

**WORKERS' COMPENSATION ADVISORY COUNCIL
MINUTES ~ JANUARY 14, 2008 ~ MEETING [1:00 P.M.]
FIRST FLOOR HEARING ROOM
ANDREW JOHNSON TOWER
JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE**

At 1:08 p.m. Chairman Sims called the meeting to order and announced there were two vacant voting member positions due to the death of Othal Smith, Jr. and the resignation of Thomas Hayes. He also noted another voting member was unable to be present for the meeting and as a result the normal quorum of voting members was not present. Chairman Sims stated the statute provides the Treasurer is a voting member of the Council on administrative matters. Without objection, he declared the meeting convened for purposes of the administrative matter of approval of the report to the General Assembly concerning significant Supreme Court decisions.

***CHAIR:** Dale Sims, State Treasurer - Present

***VOTING MEMBERS:**

Employee Representatives

- > Vacant Position
- > Jack A. Gatlin Present
- > Jerry Lee Present

Employer Representatives

- > Vacant Position
- > Bob Pitts Present
- > Gary Selvy Absent

***NONVOTING MEMBERS:**

- | | |
|---|----------------------------|
| Kitty Boyte [TDLA representative] | Present |
| Tony Farmer [TTLA representative] | Present by Conference Call |
| Kenny McBride [local governments representative] | Absent |
| Jerry Mayo [insurance companies representative] | Absent |
| Sam Murrell, MD [health care providers representative -TMA] | Present |
| A. Gregory Ramos [TBA representative] | Present |
| David Stout [health care providers representative-THA] | Absent |

***EX OFFICIO MEMBERS**

- Commissioner Leslie A. Newman - Absent [Designee, Mike Shinnick, Present]
- Commissioner James G. Neeley - Absent [Designee Sue Ann Head, Administrator, Workers' Compensation Division, Present]

A. DISCUSSION AND APPROVAL OF “SIGNIFICANT COURT DECISIONS” REPORT TO GENERAL ASSEMBLY

The draft report had been circulated to the members of the Advisory Council prior to the meeting. The Executive Director summarized each case being included in the report. At the conclusion of her presentation, Mr. Pitts made the motion to approve the report for submission to the General Assembly. The motion was seconded by Mr. Lee and the members approved the motion unanimously.

B. DEPARTMENT OF LABOR - ISSUES & CONCERNS re: POSSIBLE LEGISLATION

Chairman Sims reminded the members the Council was convened for purposes of approval of the significant case report and that no action could be taken by the Council regarding any of the issues raised by the Department. Ms. Sue Ann Head explained the Department wanted to make the Council aware of certain issues about which the Department has concerns.

The following issues were identified and discussed:

- Statute of Limitations - - Teresa Bullington explained the statute of limitations is not now tolled by the filing of a Request for Assistance and this causes potential problems for employees. She stated the Department desires to provide a system where a Request for Assistance for temporary issues can be filed without risk the statute will expire during the pendency of Request. They propose allowing the filing of a Request for Assistance to suspend the statute of limitations and then the statute would begin to run again until the Request for Benefit Review Conference is filed.
- Closing of Claim in Benefit Review Process - - Ms. Bullington explained no provision exists to permit the Department to close a claim in which a Request for Benefit Review Conference is filed but the parties never schedule the conference and no action is taken for a lengthy period of time.
- Charge for Physician Providing Impairment Rating - - The Department solicited the Council’s suggestions regarding the way to deal with how the impairment rating is to be provided and the appropriate amount of money to allow the physician to charge for providing the impairment rating. Ms. Head indicated the Department’s reluctance to withdraw the rule that permits a charge of \$250 for providing the rating.
- Administrative Review of Specialists’ Order - - The Department noted the current statute requires the “Administrator’s Designee” to be an employee of the Benefit Review section for a minimum of five years. This limits the number of individuals who qualify for this position and depletes the Benefit Review program of experienced specialists. The Department would favor requiring a person with experience but to delete the requirement the person be a specialist.

- “Reconsideration” Used in Two Different Statutes - - The Department suggests changing the statute regarding the reconsideration of a specialist’s order to “Administrative Review” to distinguish it from the statute that permits the reconsideration of a prior award if the employee who has returned to work subsequently loses that job.

C. ISSUES FOR FUTURE STUDY

The Department had identified the following areas about which they requested input from the Advisory Council:

1. Uninsured Employers Fund
2. Adjuster Training Project
3. Claims Handling Standards

Chairman Sims suggested these issues are longer term projects. Ms. Head identified the Department’s priority is to first look at adjuster training, then to look at the claims handling standards and finally to discuss uninsured employers fund. The Council indicated a willingness to work with the Department on the issues.

The next meeting of the Advisory Council was scheduled for February 15, 2008 at 1:00 p.m.

The meeting was adjourned at 2:20 p.m.