

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

IN LINE OF DUTY COMMITTEE

October 21, 2021

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Thursday, October 21, 2021 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue South, Nashville, Tennessee at approximately 9:30 a.m.

Committee Members present: Vice-Chair: Christine Bradley; Chair Harold Finch, II Members: Shannon B. Hall and Jeremy Moseley. Alternates: Edna J. Jones and G. Thomas Curtis.

Benefit Board Members present: Jonathan Puckett.

Others present: Christina Hickey, Metro Human Resources and Nicki Eke, Attorney, Metro Legal Department, Tracy Harvey, Davies, and Dr. Gill Wright, Civil Service Medical Examiner.

Committee Chair Harold Finch noted that the Committee will be voting and making recommendations that will be voted on at the November Board meeting.

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 the Police Department.

Tracy Harvey, Davies, reviewed the claim with the Committee. She stated that while the employee was on duty January 20, 2021 he began to experience chest pains, chills and a cold sweat. She stated he was treated at Vanderbilt emergency room and was discharged with a diagnosis of chest pain and advised to follow up with his primary care physician or cardiology. She stated he followed up with his primary care physician and was diagnosed with a reaction to the COVID vaccine, which he received on January 18, 2021 and the claim was denied. She also noted that both physicians thought it was not work related and Metro does not mandate that employees take the vaccine and is not responsible for the medical care for an adverse reaction to that vaccine.

After some discussion of there not being any heart related issues, Jeremy Moseley moved to uphold the denial of the claim. Shannon Hall seconded, and the Committee approved without objection.

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

Tracy Harvey, Davies, reviewed the claim with the Committee. She stated that on August 29, 2020 a claim was filed for post-traumatic stress disorder, (PTSD), citing an injury date of August 4, 2020. She stated that the 101 Form says the PTSD diagnosis stems from negligence of the Police Department not doing their job on the scene leading to the crew being assaulted. She stated that after speaking with the supervisor the only thing that was unusual was the paramedics had to administer three doses of a sedative to someone. She also stated that in reviewing the medical records there has been prior treatment for PTSD and anxiety and it is their opinion that the PTSD was pre-existing as well as cumulative and does not meet the criteria for psychological claims. Ms. Harvey also noted that she applied for an in line of duty disability pension and was granted a medical disability pension based on the medical records.

After some discussion that this appeal is in regards to injury on duty medical care and not the disability pension, Christine Bradley moved to uphold the denial of the claim. Shannon Hall seconded, and the Committee approved without objection.

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

Tracy Harvey, Davies, reviewed the claim with the Committee. She stated that the pensioner retired September 9, 2012 and a 101 Form was filed for throat cancer with the date of injury being January 6,

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

2021. She stated that after review of the medical records by RRS it was determined that gastroesophageal reflux disease, (GERD), was the major risk factor. Ms. Harvey also stated that the RRS report was sent to the treating physician and he agreed with the RRS physician that it was caused by GERD and not work related.

Shannon Hall moved to uphold the denial of the claim. Christine Bradley seconded, and the Committee approved without objection.

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

Committee Chair Harold Finch stated that some additional information has been provided for this item.

The employee and Dewey Branstetter, attorney, were present.

Tracy Harvey, Davies, reviewed the claim with the Committee. She stated that the employee filed a claim for adenocarcinoma of the prostate citing date of injury May 27, 2020. She stated that after review of the medical records by RRS it was determined that genetic risk factors were recognized as the primary risk factor and it was not work related.

Dewey Branstetter, attorney, addressed the Committee regarding the claim. He reviewed the presumption, and toxic environments. He also reviewed his job description, different types cancers, exposures in the work environment, risk factors and statistics. He also reviewed the statement from the employee's urologist that indicates they cannot state to a reasonable degree of uncertainty that the cancer was not caused by the work environment.

Nicki Eke, Legal Department, stated that under the law the presumption can be rebutted by competent medical evidence which demonstrates that the impairment or the medical condition is not work related. Nicki Eke stated that there is an opinion by the urologist that states the medical evidence shows the diagnosis primarily more than 50% arose independent of the scope of employment. Nicki Eke stated that the other opinion from a Vanderbilt APRN states that she cannot state to a reasonable degree of medical certainty that the cancer was not caused by the work environment. Nicki Eke stated that there are two opinions and it's ultimately up to the Board to weigh the credibility of that information to determine whether or not the evidence reflects that this particular condition is not work related.

Dr. Gill Wright addressed the Committee regarding the pathology of prostate cancer, causes, contributing causes, risk factors and the employee being placed at an increased risk based on family history.

There was some discussion regarding genetics and if family history is more than 51% of a contributing factor, expansion of the presumption due to toxicity and the level of exposure, the additional medical information being submitted by a registered nurse rather than the treating physician and deferring this item to obtain clarification from the treating physician in order to make a recommendation.

The employee addressed the Committee regarding deferral of the claim.

Christina Hickey noted the cutoff for the November Board agenda and how it may influence the Committee's decision on this item.

Christine Bradley moved to defer this item to the next Committee meeting. Shannon Hall seconded, and the Committee approved without objection.

It was also noted that there is not a date certain for the next Committee meeting and the timeline for submitting information.

5. In line of duty medical care appeal - Former employee from the Police Department.

Tracy Harvey, Davies, reviewed the claim with the Committee. She stated that he was employed since March 3, 2011 and was terminated on March 4, 2021. She stated the employee has prior service in the Marine Core and a history of low back pain. She stated that he was injured in the break room while heating up lunch, dropped an ink pen, bent over to pick it up and says he strained his back, however, he did not report it due to a hearing that ended in his termination. She stated that after review of the medical records the employee stated on the intake form that it was related to military service and the physicians also agreed that military service was the cause of the problem and the claim was denied.

Shannon Hall moved to uphold the denial of the claim. Christine Bradley seconded.

After some discussion regarding treatment after the alleged injury and exacerbation of the prior injury from the military, a vote was taken on the motion to uphold the denial and the Committee approved without objection.

6. Previous denial reversed to approve in line of duty medical care - Employee from the Fire Department.

Tracy Harvey, Davies, reviewed the claim with the Committee. She stated that a paramedic does not meet the qualifications for the cancer presumption and that during discussion it was requested that this file be sent for review by RRS as this paramedic would have been exposed to some hot zones. She stated that after review it was determined that it was work related and the denial was reversed due to employment.

Jeremy Moseley moved for approval of the reversal to approve the in line of duty medical care request. Christine Bradley seconded.

After clarification from the Legal Department no vote was taken on this item as it was Davies initial decision after review.

With nothing further presented the meeting was adjourned at 10:56 a.m.

ATTEST:

APPROVED:

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

**Harold W. Finch, II, Chair
In Line of Duty Committee**