



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

Friday, February 22, 2019

9:00 A.M.

2860 Gateway Oaks, Sacramento, CA 95833-3509

Advisory Body Members Present: Ms. Tania Ugrin-Capobianco, Ms. Kim Bartleson, Ms. Colette M. Bruggman, Ms. Heather Capps, Ms. Stephanie Cvitkovich (phone), Ms. Krista LeVier, Ms. Cindia Martinez (phone), Mr. James Owen (phone), Ms. Bryna Smith, Ms. Shannon Stone (phone), Mr. Hugh K. Swift, Mr. Brian Taylor, Ms. Kimberlie Turner, Mr. T. Michael Yuen.

Advisory Body Members Absent: Mr. Joseph Carruesco, Mr. Kevin Harrigan

Others Present: Ms. Aurora Rezapour, Mr. Patrick Farrales, Ms. Jade Vu, Ms. Maria Kato, Mr. Edward Metro (phone), Ms. Janice Leung, Ms. Miki Katsuyama Novitski, Mr. Greg Keil (phone), Ms. Lucy Chin (phone), Ms. Becky Richard, Ms. Beth Harville, Mr. Dominic Russo, Ms. Jacquelyn Miller

OPEN MEETING

Call to Order and Roll Call

The Chair, Ms. Tania Ugrin-Capobianco, called the meeting to order at 9:00 A.M. Mr. Patrick Farrales was asked to take roll call.

Approval of Minutes

The advisory body reviewed and approved the minutes of the April 13, 2018 Judicial Branch Workers' Compensation Program Advisory Committee meeting.

DISCUSSION AND ACTION ITEMS (ITEMS 1-8)

Item 1

JBWCP Advisory Committee Meeting Agenda (No Action Required)

Ms. Tania Ugrin-Capobianco, Chair, gave an overview of the agenda topics for this meeting.

Item 2

Judicial Branch Workers' Compensation Program Updates (No Action Required)

Ms. Ugrin-Capobianco introduced the discussion of program activities in the second half of fiscal year 2017-2018 and the first half of fiscal year 2018-2019. Mr. Farrales continued by presenting program updates beginning with the 2018 Annual Survey. Mr. Farrales shared the percentages of courts' preferred communication style as well as feedback on: the Settlement Authority Policy, training, presentation and content, ergonomics, safety, workers compensation and portal training, and descriptions of workers' compensation-related safety resources.

Ms. Ugrin-Capobianco reported that the biggest changes that the state of the Workers' Compensation Fund has seen is a positive shift to making sure the stakeholders understand the program's fund status. For the last two years, presentations to various committees have been presented to get the word out that borrowing from the fund is having a profound impact on the fund's ability to generate interest. In fiscal years 2015 and 2016, the fund had created minimal gains each year. In fiscal year 2017-2018, the trajectory changed and the fund realized the full interest income on the assets. Continued outreach, reports, and maintenance of the work started by the Deficit Reduction Alternatives working group showed the spotlight on the criticality of keeping the program fully funded.

Ms. Maria Kato reported that, as of May 2018, the Future Medical Claims cases had a total of \$5.36 million outstanding reserves on 203 claims. 61 were reported as not interested and two were administratively closed for a total of 63. There were 26 "no" responses and 114 remaining claims. The remaining cases consisted of 6 closed claims, 46 claims of employees not interested in a compromise and release (C&R), 19 closed administratively, 6 claims removed from consideration, and 28 possible pending settlements and/or administrative closure in 2019.

Item 3

Recommendations from the Deficit Reduction Alternatives Working Group (Action Required)

The Deficit Reduction Alternatives working group presented recommendations aimed at reducing the program's deficit:

- 1) Acting on the recommendations by the Deficit Reduction Alternatives working group, Ms. Kato introduced the Buddy Program as a way to utilize partnering courts as a resource for workers' compensation-related questions and concerns.

Questions Asked: How do we measure goals and savings? Will it require substantial staff time on the Judicial Council's side?

Response: By having contacts to different resources, the Buddy Program gives courts an opportunity to get another point of view regarding claims. With the Buddy Program, we hope cases can move faster. This program will help push and elevate action on claims with a more holistic approach. We are not sure of the hard, fiscal savings, but hope that it would provide more efficiencies for smaller courts.

We don't think [this will require substantial staff time]. This program will aid cross jurisdictionally. The claims process can be intimidating to new CEOs and this program will provide contacts to help guide each other.

Ms. Ugrin-Capobianco opened the session up to questions before inviting a motion to recommend the implementation of the Buddy Program to the Judicial Council at its May 2019 meeting.

Action: *With reference to the Working Group's recommendation and request for action by the JBWCP Advisory Committee, Ms. Ugrin-Capobianco requested a motion to approve. The motion to approve was put forth by Ms. Kimberly Bartleson and seconded by Ms. Krista LeVier.*

- 2) The Return-to-Work (RTW) Pilot Program was created by the Working Group in January 2017, developed through June 2017, and implemented in November 2017. The pilot ended in October 2018 with a wrap up in November. The findings were presented to the Working Group in December 2018 and had been recommended for the JBWCP Advisory Committee's approval.

The recommended options for the Committee:

- Option 1: Implement a formal return-to-work program for all members to save JBWCP dollars
 - Provide webinar training through York
 - Rely on "Buddy" Program as an additional resource
- Option 2: Increase awareness of return-to-work resources
 - Provide program handbook and aids to all members for use as guidelines only
- Deficit Reduction Alternatives Working Group Recommendation (Modified Option 2):
 - Provide program handbook and aids to all members for use as guidelines only
 - Provide webinar training through York
 - Rely on "Buddy" Program as an additional resource

Ms. Ugrin-Capobianco opened the session up to questions before inviting a motion to recommend the implementation of the RTW Program to the Judicial Council at its May 2019 meeting.

Questions Asked: How would a formal RTW Program differ from an informal RTW Program?

Response: With a formal RTW Program, the court must consider light duty in replacement of the employee's central function. This will open this program up to everyone from industrial to non-industrial claims. The court will need to provide mandatory paperwork and filings. The informal RTW will be on a case-by-case basis and provide resources for reference or information-only.

Action: *Per recommendation by the Deficit Reduction Alternative Working Group and Advisory Committee discussion, Ms. Ugrin-Capobianco invited a motion to recommend the implementation of the RTW Modified Option 2 to the Judicial Council at its May 2019 meeting. The motion to approve was put forth by Mr. Hugh Swift and seconded by Ms. Kimberly Bartleson.*

Item 4

Workers' Compensation Metrics & Performance Indicators (No Action Required)

Ms. Becky Richard of York began the presentation with the workers' compensation metrics and performance indicators followed by Ms. Beth Harville of AIMS with a presentation of TPA metrics. This section ended with a presentation by Ms. Kato's settlement authority annual figures indicating the total number of SARs by levels.

Questions Asked: In the litigation ratio, it states the state average is 50.5%. Is that average all across the State?

Response: We received this information from the Department of Industrial Relations. It is a combination of indemnity and litigated claims of programs across the state.

Item 5

Presentation of Draft Actuarial Report and Allocation Results for Fiscal Year 2019-2020 (Action Required)

Ms. Becky Richard of York continued with a presentation of the Draft Actuarial Report and Allocation Results for the fiscal year 2019-2020. Briefly reviewing terminology, Ms. Richard discussed the outstanding liabilities as of June 30, 2019, and the fiscal year 2019-20 funding guidelines.

Questions Asked: Why are the brokerage and consulting fees purely based on payroll? Do we have a communication method to let courts know what resources are available to them? Will program staff reach out to members to discuss their premiums?

Response: Brokerage and consulting fees are not primarily driven by claims experience and we would not want to tie those factors to these fees.

Informally, yes. When members reach out to program staff for workers' compensation-related questions, program staff typically include York staff in analyzing the issue and providing direct/indirect consultation to the member.

Yes. Calls to discuss premiums will be scheduled within the next couple of weeks based on the members' requests.

Action: *The committee approved the actuarial report and allocation results to be presented to the Judicial Council at its May 2019 meeting. Motion to approve was put forth by Ms. Kimberly Bartleson and seconded by Ms. Heather Capps.*

Item 6

Review of Options to Reduce the Deficit via Amortization or Increased Confidence Levels (Action Required)

Ms. Becky Richard spoke about funding the program at higher confidence levels, displayed the projected deficit with higher confidence level funding, and presented the projected deficit with a ten-year amortized assessment plan. Ms. Ugrin-Capobianco presented two options as next steps.

- 1) Begin to develop options for review next year, OR
- 2) Continue to focus on alternative deficit reduction measures and direct staff to measure how effective the current and proposed strategies (future medical, buddy program, settlement authority policy, RTW program) can be in reducing the deficit.

Questions Asked: How does interest income get factored into the deficit? With Option 1, I assume we will be working with York to review all possible options to address the deficit issue? It is also important to view how the deficit is distributed between the judiciary and the trial courts.

Response: The interest is deposited into the assets. To the extent that assets grow, the deficit is impacted as a net difference between total assets and liabilities.

Yes, the working group will rely on York's services to assist in developing options.

Program staff will also include Budget Services staff in these discussions to show asset and liability distributions within the program.

Pending any further questions or discussion, Ms. Ugrin-Capobianco invited a motion to recommend Option 1 or Option 2. Ms. Heather Capp proposed Option 3, a combination of the two given options and look at other data.

Action: *A motion to combine options 1 and 2 with additional data and to create one working group was approved. The motion was set forth by Ms. Heather Capps and seconded by Mr. High Swift.*

LUNCH BREAK 12:15 p.m. to 12:45 p.m.

Item 7

Workers' Compensation Oversight (Action Required)

Ms. Jackie Miller from York discussed the annual audit of the claims administrator, AIMS, and the results of the quarterly spot checks due to the low audit score in the previous year. AIMS had shown steady improvement, but received an overall score of 82% in April 2018. AIMS received a

final audit score of 90% by the end of 2018. Further discussion regarding timely reporting and a response from AIMS was given. A recommendation to consider a target score increase to 90% compliance was recommended. Also discussed was to add managed care to the audit checks and to change the spot check schedule from quarterly to trimester.

Questions Asked: Is the data specific to small, medium and large courts? There is only a two-month spread in April and then four months before the next spot check. Can we spread this out?

Response: The data covers all. However, small courts do not have many claims on the report because their claims frequency is low compared to larger courts. If activities in the future add onto workload, the trimester review can be used instead of quarterly spot checks.

Action: *The motion to accept and receive the 2018 Annual Audit Report was set forth by Mr. Michael Yuen and seconded by Mr. Hugh Swift.*

Action: *The motion to change the Spot Check schedule from quarterly to trimester and to combine managed care with the Annual Audit in November was set forth by Ms. Kimberly Bartleson and seconded by Ms. Heather Capps.*

Item 8

Presentation of the Draft Annual Agenda (No Action Required)

Ms. Tania Ugrin-Capobianco announced that she will be asking staff to consolidate the recommendations of the Committee into the Annual Agenda. Once the annual agenda is developed, an email will be sent out to vote electronically. Additional items may be addressed to Mr. Farrales.

I. ADJOURNMENT

Adjourn to Closed Session: 12:50 pm

II. CLOSED SESSION (CAL. RULES OF COURT, RULE 10.75(D))

Ms. Ugrin-Capobianco opened the closed session to discuss matters relating the draft audit report of AIMS and the upcoming RFP for the program's brokerage and risk consulting contract.

Action: *The motion to accept the 90% target score, include managed care within the annual AIMS audit, and the revised spot checks schedule as discussed in the open session was set forth by Ms. Heather Capp and seconded by Mr. T. Michael Yuen.*

Adjourn Closed Session: 1:09PM