

Workers' Compensation Board

Meeting Minutes

January 12-13, 2012

Thursday, January 12, 2012

I. Call to order

Director Monagle, acting as the Alaska Workers' Compensation Board's Chair, called the Board to order at 9:04 am on Thursday, January 12, 2012, in Anchorage, Alaska.

II. Invocation and Pledge of Allegiance

III. Roll call

Director Monagle conducted a roll call. The following Board members were present:

Brad Austin	Sarah Lefebvre	Patricia Vollendorf
James Fassler	Krista Lord	Janet Waldron
Don Gray	Arylis Scates	Robert Weel
Linda Hutchings	Amy Steele	Zeb Woodman
David Kester	Rick Traini	

John Garrett and David Robinson resigned from the board. The welcome address to be given by Commissioner Bishop was cancelled due to his illness.

IV. Agenda Approval

A motion to approve the agenda was made by member Weel, and seconded by member Scates. The agenda was approved by unanimous vote.

V. Approval of Meeting Minutes

A motion to approve the October 5 & 6, 2011 Board meeting minutes was made by member Hutchings and seconded by member Fassler. The minutes were approved by unanimous vote.

VI. Director's Report

1. Budget FY12 YTD - Administrative Officer Alan Ezzell presented the Division's FY12 budget forecast. As mentioned at the October 12 - 13, 2011 meeting, there continues to be a short-fall in personnel services for two reasons 1) Merit Anniversary Increase 2) General Government and Supervisory Unit Unions negotiated a 2% increase for their members. A further draw on the Division's budget was the 40K Services increase, which includes contractual obligations, office rental increase for 6th & K St., and a potential increase in lease costs for the Juneau office. To date, 52.1% of the FY12 year budget has been expended. The Workers' Compensation Benefits Guaranty Fund (WCBGF) has expended \$79K in legal fees

charged by the Department of Law, which depletes funding for this line item. The Department of Law will continue to represent the WCBGF; however, a 144K supplemental has been requested. The Governor's office will permit no budget increases for FY13; therefore, we will proceed in a fiscally conservative mode. A ten year plan is being developed for legislative review.

2. Staffing -Teresa Nelson has been promoted to Worker Compensation Officer I/Supervisor and this position has been moved under Adjudications. Anna Bantigue, formerly from the Juneau WC office, accepted an Anchorage Office Assistant I position. Hearing Officer I position in the Anchorage office is the only remaining vacancy.
3. EDI/WC Rewrite - Meetings occur almost daily with the contractors. The February 2012 implementation date has been delayed to June 2012. First Report of Injury (FROI) and Compensation Report/Subsequent Report of Injury (SROI) electronic reporting implementation planned for this Spring has also been delayed. Once the case management system is in place, participation the first year will be voluntary and then transition to mandatory participation will occur. Insurance Services Organization (ISO), contractor for EDI reporting, will provide training to our insurers, adjusters and self-insured employers.
4. Legislation - There were no new legislation updates.
5. Medical fee schedule -The medical fee schedule is available through Ingenix. There is discussion and debate amongst providers and carriers regarding the fee schedule's effective date for services provided on or after December 31, 2010. We anticipate future claims and discussion with providers and carriers regarding medical fees. We will be meeting with Fair Health and Ingenix to revise the medical fee schedule for procedure codes only and anticipate a modified fee schedule by March or April of 2012 for board approval.
6. DOLWD Building Leases -Eagle Street's lease is close to being extended. The Juneau building lease expires in April 2012. Additionally, the 6th & K building lease will soon expire but it is anticipated the office will remain unless the landlord increases the rental rate.

Break 9:50am-10:09am

7. 2010 Annual Report Statistics - Director Monagle provided an overview on the Workers Compensation 2010 Annual Report.
8. Adjudication 2010 Statistics - Chief Adjudicator Wright provided an overview of hearings, prehearings, mediations, compromise & release, decision & order statistics.

Break 10:55am-11:02am

Public Comment Period 11:02 a.m. -12:00 Noon

Patty Wilson, licensed independent insurance adjuster in Alaska since 1980, has handled workers' compensation claims for eight years. She serves on the Workers' Compensation Committee of Alaska's (WCCA) board. Ms. Wilson encourages the board to be familiar with the Medical Services Review Committee Report because the medical fee schedule continues to be a challenge. This system is not cost effective, nor does it give injured workers the best possible medical care. Ms. Wilson read a message from Shelby Davison, President of WCAA, concerning a number of issues such as provider fees, reemployment mandates and unnecessary additional cost in stipends and unreasonable vocational rehabilitation bills.

Susan Daniels, Northern Adjusters, stated besides the 2.7% rate increase employers face in 2012, the Alaska Insurance Guarantee Association (AIGA) just completed an assessment to carriers for a 6.5% increase for premiums. The AIGA is underfunded due to the life of the claims still open. AIGA's board made a decision to increase premiums to increase available funding, which is passed down to employers in their policies. Their decision was based upon escalating medical fee schedule costs; mandatory rehabilitation referrals and the timeline for the rehabilitation process; delays in rehabilitation process; and increased costs because there is no mechanism to stop the evaluation process once a claimant returns to work (benefits must be paid until an injured worker has concluded the rehabilitation process). Ms. Daniels requested the board address carriers' rights and options adjusters can take when a provider's billing is incorrect or inappropriate for payment. Ms. Daniels expressed appreciation for EDI training.

VII. Board Committee Reports

- Medical Fees Committee – Member Hutchings provided a report on the activity of the committee and information gathered regarding workers' compensation medical fees.

Lunch Break 11:55 pm-1:30 p.m.

VIII. Old Business from Previous Meeting

Consideration of 8 AAC 45.071, the proposed regulation concerning adjudication of procedural, discovery, or stipulated matters without a Board Panel. After review of public comment, member Hutchings moved to adopt 8 AAC 45.071; seconded by member Weel. After discussion, the motion was approved by unanimous vote. 8 AAC 45.071 as proposed was adopted.

Consideration of 8 AAC 45.074(b), the proposed regulation regarding hearing continuances and cancellations. After consideration of public comment, member Gray moved to repeal and readopt 8 AAC 45.074(b); seconded by

Member Hutchings. After discussion, the motion was approved by unanimous vote. 8 AAC 45.074(b) as proposed was adopted.

Consideration of 8 AAC 42.082(d), the proposed regulation concerning medical coding and payment Procedures. After consideration of public comment, member Kester moved to adopt 8 AAC 42.082(d); seconded by Member Weel. After discussion, the motion was approved by unanimous vote.

Consideration of 8 AAC 45.138 Cost of Living Adjustments. Director Monagle, citing Robert Rules of Order, stated a motion cannot be tabled twice, it must be acted on. Member Traini moved to amend 8 AAC 45.138 seconded by Member Scates. Member Traini moved to continue the consideration of the amendment to Friday, January 13th seconded by Member Vollendorf.

Meeting Adjourned 4:30pm

Friday, January 13, 2012

I. Call to Order

Director Monagle resumed the Board meeting at 9:01 am on Friday, January 13, 2012, in Anchorage, Alaska. The following Board members were present:

Brad Austin	Sarah Lefebvre	Patricia Vollendorf
James Fassler	Krista Lord	Robert Weel
Don Gray	Arylis Scates	Zeb Woodman
Linda Hutchings	Amy Steele	
David Kester	Rick Traini	

II. Old Business from Previous Meeting

Consideration of 8 AAC 45.138 Cost of Living Adjustments. The amendment of the proposed regulation was approved on a 13-0 vote, with members Austin, Fassler, Gray, Hutchings, Kester, Lefebvre, Lord, Scates, Steele, Traini, Vollendorf, Weel and Woodman voting in favor. 8 AAC 45.138 as amended was approved on a 11-1 vote, with members Austin, Fassler, Gray, Hutchings, Kester, Lefebvre, Lord, Scates, Steele, Traini, Vollendorf and Weel voting in favor, and member Woodman voting against.

III. New Business

1. The next Board meeting is scheduled for May17-18, 2012. Additional board training will be provided.
 - Board Information by CD is an option if the board members choose to receive their information this way.
 - Change Board Meeting Dates. Member Kester moved to change the October 4 and 5th Board Meeting date to September 27 and 28th seconded by member Hutchings. Members Austin, Fassler, Gray, Hutchings, Kester, Lord, Scates, Steele, Traini, Weel and Woodman voting in favor, and member Lefebvre voting against.
 - There are two open board labor seats in the 3rd Judicial District, Anchorage.

Break 10:15am-10:30am

2. New Case Law Review
 - Hearing Officer Laura deMander reviewed the Alaska Supreme Court decision in *Pruitt v Providence*, Case No. S14687 (March 28, 2012)

- Hearing Officer William Soule reviewed the Alaska Supreme Court decision in *McGahuey v White Stone Logging, Inc.*, 262 P.3d 613 (Alaska 2011).

Meeting Adjourned 11:01am