



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 WITH CLOSED SESSION

Tuesday, February 18, 2020

9:00 A.M.

2850 Gateway Oaks, Sacramento, CA 95833-3509

Advisory Body Members Present:	Ms. Tania Ugrin-Capobianco, Ms. Kim Bartleson (phone), Judge Matthew Brower (phone), Ms. Colette M. Bruggman, Ms. Heather Capps, Mr. Joseph Carruesco (phone), Ms. Stephanie Cvitkovich, Ms. Krista LeVier, Ms. Michelle Martinez, Mr. James Owen (phone), Ms. Bryna Smith, Mr. Hugh Swift, Mr. Brian Taylor, Ms. Kimberlie Turner, Ms. Shelby Wineinger, Mr. T. Michael Yuen
Advisory Body Members Absent:	None
Others Present:	Mr. Patrick Farrales, Ms. Jade Vu, Ms. Maria Kato, Mr. Edward Metro, Ms. Miki Katsuyama Novitski, Ms. Jacqueline Miller (Sedgwick), Mr. Dominic Russo (AIMS), Ms. Lynn Cavalcanti (AIMS), Ms. Beth Harville (AIMS), Mr. Michael Harrington (Bickmore Actuarial), Ms. Becky Richard (Bickmore Actuarial)

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

The Chair, Ms. Tania Ugrin-Capobianco, called the meeting to order at 9:00 A.M. Mr. Patrick Farrales was asked to take roll call.

Approval of Minutes

The advisory body reviewed and approved the minutes of the April 30, 2019 Judicial Branch Workers' Compensation Program (JBWCP) Advisory Committee meeting.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1)-(2))

Mr. Farrales reported that there were no written comments received.

III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-10)

Item 1

JBWCP Advisory Committee Meeting Agenda (No Action Required)

Ms. Tania Ugrin-Capobianco, Chair, gave an overview of the agenda topics for this meeting.

Item 2

Committee Member Responsibilities and Committee Charge (No Action Required)

Ms. Ugrin-Capobianco introduced the discussion to review the charges and responsibilities of the Committee. She continued by stating that members have opinions and should be prepared to cast votes on statewide matters. Ms. Ugrin-Capobianco stated that the Committee member's focus should be on high-level matters with emphasis on statewide impacts and not decided based on individual courts. The expectation is to bring individual knowledge and experience to make a recommendation or decision as a Committee member. Mr. Patrick Farrales stated that the decisions made by the Committee affect the whole state.

Questions Asked: As the Committee had evolved, it is unclear which items need to be raised at the Committee or Subcommittee levels. Since this Committee is not as formal as other Committees are and if we are to keep this Committee fluid, we are unsure if we are going out of the scope of what we are supposed to do. What do we do next? How far are we supposed to go there?

Response: The staff and consultants are driving the direction of the program and the Committee oversees. Committee members should feel comfortable bringing issues forward and discussing the issues with the Chair and/or staff. We will determine whether it is an issue to be brought to the Committee by reaching out to the available resources. Mr. Farrales stated that he and his staff are prepared to address and implement the issues.

Item 3

JBWCP Updates (No Action Required)

Mr. Farrales recapped how far the Committee has changed since its working groups in 2016 – 2017 with a deficit of \$21 - \$22 million. Bickmore had developed a white paper proposing to change how the premiums were calculated from a pay-as-you-go to an ultimate funding methodology. Two working groups were created to address the program's deficit. The working groups reviewed risk control options, settlement policies, claims cost reductions, early return to work, litigation management, and the claims closure initiative. The claims closure initiative morphed into a future medical claims closure program.

During the past four years, with education and presentations made by Ms. Ugrin-Capobianco to all stakeholders, the deficit has been reduced to \$11.6 million program-wide. There is great opportunity to continue this forward momentum.

Mr. Farrales then introduced Ms. Lynn Cavalcanti who spoke about the evidence-based Medicare Set Aside, a new program that is being reviewed at this time.

Questions Asked: Who pays for the set-aside? Are there additional fees to go this route? Is the fee a branch claim? Is it additional on top of the total settlement? Is it a percentage or flat dollar amount? Is a one-time fee or multiple or is it a per-injured worker fee?

Response: It functions the same way as the MSA, and is charged back to the claim. The fees are wrapped into the overall settlement fee. 40 percent is the reduction based on the structure. The fees come out of the difference of the savings. It is a flat dollar amount. It is a one-time fee at the time of the set-up with Ametros.

Questions Asked: Is AIMS the only vendor to provide a service like this? How long have they been doing this work? Is the MSA fee comparable with this company?

Response: No, but it is the one that ExamWorks work with. There are other options. They have been doing this for the private health sector and just got into the industrial side. ExamWorks carved out this niche. This is the same company so there is no difference. The difference is that they are not applying for Medicare regulation. ExamWorks came in lower than other vendors and do not charge for Medicare reporting and legal fees.

Next Steps: The committee members agreed that it was worthwhile to pursue the evidence-based Medicare Set Aside program. Ms. Heather Capps requested that further discussion continue during closed session.

Item 4

Workers' Compensation Metrics & Performance Indicators (No Action Required)

Ms. Beth Harville from AIMS had presented closing ratios, open claims, settlements, temporary disability payments, medical payments, litigations rates, legal cost breakdowns and settlement authority requests. All the metrics have been on a consistent cost trend. Compared to other entities and due to the programs implemented with the Judicial Council, the cost is not as much as other entities.

Item 5

Data Analysis and Identifying Program-wide Trends (No Action Required)

The Judicial Council was able to secure temporary resources to develop data reporting tools for review by the committee. The intent is to provide committee members with data elements that are important to analyze for this program. Ms. Jacquelyn Miller stated that the data is clean and AIMS is able to pull specific data to allow the committee to make recommendations and assess where the resources should be focused.

Question Asked: If we are not pulling employee specific data, why can the committee not share data information between courts?

Response: Aggregate data can be shared as long as information can be redacted to protect sensitive information and is published at a level where personal identifying information cannot be identified.

Next Steps: Staff will present draft program/holistic data and reports to the committee for input prior to distributing the reports on a recurring basis. Data will include all relevant metrics, with a possible focus on litigation and its impact on medical costs.

Item 6

Excess Insurance Market (No Action Required)

Ms. Ingrid Merriwether, Client Executive of Merriwether & Williams presented a high level overview of the current program and market information to give a sense of what is expected with the renewal this year.

Next Steps: Staff are currently gathering excess insurance quote information and will be presenting all quotes back to the committee members for review and approval at a teleconference meeting to be scheduled after February.

Item 7

Presentation of Draft Actuarial Report and Allocation Results for FY 2020-21 (Action Required)

Ms. Becky Richard and Mr. Michael Harrington of Bickmore Actuarial presented the Draft Actuarial Report and Allocation Results for fiscal year 2020-21.

Next Steps: No action taken until staff have received all RFP cost information. Judicial Council staff will tabulate the RFP scorecards and will work with Becky Richards to present the revised fiscal year 2020-21 premiums to committee members after February. The final numbers will be provided by March 10, 2020, and Judicial Council staff will know how much the premiums will be for each member.

Item 8

Recommendations from the Settlement Authority Working Group (Action Required)

Ms. Stephanie Cvitkovich and Ms. Heather Capps presented the recommendations regarding the Working Group's discussions to revise the existing settlement authority policy for the JBWCP, effective July 1, 2020.

Next Steps: Mr. Brian Taylor made a motion to move as recommended and Ms. Bryna Smith had seconded.

Item 9

Recommendations from the Deficit Reduction Alternatives Working Group (Action Required)

Mr. Hugh Swift and Mr. Edward Metro had presented their report on all deficit reduction measures considered by the Working Group. This included options for administrative controls, loss prevention, loss reduction and asset development.

Next Steps: Ms. Kim Bartleson had moved to approve the following initiatives from the Working Group. Ms. Stephanie Cvitkovich seconded the motion. Ms. Michelle Martinez requested that further discussion on ergonomics continue during closed session.

1. Judicial Council staff will inform members of options if they have issues with current MPN providers.
2. Judicial Council staff will raise awareness of JBWCP resources including the Return-to-Work program and the Buddy Program. Staff will modify the Buddy Program to expand the list of volunteer courts to all members instead of assigned pairings.
3. Judicial Council staff will conduct an RFP for ergonomic services in 2021 and assemble a panel from the Committee to determine requirements of the procurement.
4. Judicial Council staff will track claims resolution of all open unresolved claims older than five years.
5. Direct the Auditor to include more litigated claims in the scope of the audit, with a focus on reviewing billings per case relative to the average and determining the level of attorney utilization.
6. Increase the frequency of workers' compensation transfer to once per year at the beginning of the year.
7. Set the confidence level to 70%, with the goal to raise confidence levels to 80% in the future.

Item 10

Third-Party Administrator Annual Audit (Action Required)

Ms. Jacquelyn Miller from Sedgwick and Ms. Beth Harville from AIMS presented the review the results of the Annual Audit for FY 2019-2020. While there were a number of recommendations (determine frequency, size, and criteria) from Sedgwick, the committee opted to wait until the program auditor was selected via the RFP to discuss these items in detail at a follow up meeting.

Next Steps: A motion to move as recommended was made and seconded.

IV. ADJOURNMENT TO CLOSED SESSION

Adjourn to Closed Session

V. CLOSED SESSION (CAL. RULES OF COURT, RULE 10.75(D))

Item 11

This portion of the meeting is closed as it relates to Rule 10.75(d)(6)

Discussion regarding the fiscal year 2018-2019 and 2019-2020 third party administrator audit and service guidelines.

Item 12

This portion of the meeting is closed as it relates to Rule 10.75(d)(3)

Discussion regarding the workers' compensation brokerage/risk consulting, audit and actuarial services Request for Proposals.

VI. ADJOURNMENT TO OPEN SESSION

Adjourn Closed Session and Commence Open Session

VII. DISCUSSION ITEM

Item 13

Presentation of Draft Annual Agenda (No Action Required)

Mr. Farrales stated that the draft annual agenda will be reviewed at the next committee meeting along with information on updated workers' compensation premiums.

VIII. ADJOURNMENT

The meeting was adjourned at 3:28 p.m.