

## MINUTES

### METROPOLITAN EMPLOYEE BENEFIT BOARD

#### IN LINE OF DUTY COMMITTEE

August 23, 2016

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Tuesday, August 23, 2016 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue South, Nashville, Tennessee, at approximately 9:30 a.m.

Committee Members present: Chair: Jerry Hall; Vice-Chair: Veronica Frazier; Members: Christine Bradley and Charles D. Clariday. Alternate(s) Talia Lomax-O'dneal and Edna J. Jones

Benefit Board Members present: B.R. Hall

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

Committee Chair Jerry Hall called the meeting to order and informed those present that the decisions of this Committee are only recommendations to the full Board for consideration.

He also noted that item 8 has asked to be deferred. Doug Clariday moved for approval of deferring item 8. Christine Bradley seconded and the Committee approved without objection.

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

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

Dewey Branstetter, attorney, was present and requested that this item be moved to the end of the agenda pending the arrival of the employee.

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

Dewey Branstetter, attorney, requested that this item be deferred pending additional medical information.

Doug Clariday moved to defer item 2. Veronica Frazier seconded and the Committee approved without objection.

3. In line of duty medical care appeal - Pensioner from Fire Department.

Dewey Branstetter, attorney, was present and stated that he is requesting that this item be deferred pending additional medical information from the treating primary care physician.

Doug Clariday moved to defer item 3. Veronica Frazier seconded and the Committee approved without objection.

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

Mark Young, Fire Department/union representative, was present and asked if he could be notified of the individuals that have cases being presented to the Committee when it is received.

Christina Hickey reviewed the process and stated that once a meeting date is set, the employee is notified. She stated that if the employee wants to contact a union representative or an attorney they do so.

Mark Young asked if the unions can be notified before the date of the meeting is set.

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

Christina Hickey stated that staff would not be notifying the unions prior to the employee being notified and that it is the employee's responsibility to notify who they would like.

Nicki Eke, Legal Department, informed the Committee that the communication is with the employee unless the employee makes the written request that someone else is to be provided that notification.

The Committee suggested that the unions communicate to their membership that should they be in this circumstance to notify the union if they want assistance.

The employee was present.

Mark Young stated that the employee does not have any medical records related to this case and requested to defer this item.

Doug Clariday moved to defer item 4.

Nicki Eke stated that it needs to be clear that the request is coming from the employee. She stated that while the union may represent employees, you have to rely on the employee being the person making the request to defer.

The employee requested that this item be deferred.

Veronica Frazier seconded and the Board approved without objection.

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

Mark Young, Fire Department/union representative was present.

Vickie Hampton, ASC, reviewed the claim with the Committee. She stated that the individual was seen at the emergency room, (ER), after breaking out in hives and was diagnosed with an allergic reaction. She stated that the 201 Form indicated that it was not work related and there were no known pre-existing or other conditions contributing to the cause. She also stated that he was seen at the IOD clinic where the physician's opinion was the same as the ER physician. Ms. Hampton stated that the individual appealed because they believe they were exposed to something either on a call or something from the pest control company that was at the fire department. She stated that the Fire Department reached out to the pest control company and they confirmed they have been using the same products for the past several years. Ms. Hampton stated that there is no proof that the allergic reaction was work related.

Jerry Hall confirmed with Vickie Hampton that the record shows that both physicians, (ER and IOD Clinic), have said it is not work related.

Mark Young spoke on behalf of the individual regarding this claim and stated that neither physician can say what caused the reaction.

The Committee discussed the diagnosis and the calls the individual went on prior to becoming ill.

Jerry Hall asked if there was a motion on this item.

Hearing none, this item will go to the Board without a recommendation.

At this time, the Committee went back to item 1.

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

The employee was present along with his attorney, Dewey Branstetter.

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

Vickie Hampton, ASC, reviewed the claim with the Committee. She stated that in May of 2015 the individual was diagnosed with stomach cancer and filed IOD in June for that condition. She stated that after several reviews by Review Med, it was deemed not work related based on a medical risk factor (h pylori) known to be the main cause of that type of cancer. Ms. Hampton stated that there are three additional claims where the individual is stating that the injuries to his bladder, lungs and his diabetes is related to the cancer.

Dewey Branstetter addressed the Committee regarding the claims. He stated that the individual has been employed for over 30 years and has passed all of his physicals. He reviewed his employment history, types of exposures and the cancer presumption. He distributed some information related to cancer and firefighters and reviewed the study with the Committee. He also reviewed the medical record, his conditions and that there is no evidence of any risk factors.

The Committee discussed the physicians statements/opinions and when the h pylori, (which is the primary cause of stomach cancer), was first diagnosed. It was also noted that you can carry h pylori and not be aware of it.

The employee addressed the Committee regarding the h pylori bacteria and how it can be contracted.

There was further discussion of his job duties, h pylori, and the presumption.

The employee stated that his injuries are either the direct result of or have been exacerbated by his job.

There was some discussion regarding precautions being taken in Metro's firehalls to reduce exhaust fumes.

After clarification on how many claims are before the Committee and to vote on the four claims individually, Doug Clariday moved to overturn ASC's recommendation to deny the cancer claim. Jerry Hall seconded and the Committee approved with Veronica Frazier and Christine Bradley abstaining.

With regards to the other three conditions, Nicki Eke, Legal Department, stated that the presumption applies to health impairments caused by the disease of cancer for firefighters. She stated that there is no diagnosis of bladder cancer. She stated that it also applies to health impairments caused by disease of the lung, hypertension or heart disease.

The Committee discussed what the presumption states and that you can not vote on something that could happen in the future for which you have no evidence of.

The appellant withdrew his claims for the second and third claim.

With respect to the claim for diabetes, Nicki Eke informed the Committee that there is no presumption pertaining to diabetes in either state law or the Metro Code. She stated that in the absence of the presumption it is just like any other claim and the employee would have to show that the medical condition arose out of or in the course of employment.

The Committee did not have a recommendation due to a lack of motion on the fourth claim.

6. In line of duty medical care appeal - Pensioner from Fire Department.

Vickie Hampton, ASC, reviewed the claim. She stated that the individual filed a claim for a 26 year history of fighting fires causing a pulmonary infection. She stated the medical record was sent to ReviewMed and there was no diagnosis of a specific pulmonary disease or COPD.

Mary Young, Fire Department/union representative, was present and asked if there was any history/101 forms filed.

6. In line of duty medical care appeal - Pensioner from Fire Department. (continued)

There was some discussion of there being no diagnosis or case history (101 Forms) with the department.

Doug Clariday moved to defer this item for one month. No second was noted.

Vickie Hampton stated that there are no 101 Forms on file with the department and no history with ASC.

Christine Bradley moved to uphold ASC's recommendation to deny the claim. Veronica Frazier seconded and the Committee approved with Doug Clariday opposing.

Nicki Eke stated that if the union is going to be representing the claimant it needs to be coordinated with the individual.

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

The employee and Daphne Davis, attorney, were present.

Vickie Hampton, ASC, reviewed the claim with the Committee. She stated that the employee filed a hypertension claim under the presumption. She stated that after review by ReviewMed, it was deemed that his obstructive sleep apnea and other risk factors contributed to the hypertension. She also noted that his treating physician stated that his weight and the sleep apnea are the cause of the hypertension.

Daphne Davis addressed the Committee regarding when he was diagnosed with the sleep apnea and how it could not relate to being diagnosed with hypertension. She discussed his job duties and the presumption.

The employee addressed the Committee regarding being overweight, the stress of the job and not having high blood pressure when he was hired.

Doug Clariday moved to overturn ASC's recommendation to deny the claim.

The motion failed for lack of a second.

There being no other motions, this item will go to the Committee without a recommendation.

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

This item was deferred to the next IOD Committee meeting.

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

The employee and Daphne Davis, attorney, were present.

Vickie Hampton, ASC, reviewed the claim with the Committee. She stated that the individual does have a hypertension claim on file for which ASC is covering. She stated that when the file was reviewed by ReviewMed, it was discovered that he has a congenital genetic risk factor, which is the reason for the condition.

Daphne Davis reviewed some additional medical information regarding his medical conditions, contributing factors and diagnosis.

The employee addressed the Committee regarding his medical condition and procedures.

The Committee discussed deferring this item to allow time for ASC to review the additional information related to his condition and the diagnosis.

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

Doug Clariday moved to overturn ASC's recommendation to deny the claim.

The motion failed for lack of a second.

Christine Bradley moved to defer this item pending review of the additional medical information.  
Jerry Hall seconded and the Committee approved without objection.

Nicki Eke, Legal Department, noted that there has to be something in the medical record as opposed to information given orally.

With nothing further presented the meeting was adjourned at 11:18 a.m.

ATTEST:

APPROVED:

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***Ms. Veronica T. Frazier, Director  
Human Resources***

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***Mr. Jerry Hall, Chair  
In Line of Duty Committee***