

BWC Board of Directors

**Board Meeting**

**Thursday, May 26, 2011, 8:40 a.m.**

**William Green Building**

30 West Spring Street, 2<sup>nd</sup> Floor (Mezzanine)

Columbus, Ohio 43215

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Members Present: Nicholas Zuk, Chair  
David Caldwell  
Kenneth Haffey  
James Hummel  
Steven Lehecka  
James Matesich  
Mark Palmer  
Thomas Pitts  
Larry Price  
Robert Smith  
Dewey Stokes

Members Absent: None

Counsel Present: Janyce Katz, Assistant Attorney General

Staff Present: Stephen Buehrer, Administrator  
Tracy Valentino, Chief of Fiscal and Planning  
Donald Berno, Board Liaison

Scribe: Jill Whitworth

**CALL TO ORDER**

Mr. Zuk called the meeting to order at 8:36 AM.

**ROLL CALL**

Roll call was taken by the scribe. All members were present.

**REVIEW OF APRIL 29, 2011 MINUTES**

Mr. Hummel proposed two changes to the April 29, 2011 minutes as follows:

Page 7 should reflect that Mr. Hummel left the meeting prior to the discussion of the Enterprise Report. As such, the vote to adjourn the meeting on page 10 should reflect ten ayes rather than eleven.

Motion was made by Mr. Hummel, seconded by Mr. Haffey, to approve the minutes as amended. Roll call was taken and the motion to approve the minutes passed 11-0.

### **REVIEW MEETING AGENDA**

The meeting agenda was reviewed by Mr. Zuk. He called on Mr. Price for the Governance Committee report.

### **COMMITTEE REPORTS:**

#### **GOVERNANCE COMMITTEE**

##### **1. Review and Approve FY 2011 Board Self-Assessment materials**

Mr. Price presented the Governance Committee report. The committee met earlier today and approved a recommendation to the Board Chair of approval of the FY 2011 Board self-assessment materials.

Mr. Haffey moved that the BWC Board of Directors approve the recommendation of the Governance Committee and approve the Board FY 2011 Self-Assessment process and form.

The motion was seconded by Mr. Palmer and approved by 11-0 unanimous roll call vote.

##### **2. Revise Governance Guidelines**

Mr. Price presented recommended changes to the Governance Guidelines which were approved at today's meeting.

Mr. Smith moved that the BWC Board of Directors recommend that the Board approve the amendments to the Governance Guidelines as recommended by the Governance Committee and as discussed today.

The motion was seconded by Mr. Smith and approved by 11-0 unanimous roll call vote.

### **ADJOURN**

Motion was made by Mr. Matesich, seconded by Mr. Hummel, to adjourn the meeting at 8:50 AM. The motion passed by unanimous voice vote.

BWC BOARD OF DIRECTORS

**BOARD MEETING**

**FRIDAY, April 29, 2011, 10:00 A.M.**

**WILLIAM GREEN BUILDING**

30 WEST SPRING ST. 2<sup>ND</sup> FLOOR (MEZZANINE)

COLUMBUS, Ohio 43215

MEMBERS PRESENT: Nicholas Zuk, Chair  
David Caldwell  
Ken Haffey  
James Hummel  
Steve Lehecka  
Jim Matesich  
Mark Palmer  
Thomas Pitts  
Larry Price  
Robert Smith  
Dewey Stokes

Members Absent: None

Counsel Present: Janyce Katz, Assistant Attorney General  
Jason Rafeld, BWC Chief Counsel

Staff present: Steve Buehrer, Administrator  
Ray Mazzotta, Chief Operating Officer  
Tracy Valentino, Chief Fiscal & Planning Officer  
Barb Ingram, Director of Accounting  
Shadya Yazback, Legal Counsel

Scribe: Larry Rhodebeck, Staff Counsel

**CALL TO ORDER**

Mr. Zuk called the meeting to order at 10:00 a.m. and the roll call was taken.

## **MINUTES**

Mr. Haffey moved to approve the minutes as published, and Mr. Caldwell seconded the motion. The minutes were approved by a roll call vote of eleven ayes and no nays.

## **AGENDA**

Mr. Matesich moved to approve the agenda as published. Mr. Hummel seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

## **CHAIRMAN' S COMMENTS**

Mr. Zuk reported that the committees of the Workers' Compensation Board met on April 28 and had full agendas with much discussion and participation, particularly about rate making.

Mr. Zuk congratulated Mr. Haffey, adjunct professor at the Weatherhead School of Management at Case Western Reserve University, on being nominated for an award for teaching excellence.

Mr. Haffey congratulated Caren Murdock, former Chief of Internal Audit, for her years of service to the Workers' Compensation Board. Mr. Price stated as someone with no knowledge of corporate governance functions, Ms. Murdock helped him greatly in learning about internal audit.

## **ACTUARIAL COMMITTEE**

Mr. Lehecka reported that the Actuarial Committee undertook several items of new business on rate changes, with corresponding first readings of rules. The Administrator has recommended a 4% decrease in rates for private employers. Class changes will range from a maximum decrease of 29% and a maximum increase of 21%. There will be no changes to group rating or non-group employers. The recommendation is based on the level of net assets and the desire to achieve rate stability.

BWC recommended an increase for public employer state agency rates by 15%. Most of the increase is based on the decline in agency payrolls. The Administrator recommended decreasing rates in the Marine Industry Fund (MIF) by 20%. This decrease is based on provisions of HB562 which enables employers to have coverage only under the MIF. The Administrator recommended no changes to the Disabled Workers' Relief Fund (DWRF) or the Additional Disabled Workers' Relief Fund (DWRF II). There was a long discussion on DWRF as pay-as-you-go funds and the future funding problems.

Rates for the Coal Workers Pneumoconiosis Fund will not change for the next two years. A moratorium on premiums is available for all employers, if the employer participates in a data reporting program. Tom Prunte, Director, Employer Management Services, recommended amendment to Safety Council Incentive program by enabling group rating employers to participate and receive a 2% rebate if their performance improves during the year. The amendment is in connection with amendment of the rule on compatibility of programs.

John Pedrick, Chief Actuarial Officer, reported that the split experience rating program will not be implemented in 2011, but will be run in the background and be implemented in 2012.

### **AUDIT COMMITTEE**

Mr. Haffey reported that Tracy Valentino, Chief, Fiscal and Planning, presented the fiscal year 2012 administrative budget, highlighting changes from fiscal year 2012. Cost Savings Days will expire July 1, resulting in a 6% increase in payroll. Step increases and personal leave reimbursements will be restored. Other expenditures reviewed were the need to replenish bulk postage expenses and repairs and maintenance, such as the air conditioning system. BWC budgeted a \$9 million "contingency fund" as a safeguard for unexpected expenses.

There was another report by Ms. Valentino on the April 6 meeting for the fiscal year 2011 external audit. The meeting included Schneider Downs & Co., the BWC Accounting Department, and Internal Audit. BWC will contribute approximately 1,000 hours of Internal Audit staff time.

Keith Elliott, Interim Chief of Internal Audit, provided an overview of current internal audit activities. There are four audits in fieldwork phase and four in final phase. There will be a quarterly report at the June meeting, with discussion of four completed projects, including ones on Managed Care Organizations and employer refunds. There will be further discussion on the audit validation process.

The Audit Committee entered executive session to receive the quarterly litigation update from Jason Rafeld, Chief Legal Counsel. The committee adjourned after returning from executive session and no further business being conducted.

### **INVESTMENT COMMITTEE**

Mr. Smith reported that most of the 2.5 hour Investment Committee meeting was devoted to an education session. As of April 27, the BWC portfolio had grown by \$362 million, consisting equally of fixed income and stock gains. This reflected a positive return of 1.7% with invested assets increasing to \$21.1 billion. The portfolio consists of 65.8% in fixed income investments, 33% in stocks, and 1%

cash. For the current fiscal year ending March 2011, the portfolio return was 10% or \$1.9 billion in net investment income.

Mr. Smith reported there was one action item, approval of a Request for Proposal (RFP). Mr. Smith moved that the BWC Board of Directors approve and adopt the recommendation of the Investment Committee to authorize the Administrator to issue a Request for Proposal (RFP) for the services of qualified active long-duration, investment-grade, credit-only fixed-income managers to provide active management of a targeted twenty (20) percent of the State Insurance Fund (SIF) invested assets as approved by the Board at its March 25, 2011, meeting, and as outlined in the memorandum of the BWC Chief Investment Officer dated April 19, 2011. Mr. Palmer seconded and the motion was approved a roll call vote of eleven ayes and no nays.

Mr. Smith reported that the education session was conducted by two consultants from R. V. Kuhns & Associates, Inc. There was excellent participation by all board members. While the committee has discussed real estate initiatives since last August, this constituted the first discussion with the new investment consultant on real estate as an investment. Bruce Dunn, Chief Investment Officer, reported that this type of investment is estimated to provide long-term expected returns 3% higher than the assets targeted for sale to fund real estate. The May meeting will undertake the second reading of the recommended changes to the IPS to allow real estate investments. The May meeting will also have a discussion on the utilization of derivatives by investment managers, with a special focus on risks and benefits.

### **MEDICAL SERVICES AND SAFETY COMMITTEE**

Mr. Hummel reported that the Medical Services and Safety Committee had four second readings of rule amendments. The first was the Vocational Rehabilitation Fee Schedule. BWC staff proposed an overall increase of 1.42%, or \$452,122, effective August 1, 2011. Mr. Hummel further reported that subsequent to the first reading BWC is also recommending modifying the unit of service time for codes that are currently in units of 1 or 2 hours to units of 15 minutes. The new recommendation was discussed with and consensus received from the 3 major vocational rehabilitation provider associations - IARP, OARF, and OPTA.

Upon the recommendation of the Medical Services and Safety Committee, Mr. Hummel moved that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Rule 4123-18-09 of the Administrative Code, "Vocational Rehabilitation Provider Fee Schedule," to revise the fee schedule effective August 1, 2011. The motion consents to the Administrator amending Rule 4123-18-09 as presented at the Medical Services

and Safety Committee. Mr. Matesich seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

Mr. Hummel next reported changes on the Form C-9 procedure regarding treatment authorization requests. The changes clarify who can request additional treatment, the information that must be in the request, the time allowed for the request and for the request to be valid, and when a Managed Care Organization (MCO) may dismiss a C-9 without prejudice. Stakeholder feedback did not result in any changes to the original rule change recommendations. Upon the recommendation of the Medical Services and Safety Committee, Mr. Hummel moved that the BWC Board of Directors approve the Administrator's recommendation to amend Rule 4123-6-16.2 of the Administrative Code, "Medical Treatment Reimbursement Requests." The motion consents to the Administrator amending Rule 4123-6-16.2 as presented at the Medical Services and Safety Committee. Mr. Pitts seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

Mr. Hummel reported the third and fourth items were to update two rules for the State Insurance Fund and Self-Insuring employers for outpatient medication reimbursement. They introduce a clinical perspective to the BWC rules that is intended to improve outcomes. The changes prohibit reimbursement of non-certified providers unless one of three exceptions are met; allow a \$3.50 dispensing fee to a pharmacy; prohibit reimbursement to third party pharmacy billers; allow reimbursement for name brand when generics cause allergic reactions or adverse events; and allow BWC to deny refills requested before 90% of any published days supply limit has been used. Stakeholder feedback led to two changes. First, reimbursements for prescriptions written by non-certified providers and who refuse to enroll with the BWC shall be denied. Second, the 90% refill requirement was reduced to 75% and the refills of the injured workers are to be monitored.

Upon the recommendation of the Medical Services and Safety Committee, Mr. Hummel moved that the BWC Board of Directors approve the Administrator's recommendation to amend Rule 4123-6-21 of the Administrative Code, "Payment for Outpatient Medication." The motion consents to the Administrator amending Rule 4123-6-21 as presented at the Medical Services and Safety Committee. Mr. Matesich seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

Upon the recommendation of the Medical Services and Safety Committee, Mr. Hummel moved that the BWC Board of Directors approve the Administrator's recommendation to amend Rule 4123-6-21.1 of the Administrative Code, "Payment for Outpatient Medication by Self-Insuring Employer." The motion consents to the Administrator amending Rule 4123-6-21.1 as presented at the

Medical Services and Safety Committee. Mr. Matesich seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

Mr. Hummel also reported there was a first reading on Ohio Administrative Code Rule 4123-6-21.3, a new formulary rule. The formulary will be reviewed by the BWC Pharmacy and Therapeutics Committee on a quarterly based for additions, deletions, or modifications. Changes will be based on current medical literature and generally accepted best clinical practices.

Freddie Johnson, Interim Chief, Medical Services and Compliance, presented the Division Report. The Medical Division currently has three separate measurement projects underway. On May 11, BWC will hold the bi-annual Medical Provider Stakeholder/Interested Party meeting.

Mr. Smith asked if it is true that BWC has not previously used a formulary. Mr. Hummel confirmed this was true and that the first formulary is under review.

### **HB100 COMPREHENSIVE REPORT QUARTERLY UPDATE**

Shadya Yazback, Legal Counsel, provided the quarterly update on implementation of the HB100 Comprehensive Study. The report has been revised in accordance with comments provided at the February meeting. Of the 146 recommendations, one-half have a solution put in place. For example, BWC has enhanced the self-insurance securitization model to more closely align collateralization requirements with the risk a self-insured employer reflects. “Solutions ‘in process,’” listed on page 2, are items in the planning, or design, or implementation stages as of March 31. Ms. Yazback highlighted several recommendations that were “in process” in the area of MCO effectiveness and medical payments which will ultimately result in a higher-quality, more cost effective Health Partnership Program, reducing costs to BWC, its MCO partners, and Ohio employers while maintaining high-quality services for Ohio’s injured workers.

Sixteen recommendations require further evaluations and are outlined on the bottom of page 2. “No action” items and explanations are found on page 3. The recommendation matrix of all recommendations and dispositions begins on page 4. Recently completed items are highlighted in red. Some of the remaining items may take years to complete due to their complexity. Reports on the progress of individual recommendations will be provided in future committee meetings, and the next comprehensive study update to the Board will be in six months.

Mr. Matesich thanked Ms. Yazback for changes in the report and complimented BWC staff for changes made in the past two years, not just the recommendations which were easy to implement.

Mr. Lehecka asked if any of the highest priority items were still open. Ms. Yazback replied she could not recall which ones were, but would research this.

Concerning the recommendation on the causes of increasing medical costs, Mr. Zuk asked what the completion time would be. Ms. Yazback replied that BWC completed the scope of the project in March and formed a cross-disciplinary team comprised of staff from the Medical Services, Safety & Hygiene, Customer Services, Actuarial divisions. Mr. Zuk asked if a report would be available by September or October. Ray Mazzotta, Chief Operating Officer, replied the report would be available by then.

Mr. Palmer requested that future reports reflect BWC's prioritization of recommendations.

### **ENTERPRISE REPORT**

Ms. Valentino delivered the *Enterprise Report* for March. BWC's net assets decreased by \$34 million in March resulting in net assets of \$5.29 billion at March 31, 2011 compared to \$5.32 billion at February 28, 2011. Premium and assessment income net of the provision for uncollectible accounts receivable and ceded reinsurance premiums resulted in operating revenues of \$144 million in March. The accrual of ceded reinsurance premiums is netted against earned premiums in the Statement of Operations. Benefits and compensation adjustment expenses of \$209 million along with other expenses of \$11 million resulted in operating expenses of \$220 million in March.

Deloitte's quarterly review of the projected reserves for compensation and compensation adjustment expenses resulted in a \$16 million decrease in March expenses. This decrease is a result of lower than expected payments through the second quarter of fiscal year 2011 driven by fewer claims in recent accident years and fewer claim settlements. The increase in net benefit payments is primarily a result of three bi-weekly payment cycles occurring in March coupled with an increase in medical payments. Medical payments of \$71.6 million were issued in March compared to \$61.5 million in February. The March payment is the fourth highest monthly total for medical in the past two years while the February payment is the third lowest monthly total in the past two years.

There was a \$34 million decrease in the fair value of the investment portfolio in March. The decrease in the fair value of the portfolio is comprised of \$3 million in net realized gains and \$37 million in net unrealized losses. Cash and cash equivalents include \$93 million in money market holdings in the outside investment manager accounts. These funds are committed to covering a \$45 million net investment trade payable for transactions that settled in April. Premium and assessment receipts of \$107 million were collected in March

compared to \$163 million in March 2010. February 28th, the last day for timely payment of premiums was a Sunday in 2010, contributing to the higher March receipts. Principal and interest payments of \$17.4 million were made on the William Green Building bonds. These bonds mature in 2014 and have a remaining principal balance of \$47 million.

Ms. Valentino also reported that BWC's total net assets have increased by \$1.5 billion for fiscal year-to-date 2011. BWC's premium and assessment income for fiscal year-to-date 2011 is \$1.4 billion compared to \$1.6 billion for fiscal year-to-date 2010 reflecting decreased payroll and premium rates for private and state agency employers effective July 1, 2010 and January 1, 2010 and 2011 for public employer taxing districts. Benefit and compensation adjustment expenses increased by \$75 million for fiscal year-to-date 2011 compared to prior fiscal year-to-date expenses.

Fiscal year-to-date 2011 included an additional bi-weekly payment cycle increasing net benefit payments by approximately \$26 million. This additional payment cycle did not occur until April in fiscal year 2010. BWC's net investment income for fiscal year-to-date 2011 totaled \$1,919 million comprised primarily of \$1,181 million in net unrealized gains and \$210 million in net realized gains, along with \$534 million of interest and dividend income. Declines in private employer and public employer taxing district premium rates have contributed to premium collections being \$89 million less than prior fiscal year-to-date collections.

Approximately 21,400 employers participating in the 50/50 payment plan will be paying \$151 million in premiums by June 1, 2011 to maintain active coverage. Coverage was lapsed March 1, 2011 for almost 38,000 private employers that failed to report payroll and pay premium by the February 28th due date. As of April 8th, coverage remained in a lapsed status for over 17,000 private employers who owe an estimated \$10.2 million in premiums. Accounts remaining unpaid will be certified to the Ohio Attorney General's Office for collection on April 25th.

Mr. Zuk asked if this lapse record is typical. Ms. Valentino replied these lapses are consistent and vary only by plus/minus 100 employers each reporting cycle.

Ms. Valentino further reported that the BWC Administrative Cost Fund (ACF) expenses through fiscal year to date (FYTD) March 2011 are approximately \$12 million (5.8%) less than budgeted and 2.9% less than last fiscal year to date. Decreases in payroll through FYTD March 2011 are a result of decreases in staffing due to retirements and hiring controls. As of March 2011, there were approximately 180 less full time equivalent positions compared to the same time last year. Through March 2011 journal entries BWC staff have taken 153,000 (91%) of the available 168,000 hours of cost savings days for a savings of approximately \$4.6 million, which is about the same as last fiscal year. All CSDs will be used by

the end of May. The timing of the receipt of invoices for payment in fiscal year 2011 contributed to actual expenditures being less than the amount budgeted through March. BWC's current fiscal year 2011 budget is approximately \$65 million (19.8%) less than appropriated by the General Assembly. The May Actuarial Committee meeting will have the first reading of the ACF rate.

Mr. Smith asked if the WGB depreciates through 2014. Barb Ingram, Director of Accounting, reported the depreciation will continue, but at a decreasing rate.

Ms. Valentino reported that net assets as of March 31, are \$5.3 billion. Undiscounted reserves for compensation and compensation adjustment expenses are \$32.5 billion for all funds. The Funding Ratio and Net Leverage Ratio are computed only for the State Insurance Fund and are both within the policy guidelines. There will be discussion of ratios at the July meeting.

Mr. Pitts asked if it is possible to produce a version of the severity chart on page 17 which removes PTD claims. Ms. Valentino replied it could be produced and she would send to him. Mr. Matesich asked what this report would show. Mr. Pitts replied that PTD claims have a long-term expense. A chart on the remaining claims would show the severity of non-PTD claims.

## **ADMINISTRATOR'S REPORT**

Mr. Buehrer apologized for his absence from the April 28 committee meetings because he was traveling with Governor John Kasich in Canton. He appreciates the positive results reached through the reduction of the private employer premiums for policy year 2011.

The first hundred days have speeded by. Mr. Buehrer reports that he continues to tour floors of the William Green Building. He recently visited the Logan, Lima, and Mansfield District Service Offices. More than six hundred suggestions have come from BWC employees as the result of the March 1 Town Hall meeting. The BWC web page will show these when complete. Among the groups before which he has spoken include the Holmes County Chamber of Commerce, the Ohio Automobile Dealers Association, the Union County Chamber of Commerce, the Cincinnati Realty Board, and the Defiance Chamber of Commerce. Stakeholder meetings include the Self-Insurers Association and the OCSEA. Governor Kasich signed HB123, the BWC budget bill, on April 25.

The three pillars for change at BWC are service, simplicity, and savings. BWC will focus on customer service by providing the highest quality of service to injured workers at the lowest price. With respect to claims costs, the senior team held a meeting to brain-storm ideas. We will next engage BWC employees. This is the

central priority. Mr. Buehrer thanked Mr. Price, Mr. Stokes, and Mr. Hummel for attending the Governor's address at the Ohio Safety Congress and Expo.

Mr. Smith asked how the rate reduction recommendation was received yesterday. Mr. Buehrer replied that the Governor and he had visited two small manufacturing businesses yesterday and there were many businessmen in attendance. Rates are improving and BWC can predict stability.

Mr. Stokes stated that the new members of the Workers' Compensation Board owe a debt of gratitude to senior members and investment staff to enable reduction in premium rates. Mr. Buehrer added that how rates move is a product of much work and many factors. Mr. Stokes thanked staff for getting injured workers back to work.

Mr. Caldwell commended the education he received over the years from Mr. Dunn, Lee Damsel, Director of Investments, and other staff.

#### ADJOURNMENT

Mr. Caldwell moved to adjourn the meeting. Mr. Pitts seconded and Mr. Zuk adjourned the meeting after a roll call vote of eleven ayes and no nays.

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