



STATE OF MAINE
WORKERS' COMPENSATION BOARD
Board of Directors' Business Meeting

July 23, 2019

A business meeting of the Maine Workers' Compensation Board of Directors was held on Tuesday, July 23, 2019, at the Workers' Compensation Board, Bangor Regional Office.

PRESENT: John Rohde (*Executive Director/Chair*), Richard Hewes (*General Counsel*), Ron Green, Glenn Burroughs, Emery Deabay, Richelle Wallace, Tom Davis, and Gary Koocher.

1. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:04 a.m.

2. APPROVAL OF MINUTES

1. Draft Minutes of 5/21/2019 Meeting

Director Deabay MOVED TO ACCEPT THE MINUTES OF THE 5/21/19 MEETING; Director Wallace seconded. **MOTION PASSES 7-0.**

3. SUBCOMMITTEE REPORTS

1. Personnel Subcommittee

The Personnel Subcommittee met prior to the Board meeting to discuss the Deputy Director of Information Management position. Director Deabay MOVED TO HIRE LINDSAY LIZZOTTE AS THE DEPUTY DIRECTOR OF INFORMATION MANAGEMENT. Director Wallace seconded. **MOTION PASSES 7-0.**

2. Lewiston Administrative Law Judge

Director Wallace reported that the hiring bulletin for the Administrative Law Judge (ALJ) position at the Lewiston Regional Office will be posted on July 29th and close on August 9th. The Personnel Subcommittee plans to conduct interviews the week of August 19th and share the results of those interviews at the August 26th Board meeting. Executive Director Rohde added that Administrative Law Judge Goodnough's retirement is effective September 1, 2019 and the other ALJs have been assisting as needed.

4. EXECUTIVE DIRECTOR REPORT

1. ID Cards

The new ID cards should be working. Executive Director Rohde reminded everyone to turn in old cards.

2. Information Sharing

The Board continues to refine the procedures through which the Board and the Department of Labor will share information. Some issues have been resolved, but there is still more work to be done through the summer.

3. Comp Summit

The August Board meeting will be held at 4:00 PM on Monday, August 26th during Comp Summit.

4. Personnel

The Worker Advocate program will be studied as per Legislative Directive. Additionally, there has been a lot turnover in the Advocate Division recently. A Lewiston Advocate Attorney position and two Secretary Legal positions in Portland are currently vacant.

5. Information Technology Infrastructure

The Office of Information Technology (OIT) would like to change the system we currently use (Progress) due to a lack of available programmers within OIT. ED Rohde plans to meet with our in-house team to discuss IT needs before making any changes.

6. Maine Indian Claims Task Force

A task force met yesterday to discuss jurisdictional changes proposed for Indian Reservations. Tribes are treated like a municipality in Maine and changes could impact workers' compensation claims. The next task force meeting is in August.

7. Christine Blais v. State of Maine

Ms. Blais has sued to the State of Maine claiming that our offsets are unconstitutional as offsets do not apply to Social Security, only pension plans. The Attorney General's office is handling the lawsuit as the State of Maine was sued, not just Workers' Compensation.

8. IAIABC Convention

The next IAIABC Convention will be on October 21-24 in Pittsburg, PA. Board members wishing to attend, should contact ED Rohde.

5. GENERAL COUNSEL REPORT

1. Legislation Updates

Richard Hewes gave the General Counsel's report and provided a status update on some of the changes created by recently enacted legislation.

The maximum average weekly wage has been increased to 2/3 of 125% of the state average weekly wage for injuries occurring on and after January 1, 2020. In cases of total incapacity, claimants with injuries on and after January 1, 2020 will receive cost of living adjustments after five years. The 18% whole person impairment test for receipt of long-term partial will no longer apply and the weekly limit for partial benefits due to injuries on and after January 1, 2020 will be increased to 12 years (from 10).

The legislature amended §205 (2) that previously required an employer to begin paying lost wages within 14 days after notice of an injury and face a penalty for subsequent payments issued without a notice of controversy. The amendment presents one law school question after another and the meaning of this statutory change will probably be refined in litigation.

The so-called coordination of benefits section now provides for reduction of workers' compensation benefits by Paid Time Off (PTO) unless it is mandated by the employer or paid to the employee upon separation from employment. Attorney fees for lump sum settlements have been capped at 10%. A vote of five WCB Directors will be necessary on and after January 1, 2020 to employ and reappoint ALJ's. This does not apply to reappointment of ALJ's hired before January 1, 2020.

If an injured worker dies with no dependents, then 500 weeks of benefits will now be paid to parents of the decedent for injuries occurring on and after January 1, 2020. If no parent is living, then payment will be made to the Employment Rehabilitation Fund. Payments made to the State of Maine during 2019 must be redirected to the parents of the decedent. Also, the time in which an employee must give notice of an injury was increased from 30 days to 60 days.

The Board has been directed to study the Worker Advocate Program and report to the Legislature by January 1, 2020. Working groups for other issues will also be convened.

2. Annual Regulatory Agenda

The annual Regulatory Agenda must be filed within 100 days of the close of the last Legislative Session. General Counsel Hewes has prepared the filing for 2019-2020 and submitted it for Board approval.

Director Deabay MOVED TO ACCEPT THE ANNUAL REGULATORY AGENDA FOR 2019-2020 AS WRITTEN AND SUBMIT IT TO THE SECRETARY OF STATE; Director Koocher seconded. **MOTION PASSES 7-0.**

6. OLD BUSINESS

1. Legislation

Executive Director Rohde again reviewed some of the changes created by new legislation and the work groups that will be convened in the coming weeks.

2. Kid's Chance

Director Koocher asked if the Board would support Kids Chance. Tony Payne from MEMIC added that Kids Chance is filing for 501C (3) status.

3. Section 213 Hardship Hearing

After requesting a continuance, the parties have not asked that a hearing be rescheduled. ED Rohde will contact the attorneys for a status update.

7. NEW BUSINESS

1. Comp Summit

Executive Director Rohde asked if there were any further questions regarding Comp Summit.

2. Legislative Studies

Stakeholders will be contacted in the coming weeks to schedule the working groups discussed during the Legislative updates.

3. Regulatory Agenda

The approved Regulatory Agenda will be filed with the Secretary of State.

8. ADJOURNMENT

Director Burroughs MOVED TO ADJOURN; Director Deabay seconded. **MOTION PASSES 7-0.**

The meeting formally was adjourned at 10:40 a.m.