



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

August 11, 2020

A business meeting of the Maine Workers' Compensation Board of Directors was conducted remotely on Tuesday, August 11, 2020 via Zoom.

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

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:04 a.m. with over 30 people participating remotely. Executive Director Rohde reviewed the Zoom meeting platform and procedures. Board members and staff introduced themselves for the recording. Voting to be conducted by roll call vote instead of a show of hands.

II. APPROVAL OF MINUTES

1. Draft Minutes of 5/19/2020 Board of Director's Business Meeting

Director Koocher MOVED TO ACCEPT THE MINUTES OF 5/19/2020 AS WRITTEN;
Director Deabay seconded. **MOTION PASSED 7-0.**

III. SUBCOMMITTEE REPORTS

The IME, Personnel, and Budget subcommittees met prior to the board meeting.

1. IME Subcommittee

Executive Director Rohde reported that the IME subcommittee is reviewing how long it takes from the time of an IME request to an appointment to the receipt of a final report. Staff will be reaching out to doctors if it is found that there are significant delays in receiving reports. The list of Vocational Rehabilitation providers was also reviewed. Currently there are eight providers on the list. The appointment of several VR providers will expire soon but they have not reapplied yet. One application for reappointment, from Douglas Dieckmann, was received and reviewed.

Director Koocher MOVED TO APPROVE THE APPLICATION OF DOUGLAS DIECKMANN TO BE REAPPOINTED AS A BOARD-APPROVED VOCATIONAL

REHABILITATION PROVIDER. THIS REAPPOINTMENT WILL TAKE EFFECT ON DECEMBER 11, 2020 FOR A TERM OF TWO YEARS AND WILL END DECEMBER 11, 2022; Director Burroughs seconded. **MOTION PASSED 7-0.**

2. Personnel Subcommittee

Executive Director Rohde reported that the Personnel subcommittee reviewed the current vacancies at the Board. There is not a hiring freeze at this time, but due to state-wide budget concerns, only critical vacancies will be filled. The transition plan to move staff back into the offices is still in work. The return to school in September will likely have an effect on staffing. The Board will continue to be flexible while remaining in compliance with necessary precautions. The primary focus at this time is formal hearings. Zoom licenses have been secured for the ALJs and hearings can now be conducted via Zoom. MS Teams is already available for hearings. Staff is still working on a plan for in-person hearings.

Mediator Tony Peverada is retiring on October 31st after 32 years of service. ALJ Sue Jerome may be retiring at the end of this year. It is recommended that a contract ALJ be appointed in case a conflict case arises.

3. Budget Subcommittee

The Governor has asked State agencies to curtail spending for the current fiscal year. Though not a General Fund agency, the Board is being cautious about spending. The assessment for the current year was done in June (after the pandemic had started) which should be helpful in regard to budget projections.

The biennial budget submission is due in September and will need to plan for lower revenues over the next few years.

The assessment cap will need to be addressed this year. Our budget submission is likely to exceed the cap set in 2016 and will need to be adjusted. The assessment cap is a limitation on the amount of revenue the agency can raise, not necessarily the dollar amount of the budget.

Executive Director Rohde noted that overall the agency is in a good position and commended the Budget subcommittee and the Board for their hard work.

IV. EXECUTIVE DIRECTOR REPORT

1. Comp Summit

Comp Summit has been cancelled for this year. Bud Bernstein is looking ahead to 2021 to reschedule.

2. Hearings

As previously reported, Zoom licenses have been secured for the ALJs. Formal hearings can be held remotely using both Zoom and MS Teams. The Office of Information Technology (OIT) notes that MS Teams is a more secure platform. Board staff is working on how to provide in-person hearings when necessary.

3. New Forms

As previously approved in March, the WCB-4 Modification and Discontinuance form was changed to be two separate forms, WCB-4M and WCB-4D. The new forms are available on the Board's website. Currently both old and new versions of the forms are being accepted.

4. COVID Related Cases

To date we have received 1,084 first reports of injuries related to COVID-19. Of those, 938 were lost time and 658 are claims for compensation. Claims payments break down as 58% have been paid, 42% were denied. Of the 58% of paid claims, 61% were paid by salary continuation, the rest are insurer paid. More information regarding the payment or denial of claims will be collected as well.

V. GENERAL COUNSEL REPORT

1. Injured Workers Pharmacy

Executive Director Rohde and General Counsel Richard Hewes reported on an issue with the Injured Workers Pharmacy (IWP). General Counsel had spoken to Mr. Avery at the Board of Pharmacies regarding the IWP and a consent agreement with the State of Massachusetts. Massachusetts has determined that the IWP has dispensed prescriptions in a way that violated Massachusetts law. There is a question as to if this also violates Maine law. The Board does not have any jurisdiction to investigate pharmacy concerns. The Attorney General may also investigate, if needed.

2. Personnel

The Abuse Investigation Unit has an open attorney position. The Appellate Division (AD) has a vacancy for a clerk. Appellate decisions are still being issued. The August Appellate session was held remotely.

VI. OLD BUSINESS

1. EDI Filing

The two Progress programmers are working to finish the employer database project. Once that is completed, they will prepare a timeline to finish the programming for more EDI processing capability.

Given the pandemic related issues, the move from Progress to .NET is likely to be deferred.

VII. NEW BUSINESS

1. Annual Regulatory Agenda

The annual projection of items that may be considered for rulemaking has been prepared and submitted to the Board for approval. Once approved, it will be submitted to the Legislature.

Director Green MOVED TO APPROVE THE REGULATORY AGENDA FOR 2020 AS DRAFTED. Director Burroughs seconded. **MOTION PASSED 6-0-1** (*Director Deabay's connection was lost. He was not available for this vote.*)

2. Compliance Report

The 2019 4th Quarter Compliance Report was presented for review by Carrie Ellis. This is the second quarter of monitoring for wage and fringe benefits. Monitoring is encouraged by the employers trying to comply and working to improve the benchmarks.

Director Koocher MOVED TO ACCEPT THE REPORT AS DRAFTED. Director Burroughs seconded. **MOTION PASSED 6-0-1** (*Director Deabay was not available for this vote.*)

VIII. ADJOURNMENT

Director Koocher MOVED TO ADJOURN; Director Burroughs seconded. **MOTION PASSED 6-0-1** (*Director Deabay was not available for this vote.*)

The meeting formally adjourned at 10:45 a.m.