

**MASSACHUSETTS MEDICAL MALPRACTICE
REINSURANCE PLAN**

COMPLIANCE COMMITTEE MEETING

FINAL

Minutes of Meeting

October 14, 2009

A Compliance Committee meeting of the Massachusetts Medical Malpractice Reinsurance Plan (“MMMRP”) was held at the offices of Towers Perrin, The Prudential Tower, 800 Boylston Street, Boston, MA on Wednesday, October 14, 2009 at 10:00 AM.

The following committee members were present in person unless otherwise noted:

Peter T. Robertson, Esq., Chairman
Jill A. Gold
Geraldine M. Foley, Esq.
James R. Bacon (Investment Committee)

The following MMMRP staff/consultants were present in person:

William T. McGrail, Chairman
Maurice T. Edwards, CPA, CFO
Susan S. Smith, Director of Administration

Stacy L. T. Mina, Towers Perrin
Tom Ghezzi, Towers Perrin
Emilie Rovito, Towers Perrin

Chairman Atty. Peter Robertson called the meeting to order at 10:15 AM. Ms. Smith kept a record of the proceedings.

1. Minutes of Meeting

Atty. Robertson noted the minutes to the previous meeting had been distributed. A **motion** was made and duly seconded to approve the November 17, 2008 minutes. The motion was voted unanimously.

2. Towers Perrin - Analysis Report

A copy of the Towers Perrin Analysis Report, prepared by Ms. Stacy Mina, Mr. Tom Ghezzi, and Ms. Emilie Rovito was distributed to all attendees and a copy is included with these minutes. Ms. Mina, Ms. Rovito and Mr. Ghezzi thoroughly reviewed the report answering questions as needed. The report contained major topics of: December 31, 2008 Surplus Deficit Report Findings, June 30, 2009 Results and Financial Projections.

Ms. Mina began by reviewing the December 31, 2008 Surplus Deficit Report Findings. On page 3 she reviewed the change in estimated deficit between December 2007 and December 2008, noting that the estimated deficit as of 12/31/08 was \$15.8 million, a slight reduction in deficit from \$17 million as of 12/31/07. Next Ms. Mina reviewed page 4 which covered indicated deficit and Rule IV assessment by policy year as of 12/31/08. Mr. Ghezzi then brought up a new topic to the committee. He inquired if there are any rules to close out a year. Mr. McGrail noted that The Plan does not have such a rule, and Mr. Ghezzi suggested that the committee begin to consider such a rule. A discussion ensued regarding the pros and cons of such a rule, and it was determined that this should be further discussed at the next Governing Committee meeting. Ms. Mina then reviewed page 5 which contained a comparison of indicated deficit and actual assessments and returns. She pointed out that we ramped up in 2003 and 2004, and the deficit peaked at year-end 2004 due in part to large growth in premium starting in 2003. In 2005, The Plan decided to return money, and then continued returning money annually since 2006.

Ms. Mina continued with page 6, Updated Loss and ALAE Estimates as of June 30, 2009. She noted that the held reserves at 12/31/08 were \$53.3 million, near the high reasonable, and also a significant decrease in estimates in the June 30, 2009 analysis. In addition, she pointed out that for coverage years 2008 and prior, their central estimate of ultimate losses decreased \$8.5 million, and that the decrease in estimated losses is consistent with industry experience. Lastly she noted that the central estimate of unpaid liabilities at 12/31/09 (for all coverage years) is \$35.7 million. Mr. Ghezzi added that a reason for the continual increase in estimates is that medical malpractice claim frequency went down 40% between 2001 and roughly 2006/2007. He also mentioned that the results of The Plan lag the industry. A discussion ensued about potential factors affecting claim frequency trends.

Ms. Rovito continued with page 7, an update of the MMMRP financial model to forecast future results. She reviewed the various scenarios which they used for their projections, including Rule IV and Expected Cash Flow, adding that each was run at central estimate and high reasonable reserve levels. The Committee discussed the implications of the various scenarios.

Next Ms. Rovito reviewed page 8, which provided a graph analyzing returns and assessments on the various scenarios. The Rule IV scenario for 2009 would declare a zero return, while the cash flow scenario for 2009 would declare a \$9.5 million return. Ms. Rovito reviewed page 9, noting that projected assets will decrease under all scenarios, due mainly to reduced premium level, pointing out that MMMRP is now at \$30-35 million, and will be between \$10-\$20 million by 2013 depending on the scenario. She then reviewed page 10, adding that Rule IV based scenarios push surplus to between -\$5 million and zero by 2010, while cash flow scenario surplus is more strongly negative. It was suggested that at the end of 2009 MMMRP may announce an \$8-9 million assessment to be distributed in 2010. Mr. Edwards will further analyze the figures to determine a return amount to recommend to the Governing Committee. After reviewing the annual cash flow on page 11, the committee reviewed tax implications of all scenarios, noting that it varies greatly among scenarios. Ms. Mina reviewed page 12 which reviewed the scenarios' patterns of assessments and how returns impact size and timing of income tax obligations. The cumulative FIT for 2009-2013 ranges from \$0.2 million (cash flow) to \$2.1 million (Rule IV – CE pay and CE reserves). Ms. Rovito continued with page 13, briefly discussing what happens after 2013. She also discussed the chart on page 14 which demonstrated how scenarios' patterns of assessments and refunds impact size and timing of tax obligations, noting that the cumulative FIT (2009-2018) were close to \$2 million, either for the Rule IV or cash flow scenario. Next page 15 was discussed, an evaluation of the financial model needs to consider several factors, including underlying assumptions, tax liabilities and implications of over- or under- assessing. Lastly, she reviewed the conclusions on page 16, such as assets are declining over the next five years, cash flow is expected to be negative, surplus will remain negative, positive net income results in incurred tax liability and that the cash flow scenario provides notable deviation from recent operations.

Mr. Ghezzi then advised the committee that Towers Perrin is in the process of merging with Watson Wyatt Worldwide. He stated that when the merger is finalized, the new company name will be Towers Watson. He believes they will stay in their office in Boston, but there is a chance they could move to Watson's existing office space in Wellesley.

3. Claims Audit Reports – Ms. Gerry Foley

Ms. Foley distributed two Audit Reports, and copies of both are included with these minutes. To begin with, she reviewed the St. Paul Travelers Claim File, stating that there are currently no open ceded St. Paul Travelers files. Of all thirteen closed files, four were selected for review. She noted that the claims were handled well and had positive results in mediation, and also that negotiations were well done. Next she moved on to the ProMutual Audit Report. At this point, Attorney Robertson excused himself from the meeting. Ms. Foley advised the committee that ten files were selected for review. She stated that one claim handling was questionable, but in the final analysis it had an excellent result. Additionally she noted that she had received a personal explanation email from ProMutual regarding a specific issue with an open claim. Mr. Robertson returned to the meeting.

4. Other Business

There was no other business.

Motion made by Ms. Foley and duly seconded by Ms. Gold to adjourn the Compliance Committee meeting at 11:35 AM. The motion was voted unanimously.

A true record transcribed October 14, 2009.

MMMRP Compliance Committee

Action Items:

- Discuss a rule for closing out years.
- Determine notification date from 2008/2009 MLMIC claims. When received, these had been considered old, but we would like to check to see if they were from the 1990s or from the 2000s.
- Determine return amount to be distributed in 2010 and vote on that at next Governing Committee meeting.
- Use of high reasonable estimate.
- Return based on previous years which includes investment income.