

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

IN LINE OF DUTY COMMITTEE

June 23, 2021

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Wednesday, June 23, 2021 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue South, Nashville, Tennessee at approximately 9:40 a.m.

Committee Members present: Vice-Chair: Christine Bradley; Members: Shannon B. Hall and Jeremy Moseley. Alternate: Edna J. Jones.

Chair Harold Finch, II was unable to be present.

Others present: Christina Hickey, Metro Human Resources and Nicki Eke, Attorney, Metro Legal Department and Dr. Gill Wright, Civil Service Medical Examiner.

The Human Resources staff submitted the following for the Committee's consideration and appropriate action:

1. COVID Presumption – Emergency Rescue Workers.

Tracey Harvey, Davies, reported to the Committee that additional criteria has been added regarding COVID claims. She stated that since April 13th of 2021 they have only received four COVID claims and with regards to claims adjudicated by the Board on or after that date could affect the outcome of some of the claims. She stated that the presumption applies to emergency rescue workers meaning any person employed full time as a firefighter, paramedic, emergency medical technician or emergency medical technician advanced. She stated this does not apply to police officers and still no civilians covered in the Fire Department or Police Department and no police at all.

Nicki Eke, Legal Department, reviewed the definition of firefighters in the Code and stated that under the presumption it would include individuals whose duties involve extinguishing fires and related incidents and also fire inspectors.

2. In line of duty medical care appeal - Employee from the Fire Department.

The employee and attorney, Dewey Branstetter were present.

Shannon Hall stated that she will be recusing herself from this case.

Tracey Harvey, Davies, reviewed the claim with the Committee. She stated that the employee was diagnosed with Hodgkins Lymphoma on or about October 23, 2020. She stated that EMS workers are not covered by the cancer presumption unless they have documentation on file that they have worked in the hot zone of a fire. She stated the types of exposures on file that were provided are for radon, mold, diesel exhaust and some for fire. She stated that prior to working for Metro the employee was with Robertson County EMS performing the same type of job functions. She also stated that they did not find that the employee had any of the risk factors for this type of cancer. She stated the file was reviewed by Dr. Gill Wright and he stated that this type of cancer is not caused by any of the exposures on file.

There was some discussion of any other cases of this type and Tracey Harvey noted that there were two prior cases.

Nicki Eke, Legal Department, reviewed the definition of firefighter that the Committee will need to apply for the presumption. She stated that it is those employees who are not just extinguishing fires or fire related incidents but other employees of the fire department who are required to perform their duties in a toxic environment. She also stated that if you determine that an employee was required to perform their duties in a toxic environment then that employee would fall under the definition of firefighter.

2. In line of duty medical care appeal - Employee from the Fire Department. (continued)

There was some discussion of the definition of a toxic environment.

Dewey Branstetter, attorney, addressed the Committee regarding the claim, the presumption, and toxic environments. He also reviewed his job description with Metro.

Mark Young, Fire Union, addressed the Committee regarding EMS employees working in the hot zone.

There was further discussion of denials for EMS workers and Tracey Harvey stated that this type of cancer is not caused by any of the exposures listed.

Dr. Gill Wright stated that literature shows that Hodgkin's Lymphoma is associated with is mononucleosis or Epstein-Barr virus and if you have had that it will increase your chances of having Hodgkin's Lymphoma. He stated that it is a fairly common type of cancer and it can be related to genetics and there is no association at all to the exposures listed. He also noted that the development of Hodgkin's Lymphoma rarely occurs in a short period of time and in his opinion, it is more likely than not that it is due to exposure just previous exposure and not within the last two years.

There was some discussion regarding chemicals, exposures, how long it takes to develop Hodgkins Lymphoma and prior exposures.

Dewey Branstetter discussed the exposures with the employee's previous employment with Robertson County, the job description, a statement from the oncologist, and what the presumption states. Mr. Branstetter also had copies of the information from Robertson County EMS and the oncologist for the Committee.

There was also some discussion of a correlation of different types cancers and work environments.

There was further discussion of toxic environments, hot zones, and the information presented today by the employee's attorney and any history of covering Hodgkin's Lymphoma.

It was reiterated that all information needs to be submitted prior to the meeting so Committee members can receive the materials in order to make a recommendation.

Tracey Harvey stated that she recommends that since the Committee seems to agree that the toxic environment category has been met it be sent off for review.

Jeremy Moseley moved that this claim proceed through the presumption process. Edna Jones seconded, and the Committee approved without objection.

3. In line of duty medical care appeal - Employee from the Police Department.

Christina Hickey noted that Davies has received additional medical information this item.

The employee was present.

Tracey Harvey, Davies, stated that the information received were lab reports and they have not been reviewed yet. She also stated that she may need to request primary care physician records and requested this item be deferred.

Shannon Hall moved to defer this item. Edna Jones seconded, and the Committee approved without objection.

3. In line of duty medical care appeal - Employee from the Police Department. (continued)

The employee stated that her file has been lost and therefore they have no documentation on her and she had to provide the information. She stated that her back injury should have healed in a couple of months, but her treatment was over sixteen months.

Tracey Harvey, Davies, reviewed the claim with the Committee. She stated that the employee was involved in an accident in November of 2006. She stated that treatment ended in 2008 and placed at maximum medical improvement and discharged from care. She stated they were contacted in December of 2020 seeking additional care and she was referred to the injury on duty clinic. She stated that Dr. Shields opined that the issues she is having with her back are not caused by the injury from 2006. She also stated that there has been no contact from 2008 through 2020 and if she had she contacted us she would have been referred back to a physician.

There was some discussion regarding the employee putting in a request for a back brace and being denied for it and that she has been reaching out to the wrong people for medical care.

Christina Hickey stated that items 4-6 are related to an outbreak in the same department and at the last Committee meeting these items were taken together. After clarification from the Legal Department, items 4-6 were discussed separately so that the facts of each case are considered.

Christina Hickey noted that the employees for items 4-6 were not present.

4. In line of duty medical care appeal - Employee from the Police Department.

Tracey Harvey, Davies, reviewed the claim. She stated that this employee works in the records division of the Police Department and tested positive for COVID. She stated this claim was denied as she is a civilian and does not have first responder status.

Edna Jones moved to uphold the denial of the claim. Jeremy Moseley seconded, and the Committee approved without objection.

5. In line of duty medical care appeal - Employee from the Police Department.

Tracey Harvey, Davies, reviewed the claim. She stated that this employee works in the records division of the Police Department. She stated this claim was investigated and denied as she is a civilian and does not have first responder status.

It was also noted that there is no source on any of these.

Shannon Hall moved to uphold the denial of the claim. Edna Jones seconded, and the Committee approved without objection.

6. In line of duty medical care appeal - Employee from the Police Department.

Tracey Harvey, Davies, reviewed the claim. She stated that this employee works in the records division of the Police Department and this claim was denied as she is a civilian and does not have first responder status.

Jeremy Moseley moved to uphold the denial of the claim. Edna Jones seconded, and the Committee approved without objection.

7. In line of duty medical care appeal - Employee from the Police Department.

Christina Hickey stated the employee has requested a deferral.

Edna Jones moved for approval to defer this item. Shannon Hall seconded, and the Committee approved without objection.

There was some discussion of the presumption and it was clarified that for those classifications, if you have a claim dated February 1, 2021, before this law passed, as long as the Board has not adjudicated the benefit the presumption will apply.

With nothing further presented the meeting was adjourned at 11:05 a.m.

ATTEST:

APPROVED:

**Shannon B. Hall, Director
Human Resources**

**Christine Bradley, Vice-Chair
In Line of Duty Committee**