ms. Murdock and their teams for work in assisting the external audit. Fiscal and Planning put together the biennial budget and the work behind that is voluminous. Peggy Concilla, Senior Director of Communications and Legislative Affairs; the senior team; James Barnes, General Counsel; Ms. Shannon; and the Legal Division worked to conform the budget to legal requirements. BWC began negotiating the next MCO contract, led by Mr. Johnson and Mr. Coury. BWC will strive for improved performance and care.

October news included BWC signing the agreement with the National Institute of Occupational Safety (NIOSH) on exchange of information. Ms. Ryan thanked Mr. Harris for attending. Dr. John Howard, Director of NIOSH, remarked on the data laboratory and it's more than one hundred years of information. Dr. Balchick participated in the Ohio Drug Task Force. BWC completed the public employer taxing district rate reduction. BWC distributed \$9 million in discounts to employers for participation in safety councils. She and Mr. Pedrick attended several safety council meetings and distributed the funds.

California will be making an increase of 28% in workers' compensation premiums for the coming year. This is a reversal of premium decreases after deregulation of the California market several years ago. The National Council on Compensation Insurance reports a 4.5% increase in loss costs despite a decline in wages and reported payroll.

The October meeting of the Workers' Compensation Competitive Task Force was cancelled and the next one is scheduled for November 18. The report from the Legislative Service Commission is not yet available. If there are any changes, Ms. Ryan reported she would alert the Workers' Compensation Board. The State of Washington has a ballot issue on November 2 to privatize the workers' compensation system in that state. Liberty Mutual Insurance and AIG have spent millions of dollars in favor of the measure.

The discussion on the coal permitting fee led to a discussion on black lung disease research. This led, in turn, to a project in alliance with the Ohio University College of Osteopathic Medicine on treatment and research. There is also participation by Dr. Culver, a researcher with the Cleveland Clinic. The project will identify markers for

pneumoconiosis, assess the effects of pneumoconiosis, and evaluate therapeutic approaches. Dr. Balchick is the BWC lead on this project.

BWC has had seven meetings with employer groups to get input on group rating. The Combined Charitable Campaign has ended and it appears that BWC employees will exceed the goal. BWC employees received flu shots from The Ohio State University Hospital on October 13. The process was efficient.

Mr. Harris stated it was good news to hear that BWC is moving forward with Ohio University on black lung research.

CHAIRMAN'S COMMENTS

Mr. Lhota stated that materials for the November meeting will be mailed on Friday November 12 so directors should provide Mr. Berno with their Saturday delivery addresses. The Medical Services and Safety Committee will meet on Friday, November 19 at 8:00 a.m. and the Workers' Compensation Board will meet on November 19 at 9:30 a.m.

ADJOURNMENT

Mr. Smith moved to adjourn the meeting. Mr. Haffey seconded and Mr. Lhota adjourned the meeting after the motion was approved by a roll call vote of ten ayes and no nays.

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October 26 2010