Operating Engineers Local No. 77
Health & Welfare and Pension Funds

911 Ridgebrook Road
Sparks, MD 21152-9451
Telephone: (410) 683-6500
Toll Free: (877) 850-0977
www.associated-admin.com

8400 Corporate Drive
Suite 430
Landover, MD 20785-2361
Telephone: (301) 459-3020
Toll Free: (877) 850-0977
www.associated-admin.com

MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES OF THE OPERATING ENGINEERS LOCAL 77 HEALTH & WELFARE TRUST FUND
TUESDAY, MAY 9, 2023

The following Trustees were present:

UNION TRUSTEES	**EMPLOYER TRUSTEES**
J. VanDyke	C. Burke
R. Dennison	B. Mazzella
S. Faulkner	
T. Johnson	

ALSO PRESENT:

W. Chambers – Associated Administrators, LLC
R. Devlin – Bolton (Part of the Meeting)
C. Fuller – McChesney & Dale, P.C.
B. Gilroy – Training Coordinator
J. Linville – CVS Health
R. McKnight – Associated Administrators, LLC
D. Melloh – Investment Performance Services, LLC (Part of the Meeting)

I. CALL TO ORDER

The Chairman called the meeting to order.

II. MINUTES

The Trustees, each having previously received a copy of the minutes of the regular meeting held on February 14, 2023, waived the reading, and, Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to approve the minutes of the regular meeting held on February 14, 2023 as written.

III. FINANCIAL REPORTS

Investment Performance Services

The Trustees welcomed Mr. Dan Melloh from Investment Performance Services to the meeting. Mr. Melloh reviewed the investment performance analysis for the first quarter 2023. The report indicated assets of $34,387,480 as of March 31, 2023 compared to $33,628,622 as of December 31, 2023, producing a gain of $697,439 for the quarter. The report further indicated the total return for the quarter ending March 31, 2023 was negative 2.1%. For domestic large cap equity the returns were 12.6%; for investment grade fixed income the returns were 8.6%; for short duration high yield fixed income the returns were 1.5%; and for real estate the returns were negative 3% for the quarter ending March 31, 2023.

Asset Allocation

Mr. Melloh stated that all assets allocations are within policy range and had no recommendations.

The Trustees thanked Mr. Melloh for her report and she was excused from the meeting.

IV. CONSULTANT'S REPORT

Bolton – 2022 Annual Report

The Trustees welcomed Mr. Ryan Devlin of Bolton Partners to the meeting. Mr. Devlin distributed a report summarizing the 2022 Plan year. He stated the total income in the 2022 Plan year was $14,170,367 which was 22.2% lower than the 2021 Plan year. He stated total expenses were $17,331,485 which was 1.5% more than 2021. He stated there was 1,588 eligible participants compared to 1,678 in 2021. He stated the three-year projection for the Fund shows an increase in expenses and an operating loss for the 2025 plan year of $471,340.

Bolton – Consultant's Report

Mr. Devlin distributed the Consultant's Report dated May 9, 2023. His report detailed the recent move from a Retiree Drug Subsidy (RDS) to an Employer Group Waiver Plan (EGWP) through

Aetna Medicare Advantage Part D (MAPD) effective January 1, 2023. He noted the fully-insured rate of $230.90 per member per month is guaranteed for 2023 and 2024. He stated that the Trustees could elect to do a request for proposal using either KTP Advisors or RetireeFirst (formerly LaborFirst) who specialize in the Medicare Advantage market.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED to receive a request for proposal from RetireeFirst to do a market check and a potential change from Aetna Medicare Advantage Part D.**

CVS – 2022 Pharmacy Benefit Review

Mr. Jon Linville from CVS Health was welcomed to the meeting. Mr. Linville reviewed the total plan cost of $3,166,094 for the 2022 Plan Year which represented a 6% increase over 2021. He stated the main cost components were specialty drugs which cost $2,554,203 in 2022 which represents an 8.1% increase from 2021. Mr. Linville recommended the Fund consider a utilization management tool from provided by CVS that would review the dose optimization to help reduce drug costs and improve adherence. He stated the estimated savings by using the Drug Savings Review tool would be $48,647 for Plan Year 2024.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED to approve the implementation of the Drug Savings Review program provided by CVS.**

PrudentRx

Mr. Devlin presented the Savings Analysis IUOE Local 77 report dated March 2023. Mr. Devlin stated that PrudentRX is a company the Fund could utilize to analyze specialty drug spend, redesign the current specialty drug plan tier, and proactively enroll members into assistance programs to help the Fund and the Fund participants save money by implementing a 30% flat coinsurance for all specialty medications exclusively dispensed by an approved network pharmacy. He noted the estimated savings to the Fund would be $240,948. The Trustees thanked Mr. Devlin for his report and will consider the program.

V. ATTORNEY'S REPORT

Mr. Fuller reported that he continues to monitor the status of the transitional reinsurance fee litigation. Mr. Fuller reported the federal Public Health Emergency for COVID-19 is scheduled to end May 11, 2023. Mr. Fuller presented the Amendment to the Operating Engineers Trust Fund of Washington, D.C. dated May 8, 2023. He stated this amendment abides by the provisions stated in the No Surprises Act that modify emergency room visits, certifying care, continuing care, and emergency services.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED to adopt the May 8, 2023 Amendment to the Operating Engineers Trust Fund of Washington, D.C. (No Surprises Act).**

Mr. Fuller distributed the final draft of the Summary Plan Description dated June 2023. After review with the Trustees, Mr. Fuller stated that any additional changes discussed by the Trustees will be incorporated and presented for final approval before printing.

VI. ADMINISTRATIVE MANAGER'S REPORT

Gain/Loss Reports

Mr. McKnight presented the Administrative Manager's Report for the period January 1, 2023 through March 31, 2023. Such report indicated total contributions of $3,825,338, self-payments of $4,900, COBRA income of $6,847, net negative reciprocity income of $40,252, retiree self-pay income of $196,329, prescription subsidy of $0, interest on delinquent contributions of $5,025, liquidated damages of $5,726, miscellaneous income of $0, interest income of $3,728, interest on investments in the American Core Realty account of $26,593, interest on investments in the Wedge fixed Capital Management account of $85,029, interest on investments in the Wedge LG Capital Management account of $530, dividend on investments in the Wedge LG Capital Management account of $11,611, interest on investments in the Chartwell Investment account of $116,100, interest on investments in the Vanguard account of $0, a loss in investments in the American Realty account of $208,507, a loss on investments in the Boyd Watterson account of $1,890, a gain in investments in the Wedge LG Capital Management account of $28,939, a gain on investments in the Vanguard account of $336,715, a gain on the investment in the Chartwell account of $24,989, a gain in the Wedge fixed income account of $208,019. There were expenses totaling $3,945,007 for the period, producing a net gain for the period of $771,267.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED to accept the Administrative Manager's Report for the period January 1, 2023 through March 31, 2023 as presented.**

VII. OTHER FUND BUSINESS

Mr. McKnight stated the Administrative Services Contract between Associated Administrators, LLC and the Operating Engineers Local No. 77 Trust Fund of Washington, D.C. expires on July 31, 2023. Mr. McKnight respectfully asked the Trustees to consider a three-year contract with a 3% increase each year. He stated the new contract would be effective August 1, 2023 through July 31, 2026.

On a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED to approve the three-year contract extension with Associated Administrators effective August 1, 2023 through July 31, 2026.**

Mr. McKnight presented a letter from Holcim-MAR (formerly Aggregate Industries) requesting a reimbursement of an overpayment in the amount of $2,788.38. The request stated from November 2021 to July 2022, payments submitted for Health and Welfare were based on all hours paid instead of being paid on hours worked. They have corrected their contribution payments since and are requesting the overpayment made during that time.

On a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to approve the reimbursement to Holcim-MAR (formerly Aggregate Industries) for the overpayment amount of $2,788.38.

VIII. PARTICIPANT/PROVIDER APPEALS

Participant Appeal #M23/106-4493

Mr. Fuller presented an appeal from the provider. The provider, Atlantic DME, is appealing the Fund's request for reimbursement of a claim for the rental of Durable Medical Equipment. It was noted that the Durable Medical Equipment was deemed not medically necessary by Conifer Health Solutions.

Conifer advised the Fund office that the prescribing physician, Dr. Cyrus Lashgari, requested certification of a pneumatic compression device on May 16, 2022. Upon review, Conifer advised that the device was not medically necessary, stating, "[…] The clinical documentation submitted indicates that the patient underwent left shoulder surgery on 05/18/22. There were no exceptional factors, conditions, or comorbidities that would support the request for an intermittent pneumatic compression device following upper extremity surgery. There was also no suggestion of an absolute contraindication to pharmacologic thromboprophylaxis. Lastly, there was no rationale to support the pneumatic appliance for the arms in addition to the legs. […] The recommendation is for early postoperative mobilization to reduce the postoperative risk of deep vein thrombosis (DVT)."

Conifer further advised that the participant and Dr. Lashgari were notified of the determination on May 19, 2022. Despite the lack of certification, Atlantic DME submitted claims for the rental of the pneumatic compression device (CPT E0675-RR) and the related compressor (CPT E0651-RR), for the period from May 18, 2022 through June 2, 2022. The claim for the compression device (E0675-RR) was denied because the equipment was deemed not medically necessary. The claim for the compressor (E0651-RR) was paid, erroneously. The Fund office mailed letters to the provider and the participant on August 30, 2022 and November 23, 2022, requesting reimbursement of the erroneous payment. To date, reimbursement has not been received. The provider's appeal was received on January 9, 2023.

The provider states in summary that the ordering physician, Dr. Cyrus Lashgari, is the only person capable of determining the medical necessity of a service for his patient and that the documentation submitted proves the medical necessity of this service, in their opinion. Documentation received with the appeal indicates that the participant was prescribed the pneumatic compression device following left shoulder surgery to prevent Deep Vein Thrombosis (DVT) and provide pneumatic compression therapy.

Conifer has advised the Fund office that an appeal level of review can be conducted with a different physician reviewer.

Note: Atlantic DME also submitted claims for the rental of this equipment for the period from June 3, 2022 through June 18, 2022. Those claims were denied based upon a lack of medical necessity.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED to deny the appeal for reimbursement for the rental of durable medical equipment.**

<u>Participant Appeal #M23/121-3390</u>

Mr. Fuller presented an appeal on behalf of the participant. The participant is appealing for payment of claims for speech therapy provided to his 5-year old daughter (DOB: 1-12-2018) that were denied. The participant's daughter's mother passed away in 2021 and the daughter was referred to speech therapy because she was not communicating well with others. The participant states that he thought everything was covered at the time, until February 16, 2023, when he received a call from a collection agency, and he believes the speech therapy should have been covered.

Fund records indicate that Ascension St. Vincent Kokomo submitted claims for speech therapy services provided on November 4, 2021, November 9, 2021, November 22, 2021, December 1, 2021, and December 3, 2021 with the diagnosis "Developmental disorder of speech and language, unspecified." The claims were denied because the treatment of learning deficiencies is excluded from coverage under the Plan. The Plan covers speech therapy only to the extent of restoring speech function to pre-trauma, pre-sickness, or pre-condition levels.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED to deny the appeal for payment of claims related to speech therapy.**

IX. NEXT MEETING DATE AND LOCATION

After discussion, the Trustees selected August 8, 2023, and November 14, 2023 as the next meeting date at the offices of Associated Administrators in Landover, Maryland following the Pension Fund meeting.

X. ADJOURNMENT

There being no further business to come before the Trustees, the meeting was adjourned.

Respectfully submitted,

John Knowles - Chairman