



CCSF Workers' Compensation Council Minutes

Monday, May 8, 2023, at 9:00 am

Room 408, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Call to Order

9:04 am

Roll Call

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

Todd Rydstrom motioned to approve the minutes from the meeting held February 6th, 2023. The motion was seconded by Matthew Barravecchia.

Action: The February 6th, 2023, 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.

On behalf of the City and County of San Francisco and the Workers' Compensation Council, Deputy Director Julian Robinson acknowledged the meeting takes place on property that is the ancestral home of the Ohlone, Muwekma, and Ramaytush Peoples. He further recognized this is their land, not ours.

Next, Julian Robinson greeted the council. He explained that informational slides were sent out in advance for council review. He summarized his presentation will cover the purpose of the Workers' Compensation Division, accomplishments, initiatives, and challenges, followed by an update on the Temporary Transitional Work Program. Next, Dr. Fiona Wilson will report on COVID-19. Then, Assistant Director of Finance and Technology Stan Ellicott will present performance quick facts and financial reports. Lastly, Assistant Director of Claims, Arnold Pacpaco, will discuss claim analytics.

Julian Robinson presented the history and purpose of the Workers' Compensation Council. DHR took over administration of the Workers' Compensation Division on January 1, 1995, under Administrative Code 16.82 and 16.83. In the late 1990's, Workers' Compensation expenditures increased substantially. To try to contain costs and effectiveness of the WC program and to further ensure oversight, effectiveness, and direction, Mayor Willie Brown appointed the Workers Compensation Council (WCC) in 1999. Under Administrative Code 16.121.2, the specific required members of the council include the Human Resources Director (Chair), the City Administrator, Controller, City Attorney, Executive Director for the Retirement System, and the Director of Budget and Finance from the Mayor's Office.

In 2000, Passage of Proposition E established authority for SFMTA to separately self-insure. External audits were conducted which identified issues and areas of improvement for the council.

Kate Howard invited other council members to discuss past or future topics.

Council Comment: Todd Rydstrom, Deputy Controller, commented the Workers' Compensation Council has come a long way. He particularly complimented the success of the Alternative Dispute Resolution (ADR) program. Matthew Barravecchia stated his appreciation hearing the history of the Workers' Compensation Council, and future plans.

Julian Robinson next presented recent WCD accomplishments. The City and County of San Francisco Workers' Compensation Division:

- Successfully transitioned Special Investigative Unit and Fraud Services to Intercare April 5, 2023
- Successfully transitioned Medical Provider Network Access Assistant duties and MPN state filing to Intercare effective May 1, 2023
- Completed the Workload and Staffing Analysis February 21, 2023; findings will be implemented as resources allow in future budgets
- Filled key Management positions: – Arnold Pacpaco - Assistant Director – Claims – Stanley Ellicott – Assistant Director – Finance and Technology
- Completed critical contract renewals, including: – ADR Director (Amendment to Extend, Add Value) – Claims Information System from Ventiv Technologies (Amendment to Extend, Add Value)
- Completed annual WCD reporting Requirements to Division of Workers Compensation (DWC): – Annual Report of Inventory – Annual Reports for Alternate Dispute Resolution Programs for Police and Fire per CCR 10203 and 10204
- Completed successful migration of cash receipt processing to JP Morgan
- Finalized citywide workers' compensation budgets for FY23/FY24 which deliver General Fund Savings due to slower than anticipated cost growth and improved claim development factors

Julian Robinson then presented current initiatives of the CCSF Workers' Compensation Division including:

- Contract renewal for Ombudsperson services (amendment to extend, add value) progressing
- Profile Audit Review (PAR) Audit Preparation and Mock Assessment underway
- SF ADR Program Year 3 (FY2021-2022) Actuarial Analyses in progress
- Catastrophic Illness Program Draft Updates to Admin Code pending finalization and presentation to Board of Supervisors
- Staff recruitments, exams and hiring ongoing for multiple WCD positions

Regarding Workplace Safety and Health, WCD is working with departments to ensure OSHA recordkeeping requirements at the department level are met. Best practices on matters that impact workplace safety are shared within the CCSF safety community. WCD regularly meets with departments and with SEIU Local 1021 regarding safety concerns. Per MOU agreement, assault signage has been drafted and is pending review. The Third Quarter Safety Newsletter has been completed and distributed.

Julian Robinson then shared some of the challenges facing Workers' Compensation this past quarter. Inflation has led to increase of temporary disability rates. More medical providers are exiting the industry than entering the industry, leading to less medical resources and more delay in timely care. Also, an aging city workforce will lead to many retirements in the next three years, requiring backfill and a need for more hiring.

Secondly, pending legislation will add additional PTSD presumptions. New presumptions for hospital workers may result in additional temporary disability benefits for any overturned denied utilization review treatment, adding even more time to current statutory time periods.

Lastly, Senate Bill 1127, passed September 2022, impacts presumption claims. It increases payable disability limits for cancer claims, reduces time to investigate presumption claims, and increases penalties up to \$50,000 for unreasonable delay on denied claims.

Julian Robinson next discussed the citywide Temporary Transitional Work Assignment Program (TTWA) which rolled out November 2022. This is a program which drives return-to-work outcomes when medically safe for the injured worker. WCD is meeting with departments and providers to communicate and educate TTWA policy to dispel any myths or resistance in returning to work. For example, there is no grace period before modified duty begins. Shift changes may be required. All departments must provide modified duty, and declining modified duty is not an option.

Next steps to move the Temporary Transitional Work Program forward will include tracking data to show the cost savings benefit when modified duty is provided. We have a plan to vet more treaters who support modified duty. WCD continues to meet with departments and share communication to grow the program.

Deputy Director Kate Howard requested questions or comments from the council.

Council Comment:

Todd Rydstrom, Deputy Controller, asked if there is a job task bank for modified duty. Julian Robinson replied there is not yet a citywide task bank, but we would like to have this tool. Todd Rydstrom offered to broadcast this job task bank, when available, to CFO briefings in order to share opportunities for staffing.

Matthew Barravecchia shared feedback that the Temporary Transitional Work Program is receiving support in court.

Public Comment:

None.

Next, Dr. Fiona Wilson was introduced to share COVID-19 reporting for Quarter Three. Since February, state and local emergency orders have ended, which will affect worker leave. Federal emergency orders ended in April. She advised the vaccine has changed from monovalent to bivalent, and the bivalent booster is recommended for individuals over the age of 65 or are compromised. A new mild variant seems to include some eye symptoms.

COVID numbers for San Franciscans peaked in December at 211 per day and have now stabilized to about 40 cases per day, a 6.9% test positivity rate. This is an underestimate because most tests are now done at home and not documented in a lab. Cases of city employees, who are all vaccinated, peaked at 30 cases per week from an all-time high of 137. There have been about 6,500 cases of COVID within city employees, including repeat infections. There have been 26 work outbreaks since February. Outbreak completion is now defined as one or fewer cases in a 14-day period. There have been 4,222 Workers' Compensation claims citywide.

Dr. Wilson presented graph information showing Worker's Compensation cases of first responders who, if exposed to COVID, enjoy a presumption that the infection occurred at work. The chart shows Sheriff's department has claim costs and duration at 2-3 times other first responders, for both COVID and non-COVID claims.

We spent \$13.16 million dollars on COVID of which the bulk of payments are for 4850 disability pay, or time away from work. A very low number of people were hospitalized, and the medical portion of each claim is only about 13% or \$1,440.00 average.

Notice the cost difference between pre-vaccinated and post-vaccinated COVID claims. Money spent on in-patient hospitalization prior to 11/01/2023 was \$648,232, whereas after the vaccination mandate, our hospitalization costs dropped to \$32,000. There are 17 long COVID cases still open of 20 current COVID cases open.

Dr. Wilson shared data on employee COVID leave and presented a graph showing consistent increases in Worker's Compensation claims at the times when city leave expired. We are questioning if employees are turning to Worker's Compensation claims as a means for time off in lieu of citywide leave benefits.

Deputy Director Kate Howard requested questions or comments from the council.

Council Comment:

Todd Rydstrom, Deputy Controller, asked if out of the first responders, if only Sheriff does not have the ADR program. However, all departments can benefit from the TTWA program, and apply the urban myths to assist in decreasing costs.

Public Comment:

None.

Next Stanley Ellicott, Manager of Finance and Information Systems summarized third quarter performance. Inclusive of COVID-19 and our traditional Workers' Compensation cases, we are on, not over, budget. Overall claim volume, claim duration and claim costs are slightly up. COVID claims have been manageable and have therefore led to lower increases in claim volume, duration, and costs overall.

There is a welcome third quarter decline in total cost compared to last fiscal year. WCD shows stable expenditures in all benefit categories. Temporary disability is slightly up, but we are hopeful that TTWA will lead to cost containment. We see a decline in vocational rehabilitation, and medical expenses are stable. Expense reserves will increase as we close our claim inventory resulting in a decrease of about 5% year over year compared to FY 2022. Departments which received supplemental appropriation are well resourced this year. Enterprise departments such as airport (AIR) and PUC are struggling with deficits due to high severity claims.

Council Comment:

Todd Rydstrom, Deputy Controller, asked if these projections include savings from the ADR program. Stan Ellicott replied they do not because we await the completion of actuarial studies before presenting ADR savings results. Stanley Ellicott continued we are not expecting large savings distributions for police or fire this year.

Assistant Claims Director, Arnold Pacpaco presented detailed claim analytics. In the third quarter, claims incurred per 100 FTE citywide average is about 10, however Police, Fire, and Sheriff average 20 per 100 employees.

Claims rose slowly in the first year of the pandemic. Then, due to the omicron variant, there was a very steep rise of claims the second year of the pandemic for first responders. These employees did not benefit from shelter-in-place orders, due to the nature of their job. During this time, we saw more stress and PTSD claims. Though we have trended downwards, we have not returned to before pandemic levels of FTE.

Overall citywide we are up 9% in new claim filing frequency for the third quarter. Arnold Pacpaco showed distribution of costs by reserve category of closed claims, which are very similar to those ten years ago. Salary continuation for Police, Fire and Sheriff make up 29% of claims. Indemnity reserves and medical reserves are at 34% each, and administrative costs remain at 3%. Average claim expenses for quarters one through three have more than doubled to approximately \$26,930 when compared to the same time frame ten years ago. Factors which lead to increased claim costs are inflation, an 18% rise in statutory weekly disability benefits due to lost time, first responder pay raises (which increased salary continuation benefits,) and PTSD claims were made to be presumed compensable in 2020, leading to a rise in PTSD claim filings.

Additional comparison of temporary disability lost days' time shows 110,000 in 2021, then 175,384 in 2022 and 180,000 in 2023. The top five departments with the most number of lost days are Police, Public Health, Fire, Sheriff, and Airport.

As of July 20, 2019, both Police and Fire joined the Alternative Dispute Resolution (ADR) program. Rather than going to lawyers, injured workers instead can go to an Ombudsperson who is able to provide clarification and guidance, resulting in reduced litigation rates. The cost of a non-litigated claim is about 8.5% of a litigated claim. In Q3, we held steady at 36% 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 5% litigated. For Police, claims are 42% represented but only 11% 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.

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

Council Comment:

Matthew Barravecchia, Deputy City Attorney, asked what is litigated vs. represented claims? Arnold Pacpaco answered that a notice of representation from an attorney or a declaration of readiness at the board or through a mediator is what designates a represented claim.

Todd Rydstrom, Deputy Controller, commented that vocational rehabilitation expenses did not seem to rise in the past ten years. Arnold Pacpaco explained this is due to a previous education program where we paid the employee during retraining. This is no longer an active program so the number of

claims remains low. We do, however, still offer vouchers for employees who are unable to go back to their previous job. This is a separate program from our return-to-work program.

Deputy Director Kate Howard thanked Arnold Pacpaco for his presentation and congratulated him on his recent promotion.

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

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

During the meeting, Jim Radding, the Workers' Compensation Claims Manager for SFMTA, expressed gratitude to the CCSF team for their excellent presentation. He commended their ability to explain complex concepts effectively and praised the use of helpful visuals to illustrate key points. Mr. Radding acknowledged the collective effort of everyone involved in making the workers' compensation program successful. Following this, he thanked the WC Council for their time and introduced himself as the SFMTA Workers' Compensation Claims Manager. Without further delay, the presentation commenced.

Accomplishments:

During the meeting, several key initiatives and accomplishments were discussed. Here is a summary of the main points:

- **Lightspeed Program:** The investigation company has completed 113 Lightspeed investigations through the 3rd quarter. The program facilitates the quick gathering and analysis of information related to claims, providing real-time updates on the status of a claim. It improves the speed, accuracy, and consistency of claims processing, benefiting injured workers, SFMTA, and Intercare. The program also reduces administrative burdens and allows resources to be allocated to other important tasks.
- **Early Intervention Program:** The program, also known as "Let's Get Back to Work," has opened 242 files since its inception in mid-October. Nurses contact employees on the day the claim is received, coordinate with doctors, and provide necessary information to facilitate a swift return to work. The program helps prevent medical conditions from worsening, reduces lost time, enhances employee engagement, and generates cost savings.
- **Subrogation and Cost Recovery:** The subrogation process allows for the recovery of costs associated with a claim from responsible third parties, particularly for vehicle accidents. SFMTA expects approximately \$780,000 in recoveries by the

end of fiscal year 2023. • Quarterly Claim Reviews with Intercare: These reviews play a crucial role in ensuring smooth claims processing, identifying trends, and addressing any concerns promptly. High-cost claims, claims handling, payments, and cost containment initiatives are all reviewed. • Updated Job Analysis/Job Description: Ongoing efforts to update job analysis and descriptions for work-related injuries aim to reduce the risk of reinjuries. Accurate job duty information helps treating doctors and qualified medical personnel ensure safe return-to-work practices. • Transitional Work Program/Return to Work Program: The program has been providing 30-50 transitional jobs per week since its reboot in November 2022. It enables injured employees to work while recovering, reduces financial impacts, and improves employee morale. • Roundtable Discussion: A review of claims files was conducted involving nurses, adjusters, and SFMTA to develop strategies for getting employees back to work after being off for 30 days. • Injured Employee Survey Pilot Program: The survey, initiated on May 1st, aims to identify areas for improvement, enhance employee engagement, and improve communication between employees and SFMTA management. The survey is expected to provide valuable insights for creating a better work injury experience.

These initiatives and discussions highlight the ongoing efforts to improve workers' compensation processes, enhance employee well-being, and create a productive work environment for SFMTA.

Current Challenges:

During the meeting, the following challenges were discussed:

- Rise in TTD Benefits Maximum: The increase in Temporary Total Disability (TTD) benefit maximum has had an impact on SFMTA's costs and budgets. The TTD benefit maximum, currently over \$1600, is a non-taxable benefit. However, the implementation of programs like Lightspeed and Early Intervention, along with other initiatives, is expected to help reduce costs in the long run.
- Budget: The cost of workers' compensation continues to rise, and SFMTA is taking necessary steps to reduce the risk of workplace injuries and illnesses to control costs. The mentioned programs are believed to contribute to cost reduction efforts.
- Enhancing the Medical Provider Network: Adding more doctors to the network can benefit both employees and employers. It provides injured workers with access to a wider range of medical providers, improving the quality of care and reducing recovery time. However, there are challenges in finding and adding more doctors, particularly in psychology and pain management. Provider availability, shortage, and their qualifications to follow work comp requirements pose challenges. Alternative solutions such as increasing telemedicine visits or expanding the search radius for qualified medical providers are being reviewed in collaboration with CCSF to address these challenges.

These challenges highlight the need for careful management of costs and efforts to enhance the medical provider network to ensure effective and efficient workers' compensation processes for SFMTA.

- COVID-19 Measures: SFMTA has implemented measures to reduce the risk of COVID-19 for transit operators (front-line workers). These measures include mandating vaccinations, wearing masks, practicing good hand hygiene, maintaining physical distancing when possible,

and implementing safety measures like plastic barriers on buses and increased cleaning protocols.

- Claims Performance in Q3 2023: The average cost of closed indemnity claims in Q3 2023 was \$24,059, higher than the 5-year benchmark average of \$20,702. However, the medical-only claims totaled \$265 with an average cost of \$553, significantly lower than the benchmark average. The claim volume for Q3 2023 was similar to the 5-year benchmark average. The fiscal ratio of actuals to budget was at 84% for the third quarter. The average duration for closed claims in Q3 2023 was 461 days, significantly lower than the 5-year benchmark average of 799 days.
- Claim Filing Frequency: The number of workers' compensation claims reported for indemnity has slightly decreased in Q3 2023 compared to the average between 2018 and 2022, indicating stability in the number of claims reported.
- Claims Frequency per 100 FTE: In the 3rd quarter, the organization had 7.51 claims per 100 employees, consistent with previous years.
- Claim Cause Distribution: The top types of claims in the organization over the past 12 months were vehicle incidents (65 claims), physical/verbal assault (54 claims), repeated motion (41 claims), and stress (14 claims). Addressing these issues through vehicle safety and training, workplace assault prevention, ergonomic reviews, and stress management could help reduce the number of claims and improve employee safety and well-being.

SFMTA continues to prioritize employee well-being by implementing safety protocols, providing training and resources, and fostering a supportive work environment.

CLAIM ANALYTICS:

During the meeting, the following points were discussed:

- Open Claim Cost Stratification: The transportation division has the highest number of open claims with a total incurred amount greater than \$100K. This division also accounts for the highest amount of total incurred for these claims, suggesting that transportation division is more prone to higher value claims due to the nature of the work. SFMTA and Intercare continue to manage these claims for possible early and final resolution.
- Open Claim Stratification: The open claims are categorized based on their total incurred amount. There are different categories ranging from \$100K to \$150K up to claims greater than \$1 million. The transportation division has the highest number of open claims in all categories.
- Open Active Indemnity vs. Future Medical: Open active indemnity claims make up 71% of the total claims, while future medical claims make up the remaining 29%. In terms of total payments and total incurred amount, future medical claims account for a higher percentage. Future medical claims tend to cost more, while open active indemnity claims are more frequent but cost less.
- Litigated vs. Non-Litigated: The litigated rate has remained relatively stable over the years, with a decrease in the number of litigated claims in FY 2022 and FY 2023. The litigated rate for open active indemnity claims has also decreased over the years. This indicates that Intercare is effectively managing claims and taking steps to avoid legal disputes.
- Litigated vs. Non-Litigated by Fiscal Year Closed: Litigated claims result in significantly higher amounts being paid out compared to non-litigated claims. The average amount paid per litigated claim is much higher than for non-litigated claims. Intercare is resolving non-litigated claims more efficiently, resulting in lower average payments.

These findings highlight the importance of managing and resolving open claims effectively, particularly in the transportation division. Efforts to mitigate and control costs, improve safety measures, and avoid legal disputes will continue to be a focus for SFMTA and Intercare.

FINANCIALS:

SFMTA Expenditures and Trends

In FY 21/22, the budget for SFMTA was \$29,450,537, and the actual expenditure was \$29,004,000 resulting in a positive variance. However, in FY 23, the annual budget is \$29,188,709, and the year-to-date (YTD) budget is \$21,891,532. The YTD actual expenditure as of the given date is \$24,402,526, indicating a potential underestimated budget for fiscal year 22/23.

This potential underestimation is attributed to a significant increase in the TTD rate of over 18% and a 5% salary increase in July 2022. Slide 63 provides details about payments made in FY 23 YTD, showing an increase in projected actual payments. TTD payments and permanent disability payments have increased, while medical payments are projected to decrease.

The data indicates a positive trend in cost recovery from third parties, with expenses decreasing. Efforts are being made to address all areas and push for reductions. Proactive programs are being added, and it is believed that these measures will positively impact FY 23-24.

The presentation concludes with appreciation for the WC Council time, attention, and engagement. The speaker appreciates their consideration.

Council Comment:

Todd Rydstrom, Deputy Controller, are you seeing the reported annualized rate increase of \$84,000 per year in temporary work benefits disproportionately hitting SFMTA transit operators? Yes, in January 2022 there was an increase in over 13% followed by 5% salary increase July 2022 and then an increase in January 2023 of over 5% in temporary disability. We are hoping our modified duty program and our early intervention program will decrease costs.

Matthew Barravecchia, Deputy City Attorney, asked how does SFTMA track the number of litigated claims? Jim Radding replied the count comes from number of applications received.

Public Comment: None.

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

Kate Howard, Managing Deputy Director

Council Comment: Matthew Barravecchia, Deputy City Attorney, in reference to pending legislation, asked if we can look at how many overturned utilization denials we have?

Matthew Barravecchia also asked how we are educating employees about earning benefits of TTWA and modified duty vs. tax free money? It may help the culture to ensure employees know how returning to work can positively affect employee morale and finances.

Todd Rydstrom, Deputy Controller, asked if there is any correlation between SB1127, presumptions and early detection, medical results and claim cost. Julian Robinson responded that detecting cancer can increase claim filings but reduce overall costs when cancer is found earlier.

Public Comment: None.

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 next Workers' Compensation Council meeting will be held Monday, August 7th, 2023, at City Hall, in Room 408 at 9:00 a.m.