

MEMORANDUM

January 28, 2014

TO: Public Safety Committee
Government Operations & Fiscal Policy Committee

FROM: KL Kristen Latham, Legislative Analyst
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Office of Legislative Oversight

SUBJECT: Worksession on OLO Report 2014-2: Injuries, Injury-Related Leave, and Overtime in the Montgomery County Fire and Rescue Service

On January 30th, the GO and PS Committees will hold a joint worksession on OLO Report 2014-2, *Injuries, Injury-Related Leave, and Overtime in the Montgomery County Fire and Rescue Service*. The Council received and released this report on November 26th, 2013. This report responds to the Council's request to provide information and data on the use of injury-related programs within MCFRS and the relationship between disability and overtime.

Executive Branch representatives expected to attend the Committee worksession include:

Department/Office	Representative
Office of the County Executive	Fariba Kassiri, Assistant CAO
Department of Finance	Joseph Beach, Director
Montgomery County Fire and Rescue Services	Fire Chief Steve Lohr
CountyStat	David Gottesman, Manager

This packet is organized as follows:

- **Section A** summarizes OLO's findings; and
- **Section B** summarizes OLO's recommendations for Council Action and comments on the report from the Chief Administrative Officer.

A. Summary of Findings in Report 2014-2

OLO staff will provide the Committee with an overview of the report. The executive summary of OLO's major findings and recommendations is attached at ©1. Key findings from the report include:

- **Injuries in MCFRS.** There were 1,067 injuries to MCFRS uniformed personnel during FY12-FY13; 43% of the injuries resulted in some lost time. Half of all injuries occurred while an employee was on a call.
- **Administration of injury-related benefits.** Injury-related benefits available to MCFRS employees include disability leave/Workers' Compensation, light duty, and disability retirement. Numerous County departments administer benefits, including the Department of Finance, OHR, MCERP, and MCFRS. These departments communicate frequently amongst one another.
- **MCFRS injury-related processes.** MCFRS has comprehensive processes in place for returning injured employees back to work, including injury reporting and monitoring of employees on light duty or disability leave/Workers' Compensation. Within MCFRS, Fire and Rescue Occupational Medical Services (FROMS) plays a key role, and staff report that the FROMS model works well to monitor employees with injuries.
- **Workers' Compensation benefits and overtime.** Overtime wages earned prior to the injury or illness can affect the calculation of benefits provided to employees under the Maryland Workers' Compensation Act. Additionally, benefits vary depending on whether the employee is partially or totally disabled and whether the disability is temporary or permanent.
- **Workers' Compensation claims administration.** The Department of Finance manages a contract with a third-party administrator (TPA), which provides Worker's Compensation claims administration. Amid concerns about claim administration, the County replaced the TPA in July 2012. Staff report that the system is improving, but concerns remain. During FY12 and FY13, 12 weeks was the average amount of time between the date a claim report was received by the third-party administrator and the first benefit payment date for MCFRS employees.
- **Share of disability leave in MCFRS.** Uniformed MCFRS employees used approximately 173,000 hours of disability and temporary disability leave in FY12 and FY13, accounting for 51% of all disability leave and temporary disability leave in the County.
- **Injury-related hours among MCFRS employees.** During FY12-FY13, 414 (41%) of MCFRS uniformed personnel who were employed the entirety of FY12-FY13 had some injury-related hours (including disability and temporary disability leave, and light duty hours) averaging 481 hours each. The top five percent of two-year employees with injury-related hours accounted for 53% of all injury-related hours.
- **Injury-related hours among employees with large numbers of overtime hours.** MCFRS employees with large numbers of overtime hours were somewhat less likely to have high numbers of injury-related hours.
- **Injury-related leave and light duty data.** MCFRS does not have a single database that can track all information on injury-related leave and light duty. OLO also found that the data within various databases was inconsistent.

B. OLO Recommendations and Executive Branch Comments

Recommendation #1: Request that the County Executive identify and implement strategies for reducing the time it takes employees who are on disability leave or light duty for long periods to return to work particularly, the top 5% of disability leave and light duty users.

OLO recommends that the Chief Administrative Officer (CAO) look specifically at those employees who utilize large amounts of disability and/or light duty and discuss potential strategies that may help them return to work in a safe and timely manner. With the goal of limiting absence, controlling costs, and retaining a healthy and productive workforce, the CAO could implement strategies and policies that are tailored to address those employees on long-term disability leave and light duty. These strategies could include tracking data on long-term disability leave use and light duty assignments among MCFRS employees (including types of injuries and any delays in receiving approval for medical treatment) and increased monitoring of such cases. OLO recommends that the Council request a status report on any progress by the end of the fiscal year.

CAO Comments: Fire and Rescue Occupational Medical Services (FROMS) is taking a more proactive approach with the Third Party Administrator (TPA) and Risk Management to review and discuss individual work-related injury cases. MCFRS will work with Risk Management to continue or implement the following procedures to ensure injured firefighters are returned to full duty in an expeditious manner:

- *MCFRS and the TPA will continuously monitor employee treatment plans and medical procedures to ensure employees are returned to work in timely manner in accordance with medical benchmarks. In addition, FROMS, the TPA, and the County ADA Coordinator will collaborate in order to monitor and properly handle individual cases in accordance with County procedures.*
- *FROMS will work with the TPA the schedule Independent Medical Evaluations (IMEs) when an employee has exceeded the normal medical benchmarks established for their specific injuries in order to determine if the employee should be in a light-duty or no-duty status. Based on the IME, FROMS will be able to recommend a course of treatment with the goal of returning the employee to work as quickly as possible.*
- *If it is determined that an employee has exceeded medical guidelines for return to full-duty, or the current medical treatment is not achieving positive results, MCFRS, FROMS medical staff, and the TPA will meet to discuss alternative treatment plans to ensure an expedient return to full-duty. If it is determined that the employee will not be able to return to work in a full-duty status and has received permanent restrictions, MCFRS will initiate the disability retirement process, or, in cases where a disability retirement is not appropriate, MCFRS will initiate a separation action.*
- *MCFRS will continue to inform the employee's physician that light-duty is available and that MCFRS can accommodate most work restrictions. This ensures that private physicians are aware that MCFRS has light-duty assignments available.*
- *The TPA established a fax line solely dedicated for medical providers to submit prescriptions for tests and referrals for specialty physicians. With the implementation of the fax line, the time to receive authorization has been cut significantly and has allowed FROMS to forward the appropriate requests for treatment authorization, as well as inform providers or injured employees of the process, in an efficient manner.*

Recommendation #2: Request that the Executive Branch closely monitor the newly contracted third-party administrator (TPA) and provide the Council with updates on the administration of the County's Workers' Compensation Program, particularly the processing times of claims.

Because of the past issues and the enlisting of a new TPA, OLO recommends the CAO closely monitor and update the Council on the administration of the Workers' Compensation, particularly the processing times of claims. The Council should discuss with Executive staff strategies to resolve new or continuing issues with the administration of workers' compensation.

In addition, OLO found some key data points that are currently not tracked regarding workers' compensation claims, including the application/approval dates of medical care authorization and whether or not an approved claim was earlier denied. OLO recommends that the Council ask the CAO to begin tracking and monitoring this information.

CAO Comments: Deficiencies of the previous contractor seem to be mischaracterized in this report. Please note that the contractor's replacement was not due to lost documentation or high denial rates. The issue was service delivery as monitored through the measurement of key performance indicators (KPI) and complaints regarding service delivery.

Processes currently in place that increase efficiencies in the services include:

- *Online and telephonic claim reporting available 24/7 ensures quick reporting and initial treatment.*
- *Required telephone contact by the TPA with the injured employee, immediate supervisor, and medical provider within 24 hours of receipt of a newly reported injury or illness sets the stage for uninterrupted treatment on accepted claims.*
- *Provision of immediate treatment and prescriptions without cost or upfront payments. Information regarding obtaining these services is available at www.mcsip.org and employees are encouraged to utilize this tool. Additionally, employees not represented by legal counsel have the ability to contact their claims professional to receive guidance on available services and explanation of benefits.*
- *A Workers' Compensation Coordinator is available within the Division of Risk Management and the contact information will be broadcast soon as well. The Coordinator will assist injured employees and supervisors by working with the TPA and FROMS to facilitate the return to work process.*
- *Compensability decisions are made within 14 business days of receipt of the injury/illness report.*
- *Indemnity payments on compensable claims are made within five business days of receipt of appropriate documentation.*
- *Nurse case managers are utilized to ensure proper handling of the medical aspects of the claim. They are available to act as a liaison and advocate for injured employees. They are trained in workers' compensation issues and are certified by the State of Maryland. Their primary goal is to ensure the employee is receiving timely and effective treatment.*
- *A dedicated fax line is provided for treatment authorizations. Treatment requests made to this line are monitored for timely response, as review determinations must be made within two (2) business days of receipt of the necessary information on a proposed admission or treatment, and within one (1) business day from the date of determination, telephonic notification is made to the employee, treating physician, ordering provider, or facility rendering service.*
- *The TPA provides guidance to doctors and attorneys in the use of the fax line and the requirements for a complete medical treatment authorization request.*
- *Results of performance measures are monitored weekly, monthly and quarterly by various management personnel. Oversight of the TPA is provided by the general contractor who directs the program, the Program Manager, and the Risk Manager.*

- *The County contracts for biennial claims audits to assess the performance of the third party claims administrator. The results of these audits are used to improve the efficiency in process, procedure, and workflow of the Workers' Compensation program.*
- *A continuous process improvement method is employed in working with the current contractor, TPA and affected departments.*
- *Monthly meetings between Risk Management, IAFF, and FROMS have been established to identify and discuss any current situations or rising issues.*
- *Discussions are held with the Public Safety Managers' Work Group in order to identify issues and craft solutions.*
- *Additional discussions are held by OMB in their Cluster meetings.*

In conclusion, it is important to note that processing times are primarily influenced by medical condition, doctor availability, and their provision of timely reports. It is not a direct reflection on the services provided by the TPA. This time frame is impacted by whether the claim is contested or is a rebuttable presumption. The State of Maryland does not have a mechanism to "Delay" a claim; claims of the nature mentioned must be put in a "denial" status in order to allow time for investigation.

The CAO's comments regarding mischaracterizations of deficiencies of the previous contractor refer to a draft of the OLO report that was submitted to the Executive as part of OLO's review process. OLO's final report incorporated feedback from Executive staff regarding the reason for the replacement of the contractor.

Recommendation #3: Request that MCFRS review its data management systems and practices to improve uniformity and reporting capabilities. The County Executive should report back to the Council on progress. OLO also recommends that the County Executive report to the Council the findings of the CountyStat analysis of TeleStaff when completed.

OLO recommends that the Council ask the CAO to assess MCFRS' data management systems and practices. The review should identify key data points across all databases that should be consistent for ongoing management of the department as well as for reporting and monitoring of overall data. The Council should discuss with Executive staff the merits and concerns of consolidating MCFRS data, especially in regards to overtime use. OLO recommends that the Council ask for a report back from the CAO on the findings of this assessment by the end of the fiscal year. Further, during a recent Council Committee worksession, Executive staff reported that CountyStat is working closely with MCFRS to analyze the department's scheduling system, TeleStaff. OLO recommends that the Council ask the CAO for a briefing on the study's findings.

***CAO Comments:** MCFRS will begin to evaluate the effectiveness of the MCFRS data management systems with regard to both uniformity and reporting. MCFRS will work with CountyStat to assess the specific shortcomings of each system from data recordation and reporting standpoints, identifying areas where there is a misalignment that results in inconsistent reporting and where improvements will result in the most useful data to inform departmental management decisions.*

The current CountyStat analysis of TeleStaff is focused on scheduling practices that contribute to Workforce Availability and overtime levels, and the reporting capabilities of the system. This study will broaden to encompass the concerns brought to light by OLO, specifically the connection between TeleStaff and the other data management systems with which it communicates, and why employee time may be accounted for differently in these systems.