



Information Item

Date: May 26, 2015

To: Mayor and City Council
From: Gigi Decavalles-Hughes, Director of Finance
Subject: FY 2014-15 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 2014-15, 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 2014-15. Medical costs comprised \$1.8 million of this figure (e.g., doctor visits, diagnostic tests, inpatient and outpatient hospital stays, prescription drugs, etc.). Indemnity payments of almost \$2 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 \$640,000 and \$1.32 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. 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 (staff obtains City Attorney approval of compromise and release settlements prior to seeking City Manager approval). All settlements are then reported to the City Council as part of this twice-yearly Information Item (see below).

During the first half of FY 2014-15, 50 claims were settled. Of that figure, six were settled via Compromise and Release Agreements for a total of \$99,100 and 44 were settled via Stipulation Agreements for a total cost of \$526,795. This compares to 47 settlements in the first half of the prior year.

- **General Claim and Cost Trends.**

Workers' compensation claim frequency (i.e., new claims filed) fell by 15% during the first half of FY 2014-15 when compared to the same period in the prior year. This is good news after three straight years of significant growth in claim frequency. The Big Blue Bus (BBB) was responsible for the majority of the decline; claim frequency remained relatively stable for the rest of the City. The claim severity rate (i.e., indemnity or "lost time" claims as a percentage of total claims filed) remained steady at the six month mark. A little over half (53%) of the new claims filed between July 1, 2014 and December 31, 2014 resulted in employee lost time (i.e., employee was off work due to injury). This compares to 54% in December of, 2013.

On the financial side, workers' compensation total program liabilities (i.e., the value of all open claims from 1979 forward) increased from \$23 million to \$23.6 million during the first six months of the fiscal year. The \$600,000 in growth occurred across the City, but the Police Department comprised the largest portion. Current year program expenses at the six month mark were only slightly ahead of schedule when compared to the prior year period. However, the

underlying data shows the City is on track to exceed its FY 2013-14 temporary disability costs by \$850,000.

The Police Department is the primary driving force behind the spike in temporary disability costs. Eighteen department employees have undergone surgery for work-related injuries since July 2014; up from eight in the prior year. This is particularly costly for the Police Department as the majority of the surgeries involve sworn officers who receive 100% of their pay while off work recovering from injuries (as compared to non-sworn personnel who receive 66% of their pay) and whose absences must be backfilled to maintain patrol staffing levels, thereby increasing overtime costs. Additionally, officers are staying off work longer to recuperate from injuries. Staff attributes both the number of surgeries and longer recovery times to an aging workforce. Almost 40% of the City's sworn police officers are over 45 years old.

- **Budget Impact**

In the short-term, workers' compensation costs are expected to continue to grow. The City's contribution to the Workers' Compensation Self-Insurance Fund will increase by 30% (\$3 million) in FY 2015-16, and this is on top of an additional \$5 million contribution to the Fund made in mid-FY 2014-15. This funding will cover the unexpected and unprecedented growth in claims costs that has occurred over the past two-and-a-half years, and provide the financial means to sustain more normal claim growth patterns come FY 2016-17.

- **Cost Control Efforts**

Risk Management continues to pursue all available tools to help control the City's workers' compensation costs. Recent efforts include implementation of a pilot program in the Police Department aimed at reducing the number of litigated workers' compensation claims. Many injured workers opt to hire private attorneys and litigate their claims due to frustration with the workers' compensation system

(e.g., it moves slowly, it's confusing, it's bureaucratic, it's adversarial, etc.). Bringing attorneys into the mix, however, only serves to slow the process further and increase the cost of claims exponentially. This is best illustrated by the California Workers' Compensation Institute's (CWCI) 2014 study that found on average a litigated workers' compensation claim costs approximately \$56,000 more to resolve than the same non-litigated claim.

The CWCI's findings prompted Risk Management to develop a pilot program that offers frustrated employees an alternative to litigating claims. The Police Department was selected as the pilot site due to its size and the fact that it generates nearly half of the City's total program liabilities. Under the program, employees willing to forego attorneys are provided with comprehensive case management services from Risk Management staff that focus on timely provision of medical care and speedy resolution of claims in as hassle-free an environment as possible. This service delivery model goes beyond what an employer is required to do by law for injured workers. However, if the pilot is successful, program costs will be offset many times over by savings in medical expenses, temporary and permanent disability expenses and legal expenses.

The pilot has been in place since July 2014, and during its first six months, the Police Department saw seven fewer litigated claims than in the same period of the prior year. If the CWCI study's figures are accurate, this could ultimately save the City almost \$400,000 over the life of the seven claims. Given this success, funding has been requested in the FY 2015-17 budget to expand the program to the Fire Department.

Risk Management is also exploring opportunities with BBB to increase its capacity to provide temporary "light or modified duty" jobs to injured workers while they recover from injuries. Historically, BBB has struggled with providing its eligible injured employees with light or modified duty assignments within its

organization or in other departments across the City. This means that between eight to ten employees consistently remain off work collecting temporary disability when they could be engaged in productive activities that benefit the City. Not only does this increase the BBB's temporary disability costs, countless studies have shown that recovery times are longer for employees who stay home to recuperate from injuries. Given this situation, Risk Management has identified a program that places injured employees with local non-profits while they recover from injuries. There are many details to work out, but, if successful, the City will be positioned to offer more eligible BBB injured workers with modified or light duty assignments.

Risk Management also continues its efforts with the Department of Human Resources to expand and make permanent the City's pilot pre-employment functional testing program. The pilot program has focused on Motor Coach Operator job candidates only. These job 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 will improve employee safety and save money on workers' compensation claims. Staff plans to extend functional testing to all physically demanding job classifications once the essential function job analyses update project is complete and a vendor to carry out the testing on-site is selected. This is estimated to take another 18 months.

Finally, Risk Management is in the process of replacing its automated claims management system. This system is essential to Risk Management's operation. The current system software relies on technology developed 20 years ago. Given the advancements that have taken place during this period, staff anticipates that the new claims management system will offer a variety of tools to enhance the claim's examiners' efficiency and effectiveness.

Summary

The significant decline in claim frequency represents one of the few positive developments the City has experienced relative to workers' compensation for quite some time. If this can be sustained while some of the cost control efforts discussed in the previous section take hold, the City has reason to be cautiously optimistic that workers' compensation costs will stabilize over the long-term. However, should normalization of claim growth not occur, the City should be prepared for continued increases in workers' compensation costs.

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