

## **MINUTES**

### **METROPOLITAN EMPLOYEE BENEFIT BOARD**

**November 4, 2008**

The Metropolitan Employee Benefit Board met for their regularly scheduled meeting on Tuesday November 4, 2008 in the Civil Service Conference Room, Suite 163, 222 Building, Third Avenue North, Nashville, Tennessee, at approximately 9:37 a.m.

Benefit Board members: Chair: Ann V. Butterworth; Vice Chair: Clyde D. Smith; Members: Christine Bradley, Douglas D. Conquest, Sr., \*G. Thomas Curtis, B.R. Hall, Sr., James H. Johnson, Edna J. Jones, Richard M. Riebeling, and Dorothy Shell-Berry.

Others present: Justin Stack, Metro Human Resources, Nicki Eke, Attorney, Metro Legal Department and Dr. Celia Goodson, Civil Service Medical Examiner.

**A. MINUTES:** Chair Ann Butterworth called the meeting to order and said the first order of business was to determine if there were any amendments, corrections or questions of the minutes from the last regular meeting held on October 7, 2008. With clarification on item 7, CityWorks work management system transition and discussion of a deferred item, 2.-b. Self-insured PPO plan appeal(s): Denial of bariatric surgery – Spouse of employee from Fire Department, not being on the agenda, it was requested that in the future all deferred items be listed on the appropriate agenda, whether they are ready or not.

Rob Briley, attorney for the individual on the deferred item and the individual were present. Mr. Briley addressed the Board on correspondence received from Blue Cross Blue Shield to help the individual obtain adequate medical documentation.

Clyde Smith moved for approval of the October 7, 2008 minutes. Edna Jones seconded and the Board approved without objection.

There was discussion of Blue Cross Blue Shield complying with requests received from individuals on guidance regarding medical documentation.

Debbie Sims, Blue Cross Blue Shield was present and addressed the Board. She discussed her communications with Mr. Briley.

After discussion of this item being on the December agenda, Edna Jones moved that this item be deferred to the December agenda. The motion was seconded and the Board approved without objection.

#### **B. APPEAL ANNOUNCEMENT:**

Justin Stack announced the process and timeframe for appealing a decision made by this Board.

#### **C. DISABILITY PENSIONS: (new requests, reexaminations, return to work and referrals)**

The terms of the approval or extension of the items listed in the motions are specifically stated in these minutes.

Dr. Celia Goodson reported to the Board that she recommends approval of the disability pension new requests, items 1 through 7, for the length of time as recommended. Christine Bradley moved for approval of the recommendation to approve the disability pension new requests, items 1 through 7, for the length of time as recommended. Douglas Conquest seconded and the Board approved without objection.

Dr. Celia Goodson reported to the Board that she recommends approval for continuing the disability pension reexaminations, items 8 through 10 for the length of time as recommended. Richard Riebeling moved for approval of the recommendation to continue the disability pension reexaminations, items 8 through 10 for the length of time as recommended. Clyde Smith seconded and the Board approved without objection.

On item 11, Dr. Celia Goodson reported to the Board that she recommends deferral for two months, (January 2009), pending additional medical information. Clyde Smith moved for approval of the recommendation to defer item 11 for two months pending additional medical information. James Johnson seconded and the Board approved without objection.

Dr. Celia Goodson reported to the Board that she recommends approval of the return to work request, item 12. Thomas Curtis moved for approval of the return to work request, item 12. James Johnson seconded and the Board approved without objection.

On item 13, Dr. Celia Goodson reported to the Board that at the last meeting the Board approved funding the cost of a one time office visit to a neurosurgeon for additional medical information. She reported that the individual needs additional testing, which has been determined to cost approximately \$620, and is requesting additional funding up to that amount. Clyde Smith moved for approval of the additional funding up to \$620, if needed, in order to obtain additional medical information. Douglas Conquest seconded and the Board approved without objection.

**NEW REQUESTS:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty or Medical Disability</b>	<b>Recommendation</b>
1.	Michael L. Eva	Police	Medical	As moved, seconded and approved, this disability pension request was approved for one year, (November 2009), with re-exam at that time.
2.	Deborah F. Holt	Health	IOD	As moved, seconded and approved, this disability pension request was approved for four months, (March 2009), with re-exam at that time.
3.	Jeffrey S. McKee	Water	Medical	As moved, seconded and approved, this disability pension request was approved for four months, (March 2009), with re-exam at that time.
4.	Michael E. Moore	Public Works	Medical	As moved, seconded and approved, this disability pension request was approved for two months, (January 2009), with re-exam at that time.
5.	Paul E. Porter, Sr.	General Services	Medical	As moved, seconded and approved, this disability pension request was approved for three months, (February 2009), with re-exam at that time.
6.	Julie A. Sloan	Fire	IOD	As moved, seconded and approved, this disability pension request was approved for six months, (May 2009), with re-exam at that time.
7.	Mary T. Sowder	Metro Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension request was approved for six months, (May 2009), with re-exam at that time.

**REEXAMINATIONS:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty or Medical Disability</b>	<b>Recommendation</b>
8.	Joseph O. Haywood	Police	IOD	As moved, seconded and approved, this disability pension was continued for six months, (May 2009), with re-exam at that time.
9.	Brenda J. Lee	Metro Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension was continued without stipulation of scheduled re-exam.
10.	Danny G. Mosley	Water	IOD	As moved, seconded and approved, this disability pension was continued for one year, (November 2009), with re-exam at that time.
11.	Cherrion L. Pointer	Metro Nashville Public Schools	IOD	As moved, seconded and approved, this disability pension re-exam was deferred for two months, (January 2009), with re-exam at that time.

**RETURN TO WORK:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty or Medical Disability</b>	<b>Recommendation</b>
12.	Quenna Eddy	Juvenile Court	Medical	As moved, seconded and approved, this return to work request was approved.

**OTHER:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty or Medical Disability</b>	<b>Recommendation</b>
13.	Glenda Anderson	Metro Nashville Public Schools	Medical	As moved, seconded and approved, the Board approved additional funding for a one time office visit to a neurosurgeon for additional medical information.

**SOCIAL SECURITY REFERRALS:**

Dr. Celia Goodson reported to the Board that she concurs with the recommendations on the Social Security referrals.

Clyde Smith moved for approval of the social security referrals. Edna Jones seconded and the Board approved without objection.

<b>Item</b>	<b>Name</b>	<b>Dept.</b>	<b>Review Originated From</b>	<b>Case Management Rec. for Referral</b>	<b>CSME Rec. for Referral</b>
1	Merrell Burns	MNPS	Pension Approval	Yes	Yes

**SOCIAL SECURITY REFERRALS:** (continued)

Item	Name	Dept.	Review Originated From	Case Management Rec. for Referral	CSME Rec. for Referral
2	Danny Campbell	Water	Pension Approval	No	No
3	Thomas Jones	Police	Pension Approval	No	No
4	Lisa Lawrence	Police	Pension Approval	Yes	Yes
5	Larry McCutcheon	Water	Pension Approval	Yes	Yes
6	James McDerman	Police	Pension Approval	No	No
7	Marcia Turntine	MNGH	Pension Approval	No	No
8	George Wade	Fairgrounds	Pension Approval	Yes	Yes
9	Mark Young	Fire	Pension Approval	No	No

**D. PENSIONS:** (*service, disability to service, options elected and survivor*)

**MOTION:** B.R. Hall moved for approval of the pensions. Douglas Conquest seconded and the Board approved without objection.

**Service**

Employee	Department	Classification	Plan A/B	Application Date	Estimated Effective Date
Joseph D. Bishop	Police	Police Deputy Chief	B	09/26/2008	11/01/2008
Wayne S. Miller	Police	Police Sergeant	B	09/30/2008	12/16/2008
William Gary Castleman	Police	Police Lieutenant	B	10/01/2008	01/16/2009
George T. Hardy	Water	Meter Repairer 2	B	10/01/2008	01/01/2009
Dorothy C. Pyland	Police	Police Operations Coordinator 1	B	10/01/2008	12/16/2008
Kay H. Stephens	Metro Clerk	Office Support Specialist 1	B	10/02/2008	12/31/2008
Brad S. Putnam	Police	Police Officer 3	B	10/07/2008	12/16/2008
William E. Halpin	MNPS	Custodian Helper	B	10/07/2008	03/29/2008
W. Scott Orman	Health	Medical Admin Asst 2	B	10/08/2008	11/01/2008
Harold D. Drake	Fire	Fire Engineer	B	10/09/2008	11/29/2008
Homer C. Hibdon, Jr.	MNPS	Supervisor – Grounds	B	10/10/2008	02/01/2009
Richard T. McKee	Police	Police Officer 3	B	10/14/2008	11/01/2008
John E. Pennington, Sr.	Police	Police Officer 2	B	10/16/2008	12/31/2008
Jolene J. Smith	Bordeaux LTC	Registered Nurse	B	10/20/2008	01/01/2009*
Elna D. Coffee	MNPS	School Bus Driver	B	10/21/2008	05/01/2007*
William C. White	Police	Police Officer 2	B	10/21/2008	12/16/2008

\* Deferred benefit

**Disability to service**

Employee	Department	Plan A/B	Effective Date of Conversion
Blondell C. Moore	MNPS	B	09/01/2008
Woodrow W. Bond	General Services	B	05/01/2008
Charles A. Greer	Public Works	B	09/01/2008

**Options Elected**

Employee	Department	Pension Type	Plan A/B	Effective Date	Option	DROP Election
Campbell, Clarence	MNPS	Service	B	8/30/2008	Option E	
Hart, John W.	Public Library	Service	B	8/30/2008	Normal	
Hawkins, Donna L.	Police	Service	B	9/12/2008	Option E	
Jefferson, Jacqueline S	State Trial Courts	Early Service	B	8/2/2008	Normal	

**Options Elected** (continued)

Employee	Department	Pension Type	Plan A/B	Effective Date	Option	DROP Election
Jones, Pamela Rhodene	MNPS	Early Service	B	8/30/2008	Option C	
Knupp, Robert T.	Human Resources	Service	B	8/30/2008	Option F	2
North, Jo A	Assessor of Property	Service	B	9/2/2008	Option F	
Prosser, James H	MNPS	Service	B	9/6/2008	Option B	
Warfield, William F	MNPS	Service	B	9/4/2008	Option E	

**Pension options key:**

Normal - life annuity (no option elected)  
 Option A - Joint & Survivor - 100% to surviving beneficiary  
 Option B - Joint & Survivor - 50% to surviving beneficiary  
 Option C - Social Security  
 Option D - 120 payments certain and life  
 Option E - Joint & Survivor - 100% to surviving beneficiary with pop-up feature  
 Option F - Joint & Survivor - 50% to surviving beneficiary with pop-up feature

**Survivor**

Employee Name	Department	Survivor Name	Plan Membership	Effective Date
George Terry	Sheriff	Sarah Terry	B	10/02/08
Charles Castleman	Civil Defense	Rita Castleman	A	10/19/08
Riley Young	Fire	Reba Young	B	10/15/08
Andrew McPherson	Water Services	Judith McPherson	B	10/20/08
James E. Wright	Public Works	Margaret W. Wright	Old County	10/26/08

**BENEFIT BOARD ITEMS**

The Human Resources staff submitted the following for the Board's consideration and appropriate action:

1. Self-insured HRA Fund plan appeal – Denial of procedure code 54405.

Justin Stack reviewed the report with the Board. He stated that the Cigna Choice Fund specifically excludes this procedure, however, the individual's physicians office states that Cigna advised prior to the date of the surgery that the procedure would be covered. Mr. Stack stated that staff recommends upholding the medical plan document.

The individual was present and addressed the Board. He reviewed the timeline of events leading up to have the procedure done and the claim not being paid.

The Board discussed treatment being initiated under the old Cigna HMO plan and this not being a covered procedure under the Cigna Choice Fund plan.

Paul Huffman, Cigna representative, discussed the possibility of the procedure being covered under the HMO plan, if medically necessary, but the new plan document has this code completely excluded.

There was discussion of continuation of treatment, precertification, services related to parts of the procedure being covered, and communication with the provider, Cigna and the patient. There was discussion of the information presented regarding the communications from Cigna and the providers office.

After discussion of the misinformation/miscommunication on the behalf of Cigna, Nicki Eke stated that if the Board determines there was some error by Cigna, they (Cigna) would be need to be responsible.

The Board further discussed the information presented regarding the communications from Cigna regarding coverage of this procedure, coverage in the HMO plan versus the HRA plan, and not changing the current plan by requesting that Cigna cover this expense due to their error.

1. Self-insured HRA Fund plan appeal – Denial of procedure code 54405. (continued)

The Board concluded that through no fault of the individual and the provider there appears to be evidence that Cigna admits to giving out misinformation.

Nicki Eke stated that contractually if Cigna does do something wrong that results in this type of situation, it is their responsibility to make it right and therefore the Board can determine this was caused by Cigna and request that Cigna pay for the procedure.

Richard Riebeling moved that Cigna be held responsible for this expense. Thomas Curtis seconded.

After discussion of communicating to all the providers on behalf of the individual, Richard Riebeling amended his motion to settle the medical claims, demand reimbursement of those claims from Cigna, and if at any time Cigna has any information that says they are not the culpable party, they may present that information to the Board.

Nicki Eke indicated that Human Resources and the Legal Department can work together to have Cigna address this issue and refund any monies paid from the Trust Fund as a result of this error.

After clarification of the amended motion to 1) reimburse the individual if the individual can show evidence of payments made towards collections on this claim; 2) Metro make the payment on the claims; 2) have staff send a letter to Cigna informing them that the Board believes this was an error on their part, which caused this being paid and Metro is asking for reimbursement for those amounts; 3) if Cigna has any evidence to the contrary and wants to dispute that, then the Legal staff and Human Resources staff meet with Cigna to try to reach an accommodation and if there is a need, bring it back to the Board. A vote was taken on the amended motion and approved unanimously by the Board.

2. Committee Reports - In Line of Duty Committee.

Justin Stack reported to the Board that the In Line of Duty Committee met on Wednesday, August 8, 2008 to deliberate on an in line of duty death benefit request and three in line of duty medical care requests.

A. In Line of duty death benefit request.

Justin Stack reported to the Board that on the in line of duty death benefit request the Committee is unable to make a recommendation to the Board on the request, however, staff recommends that the Board determine if the state's cancer presumption applies and whether or not to approve the in line of duty death benefit.

Committee Chair Edna Jones reported to the Board that additional information has been received on this request and moved that it be referred back to the In Line of Duty Committee. This motion was seconded by Thomas Curtis.

The Board requested that the Director, Chief and Safety Coordinator of the Fire Department be present at that meeting.

After amending the motion to defer this request back to the In Line of Duty Committee to include having those individuals being present at this meeting, a vote was taken and was approved unanimously by the Board.

B. In line of duty medical care requests.

Justin Stack reported to the Board that on the in line of duty medical care requests the Committee is recommending that on request (a) – employee from Fire Department, the Board uphold the denial of the claim as in line of duty; (b) – employee from Police Department, the Board approve the claim as in line of duty; and (c) employee from Fire Department the Board approve as in line of duty. Mr. Stack stated

2. Committee Reports - In Line of Duty Committee. (continued)

B. In line of duty medical care requests.

that staff recommends approval of items a and b, however on c, staff recommends approval based on the presumption for EMT's if the Board determines that while an EMT dispatcher the illness developed, if the Board is unable to make that determination and the employee has not established a linkage between current illness and former duties as an EMT, the request should be denied.

Dorothy Shell-Berry moved for approval of the Committee's recommendations on items 2.-B. (a) employee from Fire Department to uphold the denial of the claim and (b) employee from Police Department to approve the claim as in line of duty. James Johnson seconded and the Board approved without objection.

On item 2.-B. (c) employee from Fire Department, there was discussion of the presumption, a legal opinion regarding job classifications covered under the presumption and the individual's current classification and job duties.

After further discussion, Thomas Curtis moved to defer this item back to the In Line of Duty Committee for further review. Edna Jones seconded and the Board approved without objection.

3. Cost of living adjustments for Division A and B pension plans.

Justin Stack reported to the Board that in accordance with the Metro Code, a cost of living adjustment increase of 5.0% is recommended for all eligible retirees under Division A and 3.0% under Division B pension plans beginning January 1, 2009.

There was discussion of having correspondence sent to retirees that explains what they will be receiving.

There was discussion of how the increases are calculated and the Board requested information on the indexes.

Dorothy Shell-Berry moved for approval of the cost of living increases for Divisions A (5.0%) and B (3.0%) as recommended. B.R. Hall seconded and the Board approved without objection.

4. Compliance review of the pension plan document.

Justin Stack reported to the Board that Bryan, Pendleton, Swats & McAllister have completed their review of the sections of the Code related to the pension plan and are recommending changes to four sections of the Code. He stated that they are recommending changes to sections 3.30.020 Benefit limitations based on Code section 415, 3.30.030 Limitations on earnings, 3.30.050 Minimum distributions and 3.30.060 Right to direct rollover, and removal of sections 3.30.120 EGTRRA requirements and 3.30.130 Applicable mortality table under Rev. Rule 2001-62. He also stated that the changes are expected to have no actuarial impact on the plan liabilities or contribution rate.

The Board discussed the Legal Department drafting an ordinance to be submitted to Council for these recommended changes.

Kevin Sullivan, Bryan, Pendleton, Swats & McAllister, reviewed the recommended changes.

Edna Jones moved for approval of the recommended changes to Code sections 3.30.020 Benefit limitations based on Code section 415, 3.30.030 Limitations on earnings, 3.30.050 Minimum distributions and 3.30.060 Right to direct rollover, and removal of sections 3.30.120 EGTRRA requirements and 3.30.130 Applicable mortality table under Rev. Rule 2001-62. Christine Bradley seconded and the Board approved without objection.

5. Public Safety Pension benefit – transferred employees Sheriff Dept.

Justin Stack reported to the Board that the pre-trial program employees currently under the Sheriff's Department are requesting reconsideration on the ruling of the Sheriff Department employees included in the Police and fire pension plan. He stated that they are requesting that their time under the General Sessions Courts be included under the Police and Fire pension plan. He stated that the pre-trial release program was transferred to General Sessions Courts approximately 10 years ago and the programs core duties remained the same and now the program has been moved back to the Sheriff's Department. Mr. Stack stated that staff recommends that the Board follow the plan as enacted by the Council.

Rick Jones was present and addressed the Board on the pre-trial programs duties and them not being included in the ordinance.

There was discussion of the Board's authority in this matter and the process to be followed to have this reviewed.

Richard Riebeling moved to deny this request based on the Board not having any legal authority to do so and recommended they pursue this request through the appropriate process. Edna Jones seconded.

There was discussion of the Board's duties according to the Charter, having staff and the Legal Department review their duties and having an actuarial study completed.

A vote was taken on the motion to deny this request based on the Board not having any legal authority to do so and recommended the affected employees pursue this request through the appropriate process was approved with B.R. Hall, Clyde Smith, and Doug Conquest opposed.

At this time the Board took a break and then reconvened with the remainder of the agenda.

6. Budget request for reimbursement of IOD and Life RFP.

Justin Stack reported to the Board that the management consultant fund consists of services provided by our benefit consultants and services on all other benefit plans (i.e. dental, vision, life, STD, EAP and HIPAA compliance). He stated that in securing contracts with a 5 year rate guarantee and two one year renewals the cost of those RFP's (life and IOD network) will be \$272,587 and include billing to date and additional issues that are still pending. Mr. Stack stated that the benefits consultant budget was reduced from \$1.3 million to \$300,000 causing a shortage for the remainder of the fiscal year and that staff is requesting that the Board approve \$194,323 for the life insurance RFP, \$78,264 for the IOD network RFP, \$107,088 for Horizon EAP benefit and \$34,656 for HIPAA compliance to be paid through the medical and or pension trust fund.

There was discussion of the appropriation of funds from the pension trust fund and the IOD network being an expense of the Metropolitan Government.

Richard Riebeling moved to approve appropriation of funds (\$194,323 for the life insurance RFP, \$78,264 for the IOD network RFP, \$107,088 for the EAP benefit and \$34,656 for HIPAA compliance) from the medical trust fund. Christine Bradley seconded.

After some discussion of how the shortage came about, the billings for consultant expenses, IOD network expenses being paid by Metro and EAP a vote was taken on the motion and failed with a vote of 5/5.

Richard Riebeling moved to defer the matter to the next meeting to allow time for further study and a revised recommendation.

There was discussion of items resulting in tie votes being deferred to the appropriate Committee. Chair Ann Butterworth moved this item to the end of the agenda pending clarification on whether or not this should be reviewed at the Committee level.

7. Evaluation of Blue Cross Blue Shield's Custom Care solutions program and upcoming Health Focus program for 2009.

Justin Stack reported to the Board that in review of this program staff is recommending that the Board determine whether the program should be discontinued, continued at the current rates or combined with the Healthy Focus initiative.

Clyde Smith moved to keep the Custom Care solutions program for one year at the current rate. Edna Jones seconded.

After some discussion on the return on investment for the Custom Care Solutions program, increasing participation, the cost to continue the program and comparing Custom Care to Healthy Initiative.

Debbie Sims was present and addressed the Board on the cost of the program.

There was discussion on the approaches used to increase participation, funding a program with such low participation, and funding for this program being re-directed if there is not improvement in the program participation.

There was also discussion on whether or not the cost of the program is at a set rate or decreases if utilization increases.

A vote was taken on the motion to continue the program for one year at the current rate, with direction to look at recruiting new participants was approved without objection.

8. Correspondence:

- a. Utilization report from Blue Cross Blue Shield.
- b. Utilization report from CIGNA.
- c. Utilization report from Walgreens Health Initiatives. (not available)
- d. Utilization report from Alternative Service Concepts. (reported quarterly)
- e. General Hospital incentives.

Items 8.-a. through 8.-e. were for information only and no action was required.

Justin Stack reviewed the informational flyer for the General Hospital incentives being sent out to all employees and pensioners that are not Medicare eligible and the legislation was included.

There was discussion of this not including pharmacy, only clinics and care and waiver of co-insurance and co-pays.

9. Reports for your information:

- a. Return to work.
- b. Social Security approvals.
- c. Refund of pension contributions. (not available)
- d. Repayment of pension contributions.
- e. Reports from Treasury. (not available)
- f. Non-compliant disability pensioners.
- g. Pending litigations. (reported quarterly)
- h. Disability status reports. (not available)
- i. Denial log from Alternative Service Concepts.

Items 9.-a. through 9.-i. were for information only and no action was required.

Justin Stack reviewed the non-compliant disability pensioners report.

\*Denotes G. Thomas Curtis leaving the meeting.

10. Late item(s):

There were no late items reported at the meeting.

At this time, the Board finished discussion on item 6.

6. Budget request for reimbursement of IOD and Life RFP.

The Board reviewed section 6 of the By-laws regarding tie votes.

After some discussion, the Board concluded that this item will be discussed at the Board and Office Administration Committee. The members of this committee include the Director of Finance, Director of Human Resources and 2 employee representatives.

The Board discussed the impact this item has on the functions of the Board Office and staff.

Edna Jones moved to have this item deferred to the Board and Office Administration Committee. B.R. Hall seconded and the Board approved without objection.

With nothing further presented, the meeting adjourned at 11:51 a.m.

ATTEST:

APPROVED:

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***Mrs. Dorothy Shell-Berry, Interim Director  
Human Resources***

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***Ms. Ann V. Butterworth, Chair  
Employee Benefit Board***