JUDICIAL COUNCIL OF CALIFORNIA

JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM ADVISORY COMMITTEE

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JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM ADVISORY COMMITTEE

MINUTES OF OPEN MEETING

February 24, 2017

9:00 a.m. - 3:30 p.m.

Judicial Council of California - Sacramento

Advisory Body Members Present: **Ms. Tania Ugrin-Capobianco**, Chair, Court Executive Officer, Superior Court of California, County of El Dorado, **Ms. Jeanine Bean**, Human Resources Director, Superior Court of California, County of Stanislaus, **Ms. Colette M. Bruggman**, Assistant Clerk Administrator, Court of Appeal, Third Appellate District, **Ms. Heather Capps**, Benefits and Disability Programs Officer, Superior Court of California, County of Orange, **Hon. Wynne S. Carvill**, Judge, Superior Court of California, County of Alameda, **Ms. Stephanie Cvitkovich**, Senior Human Resources Analyst, Superior Court of California, County of San Diego, **Mr. Kevin Harrigan**, Court Executive Officer, Superior Court of California, County of Glenn, **Ms. Cindia Martinez**, Assistant Court Executive Officer, Superior Court of California, County of Sonoma, **Mr. James Owen**, Finance Director, Superior Court of California, County of Santa Cruz, **Ms. Shannon Stone**, Human Resources Director, Superior Court of California, County of Contra Costa, **Mr. Brian Taylor**, Court Executive Officer, Superior Court of California, County of Solano, **Ms. Kimberlie Turner**, Human Resources Director, Superior Court of California, County of San Bernardino, **Mr. David H. Yamasaki**, Court Executive Officer, Superior Court of California, County of Orange, **Mr. T. Michael Yuen**, Court Executive Officer, Superior Court of California, County of San Francisco

Advisory Body Members Absent: **Ms. Andi Barone**, Court Executive Officer, Superior Court of California, County of Lassen, **Ms. Tammy Grimm**, Court Executive Officer, Superior Court of California, County of Imperial

Others Present: Mr. Patrick Farrales, Ms. Maria Kato, Mr. Greg Keil, Mr. Daniel Mariano, Ms. Aurora Rezapour, Ms. Jade Vu, Ms. Karen Zhao (Judicial Council); Ms. Carol Azzarito, Ms. Tricia Baker, Ms. Lynn Cavalcanti, Ms. Lea Morales-Mendez, Mr. Dominic Russo (Acclamation Insurance Management Services-AIMS); Mr. Michael Harrington, Ms. Mona Hedin, Mr. Jeff Johnston, Ms. Jacquelyn Miller, Mr. Jim Szymanski, Mr. Gregory Trout (Bickmore)

I. OPEN MEETING

Call to Order and Roll Call

Mr. Patrick Farrales (Judicial Council) called the meeting to order at 9:00 a.m. and took roll call.

Approval of Minutes

The Judicial Branch Workers' Compensation Program (JBWCP) Advisory Committee reviewed the minutes from the past meeting on March 17, 2016. There were no comments or changes in the minutes.

COMMITTEE ACTION

A motion was made by Mr. Harrigan (Glenn) and seconded by Mr. Yuen (San Francisco) to approve the March 17, 2016 minutes. Motion carried.

II. PUBLIC WRITTEN COMMENTS

There were no public comments submitted.

III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Agenda Review – Item 1

Mr. Farrales provided an overview of the agenda topics that would be discussed at this meeting. This included the draft of the annual agenda, draft of the actuarial and allocation reports for the fiscal year (FY) 2017-2018, the available risk control training and resources from Bickmore, the claims third party administrator (TPA) stewardship report, the TPA's audit results, and the reports from the Alternative Deficit Reduction Working Group and the Claims Settlement Authority Working Group. Due to no new updates, the New Federal Occupational Safety and Health Administration Electronic Reporting requirements would not be discussed at this meeting.

Introductions – Item 2

Gregory Trout's Remarks Regarding Bickmore

Mr. Gregory Trout (Bickmore) introduced his team and gave a general overview of Bickmore. Bickmore has provided risk management consulting services, workers' compensation oversight, and actuarial services to the JBWCP since 2013. Bickmore's focus has been on public entities, public entity risk pools, self-insurance programs, and is heavily involved in the public sector, which has been their expertise for over 30 years. He emphasized the importance of going through the actuarial analysis every year in order to understand the cost of the entire program.

Dominic Russo's Remarks Regarding AIMS

Mr. Dominic Russo (AIMS) introduced his team and gave a general overview of AIMS. Mr. Russo described AIMS as a client-centric firm that values the importance of trust-based relationships and expressed optimism in the program after the recent audit. AIMS specializes in public sector claims and estimated that 85 percent of their business are public entities.

Patrick Farrales' Remarks Regarding Judicial Council's Budget Team

Mr. Farrales introduced the newest additions to the Judicial Council's budget team, Mr. Gregory Keil and Ms. Karen Zhao.

Discussion of JBWCP Workers' Compensation Resources – Item 3

Ms. Jacquelyn Miller (Bickmore) discussed the resources that are available to members. Ms. Miller is a manager of Workers' Compensation (WC) services at Bickmore. She provides WC oversight, which includes program consultation and technical expertise to the JBWCP, AIMS staff, and members of the program.

The JBWCP's staff is comprised of the program manager, Mr. Farrales, Ms. Maria Kato (Trial Courts), Ms. Jade Vu (Judiciary), and Ms. Aurora Rezapour, as the primary resources for the program. Staff provides assistance to members, guidance on how the program works, and coordinates all information forwarded to the Judicial Council for approval.

AIMS is the JBWCP's claims TPA and is comprised of the program manager, Ms. Carol Azzarito, and Ms. Beth Harville, Ms. Tonya Copeland, and Ms. Ta'Miya Crockett, who provide management support. AIMS provides claims technical expertise in benefit administration, vendor management and oversight, claims reviews coordination, training presentations, and assistance to members regarding claims.

The Medical Provider Network (MPN) is provided through Allied Managed Care. This service provides medical care management and ensures that injured workers receive the appropriate medical care. Ms. Lea Morales-Mendez (Allied Managed Care) is the Director of Client Services and coordinates with Ms. Azzarito to integrate new members into the MPN. There are currently 40 courts who are members of the MPN.

To ensure the program remains consistently well-funded, Mr. Michael Harrington (Bickmore) provides the actuarial analysis and reporting. Bickmore's Risk Control Portal provides members access to training and other resources in order to mitigate on the job injuries

IV. Discussion and possible Action Items (Items 4-11)

JBWCP Advisory Committee Draft Annual Agenda - Item 4

Mr. Patrick Farrales' Remarks

Mr. Farrales discussed the annual draft agenda and that the agenda's adoption for approval to be forwarded to the Judicial Council would be voted on at the end of the meeting.

Presentation of Draft Actuarial Report – Item 5

Mr. Michael Harrington's Remarks

Mr. Harrington (Bickmore) provided an overview of the FY 2016-2017 actuarial report with the following terminology to assist with understanding the report:

Term	Definition
Loss	Medical and Indemnity paid.
Allocated Loss Adjustment Expenses (ALAE)	Consists primarily of legal fees, usually analyzed <u>together</u> with loss.
Unallocated Loss Adjustment Expenses (ULAE)	Consists primarily of claims administration expenses, in-house (Bickmore) or TPA (AIMS), usually analyzed <u>separately</u> from loss.
Ultimate Loss (UL)	Total cost of claims in a given year. Includes: • Paid Losses (accountant's number) • Case Reserves (adjuster's number) • Incurred But Not Reported Reserves (IBNR) (actuary's number).
Reserves or Outstanding Liabilities	Amounts remaining to be paid on claims occurring in a given year. • *Reserves = Case + IBNR reserves; or* • *Reserves = UL – Paid Losses.*

The purpose of the actuarial analysis is to determine the UL of the prior years and to use that data to estimate next year's UL. There will be a projected $70.2 million in outstanding liabilities for the trial courts and a projected $4.1 million in outstanding liabilities for the judiciary at the end of FY 2016-2017, for a total of $74.3 million. Adding the additional $6.6 million needed for future claims administration fees, the total amount needed would be approximately $80.9 million.

However, the amount of assets that are available is less than $80.9 million in liabilities. The number one goal is to always cover the liabilities. When other programs are reviewed that fund their workers' compensation program this way, higher confidence levels are considered. In the future, if the liabilities are worse than expected, the program will need more than $80.9 million.

The ultimate goal to consider is to fund at a 75 percent confidence level, which is $90.1 million. Theoretically, if all the claims are closed 30 years from now, and the $80.9 million was enough to pay all liabilities, then the remaining $9.2 million would be left to refund. This concept of confidence levels is to add a measure of conservatism to the program. Currently, the program's assets are below the 55-60 percent confidence level, which means on average there will not be enough money available to pay off all claims.

COMMITTEE ACTION

A motion was made by Mr. Harrigan (Glenn) and seconded by Mr. Michael Yuen San Francisco) to move the actuarial report to the Judicial Council for approval. Motion carried.

Presentation of Allocations for Program Year 2017-18 – Item 6

Mr. Harrington (Bickmore) provided an overview of the allocation methodology and member premium allocations for the FY 2017-2018.

COSTS TO ALLOCATE FOR 2017-2018	**TRIAL COURTS**	**JUDICIARY**	**TOTAL**
ULTIMATE LOSS & ALAE	$15,765.000 (+3.1%)	$ 693,000 (-4.4%)	$16,458,000 (+2.7%)
CLAIMS ADMINISTRATION	$ 2,490,966 (+20.0%)	$ 272,034 (+26.9%)	$ 2,763,000 (+20.6%)
EXCESS INSURANCE	$ 460,540 (-8.1%)	$ 200,509 (+10.2%)	$ 661,049 (-3.2%)
CONSULTING & BROKERAGE	$ 514,017 (+16.0%)	$ 56,135 (+22.7%)	$ 570,152 (+16.6%)
TOTAL	$19,230,524 (+5.0%)	$1,221,678 (+4.7%)	$20,452.201 (+5.0%)

The total cost of the program is approximately $16.5 million in UL, which is up 2.7 percent from last year. TPA fees for the program increased 20.6 percent due to additional staffing for AIMS. Excess insurance premiums decreased by about 3.2 percent, consulting and brokerage fees increased by 16.6 percent, and the total cost of the program overall, increased approximately 5 percent to $20.5 million.

The trial courts numbers are fairly similar to what the total program costs are. There was a 3.1 percent increase in UL or $15.8 million. TPA fees are up 20 percent, excess insurance premiums are down 8.1 percent, and consulting and brokerage fees are up 16 percent. Overall, there is a 5 percent total increase for the trial courts to approximately $19.2 million.

With the judiciary, the ULs decreased by 4.4 percent. TPA fees increased by 26.9 percent, excess insurance premiums increased by10.2 percent, and consulting and brokerage fees are up 22.7 percent. Excess insurance premiums for the judiciary are calculated separately from the trial courts and not allocated with the trial courts. Overall, there is an approximate 5 percent increase for the judiciary.

Question Asked

What was the increase in TPA and consulting and brokerage fees last year?
The increase was only in the low single digits.

Mr. Harrington referenced the Actuarial Review of the Self-Insured Judicial Branch Workers' Compensation Program for Member Premium Allocation for FY 2017-2018 (Actuarial Review) report. He explained that the more losses that are incurred, the more is paid in premiums. Therefore, risk prevention measures will help keep costs contained. If the loss experience, also referred to as *frequency,* is better than the average, then the member would receive a lower than average rate.

To determine each court's loss allocation, the program uses an allocation formula to determine the 3-year incurred losses. To emphasize the frequency of loss more, which the courts have more control over than the severity of the loss, the maximum used in the calculation for each individual claim is capped at $75,000, even though the actual costs may be more.

Next to be determined is which court's losses have the most predictability. The larger the court, the more claims and therefore, their loss experience is more predictable. The smaller courts may have a year with no claims. Therefore, they are less predictable and we cannot rely on their past experiences because one single claim can make a huge difference. For example, Orange is one of the largest courts. Eighty percent of their loss experience is used in the calculation and the other 20 percent is used for their payroll distribution. Since Orange is a large court, more weight is given to their loss percentage and less to their payroll percentage. For smaller courts, a lower weight is given to their loss experience, and a higher weight is given to their payroll. For each court, excess insurance premiums are allocated based upon the percentage of total payroll. Both TPA fees and consulting and brokerage fees are allocated giving 80 percent weight to the percentage of total capped losses and 20 percent weight to the percentage of total payroll.

Question Asked

Mr. Yamasaki (Orange) pointed out that from FY 2013-2014 through 2015-2016, program losses decreased significantly. Riverside's losses decreased, but Orange's decrease was greater. However, when referencing the Actuarial Review report (Exhibit TC-4, page 11), the cost increase for Orange was a 13.77 percent while Riverside showed a 5.43 percent decrease, and inquired to the reason for the significant difference.

Mr. Harrington explained he would have to review the previous calculation and look at the FY 2012-2013 through 2015-2016 losses in order to make a better comparison to the FY 2013-2014 through 2016-2017 losses. Last year and this year's calculations were slightly different. This FY included additional TPA and consulting fees. The key is that this report shows status quo as far as the numbers going into this calculation. Orange's calculation in this report does not necessarily tell the whole story. The FY 2012-2013 that is excluded in this report can make all the difference.

Mr. Yamasaki stated it seemed that something was disproportionate on the weight placed on certain variables as opposed to payrolls. One would presume that the cost would go down as opposed to going up by a couple hundred thousand and the cost for Riverside would anecdotally suggest that the cost would be higher. However, it appeared there are other variables that were not reflected in this report that would have demonstrated the actual costs and the basis for increase. Using Orange as an example, it seemed counterintuitive of what the rates would be.

Mr. Harrington responded that the referenced report focused on calculating what that premium allocation should be today. The supplemental report, which shows each individual court's comparison of last year to this year, will show each component and what has changed. Without looking at that, it would be difficult to pick out what drove the Orange's increases.

After the meeting, Mr. Farrales will schedule individual calls to go over premium allocation calculation information in more detail.

Mr. Harrington suggested that, for future presentations, Bickmore will provide a few court examples to explain the calculations and how changing factors affect member premiums. The courts want to know their premium amount and the reason it changed from last year. To assist members, a webinar will be scheduled in the future to explain how the allocation methodology works in more detail. If additional assistance is needed, a conference call can be scheduled to discuss an individual court's premium allocation.

Mr. Trout explained that this formula has been utilized since the program's inception in 2003. The methodology has not been changed although the numbers will obviously vary based on each courts. Over time, this issue comes up and members want to review the formula and inquire if there's a way to change it based on their goals.

Mr. Harrington stated there was no "right' allocation formula, it is fairly standard; however, we may want to consider changes in the future. Ms. Ugrin-Capobianco commented that the Advisory Committee will consider changes next year.

Mr. Yamasaki concurred and the importance to reassess the different funding and weighting distributions, especially in the larger courts.

Question Asked

TPA fees went up 20.6 percent. Are the TPA fees tied to the number of claims processed?
TPA fees are tied to the number of claims processed. Additionally, in the fall of 2016, AIMS had staffing issues and additional staff was necessary to offset the employee turnover. Now there is a program manager and an assistant program manager to assist with the overall process.

COMMITTEE ACTION

A motion was made by Ms. Martinez (Sonoma) and seconded by Mr. Harrigan (Glenn) to move the report to the Judicial Council for approval. Motion carried.

Available Risk Control Training and Resources – Item 7

Mr. Jeff Johnston (Bickmore) discussed the resources available through the JBWCP website.

The website has publications developed specifically for court employees and ergonomic training materials. Bickmore created ergonomic training videos at court sites that can be viewed on their website. They would like to create more ergonomic-related videos and extended an invitation for the courts to provide feedback. There are publications complete with photos that can be utilized for ergonomic training. Courts are encouraged to provide feedback as to what they want added or removed from the website. If members have questions regarding ergonomic training videos for their court, contact Mr. Johnson to discuss further. Mr. Farrales will provide members with instructions on how to register and access the Risk Control Portal website

COMMITTEE ACTION

No action taken.

Third Party Claims Administrator Stewardship Report – Item 8

Ms. Carol Azzarito (AIMS) provided information regarding AIMS claims performance for FY 2015-2016.

OPEN INVENTORY – 5 YEAR COMPARISON					
	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16
Open Inventory	1,343	1,326	1,367	1,291	1,249
DATES OF INJURY and PAID AMOUNT IN SAME FY					
Medical Expenses and Average by Claim	$1,032,187 ($1,911)	$1,005,260 ($1,904)	$883,057 (1,949)	$606,251 ($1,457)	$831,771 ($1,697)
Legal Expenses and Average Per Litigated Claim (350 total)	$52,812 ($3,107)	$35,530 ($2,733)	$49, 985 ($3,332)	$38,445 ($2,136)	$87,343 ($3,359)
Average Temporary Total Disability Paid and Average # Days	$7,390 (2055 days)	$8,440 (2160 days)	$9,055 (2421 days)	$9,774 (2197 days)	$9,249 (1770 days)

Open Inventory and Closed Claims

Ms. Azzarito provided the open claims inventory for the past five years. AIMS entered into the partnership with the JBWCP in October 2014. The number of open claims for FY 2015-2016 was 1,249, which dropped from the previous year of 1,291 open claims. This showed a consistent overall claim reduction and a definite trend in a positive direction.

"Closing ratio" is a benchmark term to measure the number of closed claims divided by the number of new claims received. 718 new claims were received and 802 claims were closed. The monthly industry standard goal is generally 100 percent and for the past fiscal year, the closing rate was 112 percent, which exceeded the industry standard.

Medical Expenses

In FY 2015-2016, there was a slight average increase of approximately $240 per claim due to the cost of medical care. One of the main ways to mitigate and reduce medical costs is to utilize the employer's medical provider network (MPN). The MPN is an entity that consists of a group of medical providers, set up by an insurer or an employer, and approved by the Division of Workers' Compensation (DWC) to treat injured workers.

Participating in an MPN provides employers with numerous advantages, including lifetime claim medical control. If an employer implements the MPN, then their employees must treat within the network for the life of the claim unless the employee pre-designates their treating physician. If an employer chooses not to participate in the MPN, and after the employer's 30-day medical control, the employee can seek treatment with a provider of their choice. There are 40 courts that participate in the MPN, for a total participation rate of almost 69 percent.

The MPN provides contracted control of medical fees and expectations for medical treatment outcomes. The contracted fees are lower than the state's Official Medical Fee Schedule. An employer who implements the MPN will experience an increase in network usage and a reduction in the overall medical costs. In California, medical network contracts, on average, reduce medical claim costs by approximately 9.5 percent.

AIMS' MPN has an extensive credentialing process to ensure quality medical providers. Not every physician is accepted into the MPN. As a result, there is improved provider accountability through the network, quality assurance and provider relations, and appropriate treatment. If the employer has an MPN in place, employees who pre-designate their primary treating physician can only pre-designate a personal medical doctor (an M.D.) or a osteopathic doctor (D.O.).

Legal Expenses

Litigation expenses occur when an attorney is involved in a claim. The goal is to administer benefits on a claim with minimal attorney involvement and to resolve claims as soon as possible in order to avoid future increased claims costs by being proactive with litigation expenses in order to save in the long run.

For FY 2015-16, there were 350 litigated indemnity claims. The statewide average litigation rate was 50.5 percent and AIMS rate was 16 percent, which is 34.5 percent below the state average. Litigation expenses increased due to their proactive effort to reduce the open claims inventory by finalizing claims and to mitigate the long-term costs associated with future open claims. The average litigation cost per claim increased to an average of approximately $3,359, an increase of almost $1,200 average from the previous fiscal year.

Settlements

For the last fiscal year, the average paid by Stipulated Award was $16,387 and $23,059 by Compromise and Release. An average of 100 settlements were realized over 52 weeks.

Temporary Total Disability Paid (TTDP)

For the last two fiscal years, the average number of compensable days off have decreased which resulted in increased savings per claim. Although the average number of days for TTDP have declined after FY 2014-2015, the average dollar amount paid is higher because TTDP rates increased every year based on annual and statutory increases.

COMMITTEE ACTION

No action taken.

Results of the 2016 TPA Audit – Item 9

Ms. Jo Ann Wood (Bickmore) managed and conducted the 2016 TPA audit and presented the results.

The goal of the audit was to obtain an overall score of 85 percent compliance in all areas. 150 claims were reviewed, including 47 claims that involved litigation with the majority of courts represented. Ms. Wood worked closely with AIMS, explained the audit process, communicated the results of the audit to AIMS management, and provided detailed audit results to AIMS. AIMS provided a final response to the audit.

	COMPONENT	2016 SCORE	2015 SCORE	RECOMMENDATIONS
1.	Intake Process	88%*	84%	Improve triage nurse contact with claimant to promote contact within one day; plan additional investigation when initial contacts present conflicting information or causation questions; and make written assignment to field investigator within three days when an investigator is necessary.
2.	Control of Claims	91%*	91%	Solicit, establish, and monitor defense attorney litigation budget supporting agreed upon strategy.
3.	File Organization & Documentation	91%*	82%	Improve ease of document access by: a) Classifying attachments in clearly defined categories; requiring document names to include specific, relevant identification; freezing column headings when scrolling

				through document listing; requiring review and attachment to claims within three days of receipt; and b) Require examiners to appropriately update the Plan of Action; and set new target dates for planned activities incomplete at initial target.
4.	Claim Investigation	92%	51%	There was a solid improvement from the 2015 audit (scored at 51%) because Insurance Services Office's Claim Search indexing system was used in only 40% of qualifying claims.
5.	Claim Resolution	93%*	89%	Require examiner completion of SAR within 10 days of supporting information receipt; communicate with member to determine reason SAR remains outstanding for more than 10 days; obtain acceptable target date for response; and implement supervisory alert to Program Manager for any SAR outstanding beyond target date.
6.	Reserving	92%*	94%	Estimating cost of medical treatment through maximum medical improvement (MMI) and average annual costs thereafter for the length of required treatment; estimating costs based on annual medical costs once stabilized, post MMI for the claimant's life expectancy if there is a reasonable expectation treatment will continue; and consider the claimant's co-morbid conditions as factors increasing or decreasing costs should medical documentation support decreased life expectancy.
7.	Subrogation	89%*	50%	Improve pursuit of subrogation or risk transfer by requiring examiner to: periodically contact responsible party or carrier to update the status of current payments; pursue subrogation recovery, deposit recovery, and post recovery to claim record; and identify and pursue acceptance of risk transfer.

8.	Administer Effectiveness	91%	94%	No recommendations. Slight score decrease from 2015 audit likely caused by transferred claims due to examiner turnover during the audit period.
9.	Cost Containment	96%*	97%	Through loss control, get human involvement with employee; improve performance by using ergonomic specialists to promote return to work.
10.	Reporting to Excess Carrier	100%	50%	No recommendations. Up 50 percent from 2015 audit. Only two claims qualified for scoring due to large self-insured retention.
11.	Supervision	87%*	70%	Use NavRisk system features to verify compliance monthly for supervisory oversight requirements, including: Ongoing review at 90-day intervals for active indemnity claims; and ongoing review at 180-day intervals for future medical claims.
Technical Overall Score		**91%**	**86%**	

** Recommendations shown are related to criteria scoring <85%*

The audit resulted in an overall compliance score of 91 percent. The audit criteria was divided into 11 components. The audit criteria is typically the same every year with slight modifications.

AIMS scored higher in eight components than the previous fiscal year and scored higher than the 85 percent target in all 11 components this fiscal year. The maximum 130 case assignments per examiner had been maintained during the audit period and the audit recommended an increase in claims reserves totaling $886,119.

For each of the 150 claims audited, 63 criteria questions were utilized because some claims were not developed enough during the audit period to be scored by the 11 components. The 85 percent target was utilized and changed from the previous 95 percent target in 2015; however, the scoring of the criteria did not changed. Supervision activity was scored separately to allow AIMS to focus on program improvements. There were 22 recommendations made for criteria scoring less than 90 percent (but above 85 percent), and one recommendation made for criteria scoring between 90 and 95 percent. Many of the scores improved significantly in 2016 compared to 2015, which included the area of supervision, reporting to excess carriers, subrogation, and claim investigations. There were minor reductions in scoring with only slight variances in the low single digit percentiles.

Control of claims scored at 91 percent and was approximately the same as in 2015. For this component, AIMS scored low in the budgeting criteria in the legal management area. It was recommended that the adjusters establish and monitor defense attorney litigation budgets that support the agreed-upon strategy.

Question Asked

Should the 95 percent compliance target be changed?
Ms. Miller explained each pool has specific goals. When the standard is 95 percent compliance and the TPA does not succeed at 95 percent, or near perfection, there is a sense of failure and an increase in staff turnover. The goal was to have a reasonable expectation to enable the TPA to succeed and for staff to stay. With new established staff, Ms. Miller's recommendation is to keep it at 85 percent in 2017 order to give staff a chance to succeed. If they perform well, then consider increasing to 90 percent in 2018. If members see areas that need improvement, members should contact Ms. Azzarito since she manages the claims staff and Mr. Farrales since he manages the JBWCP.

Mr. Harrigan advised next year that the JBWCP Advisory Committee will determine whether or not to leave the criteria at 85 percent.

Question Asked

Ms. Capps inquired whether an annual survey would be conducted since one had not been conducted recently.
Ms. Miller advised a survey had not been done for one to two years and would look into whether to do another survey and what the focus should be.

COMMITTEE ACTION

A motion was made by Mr. Harrigan (Glenn) and seconded by Ms. Turner (San Bernardino) to accept the 2016 TPA Audit Report and move the report to the Judicial Council for approval. Motion carried.

Report to Advisory Committee by Alternative Deficit Reduction Working Group (ADRWG) – Item 10

Mr. Kevin Harrigan (Glenn) explained the purpose of the ADRWG, was to research and consider alternate deficit reduction measures that do not incur increased premium allocations for members and to provide recommendations to the Judicial Council for adoption. The objective was to review the options and present to the JBWCP Advisory Committee.

The program has had a deficit for years, which increased between 2010 and 2015, and had a slight decrease in FY 2015-2016. Per the actuarial report, the ultimate incurred claims cost exceeds the annual contributions. For the FY 2016-2017, the estimated reserve deficit is approximately $23.6 million. Mr. Harrigan emphasized that the deficit is not a "the sky is falling" scenario, but it is something that should be addressed. He understands that the deficit is not increasing exponentially and is mostly stabilized.

Mr. Harrington explained, in theory that if we did nothing but follow our current funding methodology, our deficit would stay as is. In reality, that is not the case, and the funding is at the expected level as opposed to funding needed.
Mr. Harrigan gave a brief overview of potential actions reviewed and options discussed at the January 11, 2017 ADRWG meeting. The ADRWG agreed that action must be taken and that no change is not recommended. The options not recommended at this time include the development and implementation of an assessment plan to increase premiums for funding at a higher confidence level. Per the Governor's budget for the next fiscal year, no funding increases were allocated to the courts.

The ADRWG ranked actions reviewed into three categories:
1) Actions not recommended at this time;
2) Actions recommended for the 2017-2018 fiscal year and beyond; and
3) Actions for further study.

The ADRWG reviewed various options and the recommended actions for the FY 2017-2018 and beyond are:
1) Claims Closure Project;
    a. Target future medical claims in FY 2017-2018, utilizing a "hands on" project approach;
    b. After completion of the FY 2017-2018 future medical project, determine the feasibility of a second "triage" closure project targeting the remaining older claims including active indemnity claims; and
2) Formal Return to Work/Modified Duty Program - Start as a pilot program and request pilot program volunteers from the courts and state judiciary branch entities.

Future Medical Claims Closure Project – FY 2017-2018

Ms. Miller (Bickmore) explained the claims closure project goal is to reduce the claims inventory by decreasing outstanding liabilities on older stagnant legacy claims. The benefits are an increased focus and prioritization to close old claims entirely.

The last JBWCP claims closure project was conducted by Marsh in FY 2010-2011. It was an 18-month, triage-based project that advised and monitored the TPA. 321 claims that were over three years old were reviewed, 94 claims were closed (approximately 29 percent), and resulted in a positive outcome of $1.8 million in reserve salvage (decrease in future reserves). Ms. Miller recommended that a closure project be conducted every three to five years for a program this large.

An outside consultant would personally contact the injured worker and attempt to settle claims with Future Medical awards. The fee would be $375 per claim to contact the injured worked regardless of settlement, with a total fee of $1,575 per claim for all settlements completed (includes initial $375, plus $1,200 for settlement). Based on information supplied by AIMS, the estimated average reserve salvage would be $11,900 per successfully closed claim. The fee for this service would be charged directly to each claims file.

Costs are dependent on the success of the project. The table below outlines the program's return on investment given ideal success rates:

Success Rate	# of Closed Files	Cost of Closure Project	Reserve Savings/Reduced Deficit	Net Reduced Deficit
25%	40	$108,375	$476,000	$367,625
35%	56	$127,575	$666,400	$538,825
50%	80	$156,375	$952,000	$795,625

If the future medical closure project was approved, it would run from July 2017 to September 2017. In November 2017, AIMS would report the results to the ADRWG before being presented to the Advisory Committee in February 2018. At that point, the Advisory Committee would have the feedback from the ADRWG on whether or not to proceed with the second phase, which would target active indemnity claims using the "triage" approach.

Ms. Lynn Cavalcanti (AIMS) commented that two months to review 161 claims appeared to be fast and once AIMS knows how many claims will be ultimately reviewed, they will have a better idea of how long it take. Her experience with similar projects and cases has taken approximately 12 months to complete.

> ***Question Asked***
>
> **Ms. Martinez asked would AIMS or an outside consultant work on this and would this impact AIMS resources?**
> An outside vendor would be hired so there would be no impact on AIMS resources or staffing and besides the outside consultant's fees, no additional costs are anticipated.

Of the 161 claims, it is unknown how many are litigated or are active employees, and it will be the courts discretion whether to settle. If the Judicial Council approves this project, AIMS can begin initial preparations and start at the beginning of the fiscal year.

Ms. Miller stated if the timeline is changed, phase two of the case closure project probably would not begin until FY 2019-2020.

> ***Question Asked***
>
> **Is phase two of the case closure project something that Bickmore would do?**
> Ms. Miller noted that this type of project is outside of Bickmore's contract.
>
> ***Question Asked***
>
> **Mr. Harrigan asked how specific the Advisory Committee recommendation would have to be.**

Ms. Ugrin-Capobianco responded that, if this is a project needed for the next fiscal year, then the recommendation should be to move forward with this project and the logistics can be worked out later.

Triage Claims Closure Project – FY 2018-2019

After the completion of the FY 2017-2018 future medical closure project, a second claims closure project would be reviewed in more detail by the ADRWG. This project would target active indemnity claims using a "triage" approach and the inventory of potential claims will expand beyond future medical claims. The target inventory of 422 older indemnity claims with $16.2 million in reserves (as of November 30, 2016) would be targeted, and the cost determined following the identification of claims to be reviewed.

Timeline

- March to May 2018: determine the scope and the vendor,
- June/July 2018 through September 2018: determine the claims and costs,
- October/November 2018: report to the ADRWG; and
- February 2019: report to the JBWCP Advisory Committee.

Mr. Harrington noted that this project would assume and lead to a net savings of 10 percent of reserves on targeted open claims by closing early. Ms. Miller emphasized that the claims closure project was not the ultimate solution to the deficit reduction, only a part of it.

Question Asked

Ms. Capps inquired how the future medical claim closure option was determined. Mr. Harrigan and Ms. Miller stated this option had more defined costs and was a more easily defined targeted group than the triage approach option.

Comments

Judge Wynne Carvill (Alameda) stated that he thought part of the scope to address the deficit reduction issue was to determine whether to increase the premium policy to lower the deficit or change the confidence level of the funding. At the very least, the JBWCP Advisory Committee may want to advise the Judicial Council that, while the JBWCP Advisory Committee is optimistic about these deficit reduction efforts, it rejects the idea of increasing premiums, specifically in a year when the Governor's budget provided no new funding for the courts.

Ms. Ugrin-Capobianco responded that she and Mr. Farrales will advise the Judicial Council the initiatives the Advisory Committee wish to move forward with and not, and explain the reasons why.

Mr. Harrigan stated the targeted loss control was discussed during the ADRWG meeting and the group wanted to learn more about it. The premiums charged would be as if there was no loss experience and premiums would stay at a flat level to lower the deficit.

Per Mr. Harrington, when funded at a higher than expected confidence level, more premium is collected and if all the costs go as expected, the extra money would be applied to reduce the deficit. If there is an indicator of a rate decrease and the rate is kept flat, then the funding would be at a higher than expected confidence level.

Mr. Yamasaki emphasized that the report should make that explicit. Ms. Ugrin-Capobianco agreed.

Question Asked

Ms. Ugrin-Capobianco asked Mr. Harrington at what point would the program be involved in a situation that we would want to keep confidence levels higher?
Mr. Harrington stated right now. Typically, you would like to fund the program between the 75 percent and 85 percent confidence levels. However, you don't have to increase rates to do it. For example, if next year rates are indicated to go down 5 percent because the program had great loss experience, you can keep rates flat, which essentially increases the confidence level of the premiums (since they weren't decreased).

Formal Return to Work Program – Pilot Project

Ms. Miller discussed the "pilot" Return to Work (RTW) Program. The requested action to the Advisory Committee was to:

- Authorize further development of a "pilot" RTW Program;
- Seek volunteer courts and/or state judicial branch entities to develop and participate in the pilot program; and
- Submit the results of the pilot concept to the Judicial Council for review and approval in 2017, with the estimated start date in the first half of the FY 2017-2018.

AIMS has noted that utilizing a RTW program can result in a minimum 20 percent reduction in Total Temporary Disability payments for participating members. In addition to the financial benefits, a RTW can create positive impacts to:

Employees	Employers	Treating Physicians
Avoids long term unemployment	Retains experienced employees	Creates documentation of physical and mental demands
Maintains daily structure, balance and self-esteem	Improves employee morale and productivity	Eliminates guesswork or gray areas
Provides physical and mental activity, well-being	Reduces workers' compensation costs	

	Provides consistency throughout the JBWCP	

Successful RTW programs rely on the availability of pre-defined modified duty positions at the courts. The employee must also understand that modified duty is an available option while recovering from injury. Ms. Miller noted that modified duty typically only lasts a certain number of days. By keeping an individual on temporary modified duties too long, there is a risk it may become their permanent position, even if it is unintended. Reasonable guidelines need to be established so employees who have RTW modified duties are not performing those duties for an extended amount of time. Some employers utilize a RTW Coordinator that works in conjunction with the claims adjuster and provides information to the treating physician so that the employee can be released back to modified duty. The JBWCP staff will consider these factors when developing the pilot.

At the conclusion of the project, the JBWCP staff and Bickmore will provide a report to the JBWCP Advisory Committee evaluating the project's success measured by the level of adherence to compliance standards and any potential savings realized.

Actions for Further Study – Focused Loss Control Activities

Mr. Johnston (Bickmore) presented multiple loss control activities for further study. Staff of the JBWCP will conduct a further study of focused loss control approaches and the return on investment, and develop a proposal to present to the Advisory Committee in 2018 to determine whether to bring forward to the Judicial Council in 2018 for approval.

A focused loss control approach incorporates multiple activities to reduce the frequency and lessen the severity of on-the-job injuries. While larger courts may have in-house staff dedicated to reducing loss, smaller courts may not have the necessary resources. This project would create a multi-step plan to deliver loss control services to each member upon request.

JBWCP staff will develop a scope of recommended activities and determine the return on investment for each activity. The nature of the loss control activities will depend on the area of priority. Some of the proposed options include:

Focus on ten larger members
On-site assessments focused on main areas of loss
Accident investigations
Evaluation of policies and programs
Recommendations that consider the individual members' culture
Follow up on-site consultation

Focus on occupations
Conduct job hazard analyses to identify issues
Identify potential global equipment solutions

Create methods to acquire recommended equipment at discounted rates
Develop proactive pre-injury process for these occupations
Develop training
Focus on cause
Involves employees from various levels within the affected occupation
Provides a method to dissect most significant loss trends and get input from staff at various locations
Allows staff to have input and thus more buy-in into solutions
Enables global solutions to be more easily identified and implemented

The ADRWG will hear JBWCP staff recommendations and consider bringing forward to the JBWCP Advisory Committee for approval at its meeting in 2018.

Alternate Investment Strategies

Mr. Greg Keil (Judicial Council) discussed the alternative investment strategies for the Judicial Branch Workers' Compensation Fund (JBWCF). JBWCP staff will conduct further study of investment strategies for the JBWCF, develop a proposal to present to the ADRWG in 2017 that will outline investment restrictions and a plan for implementation, and the ADRWG will propose a recommendation to the Advisory Committee in 2018 with a proposal to the Judicial Council in 2018.

The JBWCP Advisory Committee hopes to evaluate all options that will ensure a reduction of the deficit. This includes improving the fund balance by transferring assets to the Surplus Money Investment Fund (SMIF), which has a current yield of .75 percent per year. Part of the research will involve re-examining current processes including:

- Eliminating the ability of other state funds borrowing from the JBWCF; and
- Funding the JBWCP monthly/quarterly instead of the existing practice of funding annual in June.

COMMITTEE ACTION

1) The committee approved the following initiatives and to move forward to the Judicial Council for formal approval:
    i. Conduct Future Medical Claims Closure Project in 2017, then bring forward recommendations to conduct a second closure project in 2018;
    ii. Develop a RTW Program on a pilot program basis;
2) The committee approved the following to the annual agenda:
    i. Conduct further study of a Targeted Loss Program and bring forward recommendations in 2018; and
    ii. Conduct further study of investment strategies for the JBWCP.

Report from the Claims Settlement Authority Working Group (SAWG) - Item 11

Mr. Farrales stated that the purpose of the SAWG was to contain program costs and to develop consistent measures to facilitate the settlement and resolution of claims. The goal was to develop a claims settlement authority policy for the JBWCP and make a recommendation to the Advisory Committee.
Ms. Miller explained that the SAWG reviewed the JBWCP current settlement authority practices, other JPA pools settlement practices, the claim settlements analysis between October 2014 to January 2016, and other sample settlement authority policies and settlement authority request forms.

The current settlement approval process allows Members to approve all requests. Settlements over $100K must include discussion with the JBWCP Administrator, and the TPA does not have settlement authority. The current process is unclear and difficult to follow, and does not provide a clear delineation of the TPA, Program Administrator, and Member responsibilities.

Ms. Capps and Ms. Stephanie Cvitkovich (Orange) presented the proposed the new program-wide Settlement Authority Request (SAR) form, and the Claims Settlement Authority Policy, which contained the following provisions:

- The new policy sets authority levels based on new money that is yet to be paid on a settlement. The settlement amounts below do not include money that has already been paid or advanced against settlement;

Level	Approving Authority	Settlement Amount
Level I	TPA	$0 – $10,000
Level II	JBWCP Member	$10,0001 – $75,000
Level III	JBWCP Program Administrator	$75,001 – $100,000
Level IV	Quorum of Settlement Authority Panel	$100,001 – $150,000
Level V	Quorum of JBWCP Advisory Committee	$150,001 and above

- The new policy sets timelines for approval in which members have 10 court days to respond to the approving authority prior to finalizing the settlement;
- The new policy will ensure that the member will be involved in an advisory capacity for all applicable tiers outside of the member's authority;
- The new policy establishes an appeal process, allowing the settlement to move up to the next level if an agreement between the TPA and the member cannot be reached; and
- The new policy mandates annual reporting of settlements back to the JBWCP Advisory Committee.

In developing each authority level, the SAWG evaluated current settlement data and applied to settlement levels accordingly. If the policy was in place from October 2014 through September 2016, the majority of settlements would continue to fall under the authority of the member. The distribution of approvals would be as follows:

Level	Approving Authority	Number of Settlements	%
Level I	TPA	53	39.9%
Level II	JBWCP Member	73	54.9%
Level III	JBWCP Program Administrator	4	3.0%
Level IV-V	Quorum of Settlement Authority Panel/JBWCP Advisory Committee	3	2.2%

Implementing a well-coordinated claims settlement authority policy can help members close multiple sets of claims much faster, which could potentially reduce current and outstanding claims costs, and the program's deficit.

The policy establishes a consistent standard and sets expectations and responsibilities for all stakeholders involved in the process. Furthermore, the policy provides measurable outcomes as annual reporting requirements enable the JBWCP Advisory Committee to review trends and gauge the policy's effectiveness in reducing the lifespan of lengthy claims.

COMMITTEE ACTION

A motion was made by Ms. Capps (Orange) and seconded by Ms. Cvitkovich (San Diego) to adopt the formal JBWCP Claims Settlement Authority Policy and the Settlement Authority Request (SAR), and to move the recommendation forward to the branch advisory bodies and the Judicial Council for formal approval. Motion carried.

Ms. Ugrin-Capobianco introduced the JBWCP Advisory Committee Annual Agenda, explained that all the proposed initiatives on the agenda have been discussed, and called for a vote.

COMMITTEE ACTION

The committee approved to adopt the annual agenda and forward to the branch advisory bodies and to the Judicial Council for formal approval.

Additional Comments – Item 12

The JBWCP Advisory Committee recommended that the JBWCP staff, in conjunction with Bickmore, review the premium cost formula and re-evaluate how costs are distributed to members. The current formula has been in existence since 2003 and has not accounted for changes in the court's funding distributions nor for changes in the program's shift from a cash flow to an ultimate funding methodology. JBWCP staff will work with Bickmore to recommend options to the JBWCP Advisory Committee in 2018.

The JBWCP Advisory Committee has also requested feedback from members on current service levels. JBWCP staff will develop a program survey that will be sent to all program members before the end of the current fiscal year.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:31p.m.

Approved by the advisory body on February 24, 2017.