MINUTES

**METROPOLITAN EMPLOYEE BENEFIT BOARD**

 **IN LINE OF DUTY COMMITTEE**

**October 10, 2014**

The Metropolitan Employee Benefit Board’s In Line of Duty Committee met on Friday, October 10, 2014 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue North, Nashville, Tennessee, at approximately 9:30 a.m.

Committee Members present: Chair: Jerry Hall; Vice-Chair: Veronica Frazier; Members Charles D. Clariday and \*Richard Riebeling.

Benefit Board Members present: B.R. Hall, Sr. and Edna J. Jones.

Others present: Christina Hickey, Metro Human Resources, Nicki Eke, Attorney, Metro Legal Department and Dr. Susan Warner, 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.

Vickie Hampton, Alternative Service Concepts, (ASC), was present.

The retiree was present.

Vickie Hampton reviewed the claim with the Committee. She stated that the individual retired in 2004 and filed a presumption claim for cancer in July of 2013. She stated that the treating physician states that the condition was due to sun exposure and not related to being employed with the Fire Department. Ms. Hampton stated that at the last meeting the retiree presented some information regarding chemical exposures and cancer and ASC consulted with a dermatologist. She stated the dermatologist indicated that the type of cancer the retiree has is caused mostly by sun exposures.

The retiree addressed the Committee regarding the claim, work history and exposures to toxins while employed with the Fire Department.

\*Denotes the arrival of Richard Riebeling.

After some discussion of the information regarding chemical exposures and cancer, Vickie Hampton noted that ASC’s decision to deny this request for in line of duty medical care has not changed.

Richard Riebeling moved to uphold the denial of the claim for in line of duty medical care. Veronica Frazier seconded.

After further discussion of exposures, a vote was taken on the motion to uphold the denial of the claim for in line of duty medical care and the Committee approved with Doug Clariday opposing and Jerry Hall abstaining.

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

The employee was present.

Harold Finch, MNPS, was present.

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

Vickie Hampton, ASC, reviewed the claim with the Committee. Ms. Hampton stated that the employee was treated at the ER for a back and neck strain. She stated the employee received treatment with an orthopedist. The orthopedist noted a bulging disc, however, no surgery was recommended and the employee was placed at maximum medical improvement (MMI) and released from care. She stated that upon release from the orthopedist the employee requested a second opinion with a chiropractor. She stated that the employees symptoms and the diagnosis changed and the chiropractor indicated that there were other conditions not related to the initial injury. The employee was treated and released. Ms. Hampton stated that employee requested to see a pain specialist and further treatment was denied based on the diagnosis by the specialist.

The employee addressed the Committee regarding their current condition, treatment and the claim.

There was discussion of the employees initial injury being at MMI, receiving further treatment through their insurance provider and claims being denied by the insurance provider for treatment.

There was also discussion of ASC sending a letter to the providers regarding further treatment.

Richard Riebeling moved to uphold the denial of the claim for in line of duty medical care. Veronica Frazier seconded and the Committee approved without objection.

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

The retiree was present.

Vickie Hampton, ASC, reviewed the claim with the Committee. Ms. Hampton stated that the individual retired in 1990 filed a hearing loss claim in May of this year. She stated that ASC could not locate any active hearing loss claims during employment with Metro therefore ASC contacted the Civil Service Medical Examiner’s, (CSME), office for any hearing exams on file during employment. Ms. Hampton stated that the exams are dated 1967 through 1989 and show hearing was within normal range and there was no treatment for hearing loss. She stated that in discussing this claim with the CSME she indicated the hearing loss was related to age and therefore the claim was denied.

The retiree addressed the Committee regarding the claim, any records the Health Department may have and their job duties.

There was discussion of the types of examinations given by the Health or Fire Department related to hearing while employed with the Fire Department.

Richard Riebeling moved to uphold the denial of the claim for in line of duty medical care. Veronica Frazier seconded and the Committee approved with Doug Clariday opposing and Jerry Hall abstaining.

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

The employee was not present.

Vickie Hampton, ASC, reviewed the claim with the Committee. She stated that prior to the individual’s employment, they underwent a cardiac procedure and has filed three heart presumption related claims. She stated all have been denied based on no diagnosis of a condition to meet the criteria for the presumption. She stated the individual’s cardiologist stated the individual does have a medical condition, however, it is not work related.

There was discussion of hiring someone with a pre-existing condition and the presumption(s).

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

Dr. Susan Warner stated that she cannot attest to what the standards were when the individual was hire. She stated that based on the current regulations for hiring the individual would have been considered fit and would have been hired.

After discussion of the individual’s current medical condition(s), treatments and continuing to work, Richard Riebeling moved to uphold the denial of the claim for in line of duty medical care. Veronica Frazier seconded and the Committee approved with Doug Clariday opposing.

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

The employee was not present.

Vickie Hampton, ASC, reviewed the claim with the Committee. She stated the claim was denied based on not meeting the criteria for psychological stress claims.

There was some discussion of the criteria for psychological/stress claims and what the standards for these types of claims are based upon.

Nicki Eke, Legal Department, reviewed the criteria for stress claims.

Mark Young, Union Representative, addressed the Committee regarding the nature of the incident and stated that it was rare and the criteria.

Nicki Eke reviewed what the Code states regarding psychological/stress claims and Tennessee case law.

Veronica Frazier moved to uphold the denial of the claim for in line of duty medical care. Richard Riebeling seconded and the Committee approved with Doug Clariday opposing and Jerry Hall abstaining.

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

The employee’s spouse was present.

Mark Young, Union representative, distributed additional information regarding the claim.

Vickie Hampton, ASC, reviewed the claim with the Committee. She stated that the employee has been diagnosed with severe anxiety and depression. She stated the claim was denied based on not meeting the criteria for psychological stress claims.

The employee’s spouse reviewed the individuals’ current conditions and stated that she has a diagnosis of post-traumatic stress disorder (PTSD).

There was some discussion of whether or not the information presented would change ASC’s recommendation.

Mark Young, Union representative, addressed the Committee regarding the incident.

There was some discussion of the medical information where the physician indicates that the event was an extraordinary occurrence for the line of work, the department granting injury on duty leave and the employee appealing the leave status to the Civil Service Commission.

There was also some discussion related to the criteria for psychological claims and Tennessee case law as the standard used.

Veronica Frazier moved to uphold the denial of the claim for in line of duty medical care. Richard Riebeling seconded. A vote was taken on the motion and failed with a tie vote (Veronica Frazier and Richard Riebeling – affirmative and Doug Clariday and Jerry Hall opposing).

It was noted that this item will go to the full Board without a recommendation from the Committee.

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

 The retiree was present.

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

Vickie Hampton, ASC, stated that there have been several allegations of incidents causing stress to the claimant such as harassment and the record indicates there are several issues going on and not just one incident resulting in stress. She also stated that their position has not changed regarding denial of the claim.

Donald Summers, (retired mental health therapist), addressed the Committee regarding the retiree’s diagnoses and possible triggers.

The Committee discussed whether or not the retiree filed any complaints with the Civil Service Commission or any other avenue regarding the issue of harassment and the outcome of any complaints.

It was also noted that this is not the venue to address complaints of harassment.

The Committee discussed the diagnosis of post-traumatic stress and the event (near car accident) being the possible 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 or cumulative stress building up over a period of time.

After some discussion of what was so unusual regarding the particular incident, Richard Riebeling moved to uphold the denial of the claim for in line of duty medical care. Veronica Frazier seconded and the Committee approved with Doug Clariday opposing.

 With nothing further presented the meeting was adjourned at 10:55 a.m.

ATTEST: APPROVED:

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

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