

# Appeals Refresher Training: ETF Appeals Process

## Item 4 – Group Insurance Board

Peter Rank, Attorney  
ETF Office of Legal Services

Sarah Huck, Assistant Attorney General  
Wisconsin Department of Justice



# Informational Item Only

- No Board action is required.

# Appeals Process

- ETF Appeals Process
  - Independent Review Organizations (IROs)
  - Informal Review Process by ETF
  - Division of Hearings and Appeals
  - Proposed Decision
- Board Functions in an appeal
  - Quasi-judicial
  - Closed Session Deliberation
  - Review On The Record
  - Final Decision

# IROs

- Independent Reviews are not administered by ETF
- They are requested by a participant and can get to IRO through multiple channels
- Examples of types of disputes decided by IRO:
  - Coverage issues
  - Medical necessity
  - Experimental treatment
  - Rescission of health policy
- If a participant pursues an IRO, no option for ETF review or appeal

# Informal Review Process by ETF

- Resolution without a formal appeal being filed
- Resolution upon formal appeal being filed
  - Office of Legal Services internal review
- Resolution and Settlement authority of the ETF Secretary

# Division of Hearings and Appeals

- Chapter 11 of ETF's Administrative Code
- Role of Administrative Law Judge
  - Oversees the formal appeals process
  - Conducts hearings, receives relevant evidence, rules on objections and motions
  - Issues the proposed decision
- Steps in the process vary depending on the legal issues presented

# Proposed Decision

- Findings of Fact
- Conclusions of Law
- Order
- Parties have the opportunity to file objections to the proposed decision
  - These objections will be included in the appeal record

# The Board's Attorney for ETF Administrative Appeals

- Wisconsin Department of Justice
- Assistant Attorney General (AAG), Sarah Huck



# The Board's Function

- Quasi-judicial
- Closed session deliberation—parties not present during the deliberation
- Review on the record—Board does not take evidence or hear testimony
- Provide oversight of the initial decision-making process—either that of the Department, or, in direct appeals, the member's employer
- The hearing examiner issues a proposed decision, but the Board need not adopt it, either in part or in full. The proposed decision is not entitled to deference by the Board

# Who are the Parties?

- A “substantial interest” in the issue to be decided
- Except for direct appeals, the Department is a party, but may choose not to participate
- In cases involving death benefits, the parties may include potential beneficiaries
- In cases involving insurance benefits, the third-party administrator, or health insurance program may be a party

# Decision-making Process

- Board staff provides appeal record to each Board member
- Prior to Board meeting: read the record, identify the specific issues to be resolved and any factual and legal disputes
- Board meets to consider the appeal
- At Board meeting: DOJ AAG provides summary of case and a recommendation for deciding the appeal
- Board discusses members' views of the facts and law at issue
- Vote. Not all Board decisions are unanimous

# Final Decision

- Parties to the appeal
- Must include findings of fact and conclusions of law. Should include facts establishing the Board's jurisdiction
- A statement of the disposition of the appeal: whether the decision of the Department or employer is affirmed, reversed, or remanded for further proceedings

# What happens next?

- Participant accepts the board's decision and ends appeal
- Petition for re-hearing
- Judicial review in Dane County Circuit Court

The background is a dark blue gradient with numerous out-of-focus light spots in shades of blue and purple, creating a bokeh effect.

**Questions?**