

March 17, 2010

Testimony of Gaynell Nixon, Injured Worker Advocate

Good Morning, Chairwoman Cheh

I testified before the committee on Government Operations Performance Hearing for the Office of Risk Management (ORM) on April 6, 2009, and at that hearing you directed the ORM Director Kelly Valentine to respond to the questions that were raised at that hearing. Ms. Valentine's response was to be sent to me as well as the Committee on Government Operations. I have tried for 11 months, unsuccessfully, to get those responses.

Madam Chair, without sounding disrespectful to the council committee or you, there is a strong need for closer oversight of the worker compensation program, presently administered by ORM and Sedgewick, the third party administrator (TPA). It appears that there is no entity of this government other than the claimants that understand the function of the worker compensation program. It is an entitlement of benefits for those DC Government Employees who were injured on the job through no fault of their own. However, Ms. Valentine has been allowed to operate the program as though it were an insurance program instead of an entitlement program. I have attached a copy of a memorandum that Ms Valentine sent to Attorney General Peter Nichols on October 4, 2007, whereas she is proposing to change portions of DC Codified Law 2-139-623-01 through 45. These sections of the law that she wants to change are the same sections that were amended to provide protection for the claimants. City Council passed legislation in November 2004 (The Disability Effective Administrative Act), and the Injured Employee Protection Act 2006. These (2) pieces of legislation were passed by Council for the purpose of protecting the claimants and assuring that their needs would be met. Ms. Valentine now wants to change this legislation for the detriment of the claimants. It is alleged that Ms. Valentine has received permission from the City Administrator to put these new laws into effect, without review and comments by City Council. ORM operates as though they can change any and all laws related to the Worker Compensation Program, which may be the case, since it appears that any new operational procedures need only be implemented without any oversight review.

On June 29, 2009 Ms. Valentine responded to questions from the Office of the Inspector General (OIG). One of the questions related to the handling of outstanding request from claimants. Ms. Valentine's response was as follows, and I quote, "If a compensation order has been issued following an administrative hearing and no appeal is filed by the injured employee within the period specified in the order, the order becomes final." She should have said, if no appeal is filed by either the employee or the employer, the order becomes final, case-in-point, on May 5, 2009 I received a compensation order from an Administrative Law Judge, granting me reimbursement for medical expenses. ORM did not appeal the judges order and has refused to pay the claim.

On the record and for the record I am seeking information about my life insurance benefits, Monies are being deducted from my benefits check for life insurance, but the company, Standard Insurance is not receiving vouchers for any coverage, nor do they have me in their system.

ORM refers to the claimants as former District Government Employees receiving benefits which is incorrect. We are active government employees in an LWOP status. Here again I say that there is no continuity in the system, which is why Ms. Valentine hires contractors to perform vocational rehab services, who are totally unfamiliar with DC Law. Some of these contractors have told many of us that we are no longer employees of the government, because we have been fired. If that is the case, the Council should take a hard look at why tax payer's monies have become a free-fall to ex-government employees.

More importantly, if ORM and the TPA would adhere to the laws that govern the worker compensation program, and if the government would install compliance and enforcement rules there would be fewer issues. There are two sets of laws that govern the Workers Comp Program, ORMs' laws and legislative laws from City Council; apparently the later does not count.