

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

IN LINE OF DUTY COMMITTEE

October 23, 2012

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Tuesday, October 23, 2012 in the Civil Service Conference Room, Suite 163, 222 Building, Third Avenue North, Nashville, Tennessee, at approximately 10:00 a.m.

Committee Members present: Chair: Christine Bradley; Members: Richard Riebeling and Clyde D. Smith. Alternate: B.R. Hall, Sr.

Vice-Chair: W. Todd Henry was unable to be present. B.R. Hall served as alternate for W. Todd Henry.

Others present: Shannon Hall, Metro Human Resources, Nicki Eke, Attorney, Metro Legal Department and Dr. Celia Goodson, Civil Service Medical Examiner.

BENEFIT BOARD ITEMS

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

1. In line of duty medical care request – Employee from Metropolitan Nashville Public Schools.

Shannon Hall informed the Committee that the employee's representative, Daniel Marshall, attorney, is present.

Tracy Petty, Alternative Service Concepts, (ASC), reported to the Committee this individual has been diagnosed with a condition where there is new case law regarding cumulative trauma (carpel tunnel syndrome) and stated that with the new law change, the treating physician has to state whether or not the condition is work related. She stated that the physician statement indicates that it is not an on the job injury and therefore was denied by ASC.

There was discussion of whether or not any additional medical information was available.

Daniel Marshall presented additional medical information from the treating physician regarding causation and he also addressed their job duties.

There was some discussion regarding the medical information and having accurate functional job descriptions highlighting the individual's job duties.

There was also discussion of the workers compensation statute and Metro using that statute as a guide and not having to comply with the sole use of workers compensation laws. There was discussion of how these types of cases were handled before the law change and continuing to evaluate these types of cases on a case by case basis.

After discussion of the criteria used on past cases and claim being compensable upon exclusion of the change in the law, Clyde Smith moved to accept the claim as in line of duty compensable. B.R. Hall seconded.

It was noted that the physician's statement/recommendation is that this is not work related.

Tracy Petty stated that since the law change, many physicians are coming back saying that these types of cases are not work related.

The Committee further discussed the medical record, the individual's actual job duties, functional job description and causation.

1. In line of duty medical care request – Employee from Metropolitan Nashville Public Schools.
(continued)

After some discussion of case law since the workers compensation law change, the diagnosis and job duties, Christine Bradley called for the question closing off any further debate.

A vote was taken on the motion to accept the claim as in line of duty compensable and failed with B.R. Hall and Clyde Smith voting in the affirmative and Richard Riebeling and Christine Bradley opposed.

After further discussion of the individual's job description and actual duties, Richard Riebeling moved to defer this item pending additional information from the treating physicians regarding the medical information, job description and causation with the specialist.

It was noted that an action has already been taken regarding this item and Nicki Eke stated that there is not a recommendation, but procedurally the action taken currently would have to be rescinded (or a motion to ask for additional information).

Richard Riebeling moved to rescind the previous action. Clyde Smith seconded and the Committee approved without objection.

Richard Riebeling moved to defer this item pending additional information from the treating physicians regarding the medical information, job description and causation with the specialist. Clyde Smith seconded the motion to defer this item was approved without objection.

2. In line of duty medical care request – Service pensioner from the Fire Department.

Shannon Hall informed the Committee that this item has been deferred at the past few meetings.

Tracy Petty reported to the Committee that this individual had been previously hospitalized and the bill was sent to Eckman Freeman for utilization review to determine whether or not any of the charges were related to a prior injury on duty case (presumption). Ms. Petty stated that the charges related to his presumption cases were paid and the remaining charges were denied as injury on duty. Ms. Petty stated that the individual feels that the entire bill should be covered by the injury on duty program versus their personal medical coverage.

The Committee discussed the facts of this case and a previous appeal at another Committee level.

The Committee reviewed the dates of service and charges, diagnoses during that stay and what was paid.

It was noted that the individual was hospitalized for something that was not work related and any type of treatment that was related to a presumption was paid.

Mark Young, employee representative, was present and addressed the Committee regarding receipt of additional medical information.

Shannon Hall informed the Committee that she received a call from the treating facility and there was no indication of any additional medical information. She also stated that she has not been contacted by the individual.

After some discussion of the medical information and payments made, Clyde Smith moved to approve the recommendation to deny the appeal of the non injury on duty related charges. Richard Riebeling seconded and the Committee approved with B.R. Hall opposed.

3. In line of duty medical care request – Disability pensioner from Metropolitan Nashville Public Schools.

Shannon Hall reported to the Committee that this case was deferred pending review of the additional medical information.

Tracy Petty reviewed the claim with the Committee. She stated that this claim is related to coverage for a non injury on duty condition as the result of a job related injury. Ms. Petty stated that at the request of the Committee, the individual has had an independent medical examination, which indicated no exacerbation/natural progression of the initial injury and since that time has been seeking treatment privately for that condition. She also stated that the current treating physician has indicated that it is not work related.

Shannon Hall stated that this individual was on an in line of duty disability pension, however, the in line of duty injuries have resolved. She stated that other medical issues were causing the individual to be disabled and therefore was placed on a medical disability pension.

The Committee discussed the individual's ability to return to work in their original duties.

Dr. Celia Goodson reviewed some of the medical information. She stated that the condition that prevents the individual from returning to work and what they are currently being treated for does not stem from the original injury on duty injury. It was also noted that the individual could not return to their original position, as it was out-sourced.

There was discussion of the individual's medical file as it relates to conditions, procedures and any restrictions that would have prohibited them from returning to work, Richard Riebeling moved to approve the recommendation to deny the additional injury on duty medical care coverage. Christine Bradley seconded and the Committee approved without objection.

4. In line of duty medical care request – Employee from the Fire Department.

Shannon Hall stated that the individual is present and has requested to address the Committee.

Tracy Petty reviewed the claim with the Committee. She stated that this is a case using the new law change regarding cumulative trauma injuries. She stated that the treating physician states that there is no way to determine whether the condition (carpel tunnel) was caused by job or idiopathic in nature. Ms. Petty indicated that there are questions regarding the claim, due to the individual having a second job, which is also repetitive in nature. She reviewed some of the individual's duties and indicated that there would still be a question regarding this claim even under the previous guidelines for these types of claims.

The Committee discussed the length of the individual's part-time employment, a statement from the physician indicating that the part-time employment was not related to causation and not determining exact causation.

There was discussion of the legal standard, which is that the employee has to show that the injury arose out of the course of their employment.

The individual was present and addressed the Committee. The individual discussed the length of their part time employment, reviewed the physician's statement related to causation, risk factors, actual job duties and previous cases. They also indicated that they have already had the necessary treatment and is seeking reimbursement.

There was discussion of the individual's job duties and whether or not that meets the level of repetitive and the job description information that was sent to the physicians for review.

Tracy Petty stated that this is another case where based on the old guidelines and the physicians

statement, the claim would have possibly been considered compensable.

4. In line of duty medical care request – Employee from the Fire Department. (continued)

Clyde Smith moved to defer this item pending having the functional job description/actual duties reviewed by the physician.

Mark Young, employee representative, also addressed the Committee related to actual job duties and functional job descriptions.

Richard Riebeling seconded the motion to defer and was approved without objection.

With nothing further presented the meeting was adjourned at 10:34 a.m.

ATTEST:

APPROVED:

***Mrs. Rita Roberts-Turner, Director
Human Resources***

***Mrs. Christine Bradley, Chair
In Line of Duty Committee***