



CCSF Workers' Compensation Council Minutes

Monday, February 6, 2023, at 9:00 am

Online Meeting Link:

To view the online presentation, join the meeting using this link: <https://bit.ly/3XPoFZQ>

Phone Audio for Interested Parties:

(415) 655-0001

Meeting ID | Access Code:

2489 583 6578 | v9HFR8mk7eK (89437865 from phones)

Call to Order

9:01 am

Roll Call

- Carol Isen, Human Resources Director (Represented by Kate Howard) - Present
- Anna Duning, Mayor's Budget Director (Represented by Fisher Zhu) - Present
- Carmen Chu, City Administrator (Represented by Kelly Hernandez) - Present
- Erik Rapoport, Deputy Executive Director, San Francisco Employee Retirement System - Present
- Todd Rydstrom, Deputy Controller, Controller's Office (Represented by Michelle Allersma) - Present
- Matthew Barravecchia, Deputy City Attorney, City Attorney's Office - Present

01: Public Requests to Speak on any Matter Within the Jurisdiction of the Workers' Compensation Council Appearing on the Agenda

Speaker: Kate Howard, Managing Deputy Director

Council Comment: None.

Public Comment: None.

02: Approval with Possible Modification of Minutes

Erik Rapoport motioned to approve the minutes from the meeting held December 5th, 2022. The motion was seconded by Michelle Allersma.

Action: The December 5th, 2022, minutes were approved unanimously.

03: Discussion Item - Report from Workers' Compensation Division (WCD)

Council Comment: Kate Howard introduced Workers' Compensation Director Julian Robinson and invited him to present the report from the Workers' Compensation Division.

Speaker: Julian Robinson, Deputy Director, Workers' Compensation Division

Report on Accomplishments, Challenges, and Initiatives, Return-to-Work Program, Covid-19, Performance Quick Facts, Financials, and Claim Analytics with CWCI Benchmarks.

Julian Robinson greeted the council and those in attendance. He explained the agenda will cover Workers' Compensation Division accomplishments, initiatives, and challenges, and provide a special Return-to-Work Program report, as requested by Director Carol Isen. Next, Dr. Fiona Wilson will report on COVID-19. Then, Finance and Technology Manager Stan Ellicott will present performance quick facts and financial reports. Lastly, Julian Robinson will return to discuss claim analytics, which also will feature industry benchmarks from the California Workers' Compensation Institute (CWCI).

Julian Robinson began the presentation sharing Workers' Compensation Division accomplishments. Firstly, the finance team completed 1099-MISC and 1099 Non-Employee Compensation information reporting forms due end of January to Workers' Compensation vendors. The division issued 909 - 1099-MISC, and 482 - 1099-NEC for CCSF Program. The division issued 157 - 1099-MISC, and 107 - 1099-NEC for SFMTA Program. The division completed targeted mail inserts to offer electronic payment program to eligible vendors.

Additional finance and technology accomplishments this quarter include:

- A new contract with Intercare Holdings for Third-Party Claims Administration and As Needed Services was fully executed 12/30/22.
- Transition initiation of Special Investigative Unit and Fraud Services to Intercare – anticipated Go-Live April 2023.
- Provided Probe a 60-day Notice for Termination of services on 1/27/23.
- 60-day period will support transition from Probe to Intercare, including staff training.
- Continued WC training and real-time updates to staff.

Julian Robinson then described the Workers' Compensation Division initiatives for FY22-23:

- Continuing Implementation of TTWA policy and Citywide Return to Work model within DHR WCD.
- Partnering with Risk Management Division for updated Workload and Staffing Analysis; Final Report Under Development.
- Critical contract renewals progressing, including for:
 - ADR Program Services, including ADR Director and Ombudsperson contracts (Amendments to Extend, Add Value).
 - Claims Information System from Ventiv Technologies (Amendment to Extend, Add Value).
- Profile Audit Review (PAR) Audit Preparation and Mock Assessment.
- Catastrophic Illness Program Draft Updates to Admin Code pending finalization.
- Staff Recruitments, exams, and exam prep ongoing for multiple WCD positions.

The Workplace Safety and Health Initiatives involve:

- Working with departments to ensure OSHA recordkeeping requirements at the department level are met, and sharing best practices on matters that impact workplace safety within the CCSF safety community.
- Meeting with departments and with SEIU Local 21 on safety concerns.
- Development of 3rd Quarter Safety Newsletter.
- Collecting departmental Injury Illness Prevention Programs (IIPP) to better support departments and help educate them on developing and implementing their IIPPs.
- Planning for training course to departments on IIPP development and intro to Safety and Health for those departments without safety resources.

Julian Robinson advised the council of challenges expected for FY22-23. The statewide labor market for hiring workers' compensation talent is limited. We face significant numbers of staff retirement in the next several years. To address these concerns, WCD continues to hold exams for key positions, as well as training staff for promotion within the division.

Julian Robinson shared with the council the implementation of a Citywide Temporary Transitional Work Assignment (TTWA) Policy. The policy drives improved return-to-work outcomes by requiring city departments to develop and facilitate modified duty for employees whose medical conditions allow for temporary transitional work assignments. Since deployment, 19 departments have provided contacts for dedicated representatives for TTWA. For those departments who have not responded, we will assume they will be represented by their Workers' Compensation Coordinator unless they advise otherwise. Ongoing meetings and presentations with department liaisons address concerns, questions and challenges on temporary transitional work assignments.

Currently Return-to-Work Initiatives include:

- Internal bi-weekly supervisor and manager meetings to develop processing and tracking workflow for TTWA assignments.
- Pilot streamlined workflow to receive and track department availability of TTWA.
- Continued meetings with MPN providers and clinics to discuss Citywide RTW and provide information on the Citywide TTWA Policy.
- Discussions with providers who fail to provide modified work restrictions, which add to TD costs.
- Discussions with ADR Joint Labor Management Committee on Return-to-Work and Citywide policy.

We are challenged by several factors impacting TTWA. One of which are disability benefits themselves; where employees can make more money off work than when working because disability benefits are not taxable. Departments also struggle with identifying intra-departmental tasks to place injured employees, limiting the use of modified duty. Departments who already have a modified duty program may show resistance to modifying their existing programs. Next, physicians routinely take injured employees off work without indicating restrictions, or providing restrictions that are inflexible and difficult for departments to accommodate. Lastly, staff shortages remain for adjusters, for providers, and within citywide departments, resulting in delays when addressing modified duty and return-to-work.

Our return-to-work next steps include:

- Further development of pilot within WCD and Intercare to refine methodology for claims staff to timely address modified duty. This includes tracking within the claims system for better reporting on the impacts and costs of failure to provide transitional work.
- Continued vetting to add MPN physicians and clinics to ease provider access concerns and to better support the TTWA program.
- Continued work with departments to address their concerns and challenges surrounding bringing injured employees back to work.
- Further review of feasibility of interdepartmental placing of employees on a case-by case basis where modified duty is not feasible within the 'home' department. Several departments have asked if other departments can provide an opportunity for modified duty.

Next, Dr. Fiona Wilson was introduced to share COVID-19 reporting for Q2. As expected, COVID-19 cases increased in late December due to employees spending time indoors, celebrating holidays, and traveling. Isolation and quarantine are still required for ten days unless a negative test is determined after testing on day five. COVID variants continue to evolve. These variants are very contagious, yet mild, and include Omicron subvariants BQ1, BQ1.1, and XBB.1.5. Variants of COVID-19 different regionally throughout the nation.

COVID numbers for San Franciscans peaked in December at 211 per day and have now stabilized to about 63 cases per day, a 5.2% test positivity rate. Cases of city employees, who are all vaccinated, peaked at 137 cases per week. This number has now dropped to about 36 per week from December 2022. There have been 6,206 cases of COVID within city employees, including repeat infections.

There have been 40 work outbreaks since December. Out of 4,126 Workers' Compensation claims citywide, 3,701 claims were accepted and 425 denied since the beginning of the pandemic.

Regarding COVID sick leave, the benefit of 80 hours of COVID city sick pay expired at the end of 2022. Public Health Emergency Leave is still in place but is not available to all employees. The Governor's emergency order expires 2/28/2023. We may see more employee motivation to test on day five and leave quarantine if required to use personal sick leave, as well as increased WC claim filings due to an absence of COVID specific leave benefits. Daily health screenings are still required to prevent workplace exposures.

Next Stanley Ellicott, Manager of Finance and Information Systems presented performance quick facts. We are at 96% of actuals to budget for the year. Volume of new claims has slowed since last quarter. The average cost of a claim closed in the period is \$13,776 against our benchmark of \$12,191. Mr. Ellicott shared costs and benchmarks after removing COVID claims data. He advised the average cost of a typical non-COVID indemnity claim is \$17,642, in comparison to our benchmark of \$15,528 for similar claims. Duration numbers, or average days a claim was open before it was resolved, was 244 days not including COVID claims. Historically, this number has been declining over the last several recording periods.

Stanley Ellicott shared our financial position as of the six-month mark. We are predicting a \$96.7M of total expenditures for the CCSF program. This will net approximately \$8.0M relative to the revised FY23 budget of \$104.74M.

- General Fund Supported Department budgets total \$83.38M in FY23 with \$74.86M of projected spending as of the 6-Month Report, resulting in an estimated surplus of \$8.52M concentrated in FIR (\$2.43M), DPH-Laguna Honda (\$1.75M) and SHF (\$1.19M).
- Deficits emerging as of the 6-Month Report include PUC (\$761K), LIB (\$641K) and POL (\$362K). DHR-WCD will monitor the development of these deficits and work proactively with the impacted departments to identify supplemental funding through the remainder of FY23.

Fiscal Year 2023 expenditures are projected to increase \$2.04M over FY22 expenditure levels. This is attributed to the following principal factors:

- Benefit expense has slowed in FY23 and is projected to be \$2.21M less than FY22. Despite ongoing cost increases for medical treatment and wage replacement benefits, the Division is successfully managing cost growth through focused interventions.
- Personnel expense is projected to grow \$2.02M in FY23 (17.6% YOY increase) to fund new positions in the FY23 Budget, MOU-awarded COLAs, and increased employee benefit costs.
- The California Department of Industrial Relations assessment of workers' compensation insurers increased by \$1.73M in FY23 due to higher Labor Code Section 4850 salary continuation benefits to public safety officers and wage replacement benefit expense

Stan Ellicott presented a graphed timelapse of benefit expense by month and reserves for fiscal year 2022. The past quarter has shown stability, in contrast to winter where we had a large surge in COVID claims resulting in growth of medical and temporary disability benefit expenditures. So far in fiscal year 2022-2023, medical is down as well as temporary and permanent disability benefits.

Within the indemnity reserve category, temporary disability is projected to increase by about 4.7%, offset by declines in permanent disability. Salary continuation benefits known as 4850, which are paid by payroll and not Workers' Compensation, project -8.6%. Medical expenditures are projected to decrease by 6%. Total benefit expenditures declined by 5% overall. We anticipate third party subrogation to offset some expenditures.

One of our most successful cost containment strategies is medical bill review. Allied Managed Care reviews over 80,000 medical bills annually for accuracy. In the last quarter alone, AMC's bill review program saved CCSF about \$17 million in savings by examining reports, bills and fees to ensure official California fee schedules and preferred provider discounts are documented and applied to control expenditures.

Temporary disability costs led to our interest in and intervention to create the return-to-work program. Data shows disbursements, which increased at the onset of the pandemic, have stabilized and even declined during the reporting month.

Director Julian Robinson returned to discuss detailed claim analytics. The Fire Department shows 38 claims incurred per 100 full-time equivalent (FTE) which is a reduction from 60 claims incurred per 100 FTE. Police decreased from 38 to 30 claims incurred per 100 FTE. Sheriff decreased to 23 claims per 100 FTE. The rate for all departments citywide steadies at 14 claims incurred per 100 FTE.

If we remove COVID claim data, our average drops back to more normal statistics, such as 19/100 for Fire and Police, and Sheriff at about 18/100 FTE each. The citywide number of claims incurred per 100 full time equivalent, without COVID claims, returns to 9/100. We have found that employees who no longer have COVID pay may file more Workers' Compensation claims.

Overall citywide we are down 10% in new claim filing frequency for the second quarter. We also welcome a decrease in indemnity claims. This has helped our staff reach a closing ratio of 104% for YTD through Q2.

Overall, open claim inventory continues to gradually decline driven by future medical case closure. As of February 1st, 2023, there are still 196 open COVID-19 claims.

Julian Robinson explained the breakdown cost of a litigated claim vs. a non-litigated claim. The cost of a non-litigated claim is about 8.5% of a litigated claim. In Q2, we held steady at 35% of open claims represented by counsel, yet 20% of open claims were litigated. This is a significant decrease from the 40% of litigated claims prior to the start of the ADR program. Overall, Fire claims are 26%

represented but only 4% litigated. For Police, claims are 39% represented but only 9% litigated. Our litigation and representation rates would be even lower without opt-in claims, many of which come into the program already represented. This is due to applicant attorneys who like the speed, ease of resolution, and efficiency of the ADR program and choose to opt-in to the program.

The California Workers Compensation Institute (CWCI) tracks data and trends, and our membership to the CWCI allows enables us to compare CCSF to the overall workers compensation industry.

Director Robinson explained in the past few years, CCSF has paid a higher-than-average amount for indemnity claims. One reason is because first responders and public health employees remained on duty during the pandemic, exposing their departments to more claims than those with employees who worked from home. Additionally, many of our employees due to high wages are entitled to the statutory maximum indemnity rates versus other employers in the industry whose employees are less often entitled to maximum disability rates. Additionally, wages in the Bay Area are known to be higher than in the rest of the state. These reasons fuel increased claim costs and explain our higher-than-average claim costs when compared to the overall workers compensation industry.

Presumptions of PTSD impact treatment and claim filings citywide. Due to a shortage of mental health providers, premium payments are required to secure treatment for our employees. We have even sought providers who treat via telehealth from Southern California to meet the needs of our workforce. Markers such as average percent of claims, average expense paid out per visit, average number of visits per claim and average payments per claim are all above industry amounts.

The final slide shows average paid by month for comprehensive medical-legal evaluations. The planned percentage increase from 2019 – 2021 was anywhere from 48-60%, where it was initially anticipated to be only an increase of 25%. This largely affected medical and indemnity expenses in the recent years.

Mr. Robinson then returned the meeting back to Deputy Director Howard, who requested questions or comments from the council.

Council Comment: Michelle Allersma, Controller's Office

Ms. Allersma commented she is interested to see the data after the public health emergency expires end of February as compared to the surge of claims and costs presented in second quarter of FY 2022-2023.

Ms. Allersma asked Stan Ellicott to explain how reserves work in the workers' compensation arena. Stan Ellicott explained at intake, a budget for treatment and time off is established by the adjuster using prior experience, knowledge of the injury, and benchmark data to assess the future liability of the claim. These reserves are updated as the claim evolves, as an indicator of what we estimate to

pay on the claim. As the city is self-insured and on a pay-as-you-go model, we do not hold actual cash reserves.

Public Comment: None.

04: Discussion Item: Report from the San Francisco Municipal Transportation Agency Workers' Compensation Division

Speaker: Jim Radding, San Francisco Municipal Transportation Agency Workers Compensation Manager

Report on Accomplishments & Initiatives, Challenges, Covid-19, Performance Quick Facts, Claim Analytics and Financials.

The Workers Compensation Manager at SFMTA, Jim Radding, led the WC Council Meeting and covered several topics related to workers' compensation. He highlighted the accomplishments and initiatives of SFMTA's workers' compensation program. Among the accomplishments, the LightSpeed initiative, which is designed to ensure timely reporting and improves the overall claim information, was discussed. The Early Intervention Program, which ensures employees receive prompt medical care and pursue a quicker return to work, was also covered. The Ambassador program, which provides employment opportunities for employees who cannot perform their Usual and Customary job duties, was also restarted. Other topics included the Return-to-Work program and a review of SFMTA's claim analytics and financials.

This quarter the SFMTA Workers' Compensation team, led by Jim Radding discussed the Accomplishments and Initiatives:

- The LightSpeed program, which involves onsite investigations to improve workers' compensation claim information, has completed 53 files since its inception on 10-17-22.
- Quarterly SIU training is completed with the Investigation firm.
- The "Let's Get Back to Work" program, which has assigned 51 files, involves a telephonic nurse who interacts with medical facilities, employees, and SFMTA to ensure prompt medical care and quicker return to work.
- The Ambassador program, a 90-day program, assigns employees who cannot perform their Usual and Customary job duties to various Muni stations to assist passengers.
- \$47,252 in subrogation recoveries have been recorded in FY 2023, year to date with over \$700,000 expected to record by end of FY 2023.
- Intercare now has access to coach videos from transit operations to improve claim investigation. The Investigation Firm will provide digital videos of motor vehicle accidents to physicians to assess the nature and extent of employee injuries, and this will be extended to other on-the-job work injuries.
- The notes indicate that there are ongoing quarterly claim review meetings between SFMTA and Intercare to evaluate and discuss the status of claims, resolve any outstanding issues, and

- determine strategies for future claims. Additionally, there is a new initiative focused on resolving outstanding claims through weekly roundtables with the Deputy City Attorney's office.
- Another initiative is completing updates to the job analysis, which is used to identify necessary training and support for employees to perform their job effectively. The notes also highlight the SFMTA's well-structured and centralized Return-to-Work program, which aims to get employees back to work

The meeting continued with a discussion of the SFMTA's Return-to-Work program, which focuses on finding jobs for injured employees beyond the Ambassador program. The program has specific timeframes and emphasizes open communication, including written contracts and communication with healthcare providers. The LightSpeed Program Initiative aims to streamline workers' compensation processes and enhance communication between teams. Early Intervention is a program that involves a telephonic nurse contacting the employee to obtain updates on work restrictions and place them in a modified duty position. The SFMTA return-to-work team and Intercare examiners have a good partnership to support employees returning to full or modified duty. Other available jobs for transitional work are determined by current job lists and job analysis. The return-to-work policy provides benefits to employees, such as reducing loss productivity, quicker recovery, and increased morale.

Next, Jim Radding discussed the current challenges faced by SFMTA, including the rise in Temporary Disability Benefit Maximum, increasing workers compensation costs impacting the budget, ongoing review of assault claims affecting employee safety, and the shortage of qualified medical providers in the workers compensation network. To address these challenges, SFMTA is implementing strategies to encourage timely return to work, conducting regular claim review/audits, enhancing wellness programs, expanding the network of medical providers, and improving incentives to participate in the MPN.

The agency has not observed any surge in Covid-19 cases. In the second quarter of fiscal year 2023, there were eight new Covid-19 claims, with one litigated and three denied. Throughout the entire Covid-19 period, 64 indemnity claims have been reported, with eight claims remaining open through December 31, 2022.

Jim Radding notes, in the second quarter of fiscal year 2023, the average claim was \$12,821, which is an improvement compared to the five-year average. There has been an increase in actuals to budget based on the spending so far for the first half of the fiscal year. However, claims duration days have narrowed, and claims are closing sooner for the first half of the fiscal year, which is a positive trend.

In Claim Analytics, it was noted that in Q2, claim frequency was 8% lower, or 13 fewer claims, indicating improved safety measures and proactive risk management leading to fewer workplace accidents and injuries. Full-time employees' claims remained constant at 10%. Assault Physical/Verbal was the leading injury description reported, followed closely by repeated motion injuries. SFMTA is taking proactive measures to address the issue, with training programs and improved safety measures.

Overall claims over \$100k were primarily from transportation operations claims. Future medical claims made up only 30% of claims but had a higher cost in total paid and total incurred claims, leading to more attention and proactive handling. 83% of open active indemnity-only claims were in litigation, with FY 2022 at 45%, but the rate has decreased to 14% in FY 2023. The average paid on litigation claims on closed files was \$35,690, with the five-year average for litigated claims at \$86,000 and non-litigated at \$15,174. The takeaway was to avoid litigation and take steps to prevent it.

In addition, the age group 50-59 has the most claims and makes up 37% of the total claims. Understanding this trend may help to better target resources and improve overall claims management.

Lastly, The YTD 2023 actuals expenses are higher than the budget amount for the year, and the overall increase is 17% over budget projected, primarily driven by increases in indemnity costs. The goal is to reduce the overall inventory and future payments for those claims. The report concludes with an optimistic outlook for the year ahead and a commitment to improving the bottom line.

Council Comment: Erik Rapoport, Deputy Executive Director, San Francisco Employee Retirement System, commented on the 42% increase in the amount of workers' compensation claims in the age group of 50-59. He asked if we could sort this further by job class and department. Jim Radding replied yes, he would do so.

Public Comment: None.

05: Discussion Item - Opportunity to Place Items on Future Agendas

Kate Howard, Managing Deputy Director

Council Comment: As there were no comments, Kate Howard offered the council may reach out to her or to Director Julian Robinson to discuss adding any items for future agendas.

06: Discussion Item - Opportunity for the Public to Comment on any Matters Within the Council's Jurisdiction

Council Comment: None.

Reminder of next meeting scheduled: May 8th, 2023, August 7th, 2023, November 6, 2023. Consistent with the city's shift to in-person meetings, beginning May 8th, 2023, the Workers' Compensation Council Meetings is expected to return to City Hall.

Adjournment

Managing Deputy Director Kate Howard thanked the staff and presenters for their excellent reports today.

The meeting adjourned at 10:30 am

Next Regular Meeting: Monday, May 8th, 2023, at 9:00 am