



# Information Item

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**Date: March 17, 2014**

To: Mayor and City Council  
From: Gigi Decavalles-Hughes, Director of Finance  
Subject: FY 2013-14 Mid-Year Workers' Compensation Report

## **Introduction**

The purpose of this item is to provide the City Council with an overview of how the City's Workers' Compensation Program performed during the first half of FY 2013-14, and includes information on: 1) medical and indemnity payments; 2) claim settlements approved by staff; and 3) general claim and cost trends as required by the Workers' Compensation Settlement Authority and Reporting of Benefit Payments Administrative Instruction.

## **Discussion**

The Risk Management Division of the Finance Department is responsible for providing semi-annual reports to the City Council on workers' compensation medical and indemnity payments, approved settlements and general claim and cost trends. This information is provided below.

- **Medical and Indemnity Payments.**

City employees injured while carrying out assigned job duties are entitled to workers' compensation benefits. This means the City, as the employer, must pay for all medical treatment in connection with the injury and provide indemnity payments to offset lost wages and/or the residual impact of the injury (i.e., any permanent losses in physical functioning, such as lost range of motion, lost hearing, etc.).

The City spent approximately \$3.8 million on medical treatment and indemnity payments for injured employees during the first half of FY 2013-14. Medical costs comprised \$2 million of this figure (e.g., doctor visits, diagnostic tests, inpatient and outpatient hospital stays, prescription drugs, etc.). Indemnity payments in the amount of \$1.8 million comprised the balance. These payments are split between temporary disability (payment for lost wages) and permanent disability (the residual impact associated with an injury), at \$800,000 and \$1 million respectively.

- **Settlements.**

Once a doctor declares an employee's injury to be "permanent and stationary," the City can engage in claim settlement negotiations. The phrase "permanent and stationary" means the employee's medical progress has stabilized and additional treatment is not likely to improve or worsen the injury.

The City can settle workers' compensation claims through one of two options: a stipulation agreement or a compromise and release agreement. Injured workers still employed with the City at the time of claim settlement are offered a stipulation agreement. This agreement establishes the permanent disability payment owed the employee and identifies any future medical treatment the employee is entitled to for the remainder of his/her life in connection with the injury. A compromise and release agreement is only offered to injured workers no longer employed with the City at the time of claim settlement. This agreement allows the City to offer a lump sum payment to the injured worker to close out his/her claim. This approach can be financially advantageous if the injured worker is willing to accept a lesser settlement in exchange for the one-time payment. Injured workers no longer employed at the City at the time of claim settlement can also elect to pursue a stipulation agreement.

The Risk Manager has been delegated authority by the City Manager to approve all claim settlements up to \$15,000. Settlements in excess of \$15,000 must be approved by the City Manager as authorized by the Municipal Code. Additionally, while not required by the Municipal Code, the Risk Manager began formally incorporating the City Attorney into the settlement review process this past year. The City Attorney's Office now reviews all compromise and release agreements before forwarding to the City Manager's Office for approval.

During the first half of FY 2013-14, 48 claims were settled. Of that figure, 11 were settled via Compromise and Release Agreements for a total of \$575,000; 36 were settled via Stipulation Agreements for a total cost of \$636,263; and 1 was dismissed. This compares to 27 settlements in the first half of the prior year.

- **General Claim and Cost Trends.**

The City's workers' compensation expenses continue to grow. Staff predicts this trend will continue into the next two-year budget cycle and result in higher contributions to the Workers' Compensation Self Insurance Fund. The cost increases are driven by both internal and external factors. Internally, claim filings are the primary driving force; the City received 13% more claims during FY 2012-13 (i.e., from 308 to 349). Further, claim filings for the first half of FY 2013-14 are 9% ahead of the prior year.

Reversing this trend in the short-term will be challenging, if not impossible. Many claims appear to be the result of an aging workforce (particularly in Police and Fire); a natural cycle over which the City has little control. Additionally, major ongoing organizational changes taking place at the Big Blue Bus appear to be spurring higher claim filings. Claim frequency began spiking in FY 2011-12 and has yet to ease. This time period coincides with the introduction of a variety of significant operational changes in the department (e.g., new work schedules, new attendance and leave usage policies, new job performance standards, etc.).

Some employees have not adjusted to these changes and may have filed injury claims in response to them. If so, the increase in claims may persist for a time, until the organization as a whole has adjusted to the operational changes.

External forces are also taking a toll. The State continues to increase the maximum weekly temporary disability benefit; this rate has increased by 11% in the last five years. Further, the Workers' Compensation Reform legislation approved by the State Legislature in late 2012 increased the permanent disability payment schedule by 30% over a two-year period. Unfortunately, the "reform savings" the State predicted would offset this increase have not yet materialized. The majority of the reforms focus on making the workers' compensation system more efficient, and over time, should allow employers to resolve claims more quickly and spend less money on overhead related expenses. While these changes are certainly welcome, they don't address the key cost drivers in workers' compensation: medical expenses and indemnity payments (i.e., temporary disability and permanent disability payments).

- **Cost Control Efforts**

Despite these discouraging trends, staff's efforts to control costs have made a positive impact. For example, the City's total open claim inventory has fallen significantly in the last 18 months in spite of spiraling claim filings. This is due to maintaining an outstanding claim closure rate; a key industry best practice for controlling costs. The Risk Management Division has also been able to keep temporary disability costs in check by returning injured employees to modified positions while recovering from injuries. The program is on-track in the current year to save \$300,000 over FY 2010-11 levels (the base year for comparison purposes). This is a significant achievement in light of regular state-mandated increases to the maximum weekly temporary disability rate, a large increase in new claim filings, and increasing claim severity due to an aging workforce.

The City also revamped the medical bill review process and staff selected a new medical bill review provider this past year. This change is expected to increase medical bill savings by \$100,000 to \$200,000 per year starting in FY 2013-14. Further, the Risk Management Division implemented a pilot pre-placement functional testing program for bus drivers. Under this program, bus driver candidates are put through a battery of job specific physical tests to determine whether they can safely carry out the essential functions of the position. The testing process also records the candidate's physical capabilities at the time of hire. Over time, this program should improve employee safety and save money on workers' compensation claims. To date, three classes of bus driver candidates have undergone functional testing; the next class will take place in March 2014. Staff from the Risk Management Division and Human Resources Department intend to expand the program to all physically demanding job classifications in the coming year.

### **Summary**

Risk Management staff continues to manage claims in accordance with industry best practices and implement effective cost containment measures in an effort to stem the rising workers' compensation expenses. In short, the City is controlling what it can. These efforts, however, are not sufficient to offset the financial impact of the internal/external factors dogging the program. Given this, Risk Management staff expects the City's workers' compensation costs to continue to rise. Further, there are no "magic bullets" to reverse this trend in the short-term, and as such, the City can expect to increase its contribution to the Workers' Compensation Self Insurance Fund during the next two-year budget cycle.

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