

## **Minutes of Council of the Workers' Compensation Section September 26, 2014**

### **Present via Fuze Meeting:**

J. William Housefield  
Chris Rabideau  
Ella Parker  
Tim Esper  
Rosa Bava  
John Combs  
Matt Conklin  
Dennis Flynn  
Phil Frame  
Andrea Hamm  
Jayson Chizick  
Jeff Kirschner  
Mark Sessi  
Kevin Elsenheimer

Chairperson Bill Housefield called the meeting to order at 9:06 am to address the following Agenda:

- 1) Secretary's report**
- 2) Treasurer's report**
- 3) Director's report**
- 4) MCAC report**
- 5) Magistrate's report**
- 6) Old business:**
  - A) Proposed calendar for upcoming meetings: 11-7-14, 12-5-14, 2-6-15, 4-3-15, May date for Past Chairperson golf and dinner. June 18 & 19 Annual meeting**
  - B) Winter Meeting: 12/5/14 @ 8:30 a.m. Dimondale location**  
**Speakers: 1) Given importance of Stokes/Lofton and MCAC opinions, someone has suggested vocational rehabilitation experts representing both sides. 2) Also, opioid use in the workplace, safety issues, employees rights? Employers' rights? Could add legalized medical marijuana to discussion. Other topics?**
  - C) Annual meeting location? Suggestion we look at securing contract with same location for 3 year period. Crystal Mountain? Shanty Creek? Mission Point?**
  - D) Subpoena issue regarding medical records**
- 7) New Business:**
  - A) 1 to 5 year plan: what can we do to make the practice better for members of our section?**

**B) Should we consider moving annual meeting back to the Fall with other sections?**

Ms. Parker, seconded by Mr. Frame, approved the **Minutes** from the June 19, 2014 Council meeting upon motion.

The Minutes from the June 20, 2014 Section meeting were approved upon motion by Ms. Parker, seconded by Mr. Chizick.

The Minutes from the July 18, 2014 Special Meeting were amended to reflect the vote for the special meeting called by Chairperson Housefield on July 12, 2014, upon motion by Ms. Hamm and seconded by Mr. Frame.

Mr. Esper submitted the **Treasurer's Report**. The Section has \$74,356.62 in funds as of August 30, 2014. Upon motion by Mr. Frame, and seconded by Ms. Hamm, the Treasurer's report was approved.

Kevin Elsenheimer submitted the **Director's Report**. Director Elsenheimer indicated that the state was replacing the current computer system with a new HAWC system, which should be ready for use by 2015. The State will be conducting training for all pertinent parties.

In regards to pure premium, that was down a little over 6%, showing a trend of decreases for the 4<sup>th</sup> year in a row. The overall pure premium in Michigan has decreased a total of 27.7% in the past 4 years.

In regards to the number of filings, Director Elsenheimer indicated those were somewhat stable although the number of redemptions have decreased. He suspects that these will increase soon based on the economic activity in the state.

Director Elsenheimer also commented on the Delphi litigation and indicated they expect the first settlement hearing to be this upcoming week. They are still working through the issues but they are starting to get resources out to the people.

Director Elsenheimer also discussed the rules about opiate management and compound medications. They were hoping to have the Evidenced Base Medicine rules in effect before the end of the year. However, it does not appear as if this will occur. If it does not, the process will start all over again for next year. They are hoping that the MAHS rules will be implemented before the end of the year.

Mr. Wyatt submitted the MCAC report in writing, which was read into the record as follows:

*George Wyatt has succeeded Jack Wheatley as chair of MCAC.*

*As of the week ending August 22, 2014 there were 87 pending WC appeals before the MCAC. Of those, 44 had been assigned to commissioners for review.*

*The following commissioners were (re)appointed to four years terms effective August 1, 2014: Lester Owczarski, Jack Wheatley & George Wyatt.*

*Other sitting commissioners whose current terms expire July 31, 2015 are Garry Goolsby, Greg Przybylo & Neal Young. Currently, Mr. Young does not participate in deciding workers' compensation cases unless there is consideration of a case en banc.*

*Danielle Brown and Patti Halm are sitting commissioners with current terms expiring July 31, 2017.*

*With the departure of Steve Arwood from LARA to MEDC, Mike Zimmer has accepted the position of Acting Director of LARA. Chris Seppanen in turn assumes the role of Acting Executive Director of MAHS. He will report to Mr. Zimmer through Kevin Elsenheimer, in the latter's capacity as a LARA Deputy Director. Mr. Elsenheimer retains his separate role as Director of the WCA.*

*MCAC is currently meeting Federal guidelines for timeliness in disposition of unemployment appeals. However, we anticipate an uptick in our UC case load as the MAHS lower authority begins to implement a plan to hear an accumulation of cases.*

Chief Magistrate Klaeren submitted the **Magistrate's report** in writing, which was read into the record as follows:

#### *STATUS OF THE RULES*

*The rules continue to proceed through the system. There were some initial changes made after the public hearing, and there has been continued review. A couple of grammatical changes were made as well. It is the hope of the administration that the rules (for all of MAHS) will be in place by the end of the year.*

*When the magistrates meet on September 26, we will be reviewing our needs for a scheduling order to meet the requirements of the new rules. I imagine that we will come up with an initial document that we will be including in all files, which may be adjusted over time, as we see what is most helpful to the magistrates and the litigants. Since it is primarily for the use of the magistrates, I do not anticipate that it will be submitted for any discussion with the bar, prior to its' utilization.*

*The goal of the rules (in addition to the overall goal of MAHS to have one complete rule set for all judges) is to help move the cases quicker through the system, thereby providing everyone with certainty, earlier in the process. If we all work together through this implementation process, I do think that we can have some success in accomplishing that goal.*

#### *UPPER PENINSULA*

*We will be adjusting the UP docket beginning in November 2014. Because of the significant reduction in cases in Baraga and SSM, we will be reducing the number of hearing days in those locations. We will continue to hold hearings in Escanaba two days every month and hearings in Baraga and SSM will be held one day every other month in the same locations as they are held now. We are in the process of putting together the schedule, and it will be available upon completion. All UP hearings will be handled by Magistrate Woons. All files will be housed with Magistrate Woons at her office in Saginaw. Magistrate Woons will work with the litigants to handle hearings by phone, or stipulation, to accommodate the needs of the claim, if timing is an issue.*

#### *MAGISTRATE APPOINTMENTS*

*Seven of the magistrate positions are up for appointment/reappointment on January 26, 2015. I do not expect there to be any action on these until after the election in November.*

#### *REQUESTS FOR FILES FOR REDEMPTION ONLY*

*We are currently working on a process for streamlining the requests for files for redemption only. This discussion involves the use of the Form C to request files for redemption. This way the files have the complete information necessary to process the redemption, and the insurance coverage will be reviewed prior to the redemption. This will also be the case when parties want a VP signed when the case is not in litigation. The Form C is what will likely need to be filed to have a file generated to place the VP in.*

The Council also discussed reducing the Baraga and Sault Ste. Marie days to one day every other month and Magistrate Woons covering the entire Upper Peninsula beginning in November 2014. We also discussed the reason for requesting files for redemption only purposes through a Form C to limit jurisdiction shopping.

**Old business:**

The Council selected the following dates for **upcoming meetings**: 11/7/14; 12/5/14 (Dimondale); 2/6/15; 4/17/15; May date for Past Chairperson golf and dinner; and June 18 & 19 Annual Meeting.

In regards to the **Winter Meeting**, that will be held on December 5, 2014 at 8:30 AM in Dimondale. One advantage of holding it in Dimondale is that the meeting will be free. Mr. Frame and Ms. Hamm will be checking into refreshments for the meeting. **Upon motion by Mr. Rabideau, seconded by Mr. Flynn, the Council voted to extend up to \$500 towards refreshments for the meeting.** The committee will have a proposal for is that the November meeting.

A lengthy discussion ensued in regards to speakers and topics for the winter meeting. After much consideration, the Council agreed to narrow the topics down to Vocational Rehabilitation issues and the proposed MAHS rules and their potential impact on our practice.

The format of the meeting will be similar to prior meetings.

Council next addressed the issue of the **annual meeting location**. We currently have a proposal from Shanty Creek. There was a discussion in regards to whether we wished to do a multi-year contract with one specific location or whether we wish to continue the rotation of different venues. Pros and cons were mentioned for both but as of now it appears we will continue to do it on an annual basis. Chairperson Housefield will contact Park Place Hotel in Traverse City and the Resort there as well for a quote. The Council would like to see greater participation and turnout at the meetings and are striving for ways to make that happen.

In regards to the **Subpoena issue** regarding medical records, that continues to be a problem. In the past, Council thought Jack Nolish was interested in helping us with the healthcare rules. However, since the rules appear dead in the water for this year, we are still dealing with the issue. Chairperson Housefield will contact Mr. Nolish to see if there has been any movement on the issues.

In regards to **New Business**, members Matt Conklin and Jason Chizick will look into developing a 1 to 5 year plan in regards to what we as the Council can do to make our practice better for members of our section. One suggestion was nametags for certain agencies that attorneys could purchase for better access.

Chairperson Housefield also inquired about our moving our annual meeting back to the Fall with the other sections. Those with school aged children noted possible difficulties with getting time away. One advantage mentioned was opportunities to network with attorneys and other areas of practice.

The next newsletter is due at the end of October 2014. Secretary Parker requested that articles be submitted on or before October 16, 2014.

Ms. Parker, seconded by Mr. Flynn, approved adjourning the meeting at 10:21 am, upon motion.

Respectfully Submitted,

Ella S. Parker, Secretary, Workers' Compensation Section