



MEETING NO: 19-05 D BENEFIT REVIEW COMMITTEE

A meeting of the Benefit Review Committee of the Board of Trustees was held on Thursday May 16, 2019. Present at the meeting were Committee members Copper, Wallace, Miller, Thompson and Kuehne. Staff members present were: Dixon, Rockett, Osipczuk, Shuliga, Carter, Janicki-Clark, and Davis.

(19-05-01)(Visual roll call)

Ms. Copper presided as chairperson and called the meeting to order at 1:00 p.m.

(19-05-02) Approval of the committee meeting minutes from March 21, 2019.

Approval of the committee meeting minutes from March 21, 2019 was tabled to the next regularly schedule BRC meeting on August 22, 2019.

(19-05-03) Tod Van Wolvalaere – Return to Work

At the request of the member, this return to work appeal was continued to the next regularly scheduled BRC meeting on August 22, 2019.

(19-05-04) Findings and Conclusion of the IMRF Hearing Officer - Maine Township

Associate General Counsel Shuliga presented the findings and conclusion of the IMRF Hearing Officer in the above referenced case. The Committee reviewed the recommended findings and conclusions of the IMRF hearing officer.

After further discussion, a motion was made to recommend the adoption of the findings and conclusion of the IMRF hearing officer in the above referenced case. The recommended findings and conclusions are attached hereto.

Motion: Kuehne
Second: Miller
Ayes: Wallace, Thompson, Copper, Kuehne, and Miller
Nays: None
Absent: None
Motion Passed: 5-0

(19-05-05) Robert Hadley – Total and Permanent Disability Termination

This matter was previously before the Committee at its March 21, 2019 meeting at which Mr. Hadley appeared in person with his attorneys Michael Faccenda and Christopher Connors. At the previous meeting, the Committee heard testimony from Mr. Hadley, his treating physician, Dr. Kenneth Kaplan, and IMRF medical consultant Dr. Noel Rao. The matter was continued to allow Dr. Rao and vocational consultant Robert Wegman to review additional medical documentation submitted by Mr. Hadley. Both Dr. Rao and Mr. Wegman submitted supplemental reports to the Committee. The supplemental reports were also provided to Mr. Hadley's attorney, who filed written

objections to the supplemental reports. The Committee members received and reviewed the supplemental reports from Dr. Rao and Mr. Wegmam, and the written objections by Mr. Hadley. The Committee also reviewed the original documentation submitted during the March 21, 2019 Committee hearing.

After deliberation, the Committee recommends that the Board uphold the staff decision terminating total and permanent disability benefits to Mr. Hadley retroactively effective to September 11, 2015. The Committee was not persuaded that the totality of the evidence in the record supported Mr. Hadley's continued receipt of total and permanent disability benefits where Mr. Hadley's written submissions repeatedly withheld information regarding him being employed while collecting IMRF disability benefits. For example, Mr. Hadley admitted to consistently working a variety of part-time jobs, and even ran his own business, between 2014 and 2017; yet Mr. Hadley reported in 2015 and 2017 that he had not attempted any type of work or volunteering since leaving employment in 1996. Mr. Hadley also certified in 2015 and 2017 that social security was his only alternative source of income. The Committee further found that Mr. Hadley's subjective medical complaints were not credible where the Functional Capacity Evaluation noted that Mr. Hadley provided inconsistent effort and repeatedly exhibited self-limiting behavior throughout the evaluation. Similarly, the Committee found the findings in the Functional Capacity Evaluation to be more persuasive than the opinion of Dr. Kaplan where the limitations in Dr. Kaplan's testimony were often based on subjective complaints and did not appear to align with Mr. Hadley's actual ability to perform a variety of jobs. Finally, the Committee was not persuaded by the neurological report by Dr. Saez and the 2019 MRI report where the medical limitations in those reports did not align with Mr. Hadley's daily living and employment. The Committee found the opinions of the medical and vocational rehab consultants to be more persuasive because the opinions were based on the objective findings of the Functional Capacity Evaluation and Mr. Hadley's physical capabilities.

Motion: Kuehne
Second: Thompson
Ayes: Miller, Wallace, Copper, Thompson, and Kuehne
Nays: None
Absent: None
Motion Passed: 5-0

In a second motion, the Committee recommends that the Board uphold the staff decision to seek repayment of benefits from Mr. Hadley in the amount of \$26,079.75 which represents the amount of total and permanent disability benefits received by Mr. Hadley while being able to perform gainful activity between September 2015 and March 2018.

Motion: Miller
Second: Wallace
Ayes: Miller, Wallace, Copper, Thompson, and Kuehne

Nays: None
Absent: None
Motion Passed: 5-0

(19-05-06) Discussion regarding the processing of group appeals

The Committee discussed the preferred process for handling a group of 13 appeals regarding the same legal issue. The Committee directed staff to work with the members to present a consolidated appeal through the ordinary appeal procedures. No action was taken.

(19-05-07) Discussion regarding BRC Hearing Procedures

Staff Attorney Carter presented a memorandum outlining the staff recommendation to align hearing procedures with due process best practices.

After discussion, a motion was made to adopt the staff recommendation.


Motion: Miller
Second: Thompson
Ayes: Wallace, Copper, Thompson, Kuehne, and Miller
Nays: None
Absent: None
Motion Passed: 5-0

(19-05-08) Public Comments


None

(19-05-09) Adjournment

Wallace made a motion to adjourn at 1:53 p.m. Seconded by Thompson. Motion passed by unanimous voice vote.




Chairperson



Date



Clerk



Date

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(19-05-01)(Visual roll call)

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(19-05-02) Approval of the committee meeting minutes from March 21, 2019.

Approval of the committee meeting minutes from March 21, 2019 was tabled to the next regularly schedule BRC meeting on August 22, 2019.

(19-05-03) Tod Van Wolvalaere – Return to Work

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(19-05-04) Findings and Conclusion of the IMRF Hearing Officer - Maine Township

Associate General Counsel Shuliga presented the findings and conclusion of the IMRF Hearing Officer in the above referenced case. The Committee reviewed the recommended findings and conclusions of the IMRF hearing officer.

After further discussion, a motion was made to recommend the adoption of the findings and conclusion of the IMRF hearing officer in the above referenced case. The recommended findings and conclusions are attached hereto.

Motion: Kuehne
Second: Miller
Ayes: Wallace, Thompson, Copper, Kuehne, and Miller
Nays: None
Absent: None
Motion Passed: 5-0

(19-05-05) Robert Hadley – Total and Permanent Disability Termination

This matter was previously before the Committee at its March 21, 2019 meeting at which Mr. Hadley appeared in person with his attorneys Michael Faccenda and Christopher Connors. At the previous meeting, the Committee heard testimony from Mr. Hadley, his treating physician, Dr. Kenneth Kaplan, and IMRF medical consultant Dr. Noel Rao. The matter was continued to allow Dr. Rao and vocational consultant Robert Wegman to review additional medical documentation submitted by Mr. Hadley. Both Dr. Rao and Mr. Wegman submitted supplemental reports to the Committee. The supplemental reports were also provided to Mr. Hadley's attorney, who filed written

MEETING NO: 19-03 D BENEFIT REVIEW COMMITTEE

A meeting of the Benefit Review Committee of the Board of Trustees was held on Thursday March 21, 2019. Present at the meeting were Committee members Copper, Wallace, Miller, Thompson and Kuehne. Staff members present were: Dixon, Rockett, Osipczuk, Shuliga, Carter, Janicki-Clark, and Davis.

(19-03-01)(Visual roll call)

Ms. Copper presided as chairperson and called the meeting to order at 1:00 p.m.

(19-03-02) Approval of the committee meeting minutes from February 14, 2019.

Motion: Wallace
Second: Thompson
Ayes: Miller, Wallace, Thompson, Kuehne, and Copper
Nays: None
Absent: None
Motion Passed: 5-0

(19-03-03) Robert Hadley – Total and Permanent Disability Termination

Written materials including medical records; member, employer, and physician questionnaires; written opinions by medical, neuro-psychological, and vocational rehab consultants; and a written statement of claim from the member were provided to the committee members for review prior to the hearing. Mr. Hadley appeared in person and was accompanied his attorneys Michael Faccenda and Christopher Connors. In addition to the arguments by Mr. Hadley's attorney, the Committee heard testimony from treating physician Dr. Kenneth Kaplan via teleconference, IMRF's medical consultant Dr. Noel Rao, and Mr. Hadley.

After deliberation, the Committee recommends that the Board table this matter to allow the February 11, 2019 neuropsychological report and March 6, 2019 MRI report to be submitted to Dr. Rao and the vocational rehab consultant. The Committee will deliberate and make a final recommendation upon receipt of the supplemental reports at the May 16, 2019 Benefit Review Committee meeting.

Motion: Miller
Second: Wallace
Ayes: Miller, Wallace, Copper, Thompson, and Kuehne
Nays: None
Absent: None
Motion Passed: 5-0

(19-03-04) Findings and Conclusion of the IMRF Hearing Officer - McLean County