

STATE OF NEW MEXICO  
ADVISORY COUNCIL ON WORKERS' COMPENSATION  
AND OCCUPATIONAL DISEASE DISABLEMENT  
\*\*MINUTES\*\*

MEETING DATE: January 25, 2024  
GSD, Joseph Montoya Bldg., Room 1004, Santa Fe, NM 87

Members Present: Darrell Deaguero, Courtenay Eichhorst, Marni Goodrich, and Director Robert Doucette, as ex-officio. Absent: Buffy Jackson, Sara Ranney,

1. Call to Order and Introductions: 2 p.m. Chair Goodrich asked all present at the meeting to introduce themselves.
2. Approval of agenda: Darrell Deaguero made a motion to approve the agenda, seconded by Courtenay Eichhorst. Agenda approved.
3. Approval of minutes: Darrell Deaguero made a motion to approve the minutes from the November 16, 2023, meeting, seconded by Courtenay Eichhorst. Minutes approved.
4. Approval of Open Meetings Resolution: Darrell Deaguero made a motion to approve the Open Meetings Resolution, seconded by Courtenay Eichhorst. Resolution approved.
5. Status of Agency report:  
WCA Director Robert Doucette welcomed attendees – both in person and via teleconference – to the conference room offered by GSD for the day's meeting. He announced for those who might not have read in local media that the agency's newest judge is Ned Fuller, who will return to the WCA, having served previous terms as a deputy director, director and judge. It is the first time the WCA will have six judges. February 17 will be Fuller's start date.  
He also said that the agency is close to finalizing a new logo, and when that is completed, it will be sent out. Doucette introduced WCA Santa Fe staff attending in person.  
Doucette reported on the WCA's budget hearing before the House Appropriations & Finance Committee, held Wednesday, January 10, saying that it was over an hour presentation with lots of good questions. There were two main differences between the Department of Finance Administration (DFA) and Legislative Finance Committee (LFC) budgets: First, the WCA asked for an FTE for an ombudsman in its Santa Fe office; and second, the WCA asked for increase in the 200 category (staff salaries). The WCA is currently projecting a little more than \$11 million for salaries for the current fiscal year; last year, the WCA received \$10.3 million for the 200 category. The WCA submitted a budget adjustment request (BAR), which was for 5 percent of the budget, roughly \$665 thousand, which will cover the difference. The budget request for FY25 still did not give the agency what it currently projected to spend in this fiscal year. The committee accepted the LFC proposed budget with a caveat, which is to do a supplemental committee hearing. During the hearing, Rep. Tara Lujan (D-Santa Fe), Rep. Art De La Cruz (D-Bernalillo) and Rep. Brian Baca (R-Valencia) agreed to look at those two items – the difference in the 200 category and

the additional FTE. Doucette noted that both proposed (DFA & LFC) budgets included the \$1 million to be taken – which makes the total taken thus far \$42 million since 2003 for the Department of Workforce Solutions. Doucette explained that currently the WCA has about \$2.5 million in reserve funds, and that if the agency runs short in its 200 category, it will request another BAR to cover the difference. The WCA predicts that by around FY25 or FY26, the WCA will be out of its reserve funds. Looking back to 2017, the WCA had roughly \$12 million in reserves. There have been salary adjustments done by the State Personnel Office for certain employee classifications, like attorneys and IT staff, that the agency won't be able to adjust given its current budgetary constraints.

Doucette reported that there are no workers' compensation-related bills before the legislature this session, but the agency's staff is watching for any to be introduced before the deadline.

WCA General Counsel Michael Holt then gave an update on the HM83 Task Force which has been studying the statutory fee cap of \$22,500 for attorneys in workers' compensation cases. He explained that there are two cases from the WCA's court that got appealed to the state appellate courts – one issue raised is whether the current fee cap violated due process; the other case raises the question whether the fee cap is unconstitutional. The New Mexico Supreme Court accepted certiorari on both appeals. Several parties filed "friend of the court" briefs. The outcomes of those appeals matter, Holt explained, because the task force is charged with making recommendations on the fee cap. The Task Force is nonetheless working on its final report to be delivered to this Advisory Council by April 30, 2024, said Holt. The next Task Force meeting will be February 20 by Zoom to review the first draft of the report. Doucette intervened to say that all the work of the Task Force thus far is available on the WCA's website.

6. Legislative Subcommittee Update

Council Chair Goodrich said the subcommittee has met several times, with much of the focus on developing a pamphlet to be used by Council members to hand out to educate legislators on the Council's purpose, and thanked WCA staff for assisting.

7. Public Comment

New Mexico Mutual General Counsel Jeremiah Ritchie said two bills, House Bill 6 (Paid Family and Medical Leave Act) and House Bill 11 (Paid Family and Medical Leave Insurance Act) may have implications for workers' compensation that may create an issue.

8. Next Meeting

The next Advisory Council meeting will be at 2:30 p.m., Thursday, March 14, 2024, at the WCA in Albuquerque.

9. Adjourn

Deaguero made a motion to adjourn the meeting, seconded by Eichhorst. The meeting was adjourned at 2:36 p.m.