MINUTES

**METROPOLITAN EMPLOYEE BENEFIT BOARD**

**IN LINE OF DUTY COMMITTEE**

**April 29, 2014**

The Metropolitan Employee Benefit Board’s In Line of Duty Committee met on Tuesday, April 29, 2014 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue North, Nashville, Tennessee, at approximately 9:32 a.m.

Committee Members present: Chair: Jerry Hall; Vice-Chair: \*Veronica Frazier; Members Charles D. Clariday. Alternate member(s): Christine Bradley

Committee member Richard Riebeling was unable to be present. Christine Bradley served as alternate.

Others present: Justin Stack, Metro Human Resources, Nicki Eke, Attorney, Metro Legal Department and Dr. Susan Warner, Interim 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 – Retiree from the Fire Department.

Jerry Hall informed the Committee that HR staff has received a request to defer this item.

Doug Clariday moved to defer this item to the next In Line of Duty Committee meeting. Veronica Frazier seconded and the Committee approved without objection.

1. In line of duty medical care request – Retiree from the Police Department.

This item was moved to the end of the agenda pending the arrival of the retiree’s attorney.

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

The employee was present.

Jamie Summers, Fire Department representative was also present.

Vickie Hampton, Alternative Service Concepts, (ASC), reviewed the claim with the Committee. She stated that individual describes three incidents that involved intimidation, however there are other factors that contributed to the individual’s condition. Ms. Hampton stated that based on the criteria it does not support the claim.

The employee addressed the Committee regarding the events leading up to filing the claim, citing workplace bullying, intimidation and a hostile work environment.

Jamie Summers, Fire Department representative, was present and stated that the HR issues are being reviewed.

The question was raised as to whether or not the Committee can find out what happens with the personnel issues.

Nicki Eke, Legal Department, stated that there are different components to this issue. She stated that the medical care issues are under the jurisdiction of the Board and the personnel issues, such as leave and discipline, are under the appointing authority. She stated that whatever resolution is reached on the personnel side will be public information and can be provided to the Committee as information only.

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

Christine Bradley requested that information regarding the outcome of the HR issues be provided to the Committee/Board.

The Committee discussed the criteria for psychological/stress claims and concluded that this case is cumulative and does not meet the criteria.

Nicki Eke, Legal Department, stated that a buildup of gradual stress is not compensable as injury on duty. She reviewed the criteria for psychological/stress claims and stated that harassment is not compensable as injury on duty unless the nature of the employers business is such that the risk of harassment was a reasonably condoned hazard so that it is a normal component of the employment relationship.

Christine Bradley moved to deny the injury on duty claim and requested information on the outcome of the HR issues. Veronica Frazier seconded and the Committee approved with Doug Clariday opposing.

At this time the Committee discussed item 2.

2. In line of duty medical care request – Retiree from the Police Department.

The retiree was present.

Lisa Naylor, attorney, and Richard McGhee were also present.

Lisa Naylor provided information to the Committee regarding an Office of Professional Accountability, (OPA) investigation in support of the claim.

Vickie Hampton, ASC, stated that their position has not changed regarding denial of the claim.

Lisa Naylor also provided additional information regarding the claim and cited events (near car accident) in support of the claim.

There was some discussion of case law for these types of claims and how cumulative issues are not covered.

Richard McGhee cited case law related to post traumatic stress and the event (near car accident) that was the trigger in this case.

Nicki Eke, Legal Department, reviewed the criteria for psychological/stress claims. She stated that there must be a specific incident of stress that the injury must be caused by an identifiable stressful work related event producing a sudden mental stimulus such as fright, shock or excessive or unexpected anxiety that the stress produced must not be usual stress, but must be extraordinary and unusual in comparison to the stress ordinarily experienced by an employee in the same type of duty. She also noted that it cannot be gradual. She also reviewed case law related to work place harassment and stated that harassment is not compensable as injury on duty unless the nature of the employers business is such that the risk of harassment was a reasonably condoned hazard so that it is a normal component of the employment relationship.

There was further discussion of the triggering event, (near car accident), and history that lead up to the event.

There was some discussion of HR issues/disciplinary actions.

It was asked of the Legal Department from a legal perspective whether or not the near car accident could be considered a potential trigger for post-traumatic stress.

Nicki Eke, Legal Department, stated that there have been several allegations of incidents causing stress to the claimant. She stated that based on a letter by the claimant there are

2. In line of duty medical care request – Retiree from the Police Department. (continued)

allegations of harassment and the record indicates there are several issues going on and not just one incident resulting in stress.

There was discussion of ASC not being aware of this incident initially and it was asked of ASC if there was documentation from a health care professional citing a diagnosis of post-traumatic stress disorder.

Lisa Naylor informed the Committee that the individual’s physician can supply information stating that the individual does suffer from post-traumatic stress disorder and that the near accident was the triggering event.

Doug Clariday moved to defer this item pending additional medical information regarding a diagnosis of post-traumatic stress disorder. Christine Bradley seconded and the Committee approved without objection.

1. In line of duty medical care request – Retiree from the Police Department.

The retiree was not present.

Vickie Hampton, ASC, reviewed the claim with the Committee. She stated that ASC denied the claim based on not having a hearing loss claim on file prior to their retirement and they are seeking guidance regarding these types of claims (hearing loss).

Doug Clariday moved to deny the injury on duty claim. Christine Bradley seconded and the Committee approved without objection.

\*Denotes Veronica Frazier leaving the meeting.

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

The individual was not present.

Brandi Easley and Vickie Hampton, ASC, reviewed the claim with the Committee. Vickie Hampton stated that the claim was denied based on the individual having elective surgery after maximum medical improvement.

Justin Stack informed the Committee that the individual indicated that they had additional information to support the claim, however, they have not supplied that information.

After discussion of the individual not being present not supplying additional information in support of the claim, Christine Bradley moved to deny the injury on duty claim. Doug Clariday seconded and the Committee approved without objection.

With nothing further presented the meeting was adjourned at 10:11 a.m.

ATTEST: APPROVED:

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***Ms. Veronica T. Frazier, Director Mr. Jerry Hall, Chair***

***Human Resources In Line of Duty Committee***