

**BOARD FOR THE ADMINISTRATION OF SUBSEQUENT INJURY ACCOUNT FOR
SELF-INSURED EMPLOYERS**

Minutes of the Meeting held May 18, 2022

1. Call to Order and Roll Call

At 10:02 a.m. on May 18, 2022, the meeting of the Board for the Administration of Subsequent Injury Account for Self-Insured Employers was held at the Division of Industrial Relations, Worker's Compensation Section, 3360 West Sahara Avenue, Suite 250, Las Vegas, NV 89102 and by teleconference and was called to order. Roll call was taken. The board members present via telephone were: Cecilia Meyer (chair and representing Carson City), Wendy Lang (representing Douglas County), Sharolyn Wilson (representing Washoe County), and Leeann Caires (representing Douglas County School District). Others present were Karissa D. Neff, Esq. (Nevada Attorney General's Office (Board Counsel)), Barbara Foster (DIR), Justin Taruc, Esq. (DIR's counsel), Kim Price, Esq. (representing Las Vegas Metropolitan Police Dept.)

2. Public Comment

No items for public comment were raised.

3. Approval of Agenda

Wendy Lang moved to approve the agenda. Sharolyn Wilson seconded the motion. The motion passed unanimously.

4. Approval of the February 16, 2022 Minutes

Sharolyn Wilson moved to approve the minutes with corrections noted. Wendy Lang seconded the motion. The motion passed unanimously.

5. Approval of the April 13, 2022 Minutes

Sharolyn Wilson moved to approve the minutes with corrections noted. Cecilia Meyer seconded the motion. The motion passed unanimously.

6. Possible action on a Recommendation of the Administrator of the Division of Industrial Relations for Approval of the following initial request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers.

a. 20D34J439146

**Las Vegas Metropolitan Police Dept.
For Possible Action**

Cecilia Meyer disclosed that CCMSI is the third-party administrator for Carson City, Sharolyn Wilson disclosed that CCMSI is the third-party administrator for Washoe County, Leeann Caires disclosed that CCMSI is the third-party administrator for Douglas County School District, and Wendy Lang disclosed that CCMSI is the third-party administrator for Douglas County and each stated that their ability to proceed would not be affected.

Barbara Foster read the Administrator's memorandum ("Memo") regarding his recommendation on request for reimbursement from the Subsequent Injury Account pursuant to NRS 616B.557.

Mr. Price discussed costs the Administrator disallowed in the Memo in the amount of \$816.06 and argued the costs should be included in reimbursement from the account.

Barbara Foster discussed that DIR's position in its past practice has been to have the manufacturer's invoice submitted with the bill and that only the supplier's invoice appeared to be included with the applicant's submission. DIR's counsel reiterated the same but stated that DIR would let the Board decide whether the additional cost of \$816.06 ("Additional Cost") would be reimbursable.

Mr. Price stated he believed that the Additional Cost complied with the Nevada fee schedule such that it was reimbursable. There was discussion whether COMPDME was a manufacturer or a supplier. Mr. Price stated that it appeared COMPDME was a supplier. DIR's counsel stated that he would leave it to the Board to determine if COMPDME was a supplier or a manufacture.

The Board discussed that it believed COMPDME was a supplier. The Board members discussed they were inclined to accept reimbursement of the Additional Cost.

Sharolyn Wilson made a made a motion to approve the Administrator's recommendation to pay \$25,733.99 and to include the Additional Cost, for a total payment of \$26,550.05 from the account. Leeann Caires seconded the motion. The motion passed by unanimous vote.

7. Possible action on a Recommendation of the Administrator of the Division of Industrial Relations for Approval of the following supplemental request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers.

a. 12D34C227726

**Las Vegas Metropolitan Police Dept.
For Possible Action**

Cecilia Meyer disclosed that CCMSI is the third-party administrator for Carson City, Sharolyn Wilson disclosed that CCMSI is the third-party administrator for Washoe County, Leeann Caires disclosed that CCMSI is the third-party administrator for Douglas County School District, and Wendy Lang disclosed that CCMSI is the third-party administrator for Douglas County and each stated that their ability to proceed would not be affected. Barbara Foster read the Administrator's memorandum regarding his recommendation on request for reimbursement from the Subsequent Injury Account pursuant to NRS 616B.557.

Mr. Price stated that he disagreed with the Administrator's calculation for reimbursement because the Administrator's calculation was not accurate- particularly items 25 and 26- based on the determination that due to the applicant's 28 percent disability in 2005, that the applicant should only be entitled to 2 percent disability due to Nevada's 30 percent maximum, and that DIR is improperly combining all of the claimant's prior PPD

determinations. Mr. Price further stated that he disputes that the applicant voluntarily retired from the workforce (as stated in the Administrator's memorandum) and that because of this, the applicant should be entitled to vocational rehabilitation payments as well. Mr. Price stated that the Administrator's determination of item numbers 25, 26, 27, 29, and 31 are incorrect determinations based on Nevada law.

Barbara Foster stated that since the employee medically retired from the system effective January 1, 2021, that if CCMSI chose to keep paying benefits after that employee had medically retired, that money wasn't reimbursable by DIR. She further stated that no documentation was provided to DIR establishing that following the employee's retirement, that the employee had limitations, and that his employer would be bringing him back and would be offering him a light duty job. DIR's counsel further stated that DIR was not provided with any such documentation when it made its determination.

Cecilia Meyer discussed she believed there is a statute that discusses a person who retires during a claim or prior to a reopening, and that compensation is not payable, but she was not sure the statute's specific definitions. She further stated that she agreed with the Division's counsel and that if documentation was not provided showing that permanent restrictions had been established, allowing the employer at that point to offer that employee permanent light duty, that compensation would not be included at this time.

Sharolyn Wilson discussed whether there was information regarding permanent restrictions that was not provided that needs to be considered during the time the employee was requesting disability retirement and what was going on with the claim at the same time. Cecilia Meyer further discussed it would be important to know the employee's reasoning for disability retirement- i.e. if it was directly related to the work incident verses a non-industrial medical condition. Sharolyn Wilson agreed and stated that without documentation of permanent restrictions, it would be impossible for the Board to make an appropriate determination. Board members Leeanne Caires and Wendy Lang agreed.

There was discussion whether the Board could approve the Administrator's recommendation and Mr. Price could appeal the disallowed amounts vs. whether the claim could be tabled while additional documentation was provided.

Mr. Price stated that the Board's taking action based on the recommendation of the Administrator as to items 25 and 26 would set a bad precedent and have the effect of leading to many appeals.

Cecilia Meyer asked if the claim could be set for the Board's following meeting to allow DIR to further research the issue. Mr. Price agreed to table the hearing of the claim to the next meeting and stated that the area was a refined issue and he was not sure if he could submit anything other than what the law provides, but would do his best.

Wendy Lang made a motion to continue the claim until the Board's next meeting at which time the Board anticipated receiving additional information. Sharolyn Wilson seconded the motion. The motion passed by unanimous vote.

8. Additional Items

- a. General Matters of Concern to Board Members Regarding Matters Not Appearing on the Agenda.

No issues were raised.

- b. Old and New Business

No items were raised.

8. Public Comment

No matters of public comment were raised.

9. Adjournment

Sharolyn Wilson made a motion to adjourn the meeting which was seconded by Cecilia Meyer. The motion passed by unanimous vote. The meeting was adjourned.