

**WORKERS' COMPENSATION INDUSTRIAL COUNCIL**

**NOVEMBER 2, 2006**

Minutes of the meeting of the Workers' Compensation Industrial Council held on Thursday, November 2, 2006, at 3:00 p.m., Charleston Civic Center, Rooms 207-209, 200 Civic Center Drive, Charleston, West Virginia.

Industrial Council Members Present:

Bill Dean, Chairman

Dan Marhsall

Richard Slater

Walter C. Pellish (via telephone)

**1. Call to Order**

Chairman Bill Dean called the meeting to order. We do have a quorum with two of us present, one on the phone today. Mr. Marshall is here and Mr. Pellish is on the phone today.

**2. Approval of Minutes**

CHAIRMAN DEAN: We just need approval of the previous minutes.

MR. MARSHALL: So moved, Mr. Chairman.

CHAIRMAN DEAN: A motion to approve the Minutes. Mr. Pellish, do you second?

MR. PELLISH: I do.

CHAIRMAN DEAN: Motion made and seconded to approve those minutes. Any questions? All in favor, aye.

MR. MARSHALL: Aye.

MR. PELLISH: Aye.

CHAIRMAN DEAN: All opposed? The ayes have it.

**3. Office of Judges Report-Chief Judge Timothy Leach**

CHAIRMAN DEAN: We'll move on to the Office of Judges report. Can you hear okay, Mr. Pellish?

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MR. PELLISH: I sure can.

CHAIRMAN DEAN: Okay. If you have trouble, just let us know.

MR. LEACH: Good afternoon, Mr. Chairman, Mr. Marshall, Mr. Pellish. Mr. Pellish, I brought with me an updated report for summarizing my October statistics, which the numbers just came in this morning, so this is still cooling off the presses here. I'll put it out in the mail to you as soon as I get back to the office and to the other members who are not present.

MR. PELLISH: Thank you.

MR. LEACH: I was not prepared really to discuss the October report, which I mailed to you gentlemen, but I will take any questions about any of the statistics in that, and if there's not any, I'll move ahead with the November report.

CHAIRMAN DEAN: Any questions, Mr. Marshall?

MR. MARSHALL: No.

CHAIRMAN DEAN: Mr. Pellish, do you have any questions on the October report?

MR. PELLISH: No.

CHAIRMAN DEAN: Okay. We'll move on to the November.

MR. LEACH: Good, because I didn't bring it with me, so it would be difficult to handle those. We were pleased with the performance measures shown in the statistical report and I would call to your attention in the report that on Page 3, Section B of the timeliness that we continue to acknowledge those protests at a better rate than we did in 2005, although our year-to-date number of 84.3 percent has not caught up with last year's number because of that huge dip in the graft that makes it look like the big dipper there, that bright yellow line dropping down, but for October the number was 3.14 percent non-compliant, and following the path of the yellow dots across the chart there, you can see that we're ending the 2005, 2004 and 2003 numbers which were of a concern to us at the beginning of the year. Then on the next Page 4, there's about five numbers there that I thought were favorable, that I wished to call your attention.

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The first two are the final decision timeliness and you will note that for October nearly 60 percent of our decisions were done within 30 days of assignment to the judge, whereas for the year-to-date we're in at almost 50 percent, at 49.8 percent. The untimely standard is at the bottom. That's less than one percent.

So that's a yearly figure that is creeping up. It's not going to catch in the remaining two months what we did last year, but it's in the ballpark for the previous four years. So that was of a concern to us early in the year. We started out badly there and took a little dip also so in the middle of the summer when we have a lot of people out on vacations and it's looking good for an overall average. And then our time standard compliance, which is required by statute and covered by regulation to be at 80 percent, has exceeded 80 percent again in October and for the year-to-date.

Then in terms of narrative points, I do recall in the October report that I had mentioned at that time we were -- at the time of preparing the report, we were halfway through our core meetings, so I've summarized the final outcome to those workshops and we -- and I gave you the numbers for attendance. It was 30 in Beckley and 31 in Morgantown, South Charleston 89 and Charleston 74, and that last figure would have been well up to or over 100, except that we had a room booking issue with a local hotel and they only set us up for 75 people and we had 108 registered. So we found out about that the day before the workshop and did a lot of scrambling around and got a hold of about 25 people and asked them if they would cancel voluntarily and we would reschedule it.

We have rescheduled and we've got another booking, in fact, in these very two rooms on November 16<sup>th</sup> from 9:00 to 12:00 o'clock. So already I have, when I left the office a few moments ago, 38 people registered for the overflow session. That is open to the public and it is free. We just ask that you give us a call at my office if you want to come so we can make sure we have enough space set up for attendees.

Also, last month I reported a change in the Insurance Commissioner's court reporter fee payment process that was forced upon the Insurance Commissioner and as by the state auditor. We were a little bit anxious about that and you may have picked that up from the tone of the report last month, but so far we're not getting any extraordinarily negative feedback on that change. So we appreciate the cooperation of the lawyers involved in the system and especially the court reporters. Several of them had some kind of dated invoices that had to be resubmitted and re-billed under a different process.

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Then the final new piece of information for this month's report is that Tuesday we met with a couple of the supervisors or managers, I guess -- not supervisors -- for the Cambridge Integrated Services Company that is going to take over the responsibility of administering the old fund, special funded Workers' Comp claims that BrickStreet Administrative Services have been doing for the Insurance Commissioner. As of December 1<sup>st</sup> is when that change is taking over -- taken over -- not taking over. So we've met with them, explained our role in the system, how the appeal process works, how it impacts their claims management responsibilities, got some feedback from them. It was a very productive meeting. They gave us about an hour and we were very appreciative of that attention. I think they've also met with the Board of Review and I believe they've also met with the Attorney General who defends the Insurance Commissioner in those cases.

So we're a little bit anxious about that changeover because -- well, you know, right now all we do is send our notices and correspondence to either the self-insured or BrickStreet and the BrickStreet communication is done by electronic transmission, so we're a little anxious about how this change will affect our processing, but we've been through many changes before and we're prepared to face another one. There may be a few stumbles, but we've always landed on our feet after a short recovery period. Any questions?

CHAIRMAN DEAN: Does anyone have any questions?

MR. MARSHALL: No, Mr. Chairman.

CHAIRMAN DEAN: Mr. Pellish, do you have any questions?

MR. PELLISH: No. Thank you.

CHAIRMAN DEAN: And he will get you a copy of this in the mail. Let the minutes show that Mr. Slater is in attendance.

**4. General Public Comment**

CHAIRMAN DEAN: We'll move on to general public comments. Anybody from the public have comments today?

**5. New Business**

CHAIRMAN DEAN: We'll move on to new business. Anybody have anything to bring up under new business today? Ms. Pickens,

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would you or Ryan like to comment on the report on the information?

MS. PICKENS: Sure. This was actually something that I discussed or presented verbally to the council at the last meeting and I think that Mr. Slater had requested that I follow up with a written report. It addresses the type of information that can be supplied to members of the public pursuant to the Freedom of Information Act request relating to insurers who had failed to maintain their mandatory Workers' Comp coverage. It addresses the provisions of West Virginia Code, Section 23-1-4, which essentially lays out the type of information that can be disclosed. It requires that information about claimants and employers be redacted, if possible, to remove what would be private information, but allows certain specific information about employers to be released concerning their status as either insured or uninsured, the periods of time for which they were insured or uninsured and the amounts owed to the state and those types of things.

So the report is two pages and it's just sort of a narrative description of that code section and what we think we can do under it and then the third page of that report is the actual code section itself.

CHAIRMAN DEAN: Any questions, Mr. Marshall?

MR. MARSHALL: No, Mr. Chairman.

CHAIRMAN DEAN: Mr. Slater?

MR. SLATER: No. Thank you.

CHAIRMAN DEAN: Mr. Pellish, do you have any questions?

MR. PELLISH: No questions.

CHAIRMAN DEAN: Thank you.

**6. Next Meeting**

CHAIRMAN DEAN: We'll move on to the next meeting. The next meeting is December the 7<sup>th</sup>, at 3:00 p.m. at the Civic Center. Everybody good with that?

MR. MARSHALL: Yes.

**7. Executive Session**

CHAIRMAN DEAN: We'll move on to the executive session. Is there a motion to go into the executive session?

MR. MARSHALL: So moved.

MR. SLATER: Seconded.

MR. CHAIRMAN: Motion made and seconded to go into the executive session. Any questions on the motion? All in favor aye?

MR. MARSHALL: Aye.

MR. SLATER: Aye.

MR. PELLISH: Aye.

CHAIRMAN DEAN: All opposed? The ayes have it.

**[Executive Session held]**

CHAIRMAN DEAN: Okay. We're back to the regular session now. Is there a motion? Let it be known that there was no action taken in the executive session. We have a resolution for Dolgencorp to become self-insured. Is there a motion?

MR. MARSHALL: So moved.

MR. SLATER: Seconded.

CHAIRMAN DEAN: Motion made and seconded. We'll approve the resolution. Any questions on the resolution? All in favor, aye?

MR. MARSHALL: Aye.

MR. SLATER: Aye.

MR. PELLISH: Aye.

CHAIRMAN DEAN: All opposed? The ayes have it. Anything else? Is there a motion for adjournment?

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MR. MARSHALL:	So moved.
MR. SLATER:	Seconded.
CHAIRMAN DEAN: adjournment. All in favor, aye?	Motion moved and seconded for
MR. MARSHALL:	Aye.
MR. SLATER:	Aye.
MR. PELLISH:	Aye.
CHAIRMAN DEAN:	Motion approved.

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*(Concluded at 3:34 p.m.)*

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