

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5516**

**1. Opening of Meeting:**

The Appeals Board convened at 10:30 a.m. in San Diego, California, with Chairwoman Bonnie Garcia presiding.

| <b>2. Roll Call: <u>Members</u></b> | <b><u>Present</u></b> | <b><u>Absent</u></b> |
|-------------------------------------|-----------------------|----------------------|
| Bonnie Garcia, Chair                | x                     |                      |
| George Plescia, Vice Chair          | x                     |                      |
| Ann Richardson                      |                       | x                    |
| Liz Figueroa                        | x                     |                      |
| Cindy Montañez                      | x                     |                      |
| Sharon Runner                       | x                     |                      |

**3. Approval of the Minutes:**

The October 13, 2009 minutes were approved by all members present, except Member Runner who was not in attendance at the October meeting.

**4. Chair's Report:**

Chair Garcia thanked the San Diego Office of Appeals for hosting the November Board meeting.

Chair Garcia referenced discussion at the Board meeting in the prior month about dissents, and changing some procedures to avoid holding up Board decisions where there is a dissenting opinion. In order to avoid the delay caused by a case going back and forth between the dissenting Board member and the Board author, she suggests that written dissents be written by the Board member him or herself, with review as to form and any legal issues by the Chief of Appellate Operations or Chief Counsel. The goal is to close these cases the same day. If you choose to write a dissent rather than just showing your dissent, you can click on a new screen that IT will create, and write your dissent there. All members voted affirmatively on a motion in support of the new dissents procedure presented by Chair Garcia, commenting that the new procedure makes sense and will help alleviate congestion in case processing.

**5. Board Member Reports:**

Vice Chair Plescia thanked everyone for coming down and also thanked Presiding

Judge Harold Rucker and his staff for welcoming us and for their assistance in setting up the meeting.

Members Figueroa, Montañez and Runner also echoed their appreciation to the San Diego Office for their effort in hosting this Board meeting.

**6. Assistant Secretary, Labor and Workforce Development Agency, Stephen Egan Report:**

Assistant Secretary Stephen Egan reported that Acting Secretary, LWDA received a letter from the Regional Administrator of the U.S. Department of Labor (DOL) bringing sharp attention to the extended benefit program, in that they were unhappy with how some of the cases were being decided. That letter stated that our judges must follow the law in deciding these cases, and that we are to produce 25 random cases each month for their review.

**7. Chief ALJ/Chief Executive and Acting Executive Director Report:**

Chief ALJ/Acting Executive Director Alberto Roldan, commenting on the DOL letter referenced by Assistant Secretary Egan, stated that generally DOL found our program to be very high functioning and they are in the process of preparing a report based on that. With regard to DOL's specific concerns about our handling of extended benefit claims, we have developed a broad package of standard paragraphs for the judges, and Chief Trainer Presiding Judge Lillian Waters and Presiding Judge Hugh Harrison have developed a multi media curriculum for the judges. In addition, the Presiding Judges will internally audit the extended unemployment decisions that involve reversals of employment development decisions.

Chief ALJ/Acting Executive Roldan reported that we are starting to see the productivity of the new judges we've hired. Our open balance of cases in all categories has been reduced to 89,873 cases. The task force and extended mass calendars have also greatly contributed to this significant reduction.

In the month of October we set a record of 41,893 decisions, 6000 more than previously decided. The influx of 38,035 new cases in October is also a record. Part of this high productivity stems from clearing out the backlog from the typing hub, by utilizing overtime and setting up a temporary typing center for employees on the weekends. As of November 6<sup>th</sup> the typing hub backlog is now down to 1182 cases, the turnaround time has been doubled in terms of cases going into and coming out of the hub. Where there used to be a delay of 2 weeks for cases to come out of the hub, it now takes only about 5-6 days. Our ranking nationally in the most recent federal report, September 2009, shows CUIAB measurably improved in time lapse, where we moved up from 51<sup>st</sup> place to 43<sup>rd</sup> place. Our average case age tied us for 26<sup>th</sup> place. CUIAB has also passed federal quality review standards for 18 straight quarters.

Chief ALJ/Acting Executive Director Roldan reported that he did an audit of mass calendars scheduled for November, and each of the offices has mass calendars scheduled at a minimum of two times a month, in accordance with the collective bargaining agreement.

Chair Garcia commented that it is positive to see we are moving up in the rankings, and thanked all the judges, IT and support staff for all their sacrifices and expressed sincere appreciation their work.

Vice Chair Plescia asked how we compare in terms of timeliness to states like Texas or New York.

Chief ALJ/Acting Executive Director Roldan responded that California alone is carrying 27% of the national workload of unemployment appeals. We face higher challenges, such as a very diverse population speaking many different languages and a resulting need for interpreter services.

Member Figueroa asked how the judges feel about doing the mass calendars.

Chief ALJ/Acting Executive Director Roldan replied they are challenged. It takes a lot more energy to do a mass calendar. When we get to a more reasonable workload, around 60,000 open cases, we should revisit the number of mass calendars the judges are doing. Once our new judges become more productive, we will be in a position to spread the work out with more people and take a little pressure off the individual judges.

**8. Assistant to the Executive Director, Lori Kurosaka Report:**

Assistant to the Executive Director Lori Kurosaka reported that our new first level appeal form will be released in the next few weeks. The new form basically updates and captures cell phone numbers and e-mail addresses for appellate so we can begin contacting them and other media very shortly. We are also one step closer to transferring appeal decisions electronically to EDD. We are pending approval to start work with the vendor who will develop the EDD electronic process, which will capture the hearing decisions electronically and automatically send them over to EDD for processing. The contract will be fully funded by EDD.

On November 16<sup>th</sup> there will be a tour of the EDD document imaging center for the senior staff of CUIAB, and the Board members are also invited. EDD's Tax Program is already fully digital.

We are scheduled to meet with our LAO Analyst on the organization, background, history, workload and our budget. This week we will be meeting with EDD and LWDA to develop solutions to further streamline and fix the workflow process between EDD and CUIAB.

Lastly, Assistant to the Executive Director Kurosaka reported that for the

December meeting we will be bringing a few proposals to help develop and build some independent staffing ability here at CUIAB. We wish to pursue more technology for the ALJs and the support staff, as well as enhance the management information data and timeliness for the Board members, Presiding Judges, and Chief ALJs so that they are able to make informed decisions on the program.

Chair Garcia commented that the lack of technology between CUIAB and EDD has created delays. The current process is entirely too labor intensive, as we are spending enormous amounts of time and money sending decisions over to EDD in hardcopy. We received federal grants and now we could be at risk of losing those grants if we do not meet the timelines for writing the proposals. Before the end of the year she wants to make sure that we have a self sufficient unit fully staffed up with the ability to work on contracts.

**9. Chief ALJ, Appellate Operations Branch, Jorge Carrillo Report:**

Chief ALJ/AO Jorge Carrillo reported that the number of new appeals coming to the Board has been steady increasing, averaging over 2000 a month, with October at 2158 appeals. We expect that number to climb since the field is increasing its production. Our dispositions have also increased, with 2354 completed in October. Starting last month appellate judges are doing mass calendars. Twice a month the judges do an extra 8 appellants. For the first time in the last 5-6 months AO was able to produce more dispositions than new appeals coming in. Our open balance of cases is now 3650.

AO met DOL Average age of AO cases was 37 days, three days better than the DOL standard of 40 days. AO has met that standard for 4 months in a row, and the emphasis is now going to be on processing the older cases.

AO also met two of the three time lapse standards of 75 days, closing 83% of its cases within 75 days and 99% of cases within 150 days from the appeal date. AO missed the 45-day standards of 50% by 21%, but as the inventory is reduced, we should make the 50% requirement. The pending regulation changes should be of great help in achieving this.

The time for field offices to process appeals to the Board last month averaged just under 5 days, which is very good considering that part of those 5 days is the time it takes the US Postal Service to deliver the mail to the Field Office. Orange County averaged 1.93 days due to the paperless process that started in October. They toured Orange County in November to observe that process.

AO currently has a backlog in transcripts, delaying work on cases by approximately nine weeks. Now that Field has reduced typing at the Hub these typists are available to help AO with that backlog.

There are two retirements in AO: Kevin Toole and Shelley Mydans.

**10. Chief Information Officer, Rafael Placencia Report:**

Chief Information Officer Rafael Placencia reported on the following IT projects:

Social Security Numbers – The plan is to work on our end to remove the SSN from correspondence we mail out, other than to EDD. Hopefully this will reduce the number of incorrect mailings, and correspondingly the number of error reports to the State Information Officer in the Security Office.

Extension of information technology infrastructure – IT is working on finalizing the project management plan and anticipating the first install beginning January. This is one of the DOL funded projects. With acceleration project also known as WAAS (Wide Area Acceleration Services) they are complete with Phase I and are using a two-phase approach; Phase I is the implementation for hearing facilities and work-at-home users. IT Division has completed implementation of Phase I and continues to receive positive feedback from ALJs decision at remote hearing facilities. ALJs are reporting files are taking less time to upload to Sacramento. We are seeing numbers as high as 50% improvement, and as we fine tune the system that will even be faster. We are anticipating 75% improvement in the transfer of documents. The system is geared towards speeding up information between the various locations.

Speech-to-Text Electronic Transcription (Dragon Speak) -- this is also being funded by DOL. The details have been worked out here in Sacramento, and will be implemented in the field with the assistance of the ALJs. The training component for the Dragon Speak is being incorporated in the ALJ training and also via web in groups of 10.

Auto Dialer System – 2008-09 snapshot March to October, shows that the numbers of no-shows are dropping. What we expect to see is a normalize trend after the system is completely implemented and no more change to the no-show other than improvement to the system. Some of the things that they plan on doing with the Auto Dialer System in Phase II is to include phone hearings; offering the alternative of walk-ins; and adding an interactive system, so that a claimant can cancel of hearing in response to the reminder.

Chair Garcia commented that we built the Auto Dialer in-house, thus done quickly and inexpensively. We found that we were able to call people who lost their notices or who couldn't remember their appointments; we took that very limited system and made it personal by calling the person by name, reminding them of their location and time of their appointment. We maximized a very simple system. Lori talked

about this system with EDD, but EDD's computer system is very antiquated. They are in the process now of working with vendors to upgrade their computer system. They cannot currently collect any additional information so they are very limited the fields that they can provide to us. The only information that we can use from the fields that they currently have is that one phone number. By working with EDD we are changing the form that is sent out to the claimant when their benefits are denied. EDD is redesigning that form in a way that will allow us to capture a second phone number and email address. As we are looking at the next evolution for this system we are going to be looking at sending text messages and perhaps using an Internet based phone system to save money. We would also be able to call the claimants days earlier, giving us more time to work within our calendar if the party wishes to cancel a hearing.

**11. Deputy Director, Administrative Services Branch, Pam Boston Report:**

Deputy Director Pam Boston added, in reference to the Orange County pilot, that Ralyne Long is heading that project and that they are averaging about 28 minutes per page of scanning on the documents.

As to Phase II hiring, there is still pending 6 ALJ hires and 16 support staff hires. In Phase III hiring, there is pending 9 ALJ hires and 31 support staff hires.

Deputy Director Boston reported that they are currently conducting their second bi-annual bilingual audit. We audit employees who are receiving bilingual pay during the months of May and November, requiring employees to complete a time ladder to ensure that they are meeting the threshold of an average of 10% of their job performing bilingual duty.

Chief Roldan and Chief Carrillo previously talked about the Hub typing unit that was put together. A job opportunity bulletin was sent to EDD, and we were looking for any employee who was interested in typing on a furlough Fridays or the weekends. We ended up with about 100 people who expressed interest, but because we have limited space we could only take only about 20. We did the same with some CUIAB people, also ending up with about 20 people. Margarita Posedel from IT was instrumental in getting all the computers set up and she was there to help trouble shooting. Marsha Millet from Field Operations conducted the training. It was a tremendous effort that happened very quickly with a lot of other people involved, and definitely a success.

On the pending projects list (**Attachment A**) we have set forth the project, the status and the projected date of completion.

Robert Silva will be making a presentation on the 2009-2010 budget. Renee Erwin's mother passed away and our thoughts and prayers go out to the Erwin's family during this time.

Chair Garcia reported with regard to facilities that when the Presiding Judges

brought to our attention the need for additional hearing space, Member Richardson worked closely with Chief Roldan and senior staff, and were able to secure staff in the existing buildings both in Inglewood and Los Angeles to make it easier for the Presiding Judges to supervise their staff and shift their resources as needed vs. off site locations that we were considering.

## **12. Chief Counsel's Report:**

Chief Counsel Hilton reported that the agency received 10 new cases last month and closed out two. The number of court cases has been increasing over the last year, reflecting the increase of cases at the administrative level.

The court hearing with regard to the numerous cases challenging the furlough days takes place on November 16<sup>th</sup> and we anxiously looking to see the outcome. Also on that date is a hearing on the Acosta case, which now also challenges the furlough days as they impact our ability to meet timeliness requirements.

Chair Garcia commented that the Board members are doing 30 cases a day now, akin to a mass calendar. A few months ago they were at 350-400 in a month and they are now between 550-600 cases for Board member each month.

## **13. Unfinished & New Business**

### **Appeals Board Policy No. 17, Telecommuting Program for Appellate Operations:**

Chief Counsel Hilton reported that Appeals Board Policy No. 17 (Attachment B) reflects several proposed changes. Under existing policy appellate judges are required to be available during a specified period of core hours, but less than their entire workday; one proposed change would require that they must be available during all working hours, except their lunch and rest breaks. Another change would require telecommuters to avail themselves of and to utilize all technology tools to do their cases. The last significant change specifies a date certain each year for the annual evaluation of the program. After any discussion of these changes we will be asking the Board to vote to adopt them, with an effective date dependent upon notification to the union, and opportunity to meet and confer upon the impact if requested.

Chief ALJ/AO Carrillo added when this policy was written in early 1990s they did not have the technology now available. Some of us are older and very resistant to the use of technology. However, judges have the privilege of working at home, and with that privilege comes the corresponding obligation to not delay cases by not availing themselves of the new technology

Motion to approve the proposed changes passed unanimously.

### **2009/2010 Budget**

Mr. Robert Silva on behalf of Ms. Renee Silva made the budget presentation for 2009/2010 (Attachment C). The first section is what the Board had already approved for allocation for the FY 2009-2010. The second section shows expenditures through September.

The next section is information about personnel usage. The next section is a projected expenditure for the entire fiscal year. If we continue spending as we have done we see a total of \$80.9 million expended throughout the entire fiscal year. There are things that are pending which will also add to the budget, and that is on the next section entitled Pending Position Actions and Unforeseen Purchases. We are currently looking at a \$15.7 million surplus.

In response to inquiry by Chair Garcia, Ms. Valerie Graciano responded that as permanent employee EDD employees performing work for us are PY positions from the time they are counted as permanent; and when they get paid it comes from the overtime for us. When they are working overtime they still keep their position with EDD, they did not get a position that is temporary so when they work overtime for us and they have a permanent position that overtime that they work for us gets charged under permanent positions.

Chair Garcia suggested listing this data separately in the future. She wants the Board to be able to track monthly what it is costing us to stay on top of our workload. We know we are impacted by the furlough days and know that some employees are taking time off, but we still have to turn out the work.

Mr. Silva reported on the Earnings-Monthly Adjustments, commenting that we actually lost additional earnings because the dispositions numbers were lowered, and now the disposition numbers that Alberto and Jorge referred to were up over 40,000 for the month of October so we bring our earnings back for additional earnings for dispositions.

Chair Garcia asked if we expect the reimbursement rate to be the same as last year, and if so, what it will do in terms of our surplus.

Mr. Silva replied that he expects it to be the same as last year. That will change the monthly additional earnings we have and make our surplus grow as long as we are producing the additional decisions each month. Historically, dispositions will drop off for the months of November and December because of the holidays.

Chair Garcia asked if we have a plan in place to spend the surplus.

Mr. Silva responded that we do not have a plan, but there are some IT projects held to a grant; as of now there is not because we are waiting for the October revise. Chief Roldan stated that some lease costs could be paid early.

Mr. Silva reported we are consistently overspending on overtime across the board and this is something else that depending on how the hires come in over the next couple of months and the continued use of overtime we may have to augment overtime. This is something that also would theoretically consume some additional earnings or surplus.

**14. Public Comment:**

None

**15. Closed Session:**

The Board went into closed session. No votes were reported.

**Adjournment**