



## CCSF Workers' Compensation Council Minutes

Monday, November 20, 2023, at 9:00 am

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

### Call to Order

9:05 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 Mark Hennig) Present
- Erik Rapoport, Deputy Executive Director, San Francisco Employee Retirement System Present
- Todd Rydstrom, Deputy Controller, Controller's Office (Represented by Devin Macaulay) Present
- Matthew Barravecchia, Deputy City Attorney, City Attorney's Office Present

Kate Howard welcomed the newest members of the council: Fisher Zhu from the Mayor's Budget Office, Mark Hennig from the City Administrator's Office, and Devin Macaulay from the Controller's Office.

### 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**

Matthew Barravecchia motioned to approve the minutes from the meeting held August 21st, 2023. The motion was seconded by Erik Rapoport.

**Action:** The August 20th, 2023, minutes were approved unanimously.

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

Workers' Compensation Director Julian Robinson was called 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.**

Julian Robinson greeted the council. He explained that informational slides were sent out in advance for council review; and that his presentation will be a summary of Workers' Compensation Division accomplishments, initiatives, and challenges, followed by an update on the Temporary Transitional Work Program. Next, Citywide Safety Officer Tyler Nguyen will report on Health and Safety. Assistant Director of Finance and Technology, Stanley Ellicott, will then present performance quick facts and financial reports. Lastly, Assistant Director of Claims Operations, Arnold Pacpaco, will discuss claim analytics.

Julian Robinson began his presentation of recent accomplishments. The City and County of San Francisco Workers' Compensation Division:

- Completed Mock Audit 9/1/23 – with a final score of 0.97029, whereas a passing score is 1.76324 or lower
- Completed all fiscal-year end activities, including year-end close, an onsite audit, actuarial engagement, and more
- Completed annual public self-insured reporting to the Office of Self Insurance Plans (OSIP)
- Completed Space Reimagined Project in September 2023
- Staffing updates:
  - Successfully appointed WCD Claims Manager - Ed Stone
  - Successfully hired Police and Fire Team WCD Supervisors
  - Final Claims Adjuster backfill selected and pending hire
  - (3) Claims Assistant candidates selected and pending hire

Continuing key FY24 initiatives for the Workers' Compensation Division include:

- Contracting:
  - Contract renewal for Ventiv/Claim System progressing with PSC approval, sole source approval, 14B approval

- RFQ for investigation services planning underway
- Ombudsperson Contract extension– Add to value – in progress
- WC Essentials On-Demand training in development with WFD
- “Grow our Own” training academy within WCD in early planning stages
- Continued reporting and tracking for Temporary Transitional Work Assignment (TTWA)
- Expansion of Nurse Triage Program usage for key large departments
- Medicare Reporting Compliance review and enhancement

The challenges we face include:

- MSP Section 111 Non-Group Health Plan (NGHP) final rule issued 10/11/23 on civil monetary penalties for failure to timely report to Medicare
- Police budget deficit due to catastrophic claim expense that has far exceeded expectations
- SB623 signed by Governor, extending Post-Traumatic Stress Disorder (PTSD) presumption for peace officers and firefighters for an additional 4 years to 1/1/2029

Julian Robinson next updated the council on Assembly Bill 1213 that was outlined as a challenge during the previous Council meeting in August 2023. This bill was vetoed by the Governor on 10/8/23. The bill would have required that temporary disability paid due to a denial of treatment by a treating physician, if subsequently overturned by Independent Medical Review (IMR), would not count toward the statutory limits for aggregate disability benefits for a single injury.

Next, Director Robinson discussed current WCD Temporary Transitional Work efforts, early findings, challenges and next steps. We continue to have ongoing meetings with departments, MPN providers, occupational clinics and injured employees to answer questions and set the tone and expectation for the program.

Early TTWA data analysis shows:

- 78% of claims reported were eligible for modified duty
- 69% of tracked claims were accommodated for modified duty, and 31% were not
- 50 average lost days for claims that provided TTWA
- 159 average lost days for claims not accommodated
- 15,468 total lost days for claims with TTWA
- 22,275 total lost days for claims not accommodated

Key findings have found that an average of 109 additional lost days per claim were incurred where modified duty was not accommodated by the department. Using 2023 data of \$271 per lost day, this amounts to \$1,844,697 or an average of \$20,508 per claim in additional lost time benefits. WCD has calculated an average of 24 lost days per calendar month. These results confirm that not accommodating work restrictions is associated with longer disability duration and higher costs to the City. Julian Robinson advised that currently, statistics are based on a small population of open claims with ongoing activity. Once the claim population sizes increase, a subsequent analysis focusing on only closed claims will provide an opportunity for a more robust comparative analysis.

Managing Deputy Director Kate Howard requested questions or comments from the council about the Return-to-Work report.

**Council Comment:** None.

Next, Tyler Nguyen was introduced to report on COVID-19 and to share the DHR Health and Safety report on behalf of Dr. Fiona Wilson.

Very few COVID management changes were made this past quarter. The vaccine mandate was rescinded as of August 23, 2023. All other management practices remained in place, such as daily health screenings, isolation and quarantine, masking after illness or exposure for 10 days, masking during outbreak until determined over, and notifying staff of workplace exposures. We continued to encourage employees to stay current with COVID vaccinations, as a new vaccine became available in health care and retail settings beginning in mid-September.

Tyler Nguyen continued with statistics from employee cases which reflect community prevalence.

- 7034 COV cases cumulative total in pandemic, limited to self-reporting tools
- 586 COV cases in Q1 FY24, peaked late August at 64/week, then down to 32/week by later September.
- 192 Workers Comp Claims FY23 YTD and 85.4% accepted: 86 FIR, 31 DPH, 20 POL
- 305 Outbreaks at work locations throughout pandemic, 28 outbreaks Q1 FY24

A high of 782 COVID-19 claims were reported in Q3 FY22. Currently Q1 FY24 reports 180 claims.

DHR launched a Health and Safety Division led by CCSF Chief Physician for Employees Dr Fiona Wilson, supported by Tyler Nguyen City-wide Safety Officer, and reporting to HR Director Carol Isen. This division will

- Continue working with Safety officers across city departments.
- Focus on injury prevention, including reducing workers' compensation incidents.
- Increase employee-level education and engagement.
- Prepare city-wide readiness for SB553: Workplace Violence Prevention Program, by July 2024.

Next Stanley Ellicott, Manager of Finance and Information Systems summarized FY Q1 performance.

We are currently on budget for the fiscal year. Claim volume, cost, and duration are slightly higher than our rolling four-year average benchmark and includes COVID claim data.

Department benefit expenditure trends show a stable increase of approximately 1% over the last quarter. Indemnity expenditures have decreased, which we believe is due to early results of the TTWA program. Driven by high-cost in-patient hospitalizations, we see increased medical expenditure costs by 6.1%.

Citywide, the top ten departments are mostly on budget except for the San Francisco Police Department. We are currently forecasting a deficit of \$4.6 million dollars. One current claim has become the most expensive claim in the history of the Workers' Compensation program. Therefore, we are working with the Mayor's Office, the Controllers' Office, and the Police Department to address

solutions to this deficit. Overall, we are currently \$10M below budget which includes \$7.7M in carry-forward appropriation from last fiscal year. We expect a return of funds to the general account at the end of the fiscal year.

Lastly, Stanley Ellicott presented a look into costs incurred to operate the Alternative Dispute Resolution (ADR) program as requested during the August 2023 Council meeting. Two key paid program resources include Ombudsperson Maria Mariotto and ADR Director Retired Judge Steven Siemers. Ombudsperson Maria Mariotto helps clarify issues, advocates for the injured worker, and speeds up the resolution process at a cost of \$1.6 million dollars for the life of the program, which began in July 2019. Judge Steven Siemers has been paid \$152,363 over the course of the program.

**Council Comment:**

The council asked to confirm which departments currently partake in the ADR program. Stanley Ellicott answered the program includes members in labor organizations from the San Francisco Police Officers' Association and the San Francisco Firefighters Association.

Assistant Claims Director Arnold Pacpaco next presented detailed claim analytics and statistics. Claims incurred per 100 FTE citywide average is about 12, however due to the nature of their jobs, Police, Fire, and Sheriff average 19 per 100 full-time employees. The top three claim causes city wide are from exposure, bodily injury, and cumulative trauma.

Claims filing frequency increased by 8% in Q1. Compared to 2020, Fire department claim frequency increased by 40%. Public Health claim filing frequency increased by 13%, and Airport claims filing frequency increased by 43%. Police claim filing frequency decreased by 17% and Sheriff claim frequency decreased by 23% in the first quarter of FY 2023-24. Overall citywide we rose 8% in new claim filing frequency for the first quarter of FY 2023-24.

Open claim inventories, including indemnity and medical only, remain stable at about 5,200 claims. The highest lost days by department are held by Police, Public Health, and Fire. The Sheriff's Office and Rec and Park lost days saw a decrease, likely due to the Temporary Transitional Work program.

Focusing on litigation statistics, litigated claims tend to cost more than non-litigated claims because they may include additional body parts or require specialty evaluations and depositions. The citywide average litigation rate is 20%. Quarter one litigation rates for police were 10% and for Fire were 4%, both reduced from prior years, due to the benefits of 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.

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

**Council Comment:**

Matthew Barravecchia, Deputy City Attorney, thanked WCD for providing the numbers for the ADR program. He requested data between litigated and non-litigated ADR claims, as he would like to see the cost savings.

Kate Howard reiterated WCD works closely with the Controller's Office to perform a year-end assessment to determine savings from the ADR program. She asked to see data from this year-end assessment which may include distribution of savings funds to Police and Fire labor union members. She recommended presentation of litigation statistics from years prior to the implementation of the ADR program to show benefits of the program in comparison to today's savings data.

Eric Rapaport would like to see TTWA data on departments' modified duty accommodation percentages. Julian Robinson said we see a lot of misinformation and have been working to reeducate departments and dispel urban myths to assist in decreasing costs.

Fisher Zhu asked if we know which departments are accommodating modified duty and which are not. Julian Robinson confirmed we do know this and are working with departments to increase modified duty percentages to decrease costs.

Matthew Barravecchia provided positive feedback that the litigation team is seeing success with the TTWA program.

**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

Jim Radding, the Workers' Compensation Claims Manager for SFMTA, introduced and recognized Andrew Mathews, the manager for third party administrator, Intercare.

#### **Accomplishments:**

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

- LightSpeed Initiative – 7/1/23 through 9/30/23, 88 onsite investigations have been completed.
- Early intervention program – 172 files reviewed 7/1/23 through 9/30/23
- Quarterly claim reviews with SFMTA and the team, with the next meeting is 11/16/23.
- Monthly Round Table Discussion – New Claims with 30 days TTD paid.

- Closing Project – Weekly Roundtables with Deputy City Attorney’s office reviewing files with companion claims to pursue final settlements.
- Initiative – Completing updated job analysis/job descriptions.
- Transitional Work Program (TWP)/ Return to Work (RTW) Program
- Monthly training with all divisions.
- The TWP/RTW Program is averaging 50 employees per week for the 90-day modified duty program.
- Injured Employee Survey implemented 9/1/23.
- New hire workers’ compensation orientation at SFMTA.
- SFMTA Work Comp Team Field Trip (Intercare, Intermed, Passanisi Investigations, Deputy City Attorney Office, and SFMTA Transit Management)

### **Current Challenges:**

During the meeting, the following challenges were discussed:

- Rise in Temporary Disability Benefit Maximum
- General rise in claim costs/expense
- Available transitional work program (TWP) assignment locations
- Assault claims/Mental Health

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 Report:**

- 8 COVID-19 Workers’ Compensation Claims filed in FY 2024, Q1
  - 8 Indemnity claims, 0 Litigated Claims, 2 Denied Claims
- 334 COVID-19 Workers’ Compensation Claims filed as of 9/30/23
  - 254 Reported claims only.
    - 79 Indemnity claims reported, 8 Litigated claims, 35 Denied claims: Negative test or not occupational in nature
    - Average paid per indemnity claim = \$9,703
    - Average Incurred per indemnity claim = \$11,855
    - As of 9/30/23, only 7 claims remained open

The average cost of closed indemnity claims in Q1 2024 was \$17,664, compared to the Q1 2023 benchmark of \$20,585. New indemnity claims this quarter totaled 155 versus the Q1 2023 benchmark of 146, and medical only claims totaled 13, up from 6 in Q1 2023. The fiscal ratio of actuals to budget was 28% both in Q1 of 2024 and 2023. The average duration for closed claims Q1 of 2024 was 150 days, which is significantly higher than 86 claims closed in Q1 2023.

- Claim Filing Frequency: The number of workers' compensation claims reported quarterly for indemnity has slightly increased to 155 compared to 146 in the same quarter of 2023.
- Claims Frequency per 100 FTE: Of 5899 employees, the organization had 2.85 claims per 100 employees, significantly lower than previous years when the average was 10 per 100..

- **Claim Cause Distribution:** The top types of claims in the organization over the past 12 months were physical/verbal assaults, vehicle incidents, repeated motion, followed by slips, trips, and falls. 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:**

The transportation division has the highest number of open claims (582) with a total incurred amount greater than \$100K. This division also accounts for the highest amount of total incurred for these claims, suggesting that the 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 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 of all categories.

Open active indemnity claims make up 72% of the total claims, while future medical claims make up the remaining 28%. Future medical claims tend to cost more, while open active indemnity claims are more frequent but cost less. There were 1,199 active indemnity claims and 425 future medical claims filed in Q1 2024, with \$261.8 million incurred.

Comparing litigated vs. non-litigated claims, litigated claim rates dropped from 20% average to 7% last quarter.

### **Financials:**

#### SFMTA Expenditures and Trends

The actual expenditure was \$8,298,744 against a full year budget of 29,710,709 or 27% of the yearly allocated budget. Indemnity costs were about \$5.2 million, which is 9% less than Q1 for last year. Medical costs increased by 8%, and expenses year to date were \$396,824 for the first quarter.

### **Council Comment:**

Erik Rapoport asked for a chart showing how long claims are open, that is, what are the percentage of longer-term claims?

**Public Comment:** None.

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

**Speaker:** Kate Howard, Managing Deputy Director



**Council Comment:** None.

**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:** February 5th, 2024. Consistent with the city's shift to in-person meetings, the Workers' Compensation Council Meetings have returned to City Hall.

## **Adjournment**

Managing Deputy Director Kate Howard adjourned the Workers' Compensation Council meeting.

The next Workers' Compensation Council meeting will be held Monday, February 5th, 2024, at City Hall, in Room 400 at 9:00 a.m.

The meeting was adjourned at 10:08 a.m.