

Meeting Minutes

Tuesday, November 27, 2007 - 9:00 a.m.
30 West Spring Street, 30th Floor
Conference Room A

Present: Gary DiCeglie, Chairman
William Thompson, Commissioner
Kevin Abrams, Commissioner

Attendees: Patrick Gannon, Executive Director
Tim Adams, Director, Non-Adjudicatory Operations
Tom Connor, Director, Hearing Services
Rick Tilton, Hearing Officer Trainer
Paul Walker, Legal Counsel
Debbie Fodey, Administrative Assistant
Janet Lucktenberg, Administrative Assistant
Susan Murnane, Administrative Assistant
Rupi Singh, Administrative Assistant

Chairman DiCeglie called the meeting to order. Mr. Gannon called the roll.

Roll Call:	Chairman DiCeglie	Present
	Commissioner Thompson	Present
	Commissioner Abrams	Present

Old Business:

- (A) May 2, 2007 and May 3, 2007 Meeting Minutes: Commissioner Thompson moved to approve the minutes of the May 2, 2007 and May 3, 2007 meetings. Commissioner Abrams seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglie	Abstain
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

New Business:

- (A) Resolution No. R07-1-04 - Guidelines for Filing Notices of Appeal from Staff Hearing Officer Orders: The Commission members and staff discussed the proposed resolution. The proposed resolution expands the guidelines for permitting appeals to be heard to include new and changed circumstances, mistake of fact, mistake of law, and error by subordinate hearing officer. Chairman DiCeglie moved to adopt Resolution No. R07-1-04, effective December 1, 2007. Commissioner Thompson seconded the motion. Mr. Gannon called the roll:

Roll Call Vote: Chairman DiCeglio Yes
 Commissioner Thompson Yes
 Commissioner Abrams Yes

- (B) Hearing Officer Manual Memo C4 - Salary Continuation: The Commission members and staff discussed proposed Memo C4. The proposed change to Memo C4 is the result of Senate Bill No. 7. Proposed Memo C4 provides that prior to June 30, 2006, the waiting period for compensation under R.C. 4123.57 is forty weeks and for injuries that occurred or occupational diseases contracted on or after June 30, 2006, the waiting period is twenty-six weeks. Chairman DiCeglio moved to adopt Hearing Officer Manual Memo C4, presented as Option #3, effective December 1, 2007. Commissioner Abrams seconded the motion. Mr. Gannon called the roll:

Roll Call Vote: Chairman DiCeglio Yes
 Commissioner Thompson Yes
 Commissioner Abrams Yes

- (C) Hearing Officer Manual Memo G1 - PTD Not Concurrent with Scheduled Loss, Pre 11-16-73 Injuries: The Commission members and staff discussed Memo G1 and the State ex rel. Miller v. Industrial Commission (2002), 97 Ohio St.3d 418. Miller provides that compensation under R.C. 4123.58 shall be paid concurrently with scheduled loss benefits under R.C. 4123.57. Commissioner Abrams moved to delete the policy set forth in Hearing Officer Manual Memo G1, effective November 27, 2007. Commissioner Thompson seconded the motion. Mr. Gannon called the roll:

Roll Call Vote: Chairman DiCeglio Yes
 Commissioner Thompson Yes
 Commissioner Abrams Yes

- (D) Hearing Officer Manual Memo I1 - Continuing Jurisdiction - 10 Year and 5 Year Claims: The Commission members and staff discussed proposed Memo I1. The proposed change to Memo I1 is the result of Senate Bill No. 7. Proposed Memo I1 provides for dates of injury or disability prior to October 11, 2006, when there has been a payment of compensation, the claim is active for ten years from the date of last payment of compensation or the date of last payment of a medical bill, whichever is later. When the date of injury or disability is on or after October 11, 2006, the claim is active for five years from the date of last payment of compensation or a medical bill, whichever is later. The Commission members agreed to change the title to "Continuing Jurisdiction - 10 Years and 5 Years" and to change the word "where" throughout the memo to "when." The Commission members also agreed to delete the phrase, "and where there has been a payment of compensation under O.R.C. 4123.56, 4132.57, or 4123.58," from paragraph 2. Commissioner Abrams moved to adopt Hearing Officer Manual Memo I1, with the

changes noted, effective December 1, 2007. Chairman DiCeglio seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

- (E) Hearing Officer Manual Memo I3 - Last Payment of Compensation - Date on Face of Check: The Commission members and staff discussed proposed Memo I3. The proposed change to Memo I3 is the result of Senate Bill No. 7. The proposed change provides that the last date of payment of compensation is determined by the date on the face of the last check issued. The Commission members agreed to delete the language listed in the proposed memo and instead state, "When determining the date of last payment of compensation for purposes of R.C. 4123.52, use the date which appears on the face of the last check issued in payment of compensation." Chairman DiCeglio moved to adopt Hearing Officer Manual Memo I3 as discussed, effective December 1, 2007. Commissioner Abrams seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

- (F) Hearing Officer Manual Memo K4 - Overpayments, Reimbursement from the Surplus Fund and Recoupment Pursuant to O.R.C. 4123.511(K): The Commission members and staff discussed proposed Memo K4. The proposed change to Memo K4 is the result of House Bill No. 100. House Bill No. 100 contained a paragraph change in R.C. 4123.511 which renumbered former paragraph (J) to (K). Commissioner Thompson moved to adopt Hearing Officer Manual Memo K4, effective December 1, 2007. Chairman DiCeglio seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

- (G) Hearing Officer Manual Memo L4 - Review of District Dockets: The Commission members and staff discussed proposed Memo L4. The proposed change is due to the impact of ECM on Hearing Officers' review process. Commissioner Thompson moved to adopt Hearing Officer Manual Memo L4, effective December 1, 2007. Chairman DiCeglio seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

- (H) Hearing Officer Manual Memo O1 - Settlements - Finality and Abatement: The Commission members and staff discussed proposed Memo O1, including what constitutes good cause. The proposed change is the result of Senate Bill No. 7. The Commission members determined to review the matter further before acting on the proposed memo.
- (I) Hearing Officer Manual Memo S2 - Overpayment Policy: The Commission members and staff discussed proposed Memo S2. The proposed change to Memo S2 is the result of House Bill No. 100. House Bill No. 100 contained a paragraph change in R.C. 4123.511 which renumbered former paragraph (J) to (K). Commissioner Thompson moved to adopt Hearing Officer Manual Memo S2, effective December 1, 2007. Commissioner Abrams seconded the motion. Mr. Gannon called the roll:
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| Roll Call Vote: | Chairman DiCeglio | Yes |
| | Commissioner Thompson | Yes |
| | Commissioner Abrams | Yes |
- (J) Hearing Officer Manual Memo S11 - Request for Allowance of a Condition by Either Direct Causation or by Aggravation/Substantial Aggravation and Jurisdiction to Rule at Hearing: The Commission members and staff discussed proposed Memo S11. The proposed change to Memo S11 is the result of Senate Bill No. 7 and the issue of substantial aggravation for dates of injury or disability on and after October 11, 2006. The Commission members agreed to add the phrase "for dates of injury or disability" before the phrases "prior to October 11, 2006" and "on or after October 11, 2006." Commissioner Abrams moved to adopt Hearing Officer Manual Memo S11, with the changes noted, effective December 1, 2007. Chairman DiCeglio seconded the motion. Mr. Gannon called the roll:
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| Roll Call Vote: | Chairman DiCeglio | Yes |
| | Commissioner Thompson | Yes |
| | Commissioner Abrams | Yes |
- (K) Medical Examination Manual - Impartiality: The Commission members and staff discussed the proposed change to the Impartiality guidelines within the Administrative Policies Section of the Medical Examination Manual. One proposed change would provide that examiners are excluded from performing specialist examinations when they have examined the injured worker or reviewed the claim file within three years of the filing of an application for permanent total disability. Another proposed change would provide that examiners who have been the physician of record for the injured worker are excluded from performing specialist examinations. Chairman DiCeglio moved to adopt the revisions to the Impartiality guidelines contained within the Administrative Policies Section of the Medical

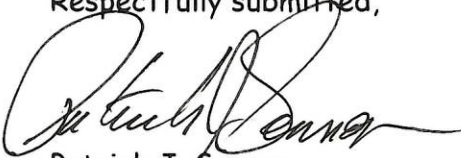
Examination Manual, as noted in "Exhibit A," effective December 1, 2007.
Commissioner Thompson seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

Commissioner Thompson moved to adjourn. Commissioner Abrams seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

Respectfully submitted,



Patrick J. Gannon
Executive Director