



JUDICIAL COUNCIL OF CALIFORNIA

JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM ADVISORY COMMITTEE

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JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM ADVISORY COMMITTEE

MINUTES OF OPEN MEETING WITH CLOSED SESSION

February 23, 2018

9:00 A.M.

2860 Gateway Oaks, Sacramento, CA 95833-3509

Advisory Body Members Present: Ms. Tania Ugrin-Capobianco, Ms. Colette M. Bruggman, Ms. Heather Capps, Mr. Joseph Carruesco, Hon. Wynne Carvill (phone), Ms. Stephanie Cvitkovich, Mr. Richard D. Feldstein, Mr. Kevin Harrigan, Ms. Krista LeVier, Ms. Cindia Martinez (phone), Mr. James Owen (phone), Ms. Shannon Stone, Mr. Hugh K. Swift, Mr. Brian Taylor, Ms. Kimberlie Turner, Mr. T. Michael Yuen

Advisory Body Members Absent: None

Others Present: Ms. Aurora Rezapour, Mr. Patrick Farrales, Ms. Jade Vu, Ms. Maria Kato, Mr. Edward Metro, Ms. Janice Leung, Mr. Daniel Mariano, Mr. Greg Keil, Ms. Karen Zhao, Ms. Angela Guzman, Ms. Suzanne Blihovde, Mr. Matthew Kennedy, Mr. Greg Trout, Mr. Jeff Johnston, Ms. Jacquelyn Miller, Ms. Angela Bernard, Mr. Dominic Russo, Ms. Lynn Cavalcanti, Ms. Tricia Baker, Ms. Beth Harville.

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 9:00 A.M., and took roll call.

Approval of Minutes

The advisory body reviewed and approved the minutes of the July 10, 2017, Judicial Branch Workers' Compensation Program Advisory Committee meeting.

DISCUSSION AND ACTION ITEMS (ITEMS 3-12)

Item 3

Report on Workers' Compensation Forums

Action: Mr. Patrick Farrales formally announced the creation of the Judicial Branch Workers' Compensation Program (JBWCP) Forum. The agenda has been developed and the workers' compensation (WC) forum will be held on March 9, 2018, at the Judicial Council's office in Sacramento. A summer forum is expected to be held in southern California later this year.

Item 4

Report on New Member Orientations

Action: Mr. Farrales noted that the JBWCP conducted its first new member orientation for new advisory committee members. The orientation was recorded and the [audio](#) is available to all program members upon request and, in the future, will be open to existing advisory committee members. The program will continue to hold orientations to keep new members apprised of the program's activities and initiatives.

Item 5

Excess Insurance Market

Action: After hearing the presentation on the excess insurance market from Merriwether & Williams, the committee approved the action to secure excess insurance for the JBWCP for the following fiscal year. The motion was put forth by Ms. Stephanie Cvitkovich and seconded by Ms. Heather Capps.

Items 6

Actuarial Analysis

Action: The committee approved the actuarial report from Bickmore and the fiscal year 2018-2019 premiums for the JBWCP. The report and premiums will be presented to the Judicial Council in May 2018. Beginning in March, JBWCP staff will schedule individual phone calls with members who wish to discuss their premiums.

Item 7

Overview of Trial Court and State Judiciary Premium Process

Action: The Judicial Council's Budget Services office presented a report on how premiums are withdrawn from members' budgets and are deposited into the Judicial Branch Workers' Compensation Fund (JBWCF). For the trial courts, the premium is withdrawn as a monthly deduction. For the Supreme Court and Courts of Appeal, the premiums are transferred in one annual amount from their allocation into the JBWCF. For both sides of the program, the transfer (consisting of the total annual cost) occurs once per year in May.

Item 8

Results of the 2017 TPA Audit

Action: AIMS received an overall compliance score of 83 percent. The minimum acceptable compliance score is 85 percent. While AIMS ranked highly on addressing member issues (90 percent), they scored below the minimum on technical (83 percent) and diary/contact (81 percent) issues. As a response to this audit, AIMS has pledged to increase communication, documentation, oversight, and training. Bickmore has recommended that AIMS certify its receipt of the JBWCP Service Guidelines. Bickmore has also proposed changes to its quarterly spot check process to match the audit criteria, increase the number of files reviewed to 30, and change the spot check schedule to eliminate schedule overlap with the annual audit. The committee approved the acceptance of the 2017 TPA Audit Report and Bickmore's recommendations. The motion was put forth by Ms. Shannon Stone and seconded by Mr. Richard Feldstein. It held further discussions during closed session.

Item 9

Third Party Administrator Stewardship Report

Action: AIMS announced the hire of its assistant program manager, Ms. K. Kay Byrnes, and provided its annual metric reports to the committee. AIMS's report showed: an improvement in its closing ratio for fiscal year 2016-2017, a decrease in the number of open claims, a decrease in temporary disability benefits paid, a decrease in average medical paid, and a lower than average litigation ratio when compared to the state average.

Item 10

Status on Working Group Initiatives

Action:

- 1) *The Future Medical Claims Closure project did not achieve the desired savings levels. AIMS completed 11 settlements and returned a net savings of \$79,533 after consultant fees. The average net savings per file was approximately \$7,230. This was far below the projected average net savings of \$11,900 per file. JBWCP staff acknowledged that the proactive approach was beneficial for members, but the savings fell short of expectations. The Deficit Reduction Alternatives Working Group (working group) proposed that AIMS absorb the remainder of the work for the second phase of the project. They also proposed additional monitoring to ensure the company continues to close claims. Bickmore's revised spot check process will assist the JBWCP in monitoring the activities of AIMS on a more frequent basis. The committee approved the recommendations of the working group to have AIMS absorb the remainder of the work and establish recurring reviews back to the JBWCP. The motion to accept Bickmore's proposed revised spot check process was put forth by Mr. Kevin Harrigan and seconded by Ms. Stephanie Cvitkovich. The motion to have AIMS absorb the remainder of the work for the project was put forth by Ms. Krista LeVier and seconded by Mr. Richard Feldstein.*
- 2) *JBWCP staff selected three courts for its Return-to-Work Pilot Program. San Francisco, Solano and Sutter have volunteered to take part in the program. The working group stated that no action was needed because the pilot program is currently taking place. The pilot program began in November 2017 and results will be presented to the working group in November 2018.*
- 3) *JBWCP staff conducted a Request for Information on Loss Control Services and received three proposals. The costs ranged from \$574,182 to \$921,380. It was estimated that these services would create a ten percent savings, but members would not be able to break even until the fourth year of implementation. Furthermore, these services did not include implementation costs. The working group developed four options to implement this proposed program. It held further discussions in closed session.*
- 4) *JBWCP staff researched the possibility of investing JBWCF to realize higher returns than the current investment yield of 1.41 percent. To maximize investments, the Judicial Council should reduce the amount of borrowing from the fund and increase the frequency of deposits into the fund. The borrowing reduces the fund balance of the JBWCF, but it also ensures the solvency of trial court members, which rely on withdrawals from the JBWCF to ensure sufficient cash flow at the beginning of the fiscal year. Increasing the frequency of funding also decreases the cash flow*

needs of the courts. One alternative to eliminate the deficit is to request immediate funding through the submission of a Budget Change Proposal (BCP). The working group recommended delaying these initiatives for review next fiscal year and did not recommend any BCPs at this time. The committee approved the recommendations of the working group and determined to revisit this issue next fiscal year. The motion to revisit discussions of investment options until the following fiscal year was put forth by Mr. T. Michael Yuen and seconded by Mr. Brian Taylor.

- 5) As required by the Settlement Authority Policy developed by the Settlement Authority Working Group, Ms. Maria Kato presented annual settlement data to the committee. The majority of settlements for the year were Level I and Level II settlements, representing approximately 96.7 percent of all settlements for the program. This is somewhat higher than the projections developed last year. The average new money for all settlements were \$72,127 and \$15,795 for Level I and Level II settlements.

Mr. Farrales had requested the committee to consider changing the language for Level IV and Level V settlements and replace quorum approval requirements due to the difficulty in scheduling multiple members of the committee.

Mr. Taylor recommended changing approval requirements to three committee members for Level IV and five committee members for Level V. The committee accepted Mr. Taylor's recommendation and asked JBWCP staff to amend the policy to reflect these changes. Ms. Cvitkovich seconded Mr. Taylor's motion.

Item 11

New Initiatives for FY18-19

Action: Mr. Farrales stated that these new initiatives were not tied to the recommendations from the Deficit Reduction Alternatives Working Group. He asked that the program review various options from Bickmore to reduce deficit by 1) raising funding confidence levels and 2) increasing member premiums. Bickmore provided a preview of asset and deficit levels under these two options. Mr. Farrales noted that the JBWCP should study these two options for the committee's review in fall 2018. Mr. Trout stated that the last major funding change occurred four years ago when the program changed its funding methodology to ultimate funding. If approved by the committee, JBWCP staff and Bickmore will begin research on these two options in July 2018. The committee approved the project and requested that Bickmore and JBWCP staff include multiple scenarios in their report/presentation back to the committee. The motion was put forth by Mr. Kevin Harrigan and seconded by Ms. Shannon Stone.

Item 12

Annual Agenda and other items

Action: Ms. Tania Ugrin-Capobianco requested Mr. Farrales to draft all the action items approved by the committee for inclusion in the annual agenda. Mr. Farrales will submit the annual agenda to committee members before submitting to the Litigation and Management Committee. Mr. Farrales also asked for possible webinar topics for the upcoming year. Ms. Colette M. Bruggman requested a webinar for state judiciary employees who may be unfamiliar with the workers' compensation process. Ms. Heather Capps requested Mr. Farrales to send out the annual survey, which will include feedback on the settlement authority policy and request webinar recommendations from JBWCP members.

A D J O U R N M E N T

There being no further open meeting business, the meeting was adjourned at 1:41 P.M.

C L O S E D S E S S I O N

Item 13

This portion of the meeting is closed as it relates to Section (D)(3) under Rule 10.75

Action:

- 1) *The committee approved the recommendation to renew the next option term with AIMS, with the caveat that AIMS improve its score on the audit and show progress. The motion was put forth by Ms. LeVier and seconded by Mr. Feldstein. The committee has requested that JBWCP provide the committee with a quarterly progress report, based on the spot checks developed by Bickmore. Based on these reports and next year's audit, the committee will determine next steps for the program.*
- 2) *The committee approved the recommendation to not utilize a vendor to implement a loss control program for the next two fiscal years and to use existing resources instead. To accomplish this, the committee has requested JBWCP staff to develop a member court partnership program in which established courts can serve as guides/mentors to courts that have few resources dedicated to workers' compensation administration. Additionally, the committee has asked JBWCP staff to explore cost effective alternatives for statewide loss control. The committee did not recommend procurement of a loss control vendor at this time, and will reevaluate this decision in 2020. The motion was put forth by Ms. LeVier and seconded by Mr. Feldstein.*

Adjourned closed session at 2:58 P.M.

Judicial Branch Workers’ Compensation Program Advisory Committee

Annual Agenda—2018

Approved by Litigation Management Committee: [TBD]

I. COMMITTEE INFORMATION

Chair:	Ms. Tania Ugrin-Capobianco, Court Executive Officer, Superior Court of California, County of El Dorado
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Lead Staff:	Mr. Patrick Farrales, Supervising Analyst, Judicial Council of California
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Committee’s Charge/Membership:
[Rule 10.67](#) of the California Rules of Court states the charge of the Judicial Branch Workers’ Compensation Program Advisory Committee, which is to make recommendations to the council for improving the statewide administration of the Judicial Branch Workers’ Compensation Program and on allocation to and from the Judicial Branch Workers’ Compensation Fund established under Government Code section 68114.10. [Rule 10.67](#) provides that in addition to the duties and responsibilities of all advisory committees, the committee must review:

- The progress of the Judicial Branch Workers’ Compensation Program;
- The annual actuarial report; and
- The annual allocation, including any changes to existing methodologies for allocating workers’ compensation costs.

The Committee currently has 16 members. The attached term of services chart provides the composition of the Committee.

Subcommittees/Working Groups¹:

1. Deficit Reduction Alternatives Working Group

¹ California Rules of Court, rule 10.30 (c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body’s duties, subject to available resources, with the approval of its oversight committee.

II. COMMITTEE PROJECTS

#	New or One-Time Projects	
1.	Project Title: Review of Third Party Administrator Compliance with Service Guidelines	Priority 1
<p>Project Summary: Consistent with rule 10.350, Judicial Council staff will solicit input from the advisory committee, monitor the performance of the third party administrator through the development of quarterly reports, and consider appropriate recommendations.</p> <p>Status/Timeline: The advisory committee will provide input to the Judicial Council’s Human Resources office² on whether to retain the third party administrator or consider alternatives.</p> <p>Fiscal Impact/Resources: Judicial Council Human Resources, Branch Accounting & Procurement</p> <p>Internal/External Stakeholders: AIMS, Bickmore Risk Consulting (Bickmore), Judicial Branch Workers’ Compensation Program (JBWCP) members</p> <p>AC Collaboration: N/A</p>		
2.	Project Title Mentor Court Program	Priority 1
<p>Project Summary: The advisory committee will receive a status report and provide feedback on the implementation of a mentor court program in which members can partner with other members to serve as resources for workers’ compensation best practices, provide advice on claims administration, and other workers’ compensation-related inquiries.</p> <p>Status/Timeline: Per rule 10.350, the Judicial Council’s Human Resources office will develop a program template by June 2018, and implement the program in summer 2018.</p> <p>Fiscal Impact/Resources: Judicial Council Human Resources</p> <p>Internal/External Stakeholders: JBWCP Members</p> <p>AC Collaboration: N/A</p>		

² Rule 10.350 states that the Judicial Council’s Human Resources office maintains a contract with a vendor to provide courts with a cost-efficient workers’ compensation coverage program and monitors the performance of the vendor with which it contracts to provide such services.

#	New or One-Time Projects	
3.	Project Title 2018 Judicial Branch Workers' Compensation Survey	Priority 1⁴
<p>Project Summary: The advisory committee will receive recommendations from and provide feedback to staff with respect to a JBWCP member survey that will solicit constructive feedback from members. Topics will include feedback regarding the settlement authority process, ideas on future webinar offerings, and general program improvements and feedback.</p> <p>Status/Timeline: Per rule 10.350, the Judicial Council's Human Resources office will distribute in July 2018.</p> <p>Fiscal Impact/Resources: Judicial Council Human Resources</p> <p>Internal/External Stakeholders: JBWCP Members</p> <p>AC Collaboration: N/A</p>		
4.	Project Title Revisions to the Settlement Authority Policy	Priority 1⁴
<p>Project Summary: The advisory committee will consider a recommendation to the Judicial Council regarding a revised settlement authority policy that will include a change to the approval thresholds of Level IV and Level V settlement types.</p> <p>Status/Timeline: Per Rule 10.350, the Judicial Council's Human Resources office will revise the policy to allow for three members of the Advisory Committee to approve Level IV settlements, and to allow for five members of the Advisory Committee to approve Level V settlements by July 2018.</p> <p>Fiscal Impact/Resources: Judicial Council Human Resources</p>		

#	New or One-Time Projects	
	<p><i>Internal/External Stakeholders:</i> JBWCP Members</p> <p><i>AC Collaboration:</i> N/A</p>	
5.	<p><i>Project Title</i> Assessment Plan and Confidence Levels</p>	<p><i>Priority 1⁴</i></p>
	<p><i>Project Summary:</i> The advisory committee will consider recommendations to reduce the workers' compensation fund deficit, including raising confidence levels and implementing an assessment plan, for presentation to the Judicial Council. The recommendations will include multiple scenarios and will provide options for reducing the deficit over a defined timeframe (10 years, 15 years, and 20 years)</p> <p><i>Status/Timeline:</i> The advisory committee will review options contained in the report in fall 2018.</p> <p><i>Fiscal Impact/Resources:</i> Judicial Council Human Resources</p> <p><i>Internal/External Stakeholders:</i> JBWCP Members</p> <p><i>AC Collaboration:</i> N/A</p>	

#	Ongoing Projects and Activities	
1.	Project Title Allocation of Fiscal Year 2018-2019 Workers' Compensation Premiums	Priority 1⁴
<p>Project Summary: The advisory committee will consider recommendations to the Judicial Council regarding the fiscal year 2018-2019 workers' compensation membership premium, which is based on the program's actuarial evaluation.</p> <p>Status/Timeline: The advisory committee will provide its recommendations in a report to the Judicial Council at its May 2018 meeting.</p> <p>Fiscal Impact/Resources: Judicial Council Human Resources and Budget Services offices</p> <p>Internal/External Stakeholders: All Judicial Branch Workers' Compensation Program (JBWCP) Members, which includes Supreme Court, Courts of Appeal, Superior Courts (excluding Los Angeles), Habeas Corpus Resource Center, Commission on Judicial Performance, and the Judicial Council's Budget Services Office.</p> <p>AC Collaboration: Recommendations and initiatives will be submitted to the Court Executives Advisory Committee, Trial Court Presiding Judges Advisory Committee, Supreme Court and Appellate Court Clerk Executive Officers.</p>		
2.	Project Title Return to Work Pilot Program	Priority 1⁴
<p>Project Summary: The advisory committee will receive a report from Judicial Council staff on the progress of the Return to Work pilot program, and will determine the feasibility of implementing the program statewide.</p> <p>Status/Timeline: In November 2018, the Deficit Reduction Alternatives Working Group will receive the findings of the pilot program from JBWCP staff and determine options for statewide implementation and review by the Advisory Committee.</p> <p>Fiscal Impact/Resources: Judicial Council Human Resources</p> <p>Internal/External Stakeholders: Three pilot courts (San Francisco, Sutter, Solano), Bickmore</p>		

#	Ongoing Projects and Activities
	<p><i>AC Collaboration:</i> The Deficit Reduction Alternatives Working Group’s recommendations for this program will be submitted to the JBWCP Advisory Committee, Court Executives Advisory Committee, Trial Court Presiding Judges Advisory Committee, Supreme Court and Appellate Court Clerk Executive Officers.</p>

III. LIST OF PROJECT ACCOMPLISHMENTS

#	Project Highlights and Achievements
1.	The Deficit Reduction Alternatives Working Group completed the Future Medical Settlement project, and generated a savings of \$79,533.
2.	The Advisory Committee implemented a change in the premium allocation formula to level brokerage/consulting costs for program members.
3.	The Advisory Committee recommended that workers' compensation fund investment efforts should be placed on hold for review and follow up in one year.
4.	The Advisory Committee received recommendations from a member survey and have approved initiatives to increase training and outreach for all JBWCP members. JBWCP staff are in the process of holding two workers' compensation forums for member courts, and are developing additional training resources for appellate court members.