

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

IN LINE OF DUTY COMMITTEE

February 15, 2011

The Metropolitan Employee Benefit Board's In Line of Duty Committee met on Tuesday, February 15, 2011 in the Civil Service Conference Room, Suite 163, 222 Building, Third Avenue North, Nashville, Tennessee, at approximately 10:00 a.m.

Committee Members present: Chair: Clyde D. Smith; Vice-Chair: Christine Bradley; Members: Charles Clariday. Alternates: B.R. Hall, Sr. and Rita Roberts-Turner.

Member Richard Riebeling was unable to be present. Rita Roberts-Turner served as alternate.

Benefit Board Members present: Edna J. Jones.

Others present: Justin Stack, Metro Human Resources, Ted Morrissey, 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 Fire Department.

Tracy Petty, Alternative Service Concepts, (ASC), was present.

The individual was present and addressed the Committee regarding the line of duty claim and job duties.

Donnie Allen, Union Representative, addressed the Committee regarding the injury. He stated that he is only asking that his medications be covered and not the accident. He distributed a list of the medications the individual is currently taking to the Committee. He also mentioned a similar case where the individual was granted in line of duty.

There was discussion of the individuals classification and duties.

David Birdwell, Fire Department, also addressed the classification, duties and working in the hot zone.

Clarification was requested as to what is before the Committee at this time.

The individual addressed the nature of his condition, being prescribed certain medications, and the possibility of their job duties being a contributor to the condition.

The Committee concluded that the issue before them is the medications prescribed as a result of the medical conditions found and a presumption issue (i.e. for the medication to be covered it would have to be a presumption).

Ted Morrissey, Legal Department, stated that based on what was filed the issue before the Committee is whether or not the treatment following the accident was covered. He stated that now there is an additional issue and suggested having the item resubmitted.

After discussion of having the item resubmitted to (ASC) for review based on the information presented, Rita Roberts-Turner moved to defer this item pending review/resubmission to ASC. Christine Bradley seconded and the Committee approved without objection.

2. In line of duty medical care request – Disability pensioner from Fire Department.

Committee Chair Clyde Smith suggested that items 2, 3 and 4 be discussed as a group based on cases being related.

Ted Morrissey, Legal Department, indicated that the Committee can discuss the items together, but may have to have separate motions.

Charles Clariday moved to discuss items 2, 3, and 4 as a whole. Christine Bradley seconded and the Committee approved without objection.

Tracy Petty, Alternative Service Concepts, (ASC), was present.

David Birdwell, Fire Department, was present and addressed the Committee regarding the two in line of duty medical care requests. He discussed the events leading up to the individual filing the claims.

Clyde Smith reminded the Committee that this individual has been granted a medical disability pension and the question before the Committee today is whether or not it is in line of duty.

There was some discussion of the individual's tenure and duties with the Fire Department

David Allen, Union Representative, distributed some additional information related to the individuals condition/diagnosis and how it specifically relates to emergency medical services personnel.

Tracy Petty, ASC, reviewed the basis for the denials of the injury on duty claims. She stated that the claim citing harassment is not covered by in line of duty and should be handled in another arena. She stated that the stress claim was denied based on the medical records indicating that it was accumulative and not related to one specific event/incident.

Dr. Celia Goodson addressed how Metro defines or makes a distinction between certain types of injuries, (i.e. psychological, mental, emotional versus physical).

There was discussion of using workers compensation and case law as a guideline. There was discussion of this being a pre-existing situation and the stress claim being an identifiable incident versus cumulative.

There was further discussion of details of the stress claim and the harassment claim.

There was further discussion of accumulative stress.

Dr. Celia Goodson reviewed some of the medical record and possible triggers.

There was also some discussion of the demands of being an emergency medical technician.

Dr. Celia Goodson stated that it is her opinion that based on the facts of the stress case/claim she would recommend approval of in line of duty.

There was discussion of the precedent of accepting an employee with their physical status when they become employed, case law being specific to one specific event and not a history or a cumulative affect from ordinary work place stress is not sufficient.

Charles Clariday moved to approve the stress claim as in line of duty compensable.

Ted Morrissey, Legal Department, stated that the Committee needs to address each claim individually. He also noted that the stress claim is the basis for the injury on duty and not cumulative nor harassment. It was also noted that the harassment issue is related medically not legally.

2. In line of duty medical care request – Disability pensioner from Fire Department. (continued)

There was clarification on the motion to approve the stress claim dated 2/6/10 as in line of duty compensable. Clyde Smith seconded.

It was noted by the Chair that there is nothing in case law that ties Metropolitan Government to workers compensation and this should be an injury on duty situation.

A vote was taken on the motion and failed with a tie vote 2/2 (Charles Clariday, Clyde Smith/Christine Bradley, Rita Roberts-Turner)

It was requested by the Chair that Dr. Goodson present her position on this item and have ASC review their recommendation based on all the information submitted and discussed today in consultation with Dr. Goodson.

There was also discussion of having outside counsel review the case to see if there is additional case law that may be of value to this case.

3. In line of duty medical care request – Disability pensioner from Fire Department.

On the harassment claim dated 2/28/10, Rita Roberts-Turner moved to uphold ASC's initial determination to deny the claim as in line of duty compensable. Christine Bradley seconded and the motion failed with a tie vote 2/2 (Rita Roberts-Turner, Christine Bradley/Charles Clariday, Clyde Smith).

4. Discussion of in line of duty disability status-Disability pensioner from Fire Department.

With respect to this item, the Committee discussed and acted accordingly regarding this item.

Dr. Goodson stated that on the disability pension issue, at this point, her initial recommendation would have been approval of an in line of duty disability pension.

There was further discussion of obtaining additional case law.

5. Alternative Service Concepts communication letters regarding injury on duty claims.

Tracy Petty, ASC, stated that she has contacted the company that makes the forms and indicated that based on the nature of the individuals use it can be beneficial. She stated that there will still be instances where the packet has to be sent out. She also reviewed the draft with the Committee.

After some discussion of a few modifications, Charles Clariday moved to defer this item to the next Committee meeting. Rita Roberts-Turner seconded and the Committee approved without objection.

With nothing further presented the meeting was adjourned at 11:24 a.m.

ATTEST:

APPROVED:

**Mrs. Rita Roberts-Turner, Director
Human Resources**

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