



CCSF Workers' Compensation Council Minutes

Monday, December 5, 2022, at 9:00 am

Online Meeting Link:

To view the online presentation, join the meeting using this link:

<https://ccsf.webex.com/ccsf/onstage/g.php?MTID=e40e80513331e8d541f4377c23c71e44e>

Phone Audio for Interested Parties:

(415) 655-0001

Meeting ID/Access Code and Password:

2491 307 5889 and H7jXHCJQm22

Call to Order

9:01 am

Roll Call

- Carol Isen, Human Resources Director - Present
- Anna Duning, Mayor's Budget Director (Represented by Fisher Zhu) - Present
- Carmen Chu, City Administrator (Represented by Maria-Zenaida Camua) - Present
- Erik Rapoport, Deputy Executive Director, San Francisco Employee Retirement System - Present
- Todd Rydstrom, Deputy Controller, Controller's Office - Present
- Lorenzo Donati, 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: Carol Isen, Human Resources Director

Council Comment: None.

Public Comment: None.

02: Approval with Possible Modification of Minutes

Todd Rydstrom motioned to approve the minutes from the meetings held September 12th, and June 6th, 2022.

The motion was seconded by Carol Isen.

Action: Minutes were approved from the meetings held September 12th, and June 6th, 2022.

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

Council Comment: Carol Isen introduced Julian Robinson as the new Workers' Compensation Director 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, Covid-19, Workplace Safety and Health, Performance Quick Facts, Financials, and Claim Analytics.

Julian Robinson greeted the council and those in attendance. He described the agenda covering accomplishments, initiatives, and challenges for the Workers' Compensation Division. Next, Safety Officer Tyler Nguyen will present the COVID-19 report and a workplace safety and health report. Then, Finance and IT Manager Stan Ellicott will present performance quick facts and financial reports. Lastly, Julian Robinson will return share and explain claim analytics in the absence of a permanent Claims Manager.

Julian Robinson began the presentation by sharing credentials, including

- Twenty years total WC experience, eight within CCSF
- Prior experience as adjuster, supervisor, and audit supervisor in various WC environments and models
- Served as WCD Claims Manager for the past five years
- Committed to continuous improvement of our process and further build upon the good work done over the past ten years.

Key priorities for the Workers' Compensation Division consist of

- Staffing: Recruitments and hiring to ensure adequate resources and continued succession planning

- Streamlined Communication: Consistent and enhanced access to resources and information for our staff and stakeholders
- Return to Work: Increased focus and tracking with our new Citywide Temporary Transitional Work Policy and Program
- Enhanced Training: Streamlined and increased targeted training for WCD staff, "On-Demand" resource training for city stakeholders, and 'Grow our Own' training program for new WC staff

Julian Robinson continued with Workers' Compensation Division accomplishments. The first major accomplishment is the deployment of a Citywide Temporary Transitional Work Assignment (TTWA) Policy. Implementation of the TTWA will drive 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. Evidence shows faster return to work reduces disability duration and improves long term outcomes for employees. This policy is part of our long-term strategic initiative to reduce disability duration and return employees to work faster. Departments are required to identify a liaison for temporary transitional work to help drive the program and serve as a contact person for our adjusters. Next steps include meeting with departments to provide guidance on implementation of TTWA programs. Police and Fire are exempted from this policy, as they are instead subject to the Alternate Dispute Resolution Program.

Additionally, the Workers' Compensation Division

- Received approval from the Board of Supervisors on Intercare Holdings Third-Party Claims Administration Contract on 11/8/22
- Completed integration with Change Healthcare for medical provider check printing services and improved remittance documents with additional layers of bill review determination detail, improving provider understanding of adjustments
- Completed integration with US Bank's Payee Choice portal to replace the Supplier Prefer Pay Portal for ACH payments, with no impact to disbursement operations or necessary advance payments. Special thanks to CON and TTX for assisting with the necessary upgrades to support the transition
- Added three additional MPN Designated Provider clinics to address access to care concerns
- Added additional psyche providers to our MPN and Approved list of treating providers for the SF ADR program to address increased treatment demand
- Successfully hired three WC Adjusters, one Claims Assistant and one Support Clerk since 7/1/22
- Appointed rotational Acting Claims Manager starting 11/7/22
- Provided enhanced staff training on Delays and Denials, Assault Pay and SB1127 updates

Lastly, we implemented new departmental chargeback reports, expanding department access to additional data and enhancing transparency. These new reports have twice as much data for review and analysis in an easy-to-read format. Additional information includes total payments on the life of the claim, and total amount of open reserves. The reporting now shows Labor Code 4850 salary continuation payments which are paid by departmental payroll. With this information, departments can view total amount paid on a workers' compensation claim - both workers' compensation and payroll payments. These new departmental chargeback reports also include information such as claimant body part, cause of injury, and incident type.

Julian Robinson then described the Workers' Compensation Division initiatives for FY 22-23.

- Critical contracting activities underway include:
 - ADR Program Services, including ADR Coordinator and Ombudsperson contracts (Amendments to Extend, Add Value)
 - Claims Information System from Ventiv Technologies (Amendment to Extend, Add Value)
- Strategic Planning for next 3+ years underway – initial meeting 11/21/22 with ongoing emphasis weekly
- Department Claimant Dashboards – Refining several key areas prior to extending access to a pilot cohort before citywide launch
- Staff Recruitments, exams, and exam preparation ongoing for multiple positions, including Assistant Director of Claims.
- Partnering with Risk Management for updated Workload and Staffing Analysis
- Implementation of TTWA policy and Citywide Return to Work model within DHR WCD
- Meeting weekly with Health & Safety professionals across the City to discuss common challenges, review safety guidance, collaborate on safety recommendations for HR policy, and discuss Cal/OSHA requirements
- Profile Audit Review (PAR) Audit Preparation and Mock Assessment
- Catastrophic Illness Program Draft Updates to Admin Code in progress

Julian Robinson advised the council of challenges expected for FY 22-23. First, the Temporary Disability rate for the accident year 2023 will increase by 5.16%, following last year's historic increase of 13.5%.

Next, the California Department of Industrial Relations (DIR) provided an assessment to CCSF in the amount of \$7,617,739.35, due 12/31/22. This represents a 29% increase from FY22, which was 50% higher than the prior year. Mr. Robinson anticipates a further 10-15% increase next year dependent on indemnity/4850 experience.

Then, Senate Bill 1127 was signed into law by the Governor on 9/29/22, which

- Reduced decision time frames from 90 days to 75 days on presumptive claims
- Implemented up to 240 weeks (over 4.5 years) of payable TTD for Cancer claims on dates of injury or after 1/1/23 - a 230% increase from the current maximum payable weeks
- Enacted new Labor Code Section 5414 penalties for up to \$50,000 for 'unreasonable denials' on presumption claims

Julian Robinson next introduced Tyler Nguyen to report on COVID-19 as well as workplace safety and health. Tyler Nguyen explained trends since the last council meeting on September 12th, 2022.

- Cases dropped to low point in late September, now rising again
- Omicron BA5 still dominant, subvariants BQ1, BQ1.1 rising

- Current variants: very contagious, mild symptoms
- Isolation and quarantine 10 days, unless neg test after day 5
- Overall true case numbers are higher, as data only captures PCR lab run tests, does not include home-kit results
- Case numbers underestimated for all published COVID data
- Bivalent vaccine available: SF resident adoption at 27%, no accurate view into employee adoption numbers

Number trends since the last meeting on September 12th, 2022, show

- Cases are expected to rise; due to unmasked indoor holiday gatherings
- San Francisco resident cases: low of 31/day (late September) now rising to 141/day
- Test positivity rate: 6.5/100, down to 4.2, now up to 8.1/100
- CCSF Employees: low 36/week, now at >70/week
- CCSF Employees total COVID 5746 cases (includes repeats)
- Outbreaks (3 or more cases at a worksite in 14 days): 30 more outbreaks since Sept. Now: 15 active, 180 done
- Workers Compensation COVID-19 claims: 3,584 accepted, 412 denied

Tyler Nguyen presented a chart of overall San Francisco cases. The seven-day rolling average of new cases per day is 141 from a peak of 2381 near the beginning of 2022.

Focusing on workplace safety and health, Tyler Nguyen implemented an Employee Safety & Health Webpage in August 2022. This year also saw production of Safety Newsletters distributed in August and November. The Safety Officer has ongoing Safety and Health/Loss Prevention consultations with City Departments as well as ongoing consultations on implementation and maintenance of Injury and Illness Prevention Programs (IIPPs). Lastly, workplace safety and health has been meeting regularly with SEIU & SEIU Tenderloin Labor/Management Safety Committees to address issues that come up from citywide workers.

Stanley Ellicott, Manager of Finance and Information Systems next presented performance quick facts. Beginning with fiscal health, we are at 85% of actuals to budget for the year. One of our cost control initiatives to lower temporary disability (TD) is having early success relative to our budget performance. Our claim volume is still elevated. The average cost of a claim closed in the period is \$7,941 against our benchmark of \$12,202. These lower numbers are a result of COVID claims which are less expensive and quick to resolve. As such, Mr. Ellicott included in the quick facts a comparison of costs and benchmarks excluding COVID claims. The average cost of a typical non-COVID indemnity claim is \$15,292, a close comparison to our benchmark of \$15,538 for similar claims. Duration numbers, or average days a claim was open before it was resolved, was 201 days not including COVID claims. When adding COVID claims to duration, the difference is an increase of about 20%.

Stanley Ellicott shared costs by expenditure category for Q1. We have very recently updated the data which shows a 4.7% decline in total expenditures compared to last fiscal year. The indemnity

category which includes paid loss time benefits shows TD up and PD (permanent disability) down, resulting in an 0.1% increase compared to the prior year. We are projecting a decrease of salary continuation benefits which will help allocate a smaller cost to state fees.

Stan Ellicott presented a graph which shows benefit expenses by month and reserves of fiscal year 2022. Through the winter 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.

This year, most departments have a year-over-year decline in department expenditures relative to their budget. For the total program, anticipate a \$1.2 million dollar decrease year-over-year. There are some larger surpluses in Department of Public Health, Fire, and Sheriff, including some carryover from last year. Budget to actuals improved by \$4 million dollars of carry forward appropriation, reflected in the revised budget.

We are seeing new evidence of a plateau in TD expense increases. We are at about \$1.45 million in gross expenditures for temporary disability. Return to work and managing TD expenditures go hand in hand, so we are focusing on return to work and modified duty to reduce temporary disability costs.

Next, Julian Robinson was re-introduced to discuss claim analytics in more detail. He discussed injury rates for the top ten city departments. The Fire Department shows 45 claims incurred per 100 full-time equivalent (FTE) which is a reduction from 60 claims incurred per 100 FTE. Police increased from 36 to 38 claims incurred per 100 FTE. Sheriff decreased to 25 claims per 100 FTE. The rate for all departments citywide recently increased to 14 claims incurred per 100 FTE.

If we remove COVID claims, our average drops back to more normal statistics, such as 21/100 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.

Overall citywide we are up 24% in new claim filing frequency for the first quarter. Indemnity is up about 31% citywide. This has led to a need for increased staffing. The most heavily impacted departments are Police, Fire, Airport, PUC, and the Library.

Open claim inventory continues to gradually decline driven by future medical case closure. We have added staffing which results in the ability to close more claims. As of November 30th, 2022, there are still 134 open

COVID-19 claims, or 3.3% of total volume. This is a decrease from 240 claims in the prior three months. However, claim quantity remains elevated from traditional numbers.

Julian Robinson then presented litigation statistics. We are currently holding steady at 35% of open claims represented by counsel, down from 40% last year. There are 16% of open claims litigated, compared to 24% from the prior year. This is a 25% decrease in claims litigation. Thank you to the hard work of our staff and to the Alternative Dispute Resolution (ADR) Program, which solves disputes more quickly and without the need for attorney involvement.

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% of a litigated claim. A vast majority of COVID claims helped keep this number low because COVID claims have shown to cost little, to close quickly, and are not represented by counsel. Mr. Robinson expects an uptick in litigated claims and cost as newly hired staff closes settlements more quickly this coming quarter.

Julian Robinson then reported the litigation statistics for the ADR Program. The ADR program strives to reduce litigation and consequently save on claim costs while expediting the delivery of benefits to employees and reducing unnecessary friction.

In Q1, we saw a representation rate of 27% for Fire and 41% for Police. The litigation rate is only 4% for Fire and 10% for Police, respectively, compared to the last three fiscal years when 43% of firefighters and 57% of police officers were represented by counsel. Our litigation and representation rates would be even lower without opt-in claims, many of which come into the program already represented. Even applicant attorneys have commented they like the speed, ease of resolution, and efficiency of the Alternative Dispute Resolution program.

Mr. Robinson then returned the meeting back to Director Isen. Director Isen requested questions or comments from the council.

Council Comment: Todd Rydstrom Deputy Controller, Controller's Office

Mr. Rydstrom asked Stan Ellicott about the carry forward information presented. How close would we be to budget without the carry forward dollars?

Stan Ellicott responded that a little over \$4 million carryover was approved in the departments with a large deficit. Additional budget was obtained through the supplemental appropriation process resulting in roughly half the surplus because of the \$4 million dollar carryover. Stan Ellicott offered to follow up with Todd Rydstrom regarding any further significant information requested.

Todd Rydstrom then asked Julian Robinson about the spike in temporary disability. Is it about \$1.5 million in extra costs factored into the projection? Julian Robinson clarified that the \$1.5 million projected cost is an assessment based on indemnity data and a state increase of 10% - 15%. Therefore, if we can reduce indemnity spending we can reduce the assessment fees to the State of California.

Stan Ellicott also clarified this is not a tax only because CCSF DHR WCD is a self-insured entity. The Department of Industrial Relations assesses fees on every workers' compensation operation.

Todd Rydstrom thanked the presenters on their presentation and the hard work which is focused on return to work.

Carol Isen thanked Julian Robinson and team for an excellent and thorough report.

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

Good morning, Workers' Compensation Council! I am Jim Radding, the Workers' Compensation Manager for SFMTA. I am new to the program and very excited to be here. Let us get started.

Our agenda is similar to the CCSF Workers' Compensation agenda.

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

Accomplishments:

1. Our contract with Intercare, our Third-Party Administrator, is in the process of being finalized.
2. There is a 1% decrease in new indemnity claims in the 1st Quarter and about a 3% reduction in reportable claims, good news.
3. Closing ratio is at 95% for the 1st Quarter of FY 2023.
4. We just completed our quarterly claim review with Intercare, which we do every quarter to review files, actions, reserves, and settlements.
5. We completed a detailed service structure guideline review with Intercare and staff to ensure they are following best practices.
6. In the last couple of months, we have added two great programs to help the employee and achieve financial goals.
 - a. The Lightspeed Program is a "Rapid Response program that is a proactive employee focus program and designed to respond to work injury accidents as they happen. We have an investigator who goes out to the site of the accident, obtains pictures, videos, and takes statements from Inspectors and Police reports, as necessary. The biggest benefit is to assure a swift investigation of the injury and accident and provide prompt benefits to the employee without delay, so we get all the facts and get benefits to the employee.

- b. The second program is the Early Intervention Program we call it “Let’s get back to work.” The Early intervention Program is conducted by a skilled nurse case manager, who quickly assesses the workplace injury at the onset of the employee injury. The nurse will contact the employee, employer, and medical facility. The nurse will assist on the treatment plan, make sure the employee receives the care they need, work with the doctor and the employee to put together a plan to return them back to work as soon as possible in a full or modified duty program. We do have an aggressive Transitional Work Program that we provide to the employees of the SFMTA.
So those are the two big initiatives that we started this past quarter.

Current Challenges:

In the 1st Quarter there was an increase in Temporary Disability weekly benefits, as noted in the CCSF review of a big increase in the 1st Quarter of 2022.

In addition, we had an increase in temporary disability weekly benefits due to union contracts in July of 2022.

We will see another State increase, as noted, on January 1st of 2023 in the Weekly Temporary Disability rate. This is a challenge.

The 2nd challenge is that we continue to have Assault claims continue to be an issue. This has been a challenge for the agency for the last 2-3 years.

The return of workers to modified duty is improving but continues to be a challenge, however, with the Lightspeed and Early Intervention

COVID-19:

We are seeing a decrease in COVID-19 claims with only 5 new claims filed. We currently have about 11 open COVID claims as of 9-20-22. We have not seen an uptick in COVID claims.

Performance Quick Facts:

First, the increase of financials to budget, as noted in the 1st Quarter for the benchmark, we do have an increase comparable to what the budget will be in the FY 2023.

Secondly, New claims have been consistent from quarter to quarter. We have not had an uptick in claims and remains steady.

Thirdly, the average cost of claims has increased from Indemnity due, in part, to the temporary disability rate increases and permanent disability settlements. We are seeing an increase in settlements via Stipulations, via Compromise and Release which will be paid-out awards.

Fourthly, the closing of claims is improving. Files are now being closed quicker with an average of 16 months, about 477 days compared

CLAIM ANALYTICS:

Claim Filing Frequency – The main highlight from this is that the new claims volume had a 3% reduction in the 1st quarter. The claim frequency has been overall consistent over the last fiscal year quarter. We have not seen any different numbers throughout the quarter. Claim frequency per 100 FTE is approximately 10% of employees who have filed claims for FY 20-22. The 1st quarter of 2023 filings are consistent with current filing of new claims. Not a whole lot of difference throughout the quarter.

Claim Cause Distribution – The current highlight is that assaults are the second highest numbers of causes of injuries.

Open Claims Status of Stratification – As noted, little less than half of open claims or about 746 have reserves over 100,000.00 and about 16 of these files/claims we have reserves over 1 million, so it captures where a lot of the monies are.

Open Claims Status and Cost Stratification – the main take away is that the Transportation Division has about 2/3 of the claim reserves over 100,000 and, in addition, 2/3 of the 130.5 million of that incurred. It goes together with claims and what is incurred with the Transportation division.

Open Active Indemnity vs. Future Medical - With open claims volume the total incurred is about 239 million and outstanding reserves, with future exposure about 76 million. The chart shows how future medical claims have a larger exposure of the overall total paid but has less than 1/3 of the overall claims.

Litigated vs. Non-Litigated – The highlight of this slide is that since 2021 you can see a decrease of Litigated claims being filed. This is a good sign.

Litigated vs. Non-Litigated by FY closed – The story here is to avoid litigation of a claim. But as you can tell the average pay out on litigated claims average out to about \$35,000.00 compared to non-litigated claims, which is roughly \$14,000.00.

Frequency by Age Group – Newer slide added for review based especially on the frequency by age group. The big take away from this slide is that the age between 50-59 is over 34% of the claim volume.

Severity by Age Group - The highlight as shown in the last slide is the age group between 50-59 is about 40%

FINANCIALS:

SFMTA Expenditures and Trends – The budget was estimated at \$29,188,709.00. Per our 1st quarter actual costs based on the current FY 20-23 budget, we are 11% over the estimated budget. There might be some reasons based on/regarding Temporary Disability increased costs over the Summer and settlement of cases where Permanent Disability costs have risen somewhat.

Costs by expenditures Category – Highlight on expenditures - we have Temporary Disability and Permanent Disability increases in the 1st quarter. Temporary Disability increase is partly due to the July 1st salary increase of 5.25% per union contracts. Permanent Disability due to increase of settlements on claims. One positive is that we saw a decrease of overall medical expenditures in the 1st quarter.

Lastly, we are very happy to partner with our 3rd Party Administrator, Intercare, and happy to reduce costs.

Council Comment: Todd Rydstrom Deputy Controller, Controller's Office

Todd Rydstrom from the Controller's office to Jim Radding

Thank you for your report. I appreciate it.

Your thoughts and possibilities for next steps on Alternative Dispute Resolutions for SFMTA? You can answer now or later or at another meeting would be fine.

Jim Radding response – No – I think that would be a very good program. We have not touched on that, but I think we can look at it. I can talk off-line to discuss that piece. But I think it is something we can look at.

Public Comment: None.

05: Review of Workers' Compensation Council Dates for 2023

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

Julian Robinson proposed new dates for the Workers' Compensation Council meeting. There is currently a two-month gap in time between the quarter we are reporting on, and the presentation date. Moving the council meeting date one month closer to the end of the quarter will improve the timeliness of data reporting. New council meeting dates proposed are February 6th, 2023, May 8th, 2023, August 7th, 2023, and November 6th, 2023.

Todd Rydstrom motioned to approve the council meeting date changes as proposed.

Lorenzo Donati seconded the motion to approve the council meeting date changes as proposed.

Action: New dates for the Workers' Compensation Council have been set for 2023.

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

Speaker: Carol Isen, Human Resources Director

Council Comment: Director Isen would like to discuss expanding the ADR program to both SFMTA and Sheriff's offices. She specified this does not have to be ready for the next council meeting.

Director Isen requested the council delve into the issues around return-to-work. She would like to see the staff present to the council the opportunities and challenges around return-to-work policies and programs. She suggested this take place at our next meeting, if possible.

Todd Rydstrom asked if the return-to-work presentation is to include SFMTA? Director Isen said yes.

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

Council Comment: None.

Adjournment

Director Isen advised the council to advise any item which needs addressing and so that it may be discussed at the next meeting.

The meeting adjourned at 10:30 am

Next Regular Meeting: Monday, February 6th, 2023, at 9:00 am