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CHRISTOPHER M. TATE
MATTHEW J. TIERNEY
PRINCIPAL ADMINISTRATIVE LAW JUDGES

Draft Minutes of UIAB Board Meeting, Wednesday, June 27, 2018

Present in Troy: Geraldine A. Reilly, Chair; Michael T. Greason, Randall T. Douglas, June F. O'Neill, Marilyn P. O'Mara, Board Members; Jayson Myers, Chief Administrative Law Judge, Christopher Tate, Principal Administrative Law Judge.

Present by videoconference from New York City: Susan Borenstein, Executive Secretary.

Agenda:

- Welcome and Call to Order
- Reading and adoption of agenda
- Adoption of Minutes – April 18, 2018 meeting
- Director's report
- Chief ALJ report
- Court Decision Update – Principal ALJ C. Tate
- New business
- Adjourn

1. Welcome and Call to Order

- Chair Geraldine Reilly presiding from the Board's offices in Troy, New York on June 27, 2018 opened the public meeting of the board. She said that the meeting was noticed, the draft agenda has been published, minutes from the previous meeting have been circulated to members, and the public has been invited to observe. She added that this meeting is being recorded and will be available on the UIAB website.
- Chair Reilly expressed her delight that Board Members Michael Greason, Randy Douglas, Marilyn Pina O'Mara and June O'Neill all were attending in person in Troy with her. She reported that, with the presence of all Board members, a quorum is achieved. She thanked all who have supported the work of the Board in addressing the many challenges it faces. She also thanked the staff and leadership of all UIAB offices, and primarily her colleagues on the Board for their work, encouragement and support. She also acknowledged and thanked Executive Director Susan Borenstein and Chief Judge Jayson Myers and Principal ALJ for Appeals Christopher Tate for their dedication and hard work. Finally, Chair Reilly acknowledged and thanked Administrative Law Judge David Kim who provided a brief training session and overview of Employee/Independent Contractor Status issues to the Board after the meeting was adjourned.
- Chair Reilly expressed that the quarterly schedule of meetings serves to accomplish her goal of an Unemployment Insurance Appeal Board that is

accessible and fair, as well as transparent and timely. She noted that the Board now has a full complement of five Board members each of whom is industrious and engaged in their approach to the consequential work that we do. Chair Reilly called the meeting to order at 11:10 am and asked Board Members and staff to introduce themselves.

2. Reading and adoption of the agenda
 - Member O'Neill moved to adopt the agenda
 - Member Douglas seconded the motion
 - Motion to adopt agenda adopted unanimously

3. Reading and Adoption of the minutes, April 18, 2018 Board Meeting
 - Member Greason moved to dispense with the reading and to adopt the minutes
 - Member O'Neill seconded the motion
 - Motion to suspend reading and adoption of the minutes unanimously approved

4. Report of Executive Secretary Susan Borenstein
 - Executive Secretary Borenstein thanked the Chair, the Chief ALJ and Board Member for their support and good wishes after her recent injury. She noted the deployment date for the updated case management system has been postponed to August 24th. ABS will not be available on Friday, August 23rd and Monday August 26th during the installment of the upgraded system. ITS, the state technology agency, was not ready to deploy earlier. She briefly discussed the ambitious training schedule and a possible webinar for Board Members.
 - Regarding USDOL regulations, Borenstein reported timeliness numbers have greatly improved. Due to the diligent work of Board Members, the UIAB is now in compliance with Higher Authority case age. As of Friday, July 18, the average case age was 38.48 days – almost two full days below the 40-day acceptable level of performance. She noted that the UIAB is also in compliance with all Lower Authority USDOL regulations. As of Friday, July 18th, the Lower Authority average case age was 23 days – 7 days below the 30-day marker for acceptable level of performance. The percentage of hearing decisions that are mailed within 30 days is now 60%, the acceptable level of performance, As of Friday, July 18th 84% of hearing decisions were mailed within 45 days of the hearing request, in compliance with the USDOL 80% acceptable level of performance.
 - Our staff allocation fill level remains at 140. We have been able to backfill several positions that had been vacant for some time. They are: Business Systems Analyst 2 in Troy, Kasia Petronis; Secretary 2 in Troy, Melissa Sousa who will be Jayson's secretary and assist Chair Reilly and Principal ALJs in Troy as needed. Melissa will start on July 12th; Labor Service Representative; Frank Esposito will work in the Troy hearing section. Finally, we are in the

process now of interviewing candidates for four open ALJ positions in our Brooklyn office.

- Because of two disturbing security incidents with unruly claimants, one in Troy and one in Brooklyn, our Chair has asked the DOL to assist us in providing enhanced security services – bag checks and metal detector wands. I am pleased to report Chair Reilly's advocacy has been successful and that the DOL will soon train security guards in all locations in bag searches. The DOL is currently investigating the need for metal detector wands for guards at all hearing locations.
 - The training for staff about the Claimant Advocate's Office was completed the week of June 18th. That office receives calls from claimants about hearing cases as well as determinations made by the DOL. The purpose of the training was to acquaint our staff with the fears, difficulties and hopes that claimants have about the hearing process. By all accounts the training was very successful, animated and lively. We will have a debrief early in July about lessons learned and make some recommendations which we believe will better assist claimants. On June 25th, the UIAB was invited to attend a meeting to hear an annual report by Claimant Advocate Director Danny Lee.
 - Exec Secretary Borenstein closed her report by congratulating Chief ALJ Jayson Myers on a very successful term as President of the National Association of Unemployment Insurance Appellate Professionals. He recently completed the one-year Presidential term at the annual conference held in Annapolis, MD. She concluded by noting that by all accounts the conference had one of the largest attendance in years, and many new states opted to join the organization and that this was a result of Jayson's work.
 - Chair Reilly asked for questions and comments. She too congratulated Chief ALJ Myers on the successful completion of his Presidential term. She asked for questions and hearing none asked for a motion to accept the report and incorporate it into the record.
 - Member O'Mara so moved and Member Greason seconded. The report was unanimously accepted.
5. Report of Chief Administrative Law Judge (ALJ) Jayson Myers
- Chief Judge Myers began his report with the results of the First Quarter 2018 quarterly Federal Quality Review. He was pleased to report that our Administrative Law Judges' average grade was 97.25% based on 20 randomly selected cases that were scored according to 31 quality criteria. All 20 of the selected cases passed with a score of 85% or better. The acceptable level of performance is 80 percent or 16 cases passing with grades of 85 or better so we continue to be well higher than that floor. Nine of the 20 had perfect scores of 100. For calendar year 2018 the UIAB will score 20 cases per quarter. As unemployment figures have declined so has Lower Authority workload. The workload determines the number of cases per quarter that must be audited

and scored. The terminology used by the U.S. Department of Labor is Lower Authority for hearings and Higher Authority for appeals to the Board.

- From the long-range view, over the past four years, Chief Judge Myers stated that the UIAB has had an almost 100% passing grade score; with only four out of 620 cases scored not achieving passing grades. The credit is all due to our hearing judges across the state who conduct hearings, as well as their supervisors, the Senior Judges, who are steadily assessing the work of their direct reports and coaching them when appropriate. High level of performance is not taken for granted.
- Principal Judge Christopher Tate and the Higher Authority judicial staff deserve special commendation for consistently working to reduce our average HA case age to the point where this past week we went under 40 days.
- Chief Judge Myers reported on the upcoming publication of the Unemployment Insurance Appeal Board's Bench Manual for Administrative Law Judges which is now in the final stages of completion. The Bench Manual will be a major training resource and tool for our administrative law judges for both substantive law and hearing procedures. We will supplement it, and replace pages on an annual basis and as needed. Myers noted that this milestone achievement could not have been possible without the dedication of members of our judicial staff who contributed sections to the Manual and administrative staff who aided with proofreading. Training Coordinator Deborah Esrick and Syracuse Senior ALJ Tracie Covey did the major drafting, editing and formatting. Susan Borenstein and Chief Judge Myers aided in the editing. He thanked Chair Reilly for her support and encouragement for this important project. The release of the manual is targeted for July following final review.
- On the training front, Myers informed the Board that trainings about the work of the Claimant Advocate Office were completed. The Claimant Advocate Office was created about four years ago to assist claimants in navigating the claims filing process, as well as assisting claimants in understanding the appeals process and the decisions arising from hearings. Daniel Lee, the director of that office, and one of his staff engaged in a discussion with UIAB judicial and administrative staff concerning the role of their office and the types of inquiries they get. Senior ALJ Carol Procopio from Brooklyn moderated all the trainings. A debrief of the trainings is scheduled.
- Myers noted that later in the year, a customer service training as well as supervisory trainings for Senior Judges is planned. The supervisory training will be especially timely in view of our expected transition from a court-monitored quality assurance plan to a self-monitored plan which will be equally aggressive and specific. A committee of seven of the judicial staff, Senior ALJs Mark Sokolowski of Buffalo, Tracie Covey of Syracuse and Denyse Hodges of

Hauppauge, and ALJs Michelle Burrowes, Wendy Pichardo and Alison Ferrara of Brooklyn and Susan Aron of the Higher Authority in Troy have been working with him to devise this plan which will be shared with all supervisory judicial staff and management probably in July.

- On the recruitment front, Myers reported that he has scheduled second interviews with candidates for four vacant ALJ positions in Brooklyn. He also noted Senior Judges Tracie Covey and Rachel Freeman and Higher Authority ALJ Catherine Adlerman have been participating in the Curam update of our case management system. He thanked them for their continuing work on that important project.
- Chief Myers closed by saying that he attended the annual conference of the National Association of Unemployment Insurance Appellate Professionals in Annapolis, MD. He completed his term as President, but will continue to serve on the Board of Governors of that organization for the next 12 months as Past President.
- Chair Reilly congratulated the Chief Judge for a successful term as the President of NAUIAP and his work on the completion of the Bench Manual. She asked for questions and comments and hearing none, asked for a motion to accept the report into the record. Member O'Mara moved to adopt the report and to incorporate it into the record. Member O'Neill seconded the motion and it was unanimously adopted.

6. Report of Principal Administrative Law Judge Christopher Tate

- Principal ALJ Tate discussed four cases affirmed by the Court:
 - *Matter of McCarthy*, 72 NYS3d 851, was decided on May 3, 2018.
 - *Matter of Hirota*, 2018 N.Y. App. Div. LEXIS 3346, was decided on May 10, 2018.
 - *Matter of Kolesar*, 2018 N.Y. App. Div. LEXIS 3686, was decided on May 21, 2018.
 - *Matter of Mateo*, 2018 N.Y. App. Div. LEXIS 3689, was decided on May 24, 2018.
- Chair Reilly asked for questions and, hearing none, asked for a motion to adopt the report and incorporate them into the record. Member Douglas moved to accept the report and to incorporate them into the record. Member Greason seconded the motion which was unanimously adopted.

7. New Business: Chair Reilly asked for new business and hearing none, Chair Reilly thanked the Board Members for making the trip to Troy and then asked for a motion to adjourn. She noted that the next Board meeting will be on October 27, 2018. Member Greason moved to adjourn the meeting and Member O'Neill seconded the motion. The motion to adjourn was unanimously adopted,

8. The meeting was adjourned at 11:40 AM.

Submitted by: Susan Borenstein

Unanimously adopted by the Board and incorporated into the record on October 3, 2018.