

Workers' Compensation Board

Meeting Minutes

October 4-5, 2018

Thursday, October 4, 2018

I. Call to order

Workers' Compensation Director Marie Marx called the Board to order at 9:05 am on Thursday, October 4, 2018, in Anchorage, Alaska.

II. Roll call

Director Marx conducted roll call. The following Board members were present:

Brad Austin	Pamela Cline	Chuck Collins
Bronson Frye	Jacob Howdeshell	David Kester
Sarah Lefebvre	Togi Letuligasenoa	Justin Mack
Linda Murphy	Donna Phillips	Nancy Shaw
Amy Steele	Brett Stubbs	Rick Traini
Robert Weel		

Director Marx noted that member Williams is excused. Member Evans was absent. Quorum was established.

Director Marx introduced senior staff present.

III. Agenda Approval

A motion to approve the agenda was made by member Weel, and seconded by member Murphy. The agenda was approved by unanimous vote.

IV. Approval of Meeting Minutes

A motion to adopt the minutes from the May 3-4, 2018 regular Board Meeting was made by member Kester and seconded by member Austin. The minutes were adopted without objection.

V. Director's Report

Director Marx noted that some board member terms were expiring on March 1, 2019. She encouraged these members to submit a letter of interest directly to Boards and Commissions if they wish to continue their service on the Workers' Compensation Board. Director Marx asked members to please let her know if any members did not plan on continuing to serve.

Administrative Officer Alexis Newman provided an overview of Division staffing, the various budget components within the Division, the FY18 budget performance, and the FY19 budget performance year-to-date.

Chief of Adjudications Soule reviewed the list of board designees. Member Weel moved that the Board approve the amended list of Board designees, which was seconded by member Collins. The motion passed unanimously.

Director Marx briefly discussed HB79 and the Workers' Compensation Working Group.

Break 10:06am-10:19am

VI. Public Comment Period 10:15am- 11:15am

Samantha Atlas – representing self

- Ms. Atlas has continuously had difficulty reaching her claim adjuster. Stated there have been times she has left messages 6-8 times a day, 7 days a week, but the adjuster does not answer or return her calls.
- Stated she has ongoing difficulty getting prescriptions covered and filled. Stated she often waits 1-2 weeks for her prescriptions to be approved. Even immediately after her surgery, she was not able to get her prescription until several days after the surgery occurred.
- She was not told that her claim administrating company had changed until weeks after the fact.

Sheila Collins – representing self

- It has been two years since Ms. Collins' injury. During this time, her claim adjuster sent her medical records to two IME doctors who had never examined her, and relied on their opinion to controvert her claim.
- Requested accommodations for travel that she did not receive.
- Ms. Collins feels that she has been bullied and treated unfairly by the claim adjusting company in her case.

Barbara Williams – representing Sheila Collins

- Ms. Williams stated that it is difficult to tell what ADA accommodations can be provided by the board.
- Stated it is important for hearing officers to be aware when accommodations are granted.
- Requests that the Board make a better effort to provide accommodations to injured workers with seen or unseen disabilities.

Daretha Tolbert – representing self

- She agrees with Ms. Williams.
- Feels that cases are not resolved quickly enough.
- Feels that insurers do not want to pay for training or medical care.

VII. Director's Report Continued

Devin Lucas, Injury Epidemiologist with the National Institute for Occupational Safety and Health, reviewed Alaska workers' compensation injury data.

VIII. Old Business

Amend 8 AAC 45.083, relating to fees for medical treatment and services. The intent of amendment is to clarify the existing fee schedule and incorporate the most recent recommendations. Member Murphy moved to adopt the amendment of 8 AAC 45.083 including material incorporated by reference. Member Kester seconded the motion. The motion passed unanimously.

IX. 2017 Annual Report

Program Coordinator Velma Thomas reviewed statistics from the Division’s 2017 annual report, a compilation of statistics and benefit data obtained from insurers and self-insured employers pursuant to AS 23.30.155(m).

Lunch Break 11:49pm-1:21pm

Velma Thomas reviewed statistics from the Benefits Guaranty Fund, the Second Injury Fund, and the Self-Insurance Program.

Rhonda Gerharz, Chief of the Special Investigations Unit (SIU), gave an overview of the SIU’s 2017 performance.

Beth Tusten, Reemployment Benefits Administrator, reviewed the 2017 performance of the Reemployment Benefits Program.

Break 3:02pm-3:21pm

Bill Soule, Chief of Adjudications, reviewed the 2017 performance of the Adjudications Section.

Sue Reishus-O’Brien, Workers’ Compensation Officer II, reviewed SIME statistics for 2017.

Motion to adjourn was made by Member Weel. Member Austin seconded the motion. The motion passed unanimously.

Meeting Adjourned 4:49 pm

Friday, October 5, 2018

I. Call to order

Director Marx resumed the Alaska Workers’ Compensation Board meeting at 9:06 am on Friday, October 5, 2018, in Anchorage, Alaska. The following Board members were present

Brad Austin	Pamela Cline	Chuck Collins
Bronson Frye	Jacob Howdeshell	David Kester
Sarah Lefebvre	Togi Letuligasenoa	Linda Murphy

Donna Phillips
Robert Weel

Nancy Shaw

Amy Steele

Director Marx noted that members Mack, Traini and Williams were excused. Members Evans and Stubbs were absent. Quorum was established.

II. New Business

Repeal 8 AAC 45.890, relating to determining employee status. Member Murphy moved to approve the repeal of 8 AAC 45.890. Member Weel seconded the motion. Director Marx explained that this regulation is no longer needed, as “employee” is now defined in AS 23.30.395 due to HB 79. The motion passed unanimously.

Amend 8 AAC 45.020(d) relating to electronic filing. Member Austin moved to approve the amendment of 8 AAC 45.020(d). Member Weel seconded the motion. After discussion, the regulation was further amended to remove reference to specific email addresses, and to simply state that documents may be filed by email, as well as a few other minor changes. There were no objections to the amendments and the motion passed unanimously.

Amend 8 AAC 45.060(b) relating to electronic filing. Member Weel moved to approve the amendment of 8 AAC 45.060(b). Member Kester seconded the motion. The motion passed unanimously.

Amend 8 AAC 45.025(c), relating to board forms. Member Collins moved to approve the amendment of 8 AAC 45.025(c). Member Kester seconded the motion. An error in the mailing address was noted and updated. There was no objection to the amendment and the motion passed unanimously.

Amend 8 AAC 45.070(b)(1)(A), relating to review of a reemployment benefits administrator’s decision. Member Murphy moved to approve the amendment of 8 AAC 45.070(b)(1)(A). Member Weel seconded the motion.

Break 10:04am-10:26am

Member Collins motioned to remove the language “an affidavit of readiness form is not required.” Member Kester seconded the motion. The motion did not pass on a 14 to 1 vote, with members Austin, Cline, Frye, Howdeshell, Kester, Lefebvre, Letuligasenoa, Murphy, Phillips, Shaw, Steele and Weel voting against, and member Collins voting in favor. Member Lefebvre motioned to amend 45.070(b) in conjunction with 45.070(b)(1)(A). The motion was seconded by member Murphy. Director Marx called the question to amend 45.070(b) as proposed and 45.070(b)(1)(A) as drafted in the board packet. The motion passed on an 14 to 1 vote, with members, Austin, Cline, Frye, Howdeshell, Kester, Lefebvre, Letuligasenoa, Murphy, Phillips, Shaw, Steele and Weel voting in favor, and member Collins voting against.

Amend 8 AAC 45.070(f)(1) & 8 AAC 45.070(f)(2) relating to claims. Member Letuligasenoa moved to approve the amendment of 8 AAC 45.070(f)(1) & 8 AAC 45.070(f)(2). Member Frye seconded the motion. The motion passed unanimously.

Amend 8 AAC 45.083(m) relating to material adopted by reference. Member Weel moved to approve the amendment of 8 AAC 45.083(m). Member Howdeshell seconded the motion. The motion passed unanimously.

Amend 8 AAC 45.085 relating to electronic filing. Member Kester moved to approve the amendment of 8 AAC 45.085. Member Austin seconded the motion. The motion passed unanimously.

Amend 8 AAC 45.092(g) relating to second independent medical evaluations. Member Weel moved to approve the amendment of 8 AAC 45.092(g). Member Murphy seconded the motion. The motion passed unanimously.

Lunch Break 11:57pm-1:31pm

Amend 8 AAC 45.092(h)(5) relating to second independent medical evaluations. Member Cline moved to approve the amendment of 8 AAC 45.092(h). Member Lefebvre seconded the motion. Member Murphy proposed to amend the original motion to amend 8 AAC 45.092(h), and to approve repeal of 8 AAC 45.092(h)(5). Member Kester seconded the motion. The motion passed unanimously.

Amend 8 AAC 45.092(j)(1) relating to second independent medical evaluations. Member Lefebvre moved to approve the amendment of 8 AAC 45.092(j)(1). Member Weel seconded the motion. The motion passed unanimously.

Amend 8 AAC 45.110(a) relating to case file records and board proceedings. Member Austin moved to approve the amendment of 8 AAC 45.110(a). Member Howdeshell seconded the motion. After further discussion, member Murphy moved to postpone amendment of 8 AAC 45.110(a) until the next meeting. Member Shaw seconded the motion. The motion to postpone passed unanimously.

Amend 8 AAC 45.110(b) relating to case file records and board proceedings. Member Austin moved to approve the amendment of 8 AAC 45.110(b). Member Letuligasenoa seconded the motion. The motion passed unanimously.

Amend 8 AAC 45.110(c) relating to case file records and board proceedings. Member Austin moved to approve the amendment of 8 AAC 45.110(c). Member Cline seconded the motion. The motion passed unanimously.

Repeal 8 AAC 45.134(c), relating to modification and offset of compensation. Member Frye moved to approve the repeal 8 AAC 45.134(c). Member Collins seconded the motion. The motion passed unanimously.

Break 2:54pm-3:19pm

Amend 8 AAC 45.136, relating to insurer or adjuster reporting. Member Murphy moved to approve the amendment of 8 AAC 45.136. Member Lefebvre seconded the motion. The motion passed unanimously.

Amend 8 AAC 45.182(a), relating to insurer or adjuster reporting. Member Austin moved to approve the amendment of 8 AAC 45.182(a). Member Weel seconded the motion. The motion passed unanimously.

Director Marx reminded the Board members the next regular board meeting is January 10-11, 2019. The meeting will be by teleconference for those outside of Anchorage.

Motion to adjourn was made by Member Austin. Member Cline seconded the motion. The motion passed unanimously.

Meeting Adjourned 3:47pm