

REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

Monday, March 23, 2015
1:30 p.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

AGENDA

CALL TO ORDER **Mr. Wilson, Chair**

ROLL CALL..... **Mr. Wilson, Chair**

NOTICE OF COMPLIANCE..... **Holly Miller**

MINUTES

The drafted Minutes of Special Commission Meeting on February 25, 2015, will be considered for approval.

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION.

1. Proposed Commission Approval of Group Self-Insurance Application for New Membership

Commission Rule 810:25-11-3 states a new membership to a self-insurance group may not become effective without Commission approval. All applications for membership are filed with the Commission. The application includes evidence of the execution of the indemnity agreement, power of attorney, and joint and several liability agreement, as required by 810:25-11-15, with signed approval of the applicant by the association, and is accompanied by a current balance sheet and income statement. The Commission will consider approving the following applicants to the respective self-insurance group associations to which they are applying for membership:

**Oklahoma Automobile Dealers Self-Insurance Association (#75058)
Motors of Tulsa on Yale, LLC**

**Oklahoma Health Care Association (# 75175)
Harmony Home Care, Inc.**

Possible Action:

Possible action may include, but is not limited to: taking no action, continuing the matter, or approving some, all or none of the applications for new members to the respective associations.

2. Discussion and Consideration of Adoption of Proposed Emergency Rules

If approved by the Governor, the proposed Emergency Rules are considered promulgated and effective upon the Governor's signature and no later than twenty (20) days after the Commission's adoption of the rules. To qualify as an emergency rule, the proposed rules must meet one of the requirements set forth in 75 O.S. § 253(A).

The proposed Emergency Rules for Chapter 10 are necessary as emergency measures under 75 O.S. § 253(A)(1)(c), avoiding violation of state law. The proposed emergency rules will bring the Commission's rules in compliance with its statute, Title 85A, and orders of the Supreme Court of the State of Oklahoma. The proposed Emergency Rules for Chapter 15 are necessary under 75 O.S. § 253 (A)(1)(a), to protect the public health, safety or welfare. The proposed rules provide for a prescribing doctor or pharmacy an ability to obtain a medical interlocutory order in instances where preauthorization denials of a previously prescribed and dispensed drug excluded from the closed formulary poses an unreasonable risk of a medical emergency. If adopted by the Commission and approved by the Governor, the Emergency Rules will be effective through September 14, 2015, unless superseded by another rule or disapproved by the Legislature. The Commission will consider approving the proposed Emergency Rules.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; approving some, all, or none of the Emergency Rules as proposed by staff after the comment period; or approving amended rules.

3. Discussion and Consideration of Adoption of Proposed Permanent Rules

The Commission's current Emergency Rules are effective until September 14, 2015. It is necessary for the Commission to have permanent rules in place when the Emergency Rules expire. The Commission's thirty day (30) day comment period ran from January 15, 2015 through February

16, 2015 and a public hearing was held on February 18, 2015. The Commission will consider adopting the proposed Permanent Rules. If the proposed Permanent Rules are adopted and submitted for legislative review on or before April 1, 2015, the Legislature will have until the end of the 2015 legislative session to approve or disapprove the rules. Permanent rules are effective ten (10) calendar days after publication in The Oklahoma Register.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; approving some, all, or none of the Permanent Rules as proposed by staff after the comment period; or approving amended rules.

4. Discussion and Consideration of Adoption of Proposed Commission Forms

Title 85A O.S. § 22 provides before the adoption, amendment or modification of any form, the Commission shall give thirty (30) days' notice of its intended action and provide an opportunity for public comment, following the rulemaking process. The Commission's thirty day (30) day comment period ran from January 15, 2015 through February 16, 2015 and a public hearing was held on February 18, 2015. The Commission will consider adopting the proposed forms that provide necessary modifications to current forms and include new forms to provide for processes not currently addressed by the existing forms. The proposed forms can be viewed on the website or by following the link: [http://ok.gov/wcc/Resources/Proposed Forms \(January 2015\)/index.html](http://ok.gov/wcc/Resources/Proposed_Forms_(January_2015)/index.html).

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; approving some, all, or none of the Commission Forms as proposed; or approving amended forms.

5. Consent Agenda for Travel Vouchers Currently Outstanding

85A O.S. §23 states any commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission. In accordance with this section, the Commission will consider a vote to approve the currently outstanding vouchers.

All vouchers listed within this Consent Agenda have been made available to each Commissioner prior to today's meeting, are considered routine, and will be enacted by one motion of the Commission. If separate discussion is desired, that item may be removed from the Consent Agenda and separately voted upon.

Possible Action:

Possible action may include, but is not limited to: taking no action; approving some, all or none of the vouchers listed in this Consent Agenda; continuing the matter.

6. Consent Agenda for Payments Made from the Workers' Compensation Fund Currently Outstanding

85A O.S. §22(A)(5) states that all expenditures in the administration of the act shall be allowed and paid from the Workers' Compensation Fund on the presentation of itemized vouchers approved by the Commission. In accordance with this section, the Commission will consider a vote to approve the currently outstanding vouchers.

Possible Action:

Possible action may include, but is not limited to: taking no action; approving some, all or none of the vouchers listed in the Consent Agenda; continuing the matter.

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION.

7. Reports

THE FOLLOWING REPORTS ARE PRESENTED FOR INFORMATIONAL PURPOSES ONLY. NO ACTION WILL BE TAKEN.

Report from Andrea Bair, Deputy Insurance Services

Andrea Bair will report on the individual own risk employer permits issued by the Insurance Division and provide an overview of the security required to be posted by those employers.

8. Possible Executive Session for Confidential Communications Between the Commission and Its Attorneys Concerning Pending Claim with Penloyd, LLC and F&M Bank & Trust Company; Ongoing Investigation by Commission's Compliance Division Involving A to Z

Recycling LLC; and the Ongoing Investigation by Commission's Compliance Division and Related Ongoing Bankruptcy Involving Texoma Peanut Company, Pursuant to Title 25 O.S. § 307(B)(4)

Pursuant to 25 O.S. § 307(B)(4), an Executive Session is proposed for the purpose of conducting confidential communications between the Commission and its attorneys concerning pending claim with Penloyd, LLC and F&M Bank & Trust Company; ongoing investigation by the Commission's Compliance Division involving A to Z Recycling LLC; and the ongoing investigation by the Commission's Compliance Division and the bankruptcy involving the Texoma Peanut Company, a former self-insured.

The Commission's counsel from the Attorney General's Office has advised that public disclosure of the communications relating to these investigations and bankruptcy will seriously impair the ability of the Commission and its counsel to take appropriate action related to the ongoing investigations and bankruptcy proceeding and to protect the employees of both businesses.

9. Possible Executive Session Pursuant to Title 25 O.S. § 307(B)(1) for the purpose of discussing the hiring, salary or employment of the Candidate A, Candidate B, Candidate C and/or Candidate D and/or Candidate E for the position of Commission ALJ; and for the purpose of discussing employment evaluations, promotion, or performance of Commission's Administrative Law Judges: Shane Curtin, Mike Egan, Tara Inhofe and Tish Sommer

A. Motion and Vote to:

(i) Determine that disclosure of the communications will seriously impair the ability of the Commission to take appropriate action in pending claim with Penloyd, LLC and F&M Bank & Trust Company; the ongoing investigation of A to Z Recycling LLC; and the ongoing investigation and bankruptcy proceeding of Texoma Peanut Company; and

(ii) Go into Executive Session for purposes of:

a. Discussing the pending claim with Penloyd, LLC and F&M Bank & Trust Company; ongoing compliance investigation of A to Z Recycling LLC; and ongoing investigation and bankruptcy of Texoma Peanut under §307(B)(4); and

b. Discussing the hiring, salary or employment of the Candidate A, Candidate B, Candidate C and/or Candidate D for the position of Commission ALJ; and discussing the employment evaluations, promotion, or performance of

the Administrative Law Judges Shane Curtin, Mike Egan, Tara Inhofe and Tish Sommer, under § 307(B)(1).

B. Vote to Reconvene in Open Session

Possible Action:

- a. Possible action may include but is not limited to taking no action; continuing the matter; or instructing counsel to take any necessary actions in the pending claim with Penloyd, LLC and F&M Bank & Trust Company as discussed and recommended by counsel in Executive Session.
- b. Possible action may include but is not limited to taking no action; continuing the matter; or instructing counsel to take any necessary actions in the A to Z Recycling LLC compliance investigation case as discussed and recommended by counsel in executive session.
- c. Possible action may include but is not limited to taking no action; continuing the matter; or instructing counsel to make any necessary filings in the bankruptcy proceeding; or taking other actions as discussed and recommended by counsel in Executive Session.
- d. Discussion and possible action on hiring, salary or employment of future ALJ position as discussed in Executive Session.
- e. No action is anticipated nor will be taken by the Commission with regard to the employment evaluations, promotion or performance of Commission's Administrative Law Judges Shane Curtin, Mike Egan, Tara Inhofe or Tish Sommer.

10. Announcements

Commission's next regularly scheduled meeting has been rescheduled for April 14, 2015.

ADJOURNMENT.....Mr. Wilson, Chair

TRAVEL	Invoice No.	Amount	Voucher No.
Tara Inhofe	Travel022515	63.38	1256
Tara Inhofe	Travel021815	63.09	1257
Tara Inhofe	Travel031115	64.68	1287
Michael Egan	Travel021815	61.20	1258
Michael Egan	Travel031115	62.79	1286
Bryce Hill	Travel030515	128.55	1273
Patricia Sommer	Travel022515	61.69	1302
Denise Engle	Travel031115	55.4	1303

INVOICES	Invoice No.	Amount	Voucher No.	Invoice Date	Billed Month
200 Funds					
OMES - OK Web Bill	0002150091	1,059.98	1154	2/1/2015	Jan. 2015
Summit Mailing	INSM090939	257.19	1251	7/31/2014	Jul. 2014
Summit Mailing	INSM092032	257.19	1252	9/2/2014	Aug. 2014
Summit Mailing	INSM093138	257.19	1253	10/3/2014	Sept. 2014
Summit Mailing	INSM098173	257.19	1254	3/2/2015	Feb. 2015
AT&T OneNet	1161510069	3.75	1255	2/1/2015	Feb. 2015
OMES - 865/369 Split	OT00000813	8,092.17	1250	3/6/2015	Applied Comp
MailFinance	H5194711	304.50	1262	2/27/2015	Meter-Mar
Summit Mailing	INSM097144	257.19	1263	2/2/2015	Jan. 2015
OMES-IT Services	IT00004781	639.84	1260	3/10/2015	Feb. 2015
Standley Systems	INV467167	47.85	1294	1/31/2015	Jan. 2015
Standley Systems	INV460548	1,406.77	1295	12/29/2014	Oct-Dec 2014
Standley Systems	INV460549	667.44	1296	12/29/2014	Oct-Dec 2014
Standley Systems	INV460544	262.87	1297	12/29/2014	Oct-Dec 2014
Standley Systems	INV460547	100.30	1298	12/29/2014	Oct-Dec 2014
Standley Systems	INV460545	613.43	1299	12/29/2014	Oct-Dec 2014

Employee	True Gross	Excess Benefit	FICA/Med	State Ins. Adj. Ben.	State Retirement	State Unemp.	State Share Annuities	Total Payroll Cost
Engle, Denise	\$10,364.42	\$0.00	\$792.81	\$1,542.66	\$1,710.13	\$0.00	\$26.55	\$14,436.57
Farmer, Rick	\$9,333.33	\$179.46	\$700.61	\$1,133.29	\$1,540.00	\$0.00	\$26.55	\$12,913.24
Gilliland, Robert	\$10,364.42	\$34.66	\$785.97	\$1,278.09	\$1,710.13	\$0.00	\$0.00	\$14,173.27
Wilson, Troy	\$10,364.42	\$51.34	\$796.80	\$1,261.41	\$1,710.13	\$0.00	\$26.55	\$14,210.65
Curtin, Shane	\$9,333.33	\$0.00	\$711.61	\$1,677.96	\$1,540.00	\$0.00	\$0.00	\$13,262.90
Egan, Michael	\$9,333.33	\$100.23	\$721.67	\$540.75	\$1,540.00	\$0.00	\$0.00	\$12,262.98
Inhofe, Tara	\$9,333.33	\$33.12	\$716.53	\$837.77	\$1,540.00	\$0.00	\$0.00	\$12,460.75
Sommer, Tish	\$9,333.33	\$104.63	\$722.01	\$536.35	\$1,540.00	\$0.00	\$0.00	\$12,262.87
Cybert, Cliff	\$6,833.33	\$6.90	\$515.64	\$1,535.76	\$1,127.50	\$0.00	\$26.55	\$10,045.68
Bair, Andrea	\$6,666.67	\$148.82	\$513.74	\$492.16	\$1,100.00	\$0.00	\$26.55	\$8,947.94
Cannon, Jay, MD	\$7,500.00	\$102.49	\$581.60	\$538.49	\$1,237.50	\$0.00	\$0.00	\$9,960.08
Andrews, Ray	\$5,666.67	\$0.00	\$411.68	\$1,312.75	\$935.00	\$0.00	\$0.00	\$8,326.10
Booth, Jamie	\$3,538.65	\$104.97	\$275.42	\$536.01	\$583.88	\$0.00	\$0.00	\$5,038.93
Forshoe, Virginia	\$3,538.65	\$73.51	\$268.04	\$932.68	\$583.88	\$0.00	\$26.55	\$5,423.31
Total	\$111,503.88	\$940.13	\$8,514.13	\$14,156.13	\$18,398.15	\$0.00	\$185.85	\$153,698.27

Gross Salaries \$111,503.88
Benefits & Retirement \$33,680.26
OASDI, Medicare \$8,514.13
Total \$153,698.27