

REGULAR MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

Wednesday, December 9, 2015

1:30 p.m.

Commission Chambers

1915 N. Stiles Ave.

Oklahoma City, Oklahoma

www.wcc.ok.gov

AGENDA

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

ROLL CALL **Mr. Gilliland, Chair**

NOTICE OF COMPLIANCE..... **Tiffany Pratt**

MINUTES

- a. The drafted Minutes of Special Commission Meetings on November 6, 2015, will be considered for approval.
- b. The drafted Minutes of Special Commission Meetings on November 9, 2015, will be considered for approval.
- c. The drafted Minutes of Regular Commission Meeting on November 12, 2015, will be considered for approval.

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

1. Discussion and Determination of Account Balances of the Oklahoma Option Insured Guaranty Fund and the Oklahoma Option Self-insured Guaranty Fund

- a. Until the Insured Guaranty Fund under the Oklahoma Option contains Two Million Dollars (\$2,000,000.00) or if the amount in the fund falls below One Million Dollars (\$1,000,000.00), each insurer shall be assessed. If the account balance prompts an assessment to be issued for the Option Insured Guaranty Fund, it shall be paid to the Insured Guaranty Fund, care of the Commission. Each insurer shall be assessed two percent (2%) of all gross direct premiums written during each quarter of the calendar year for insurance covering a benefit plan under this act after deducting from such gross direct premiums, return premiums, unabsorbed portions of any deposit premiums, policy

dividends, safety refunds, savings and other similar returns paid or credited to policyholders.

- b. Until the Self-insured Guaranty Fund under the Oklahoma Option contains One Million Dollars (\$1,000,000.00) or if the amount in the fund falls below Seven Hundred Fifty Thousand Dollars (\$750,000.00), each self-insurer shall be assessed. If the account balance prompts an assessment to be issued for the Option Self-insured Guaranty Fund, it shall be paid to the Self-insured Guaranty Fund, care of the Commission. Each self-insurer shall be assessed a fee at the rate of one percent (1%) of the total compensation for permanent partial disability awards paid out during each quarter of the calendar year by the employers.

Stormy Moore, Director, Insurance Services, will present the account balances of each of the Option Guaranty Funds to the Commission.

Possible Action:

- a. Option Insured Guaranty Fund- Possible action may include, but is not limited to: taking no action; continuing the matter; determining the balance is below the statutory amount requiring an assessment; or determining the balance is above the statutory amount not requiring an assessment.
- b. Option Self-insured Guaranty Fund- Possible action may include, but is not limited to: taking no action; continuing the matter; determining the balance is below the statutory amount requiring an assessment; or determining the balance is above the statutory amounts not requiring an assessment.

2. Discussion and Consideration of Determining the Surplus, if any, in the Oklahoma Option Insured Guaranty Fund

Title 85A O.S. § 208(A)(1) of the Oklahoma Employee Injury Benefit Act (Act) requires the Commission by December 31st **to determine the surplus**, if any, in the Oklahoma Option Insured Guaranty Fund, together with the additional amounts necessary to properly administer the Act for the following year.

Section 205 (D)(1) requires this fund to maintain a balance between One Million Dollars (\$1,000,000.00) and Two Million Dollars (\$2,000,000.00). The Commission shall determine the annual assessment rate on or before March 1st of each year. The Commission will consider determining the surplus, if any, as this determination is a prerequisite to the later determination of an assessment rate.

Possible Action:

Possible action may include, but is not limited to: taking no action or determining there is no surplus in the Oklahoma Option Insured Guaranty Fund; or determining there is a surplus in the Oklahoma Option.

3. Commission Approval of Group Self-Insurance Applications for New Membership or Name and/or Ownership Change

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 following are the applicants applying for membership or name and/or ownership changes to the **Oklahoma Automobile Dealers Self- Insured Association (# 75058):**

New Member –

- #853, L & C Auto Group, LLC dba Nissan of Lawton
- #854 David Stanley of Tulsa, LLC dba David Stanley Riverside Chevrolet
- #855 Glover Nissan, LLC dba Jim Glover Nissan
- #856 UAG Tulsa JLM, LLC dba Bill Knight Ford of Stillwater

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 association.

4. Discussion and Consideration of Reducing the Security Deposit of Alcatel-Lucent, fka Lucent Technologies, Inc., #18838, a Former Own Risk Employer

A security deposit posted with the Commission as required by 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced at the Commission's discretion after the two year waiting period upon application by the employer and submission of current financial statements and workers' compensation loss runs.

Possible Action:

Possible action may include, but is not limited to: taking no action, continuing the matter, reducing or not reducing the security deposit of Alcatel-Lucent, fka Lucent Technologies, Inc., former #18838.

5. Proposed Amendment of Dates for the Commission’s 2016 Regular Meeting Schedule

Under the provisions of Section 311 of Title 25, all public bodies shall give notice in writing by December 15 of each calendar year of the schedule showing the date, time and place of the regularly scheduled meetings of such public bodies for the following calendar year. That notice shall be given to the Secretary of State. The Commission will consider amending the following dates to the 2016 regular meeting schedule previously approved at the October 27, 2015, public meeting:

<u>Currently Scheduled</u>	<u>Time</u>	<u>Proposed Date</u>
Business-January 14, 2016	1:30 p.m.	January 28, 2016
Appeals- January 15, 2016	9:00 a.m.	January 29, 2016
Business - March 10, 2016	1:30 p.m.	March 2, 2016
Appeals - March 11, 2016	9:00 a.m.	March 4, 2016
Business - August 13, 2016	1:30 p.m.	August 11, 2016
Business - November 5, 2016	1:30 p.m.	November 3, 2016
Appeals - November 6, 2016	9:00 a.m.	November 4, 2016

Possible Action:

Possible action may include, but is not limited to: taking no action, continuing the matter, amending some, all or none of the dates for the Commission’s 2016 regular meeting schedule.

6. Proposed Approval of Independent Medical Examiners and Case Managers for the Commission

Title 85A O.S. § 112 requires the Workers' Compensation Commission to create, maintain and review a list of licensed physicians who shall serve as independent medical examiners (IME). Likewise, for case managers, 85A O.S. § 113 requires a list of qualified case managers be developed, maintained and periodically reviewed by the Commission. The Commission shall, to the best of its ability, include the most experienced and competent physicians in the specific fields of expertise utilized most often in the treatment of injured workers. The period of qualification shall be two (2) years. The Commission will consider approving the list of physicians and case managers presented at the meeting that have been vetted by the Medical Director and recommended to have their applications approved or renewed.

Possible Action:

Possible action may include, but is not limited to: taking no action, continuing the matter, approving some, all or none of the independent medical examiners and case managers for the Commission.

7. Discussion and Consideration of Appointing Legislative Liaison for Commission

The Commission will discuss and consider approving Commissioner Liotta to serve as the Commission's legislative liaison and authorize him to finalize the Commission's legislative requests with the Executive Director after the Director's consultation with Chairman Gilliland and Commissioner Young for 2016 Legislative session.

Possible Action:

Possible action may include, but is not limited to: taking no action; approving Commissioner Liotta or other Commissioner as legislative liaison and/or authorization; or not approve legislative liaison and/or authorization; or continuing the matter.

8. Discussion and Consideration of Attestation Officer and Alternate Attestation Officer for Administrative Rules

Rule 655:10-7-16 of the Administrative Rules on Rulemaking provides that agencies shall include an attestation in each rule document submitted to the Office of Administrative Rules for Register publication. The representatives should possess the following qualifications: (A) general knowledge of the agency's functions, responsibilities, and internal procedures; (B) familiarity with the substance and procedures of the APA and ARR; (C) familiarity with the statutes or other legal instruments which govern the agency; and (D) if the representative is not responsible for drafting the agency's rules or notices, accessibility to those in the agency who are responsible for drafting the agency's rules and notices. The Commission will consider designating Chairman Gilliland as the attestation officer and Commissioner Young as the alternate for the Commission.

Possible Action:

Possible action may include, but is not limited to: taking no action; designating an administrative officer and/or alternate; not designating an administrative officer and/or alternate; or continuing the matter.

9. Personnel Policies

The Commission will discuss and consider approving the following agency policies: 1) Employee Election Season Policy and 2) Complaint and Investigation Policy.

Possible Action:

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

10. 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.

11. Announcements

Commission’s next regularly scheduled meeting is Thursday, January 28, 2015 (if approved).

ADJOURNMENT.....Mr. Gilliland, Chair