



Information Item

Date: October 14, 2015

To: Mayor and City Council
From: Gigi Decavalles-Hughes, Director of Finance
Subject: FY 2014-15 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 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 \$7.6 million on medical treatment and indemnity payments for injured employees during FY 2014-15. 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 of \$4 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 \$2.6 million and \$1.4 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 FY 2014-15, 98 claims were settled. Of that figure, 17 were settled via Compromise and Release Agreements for a total of \$502,291 and 81 were settled via Stipulation Agreements for a total cost of \$1,342,618. This compares to 86 settlements in the prior year.

- **General Claim and Cost Trends.**

Workers' compensation claim frequency (i.e., new claims filed) fell by 2.3% during FY 2014-15 when compared to the prior year. This is encouraging 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), however, inched up again by year's end. Almost 60% of the new claims filed during FY 2014-15 resulted in employee lost time (i.e., employee was off work due to injury). This compares to 55% in the prior year.

On the financial side, workers' compensation program liabilities (i.e., the value of all open claims from 1979 forward) totaled \$25.7 million as of June 30, 2015; up from \$23.3 million in the prior year. The vast majority of the growth occurred in BBB and the Police Department. Relative to BBB, total liabilities increased due to actions of the Workers' Compensation Appeals Board; the Board overturned the City's decision to deny several claims (i.e., it was the City's position the injuries were not work-related). As a result, the City had to reimburse the employees for their temporary disability benefits during the period they were off work and revalue their claims to include current and future medical costs and permanent disability costs. In the case of the Police Department, total liabilities increased due to

medical and temporary disability costs associated with an upswing in the number of employee surgeries this past year to address work-related injuries.

Overall FY 2014-15 program expenses were 9% higher than the prior year. This is exclusively due to higher temporary disability expenses. And, as noted earlier, the Police Department is the primary driving force behind the increase. Twenty-four department employees underwent surgery for work-related injuries during FY 2014-15. This compares to 11 surgeries 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. As included in the FY 2015-16 Adopted Budget, 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 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. Current efforts include implementation of the "Wow, That's Fast" comprehensive case management program in the Police Department.

This program is helping to reduce the number of litigated workers' compensation claims, which in turn, will reduce program costs by lowering medical expenses, temporary and permanent disability expenses and legal expenses. The program has been in place since July 2014, and during its first year, the Police Department saw 12 fewer litigated claims than the prior year. It is too soon to calculate program savings, but if the 2014 California Workers' Compensation Institute's study figures are accurate, this could ultimately save the City \$672,000 over the life of the 12 claims. Funding was included in the FY 2015-17 Financial Plan to expand the program to the Fire Department; implementation is expected before calendar year's end.

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 12 to 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 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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