

**CITY OF BELLEVUE  
LEOFF 1 DISABILITY BOARD  
Meeting Minutes**

July 1, 2009  
5:30 p.m. – Administration  
6:00 p.m. – Business Meeting

Conference Room 1E-118  
Bellevue City Hall

**MEMBERS PRESENT**

Chairperson Susan Neiman  
Boardmember Wayne Bergeron  
Councilmember John Chelminiak  
Councilmember Conrad Lee

**MEMBERS ABSENT**

Boardmember Bryan Reil

**OTHERS PRESENT:**

Dave Boschee, Fire Department (Retired)  
Terry Brayton, Fire Department (Retired)  
Larry Coleman, Fire Department (Retired)  
Keith Collop, Fire Department (Retired)  
Mike Crosby, Fire Department  
Paula Dillon, Human Resources  
Jim Dorney, Fire Department  
B.E. Douglas, Fire Department (Retired)  
Michael Duchemin, Fire Department (Retired)  
Mike Eisner, Fire Department  
Lou Faehnrich, Fire Department  
Tom Fields, International Association of Firefighters, Local 1604  
Jan Garretson, Fire Department (Retired)  
Stanley Pallo, Fire Department (Retired)  
Gary Petersen, Sr., Fire Department (Retired)  
Gary Riel, Fire Department (Retired)  
Dan Schramer, Fire Department (Retired)  
Siona Windsor, Legal Advisor

**MINUTES TAKER:**

Michelle Cash

**I. CALL TO ORDER**

The meeting was called to order at 6:10 p.m. by Chair Neiman.

**II. ROLL CALL**

### III. APPROVAL OF MINUTES

**Motion by Councilmember Lee and second by Boardmember Bergeron to approve the June 3, 2009 Disability Board Regular Meeting minutes as presented. Motion carried unanimously (4-0).**

Approval of the April 1, 2009 meeting minutes was tabled due to lack of quorum for the meeting minutes.

### IV. PUBLIC COMMENTS

Michael Duchemin, 637 NE Haugen St., Poulsbo, WA 98370

Mr. Duchemin asked the Board to consider what role, if any, the Board may have in providing Family Care Act issues for currently employed LEOFF I members.

In regards to the payment of LEOFF I retiree medical benefits, Mr. Duchemin distributed the following handouts for Boardmembers to review:

- Health Care Report, The Consumer Reimbursement System is Code Blue, January 13, 2009
- Testimony by Linda A. Lacewell, March 26, 2009
- “New York Investigates Medical Rate Setting,” *The New York Times*, published February 13, 2008
- *Medpage Today* article, published January 13, 2009.

Mr. Duchemin and retirees that he has spoken with view the Board’s role as protecting and preserving the LEOFF medical pension benefits. He clarified that in some cases, the Board may act in ways contrary to the City Manager’s opinion—the Board is independent. Mr. Duchemin added that any proposals, plans, or programs that delegate the responsibility of determining the necessary medical benefits, beyond statutory minimums, and determining the reasonable charges for the services (currently Premera) would be a de facto delegation. Mr. Duchemin feels the Board should make the determinations.

Mr. Duchemin explained that if the proposed out-of-network policy was adopted, there would be significant amounts of money that retirees would have to pay for healthcare benefits, which has not been the case since 1970. He added that the proposed policy is a break from a universal, long-standing interpretation, by the Board, of the statutory requirements.

Mr. Duchemin called attention to RCW.41.26.030, subsection 22, which lists a series of minimum medical services that must be provided by the Board. He further clarified that the RCW states, “reasonable charges for these services shall be paid in accordance with RCW 41.26.150.” Mr. Duchemin noted that the RCW does not state that the Board or Premera shall define a reasonable rate. However, the Board is required to pay reasonable charges and should approve reasonable

charges as determined by the free market, which is how Mr. Duchemin interprets the statutory term “reasonable charges.”

As the Board considers the legal requirements of the medical reimbursement issue, Mr. Duchemin believes that RCW 41.26.150, subsection 1B, “The Disability Board shall designate the medical services available to any sick or disabled member” does not mean that the Board can determine the cost that will be paid for medical services.

In reviewing the April 1, 2009 LEOFF 1 Disability Board meeting minutes, Mr. Duchemin called attention to page 2, section 5.B, last paragraph, “...there was a general policy discussion regarding the out-of-network claims at the May Board meeting.” Mr. Duchemin requested a copy of the May meeting minutes. In addition, Mr. Duchemin called attention to page 3, section VII, “Boardmembers would like the following questions addressed...” and listed the questions noted in the meeting minutes. Mr. Duchemin feels the questions raised in the meeting minutes have not been properly addressed in the report to the Board with the recommendation.

In reviewing the June 3, 2009 LEOFF 1 Disability Board meeting minutes, Mr. Duchemin called attention to page 3, section VIII, paragraphs 1 and 3, “Ms. Dillon discussed the policies set forth...” and “Chair Neiman suggested that members...” Mr. Duchemin interprets this discussion as indicating the costs beyond Premera’s payment are the retiree’s responsibility. He continued reviewing section VIII, page 4 of the June 3, 2009 meeting minutes.

Mr. Duchemin asked Boardmembers to read the documents that he distributed, in particular the testimony before the United States Senate Committee because the issue being considered before the Board is of national importance. Mr. Duchemin explained that the end result conclusions in the report issued by the Senate stated that the concept of determining usual and customary rates, by one company, is fraudulent. The charges are typically understated in a manner that shifts more costs to employees or people who are insured.

Jan Garretson, Redmond, WA

Mr. Garretson questioned if a new form of compensation is proposed for adoption. Chair Neiman explained that the Board is trying to clarify how to address out-of-network claims. Mr. Garretson called attention to the City of Bellevue Disability Board Policies and Procedures manual, section 1.6, Amendment of Policies and Procedures, which specifies, “Proposed amendments of changes to Disability Board Policies and Procedures will be made in writing... However, Mr. Garretson noted that he has not received a copy of the draft amendment policy being considered. Boardmember Bergeron clarified that an amendment has not been drafted. Therefore, there isn’t a policy for members to review. Mr. Garretson reminded Boardmembers that a new policy needs to be submitted to members, in writing, for review and comment.

Chair Neiman clarified that the policy being discussed is not an amendment to the usual policy. She added that it is a new issue that has been raised, mainly due to the recent separation between Premera and Proliance.

Michael Duchemin, 637 NE Haugen St., Poulsbo, WA 98370

Mr. Duchemin called attention to the proposed recommendation for out-of-network claims (agenda Item No. 8) and challenged Boardmembers to determine the definition of a Usual and Customary Rate (UCR). He added that if there is a discount being offered because of the contracts negotiated between Premera and a group of physicians, the Board is only paying a discounted rate, which Mr. Duchemin feels is very different than a UCR.

Mr. Duchemin distributed two “Explanation of Benefits” documents for medical services he received, which depicted the reduced fees and discounted rates. Chair Neiman explained that her husband is a physician and typically physicians set their rates based on what they expect for reimbursement. Mr. Duchemin suggested that Boardmembers would be delegating responsibility to Premera if they depend upon Premera to determine reasonable charges. He added that UCR rates are not identified by Premera.

Mr. Duchemin asked Boardmembers to not consider or adopt the out-of-network claims policy.

Mike Crosby, 15421 Cascadian Way, Alderwood Manor, WA

Mr. Crosby is part of the Group Health system and would like to know how the out-of-network policy would impact Group Health participants. He also expressed his concern with a potential conflict of interest with Chair Neiman and her husband’s affiliation with Premera.

Tom Fields, International Association of Firefighters, Local 1604

On behalf of the LEOFF 1 members on duty and retired across the nation, Mr. Fields explained that the statute being discussed does not require a healthcare plan to be offered. It requires that medical expenses be reimbursed. He added that the issue is a confusing one and for those that are retired this change will have a significant financial impact. He asked Boardmembers to vote against any changes to the compensation policy.

Ms. Windsor explained that if a member is out-of-state or out-of-the geographic area then the out-of-network policy does not apply.

Gary Petersen, Sr., 205 W. Herron Blvd., Lakebay, WA 98349

Mr. Petersen noted his full compliance with Mr. Duchemin’s comments.

Don Cowdrey, 2005 – 9<sup>th</sup> Ave. W., Everett, WA 98203

Mr. Cowdrey requested an opportunity to review future out-of-network policy proposals and feels the current proposal is a mistake. He noted that the City changes providers routinely and the plans change their fees and costs. He added that the proposed out-of-network amendment/policy has a substantial difference on LEOFF members.

Mr. Cowdrey feels the only reason why the out-of-network policy is being considered is to save money. If this is the case, Mr. Cowdrey does not think the reasonable community rates are being sought. In addition, he does not feel that this would meet the reasonable cost requirements of the statute.

For the integrity of the Board, Mr. Cowdrey cautioned that the mere appearance of a conflict of interest by Boardmembers may taint the Board's reputation.

Michael Duchemin, 637 NE Haugen St., Poulsbo, WA 98370

In response to an earlier comment made by Ms. Windsor, Mr. Duchemin expressed his disagreement with the policy interpretation regarding coverage for members living out-of-state. He clarified that the proposed out-of-network policy states that, "the Board will consider reimbursing..." Chair Neiman clarified that in practice the Board has approved claims for members living out-of-state. She also reiterated the fiduciary responsibilities as a Boardmember noting that there are limited funds available.

Councilmember Chelminiak discussed the financial status of the LEOFF fund. He added that more money than what is set aside will be required to pay out LEOFF benefits. In addition, Bellevue is one of the few cities that has set reserves aside for LEOFF, since this is a financial obligation for the City.

Councilmember Lee

Councilmember Lee expressed his appreciation for LEOFF members providing input on the out-of-network policy. He added that the LEOFF 1 benefit is a City commitment and that Bellevue has provided a reserve fund that guarantees a more certain funding future for the benefit.

Jan Garretson, Redmond, WA

Mr. Garretson commended the City for setting aside reserves. He also noted that most of the claims thus far have been paid out of the interest income on the LEOFF fund without using the fund principle. Mr. Garretson feels the fund is in good shape and suggested that the City conduct an actuarial study to determine fund stability. Councilmember Chelminiak clarified that an actuarial study has already been conducted.

Michael Duchemin, 637 NE Haugen St., Poulsbo, WA 98370

Mr. Duchemin called attention to a letter submitted to Boardmembers regarding the Family Care Act (FCA). He noted that the Union asked him to represent the Battalion Chief and LEOFF employees regarding this matter.

In discussing the Battalion Chief's case, he noted that the situation has been resolved. However, the letter submitted asks how the Disability Board will address future requests for using Disability Leave benefits for FCA purposes. He added that the material submitted clearly states this is a legal obligation. However, there aren't forms available for members to apply for this leave. In a similar situation, the City of Seattle was going to be fined \$1,000 per day for non-compliance.

## V. CONSIDERATION OF APPLICATIONS FOR DISABILITY ALLOWANCES

### A. Applications for Disability Allowances

**Motion by Councilmember Chelminiak and second by Boardmember Bergeron to approve the Applications for Disability Allowances as presented. Motion carried unanimously (4-0).**

### B. Applications for Disability Allowances Greater than 1 month

None.

## VI. CONSIDERATION OF MEDICAL CLAIMS

### A. Routine Claims

**Motion by Councilmember Chelminiak and second by Councilmember Lee to approve the Routine Claims as presented. Motion carried unanimously (4-0).**

### B. Special Claims

**Motion by Boardmember Bergeron and second by Councilmember Chelminiak to approve the Special Claims as presented.**

Boardmembers discussed procedures for acupuncture claims. Regarding Member #58's claim, there was not a physician recommendation included with the submitted materials. Councilmember Chelminiak suggested approval of the claim noting if the claim was more than the requested four treatments then a physician recommendation/prognosis would need to be obtained. On the contrary, Boardmember Bergeron suggested that acupuncture claims should be covered regardless of physician recommendation, since it is

a less costly alternative. Since Member #58 was present, he clarified that there is no intent to exceed the requested four sessions for acupuncture.

Regarding Member #17, Boardmember Bergeron clarified that the member has a coronary history and the tests requested have been utilized in the past.

**At the question, motion carried unanimously to approve the Special Claims as presented (4-0).**

## **VII. REPORTS BY STAFF**

None.

## **VIII. UNFINISHED BUSINESS**

Ms. Dillon clarified that there was information included in the May Board packet that clarified practices for other jurisdictions when dealing with out-of-network claims.

Boardmember Bergeron explained that the Board is not trying to hide information from LEOFF members. He reiterated that a proposed policy has not been determined. Therefore, members were not notified. In previous situations, members have been notified via registered mail to ensure all members receive written notification.

Chair Neiman requested that Ms. Windsor research acquisitions of her potential conflict of interest regarding the out-of-network discussion and offered to recuse herself if necessary. She also questioned whether or not other Boardmembers have similar conflicts of interest (i.e., Boardmember Bergeron due to his affiliation with the Fire Department, etc.).

Councilmember Lee asked staff to research the impacts of any out-of-network claim decisions to Group Health members, in addition to Premera members.

Boardmembers concurred that the out-of-network discussion be tabled until the next Board meeting.

Mr. Duchemin pointed out that current City employees can see non-network providers and be paid 100% of UCR. However, the proposal considered would not compensate for UCR. In addition, dependents of current employees pay 20%, while the City pays 80% of UCR non-network providers. Mr. Duchemin encouraged Boardmembers to review this comparison. Ms. Dillon clarified that the proposed policy states that the Board will pay 100% of UCR for out-of-network claims. However, it is proposed that anything beyond 100% UCR be paid by the member. She added that UCR calculations are determined by a relationship manager, currently ClearPoint.

Councilmember Chelminiak requested a better determination of the UCR versus the price that Premera pays. Ms. Dillon clarified that the price Premera pays is proprietary. Considering this, Councilmember Chelminiak requested further information about “reasonable costs” and legal definitions of “reasonable.” He also requested further information about reimbursement requests for out-of-network claims where in-network physicians are available.

Councilmember Chelminiak commended Boardmembers for their expertise and knowledge to the Board. He feels the Board is comprised of an ideal balance to represent LEOFF 1 members.

Mr. Duchemin suggested that the Proliance rates appear unreasonable and requested evidence as to why these rates seem unreasonable under the statute. In addition, Boardmember Bergeron requested that a comparison be conducted for reasonable and customary average costs for out-of-network claims, similar to the nursing care study conducted before the nursing care policy was adopted.

#### **IX. NEW BUSINESS**

Ms. Windsor explained that the FCA was discussed by the Board in July 2005, prior to the statute change. However, there have been no discussions since the change in statute. Mr. Duchemin asked that Boardmembers consider how the FCA will be applied to future claims. In addition, Councilmember Chelminiak suggested that Boardmembers proactively research the policy and conduct an Executive Session, if necessary, to discuss alternatives.

#### **X. ANNOUNCE DATE & TIME OF NEXT MEETING**

The next Disability Board meeting will be held on Wednesday, August 5, 2009.

#### **XI. ADJOURNMENT**

**Motion by Boardmember Bergeron and second by Councilmember Lee to adjourn the meeting at 7:28 p.m. Motion carried unanimously (4-0).**