

## MINUTES

### METROPOLITAN EMPLOYEE BENEFIT BOARD

#### IN LINE OF DUTY COMMITTEE

August 16, 2023

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Wednesday, August 16, 2023 in the Sonny West Conference Room, Howard Office Building, 700 2<sup>nd</sup> Avenue South, Nashville, Tennessee at approximately 9:30 a.m.

Committee Members present: Chair: Jonathan Puckett; Vice-Chair: Christine Bradley; Members: G. Thomas Curtis and Edna Jones.

Others present: Christina Hickey, Metro Human Resources, Nicki Eke and Courtney Mohan, Attorneys, 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. Public Comment Period.

A maximum of five (5) persons who write their names on the sign-up sheet provided at the meeting will be allowed to comment on matters that are germane to items on the Agenda. Comments are limited to a maximum of two (2) minutes per person. To provide comment, you must sign up prior to the beginning of the meeting.

There were no public comments.

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

This item was moved to the end of the agenda pending the arrival of the pensioners representation.

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

The employee was not present.

Kimberly Jordan and Vickie Hampton, Davies, were present. Kimberly Jordan reviewed the claim with the Committee. Kimberly Jordan stated the employee filed a claim for repetitive motion due to typing, strain of the left shoulder, left arm, left thumb and left index finger. She stated she was seen at the IOD Clinic and was diagnosed with left upper extremity numbness and C6 distribution and it was opined that pre-existing diffused DJD c-spine was not work related. She stated she was released to return to work regular duty with no follow up. Ms. Jordan stated the claim was denied based on the medical causation opinion. She also noted that the employee sent in a request for reconsideration and the adjuster confirmed that the employee has not sought any additional treatment and does not have a confirmed diagnosis of carpal tunnel syndrome and that in her appeal statement she attempted to describe the carpal tunnel syndrome symptoms. Ms. Jordan stated that Davies maintains the denial based on causation response advising this is not work related and there is no alleged injury other than sitting and typing.

After some discussion of the law surrounding carpal tunnel and that it is not covered, Edna Jones moved to uphold the denial by Davies. Christine Bradley seconded, and the Board approved without objection.

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

This item was moved to the end of the agenda pending the arrival of the pensioners representation.

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

The employee was present.

Phillip Jones, NDOT, was present.

Kimberly Jordan, Davies, reviewed the claim with the Committee. She stated that on February 22, 2023 the employee was conducting a survey and was stuck from behind by a vehicle sustaining multiple cuts and bruises and sought treatment at Vanderbilt. She stated that the employee provided a verbal statement advising that he was not wearing a high visibility traffic vest at the time of the incident, which a copy of the police report confirmed. She stated that after proof of training from the Department for work zone basics the claim was denied due to willful failure to use a safety device.

She also noted that payment has been made on all initial treatment and the employee did receive a written reprimand from his employer.

Phillip Jones, NDOT, addressed the incident. He stated that he was disciplined because he should have had the vest on, however, after speaking with the officer the accident would have occurred either way.

Edna Jones moved to overturn the denial by Davies. Christine Bradley seconded, and the Committee approved without objection.

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

The pensioner was present.

Kimberly Jordan, Davies, reviewed the claim with the Committee. She stated that in his recorded interview he stated that he had applied for a medical pension and it was delayed and he went into a leave without pay status and ended up taking a service pension. She stated he filed a claim for Complex Post Traumatic Stress Syndrome, (C-PTSD), on February 22, 2022 where he stated he was under the care of a medical doctor/clinical psychologist. She stated they have not received any medical or clinical records prior to the date of February 24, 2022. She also noted that the employee retired on May 12, 2022 and then began treatment with different facilities. Ms. Jordan stated on November 3, 2022 the claim was denied as the employee stated there are several incidents causing his PTSD over the span of three years.

The pensioner addressed the Committee regarding this claim, some incidents, his current treatments and how this has affected his quality of life and the ability to go out in public and applying for a service pension.

There was some discussion of the criteria for psychological claims, the timing or delay with the disability application and deferring this item for more information.

Dr. Kenton Dodd stated no medical information was presented for his case.

There was some discussion regarding getting the information to the Civil Service Medical Examiner so there is no delay for a disability pension.

Nicki Eke, Legal Department, stated that he can not apply for a medical disability pension as he is now a retiree.

There was some discussion regarding what is before the Committee which is injury on duty medical treatment.

Nicki Eke, Legal Department, stated that either injury on duty or medical disability pension is a separate matter. She stated he can get treatment for any injury that occurred while employed as long as the claim is filed within six years.

After some discussion regarding clarity on the timeline of the application for a disability pension and then retiring, Edna Jones moved to defer this item to the next Committee meeting pending additional

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

information. Tom Curtis seconded.

Dr. Kenton Dodd stated that there was a request for a medical disability pension, however, as they were attempting to get the records, they were notified that the request had been rescinded because of the pursuit of the service pension and the request for medical records ceased.

Christina Hickey stated that Human Resources staff has confirmed that he applied for a medical disability pension on March 14, 2022, withdrew the request on May 13, 2022 and he then applied for an early service pension on May 16, 2022.

Nicki Eke, Legal Department, stated that when someone applies for a disability pension and then decides he wants a service pension they actually have to withdraw the request for a disability pension.

After some discussion regarding the individual's ability to continue to work, being out of FMLA time, and the department not being to accommodate in an alternate position, a vote was taken on the motion to defer this item to the next Committee meeting pending additional information and the Committee approved without objection.

At this time the Committee discussed the items previously moved to the end of the agenda.

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

\*Denotes Tom Curtis leaving the meeting.

The pensioner and his attorney, Dewey Branstetter were present.

Kimberly Jordan reviewed the claim with the Committee. She stated the pensioner filed a claim for leukemia on April 7, 2022. She stated the medical records were sent to RRS for review and the report stated that the diagnosis arose primarily independent of the scope of employment and the claim was denied. She also noted that he had skin cancer removed at the time of his injury on duty hernia surgery on December 2, 2005 and subsequently filed a skin cancer claim on December 30, 2005 and the treating physician did not submit medical records for the claim and the file was closed. She stated that Davies maintains the denial as the RRS report states that the evidence shows that the diagnosis arose primarily independent of the scope of employment and he was found to have chronic myeloid leukemia, which is characterized by an acquired chromosomal abnormality.

Dewey Branstetter, attorney, discussed his career with the Fire Department and exposures and reviewed a statement from his oncologist that states it is possible that the diagnosis is related to his profession.

There was some discussion of his service with the Fire Department, the medical information, the presumption, and causation by the chromosomal abnormality.

Christine Bradley moved to overturn the denial by Davies. Edna Jones seconded, and the Committee approved without objection.

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

The employee and his attorney, Dewey Branstetter were present.

Dewey Branstetter requested a deferral on this item pending additional information.

Christine Bradley moved for approval of deferring this item pending additional information. Edna Jones seconded, and the Committee approved without objection.

With nothing further presented the meeting was adjourned at 10:36 a.m.

ATTEST:

APPROVED:

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

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**Jonathan Puckett, Chair  
In Line of Duty Committee**