



# Information Item

**Date: September 15, 2014**

To: Mayor and City Council  
From: Gigi Decavalles-Hughes, Director of Finance  
Subject: FY 2013-14 Year-End 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 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 \$6.9 million on medical treatment and indemnity payments for injured employees during FY 2013-14. Medical costs comprised \$3.6 million of this figure (e.g., doctor visits, diagnostic tests, inpatient and outpatient hospital stays, prescription drugs, etc.). Indemnity payments in the amount of \$3.3 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 \$1.6 million and \$1.7 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.

During FY 2013-14, 86 claims were settled. Of that figure, 24 were settled via Compromise and Release Agreements for a total of \$742,000; 60 were settled via Stipulation Agreements for a total cost of \$981,788; and 2 were dismissed. This compares to 55 settlements in the prior year.

- **General Claim and Cost Trends.**

Workers' Compensation costs grew by 12% or \$850,000 over FY 2012-13 levels. 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. Higher medical and indemnity payment costs are the primary factors driving the increase. Medical costs rose by \$650,000 due to a combination of high claim frequency and severity. Claim frequency has remained high; this impacts medical costs through more doctor visits, diagnostic tests, and prescriptions. Further, older employees in physically demanding jobs are experiencing more severe injuries. This requires more costly and intensive medical treatment (e.g., back surgeries, knee replacements, etc.). Relative to indemnity payments, the Workers' Compensation Reform legislation enacted by the State in 2012 increased the permanent disability benefit payment schedule by 30% over a two year period. This element of the "reform" legislation is extremely costly and will continue to adversely impact the program.

The administrative costs to manage the program have remained relatively stable with the exception of outside legal defense costs. These expenses continue to rise (11% over the past year) due to the number of claimants who obtain

attorneys. If a claimant obtains legal representation, the City is obligated, in turn, to hire an attorney to represent our interests.

- **Cost Control Efforts**

Despite these discouraging trends, staff's efforts to control costs have made a positive impact. For example, staff has been able to keep temporary disability costs in check by returning injured employees to modified positions while recovering from injuries. The program saved \$220,000 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, the number of claim filings, and increasing claim severity due to an aging workforce. Staff has also been able to keep the open claim inventory stable despite high claim frequency and staff shortages (i.e., two employees in the Workers' Compensation Unit were out on extended non-industrial medical leaves).

The City also revamped the medical bill review process and selected a new medical bill review provider this past year. The new provider enables the City to obtain better pricing on medical procedures through accessing more cost-effective insurance plans. The impact of this change is difficult to see in light of the \$650,000 increase in medical expenses noted above. Absent a new medical bill provider, however, medical costs would have increased by another \$100,000 to \$200,000 during FY 2013-14. Staff also 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. Staff expects to expand the program to all physically demanding job classifications during the next two year budget cycle.

## **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. 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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