

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

IN LINE OF DUTY COMMITTEE

October 17, 2022

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Monday, October 17, 2022 in the Metropolitan Nashville Public Schools Board Room, Nashville, Tennessee at approximately 9:30 a.m.

Committee Members present: Chair Harold Finch, II; Members: Shannon B. Hall and Jeremy Moseley. Alternate: Jonathan Puckett.

Vice-Chair Christine Bradley was unable to be present.

Benefit Board Members present: Edna Jones

Others present: Christina Hickey, Metro Human Resources, Nicki Eke, Attorney, Metro Legal Department, Vickie Hampton and Kimberly Jordan, Davies, and Dr. Kenton Dodd, Civil Service Medical Examiner.

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 Fire Department.

Kimberly Jordan and Vickie Hampton, Davies, were present.

The employee's spouse was present.

Ann Meade, Psychiatric Mental Health Nurse Practitioner, was present.

Keri Seay, Licensed Professional Counselor, was also present.

Kimberly Jordan, Davies, stated that the requested records from Ann Meade and Keri Seay were received in their entirety and reviewed. She stated that the medical records appear to document multiple gradual traumatic events occurring over a significant span of time. She stated that Davies is maintaining the denial based on the criteria for Metro's psychological disability claims for injury on duty. She reviewed the three questions asked in order to determine a psychological disability claim; 1) what was the specific work-related event or events which caused the mental injury; 2) did the event subject the employee to a sudden mental 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 extraordinary and unusual stress experienced by other employees with the same types of duties. Ms. Jordan stated that after reviewing the record they could not determine a specific work-related incident as there were many cumulative events mentioned throughout the record. She stated the reported date of injury was September 7, 2019 and he didn't seek treatment until January 11, 2021 with no mention of a specific work incident until February 24, 2021. She also stated the employee didn't report the condition as a work-related injury until April 15, 2022. She stated that based on the cumulative events documented in his records the events did not appear to subject him to sudden mental stimulus such as fright, shock, or excessive unexpected anxiety as opposed to a gradual build up over time. She also noted that no other employees on the scene filed an injury on duty claim related to this incident.

The employee's spouse addressed the Committee regarding the claim.

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

Ann Meade, Psychiatric Mental Health Nurse Practitioner, discussed his symptoms, diagnosis, onset of the condition and receiving treatment with the Committee.

Keri Seay, Licensed Professional Counselor, addressed the Committee regarding the claim.

There was some discussion of the criteria that Metro currently uses for psychological injury on duty claims, the treatment notes and returning him to work.

There was some discussion regarding repeated exposure, being retraumatized if returned to work and the setting this is being discussed in.

It was explained that based on what he is requesting procedurally this is how these meetings are required to take place and it was noted that State law requires all meetings to be open.

There was discussion regarding the history of traumatic events that all probably contributed to the post-traumatic stress disorder, how this one job related event may have been a contributing factor and the totality of circumstances is what has led to the current medical condition.

The Committee discussed taking employees as you find them and if someone already has a pre-existing injury and then are injured on the job the exacerbation of the injury back down to baseline would only be covered.

The employee was present and addressed the Committee regarding his capabilities when he became employed and throughout his employment. He also touched on some of his issues since the event and getting treatment.

The Committee discussed getting the employee back to baseline, how would you determine that and being prone to re-traumatization once that baseline is met.

It was suggested that the Fire Department give an explanation of their investigation of the incident.

Jamie Summers, Fire Department, was present. She stated that staff has worked out a plan and he has been working light duty and reduced schedule for the last month and will continue to until the Board makes a decision.

Jeremy Moseley moved to overturn the denial of the claim. Shannon Hall seconded.

After some discussion of the cumulative traumas, exacerbation, this being a significant job-related event and the legal standard, a vote was taken on the motion to overturn the denial of the claim and the Committee approved with Harold Finch opposed.

Christina Hickey noted that this is a recommendation that will be voted on at the November Board meeting.

It was also noted that this is for in line of duty medical care only.

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

The employee and his attorney, Dewey Branstetter were present.

Kimberly Jordan, Davies, reported to the Committee that the employee was injured on January 31, 2022 in a motor vehicle accident. She stated that he sought treatment and was recommended for right shoulder surgery. She stated that at the time he underwent surgery he was warned there was a possibility for diaphragm paralysis. She stated that in speaking with the Legal Department about the claim Davies is now accepting it as compensable as it was a natural consequence of the injury on duty.

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

Christina Hickey read a statement provided by the pensioner in his absence.

Kimberly Jordan, Davies, reviewed the claim with the Committee. She stated this claim is related to a 66 year old male Fire Assistant Chief. She stated he sought treatment on April 13, 2021 for hearing loss and reported a gradual decline in hearing bilaterally over the past 10 years. She stated he has a history of occupational noise exposure from his work as a fire fighter for 39 years with occasional use of hearing protection. She stated that on December 7, 2021 he filed an injury on duty claim for bilateral hearing loss and not while employed with Metro. She stated on May 20, 2022 the Fire Department confirmed no prior hearing claims and during his recorded statement with the adjustor he mentioned he became Chief of the Fire Department in Columbia from 2010 through 2015. She stated on July 29, 2022 the file was sent for review by the Civil Service Medical Examiner, (CSME), to address causation and the CSME opined the latest hearing test is most suggestive of age related hearing loss and the last hearing evaluation from Lentz did not show a significant noise induced hearing loss and the claim was denied.

There was some discussion of any additional records during the course of employment and there being nothing in the Lentz records.

Shannon Hall moved to uphold the denial of the claim. Jeremy Moseley seconded.

Danny Yates, Fire Union representative, was present. He discussed the lack of protective equipment and studies that have been done by the Fire Department related to hearing loss.

Jamie Summers, Fire Department, stated that some research has been done related to hearing loss and will look into getting those studies to the Board.

Dr. Kenton Dodd, CSME, stated that when the review was done the assumption was not based on the persons age it was due to the shape of the hearing loss curve.

After some discussion regarding the studies, Shannon Hall withdrew her motion.

Jeremy Moseley moved to defer this item pending the information from the studies. Shannon Hall seconded, and the Committee approved without objection.

4. In line of duty medical care appeal - Pensioner from the Police Department.

The employee's spouse was present and requested a deferral as they are still obtaining additional medical information.

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

Jeremy Moseley moved to defer this item pending additional information. Shannon Hall seconded, and the Committee approved without objection.

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

The employee was present.

Kimberly Jordan, Davies, reviewed the claim with the Committee. She stated this case pertains to a male Assistant Chief for the Fire Department. She stated that on September 30, 2021 he was diagnosed with hypertension and filed a presumption claim. She stated that he does have two other presumption claims approved under injury on duty one for high cholesterol and another for cancer. She stated the file was sent to RRS for review and the reviewer advised that the hypertension is not a result of high cholesterol or leukemia and neither condition is known to be a risk factor. She stated that the reviewer stated that the condition arose independently, more than 50%, of the scope of employment and the claim was denied.

The employee addressed the Committee regarding the claim. He reviewed his job duties, stressors and statistics.

After some discussion regarding contributing risk factors, previous blood pressure readings, and the percentages, Jeremy Moseley moved to overturn the denial. Shannon Hall seconded, and the Committee approved without objection.

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

The employee was not present.

Kimberly Jordan, Davies, reviewed the claim with the Committee. She stated the claim involves a male EMT who was taking a patient down the steps in a stair chair. She stated there was ice on the steps and he slipped and turned wrong to keep from dropping the patient. She stated this was reported as an incident only on December 13, 2021. She stated that the employee sought treatment for complaints of leg pain and swelling and was sent to get an ultrasound and it came back positive for deep vein thrombosis, (DVT) and it was reported on December 15, 2021. She also noted that the employee believed he had trauma to the left calf recently as he felt a pop while ambulating. She stated that after review the doctor was unable to state whether or not it was related and had no way of knowing if the clot was there prior to the injury and the claim was denied. She stated that after a peer review it also stated that the deep vein thrombosis was not work related.

After some discussion of whether or not this claim is for coverage related to the DVT, Shannon Hall moved to uphold the denial. Jeremy Moseley seconded, and the Committee approved without objection.

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

The employee was not present.

Kimberly Jordan, Davies, reviewed the claim with the Committee. She stated the employee reported that while he was walking at the zoo looking for his camp group a foreign body flew into his right eye. She stated the employee sought treatment and the diagnosis was corneal abrasion, a prescription

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

was given and he was released to return to work with follow up as needed. She stated the claim was denied as the mere presence at a place where injury takes place is not sufficient to make the injury compensable unless the injury was related to the employment. She stated they felt it was idiopathic in nature and just the fact that he was walking through the zoo did not actually put him injured within the scope of his employment.

After some discussion that the employee was actually at work when this occurred, Jeremy Moseley moved to overturn the denial. Shannon Hall seconded, and the Committee approved without objection.

8. In line of duty medical care appeal - Employee from Metropolitan Nashville Public Schools, (MNPS).

This item was withdrawn.

9. In line of duty medical care appeal - Employee from Nashville Department of Transportation, (NDOT).

The employee was present.

Kimberly Jordan, Davies, reviewed the claim with the Committee. She stated on December 12, 2005 the employee was working with the response team and while changing a tire for a motorist went to pick up a metal object on the side of the road straining his left shoulder and elbow. She stated he treated conservatively for left shoulder elbow muscle pull and possible ruptured cervical disc. She stated that an MRI revealed degenerative changes with bulging of disk and mild effacement of the anterior aspect of the thecal sac and after completion of 2 ESI's the employee was released from care on February 17, 2006 and the claim was closed. She stated the employee requested treatment for his neck in December of 2018 and the claim was reopened and all medical records were sent for review regarding causation and an MRI was done and the doctor advised that the current diagnosis of diffuse degenerative joint disease was not related to the 2005 injury and he needed to treat on his own. She stated the employee began treatment and those records did not indicate the current neck diagnosis or treatment was related to the 2005 injury and the claim was closed in June of 2019 after the employee was told again to seek continued treatment under personal insurance. She stated that in July of 2022 the employee requested to the supervisor that the claim be reopened and was sent to the adjuster for review and he was again advised that any ongoing treatment for the neck was not related to the 2005 injury. She stated that the employee requested that the claim be heard before the Board and the adjuster issued a partial denial to be filed for any treatment for the neck.

The employee addressed the Committee regarding the claim and his treatments.

After some discussion regarding degenerative changes and the continued treatment, Jeremy Moseley moved to defer this item pending additional information. Shannon Hall seconded, and the Committee approved without objection.

With nothing further presented the meeting was adjourned at 11:42 a.m.

ATTEST:

APPROVED:

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

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