

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

IN LINE OF DUTY COMMITTEE

July 26, 2018

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Thursday, July 26, 2018 in the Parks Conference Room, 2565 Park Plaza, Nashville, Tennessee, at approximately 9:30 a.m.

Committee Members present: Chair: Jerry Hall; Vice-Chair: Christine Bradley; Members: Edna J. Jones. Alternate(s): Stacey Rucker

Member Talia Lomax-O'dneal was unable to be present. Alternate member Shannon B. Hall 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.

Committee Chair Jerry Hall called the meeting to order and stated that the decisions of this Committee are only recommendations to the full Board for consideration. He also stated that any information that Alternative Service Concepts, (ASC), shares is simply what they have received from the medical provider.

Christina Hickey stated the first order of business is to elect a Vice-Chair for the In Line of Duty Committee and opened the floor to nominations for Committee Vice-Chair.

Edna Jones nominated Christine Bradley for Vice-Chair of the In Line of Duty Committee. Jerry Hall seconded.

A vote was taken on the motion for Committee Vice-Chair and was approved unanimously by the Committee.

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

1. In line of duty medical care appeal – Pensioner from Fire Department.

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

Mark Young, union representative, was present.

Dewey Branstetter, attorney, was present.

The pensioner was not present.

Vickie Hampton stated that at the January In Line of Duty (IOD) Committee meeting, the Committee voted to uphold ASC's denial of this heart hypertension claim after it was reviewed by ReviewMed. She stated that at the February Board meeting it was referred back to the Committee because his attorney stated that there was new medical information to present. She stated that at the last meeting it was decided that any new medical information should be presented to ASC prior to this meeting and ASC has not received any new medical information.

Dewey Branstetter, attorney, stated that they do not have any new medical information. Mr. Branstetter reviewed what the presumption states and the existing medical information related to this claim.

Mark Young, union representative, passed out some medical information from his treating physician, the emergency room records from the day of the injury and a specialist.

There was some discussion regarding family and personal history, the presumption, what the individual was doing at the time of the injury, (playing basketball or sitting in the bleachers), and who completed the 101 Form.

1. In line of duty medical care appeal – Pensioner from Fire Department. (continued)

Vickie Hampton, ASC, reiterated that this item was sent back to the Committee based on new medical information and there is none. She stated that this item has been heard and the Board voted to uphold ASC's denial of this claim.

There was further discussion regarding family history, coronary artery disease and hypertension.

Nicki Eke, Legal Department, stated that it is up to this Committee to make a determination whether competent medical evidence has been presented.

There was further discussion regarding the medical information that was reviewed by ReviewMed for this claim and the questions presented.

The Committee discussed rebutting the presumption, his annual physicals, stress factors with his position and who is covered under the presumption.

Edna Jones moved to overturn ASC's denial of the injury on duty claim and continue the in line of duty disability pension. Jerry Hall seconded and the Committee approved with Christine Bradley opposing.

Christine Bradley requested that copies of the annual physicals be presented at the next meeting.

Vickie Hampton stated that the physicals are in the medical information.

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

Tracy Patterson, ASC, was present.

The employee was not present.

Mark Young, union representative, stated that the employee could not be present.

Tracy Patterson, ASC, reviewed the claim with the Committee. She stated this case pertains to a male Firefighter/EMT 2 who is also a self-employed plumber. She stated that in August 2017 the employee sought treatment with a specialist for hand pain under his personal health insurance. She stated that after conservative treatment and diagnostics surgery was ordered September 29, 2017 and the employee filed a 101 Form on October 14, 2017 for bilateral hands and listed the date of injury as August 28, 2017. She stated that the physician at the IOD Clinic agrees with the diagnosis, however, he does not feel that it is caused by his employment with the Fire Department.

Mark Young presented a statement from the employee's treating physician which indicates that it is work related to his job as a Firefighter.

After discussion of when the law changed back in 2014 regarding repetitive injuries and that they were not considered work related and the Board instructing ASC to follow that standard, Edna Jones moved to uphold ASC's denial of the claim. Christine Bradley seconded and the Committee approved without objection.

At this time the Board took a break and then reconvened with the next item.

3. In line of duty medical care appeal – Former employee from Health Department.

The former employee was present.

Tracy Patterson, ASC, reviewed the claim with the Committee. She stated this case pertains to a former employee of the Health Department. She stated that in August of 2008 he responded with co-workers to the Sheriff's Office following a report of a white powdery substance believed to be anthrax. She stated that the same day the white material was determined not to be anthrax. The employee resigned on September 2, 2008 and filed a 101 Form on September 17, 2008 indicating that the white powder incident exacerbated

3. In line of duty medical care appeal – Former employee from Health Department. (continued)

his post-traumatic stress disorder (PTSD), which was present prior to his employment with Metro. She stated that after investigation, ASC denied the claim.

Edna Jones stated that those who appear before this body for an appeal are usually employees or pensioners and appeal in a timely manner. She stated that this individual is neither, he filed a claim over 10 years ago that was investigated and denied by ASC. She questioned the statute of limitations on filing an appeal for injury on duty medical care.

Nicki Eke, Legal Department, stated that with regards to injury on duty medical benefits the law is, in situations like here, when the Metro Charter and the Metro Code do not prescribe a time limit to file or appeal a claim for injury on duty medical benefits, in these types of cases where the benefit plan does not prescribe a time limit to assert or file a claim the longest statute of limitations that applies under state law is a six year statute of limitations for contract claims. So a claimant will have six years to file an appeal or file a claim for injury on duty medical benefits to the Benefit Board. She stated that the statute of limitations begins to run when by reasonable care and diligence it is discoverable and apparent that an injury on duty has occurred.

It was noted that this claim was filed in 2008, it does not meet the criteria for a psychological claim, and the statute of limitations is so far gone that this is not properly before the Committee or Board for an appeal.

The former employee addressed the Committee. He stated that he does not consider this an appeal because he does not believe ASC had ever legally rendered an initial determination.

The Committee discussed that in 2008 the Board gave authority to ASC to render initial determinations, which was done on his claim.

The former employee brought up an issue with ASC making determinations and sending out correspondence as early as 2007 regarding denials/approvals.

Tracy Patterson stated that she researched the case he is referencing and ASC did have authorization from Metro.

There was discussion regarding ASC having authority to manage the injury on duty program and making determinations.

The former employee's intent at this meeting was questioned as to whether or not he is making an appeal or is he wanting to have the claim heard.

The former employee indicated that he is prepared to have the medical elements of his claim heard.

Vickie Hampton, ASC, stated that the minutes he is referring to gave ASC authority to make a determination on the medical.

The former employee reviewed the minutes and stated that the motion voted on failed and did not have the majority.

Nicki Eke, Legal Department, stated that the minutes reflect the action taken by the Board.

The former employee brought up inaccuracies regarding the definition of disability and that just because the Board took an action didn't make it correct. The former employee also brought up the Board By-Laws and Roberts Rules of Order.

Nicki Eke, Legal Department, stated that the minutes reflect the action taken by the Board and that the majority of the members voted and approved the motion that was made.

The former employee stated that is not correct.

3. In line of duty medical care appeal – Former employee from Health Department. (continued)

Edna Jones called for a point of order.

Edna Jones moved to uphold the denial by ASC on the grounds that the statute of limitations has passed and this claim does not meet the criteria for an IOD psychological injury. Christine Bradley seconded and the Committee approved without objection.

With nothing further presented the meeting was adjourned at 10:47 a.m.

ATTEST:

APPROVED:

Shannon B. Hall, Director
Human Resources

Jerry Hall, Chair
In Line of Duty Committee