Workers' Compensation Board
Tuesday, November 19, 2024
10:00 a.m.

MEETING MINUTES

In-Person/By Zoom Staff: Joy Dougherty, Board Chair
Sally Curey, Board Member
Roger Ousey, Board Member
Moisés Ceja, Board Member
Jenny Ogawa, Board Member
Amanda Pletcher, Administrative Services Division Manager
Jacqueline Jacobson, Presiding Administrative Law Judge
Lauren Eldridge, Managing Attorney
Katelyn Crowe, Transcription Coordinator
Baaba Ampah, Personnel Contact
Sarah Lowry, Litigation Coding Coordinator

In-Person/By Zoom Attendees:

Elaine Schooler, SAIF Corporation
Ivo Trummer, SAIF Corporation
Aaron Clingerman, Dunn & Roy PC
Julene Quinn, Quinn & Heus Law
Maggie Gerlicher, Associated General Contractors
Christine Frost, Thomas Coon Newton & Frost

Call to Order
Chair Dougherty called the meeting to order. The public and WCB staff participated in this meeting by Zoom and in-person in the Salem office.

Roll Call
Katelyn Crowe, Transcription Coordinator, took roll, reflected in the attendee list above.

Approval of Agenda and Order of Business
Chair Dougherty asked for a motion to approve the agenda and order of business. Member Ogawa moved for approval of the agenda and order of business. Member Ousey seconded. Motion passed.

Approval of Past Minutes
Member Ceja moved for approval of minutes from the October 8, 2024, meeting. Member Ousey seconded. Motion passed.

Division Reports/Updates
There was no report for the Administrative Services Division.

There was no report for the Hearings Division.

There was no report for Board Review.

There was no report for WCB IT.

New Business

Discussion of the Biennial Review of Attorney Fee Schedules under ORS 656.388(4).
No written or verbal comments were received or made at the October 8 meeting regarding the Board's Biennial Review of Attorney Fee Schedules. To date, no comments had been received. Chair Dougherty opened the floor to the public and the Board for comment; none were made. Public comment of the biennial review is closed. The next biennial review of attorney fees will be in 2026. Chair Dougherty invited the public to provide feedback for future reviews.

Discussion and Presentation Regarding Attorney Fee Data
Sarah Lowry, Litigation Coding Coordinator, presented data she had gathered regarding the breakdown of attorney fees at the hearing level and on Board Review. WCB is attempting to be more specific in the data that it captures, which is currently not possible with its current data system.

Ms. Lowry created a spreadsheet that captures more data based on the issues from a Request for Hearing and attorney fees awarded per issue. The spreadsheet includes fee data from Disputed Claim Settlements (DCS). The spreadsheet allows the Board to capture modified fees. The Board's current system was only capturing a case's first order; this was problematic for cases that move up and down on appeal. Also, the Board's data system only allows the Board to gather partial data in regards to costs. With the spreadsheet, the Board is able to gather more complete data on costs. The Board's data system has not been able to capture the total fee award on cases with multiple WCB case numbers; however, with Ms. Lowry's spreadsheet the Board will be able to capture those total fees per order and per case.

Presiding Administrative Law Judge Jacqueline Jacobson asked Ms. Lowry whether fees per WCB case number are recorded as an average if there are multiple case numbers in an Opinion and Order (O&O). Fees typically are not delegated to each case number in an O&O. Ms. Lowry responded that averaging the fee per case number is what the system currently allows, but with the spreadsheet they are adding the total per order statistics.

With regard to the Board Review attorney fee data spreadsheet, datapoints are very similar to that of Hearings Division. There is a notation that distinguishes Orders of Dismissal from other Board Review orders. Currently, the Board's system doesn't allow for the fee to be broken down by issue if there are multiple issues in a Board order. Ms. Lowry also shared that she is averaging the fee per case number if there are consolidated case numbers and the fee isn't broken down by issue or case number. Out-of-comp fees (typically in a DCS), unrepresented claimant (where no attorney fee is awarded), or "no fee when expected" are also distinguished on the spreadsheet. With the current system, the Board is unable to track Court of Appeals and

Supreme Court fees, so Ms. Lowry will be collecting that data in her spreadsheet when appellate judgments are received by the agency. Doing this will allow the Board to track the fees for the life of the case. At this time, WCB's data system is unable to capture data when costs are awarded on Board Review. Ms. Lowry is collecting these Board Review costs statistics (if awarded in a specified amount) in her data spreadsheets. With the current data system, the Board can gather some data on reduction of fees on Board Review (when the Board reduces the fee awarded at the hearings level). However, the system does not provide the desired level of detail but the spreadsheet is able to capture why a fee was reduced and if there was more than one fee reduced in an order. The spreadsheet is also able to show when there is a fee between multiple cases or a fee that includes both Board and hearings level fees.

Attorney Julene Quinn had a questions regarding the data statistics for Orders of Dismissal and costs. Her first question was about what type of Order of Dismissal is being used in the Order of Dismissal data column. Ms. Quinn mentioned that the Board issues many kinds of Orders of Dismissal. Ms. Lowry responded that the Orders of Dismissal she is using are ones where no issues are resolved. If there is an issue, the fee is tracked. Ms. Quinn's next question was about where the Board was pulling the cost data from. Was it from the Court's appellate judgment? Chair Dougherty responded that because of delays in receiving appellate judgments from the Court, the Board is not tracking appellate judgment data in its system. Chair Dougherty further added that the cost data comes from settlement documents. Ms. Lowry confirmed that the cost data is from settlement documents only, since Orders on Review do not specify the amount of costs.

Chair Dougherty concluded the discussion on attorney fee data and statistics by thanking Sarah Lowry for all of her work and continued work in gathering this specific data.

General Public Comment
Julene Quinn thanked the Board for their work with the biennial attorney fee statistics.

Announcements
None were made.

Adjournment
Chair Dougherty asked for a motion to adjourn. Member Ogawa moved to adjourn. Member Ousey seconded. Motion carried. Meeting was adjourned.