

# MINUTES

## METROPOLITAN EMPLOYEE BENEFIT BOARD

### IN LINE OF DUTY COMMITTEE

**October 19, 2010**

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Tuesday, October 19, 2010 in the Civil Service Conference Room, Suite 163, 222 Building, Third Avenue North, Nashville, Tennessee, at approximately 9:35 a.m.

Committee Members present: Chair: Clyde D. Smith; Members: Charles Clariday and Richard Riebeling. Alternate: B.R. Hall, Sr.

Vice-Chair: Christine Bradley and alternate member Rita Roberts-Turner were unable to be present.

Benefit Board Members present: Edna J. Jones.

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

#### **BENEFIT BOARD ITEMS**

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

1. In line of duty medical care request - Employee from Police Department.

Shannon Hall reported to the Committee that the Police Department disagrees with ASC's initial determination that the claim is compensable.

Tracy Petty and Tracy Patterson, ASC, reviewed the claim. She stated that even though the injury was not reported timely, the diagnosis is consistent with the injuries and it was approved based on there being no time limit on reporting the injury to seek medicals as long as the medicals track.

Dana Lyons, Police Department stated that the claim was denied due to late reporting.

Charles Clariday moved for approval of the in line of duty medical care request as compensable. Richard Riebeling seconded.

Nicki Eke, Legal Department, stated that the 30 day requirement does not apply and there is a six year statute of limitation, not unlimited time on reporting.

A vote was taken on the motion to approve the in line of duty medical care request as compensable.

2. In line of duty medical care request - Employee from Police Department.

Tracy Petty and Tracy Patterson, ASC, reviewed the claim with the Committee. Ms. Petty stated that while in the course and scope of their employment the individual fell and sustained an injury. Ms. Petty stated that the claim was considered compensable based on the personal coverage doctrine and that the Police Department disagrees with the initial determination that the claim is compensable.

Dana Lyons, Police Department, stated that the claim was denied based on the individual not being actually engaged in something police related.

After some discussion of arising in and out of the course and scope of employment, Richard Riebeling moved for approval of the in line of duty medical care request as compensable. Charles Clariday seconded and the Committee approved without objection.

3. In line of duty medical care request - Employee from Fire Department.

Shannon Hall reported to the Committee that this a separate claim from the one currently pending before the Committee. She also noted that this is for in line of duty medical care and not for a disability pension nor related to that request. Ms. Hall also noted that the individual was present.

Tracy Petty, ASC, reviewed the claim with the Committee. Ms. Petty stated that this claim was denied based on the fact that the individual was not exposed to any circumstances extraordinary to their usual employment. Ms. Petty reviewed some physicians statements and medical records.

David Birdwell, Fire Department, was present and stated that the department supports the claim.

There was some discussion of this claim being related to the claim presently pending with the Committee and an in line of duty disability pension request.

Shannon Hall reviewed the cases pending and their statuses.

Nicki Eke, Legal Department, indicated that the Board needs to review the cases as they are presented by the individual.

David Birdwell, Fire Department, stated that the individual thought that this claim was filed and this would also be presented with the in line of duty disability pension request.

Donnie Allen, Emergency Medical Services union representative, presented additional information to the Committee regarding this claim from the individuals supervisor regarding the filing of the claim.

There was discussion of the pending in line of duty medical care request, this claim and how it relates to an in line of duty disability pension request.

After some discussion of the Committee consolidating the claims/and an in line of duty disability pension request Richard Riebeling moved to combine the in line of duty medical care requests. The motion was seconded.

Nicki Eke, Legal Department, stated that there is only one claim before the Board and the Board would have to defer both the claims back to the Committee.

There was clarification on the in line of duty medical care request, the status of the individuals disability pension request and having that disability pension request considered by the Committee.

Nicki Eke, Legal Department, informed the Board that the disability pension request takes a different route, which is through the Civil Service Medical Examiner. Ms. Eke stated that the Board can defer the disability pension request to the Committee along with the medical care requests.

There was some discussion of the type of pension the individual applied for and her injury on duty leave status based on the additional claim, and the appointing authorities in this matter.

The motion was restated for clarification.

There was also clarification on the disability pension status.

After the motion was restated and the individuals disability pension application status was clarified, a vote was taken on the motion to defer this in line of duty medical care request, defer the pending claim back to the Committee with a recommendation to defer the in line of duty disability pension request to the Committee was approved unanimously.

4. In line of duty medical care request - Employee from Sheriff's Office.

Tracy Petty and Brandi Easley, ASC, reviewed the claim with the Committee. Ms. Petty stated that the employee's physical injury was compensable and they have also filed a stress claim, claiming

4. In line of duty medical care request - Employee from Sheriff's Office. (continued)

anxiety attacks and insomnia since the incident. Ms. Petty stated the stress claim was denied based on it not meeting the criteria. She also stated that the medical records indicate that there are potential triggers prior to this injury/event date (i.e. demotions and personal issues) for a stress claim, but based on case law those are not considered compensable.

The Committee discussed the individual's position and job duties/work environment and avenues for assistance or follow up with the individual.

Dr. Celia Goodson addressed the stress and anxiety as it relates to fitness for duty. Ms. Goodson stated that it is her opinion that the stress produced may not be usual stress, but must be extraordinary and unusual in comparison to the stress ordinarily experienced by an employee in the same type of duty and this qualifies.

After discussion of the individual's fitness for duty, a legal opinion, and the medical records received by ASC, Charles Clariday moved to defer this item pending review of the complete medical record by ASC and the CSME. Richard Riebeling seconded and the Committee approved without objection.

5. In line of duty medical care request - Employee from Police Department.

Shannon Hall reported to the Committee that the individual's representative requested this item be deferred.

Clyde Smith moved for approval to defer this item. Richard Riebeling seconded and the Committee approved without objection.

6. In line of duty medical care request - Employee from Election Commission.

Shannon Hall reported to the Committee that the individual was present.

Tracy Petty and Vickie Hampton, ASC, reviewed with claim. Ms. Petty stated that this claim was initially accepted as compensable. She stated that after having the workplace examined by General Services and an outside/private environmental firm the and continuous allergy related illnesses allergy testing was done to determine the source of the allergies. Ms. Petty stated that the allergy testing indicated that the employee was positive for all allergens except dogs. Ms. Petty stated that the treating physician, the previous CSME, an allergist and Dr. Goodson could not state that the allergies are work related because of the exposure to the types of allergens and therefore ASC denied the claim.

After some discussion of any possible exacerbation of the conditions, Richard Riebeling moved to deny the claim. Charles Clariday seconded and the Committee approved with Charles Clariday abstaining.

7. In line of duty medical care request – Pensioner from Public Defenders Office.

Shannon Hall reported to the Board that this item was deferred from the last Committee meeting pending additional information regarding treatment of the condition.

Tracy Petty and Vickie Hampton reported to the Committee that during the time that they were not seeking treatment for the injury they were taking over the counter medication, exercising and prescribed medications by their primary physician, which ASC was unaware of them treating with their primary physician. Ms. Petty further stated that a release was sent to the individual as to allow ASC to obtain medical records from the primary physician and there has been no response to date.

After some discussion of aggravation/exacerbation of the injury, and treatment, Charles Clariday moved for defer in an attempt to gather more information regarding treatment of the condition. Clyde Smith 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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***Mrs. Rita Roberts-Turner, Director  
Human Resources***

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***Mr. Clyde D. Smith, Chair  
In Line of Duty Committee***