

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

IN LINE OF DUTY COMMITTEE

February 15, 2019

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Friday, February 15, 2019 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue South, Nashville, Tennessee, at approximately 10:54 a.m.

Committee Members present: Chair: Jerry Hall; Vice-Chair: Christine Bradley; Members: Shannon B. Hall and Stacey Rucker.

Benefit Board Member(s) present: B.R. Hall, Sr.

Alternate(s): Edna J. Jones and Talia Lomax-O'dneal were 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.

The meeting was called to order by former Committee Chair Jerry Hall.

Christina Hickey stated that the first order of business is to elect the Committee Chair and Vice-Chair and opened the floor to nominations.

Stacey Rucker nominated Jerry Hall for Committee Chair.
Stephanie Bailey nominated Christine Bradley for Committee Vice-Chair.
A vote was taken on the nominations and was approved without objection.

Committee Chair Jerry Hall 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.

Jerry Hall noted that item 5 has withdrawn their appeal and item 7 has requested a deferral.

Stacey Rucker moved to defer item 7, the in line of duty medical care appeal – former employee from Fire Department. 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 Police Department.

The employee was present.

Jack Byrd, attorney, was also present. Mr. Byrd Stated that the employee was mandated to visit his physician concerning his blood pressure. He stated that the bill from that visit was not paid for by Metro and he is requesting that bill be paid in addition to his blood pressure medications under the presumption.

Tracy Patterson, Alternative Service Concepts, (ASC), stated that the claim was processed accordingly. She stated that the medical records were submitted to ReviewMed and they opined that the employee developed the condition secondary to family history, smoking and obesity. She stated the medical records they received reflect smoking since the age of 15 and that he has not quit.

The employee stated that he has not smoked in years and does not have a family physician.

The Committee discussed the medical record and that the information in that record had to come from the employee's physician and that smoking as a factor has been significant regarding heart, hypertension and lung claims.

1. In line of duty medical care appeal – Employee from Police Department. (continued)

Dr. Gill Wright, Civil Service Medical Examiner, (CSME), reviewed the notation in the medical record regarding smoking.

The Committee further reviewed the notations regarding smoking in the medical record and the effects of smoking and hypertension.

Dr. Gill Wright stated that smoking accelerates cardiac and hypertension related events and when you stop smoking it takes a period of time for it to get back to normal. He also noted that the medical record from the Health Department indicates smoking of 8-10 cigarettes per day beginning in 2015.

Vickie Hampton, ASC, reviewed the timeline from the Health Department and that it is also outlined in the physician's reports. She stated that information was gathered every time he goes in for a physical.

Stacey Rucker moved for approval of the medical care appeal.

The motion died for lack of a second.

Shannon Hall moved to uphold the denial by ASC. Christine Bradley seconded and the Committee approved with Stacey Rucker opposed.

Jack Byrd stated that he will see if he can get counsel for the next meeting as he will be involved in a federal case or ask for a deferral.

2. In line of duty medical care appeal – Pensioner from Police Department & ECC.

The pensioner was present.

Tracy Patterson, ASC, reviewed the claim. She stated that in September 2018 he was seen by an audiologist and it was recommended that he get hearing aids. She stated that ASC received a 101 for hearing loss in October 2018. She stated that ASC confirmed with the Police Department and the employee that a 101 was not filed while he was actively employed. Ms. Patterson stated that ASC reached out to the CSME for his opinion and he opined that with a reasonable degree of medical certainty the hearing loss is not work related and more related to the retirees age. She also noted that two cases have been previously heard for hearing loss claims where they filed the claims after they retired and they were denied.

The pensioner questioned on what they based that the hearing loss didn't happen while he was a police officer. He also stated that he did have some hearing issues as an officer, but he was not about to go get a hearing test because he thought it would affect his job selections.

Dr. Gill Wright, CSME, stated that in reviewing the medical record his hearing loss appears to be just a normal age-related hearing loss. He also stated that data from the Occupational Safety Health Administration, (OSHA), states that you have to have significant continuous exposure to noise above a certain level and that intermittent (such as a police or fire call exposure) would not cause a significant loss. He stated that he could not find a significant reason to associate this as work related.

The Committee discussed the OSHA standards and studies done within Metro, hearing protection and siren placement in the vehicles.

There was some discussion regarding hearing protection when the pensioner was an active employee and the percentage of employees in the Fire and Police department that may have hearing loss.

There was further discussion regarding siren placement, a hearing protection program, and statistics regarding hearing loss.

2. In line of duty medical care appeal – Pensioner from Police Department & ECC. (continued)

There was discussion regarding the claim being filed years after the fact, the lack of information in the medical record to support the claim and the pensioners own admission of hearing issues

Stacey Rucker moved for approval of the medical care appeal.

The motion died for lack of a second.

Shannon Hall moved to uphold the denial by ASC. Christine Bradley seconded and the Committee approved with Stacey Rucker opposed.

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

The pensioner was present.

Mark Young, union representative, was present.

Tracy Patterson, ASC, stated this case pertains to a pensioner from the Fire Department. She stated that prior to his employment with Metro he was in the military in the air craft carrier division. She stated that in May of 2018 ASC received a hearing loss claim for the retiree. She stated that the 101 form indicated that it was due to years of exposure to sirens and horns with no hearing protection. She stated that ASC obtained medical records and confirmed with the Fire Department that no 101's were filed while he was actively employed. Ms. Patterson stated that the individual submitted a statement from his physician stating that the hearing loss is most consistent to noise exposure. ASC reached out to the CSME for his opinion and he stated its more likely than not that the individual's hearing loss is predominately not due to his employment with Metro.

Mark Young, union representative, stated that Police and Fire are more likely to have hearing loss because of the job. He also described the conditions in the firetrucks prior to the sirens being moved and having ear protection.

Tracy Patterson noted that the retiree has had multiple surgeries to his ears.

There was some discussion regarding hearing exposures during the time he was employed and addressing causation.

There was also some discussion of the pre-employment physical where it indicates hearing issues prior to employment.

There was discussion of having a 101 Form for an injury on duty, pre-existing conditions, waivers and exposures.

Christine Bradley moved to uphold the denial by ASC. Shannon Hall seconded and the Committee approved with Stacey Rucker opposed.

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

The pensioner was present.

Mark Young, union representative, was present.

Tracy Patterson, ASC, reviewed the claim. She stated that in July of 2018 ASC received a hearing loss claim for the individual. She stated that there was not cause or description of injury noted on the 101 Form and there was not a 101 filed during his employment. She stated that he did recall filing a special report requesting that the siren be moved and the siren was moved, however, the Fire Department did not have the report. She stated that ASC reached out to the CSME for his opinion and he stated its more likely than not that the individual's hearing loss is predominately not due to his employment with Metro.

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

The pensioner addressed the Committee. He stated that he wrote the special report, sent it to the Chief and the siren was moved.

Tracy Patterson stated that the CSME did note that in his initial physical there was some hearing loss. Dr. Gill Wright stated that the medical record does show some hearing loss, however, after further review of the dates of the physicals he concluded that it was not on his initial physical and his opinion would change.

Stacey Rucker moved for approval of the medical care appeal. Jerry Hall seconded and the Committee approved with Shannon Hall and Christine Bradley abstaining.

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

This appeal was withdrawn.

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

The employee was present.

Mark Young, union representative, was present.

Tracy Patterson, ASC, reviewed the claim. She stated that initially there was some confusion as to what she was filing, a heart presumption claim or for elevated blood pressure. She stated that she was pursuing a stress claim, however, after review of the case it does not meet the criteria for a psychological stress claim.

Mark Young, union representative, stated that she is not seeking a stress claim. He stated that she is here for hypertension.

After some discussion and clarification of the claim, no action was taken on this item as she has a compensable claim on file for hypertension.

7. In line of duty medical care appeal – Former employee from Fire Department.

This item was deferred.

8. In line of duty medical care appeal – Employee from Metropolitan Nashville Public Schools.

Tracy Patterson, ASC, reviewed the claim. She stated that the employee filed a 101 Form February of 2018 for a fall. The 101 stated there were no objects or substance that directly injured the employee. She stated the employee treated at the IOD clinic and the physicians notes reflect that she tripped over her own shoes. Ms. Patterson stated that they spoke with witnesses to the fall, whom stated that there was not anything on the floor. She stated that after review, the claim was denied as there was no risk to inherent to employment. She also noted that the employee's injury on duty leave was initially denied, however, the employee appealed and it was approved.

The employee was not present.

Harold Finch, Metropolitan Nashville Public Schools, (MNPS), was present.

Christine Bradley moved to uphold the denial by ASC. Shannon Hall seconded and the Committee approved with Stacey Rucker opposed.

With nothing further presented the meeting was adjourned at 10:37 a.m.

ATTEST:

APPROVED:

**Shannon B. Hall, Director
Human Resources**

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