

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

STUDY & FORMULATING COMMITTEE

October 30, 2020

The Study & Formulating Committee met on Friday, October 30, 2020 at approximately 10:49 a.m. This meeting took place via teleconference.

Committee Members present: Chair: Trish Holliday; Committee Members: Nick Brassell, Richard Chapman and *Kim Stagg.

Vice-Chair: Cleophis D. Rucker was unable to be present.

Benefit Board Members present: Shannon B. Hall

Other(s) present: Christina Hickey, Metro Human Resources, and Nicki Eke, Metro Legal Department.

Justin Stack called the meeting to order and stated that the first order of business will be to have Nicki Eke, Legal Department read the electronic meetings statement.

Nicki Eke stated that at the beginning of the meeting that all Committee members participating by electronic means shall be identified by roll call so that a quorum can be established.

Justin Stack did roll call for the Committee to establish a quorum.

Nicki Eke stated that under the Governor's Executive Order #65 each time a Committee member, staff or other participant who is using audio only participation wishes to speak he or she shall identify themselves in a manner reasonably calculated to permit the public to ascertain the identity of the person speaking. She also stated that as a result of the COVID-19 pandemic the Governor has issued Executive Order #65 authorizing Committee's to meet and conduct their essential business by electronic means if the Committee determines that meeting electronically is necessary to protect the health, safety and welfare of Tennesseans in light of the COVID-19 outbreak. She also stated that before considering items on the agenda the Committee needs to determine by a roll call vote that the meeting agenda constitutes essential business of the Committee and meeting electronically is necessary to protect the health, safety and welfare of Tennesseans in light of the COVID-19 outbreak. She stated that all votes during the meeting shall be conducted by roll call.

Kim Stagg moved for approval that the meeting agenda constitutes essential business of the Committee and meeting electronically is necessary to protect the health, safety and welfare of Tennesseans in light of the COVID-19 outbreak. Nick Brassell seconded and the Committee approved without objection.

Justin Stack stated that the next order of business is approval of the minutes from the October 15, 2020 Study and Formulating Committee meeting. With no corrections, Kim Stagg moved for approval of the minutes. Richard Chapman seconded and the minutes were approved without objection.

1. Follow up discussion on In Line of Duty, (IOD), program.

Steve Cain, HR staff, addressed the Committee regarding some follow up questions from the Committee regarding the program. He stated that the stakeholders in the program are the employees, the departments and the administration.

Shannon Hall, HR Director, stated that staff has spoken with the administration seeking clarification as to why the IOD program was included in the memo. She stated that she has a statement from the administration and it reads as follows, "Per the Charter of the Metropolitan Government of Nashville and Davidson County the Study and Formulating Committee is only appointed at least once every five years. Our administration did not want to miss an opportunity for the expertise of the Committee to review any of our major benefit plans. If the

1. Follow up discussion on In Line of Duty, (IOD), program. (continued)

Committee reviews a program but does not find further recommendations validation and affirmation of the programs strategy and management are also helpful and desired, specifically on injury on duty. We believe that Metro has taken meaningful steps over the past several years to provide our members with high quality and a valuable benefit while also implementing strategic cost containment measures and so we requested a general best practice review for that program. As noted in our September 25th memo other programs have more detailed recommendations requested. We appreciate your time and attention to all our major programs and we look forward to either your recommendations or validations as your very important work progresses. Thank you again for your service to Metro.”

Shannon Hall stated that after review of the program even an affirmation or validation that the current strategies would still be a good and best practice, that validation is helpful and desired so that they know they did not miss an opportunity to have it looked at.

Steve Cain continued with the Committee’s follow up questions. He reviewed injury on duty totals and clinic usage. He stated that based on 2019 injury on duty claim forms, (101 Forms) there were a total of 2123 and out of those 796 were report only, which means that the employee did not seek treatment but was documented in case something surfaces at a later date. He stated that a approximately 1300 actually sought treatment. He stated that total visits to the clinic was 2951, in addition to over 3100 drug and alcohol screenings for Metro departments. Mr. Cain stated that after speaking with the administrative staff and some stakeholders regarding any improvements to the program it was concluded that focusing on the safety program is most important. He stated that department safety coordinators need the training and support of a central office.

There was some discussion regarding there not being a current central safety office, some history behind that and current efforts to establish one.

There was also some discussion regarding the Committee validating the efforts of constructing a central safety office.

Nicki Eke, Legal Department, stated that this is an issue that pertains to injury on duty and injury on duty medical care is under the jurisdiction of the Committee. She stated that the Committee can make recommendations regarding safety issues that have an impact on injury on duty.

There were some questions regarding post-traumatic stress disorder treatment and how the cases are identified.

Steve Cain stated that currently the Metro IOD program applies the TN workers comp guide on mental/psychological. He stated that the TN court states that in order to prevail on one of these claims for mental injury that the injured employee must prove by a preponderance of the evidence that 1) there is a mental injury as the result of an identifiable stressful work related event; 2) the event produced a sudden stimulus such as fright, shock or excessive unexpected anxiety; and 3) the stress produced was extraordinary and unusual in comparison to stress ordinarily experienced by an employee in the same type of duties. Mr. Cain stated as advised by Metro Legal several years ago the Benefit Board traditionally looked at the workers compensation laws for precedent in interpreting the application of the Metro Code to mental/psychological disabilities. He stated that the legal department advised that those guidelines be utilized in making the recommendations on such issues. He stated that the guidelines provided by the Legal Department at that time stated 1) what was the specific work related event or events that caused the mental injury; 2) did the event subject the employee to a sudden stimulus such as fright, shock or excessive unexpected anxiety as opposed to a gradual build up of stress over time; and 3) was the stress caused by an event extraordinary and unusual in comparison to stress ordinarily experienced by an employee in the same type of duties. He reviewed the process for filing a psychological claim, which is filed like any other claim and how to appeal. He also stated that in 2019 there were four psychological claims, all four were denied because they did not meet the criteria. He stated that thus far in 2020 there have been eight claims, six were denied and out of those six four appealed, three are still pending, one was overturned and one is still being reviewed. He also noted that these employees still have access to care whether it is through the medical plans, employee assistance program, (EAP) or programs specifically provided by police and fire for those employees.

2. Union comments.

Mark Young, Fire Union, addressed the Committee on the information he supplied regarding the Fire Departments costs to the injury on duty program and how it relates to inadequate staffing. He stated that he would like for the Committee to look at and make a recommendation on the review process for presumptive cases as the reviewers are not local and sometimes the medical information reviewed is incorrect. He stated that if the reviewers were local they would be able to actually see and talk to the patient during an examination. He stated that with respect to PTSD, there are programs for this treatment through your personal insurance and the Fire Department does have peer support staff that assists with treatment. He also stated that while the employee is seeking treatment that it needs to be covered as injury on duty just as any other injury. He also stated that the criteria for these types of claims needs to be reviewed as well.

Steve Cain stated that no one in this administration would doubt that an employee has PTSD, however under the criteria for what is considered a psychological injury has not been met. He stated that with the injury on duty leave it is governed by the Civil Service Commission. Mr. Cain also stated that as far as the medical reviews ASC adjudicates these claims and that Eckman/Freeman, who does case management, sub contracts them out to a company called Reliable Review Services, (RRS), whose headquarters is in Florida and the prior company's corporate headquarters was out of Texas. He stated that the physicians are all over, all the reviewers are certified physicians regardless of what state they reside in or where they practice and use evidence based criteria for the basis of all the reviews. He also stated that the reviewers may be certified in more than one specialty and that ASC, Eckman/Freeman and RRS use the same nine type of physicians throughout the specialties to make sure that they are acquainted with Metro's and Tennessee's presumptions. He also noted that staff has spoken with RRS about Tennessee physicians and they are hard to recruit because they don't want to review their peers.

The Committee discussed whether or not other entities have sub-committees that would review these types of cases and what is best practice and the background of the peer support positions within the Fire Department.

Mark Young reviewed some of the background requirements of the peer support positions and indicated that injury on duty leave be granted to employees while seeking treatment.

Shannon Hall reiterated that injury on duty time off is governed by Civil Service and the Civil Service rules give that authority to the departments.

The Committee discussed how the Employee Assistance Program, (EAP), works, caps on sessions and any authorized leave for those sessions.

Updated studies related to the Fire Departments costs to the injury on duty program and how it relates to inadequate staffing were requested in addition to technology or equipment changes.

Mark Young described some of the new equipment in the department and technology.

Committee Chair Trish Holliday stated that the Committee is not ready to make any recommendations regarding the program at this time.

Brad Rayson, Service Employees International Union, (SEIU), stated that he shares in Mark Youngs comments on the criteria for psychological claims and touched on the cumulative effect it can have on employees as well.

Committee Chair Trish Holliday gathered the Committee's thoughts on this topic and moved on to the other topics in the memo from the administration for the next meeting and future meeting dates.

*Denotes Kim Stagg leaving the call.

Richard Chapman moved that the meeting be adjourned. Nick Brassell seconded. With nothing further presented, the meeting adjourned at 12:07 p.m.

ATTEST:

APPROVED:

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

***Trish Holliday, Chair
Study & Formulating Committee***