



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

July 10, 2017

2:00 p.m. – 4:00 p.m.

Judicial Council of California – Sacramento (electronic means)

Advisory Body Members Present: **Ms. Tania Ugrin-Capobianco**, Chair, Court Executive Officer, Superior Court of California, County of El Dorado, **Ms. Colette M. Bruggman**, Assistant Clerk/Administrator, Court of Appeal, Third Appellate District, **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/HR Director, Superior Court of California, County of Santa Cruz, **Ms. Shannon Stone**, Human Resources Director, Superior Court of California, County of Contra Costa, **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. Heather Capps**, Benefits & Disability Programs Officer, Superior Court of California, County of Orange, **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

Others Present: (Judicial Council) Mr. Patrick Farrales, Ms. Maria Kato, Mr. Greg Keil, Mr. Daniel Mariano, Ms. Jade Vu, (AIMS) Ms. Carol Azzarito, (Bickmore) Ms. Mona Hedin, Mr. Jeff Johnston, Ms. Jacquelyn Miller.

OPEN MEETING

Call to Order and Roll Call

Ms. Tania Ugrin-Capobianco (El Dorado) called the meeting to order at 2:00 p.m. Mr. Patrick Farrales (Judicial Council) took roll call.

Approval of Minutes

The Judicial Branch Workers' Compensation Program (JBWCP) Advisory Committee (Committee) reviewed the minutes from the past meeting on February 24, 2017. There were no comments or changes in the minutes.

COMMITTEE ACTION

A motion was made by Mr. T. Michael Yuen (San Francisco) and seconded by Ms. Stephanie Cvitkovich (San Diego) to approve the February 24, 2017 minutes. Motion carried.

PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(C)(1))

There were no public comments submitted.

DISCUSSION AND ACTION ITEMS

Agenda Review

Ms. Ugrin-Capobianco provided an overview of the agenda topics. This included a review of the premium calculation methodology and a summary of responses to the annual workers' compensation member survey as well as a discussion of next steps.

Item 1

Revised Premium Calculation Methodology (Action Required)

Mr. Farrales stated that the Committee met in February and requested that the JBWCP staff reevaluate the premium calculation formula for two reasons. First, the formula was never updated when the funding methodology was changed from a cash flow, pay-as-you-go basis to an ultimate funding approach. Second, for the current fiscal year, member premiums increased due to increased TPA and brokerage/consulting fees, and members requested another method to evaluate these costs.

Following Mr. Farrales' explanation, Ms. Becky Richard (Bickmore) described the current premium allocation methodology. The process is completed in two steps.

First, Bickmore determines the total funding needs for the two programs individually (state judiciary and trial courts). For each program, Bickmore reviews the historical loss and allocated claims expense from prior years.

Second, Bickmore determines the total cost for each individual program and allocates it back to the members. Bickmore uses a three-year experience period and caps all losses at \$75,000. For example, if a member has a loss of \$120,000, then no dollars in excess of \$75,000 are considered when reviewing the member's claims experience. Bickmore uses a weighted average of members' payroll and capped losses. The weights are based on court size. Larger courts are heavily weighted and, thus more credibility is given to the court's historical experience. A larger court is expected to have more claims than a smaller court and have consistent historical losses, increasing predictability.

Premiums are based on a member's weight and no member receives more than 80 percent. The largest member receives 80 percent weight to their capped losses and 20 percent to their payroll, which scales further down for remaining members. Small courts have premiums that are primarily based on their payroll.

Once Bickmore determines the total claims liability for the next year, they add claims handling fees, excess insurance and brokerage/consulting fees to the total cost. Claims handling fees and brokerage/consulting costs are allocated to the trial courts and the state judiciary based on a weighted average of 80 percent of losses and 20 percent of the payroll over a three-year period. Excess insurance costs are based on a weighted average of payroll data.

Proposed Changes to the Claims Handling Formula

During their review, Bickmore realized that there was increased volatility in the state judiciary program and trial court judges. In the past, costs for claims handling and brokerage/consulting fees were split into three parts: trial courts, judiciary, and trial court judges. Due to their size, trial court judges and the state judiciary experienced only a few losses so one loss created significant volatility from year to year.

Staff recommended a change by including trial court judges with the state judiciary instead of separating them out. Additionally, the claims handling formula will be based on the percentage of the total claims costs for loss and allocated expenses. For example, if a member received 2 percent of the total claims cost for next year, they will receive 2 percent of the claims handling fees. This is driven by the understanding that claims handling fees are largely determined on how many claims were received for the program, how severe those claims are, and how much they are costing the program to handle those claims.

Proposed Changes to the Brokerage/Consulting Fees Formula

Staff recommended that the brokerage/consulting fees no longer be based on a partial weight of losses and payroll.

Most of the methodology would not change as it is still recommended to retain the 3-year experience period and the \$75,000 loss cap when allocating costs to members. However, it is recommended that it not be based on 80% of losses and 20 percent payroll but rather 100 percent based on payroll. The idea is that these brokerage/consulting fees are not driven by their claims experience.

Positive Impacts of the Recommended Change

This change will result in a more equitable distribution of the costs. Trial courts judges will be treated the same as state judiciary members and no longer be separated out. TPA fees will follow more closely with loss and ALAE costs. Brokerage/consulting fees will also be based on payroll since they are not driven by claims experience. It is anticipated that there will be less volatility for members. Ms. Richard noted that fiscal year 2016-2017 to 2017-2018 premiums change ranged from -53 percent to +126 percent, which is a large increase. After applying the proposed methodology, the biggest decrease was -34 percent and the biggest increase was +87 percent. These are still large, but not nearly as volatile as before. Under the new formula, members that receive big increases are just going to receive smaller increases.

Disadvantages of the Proposed Methodology

Ms. Richard noted that the state judiciary would receive a bigger portion of the brokerage/consulting fees. Because of the methodology change, the members that were receiving large decreases will not be receiving as much of a decrease as before. When relying solely on payroll, the brokerage/consulting fees are less driven by the frequency and severity of claims, which will reduce volatility for smaller members.

Questions Asked

Mr. David Yamasaki asked if any of the court contributions under this proposed methodology impacted the premiums or the unfunded liability.

Ms. Richard explained that the methodology affected only the premiums, and did not impact the liability portion. Mr. Farrales further explained that the committee had approved several initiatives to address the overall liability of the program, and that those initiatives, combined with the premium changes would help the individual member overall.

Ms. Stephanie Cvitkovich asked if there are any other data on the other courts of what the premiums would be or is just the ones on the slide.

Ms. Richard explained that members can submit their requests to Patrick if they want to view impacts for their respective courts. She explained that Bickmore possess all the data on each individual court. She also explained that savings occurred for some members because the methodology tempers premiums overall, and that some members are paying slightly more to make up that difference. The methodology does not drop the funding amount. The funding amount among members is going to be the same, and the methodology only determines how each member pays for the liability. It is more of a pooling mechanism.

Mr. Yamasaki stated that he did not have any concerns, and commended Ms. Richard for recognizing these anomalies that occur when a court sees a claim of significant value seemingly out of the blue. He noted that the whole notion behind grouping our workers' compensation program among all of us was to avoid having a court take on a responsibility that could actually break the bank. The members have not seen a huge claim arise, but there is a chance that single claim could become a huge burden. This methodology supports the notion behind this program by grouping all of the courts together and getting the benefit of a reduce rate without absorbing a huge hit.

Ms. Ugrin-Capobianco stated that there are two components to the methodology. One is changing the methodology for calculating the claims handling fee and the other is for brokerage and consulting fees.

COMMITTEE ACTION

A motion to approve the revised premium methodology for calculating the claims handling fees and brokerage and consulting fees was made by Mr. Yamasaki and seconded by Judge Carvill. There was no further discussion. Everyone was in favor. No one opposed. No one abstained. Motion carried.

Item 2

Results of the Annual Workers' Compensation Survey

Mr. Farrales transitioned the meeting into a discussion on the JBWCP survey results from May 8, 2017. At the Committee meeting in February, Committee members requested that the JBWCP staff conduct a customer service program survey. Given a number of changes to this program, the program's goal was to determine what kind of services can be improved across all three areas of the JBWCP: JBWCP administration, risk consulting and actuarial services provided by Bickmore, and third party administration provided by AIMS.

Mr. Farrales said he would be going over the results specific to the JBWCP administration, Bickmore, and AIMS. After each overview of the areas, Bickmore and AIMS would cover their respective areas when discussing next steps and solutions to address the feedback. Mr. Farrales noted that these were all informational items that required no Committee action. However, each program area will have specific responsibilities to address the feedback received from the survey.

The program received a healthy number of responses (around 75) with the majority coming from trial court HR staff. Of those that had responded, many had indicated a strong sense of expertise in the area of workers' compensation so it was clear that informed feedback was being received from the practitioners in the field.

Program Results

In the JBWCP area of the survey, people were asked to rate the JBWCP on their services, ranging from the resolution of members' issues to responsiveness and frequency of communications. They also wanted to know members' level of awareness of program initiatives. Of note, roughly half of the survey takers knew of the initiatives, while the other half was relatively unaware. It also became clear that members wanted more communications, particularly in the area of training resources and program performance metrics in the form of reporting and financial statements.

An overwhelming majority of people are open to attending a statewide workers' compensation forum covering retraining and return to work, ergonomics, and legislative updates. If there was an overall theme when it came to the JBWCP area, there was definitely a need for more training and more communications out to the membership. The plan is for trainings to be held in key locations throughout California so that multiple members are able to attend sessions that are closest to them.

Mr. Farrales outlined an action plan for addressing member feedback in the fiscal year 2017-2018. With regard to service, the desire is to make sure members' needs are met when running into worker's compensation-related issues. Maria Kato and Jade Vu are the program's Senior Human Resources Analysts and are available to answer any questions members may have and can help direct everyone to the appropriate resources. Maria and Jade are also the project managers for two of the program's biggest initiatives, which include the claims closure project and the return to work pilot program.

Mr. Farrales noted that members had been receiving numerous emails regarding these initiatives and it was his hope to continue that trend by sending out more frequent and consistent communication of events that happen in the program.

Mr. Farrales also said he wanted members to know when Committee meetings will be scheduled so that members can ensure that they will get the most out of these meetings and are aware of all the updates that they have in place. Finally, there is a plan to send out the survey again next year in order to measure how scores have changed in response to the new initiatives.

Risk Consulting Results

Overall, Bickmore's theme focuses on the provision of services, which include program oversight, actuarial support, training, and committee support. Bickmore received excellent scores on Committee support and generally high scores on the other areas. Mr. Farrales then introduced Mr. Jeff Johnston to discuss the next steps for Bickmore. Mr. Johnston then introduced Ms. Jackie Miller to cover workers' compensation oversight.

Ms. Miller stated that most of the workers' compensation oversight provided to the program is done in the background. Generally, Ms. Miller is available for participating in the webinars and she coordinates those in partnership with AIMS. Bickmore also provides legislative updates when there are advisory committee meetings. Ms. Miller noted that she can provide frequent legislative updates on a more frequent basis and they can be posted on every courts' respective intranet so that this information is readily available.

Ms. Miller noted that there is at least one claim review scheduled in July that she would not be participating in, but she will be reviewing all the claim review documents beforehand and providing any assistance before that meeting takes place. In comparison to the past, people should be able to see her more in person going forward.

Mr. Jeff Johnston then discussed the workers' compensation premium calculation process and risk control. He noted that the feedback they received showed a level of appreciation for the webinars and training. There were also those that felt it was too basic. There was also a realization that there should be a publication to describe the methodology and that it should be made available to court personnel. He noted that a one-hour webinar contains too much information to absorb in such a short time. Bickmore is reviewing different ways to train and inform besides webinars.

Bickmore's desire is to incorporate feedback from individual courts that want more specific ergonomic exposures covered in the webinars and the videos. There is an understanding that each court has its own nuances, and the desire is to go to these courts and develop the materials based on their needs. Finally, Bickmore wants to clarify to members whether a webinar is aimed at beginners or more advanced participants.

Third Party Administrator Results

The results of the claims administration area of the survey focused on communication, examiner responsiveness, claims review quality, and staff attributes. Of note, members indicated that AIMS' primary

strengths were in their expertise and knowledge as well as their responsiveness with their designated examiners. Many members indicated that they were satisfied with the level of communication with AIMS. However, some noted that turnover did cause some delay in responses. In general, the membership is satisfied with the quality of AIMS' claims reviews as it affords members the opportunity to identify the cases to close. The responses received ranged in scores between 2 and 3. There is a consistent theme of addressing the staffing turnover issues.

Mr. Farrales re-introduced Ms. Carol Azzarito to go over AIMS' plan of action.

The resounding negative tone to the survey was in regards to the staffing issues that have been a problem since AIMS took over claims administration for the program. In order to address and mitigate these issues, Ms. Azzarito has been developing an updated recruitment strategy with the JBWCP. They are doing a deeper screening of employment candidates, and improving the onboarding process by setting new hire expectations and meeting with new hires every week during their first month.

Internally, AIMS has provided an enhanced work environment and staff recognition. Since Ms. Azzarito has been with the program, the majority of staff turnover has been AIMS-driven. Without going into detail, Ms. Azzarito explained that AIMS has an in-depth HR program where they coach and mentor people and have contractually-based production metrics that they review every week with adjusters.

Bickmore performs quarterly spot checks on reviews and then AIMS completes their own quarterly evaluation during which the claims supervisor and Ms. Azzarito will sit down with each employee and go over their production metrics. Additionally, AIMS receives annual claim audits conducted by Bickmore and conducts annual performance evaluations with staff. The adjusters are under consistent measurements to ensure they are meeting their promises to their clients. They do not have the mentality to kick people to the curb. There is a very high turnover rate in the industry as a whole so that is why the recruitment strategy has been updated. This is an ongoing goal as they manage the program and retain talent.

Next Steps

Ms. Ugrin-Capobianco discussed the next steps and timeline. The Committee review is ongoing at that moment. Upcoming events include presentations to the Supreme Court and Appellate Court Executive Management meeting, the Litigation and Management Committee, the Trial Court Presiding Judges Advisory Committee and Court Executive Advisory Committees in August, the Executive and Planning Committee, and the Judicial Council in November 2017.

Mr. Farrales noted that the meetings on the slides did not have specific dates tied to them, but JBWCP staff will try to present to all these groups before Judicial Council review. This will ensure that most of the stakeholders involved in this program are informed of the decisions made in this committee and some of the initiatives that are going on in the program.

Ms. Ugrin-Capobianco mentioned that a huge concerted effort was made in the past year to ensure that judges, court executives and the Executive and Planning Committee were well-versed in what the committee was doing so there were no surprises. Due to the effort put forward, largely due to Mr.

Farrales' tenacity, they were able to get their items to the agenda for the Judicial Council. She lauded everyone's effort and work for the committee and expressed her belief that there are areas in which they could all grow in and that she looked forward to working with everyone in the future.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 2:47 p.m.