ITEM 3

INCORRECT REDUCTION CLAIM

PROPOSED DECISION

Labor Code Section 3212.1

Statutes 1982, Chapter 1568

Firefighter's Cancer Presumption

Fiscal Year 2003-2004

09-4081-I-01

City of Los Angeles, Claimant

TABLE OF CONTENTS

Exhibit A

1. INCORRECT REDUCTION CLAIM TITLE

Firefighter's Cancer Presumption Program

2. CLAIMANT INFORMATION

City of Los Angeles
Name of Local Agency or School District

Sola Oniyide
Claimant Contact

Management Analyst II
Title

700 East Temple Street, Room 210
Street Address

Los Angeles, California, 90012
City, State, Zip

213-473-3341
Telephone Number

213-473-3333
Fax Number

Sola.Oniyide@lacity.org
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this incorrect reduction claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Steven Presberg
Claimant Representative Name

Senior Personnel Analyst II
Title

City of Los Angeles, Personnel Department
Organization

700 East Temple Street, Room 210
Street Address

Los Angeles, California, 90012
City, State, Zip

213-473-9123
Telephone Number

213-473-3333
Fax Number

Steve.Presberg@lacity.org
E-Mail Address

For CSM Use Only

Filing Date

RECEIVED
JAN 2 6 2010
COMMISSION ON STATE MANDATES

IRC #: 09-4081-I-01

4. IDENTIFICATION OF STATUTES OR EXECUTIVE ORDERS

Please specify the subject statute or executive order that claimaint alleges is not being fully reimbursed pursuant to the adopted parameters and guidelines.

Firefighter's Cancer Presumption Program

Chapter 1568, Status of 1982

5. AMOUNT OF INCORRECT REDUCTION

Please specify the fiscal year and amount of reduction. More than one fiscal year may be claimed.

Fiscal Year	Amount of Reduction
2003-04	$516,132.00
TOTAL:	

6. NOTICE OF INTENT TO CONSOLIDATE

Please check the box below if there is intent to consolidate this claim.

☐ **Yes, this claim is being filed with the intent to consolidate on behalf of other claimants.**

Sections 7 through 11 are attached as follows:

7. Written Detailed Narrative: pages 1 to 2.

8. Documentary Evidence and Declarations: Exhibit N/A.

9. Claiming Instructions: Exhibit A.

10. Final State Audit Report or Other Written Notice of Adjustment: Exhibit B.

11. Reimbursement Claims: Exhibit C.

12. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the incorrect reduction claim submission.**

This claim alleges an incorrect reduction of a reimbursement claim filed with the State Controller's Office pursuant to Government Code section 17561. This incorrect reduction claim is filed pursuant to Government Code section 17551, subdivision (d). I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this incorrect reduction claim submission is true and complete to the best of my own knowledge or information or belief.

City of Los Angeles	Management Analyst II
Print or Type Name of Authorized Local Agency or School District Official	Print or Type Title
[signature]	1/8/2010
Signature of Authorized Local Agency or School District Official	Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the incorrect reduction claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

WRITTEN DETAILED NARRATIVE

RE: Firefighter's Cancer Presumption Program (July 1, 2003 through June 30, 2007)

Having reviewed the audit report on the above referenced program, we take the strongest possible exception to, and appeal the determination of the State Controller's office to disallow $516,132 in what is characterized as "unclaimed costs" on the FY 2003-04 claims year.

An arithmetic discrepancy was found by Audit Manager, Mr. Steve W. Van Zee, and was brought to the attention of this Department's analyst, Mr. Sola Oniyide. We assert that the characterization of this amount as "unclaimed" is completely erroneous and inaccurate.

On Schedule 1 – Summary of Program Costs – July 1, 2003 through June 30, 2007, under the period July 1, 2003 through June 30, 2004, your schedule indicates $985,119 in "Disability benefit costs." A simple recap, or calculator summary of the line-by-line entries on your Form FCP-2 demonstrates, as the auditor found, that this amount is $516,132 less than it should be.

Government Code Section 17561 indicates that these reimbursements are mandatory, unless, as per subsection (d)(1)(C)(ii), "... the Controller determines (that a claim) is excessive or unreasonable." No such determination has been made. In fact, the State audit simply characterizes this amount ($516,132) as "unclaimed." This is clearly inaccurate, as the itemized claims were in fact submitted. "Disallowing" this amount on any basis other than a determination that they were either excessive or unreasonable is not a ground supported by the Government Code.

State audit's reference by footnote to the filing deadline having expired for FY 2003-04 is similarly erroneous. There is no factual dispute that these claims, each and every itemized individual claim, were timely submitted. I note that Government Code Section 17561, subsection (d)(2)(C) states, "The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years." There is no time limit attached to this provision, and I am certain that any overpayment, regardless of date, would be the subject of a subsequent offset or recovery by the Controller's office. Under the terms of the statute, the amount "disallowed" should have been recalculated and included in the amount claimed.

It is in the interest of carrying out the substantive intent of the statute and program, the dictates of the legislature and expectations of reimbursement on behalf of all of the residents of the City of Los Angeles, and basic fairness, that I strongly urge your reconsideration of this matter.

FIREFIGHTERS CANCER PRESUMPTION

1. Summary of Chapter 1568, Statutes of 1982

On February 23, 1984 the Board of Control (successor agency is the Commission On State Mandates) determined that fire departments will incur "costs mandated by the state" as a result of Chapter 1568 of the Statutes of 1982, which added Section 3212.1 to the Labor Code and that such costs are reimbursable pursuant to Government Code Section 17561. This section states that cancer that has developed or manifested itself in peace officers will be presumed to have arisen out of and in the course of employment, unless the presumption is controverted by other evidence. The presumption is extended to a peace officer following termination of service for a period of three calendar months for each year of requisite service, but not to exceed sixty (60) months in any circumstance, commencing with the last date actually worked in the specified capacity.

2. Eligible Claimants

Any fire department of a city, a county, a city and county, a local fire prevention district, a public municipal corporation or political subdivision of the state which employs firefighters and incurs increased costs as a result of this mandate is eligible to claim reimbursement of those costs.

3. Appropriations

Claims may only be filed with the State Controller's Office for programs that have been funded in the State Budget or in Special Legislation. To determine if current funding is available for this program, refer to the "Appropriation for State mandated Cost Programs" schedule presented in the "Annual Claiming Instructions for State Mandated Costs" issued in mid-September of each year to city fiscal officers, county auditors and administrators of special districts.

4. Type of Claims

A. Reimbursement and Estimated Claims

A claimant may file a reimbursement claim and/or an estimated claim. a reimbursement claim details the costs actually incurred for the previous fiscal year. An estimated claim show the costs to be incurred for the current fiscal year.

A claim for reimbursement or an estimate must exceed $200 per fiscal year. However, any county, as fiscal agent for the special district, may submit a combined claim in excess of $200 on behalf of one or more districts within the county even if the individual district's claim does not exceed $200. A combined claim must show the individual claim costs for each district. Once a combined claim is field, all subsequent fiscal years relating to the same mandate must be filed in a combined form. The county receives the reimbursement payment and is responsible for disbursing funds to each participating district. A district may withdraw from the combined claim form by providing a written notice to the county and the State Controller's Office, at least 180 days prior to the deadline for filing the claim, of its intent to file a separate claim.

B. Filing Deadline

Refer to item 3 "Appropriations" to determine if the program is funded for the current fiscal year. If funding is available, an estimated claim may be filed.

(1) Refer to item 3 "Appropriations" to determine if the program is funded for the current fiscal year. If funding is available, an estimated claim may be filed.

(2) A reimbursement claim detailing the actual costs must be filed with the State Controller's Office and postmarked by November 30 following the fiscal year in which costs were incurred. If the claim is filed after the deadline, but by November 30 of the succeeding fiscal year, the approved claim will be reduced by a late penalty of 10% but not to exceed $1,000. If the claim is filed more than one year after the deadline, the claim cannot be accepted.

If a local agency received payment for an estimated claim, a reimbursement claim must be filed by November 30 regardless if the amount received was more or less than the actual costs. If the agency fails to file a reimbursement claim, monies received must be returned to the State. If no estimated claim was filed, the agency may file a reimbursement claim by November 30 detailing the actual costs incurred for the fiscal year, provided there was an appropriation for the program for that fiscal year. See item 3 above.

5. Reimbursement

Eligible claimants will be reimbursed at fifty percent (50%) of costs incurred as defined as follows:

A. All the following conditions must be met in order to claim reimbursement for a presumption of cancer case under Chapter 1171/89.

(1) The worker is a fire fighter within the meaning of Penal code Section 830.1 who was primarily engaged in active law enforcement activities;

(2) The worker has cancer which has caused the disability;

(3) The worker's cancer developed or manifested itself during a period while the worker was in the service of the employer, or within the extended period provided for in Labor Code Section 3212.1;

(4) The worker was exposed, while in the service of the employer, to one or more known carcinogens as defined by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations; and

(5) The one or more carcinogens to which the worker was exposed are reasonable linked to the disabling cancer, as demonstrated by competent medical evidence.

B. A case meeting all the conditions in 5.A., the local agency will be reimbursed at 50% of the increased costs incurred. More specifically, insured local agencies, local agencies covered by a joint powers agreement, or self-insured local agencies must claim costs as follows:

(1) Insured Local Agencies

If an insured local agency (insured through State Compensation Insurance Fund) incurred any increased costs as a result of Chapter 1586/82, they would be entitled to seek reimbursement for such costs which are specifically attributable to Labor Code Section 3212.1.

If the local entity can show that its experience modification premium was increased or its dividends were decreased, 50% of those respective increases or decreases will be reimbursed.

(2) Local Agencies Covered by a Joint Powers Agreement or Other Carrier

Local agencies covered by a joint powers agreement or other insurance carrier for workers' compensation may claim in the same manner as above for insured local agencies provided;

(a) Insurance premiums or contributions are based on the Workers' Compensation Insurance Rating Bureau rates and the current loss experience modification factor, and

(b) The insurer is responsible for claims of terminated or withdrawn local agencies if such claims arose while insured by the insurer.

(3) Self-Insured Local Agencies

Fifty percent (50%) of all actual costs of a claim based on the presumption set forth in Labor Code Section 3212.1 are reimbursable, including but not limited to the following:

(a) Administrative Costs

--Salaries and employee benefits
--Costs of supplies
--Legal counsel costs
--Clerical support
--Travel expenses
--Amounts paid to adjusting agencies
--Overhead costs

(b) Benefit Costs

Actual benefit costs under this presumption shall be 50% reimbursable and shall include, but are not limited to:

--Permanent disability benefits
--Death benefits
--Temporary disability benefits or full salary in lieu of temporary disability benefits as required by Labor Code Section 4850, or other local charter provision or ordinance in existence on January 1, 1983. Provided, however, that salary in lieu of temporary disability benefits were payable under local charter provision or ordinance shall be reimbursable only to the extent that those benefits do not exceed the benefits required by Labor Code Section 4850.

6. Reimbursement Limitations

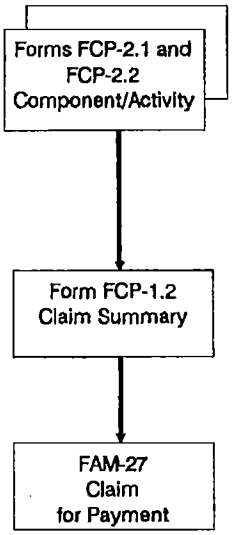
Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the cost claimed. Such offsetting savings shall include, but not be limited to, savings in the cost of personnel, service or supplies, or increased revenues obtained by the claimant. In addition, reimbursements received from any source (e.g., federal, state, etc.) for this mandate shall be identified and deducted from the claim.

7. Claiming Forms and Instructions

The diagram "Illustration of Claim Forms" provides a graphical presentation of forms required to be filed with a claim. A claimant may submit a computer generated report in substitution for Forms FCP-1.1 or FCP-1.2, FCP-2.1 and FCP-2.2, provided the format of the report and data fields contained with the report are identical to the claim forms included in these instructions. The claim forms provided in this chapter should be duplicated and used by the

Illustration of Claim Forms

Self Insured Method

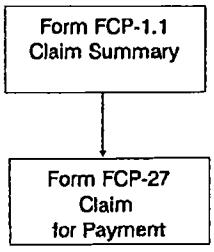


Forms FCP-2 .1 and FCP-2.2 Component/Activity Cost Detail
This form is to be used with Self Insured Method ONLY.

A. Disability Benefit Costs

B. Administrative Costs.

Insured Method



Form FCP-1.1, Claim Summary,
This form is to be used with Insured Method ONLY.

claimant to file an estimated or reimbursement claim. The State Controller's Office will revise the manual and claim forms as necessary.

A. Form FAM -27, Claim for Payment

This form contains a certification that must be signed by an authorized representative of the local agency. All applicable information from form FCP-1.1 or FCP-1.2 must be brought forward to this form in order for the State Controller's Office to process the claim for payment.

B. Form FCP-1.1, Claim Summary

An insured agency must complete this form that shows the increased premium cost and/or decreased dividend cost. In addition, provide the name of each injured peace officer, termination date of service, length of service (years and months), and date of injury. Only fifty percent (50%) of the increased costs derived from this form is carried to form FAM-27, line (13) for the Reimbursement Claim, or line (07) for the Estimated Claim.

C. Form FCP-1.2, Claim Summary

A self-insured agency must complete this form that summarizes the increased disability and administrative costs incurred as a result of the mandate. Allowable indirect costs for administrative costs are computed on this form. In addition, provide the name of each injured fire fighter, termination date of service, length of service (years and months), and date of injury. The direct costs summarized on this form are carried forward to forms FCP-2.1 and FCP-2.2. Only fifty percent (50%) of the increased costs derived from this form is carried forward to form FAM-27, line (13) for the Reimbursement Claim, or line (07) for the Estimated Claim.

Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits. If an indirect cost rate greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim. If more than one department is involved in the mandated program, each department must have their own ICRP.

D. Form FCP-2.1, Component/Activity Cost Detail

A self-insured agency must complete this form that shows the amount of disability benefit payments made to peace officers as required by Labor Code Section 4850, or other charter provision or ordinance in existence on January 1, 1983.

E. Form FCP-2.2, Component/Activity Cost Detail

A self-insured agency must complete this form to claim increased administrative costs as a result of the mandate. Costs reported on this form must be detailed as follows:

(1) Salaries and Benefits

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the mandated functions performed by each employee and specify the actual time spent, the productive hourly rate, and related fringe benefits.

Source documents required to be maintained by the claimant may include, but are not limited to, employee time records that show the employee's actual time spent on this mandate.

(2) Office Supplies

Only expenditures that can be identified as a direct cost of this mandate may be claimed. List the cost of materials consumed or expended specifically for the purpose of this mandate.

Source documents required to be maintained by the claimant may include, but are not limited to, invoices, receipts, purchase orders and other documents evidencing the validity of the expenditures.

(3) Contracted Services

Give the name(s) of the contractor(s) who performed the services. Describe the activities performed by each named contractor, actual time spent on this mandate, inclusive dates when services were performed, and itemize all costs for services performed. Attach consultant invoices with the claim.

Source documents required to be maintained by the claimant may include, but are not limited to, contracts, invoices, and other documents evidencing the validity of the expenditures.

(4) Travel

Travel expenses for mileage, per diem, lodging and other employee entitlements are reimbursable in accordance with the rules of the local jurisdiction. Give the name(s) of the traveler(s), purpose of travel, inclusive travel dates, destination points and costs.

Source documents required to be maintained by the claimant may include, but are not limited to, receipts, employee travel expense claims, and other documents evidencing the validity of the expenditures.

For audit purposes, all supporting documents must be retained for a period of two years after the end of the calendar year in which the reimbursement claim was filed or last amended, whichever is later. Such documents shall be made available to the State Controller's Office on request.

CITY OF LOS ANGELES

Audit Report

FIREFIGHTER'S CANCER PRESUMPTION PROGRAM

Chapter 1568, Statutes of 1982

July 1, 2003, through June 30, 2007

JOHN CHIANG
California State Controller

September 2009

JOHN CHIANG
California State Controller

September 4, 2009

The Honorable Antonio R. Villaraigosa, Mayor
City of Los Angeles
200 N. Spring Street
Los Angeles, CA 90012

Dear Mayor Villaraigosa:

The State Controller's Office audited the costs claimed by the City of Los Angeles for the legislatively mandated Firefighter's Cancer Presumption Program (Chapter 1568, Statutes of 1982) for the period of July 1, 2003, through June 30, 2007.

The city claimed $3,492,879 for the mandated program. Our audit disclosed that $3,345,460 is allowable and $147,419 is unallowable. The costs are unallowable because the city claimed non-mandate-related, unsupported, and duplicate costs. The State paid the city $2,990,966. Allowable costs claimed exceed the amount paid by $354,494.

If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the CSM's Web site at www.csm.ca.gov/docs/IRCForm.pdf.

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, at (916) 323-5849.

Sincerely,

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: The Honorable Wendy Greuel, Controller
City of Los Angeles
Miguel A. Santana, City Administrative Officer
City of Los Angeles
Margaret M. Whelan, General Manager
Personnel Department
City of Los Angeles
David Noltemeyer, Chief
Workers' Compensation Division
City of Los Angeles
Todd Jerue, Program Budget Manager
Corrections and General Government
Department of Finance

Contents

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Los Angeles for the legislatively mandated Firefighter's Cancer Presumption Program (Chapter 1568, Statutes of 1982) for the period of July 1, 2003, through June 30, 2007.

The city claimed $3,492,879 for the mandated program. Our audit disclosed that $3,345,460 is allowable and $147,419 is unallowable. The costs are unallowable because the city claimed non-mandate-related, unsupported, and duplicate costs. The State paid the city $2,990,966. Allowable costs claimed exceed the amount paid by $354,494.

Background

Labor Code section 3212.1 (added and amended by Chapter 1568, Statutes of 1982) states that cancer that has developed or manifested itself in firefighters will be presumed to have arisen out of and in the course of employment, unless the presumption is controverted by other evidence. The presumption is extended to a firefighter following termination of service for a period of three calendar months for each year of requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

On February 23, 1984, the Board of Control, (now the Commission on State Mandates [CSM]) determined that Chapter 1568, Statutes of 1982, imposed a reimbursable mandate under Government Code section 17561.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. CSM adopted the parameters and guidelines on October 24, 1985, and last amended it on March 26, 1987. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Firefighter's Cancer Presumption Program for the period of July 1, 2003, through June 30, 2007.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the city's financial statements. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We limited our review of the city's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, the City of Los Angeles claimed $3,492,879 for costs of the Firefighter's Cancer Presumption Program. Our audit disclosed that $3,345,460 is allowable and $147,419 is unallowable.

For the fiscal year (FY) 2003-04 claim, the State made no payment to the city. Our audit disclosed that $501,913 is allowable. The State will pay that amount, contingent upon available appropriations.

For the FY 2004-05 and FY 2005-06 claims, the State paid the city $1,550,989. Our audit disclosed that the entire amount is allowable.

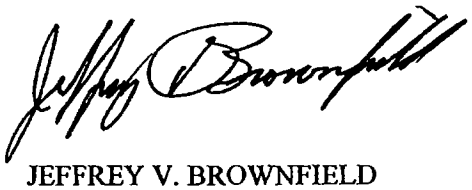
For the FY 2006-07 claim, the State paid the city $1,439,977. Our audit disclosed that $1,292,558 is allowable. The State will offset $147,419 from other mandated program payments due to the city. Alternatively, the city may remit this amount to the State.

Views of Responsible Official

We issued a draft audit report on July 17, 2009. Margaret Whelan, General Manager, Personnel Department, responded by letter dated August 6, 2009 (Attachment), disagreeing with the audit results. This final audit report includes the city's response.

Restricted Use

This report is solely for the information and use of the City of Los Angeles, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.



JEFFREY V. BROWNFIELD
Chief, Division of Audits

September 4, 2009

Schedule 1—
Summary of Program Costs
July 1, 2003, through June 30, 2007

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment [1]
July 1, 2003, through June 30, 2004			
Administrative costs	$ 18,683	$ 18,683	$ —
Disability benefit costs	985,119	1,443,198	458,079
Mathematical error	25	—	(25)
Subtotal	1,003,827	1,461,881	458,054
Less allowable costs that exceed costs claimed [2]	—	(458,054)	(458,054)
Total direct costs	1,003,827	1,003,827	—
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [3]	$ 501,913	501,913	$ —
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		$ 501,913	
July 1, 2004, through June 30, 2005			
Administrative costs	$ 10,437	$ 10,437	$ —
Disability benefit costs	1,195,993	1,502,173	306,180
Subtotal	1,206,430	1,512,610	306,180
Less allowable costs that exceed costs claimed [2]	—	(306,180)	(306,180)
Total direct costs	1,206,430	1,206,430	—
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [3]	$ 603,215	603,215	$ —
Less amount paid by the State		(603,215)	
Allowable costs claimed in excess of (less than) amount paid		$ —	
July 1, 2005, through June 30, 2006			
Administrative costs	$ 20,748	$ 20,748	$ —
Disability benefit costs	1,874,799	1,886,807	12,008
Subtotal	1,895,547	1,907,555	12,008
Less allowable costs that exceed costs claimed [2]	—	(12,008)	(12,008)
Total direct costs	1,895,547	1,895,547	—
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [3]	$ 947,774	947,774	$ —
Less amount paid by the State		(947,774)	
Allowable costs claimed in excess of (less than) amount paid		$ —	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment [1]
July 1, 2006, through June 30, 2007			
Administrative costs	$ 120,260	$ 120,260	$ —
Disability benefit costs	2,759,693	2,464,856	(294,837)
Total direct costs	2,879,953	2,585,116	(294,837)
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [3]	$ 1,439,977	1,292,558	$ (147,419)
Less amount paid by the State		(1,439,977)	
Allowable costs claimed in excess of (less than) amount paid		$ (147,419)	
Summary: July 1, 2003, through June 30, 2007			
Administrative costs	$ 170,128	$ 170,128	$ —
Disability benefit costs	6,815,604	7,297,034	481,430
Mathematical error	25	—	(25)
Subtotal	6,985,757	7,467,162	481,405
Less allowable costs that exceed costs claimed [2]	—	(776,242)	(776,242)
Total direct costs	6,985,757	6,690,920	(294,837)
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [3]	$ 3,492,879	3,345,460	$ (147,419)
Less amount paid by the State		(2,990,966)	
Allowable costs claimed in excess of (less than) amount paid		$ 354,494	

[1] See the Finding and Recommendation section.

[2] Government Code section 17561 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in the SCO's claiming instructions. That deadline has expired for FY 2003-04, FY 2004-05, and FY 2005-06.

[3] Calculation differences due to rounding.

Finding and Recommendation

FINDING— Unallowable and unclaimed disability benefits costs

The city claimed unallowable costs totaling $529,707. The city did not claim additional mandate-related costs totaling $1,011,137. For the audit period, the city understated allowable costs by $481,430.

Unallowable costs

The city claimed non-mandate-related, unsupported, and duplicate costs. The non-mandate-related costs are costs attributable to ailments other than cancer. The unsupported costs are costs that were not documented in the city's payment history system (LINX) or were not supported by source documentation. The city claimed duplicate costs by claiming the same costs in two fiscal years. This occurred because the city's contracted administrator did not use a consistent methodology to identify reimbursable costs by fiscal year. The contractor's employees identified some costs by the date service was provided and other costs by the payment date. In some cases, these dates occurred in different fiscal years, causing the city to claim associated costs twice. In other cases, the city claimed duplicate costs by claiming the same cost under two separate cost elements (such as attorney fees claimed as both legal costs and disability costs).

Unclaimed costs

The city made mathematical errors on claim form FCP-2.1 for its FY 2003-04 and FY 2004-05 claims. The mathematical errors resulted in unclaimed costs totaling $516,132 for FY 2003-04, and $5,440 for FY 2004-05. In addition, the city did not claim all costs that its accounting records support. This occurred primarily because the city's contracted administrator prepared summary and detailed cost worksheets that did not reconcile with each other and/or did not agree with costs documented in LINX.

The following table summarizes the audit adjustment:

	Fiscal Year				
	2003-04	2004-05	2005-06	2006-07	Total
Non-mandate-related costs	$ (1,350)	$ (3,603)	$ (59,208)	$(146,684)	$ (210,845)
Unsupported costs	(52,991)	(2,179)	(10,170)	(121,088)	(186,428)
Duplicate costs	(82,597)	(17,277)	(4,649)	(27,911)	(132,434)
Unclaimed costs	595,017	329,239	86,035	846	1,011,137
Total audit adjustment	$ 458,079	$ 306,180	$ 12,008	$(294,837)	$ 481,430

The program's parameters and guidelines state that reimbursement requires a demonstration that the worker (1) has cancer which has caused the disability, and (2) that the worker's cancer developed or manifested itself while the worker was in the service of the employer or within the extended period provided for in Labor Code section 3212.1. In addition, the parameters and guidelines state that all costs claimed must be traceable to source documents or worksheets that show evidence of the validity of such costs.

Recommendation

We recommend that the city develop and implement an adequate recording and reporting system to ensure that all claimed costs are properly supported and reimbursable under the mandated program. Specifically, the city should ensure that:

- Costs claimed reconcile with the city's LINX payment system;
- It claims only mandate-reimbursable costs (i.e., those medical and disability costs specifically related to cancer);
- It consistently identifies each fiscal year's reimbursable costs by the payment date;
- It includes all mandate-reimbursable costs on its mandated cost claims; and
- All claim forms are mathematically correct.

City's Response

> . . .we take the strongest possible exception to, and appeal the determination of your office to disallow $516,132 in what is characterized as "unclaimed costs" on the FY 2003-04 claims year. . . .
>
> We assert that your characterization of this amount as "unclaimed" is completely erroneous and inaccurate.
>
> On Schedule 1 - Summary of Program Costs – July 1, 2003 through June 30, 2007, under the period July 1, 2003 through June 30, 2004, your schedule indicates $985,119 in "Disability benefit costs." A simple recap, or calculator summary of the line-by-line entries on your Form FCP-2 demonstrates, as your auditor found, that this amount is $516,132 less than it should be.
>
> Government Code Section 17561 indicates that these reimbursements are mandatory, unless, as per subsection (d)(l)(C)(ii), "... the Controller determines (that a claim) is excessive or unreasonable." No such determination has been made. In fact, your draft audit simply characterizes this amount ($516,132) as "unclaimed." This is clearly inaccurate, as the itemized claims were in fact submitted. "Disallowing" this amount on any basis other than a determination that they were either excessive or unreasonable is not a ground supported by the Government Code.
>
> Your draft audit's reference by footnote to the filing deadline having expired for FY 2003-04 is similarly erroneous. There is no factual dispute that these claims, each and every itemized individual claim, were timely submitted. I note that Government Code Section 17561, subsection (d)(2)(C) states "The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years." There is no time limit attached to this provision, and I am certain that any overpayment, regardless of date, would be the subject of a subsequent offset or recovery by your office. Under the terms of the statute, the amount "disallowed" should have been recalculated and included in the amount claimed.

SCO's Comment

Our finding and recommendation are unchanged. The city submitted its FY 2003-04 mandated cost claim on January 10, 2005. The city submitted mandated claim forms FAM-27 (claim for payment), FCP-1.2 (claim summary), and FCP-2.1 (component/activity cost detail). On all these claim forms, the city identified disability benefit costs totaling $985,119. On forms FAM-27 and FCP-1.2, the city identified administrative costs totaling $18,683, actual mandate-related direct costs totaling $1,003,827, and reimbursable costs totaling $501,913 (the mandated program reimburses 50% of total mandate-related costs).

Our audit report shows that we allowed the reimbursable costs that the city claimed. Government Code section 17560 states that the city may file an annual reimbursement claim for actual mandated costs that it incurred. It is the city's responsibility to ensure that it files accurate mandated cost claims within the statutory time allowed. Government Code section 17568 states, "In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in [Government Code] section 17560." The city did not amend its FY 2003-04 mandated cost claim within the statutory timeframe permitted.

The city cites Government Code section 17561, subdivision (d)(2)(C) out of context. The statutory language addresses the SCO's responsibility to pay annual mandated cost reimbursement claims that local agencies submit. For past underpayments or overpayments, any correction is based on the claims that the city submitted. For FY 2003-04, the city submitted a claim for $501,913, which our audit report concludes is allowable.

CITY OF LOS ANGELES
CALIFORNIA

ANTONIO R. VILLARAIGOSA
MAYOR

PERSONNEL DEPARTMENT
PERSONNEL BUILDING
700 EAST TEMPLE STREET
LOS ANGELES, CA 90012

Margaret Whelan
GENERAL MANAGER

August 6, 2009

Jim L. Spano, Chief
Compliance Audits Bureau
Division of Audits
State Controller's Office
P.O. Box 942850
Sacramento, CA 94258

BY FAX, MAIL, and OVERNIGHT DELIVERY

Firefighter's Cancer Presumption Program (July 1, 2003 through June 30, 2007)

Having reviewed the draft audit report on the above referenced program, we take the strongest possible exception to, and appeal the determination of your office to disallow $516,132 in what is characterized as "unclaimed costs" on the FY 2003-04 claims year.

An arithmetic discrepancy was found by your Audit Manager, Mr. Steve W. Van Zee, and brought to the attention of this Department's analyst, Mr. Sola Oniyide. We assert that your characterization of this amount as "unclaimed" is completely erroneous and inaccurate.

On Schedule 1 – Summary of Program Costs – July 1, 2003 through June 30, 2007, under the period July 1, 2003 through June 30, 2004, your schedule indicates $985,119 in "Disability benefit costs." A simple recap, or calculator summary of the line-by-line entries on your Form FCP-2 demonstrates, as your auditor found, that this amount is $516,132 less than it should be.

Government Code Section 17561 indicates that these reimbursements are mandatory, unless, as per subsection (d)(1)(C)(ii), "... the Controller determines (that a claim) is excessive or unreasonable." No such determination has been made. In fact, your draft audit simply characterizes this amount ($516,132) as "unclaimed." This is clearly inaccurate, as the itemized claims were in fact submitted. "Disallowing" this amount on any basis other than a determination that they were either excessive or unreasonable is not a ground supported by the Government Code.

Your draft audit's reference by footnote to the filing deadline having expired for FY 2003-04 is similarly erroneous. There is no factual dispute that these claims, each and every itemized individual claim, were timely submitted. I note that Government Code Section 17561, subsection (d)(2)(C) states "The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years." There is no time limit attached to this provision, and I am certain that any overpayment, regardless of date, would be the subject of a subsequent offset or recovery by your office. Under the terms of the statute, the amount "disallowed" should have been recalculated and included in the amount claimed.

It is in the interest of carrying out the substantive intent of the statute and program, the dictates of the legislature and expectations of reimbursement on behalf of all of the residents of the City of Los Angeles, and basic fairness, that I strongly urge your reconsideration of this matter.

Margaret Whelan

MARGARET WHELAN
General Manager

C: Honorable John Chiang, California State Controller
Jeffrey V. Brownfield, Chief, Division of Audits, State Controller's Office
Honorable Wendy Greuel, Controller, City of Los Angeles
Honorable Carmen Trutanich, City Attorney, City of Los Angeles
Raymond P. Ciranna, Interim City Administrative Officer, City of Los Angeles

State Controller's Office | Mandated Cost Manual

CLAIM FOR PAYMENT
Pursuant to Government Code Section 17561
FIREFIGHTERS' CANCER PRESUMPTION

For State Controller Use Only
(19) Program Number 00023
(20) Date Filed ___/___/___
(21) LRS Input ___/___/___

Program **023**

LABEL HERE

(01) Claimant Identification Number

(02) Claimant Name

County of Location

Street Address or P.O. Box | Suite

City | State | Zip Code

Type of Claim	Estimated Claim	Reimbursement Claim
	(03) Estimated ☐	(09) Reimbursement ☐
	(04) Combined ☐	(10) Combined ☐
	(05) Amended ☐	(11) Amended ☐
Fiscal Year of Cost	(06) 20___/20___	(12) 20___/20___
Total Claimed Amount	(07)	(13)
Less: 10% Late Penalty, not to exceed $1,000		(14)
Less: Prior Claim Payment Received		(15)
Net Claimed Amount		(16)
Due from State	(08)	(17)
Due to State		(18)

Reimbursement Claim Data	
(22) FCP-1.1, (05)(3)	
(23) FCP-1.1, (06)(3)	
(24) FCP-1.2, (04)(1)(d)	
(25) FCP-1.2, (04)(2)(d)	
(26) FCP-1.2, (05)	
(27) FCP-1.2, (06)	
(28) FCP-1.2, (07)	
(29) FCP-1.2, (08)	
(30) FCP-1.2, (09)	
(31) FCP-1.2, (10)	
(32)	
(33)	
(34)	
(35)	
(36)	

(37) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code §17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer | Date

Type or Print Name | Title

(38) Name of Contact Person for Claim | Telephone Number ( ) - Ext.

E-Mail Address

Form FAM-27 (Revised 09/03)

Program 023	FIREFIGHTERS' CANCER PRESUMPTION Certification Claim Form Instructions	FORM FAM-27

(01) Enter the payee number assigned by the State Controller's Office.

(02) Enter your Official Name, County of Location, Street or P. O. Box address, City, State, and Zip Code.

(03) If filing an estimated claim, enter an "X" in the box on line (03) Estimated.

(04) If filing a combined estimated claim on behalf of districts within the county, enter an "X" in the box on line (04) Combined.

(05) If filing an amended estimated claim, enter an "X" in the box on line (05) Amended.

(06) Enter the fiscal year in which costs are to be incurred.

(07) Enter the amount of the estimated claim. If the estimate exceeds the previous year's actual costs by more than 10%, complete form FCP-1.1 or FCP-1.2, as applicable, and enter the total claimed amount. If more than one form is completed due to multiple department involvement in this mandate, add the total claimed amounts from each form as applicable.

(08) Enter the same amount as shown on line (07).

(09) If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbursement.

(10) If filing a combined reimbursement claim on behalf of districts within the county, enter an " X " in the box on line (10) Combined.

(11) If filing an amended reimbursement claim, enter an "X " in the box on line (11) Amended.

(12) Enter the fiscal year for which actual costs are being claimed. If actual costs for more than one fiscal year are being claimed, complete a separate form FAM-27 for each fiscal year.

(13) Enter the amount of the reimbursement claim from forms FCP-1.1 and FCP-1.2, lines (10) and (11), respectively. The total claimed amount must exceed $1,000.

(14) Reimbursement claims must be filed by January 15 of the following fiscal year in which costs are incurred or the claims shall be reduced by a late penalty. Enter zero if the claim was timely filed, otherwise, enter the product of multiplying line (13) by the factor 0.10 (10% penalty), or $1,000, whichever is less.

(15) If filing a reimbursement claim and a claim was previously filed for the same fiscal year, enter the amount received for the claim. Otherwise, enter a zero.

(16) Enter the result of subtracting line (14) and line (15) from line (13).

(17) If line (16), Net Claimed Amount, is positive, enter that amount on line (17), Due from State.

(18) If line (16), Net Claimed Amount, is negative, enter that amount in line (18), Due to State.

(19) to (21) Leave blank.

(22) to (36) Reimbursement Claim Data. Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim, e.g., FCP-1.1, (05)(03), means the information is located on form FCP-1.1, block (05), line (03). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. Indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 35.19% should be shown as 35. **Completion of this data block will expedite the payment process.**

(37) Read the statement "Certification of Claim." If it is true, the claim must be dated, signed by the agency's authorized officer, and must include the person's name and title, typed or printed. **Claims cannot be paid unless accompanied by an original signed certification. (To expedite the payment process, please sign the form FAM-27 with blue ink, and attach a copy of the form FAM-27 to the top of the claim package.)**

(38) Enter the name, telephone number, and e-mail address of the person to contact if additional information is required.

SUBMIT A SIGNED ORIGINAL, AND A COPY OF FORM FAM-27, WITH ALL OTHER FORMS AND SUPPORTING DOCUMENTS TO:

Address, if delivered by U.S. Postal Service:

OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

Address, if delivered by other delivery service:

OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursements Section
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Program 023	MANDATED COSTS FIREFIGHTERS CANCER PRESUMPTION CLAIM SUMMARY	FORM FCP-1.1

(01) Claimant	(02) Type of Claim	Fiscal Year
	Reimbursement ☐	
	Estimated ☐	20___/20___

Insured Method

(03) Firefighter Names	Service Termination Dates	Length of Service (Years/Months)	Dates of Injury

(04) Type of Insurance Carrier:

1. State Compensation Insurance Fund (SCIF) ☐
2. Joint Powers Agency (JPA) ☐ Name:
3. Private Insurance Carrier (PIC) ☐ Name:

	(a) SCIF	(b) JPA	(c) PIC
(05) Cost of Increased Experience Modified Premium:			
1. Actual Premium			
2. Increased Experience Modified Premium Percentage			
3. Increased Premium Cost			
(06) Cost of Decreased Dividends:			
1. Total Dividends			
2. Less: Dividends Received During the Fiscal Year			
3. Decreased Dividends			

(07) Total Increased Costs, Insured Method	[(Line (05)(3) + line (06)(3)]	

Cost Reduction

(08) Less: Offsetting Savings, if applicable	
(09) Less: Other Reimbursements, if applicable	
(10) Total Claimed Amount [Line (07) - {line (08) + line (09)}] x 0.5	

Revised 09/03

Program 023	FIREFIGHTERS CANCER PRESUMPTION CLAIM SUMMARY Instructions	FORM FCP-1.1

(01) Enter the name of the claimant.

(02) Type of Claim. Check a box, Reimbursement or Estimated, to identify the type of claim being filed. Enter the fiscal year for which costs were incurred or are to be incurred.

Form FCP-1.1 must be filed for a reimbursement claim. Do not complete form FCP-1.1 if you are filing an estimated claim and the estimate does not exceed the previous fiscal year's actual costs by more than 10%. Simply enter the amount of the estimated claim on form FAM-27, line (07). However, if the estimated claim exceeds the previous fiscal year's actual costs by more than 10%, form FCP-1.1 must be completed and a statement attached explaining the increased costs. Without this information the estimated claim will automatically be reduced to 110% of the previous fiscal year's actual costs.

(03) List the name of each firefighter, service termination date, length of service (years/months), and date of injury. Only workers compensation filings subsequent to January 1, 1983 that are related to cancer and presumed to have arisen out of and in the course of employment qualify for reimbursement.

(04) Type of Insurance Carrier. Check a box to indicate if the claimant is insured with the State Compensation Insurance Fund (SCIF), a Joint Powers Agency (JPA), or a Private Insurance Carrier (PIC). If the claimant is insured by a JPA or a PIC, enter the name of the carrier.

For those who are insured by the SCIF, the SCIF will provide their clients with an appropriate modification factor and dividend amount for each applicable policy year upon written request to complete this schedule. Address: State Compensation Insurance Fund, Claims/Rehabilitation Department Operations, 1275 Market Street, San Francisco, CA 94103. In order for SCIF to provide this information, you must include with the request the above names and dates of injury. Please allow SCIF 30 days for this information. Normally, there is no impact on the modification factor until 18 to 24 months after injury. Following this period of time, the modification factor may be impacted for three consecutive policy years.

For those who are insured by a JPA or a private insurance carrier, claimants may wish to contact their insurance representative for assistance to determine what that lower experience modification premium percentage and total dividends would be had the agency not had any cancer presumption cases under Labor Code Section 3212.1. Attach a statement showing the calculations and any cost data provided by the insurance carrier.

(05) Cost of Increased Experience Modified Premium:

1. Enter the actual premium before the experience modified premium percentage was applied. Show the premium on a fiscal year basis and submit copies of billing statements with the claim. If necessary, prorate the premium amounts between the two policy years.
2. Enter the difference between the percentage that is shown on the final insurance premium billing statement and what the percentage would have been had there not been any cancer presumption cases under Labor Code Section 3212.1.
3. Multiply line (05)(1) by line (05)(2). If the premium was prorated, multiply each prorated portion by the modification percentage determined in line (05)(2), which relates to that portion of the premium. Show both calculations on a separate schedule.

(06) Cost of Decreased Dividends:

1. Enter the total dividends that would have been received for the fiscal year of cost had there not been any cancer presumption cases under Labor Code Section 3212.1.
2. Enter the dividends received during the fiscal year of cost.
3. Subtract the Dividends Received During the Fiscal Year of cost, line (06)(2), from the total Dividends, line (06)(1).

(07) Total Increased Cost. Multiply the sum lines (05)(3) and (06)(3).

(08) Less: Offsetting Savings, if applicable. Enter the total savings experienced by the claimant as a direct result of this mandate. Submit a schedule of detailed savings with the claim.

(09) Less: Other Reimbursements, if applicable. Enter total other reimbursements received from any source, i.e., federal, other state programs, etc. Submit a schedule of detailed reimbursements with the claim.

(10) Total Claimed Amount. Subtract the sum of Offsetting Savings, line (08), and Other Reimbursements, line (09), from Total Costs, line (07), and multiply by 0.5, since only 50% of the costs are reimbursable. Enter the result on this line and carry the amount forward to form FAM-27, line (07) for the Estimated Claim or line (13) for the Reimbursement Claim.

Revised 09/03

Program 023	MANDATED COSTS FIREFIGHTERS CANCER PRESUMPTION CLAIM SUMMARY	FORM FCP-1.2

(01) Claimant	(02) Type of Claim	Fiscal Year
	Reimbursement ☐	
	Estimated ☐	20___/20___

Self-Insured Method

(03) Firefighter Names	Service Termination Dates	Length of Service (Years/Months)	Dates of Injury

Direct Costs	**Object Accounts**			
(04) Reimbursable Components	(a) Salaries	(b) Benefits	(c) Services and Supplies	(d) Total
1. Disability Benefit Costs				
2. Administrative Costs				
(05) Total Direct Costs				

Indirect Costs		
(06) Indirect Cost Rate	[From ICRP]	%
(07) Total Indirect Costs	[Line (06) x line (05)(a)] or [line (06) x {line (05)(a) + line (05)(b)}]	
(08) Total Increased Costs, Self-Insured Method	[(Line (05)(d) + line (07)]	

Cost Reduction	
(09) Less: Offsetting Savings, if applicable	
(10) Less: Other Reimbursements, if applicable	
(11) Total Claimed Amount	[Line (08) - {line (09) + line (10)}] x 0.5

Revised 09/03

Program 023	FIREFIGHTERS CANCER PRESUMPTION CLAIM SUMMARY Instructions	FORM FCP-1.2

(01) Enter the name of the claimant.

(02) Type of Claim. Check a box, Reimbursement or Estimated, to identify the type of claim being filed. Enter the fiscal year for which costs were incurred or are to be incurred.

Form FCP-1.2 must be filed for a reimbursement claim. Do not complete form FCP-1.2 if you are filing an estimated claim and the estimate does not exceed the previous fiscal year's actual costs by more than 10%. Simply enter the amount of the estimated claim on form FAM-27, line (07). However, if the estimated claim exceeds the previous fiscal year's actual costs by more than 10%, form FCP-1.2 must be completed and a statement attached explaining the increased costs. Without this information the estimated claim will automatically be reduced to 110% of the previous fiscal year's actual costs.

(03) List the name of each firefighter, service termination date, length of service (years/months), and date of injury. Only workers compensation filings subsequent to January 1, 1983 that are related to cancer and presumed to have arisen out of and in the course of employment qualify for reimbursement.

(04) Reimbursable Components. For reimbursable component (04)(1), Disability Benefit Costs, enter Total Benefit Payments from form FCP-2.1, line (05)(h), to line (04)(1)(d) of this form.

For reimbursable component (04)(2), Administrative Costs, enter Total Administrative Costs from form FCP-2.2, line (05), columns (d), (e), and (f) to line (04)(2), columns (a), (b), and (c) of this form. Total each row.

(05) Total Direct Costs. Total columns (a) through (d) and enter on line (05).

(06) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.

(07) Total Indirect Costs. If the 10% flat rate is used for indirect costs, multiply Total Salaries, line (05)(a), by the Indirect Cost Rate, line (06). If an ICRP is submitted and both salaries and benefits were used in the distribution base for the computation of the indirect cost rate, then multiply the sum of Total Salaries, line (05)(a), and Total Benefits, line (05)(b), by the Indirect Cost Rate, line (06). If more than one department is reporting costs, each must have its own ICRP for the program.

(08) Total Direct and Indirect Costs. Enter the sum of Total Direct Costs, line (05)(d), and Total Indirect Costs, line (07).

(09) Less: Offsetting Savings, if applicable. Enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.

(10) Less: Other Reimbursements, if applicable. Enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, which reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.

(11) Total Claimed Amount. Subtract the sum of Offsetting Savings, line (09), and Other Reimbursements, line (10), from Total Direct and Indirect Costs, line (08). Enter the remainder on this line and carry the amount forward to form FAM-27, line (07) for the Estimated Claim or line (13) for the Reimbursement Claim.

Program 023	MANDATED COSTS FIREFIGHTERS CANCER PRESUMPTION COMPONENT/ACTIVITY COST DETAIL	FORM FCP-2.1

(01) Claimant

(02) Fiscal Year Costs Were Incurred

(03) Reimbursable Component: Disability Benefit Costs

(04) Description of Expenses: Complete columns (a) through (h).

(a) Employee Name	(b) Medical Expenses	(c) Temporary Disability Payments	(d) Permanent Disability Payments	(e) Life Pension	(f) Death Benefits	(g) Travel Expenses	(h) Total Benefit Payments

(05) Total ☐ Subtotal ☐ Page:____of____

Revised 09/03

Program 023	FIREFIGHTERS CANCER PRESUMPTION COMPONENT/ACTIVITY COST DETAIL Instructions	FORM FCP-2.1

Note: This form is to be used in conjunction with form FCP-1.1.

(01) Enter the name of the claimant.

(02) Enter the fiscal year for which costs were incurred.

(03) Reimbursable Component: Disability Benefit Costs. This line identifies the costs that may be claimed on form FCP-2.1.

(04) In order to claim increased costs incurred for the fiscal year of the claim, the firefighter must meet the requirements as specified in Labor Code Section 3212.1.

(a) Enter the firefighter's name to which the disability benefits were paid.

(b) Enter all medical expenses paid for the firefighter.

(c) Enter temporary disability benefits or full salary paid in lieu of temporary disability benefits as required by Labor Code Section 4850, or other local charter provisions or ordinances that were in existence on January 1, 1983.

Provided, however, that salary in lieu of temporary disability benefits were payable under local charter provision or ordinance shall be reimbursable only to the extent that those benefits do not exceed the benefits required by Labor Code Section 4850.

(d) Enter all permanent disability benefits paid to the firefighter.

(e) Enter all life pension benefits paid to the firefighter.

(f) Enter all death benefits paid to the beneficiaries of the firefighter.

(g) Enter necessary and reasonable travel and related expenses paid to the firefighter.

(h) For each firefighter, total the benefit payments in columns (b) through (g).

(05) Add Total Benefit Payments, line (04), column (h), and enter the total on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the component/activity costs, number each page. Enter the total from line (05), column (h) to form FCP-1.2, line (04)(1)(d).

Program 023	MANDATED COSTS FIREFIGHTERS CANCER PRESUMPTION COMPONENT/ACTIVITY COST DETAIL	FORM FCP-2.2

(01) Claimant

(02) Fiscal Year Costs Were Incurred

(03) Reimbursable Component: Administrative Costs

(04) Description of Expenses: Complete columns (a) through (f).

(a) Employee Names, Job Classifications, Functions Performed, and Description of Services and Supplies	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	Object Accounts (d) Salaries	(e) Benefits	(f) Services and Supplies
(05) Total ☐ Subtotal ☐ Page:____of____					

Revised 09/03

Program 023	FIREFIGHTERS CANCER PRESUMPTION COMPONENT/ACTIVITY COST DETAIL Instructions	FORM FCP-2.2

Note: This form is to be used in conjunction with form FCP-1.2.

(01) Enter the name of the claimant.

(02) Enter the fiscal year for which costs were incurred.

(03) Reimbursable Component: Administrative Costs. This line identifies the costs that may be claimed on form FCP-2.2.

(04) Description of Expenses. Administrative costs incurred by self-insured agencies for processing cancer presumption case are reimbursable. The following table identifies the type of information required to support reimbursable costs. Enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, fringe benefits, supplies used, contract services, travel expenses, etc. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit shall be from the date of initial payment of the claim. Such documents shall be made available to the State Controller's Office on request.

Object/ Sub object Accounts	Columns						Submit these supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	
Salaries	Employee Name Title Activities	Hourly Rate	Hours Worked	Salaries = Hourly Rate x Hours Worked			
Benefits		Benefit Rate		Salaries	Benefits = Benefit Rate x Salaries		
Services and Supplies Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost = Unit Cost x Quantity Used	
Contract Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service			Cost = Hourly Rate x Hours Worked or Total Cost	Invoice
Travel	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode			Total Travel Cost = Rate x Days or Miles	

(05) Total line (04), columns (d), (e), and (f) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the component/ activity costs, number each page. Enter the totals from line (05), columns (d), (e), and (f) to form FCP-1.2, line (04)(2).

CLAIM FOR PAYMENT
Pursuant to Government Code Section 17561
FIREFIGHTERS' CANCER PRESUMPTION

For State Controller's Use Only — Program 023
(19) Program Number 00023
(20) Date Filed ___/___/___
(21) LRS Input ___/___/___

LABEL HERE

(01) Claimant Identification Number: 9819487
(02) Claimant Name: City of Los Angeles
County of Location: Los Angeles
Street Address or P.O. Box: 700 E. Temple Street Suite: 210
City: Los Angeles State: CA Zip Code: 90012

Type of Claim	Estimated Claim	Reimbursement Claim
	(03) Estimated [X]	(09) Reimbursement [X]
	(04) Combined [ ]	(10) Combined [ ]
	(05) Amended [ ]	(11) Amended [ ]
Fiscal Year of Cost	(06) 2004/2005	(12) 2003/2004
Total Claimed Amount	(07) $552,104.79	(13) $501,913.45
Less: 10% Late Penalty, not to exceed $1,000		(14)
Less: Prior Claim Payment Received		(15)
Net Claimed Amount		(16) 501,913.45
Due from State	(08)	(17) 501,913.45
Due to State		(18)

Reimbursement Claim Data

(22) FCP-1.1, (05)(3)	
(23) FCP-1.1, (06)(3)	
(24) FCP-1.2, (04)(1)(d)	$985,118.76
(25) FCP-1.2, (04)(2)(d)	18,683.11
(26) FCP-1.2, (05)	
(27) FCP-1.2, (06)	
(28) FCP-1.2, (07)	
(29) FCP-1.2, (08)	
(30) FCP-1.2, (09)	
(31) FCP-1.2, (10)	
(32)	
(33)	
(34)	
(35)	
(36)	

(37) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code §17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer: RS for Margaret M. Whelan
Date: 1/10/05

Margaret M. Whelan
Type or Print Name

General Manager
Title

(38) Name of Contact Person for Claim: Sola Oniyide
Telephone Number: (213) 847-9044 Ext:
E-Mail Address: SOniyide@per.lacity.org

Form FAM-27 (Revised 09/03)

FORM FCP-1.2

MANDATED COSTS
FIRE FIGHTER'S CANCER PRESUMPTION
CLAIM SUMMARY

(01) Claimant: City of Los Angeles **(02) Type of Claim: Reimbursement**

Fiscal Year: 2003-2004

SELF INSURED METHOD

	(03) FIRE FIGHTER'S NAME	ORIGINAL APPOINTMENT	TERMINATION DATE	LENGTH OF SERVICE (YEARS & MONTHS)	DATES OF INJURY
1.		1/16/65	9/14/04	39	1/16/65
2.		7/22/73	ACTIVE	23.9	7/2273
3.		12/4/71	ACTIVE	33	12/4/71
4.		5/16/70	ACTIVE	34	5/16/70
5.		4/30/66	12/3/95	29.7	4/30/66
6.		4/12/81	ACTIVE	23.9	4/12/81
7.		2/9/63	1/13/02	38.1	2/9/63
8.		9/1/62	2/29/96	33.5	9/1/62
9.		2/16/75	ACTIVE	29	2/16/75
10.		8/13/01	ACTIVE	3	8/13/01
11.		6/11/90	ACTIVE	14.6	2/5/99
12.		2/1/55	6/17/90	35.4	2/1/55
13.		12/14/80	ACTIVE	24	12/14/80
14.		7/25/70	7/2/04	34	7/25/70
15.		1/6/73	11/4/00	27	1/6/73
16.		11/7/59	1/24/96	36.2	11/7/59
17.		8/10/80	ACTIVE	24	8/10/80
18.		8/29/64	7/24/02	36	8/29/64
19.		4/1/73	ACTIVE	31.9	4/1/73
20.		2/27/77	ACTIVE	26.1	2/27/77
21.		7/24/65	ACTIVE	39	7/24/65
22.		11/7/77	11/18/99	22	11/16/77
23.		12/16/75	11/7/02	27	12/16/75
24.		2/4/61	9/19/83	22.7	1/1/67

25.		2/16/75	ACTIVE	29	2/16/75
26.		2/16/75	ACTIVE	29.7	2/16/75
27.		12/14/80	ACTIVE	23	12/14/80
28.		11/7/77	ACTIVE	27	11/7/77
29.		5/1/69	ACTIVE	35	5/1/69
30.		7/9/79	ACTIVE	24	7/9/79
31.		1/6/73	1/11/03	30	2/9/99
32.		4/27/75	7/13/03	28.2	9/27/75
33.		2/16/75	ACTIVE	28.1	2/16/75
34.		4/13/68	8/21/00	32.4	4/13/68
35.		4/20/80	ACTIVE	24.9	4/20/80
36.		7/23/87	ACTIVE	17.6	9/10/87
37.		7/25/70	4/30/04	33	7/25/70
38.		4/14/68	7/11/01	33	4/14/68
39.		4/20/63	9/1/02	41	4/20/63
40.		10/14/73	ACTIVE	31	5/2/01
41.		4/1/73	ACTIVE	31.9	10/4/99
42.		1/16/65	7/27/00	35	1/16/65
43.		10/18/69	ACTIVE	35.1	10/18/69
44.		10/14/73	ACTIVE	29	10/14/73
45.		2/9/63	ACTIVE	41.8	2/9/63
46.		4/7/68	7/7/96	28.3	4/7/68
47.		2/16/75	ACTIVE	28.1	2/16/75
48.		11/7/77	ACTIVE	27	11/7/77
49.		4/27/75	ACTIVE	29.9	4/27/75
50.		5/15/77	ACTIVE	27.5	5/15/77
51.		4/28/75	ACTIVE	29	4/28/75
52.		4/27/75	11/21/02	27.6	4/28/75
53.		4/7/85	ACTIVE	19	4/7/85
54.		7/22/73	ACTIVE	31	7/22/73
55.		1/29/78	ACTIVE	27	1/13/99
56.		5/19/58	2/7/04	46	5/19/58
57.		4/13/68	9/10/96	28.5	4/13/68
58.		1/15/79	ACTIVE	25.8	1/15/79
59.		9/4/84	ACTIVE	20.5	8/14/98

60.		5/13/73	1/1/02	29	5/13/73
61.		12/14/80	ACTIVE	23.9	12/14/80
62.		4/13/68	ACTIVE	36	4/13/68
63.		2/5/72	4/1/04	30	2/5/72
64.		8/10/80	ACTIVE	24	8/10/80
65.		9/1/62	8/19/04	42	9/1/62
66.		4/20/80	ACTIVE	24.6	4/20/80
67.		11/6/77	ACTIVE	27.2	11/6/77
68.		7/3/89	ACTIVE	15	7/3/89
69.		4/12/81	9/1/95	22.9	4/12/81
70.		12/24/79	ACTIVE	24.9	12/24/79
71.		2/20/71	ACTIVE	33.1	2/21/71
72.		12/14/80	ACTIVE	24.1	12/14/80
73.		1/6/77	ACTIVE	27.2	11/6/77
74.		1/29/78	ACTIVE	26.8	1/29/78
75.		6/21/54	4/30/86	32	6/21/54
76.		5/3/82	ACTIVE	22	5/3/82
77.		6/28/69	ACTIVE	26.1	4/24/75
78.		2/4/61	8/4/91	30	2/6/87
79.		4/8/61	7/14/91	30.3	4/8/61
80.		7/7/74	2/24/02	27.7	7/7/74
81.		7/20/86	ACTIVE	18.6	12/29/97
82.		2/27/77	ACTIVE	27	2/27/77
83.		10/31/88	ACTIVE	16	10/31/88
84.		7/12/61	1/10/02	40.6	1/6/00
85.		12/4/71	ACTIVE	38.9	12/4/71
86.		3/10/62	6/29/92	30.3	3/10/62
87.		3/1/81	ACTIVE	23	3/1/81
88.		2/5/72	ACTIVE	32.1	2/5/72
89.		5/13/84	ACTIVE	20	5/13/84
90.		8/10/80	ACTIVE	24.5	8/10/80
91.		2/20/71	ACTIVE	33	2/20/71
92.		4/27/75	2/18/04	29	4/27/75
93.		6/16/66	1/26/02	35.5	4/27/00
94.		4/20/80	ACTIVE	24.6	4/20/80
95.		12/4/71	7/14/02	31	12/4/71
96.		9/23/57	1/11/02	45.3	8/18/99

97.		4/20/80	ACTIVE	24	4/20/80
98.		5/13/72	ACTIVE	32.5	5/13/72
99.		7/24/65	2/3/99	33.7	7/25/65
100.		1/2/62	7/9/00	38.6	1/2/62
101.		2/9/63	3/6/97	34.1	4/1/96
102.		3/1/81	3/2/04	23	3/1/81
103.		6/27/59	2/1/02	42.6	6/27/59
104.		5/5/74	ACTIVE	30.5	5/5/74
105.		3/2/89	ACTIVE	15.7	3/2/89
106.		1/27/85	ACTIVE	20	4/7/85
107.		4/20/63	ACTIVE	41.7	4/20/63
108.		9/1/62	6/21/00	42	9/1/62
109.		7/22/73	ACTIVE	31	7/22/73
110.		7/25/70	ACTIVE	34	7/25/70

DIRECT COSTS	Object Accounts		
	(a) Salaries	(b) Benefits	(d) Total
(04) Reimbursable Components:			
1. Disability Benefit Costs:			$985,118.76
2. Administrative Costs	$10,104.30	$8,578.81	$18,683.11
(05) TOTAL DIRECT COSTS:			$1,003,826.90
INDIRECT COSTS			
(06) Indirect Cost Rate (from ICRP)			0
(07) TOTAL INDIRECT COSTS: (Total Salaries x Indirect Cost Rate)			0
(08) TOTAL DIRECT AND INDIRECT COSTS, SELF INSURED METHOD			$1,003,826.90
COST REDUCTION			
(09) Less: Offsetting Savings, if applicable			Not Applicable
(10) Less: Other Reimbursements, if applicable Not Applicable			Not Applicable
(11) TOTAL CLAIMED AMOUNT (50% of (08) Total Direct and Indirect Costs)			$501,913.45

MANDATED COSTS
FIREFIGHTER'S CANCER PRESUMPTION
COMPONENT/ACTIVITY COST DETAIL

FORM FCP-2.

(01) Claimant: **City of Los Angeles**

(02) Fiscal Year Costs Were Incurred: **2003-2004**

(03) Reimbursable Component: **DISABILITY BENEFIT COSTS**

(04) Description of Expenses

EMPLOYEE NAME	MEDICAL EXPENSE	TEMP DISABILIT PAYMENT	PERM DISABILITY PAYMENTS	AWARD	IOD BENEFITS	DEATH BENEFITS	LEGAL EXPENSE	TRAVEL EXPENSE	PHOTOCOPYING EXPENSE	REHAB EXPENSE	TOTAL BENEFIT PAYMENTS
	$1,810.42	$0.00	$0.00	$0.00	$44,162.43	$7,500.00	$0.00	$0.00	$203.15	$0.00	$53,676.00
	89.38	0	0	0	0	0	0	0	0	0	$89.38
	969.08	0	0	0	0	0	0	0	165.53	0	$1,134.61
	2112.84	0	1680	0	0	0	0	0	0	0	$3,792.84
	18519.55	0		0	0	0	0		0	0	$18,519.55
	4199.15	0	0	0	0	0	0	0	0	0	$4,199.15
	875.11	0	0	0	0	0	0	0	0	0	$875.11
	1023.68			0	0	0	0	640.9	0	0	$1,664.58
	29375.81	0	0	0	0	0	0	11.51	0	0	$29,387.32
	0	0	0	0	0	0	0	4.08	108.75	0	$112.83
	3604.06	0	0	0	0	0	0	0	0	0	$3,604.06
	2831.61	0	0	0	0	0	0	0	0	0	$2,831.61
	1079.91	0	0	0	0	0	0	0	0	0	$1,079.91
	992.88	0	0	0	0	0	0	10	473.06	0	$1,475.94
	979.63	0	0	0	0	0	0	164.16	91.77	0	$1,235.56
	98.26	0	0	0	0	0	0	0	0	0	$98.26
	0	0	0	0	0	0	0	0	0	0	$0.00
	1088.88	0	0	0	0	0	57.66	0	0	0	$1,146.54
	7958.12	0	12561.5	0	32997.82	0	0	0	663.34	0	$54,180.78
	36171.65	0	0	0	36175.89	0	163.08	0	0	0	$72,510.62

	0	0	0.00	0.00	0.00	0	0	0	0	0	$0.00
	0	0	0		0	0		0	223.98	0	$223.98
	0.00	0	0	0	0	0	0	0	0	0	$0.00
	653.88	0	0		0	0	0	0	0	0	$653.88
	500	0	0	0	0	0	0	62.97	0	0	$562.97
	412.5	0	533.37	0		0	415.17	40.55	113.15	0	$1,514.74
	1090.92	0	0	0	0	0	0	0	0	0	$1,090.92
	362.88	0	0	0	0	0	0	0	0	0	$362.88
	2217.86	0	0	0	0	0	1482.5	164.22	493.71	0	$4,358.29
	19.44	0	0	0	0	0	0	0	0	0	$19.44
	457.02	0	0	0	0	0	0	0	0	0	$457.02
	249.14	0	0	0	0	0	0	0	0	0	$249.14
	383.93	0	0	0	0	0	0	0	0	0	$383.93
	0	0	0	0	0	0	0	0	0	0	$0.00
	4,182.96	0	0	0	0	0	0	0	0	0	$4,182.96
	7,723.20	0	0	0	0	0	0	0	154.83	0	$7,878.03
	0.00	0	0	0	0	0	0	26.18	0	0	$26.18
	1106.06	0	0	1302	2325.57	0	944.15	13.6	0	0	$5,691.38
	198.91	0	0	0	0	0	0	0	0	0	$198.91
	1,200.00	0	0	17277.03	0	0	2759.99	0	141.44	0	$21,378.46
	0.00	0	0	0	0	0	0	0	0	0	$0.00
	133.74	0	1590	0	0	0	0	0	0	0	$1,723.74
	4083.27	0	0	0	0	0	0	0	0	0	$4,083.27
	4884.95	0	0	9133.23	0	0	5603.58	0	0	0	$19,621.76
	5505.48	0	0	0	0	0	0	368.09	0	0	$5,873.57
	1,706.35	0	0	0	0	0	0	0	0	0	$1,706.35
	45.9	0	0	112.98	0	0	0	0	0	0	$158.88
	10313.56	0	0	20348.81	0	0	0	21.76	187.15	0	$30,871.28
	623.99	0	0	0	0	0	0	9.52	0	0	$633.51
	130.72	0	0	0	0	0	0	0	0	0	$130.72
	622.86	0	0	0	0	0	121.9	0	0	0	$744.76
	898.85	0	8160	0	0	0	0	0	0	0	$9,058.85
	199.1	0	0	0	0	0	0	0	0	0	$199.10
	0	0	0	0	0	0	0	20	60.39	0	$80.39
	3034.96	0	0	0	28792.77	0	0	65.2	1865.95	0	$33,758.88

	4190.72	0	0	0	1972.5	0		0	0	0	$6,163.22
	0	0	0	0	0	19100	0	0	0	0	$19,100.00
	618.29	0	0	0	0	0	0	0	0	0	$618.29
	424.58	0	0	0	0	0	0	0	0	0	$424.58
	1005.57	0	0	0	0	0	0	225	1058.05	0	$2,288.62
	2013.48	0	0	0	0	0	0	0	0	0	$2,013.48
	2634.9	0	1260	1260	561.69	0	0	0	0	0	$5,716.59
	0	0	0	0	42941.07	32870	0	21	761.08	0	$76,593.15
	595.67	0	0	0	0	0	0	0	0	0	$595.67
	19494.88	0	0		20239.73	0	0	26	53.76	0	$39,814.37
	5113.78	0	0		73828.56	0	0	31	1179.93	0	$80,153.27
	24044.62	0	0	0	0	0	0	0	292.4	0	$24,337.02
	0	1266.46	510	3174.76	0	0	0	3856.72	6.47	1236.49	$8,814.41
	96227.48	0	0	0	0	0	0	482.8	0	0	$96,710.28
	1578.79	0	0	0	0	0	575.6	0	0	0	$2,154.39
	6263.58	0	1578.79	0	5077.11	0	401.2	0	0	0	$13,320.68
	2408.62	0	0	0	0	0	0	0	0	0	$2,408.62
	452.69	0	0	0	0	0	0	417.6	0	0	$870.29
	2110.13	0	0	0	0	0	0	0	0	0	$2,110.13
	594.5	0	0	0	0	0	0	0	0	0	$594.50
	3998.77	0	0	0	0	0	0	0	0	0	$3,998.77
	52130.55	0	0	0	0	0	241.5	0	0	0	$52,372.05
	17081.67	0	0	0	0	0	0	0	0	0	$17,081.67
	502.44	0	0	0	0	0	0	0	0	0	$502.44
	3261.25	0	0	0	0	0	0	0	0	0	3261.25
	151.97	0	0	0	0	0	0	0	0	0	151.97
	1372.73	0	0	0	466.19	0	0	0	0	0	1838.92
	357.81	0	0	0	0	0	0	0	0	0	357.81
	2669.78	0	0	0	0	0	0	0	0	0	2669.78
	391697.2	0	0	7300	55415.99	7500	1852.39	0	0	0	463765.58
	2433.31	0	0	0	0	0	0	0	0	0	2433.31
	167.64	0	0	0	0	0	0	0	0	0	167.64
	409.48	0	0	0	0	0	0	0	0	0	409.48
	23199.04	0	0	0	0	0	0	0	0	0	23199.04
	500	0	0	0	0	0	0	0	0	0	500

	886.59	0	0	0	0	0	0	0	0	0	886.59
	47.6	0	0	0	0	0	0	0	0	0	47.6
	243.4	0	0	0	0	0	0	56.52	0	0	299.92
	333.55	0	0	8840	0	0	0	0	0	0	9173.55
	1460.02	0	0	0	0	0	0	12.13	0	0	1472.15
	1890.12	0	0	0	0	0	0	0	0	0	1890.12
	136.56	0	0	0	0	0	0	0	0	0	136.56
	817.13	0	0	0	0	0	0	0	221.64	0	1038.77
	521.22	0	0	0	0	0	0	0	0	0	521.22
	234.09	0	0	0	0	0	0	0	0	0	234.09
	765.26	0	4926.38	460	0	0	0	0	0	0	6151.64
	575.75	0	0	0	0	0	0	0	0	0	575.75
	0	0	0	0	0	0	0	0	52.44	0	52.44
	5170.6	0	945.28	0	0	0	0	30.23	87.43	0	6233.54
	2786.6	0	0	0	0	0	0	0	0	0	2786.6
	32395.23	0	0	0	20223.67	0	0	39.95	115.96	0	52774.81
	1436.17	0	0	0	0	0	0	0	0	0	1436.17
	1700.37	0	0	0	0	0	0	0	0	0	1700.37
	676.52	0	10873.11	6768.66	0	0	4350.62	0	0	0	22668.91
	5343.83	0	0	0	16763.63	0	0	550.99	0	0	22658.45
	270.45	0	0	0	0	0	0	0	0	0	270.45
(05) TOTAL	411658.99	$1,266.46	$27,873.66	$75,977.47	$381,944.62	$51,970.00	$18,969.34	$6,682.86	$8,775.36	$1,236.49	$985,118.76

MANDATED COSTS
FIREFIGHTERS CANCER PRESUMPTION
COMPONENT/ACTIVITY COST DETAIL

(01) Claimant: City of Los Angeles

(02) Fiscal Year Costs Were Incurred: **2003-2004**

(03) Reimbursable Component: **ADMINISTRATIVE COSTS**

(04) Description of Expenses:

TPA Contractor - PRESIDIUM				Object Accounts		
EMPLOYEE NAME	POSITION TITLE	HOURLY RATE	HOURS WORKED	SALARIES	BENEFITS	**TOTAL**
Please see attached detail.						
CONTRACTUAL SERVICES TOTAL:				$10,104.30	$8,578.81	$18,683.11
PERSONNEL DEPARTMENT TOTAL:						
(05) ❑ Total ❑ Subtotal		**Page:____ of ____**				**$18,683.11**

NOTES: 1. Refer to the attached Job Description and/or Classification Specification for the job classification and activities performed by each employee.

2. Refer to the attached Cost Allocation Plan Rates for the fringe benefit rate for Personnel Department staff (28.78%) and Contractual Services staff (20.25%).

PRESIDIUM - FIRE - ATTACHMENT ECP 2-2 - 08-04

EMPLOYEE	POSITION TITLE	HOURLY RATE	HOURS WORKED	SALARIES	BENEFITS	TOTAL
PATRICIA EBRAHIM	SUPERVISOR	$30.17	21.83	$658.61	$27.56	$686.17
DEDORAH HOWARD	SUPERVISOR	$31.26	63.04	$1,970.63	$1,799.97	$3,770.60
ISABELA RIVERA	ADJUSTER	$24.66	17.22	$424.65	$387.87	$812.52
ROBRT LEWIS	ADJUSTER	$22.56	10.3	$232.37	$212.24	$444.61
YOLANDA JAMES	ADJUSTER	$31.79	7.56	$240.33	$219.52	$459.85
ANNIE ALINDOGAN	ADJUSTER	$21.77	16.46	$358.33	$327.30	$685.63
GINA DELGADO	ADJUSTER	$25.58	37.65	$963.09	$879.68	$1,842.77
VICTORIA BENJAMIN	ADJUSTER	$50.00	13.36	$668.00	$610.15	$1,278.15
ALISE KINGSBY	ADJUSTER	$49.70	12.76	$634.17	$579.25	$1,213.42
LINDA LEBLANCE	ADJUSTER	$20.51	5.94	$121.83	$111.28	$233.11
MARTY MARQUEZ	ADJUSTER	$19.23	10.52	$202.30	$184.78	$387.08
EUGENE MARTINEZ	ADJUSTER	$50.00	7.57	$378.50	$345.72	$724.22
ROGER MUNOZ	ADJUSTER	$26.07	14.31	$373.06	$340.75	$713.81
SANDY VUKOJEVICH	ADJUSTER	$32.77	5.5	$180.24	$164.63	$344.87
RUTH ARGUELLO	ASSISTANT	$16.41	1.91	$31.34	$28.63	$59.97
EVELILN BLANCO	ASSISTANT	$14.81	3.97	$58.80	$53.70	$112.50
LISA CLAPPER	ASSISTANT	$10.68	10.35	$110.54	$100.97	$211.51
BILLY COO	ASSISTANT	$10.69	8.38	$89.58	$81.82	$171.40
JAMES ROOP	ASSISTANT	$15.52	2.3	$35.70	$32.60	$68.30
DORIS THOMAS	ASSISTANT	$17.20	3.48	$59.86	$54.64	$114.50
ANN VAN STRIEN	NURSE	$32.69	6.82	$222.95	$203.64	$426.59
RITA MCGOWAN	NURSE	$30.55	15.75	$481.16	$439.49	$920.65
LANA GIORDANO	CLERICAL SUPERVIS	$22.12	4.78	$105.73	$20.20	$125.93
KIMBERLY MICHELS	REGIONAL MANAGER	$43.08	6.54	$281.74	$257.34	$539.08
CHRISTINE GATES	ASSISTANT MANGER	$35.98	33.93	$1,220.80	$1,115.08	$2,335.88
TOTAL				$10,104.30	$8,578.81	$18,683.11

PRESIDIUM - FIRE - ATTACHMENT ECP 22-03-04

EMPLOYEE	POSITION TITLE	HOURLY RATE	HOURS WORKED	SALARIES	BENEFITS	TOTAL
PATRICIA EBRAHIM	SUPERVISOR	$30.17	21.83	$658.61	$27.56	$686.17
DEDORAH HOWARD	SUPERVISOR	$31.26	63.04	$1,970.63	$1,799.97	$3,770.60
ISABELA RIVERA	ADJUSTER	$24.66	17.22	$424.65	$387.87	$812.52
ROBRT LEWIS	ADJUSTER	$22.56	10.3	$232.37	$212.24	$444.61
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CHRISTINE GATES	ASSISTANT MANGER	$35.98	33.93	$1,220.80	$1,115.08	$2,335.88
TOTAL				$10,104.30	$8,578.81	$18,683.11

CAMBRIDGE
JOB DESCRIPTIONS

JOB TITLE: Workers' Compensation Claims Examiner

I BASIC FUNCTION:

Under the direct supervision of the Workers' Compensation Supervisor, it is the responsibility of the Claims Examiner to investigate and coordinate timely issuance of benefits. While maintaining aggressive medical management, the Claims Examiner is responsible for controlling severity, directing legal counsel and outside vendors, and resolving all claim issues for the purpose of bringing each file to a final conclusion.

II DUTIES & RESPONSIBILITIES:

1. Review of first report and all other information received after creation of the file.

2. Investigation of all information involving the file.

3. Request appropriate forms, such as wage statement from employer, C.I.B., return to work date and whatever additional forms are required for each jurisdiction.

4. File proper forms with the state, on a timely basis, as required.

5. Make all necessary payments where warranted.

   1. Lost time payment (Indemnity)
   2. Hospital bills, doctor bills and other medical expenses, etc.
   3. Payment of all allocated expenses consistent with good claims practice.

6. Schedule independent medical exams (IME) when necessary.

7. Raise proper issues before the Workers' Compensation Commission when necessary.

8. Refer all cases in excess of authority and all cases that have a potential of being controverted to Supervisor.

9. When old established cases come up on diary, review for litigation management and medical cost control and update diary.

10. HCM Bill Review - All medical bills in fee schedule states as well as usual customary should be referred for review.

11. Subrogation - The possibility of subrogation will be considered on all Workers' Compensation claims. Where there is evidence of third-party negligence as a cause of the accident, a thorough investigation is to be conducted. Also second injury fund or apportionment issues which exist.

12. All claims must be diaried for no longer than 90 days, at which time the file status and reserve must be checked.

III **REQUIREMENTS:**

1. Minimum of one (1) to three (3) years of claim handling experience.

2. Prior customer service experience.

JOB DESCRIPTION

JOB TITLE: Workers' Compensation Claims Assistant/M.Q. Clerk

I BASIC FUNCTION:

Provide technical assistance on Workers' Compensation claims and administrative assistance in the Workers' Compensation Department.

II DUTIES & RESPONSIBILITIES

1. Receive and respond to telephone inquiries regarding medical and indemnity payments. Initiate telephone calls to health care providers to follow up for return to work information, medical records, treatment plans and final medical reports as directed. Follow up with employers for return to work verification, wage information and personnel records as directed. Record telephone First Reports.

2. Review, authorize and issue payment/denial of medical bills within authority. Request records to document charges and/or casual relationship, refer questionable bills to technician for approval; directly input payments and form letters and mail out with enclosures.

3. Maintain telephone contact with claimant, physician and insured to verify ongoing disability; advise technician of questionable disability and change in medical condition.

4. Complete all internal and external forms, index inquiries and state forms.

5. Calculate and issue temporary partial disability payments and permanent partial disability payments.

6. Prepare legal referrals; send appropriate file material and assist technician with follow-up handling.

7. Schedule independent medical examinations; notify all parties and send necessary medical records.

8. Prepare rehabilitation referrals; complete state forms and forward medical records.

III REQUIREMENTS

1. Prior customer service experience.
2. Claim handling experience desirable.
3. One (1) to three (3) years experience in clerical.

JOB DESCRIPTION

JOB TITLE: Workers' Compensation Supervisor

I BASIC FUNCTION:

Under the supervision of the Manager, directs and monitors the daily work flow and production of the assigned unit to ensure qualitative and quantitative compliance with the guidelines established by HCM Claim Management and Client. Counsels and provides direction to examiners on more complex claim issues, assesses and sets standards for individual employee performance and development needs.

II DUTIES & RESPONSIBILITIES:

1. Assists Management in establishing claim policy and procedures.
2. Provides initial investigative direction on claims assigned to unit and conducts qualitative and quantitative reviews of work products to insure compliance with the guidelines established by HCM and Client.
3. Counsels and provides guidance to employees on more complex claims.
4. Monitors and reviews open pending of unit to ensure their timely disposition and proper control of allocated expenses.
5. Maintains performance records and assesses individual employee performance, develops annual performance objectives and incorporates employee developmental needs into the management appraisal objectives.
6. Communicates and assists with the resolution of vendor disputes.

III REQUIREMENTS:

1. Minimum of five (5) to seven (7) years claim handling experience.
2. Three (3) to five (5) years minimum of Supervisory experience in a Workers' Compensation environment.

JOB DESCRIPTION

JOB TITLE: Assistant Manager

I BASIC FUNCTION:

Under the supervision of the Manager, the Assistant Manager provides direction to the dedicated Unit of claim professionals, working through the supervisor.
Provides senior leadership and acts as unit head during the manager's absence. Expected to assess and set standards for individual performance and developmental needs.

II DUTIES & RESPONSIBILITIES:

1. Assists in establishment and enforcement of policy & procedures.
2. Performs quality audits and checks insuring compliance with client procedures as well as Presidium Best Practices.
3. Actively interfaces with client representatives as well as vendor panels.
4. Monitors vendor panel performance and compliance regarding disadvantaged business goal participation.

III REQUIREMENTS:

1. Minimum seven (7) to ten (10) years claim handling experience.
2. Three (3) to five (5) years in management position within workers' compensation environment, with some experience in public entity management.
3. California Self-Insurance License Required
4. College degree preferred, but not required.

JOB DESCRIPTION FOR MEDICAL CASE MANAGEMENT

BASIC FUNCTION:

To provide advice and counseling to the Workers' Compensation Examiners regarding appropriateness of medical treatment by treating physicians. Assist in early intervention of complicated, serious and major injury cases to provide optimum care and cost containment.

Duties and Responsibilities:

* Assist the examiner in early intervention of serious and major injuries so as to determine appropriate treatment authorization. Helps the Examiner provide the injured worker with a sense of security and direction.

* Coordinates and interfaces with the treating physician on serious injury cases and evaluates the necessity of treatment provided.

* Assist the examiners in making timely and reasonable decisions relative to the injured worker's recovery, direction and control of the medical aspect of the claim.

* Reviews all surgical candidates to insure appropriate surgical intervention.

* Reviews all lost time cases, to insure a speedy return to work, providing suggestions for early return to work options.

Qualifications:

* Must be a Registered Nurse
* At least three years experience as an Occupational Health Nurse
* Must have experience working with injured workers and dealing with the psychological factors relative to the injury.
* Well informed in Workers' Compensation process of benefits.
* Ability to interface with other members of case management group and ability to make timely decisions.
* Knowledge of vocational rehabilitation
* Excellent organizational and people skills

Note: The position is a management and advisory position, giving the examiners support and assistance in medical management and cost containment. The position is not intended to maintain a caseload involving unusual illnesses or conditions. The Nurse however, is required to keep a diary of the lost time, serious and major injury claims.

Exhibit B

RECEIVED
December 12, 2014
Commission on
State Mandates

LATE FILING

JOHN CHIANG
California State Controller

December 12, 2014

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Incorrect Reduction Claim (IRC)
Firefighter's Cancer Presumption, 09-4081-I-01
Statutes 1982, Chapter 1568
Fiscal Year: 2003-2004
City of Los Angeles, Claimant

Dear Ms. Halsey:

The State Controller's Office is transmitting our response to the above-named IRC.

If you have any questions, please contact me by telephone at (916) 323-5849.

Sincerely,

JIM L. SPANO, Chief
Mandated Cost Audits Bureau
Division of Audits

JS/kw

14859

RESPONSE BY THE STATE CONTROLLER'S OFFICE TO THE INCORRECT REDUCTION CLAIM (IRC) BY CITY OF LOS ANGELES
Firefighter's Cancer Presumption Program

Table of Contents

Note: References to Exhibits relate to the city's filed IRCs on January 14, 2014, as follows:

- Exhibit A – PDF page 5
- Exhibit B – PDF page 11
- Exhibit C – PDF page 24

Tab 1

OFFICE OF THE STATE CONTROLLER
300 Capitol Mall, Suite 1850
Sacramento, CA 94250
Telephone No.: (916) 445-6854

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

INCORRECT REDUCTION CLAIM ON: *Firefighter's Cancer Presumption Program* Chapter 1568, Statutes of 1982 CITY OF LOS ANGELES, Claimant	No.: CSM 09-4081-I-01 AFFIDAVIT OF BUREAU CHIEF

I, Jim L. Spano, make the following declarations:

1) I am an employee of the State Controller's Office (SCO) and am over the age of 18 years.

2) I am currently employed as a Bureau Chief, and have been so since April 21, 2000. Before that, I was employed as an audit manager for two years and three months.

3) I am a California Certified Public Accountant.

4) I reviewed the work performed by the SCO auditor.

5) Any attached copies of records are true copies of records, as provided by the City of Los Angeles or retained at our place of business.

6) The records include claims for reimbursement, along with any attached supporting documentation, explanatory letters, or other documents relating to the above-entitled Incorrect Reduction Claim.

7) A field audit of the claims for fiscal year (FY) 2003-04, FY 2004-05, FY 2005-06, and FY 2006-07 commenced on June 9, 2008, and ended on June 19, 2009.

I do declare that the above declarations are made under penalty of perjury and are true and correct to the best of my knowledge, and that such knowledge is based on personal observation, information, or belief.

Date: December 12, 2014

OFFICE OF THE STATE CONTROLLER

By: _____

Jim L. Spano, Chief
Mandated Costs Audits Bureau
Division of Audits
State Controller's Office

Tab 2

STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE TO THE INCORRECT REDUCTION CLAIM BY CITY OF LOS ANGELES
For Fiscal Year (FY) 2003-04 through FY 2006-07

Firefighter's Cancer Presumption Program
Chapter 1568, Statutes of 1982

SUMMARY

The following is the State Controller's Office's (SCO) response to the Incorrect Reduction Claim that the City of Los Angeles submitted on January 14, 2010. The SCO audited the city's claims for costs of the legislatively mandated Firefighter's Cancer Presumption Program for the period of July 1, 2003, through June 30, 2007. The SCO issued its final report on September 4, 2009 (**Exhibit B**).

The city submitted reimbursement claims totaling $3,492,879 ($501,913 for FY 2003-04 (**Exhibit C**), $603,215 for FY 2004-05, $947,774 for FY 2005-06, and $1,439,977 for FY 2006-07). Subsequently, the SCO performed an audit for the period of July 1, 2003, through June 30, 2007, and determined that $147,419 is unallowable. The costs are unallowable because the city claimed non-mandate-related, unsupported, and duplicate costs. The city believes that it should receive reimbursement for FY 2003-04 allowable costs that exceed costs claimed. The following table summarizes the audit results:

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment
July 1, 2003, through June 30, 2004			
Administrative costs	$ 18,683	$ 18,683	$ —
Disability benefit costs	985,119	1,443,198	458,079
Mathematical error	25	—	(25)
Subtotal	1,003,827	1,461,881	458,054
Less allowable costs that exceed costs claimed [1]	—	(458,054)	(458,054)
Total direct costs	1,003,827	1,003,827	—
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [2]	$ 501,913	501,913	$ —
Less amount paid by the State [3]		—	
Allowable costs claimed in excess of (less than) amount paid		$ 501,913	
July 1, 2004, through June 30, 2005			
Administrative costs	$ 10,437	$ 10,437	$ —
Disability benefit costs	1,195,993	1,502,173	306,180
Subtotal	1,206,430	1,512,610	306,180
Less allowable costs that exceed costs claimed [1]	—	(306,180)	(306,180)
Total direct costs	1,206,430	1,206,430	—
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [2]	$ 603,215	603,215	$ —
Less amount paid by the State [3]		(603,215)	
Allowable costs claimed in excess of (less than) amount paid		$ —	

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment
July 1, 2005, through June 30, 2006			
Administrative costs	$ 20,748	$ 20,748	$ —
Disability benefit costs	1,874,799	1,886,807	12,008
Subtotal	1,895,547	1,907,555	12,008
Less allowable costs that exceed costs claimed [1]	—	(12,008)	(12,008)
Total direct costs	1,895,547	1,895,547	—
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [2]	$ 947,774	947,774	$ —
Less amount paid by the State [3]		(947,774)	
Allowable costs claimed in excess of (less than) amount paid		$ —	
July 1, 2006, through June 30, 2007			
Administrative costs	$ 120,260	$ 120,260	$ —
Disability benefit costs	2,759,693	2,464,856	(294,837)
Total direct costs	2,879,953	2,585,116	(294,837)
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [2]	$ 1,439,977	1,292,558	$ (147,419)
Less amount paid by the State [3]		(1,292,558)	
Allowable costs claimed in excess of (less than) amount paid		$ —	
Summary: July 1, 2003, through June 30, 2007			
Administrative costs	$ 170,128	$ 170,128	$ —
Disability benefit costs	6,815,604	7,297,034	481,430
Mathematical error	25	—	(25)
Subtotal	6,985,757	7,467,162	481,405
Less allowable costs that exceed costs claimed [1]	—	(776,242)	(776,242)
Total direct costs	6,985,757	6,690,920	(294,837)
Reimbursable percentage	× 50%	× 50%	× 50%
Total program costs [2]	$ 3,492,879	3,345,460	$ (147,419)
Less amount paid by the State [3]		(2,843,547)	
Allowable costs claimed in excess of (less than) amount paid		$ 501,913	

[1] Government Code section 17568 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in Government Code section 17560. That deadline has expired for FY 2003-04, FY 2004-05, and FY 2005-06.

[2] Calculation differences due to rounding.

[3] Payment information current as of July 13, 2010.

I. FIREFIGHTER'S CANCER PRESUMPTION PROGRAM CRITERIA

Parameters and Guidelines- March 26, 1987

On October 24, 1985, the Board of Control (now the Commission on State Mandates [Commission]) adopted the parameters and guidelines for Chapter 1568, Statutes of 1982. The Commission amended the parameters and guidelines on March 26, 1987. That version is effective for the FY 2003-04 claim.

Section VI provides the following criteria for reimbursable cases:

VI. FORMULA FOR DETERMINATION OF CASES SUBJECT TO REIMBURSEMENT

Reimbursement requires a demonstration of elements as follows:

A claim under Chapter 1568, Statutes of 1982 is reimbursable if:

A. The worker is a firefighter within the meaning of Labor Code Section 3212.1; and

B. The worker has cancer which has caused the disability; and

C. The worker's cancer developed or manifested itself during a period while the worker was in the service of the employer, or within the extended period provided for in Labor Code section 3212.1; and

D. The worker was exposed, while in the service of the employer, to one or more known carcinogens as defined by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations; and

E. The one or more carcinogens to which the worker was exposed are reasonably linked to the disabling cancer, as demonstrated by competent medical evidence.

Section VII defines the reimbursable formula as follows:

VII. CLAIMING FORMULA

If a case is reimbursable under Section VI, fifty percent (50%) of the reimbursable costs as defined in Section VIII shall be paid to claiming agencies.

Section VIII, subsection B, identifies reimbursable costs for self-insured local agencies:

VIII. REIMBURSABLE COSTS

B. Self-Insured Local Agencies

All actual costs of a claim based upon the presumption set forth in Labor Code Section 3212.1 are reimbursable, including but not limited to the following:

(1) Administrative Costs

(a) Staff Costs

1. Salaries and employee benefits;

2. Costs of supplies;

3. Legal counsel costs;

4. Clerical Support;

5. Normal local rates of reimbursement for necessary and reasonable travel and related expenses for staff;

6. Amounts paid to adjusting agencies.

(b) Overhead Costs

Counties, cities, and special districts may claim an indirect cost through an indirect cost rate proposal. . . .

(2) Benefit Costs

Actual benefit costs under this presumption shall be reimbursable and shall include, but are not limited to:

(a) All medical expenses.

(b) Necessary and reasonable travel and related expenses.

(c) All compensation benefits, including but not limted to:

1. Permanent disability benefits;

2. Life pension benefits;

3. Death benefits;

4. Temporary disability benefits. . . .

Section X. defines supporting documentation requirements as follows:

X. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents or worksheets that show evidence of and the validity of such costs. These documents must be kept on file and made available on the request of the State Controller.

II. UNCLAIMED COSTS

Issue

For fiscal year (FY) 2003-04, the city submitted a claim reporting disability benefit costs of $985,119. Our audit found that the city made mathematical errors on a supporting schedule. These errors resulted in unclaimed disability benefit costs totaling $516,132.

SCO Analysis:
Government Cost section 17560 states that the city may file an annual reimbursement claim for actual mandated costs that it incurred. Government Code section 17568 states, "In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in [Government Code] section 17560." The city did not amend its FY 2003-04 mandated cost claim within the statutory timeframe permitted.

City's Response

. . .we take the strongest possible exception to, and appeal the determination of the State Controller's office to disallow $516,132 in what is characterized as "unclaimed costs" on the FY 2003-04 claims year.

An arithmetic discrepancy was found. . . We assert that the characterization of this amount as "unclaimed" is completely erroneous and inaccurate.

On Schedule 1 - Summary of Program Costs – July 1, 2003 through June 30, 2007, under the period July 1, 2003 through June 30, 2004, your schedule indicates $985,119 in "Disability benefit costs." A simple recap, or calculator summary of the line-by-line entries on your Form FCP-2 demonstrates, as the auditor found, that this amount is $516,132 less than it should be.

Government Code Section 17561 indicates that these reimbursements are mandatory, unless, as per subsection (d)(l)(C)(ii), ". . . the Controller determines (that a claim) is excessive or unreasonable." No such determination has been made. In fact, the State audit simply characterizes this amount ($516,132) as "unclaimed." This is clearly inaccurate, as the itemized claims were in fact submitted. "Disallowing" this amount on any basis other than a determination that they were either excessive or unreasonable is not a ground supported by the Government Code.

State audit's reference by footnote to the filing deadline having expired for FY 2003-04 is similarly erroneous. There is no factual dispute that these claims, each and every itemized individual claim, were timely submitted. I note that Government Code Section 17561, subsection (d)(2)(C) states "The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years." There is no time limit attached to this provision, and I am certain that any overpayment, regardless of date, would be the subject of a subsequent offset or recovery by the Controller's office. Under the terms of the statute, the amount "disallowed" should have been recalculated and included in the amount claimed.

SCO's Comment

The city submitted its FY 2003-04 mandated cost claim on January 10, 2005. The city submitted mandated claim forms FAM-27 (claim for payment), FCP-1.2 (claim summary), and FCP-2.1 (component/activity cost detail) **(Exhibit C)**. On all of these claim forms, the city identified disability benefit costs totaling $985,119. On forms FAM-27 and FCP-1.2, the city identified administrative costs totaling $18,683, actual mandate-related direct costs totaling $1,003,827, and reimbursable costs totaling $501,913 (the mandated program reimburses 50% of total mandate-related costs).

Our audit report shows that we allowed the reimbursable costs that the city claimed. Government Code section 17560 states that the city may file an annual reimbursement claim for actual mandated costs that it incurred. It is the city's responsibility to ensure that it files accurate mandated cost claims within the statutory time allowed. Government Code section 17568 states, "In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in [Government Code] section 17560." The city did not amend its FY 2003-04 mandated cost claim within the statutory timeframe permitted.

The city cites Government Code section 17561, subdivision (d)(2)(C), out of context. The statutory language addresses the SCO's responsibility to pay annual mandated cost reimbursement claims that local agencies submit. For past underpayments or overpayments, any correction is based on the claims that the city submitted. For FY 2003-04, the city submitted a claim for $501,913; our audit report concludes that this amount is allowable.

III. CONCLUSION

The State Controller's Office audited the City of Los Angeles' claims for costs of the legislatively mandated Firefighter's Cancer Presumption Program (Chapter 1568, Statutes of 1982) for the period of July 1, 2003, through June 30, 2007. The city claimed unallowable costs totaling $147,419. The costs are unallowable because the city claimed non-mandate-related, unsupported, and duplicate costs.

In conclusion, the Commission on State Mandates should find that the SCO correctly limited FY 2003-04 allowable costs to the claimed cost amount totaling $501,913.

IV. CERTIFICATION

I hereby certify by my signature below that the statements made in this document are true and correct of my own knowledge, or, as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on December 12, 2014, at Sacramento, California, by:

Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office

Tab 3

Adopted: 10/24/85
Amended: 3/26/87
WP 1098A

PARAMETERS AND GUIDELINES

Chapter 1568, Statutes of 1982
Firefighter's Cancer Presumption

I. SUMMARY OF MANDATE

Chapter 1568, Statutes of 1982, added Section 3272.1 to the Labor Code. This section states that cancer that has developed or manifested itself in firefighters will be presumed to have arisen out of and in the course of employment, unless the presumption is controverted by other evidence. The presumption is extended to a firefighter following termination of service for a period of three calendar months for each year of requisite service, but not to exceed sixty (60) months in any circumstance, commencing with the last date actually worked in the specified capacity.

II BOARD OF CONTROL DECISION

On February 23, 1984, the Board of Control determined that fire departments will incur "costs mandated by the state" as a result of Chapter 7568, Statutes of 1982.

III. ELIGIBLE CLAIMANTS

Any fire department of a city, a county, a city and county, a local fire protection district, or other public or municipal corporation or political subdivision of the state which employs firefighters.

IV. OPERATIVE DATE OF MANDATE

The operative date of Chapter 1568, Statutes of 1982 is January 1, 1983 through January 1, 1989, unless a statute which is chaptered before January 1, 1989 deletes or extends the repealer date for Labor Code Section 3212.1.

V. PERIOD OF CLAIM

Claims may be filed for costs paid for workers' compensation claims where the date of injury is from January 1, 1983 to January 1, 1989, unless a statute which is chaptered before January 1, 1989 deletes or extends the repealer date for Labor Code Section 3212.1.

The claims must be submitted to the State Controller in accordance with existing statutory deadlines, except that a claimant shall be entitled to file a claim for all costs associated with a particular case upon

completion of the case or at such earlier or later time as costs have accrued and been paid on an interim or post-award/compromise and release basis.

VI. FORMULA FOR DETERMINATION OF CASES SUBJECT TO REIMBURSEMENT

Reimbursement requires a demonstration of elements as follows:

A. A claim under Chapter 1568, Statutes of 1982 is reimbursable if:

A. The worker is a firefighter within the meaning of Labor Code Section 3212.1; and

B. The worker has cancer which has caused the disability; and

C. The worker's cancer developed or manifested itself during a period while the worker was in the service of the employer, or within the extended period provided for in Labor Code Section 3212.1; and

D. The worker was exposed, while in the service of the employer, to one or more known carcinogens as defined by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations; and

E. The one or more carcinogens to which the worker was exposed are reasonably linked to the disabling cancer, as demonstrated by competent medical evidence.

VII. CLAIMING FORMULA

If a case is reimbursable under Section VI, fifty percent (50%) of the reimbursable costs as defined in Section VIII shall be paid to claiming agencies.

VIII. REIMBURSABLE COSTS

A. Insured Local Agencies and Fire Districts

Insured local entities may be reimbursed for any increases for workers' compensation premium costs directly and specifically attributable to Labor Code Section 3212.1.

B. Self-Insured Local Agencies

All actual costs of a claim based upon the presumption set forth in Labor Code Section 3212.1 are reimbursable, including but not limited to the following:

(1) Administrative Costs

(a) Staff Costs

1. Salaries and employee benefits;

2. Costs of supplies;

3. Legal counsel costs;

4. Clerical support;

5. Normal local rates of reimbursement for necessary and reasonable travel and related expenses for staff;

6. Amounts paid to adjusting agencies.

(b) Overhead Costs

Counties, cities and special districts may claim an indirect cost through an indirect cost rate proposal prepared in accordance with the provision of Federal Regulation OASC-10 (used in conjunction with FMC 74-4) as a percentage of direct salaries and wages. Indirect costs may include costs of space, equipment, utilities, insurance, administration, etc. (i.e., those elements of indirect cost incurred as the result of the mandate originating in the performing unit and the costs of central government services distributed through the central services cost allocation plan and not otherwise treated as direct costs). Computation of the indirect cost rate must accompany the claim showing how that vote was derived.

(2) Benefit Costs

Actual benefit costs under this presumption shall be reimbursable and shall include, but are not limited to:

(a) All medical expenses.

(b) Necessary and reasonable travel and related expenses.

(c) All compensation benefits, including but not limited to:

1. Permanent disability benefits;

2. Life pension benefits;

3. Death benefits;

4. Temporary disability benefits or full salary in lieu of temporary disability benefits as required by Labor Code Section 4850, or other local charter provision or ordinance in existence on January 1, 1983.

Provided, however, that salary in lieu of temporary disability benefits were payable under local charter provision or ordinance in existence on January 1, 1983. Provided, however, that salary in lieu of temporary disability benefits payable under local charter provision or ordinance shall be reimbursable only to the extent that those benefits do not exceed the benefits required by Labor Code Section 4850.

IX. OFFSETTING, SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claimed. Such offsetting savings shall include, but not be limited to, savings in the cost of personnel, service or supplies, or increased revenues obtained by the claimant..

In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

X. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents or worksheets that show evidence of and the validity of such costs. These documents must be kept on file and made available on the request of the State Controller.

XI. REQUIRED CERTIFICATION

The following certification must accompany the claim:

IDOHEREBYCERTIFY:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the Jaw have been complied with; and

THAT I am the person authorized by the local agency to file claims with the State of California.

Signature of Authorized Representative	Date
Title	Telephone Number

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

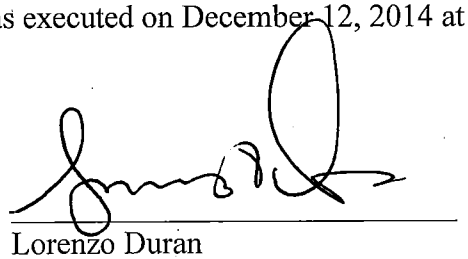
I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On December 12, 2014, I served the:

State Controller's Office Comments on IRC
Firefighter's Cancer Presumption, 09-4081-I-01
Statutes 1982, Chapter 1568
Fiscal Year: 2003-2004
City of Los Angeles, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on December 12, 2014 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/19/14

Claim Number: 09-4081-I-01

Matter: Firefighter's Cancer Presumption

Claimant: City of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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Exhibit C

RECEIVED
January 12, 2015
Commission on
State Mandates

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

In the Matter of the Claim of	)	
	)	
THE CITY OF LOS ANGELES,	)	Incorrect Reduction Claim No.:
	)	
Claimant/Appellant,	)	CSM 09-4081-1-01
	)	
And	)	Firefighter's Cancer
	)	Presumption Program
OFFICE OF THE	)	Chapter 1568, Statutes of 1982
STATE CONTROLLER,	)	
STATE OF CALIFORNIA	)	**REPLY TO THE RESPONSE**
	)	**SUBMITTED BY THE**
Respondent.	)	**STATE CONTROLLER**
	)	

INTRODUCTION AND STATEMENT OF FACTS

On September 4, 2009, the State Controller's Office ("SCO") issued its final audit report on claims, made by the City of Los Angeles ("City"), for the four fiscal years ending on June 30, 2007.[1] The audit disallowed disability benefit costs totaling $516,132 by labeling these costs as "unclaimed" – hence, the "reduction" that is the subject matter of this proceeding.

There are essentially no disputed "facts." Rather, there is a dispute regarding definitions and characterizations, and whether or not SCO has carried out their function within the spirit of the legislative mandate. SCO performed the audit referred to in their "Response." The audit found that the City's claim submission made an arithmetic error in totaling the benefit costs that were to be claimed for fiscal year

[1] The City's fiscal years run from July 1 through June 30 of the following calendar year.

2003-2004. The total claimed omitted (in the addition) numerous costs and benefits. The total of this excluded-in-error amount was $516,132 and that is not in dispute.

The City pointed this out in its Incorrect Reduction Claim.

The City submitted the instant Incorrect Reduction Claim ("IRC") on January 14, 2010.[2] Almost five years later, on December 12, 2014, the State Controller filed its formal "response." Correspondence dated January 26, 2010 from Ms. Nancy Patton, Assistant Executive Director of the Commission, to both parties, states (in pertinent part):

> "**SCO Review and Response**. Please file the SCO response and supporting documentation regarding this claim within 90 days of the date of this letter."

The SCO's response might well be rejected as having been filed approximately four years and nine months late. Nevertheless, we will address the specifics in the SCO's response.

ARGUMENT

SCO's Response concedes the factual issue:

> "For fiscal year (FY) 2003-04, the city submitted a claim reporting disability benefit costs of $985,119. Our audit found that the city made mathematical errors on a supporting schedule. These errors resulted in unclaimed disability benefit costs totaling $516,132."[3]

SCO further states:

> "Our audit report shows that we allowed the reimbursable costs that the city claimed. Government Code Section 17560 states that the city may file an annual reimbursement claim for actual mandated costs that it incurred. It is the city's responsibility to ensure that it files accurate mandated cost claims within the

[2] The Commission has stamped the document as having been received on January 26, 2010.
[3] SCO Response, page 4.

> statutory time allowed. Government Code Section 17568 states, 'In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in [Government Code] section 17560.' The city did not amend its FY 2003-04 mandated cost claim within the statutory timeframe permitted.'"

The SCO Response tortures the meaning of the applicable Government Code provisions and stands logic on its head – in full disregard for the legislative mandate. The city did not need to "amend" its claim, inasmuch as each and every dollar pertaining to it was in fact submitted in full detail. While SCO obliquely refers to "mathematical errors on a supporting schedule" this very supporting schedule – in fact submitted and audited by them – provides all of the details of the claims.

A review of Exhibit 1, attached, sets forth the Component/Activity Cost Detail in question.[4] The amounts that are "shaded" total to the precise Incorrect Reduction amount of $516,132. A simple review of SCO's Schedule 1, and Form FCP-2 demonstrates, as the auditor found, that the dollar amount listed as a total for FY 2003-04 Disability Benefit Costs is indeed $516,132 less than the total of all of the detailed entries.

Government Code Section 17561 indicates that these reimbursements are mandatory. Unless, as per subsection (d)(1)(C)(ii) "... the Controller determines (that a claim) is excessive or unreasonable." No such determination has been made. In fact, SCO simply characterizes the disputed amount - $516,132 – as "unclaimed." This is a tortured reading of a government mandate. The itemized claims were in fact listed and submitted. "Disallowing" this amount on any basis other than a determination that they

[4] In order to preserve confidentiality of each individual employee, their surnames have been redacted so that only the initial is provided. In all other respects, this is the same document that both sides acknowledge was prepared and submitted.

were either excessive or unreasonable is not a ground supported by the Government Code.

SCO's reference to the filing deadline having expired for FY 2003-04 is, as already noted, erroneous. Government Code Section 17561, subsection (d)(2)(C) states:

> "The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years."

There is in fact no time limit attached to this provision. Any overpayment, including those owing to an error of arithmetic, would presumably be the subject of a subsequent offset or recovery by the Controller's office. Hence, under the terms of the statute, the amount "disallowed" should have been recalculated and deemed included in the amount claimed.

CONCLUSION

It is in the interest of carrying out the substantive intent of the statute and program, the dictates of the legislature and expectations of reimbursement on behalf of all of the residents of the City of Los Angeles, and basic fairness, that we urge a modification of the Controller's determination.

Respectfully submitted,

Steven E. Presberg
Senior Personnel Analyst
City of Los Angeles, Personnel Department
(213) 473-9130

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

In the Matter of the Claim of	)	
	)	
THE CITY OF LOS ANGELES,	)	Incorrect Reduction Claim No.:
	)	
Claimant/Appellant,	)	CSM 09-4081-1-01
	)	
And	)	Firefighter's Cancer
	)	Presumption Program
OFFICE OF THE	)	Chapter 1568, Statutes of 1982
STATE CONTROLLER,	)	
STATE OF CALIFORNIA	)	AFFIDAVIT
	)	
Respondent.	)	
_____	)	

I, Steven E. Presberg, declare as follows:

1. I am an employee of the City of Los Angeles, Personnel Department, which oversees the operation of the City's Workers' Compensation program.

2. I am over the age of 18 and have been a City employee since June, 1999.

3. I have prepared the enclosed "Reply" to the State Controller and have reviewed all necessary documents and materials upon which the City's claim is based.

4. The attached Exhibit is a true copy of a document presented to the State Controller during their audit in this matter, except as redacted as to employee surnames.

5. The statements in the enclosed "Reply" and in this Affidavit are made under penalty of perjury and are true and correct to the best of my knowledge, and upon information and belief.

Date: January 8, 2015

CITY OF LOS ANGELES
PERSONNEL DEPARTMENT

By: _____

Steven E. Presberg
L.A. City Personnel Dep't.
700 E. Temple St. – Room 380
Los Angeles, CA 90012
(213) 473-9130
steve.presberg@lacity.org

Exhibit 1

MANDATED COSTS
FIREFIGHTER'S CANCER PRESUMPTION
COMPONENT/ACTIVITY COST DETAIL

FORM FCP-2.1

(01) Claimant: **City of Los Angeles**

(02) Fiscal Year Costs Were Incurred: **2003-2004**

(03) Reimbursable Component: **DISABILITY BENEFIT COSTS**

(04) Description of Expenses

EMPLOYEE NAME	MEDICAL EXPENSE	TEMP DISABILITY PAYMENTS	PERM DISABILITY PAYMENTS	AWARD	IOD BENEFITS	DEATH BENEFITS	LEGAL EXPENSE	TRAVEL EXPENSE	PHOTOCOPYING EXPENSE	REHAB EXPENSE	TOTAL BENEFIT PAYMENTS
ROBERT A	$1,810.42	$0.00	$0.00	$0.00	$44,162.43	$7,500.00	$0.00	$0.00	$203.15	$0.00	$53,676.00
JOHN B	$89.38	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$89.38
THOMAS B	$969.08	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$165.53	$0.00	$1,134.61
EDWARS B	$2,112.84	$0.00	$1,680.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$3,792.84
ROBERT B	$18,519.55	$0.00		$0.00	$0.00	$0.00	$0.00		$0.00	$0.00	$18,519.55
MARC B	$4,199.15	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$4,199.15
JIMMY B	$875.11	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$875.11
LEE B	$1,023.68			$0.00	$0.00	$0.00	$0.00	$640.90	$0.00	$0.00	$1,664.58
KENNETH B	$29,375.81	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$11.51	$0.00	$0.00	$29,387.32
PHILLIP C	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$4.08	$108.75	$0.00	$112.83
ROBERT C	$3,604.06	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$3,604.06
DONALD C	$2,831.61	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$2,831.61
JERRY C	$1,079.91	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,079.91
MICHAEL C	$992.88	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$10.00	$473.06	$0.00	$1,475.94
DONALD C	$979.63	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$164.16	$91.77	$0.00	$1,235.56
DONALD	$98.26	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$98.26
DONALD D	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
FRANK D	$1,088.88	$0.00	$0.00	$0.00	$0.00	$0.00	$57.66	$0.00	$0.00	$0.00	$1,146.54
DAVID D	$7,958.12	$0.00	$12,561.50	$0.00	$32,997.82	$0.00	$0.00	$0.00	$663.34	$0.00	$54,180.78
THOMAS D	$36,171.65	$0.00	$0.00	$0.00	$36,175.89	$0.00	$163.08	$0.00	$0.00	$0.00	$72,510.62
EDWARD E	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
STEPHEN E	$0.00	$0.00	$0.00		$0.00	$0.00		$0.00	$223.98	$0.00	$223.98
GEORGE E	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
STANLEY E	$653.88	$0.00	$0.00		$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$653.88
CRAIG E	$500.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$62.97	$0.00	$0.00	$562.97
CHARLES F	$412.50	$0.00	$533.37	$0.00		$0.00	$415.17	$40.55	$113.15	$0.00	$1,514.74
MARK F	$1,090.92	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,090.92
JOSEPH F	$362.88	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$362.88
ROGER F	$2,217.86	$0.00	$0.00	$0.00	$0.00	$0.00	$1,482.50	$164.22	$493.71	$0.00	$4,358.29
LARRY F	$19.44	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$19.44
RICHARD F	$457.02	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$457.02
ALLEN G	$249.14	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$249.14

BRUCE G	$383.93	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$383.93
PHILLIP G	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
KIRK G	$4,182.96	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$4,182.96
DANNY G	$7,723.20	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$154.83	$0.00	$7,878.03
ROBERT G	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$26.18	$0.00	$0.00	$26.18
ISRAEL G	$1,106.06	$0.00	$0.00	$1,302.00	$2,325.57	$0.00	$944.15	$13.60	$0.00	$0.00	$5,691.38
FRED H	$198.91	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$198.91
FRANK H	$1,200.00	$0.00	$0.00	$17,277.03	$0.00	$0.00	$2,759.99	$0.00	$141.44	$0.00	$21,378.46
ALAN H	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
DONALD H	$133.74	$0.00	$1,590.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,723.74
MARK H	$4,083.27	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$4,083.27
JAMES H	$4,884.95	$0.00	$0.00	$9,133.23	$0.00	$0.00	$5,603.58	$0.00	$0.00	$0.00	$19,621.76
ALVIN J	$5,505.48	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$368.09	$0.00	$0.00	$5,873.57
RICHARD J	$1,706.35	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,706.35
RICHARD K	$45.90	$0.00	$0.00	$112.98	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$158.88
DENNIS K	$10,313.56	$0.00	$0.00	$20,348.81	$0.00	$0.00	$0.00	$21.76	$187.15	$0.00	$30,871.28
ROBERT K	$623.99	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$9.52	$0.00	$0.00	$633.51
WILLIAM K	$130.72	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$130.72
WAYNE L	$622.86	$0.00	$0.00	$0.00	$0.00	$0.00	$121.90	$0.00	$0.00	$0.00	$744.76
RALPH LA P	$898.85	$0.00	$8,160.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$9,058.85
ROBERTO L	$199.10	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$199.10
PATRICK L	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$20.00	$60.39	$0.00	$80.39
SAMUEL M	$3,034.96	$0.00	$0.00	$0.00	$28,792.77	$0.00	$0.00	$65.20	$1,865.95	$0.00	$33,758.88
NORMAN M	$4,190.72	$0.00	$0.00	$0.00	$1,972.50	$0.00		$0.00	$0.00	$0.00	$6,163.22
PETER M	$0.00	$0.00	$0.00	$0.00	$0.00	$19,100.00	$0.00	$0.00	$0.00	$0.00	$19,100.00
EUGENE M	$618.29	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$618.29
ROBERT M	$424.58	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$424.58
CARL M	$1,005.57	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$225.00	$1,058.05	$0.00	$2,288.62
DALE M	$2,013.48	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$2,013.48
RONALD M	$2,634.90	$0.00	$1,260.00	$1,260.00	$561.69	$0.00	$0.00	$0.00	$0.00	$0.00	$5,716.59
JAMES O	$0.00	$0.00	$0.00	$0.00	$42,941.07	$32,870.00	$0.00	$21.00	$761.08	$0.00	$76,593.15
RICHARD O	$595.67	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$595.67
THOMAS O	$19,494.88	$0.00	$0.00		$20,239.73	$0.00	$0.00	$26.00	$53.76	$0.00	$39,814.37
GEORGE O	$5,113.78	$0.00	$0.00		$73,828.56	$0.00	$0.00	$31.00	$1,179.93	$0.00	$80,153.27
STEVEN O	$24,044.62	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$292.40	$0.00	$24,337.02
THOMAS P	$0.00	$1,266.46	$510.00	$3,174.76	$0.00	$0.00	$0.00	$3,856.72	$6.47	$1,236.49	$10,050.90
GUSTAVO P	$96,227.48	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$482.80	$0.00	$0.00	$96,710.28
ROBERT P	$1,578.79	$0.00	$0.00	$0.00	$0.00	$0.00	$575.60	$0.00	$0.00	$0.00	$2,154.39
JIM P	$6,263.58	$0.00	$1,578.79	$0.00	$5,077.11	$0.00	$401.20	$0.00	$0.00	$0.00	$13,320.68
ROYS P	$2,408.62	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$2,408.62
RICHARDO R	$452.69	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$417.60	$0.00	$0.00	$870.29
ROBERT R	$2,110.13	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$2,110.13
EDWARD R	$594.50	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$594.50
RONALD R	$3,998.77	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$3,998.77
RUBEN R	$52,130.55	$0.00	$0.00	$0.00	$0.00	$0.00	$241.50	$0.00	$0.00	$0.00	$52,372.05
ROBERT R	$17,081.67	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$17,081.67
ROBERT S	$502.44	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$502.44

HOWARD S	$3,261.25	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$3,261.25
ARTHUR S	$151.97	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$151.97
RANDOLPH S	$1,372.73	$0.00	$0.00	$0.00	$466.19	$0.00	$0.00	$0.00	$0.00	$0.00	$1,838.92
GARY S	$357.81	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$357.81
DAVID S	$2,669.78	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$2,669.78
LESLIE S	$391,697.20	$0.00	$0.00	$7,300.00	$55,415.99	$7,500.00	$1,852.39	$0.00	$0.00	$0.00	$463,765.58
DAVID S	$2,433.31	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$2,433.31
ROBERT S	$167.64	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$167.64
PAUL T	$409.48	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$409.48
JEFFREY T	$23,199.04	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$23,199.04
BRUCE U	$500.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$500.00
JAMES V	$886.59	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$886.59
PATRICK VI	$47.60	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$47.60
BRUCE W	$243.40	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$56.52	$0.00	$0.00	$299.92
RICHARD W	$333.55	$0.00	$0.00	$8,840.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$9,173.55
MICHAEL W	$1,460.02	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$12.13	$0.00	$0.00	$1,472.15
GEORGE W	$1,890.12	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,890.12
JOHN W	$136.56	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$136.56
MICHAEL W	$817.13	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$221.64	$0.00	$1,038.77
MIKE W	$521.22	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$521.22
JAY W	$234.09	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$234.09
KURT W	$765.26	$0.00	$4,926.38	$460.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$6,151.64
JOHN W	$575.75	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$575.75
RANDY W	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$52.44	$0.00	$52.44
THOMAS W	$5,170.60	$0.00	$945.28	$0.00	$0.00	$0.00	$0.00	$30.23	$87.43	$0.00	$6,233.54
DANIEL W	$2,786.60	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$2,786.60
TIMOTHY W	$32,395.23	$0.00	$0.00	$0.00	$20,223.67	$0.00	$0.00	$39.95	$115.96	$0.00	$52,774.81
ROY Y	$1,436.17	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,436.17
ROGER Y	$1,700.37	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,700.37
JAMES Y	$676.52	$0.00	$10,873.11	$6,768.66	$0.00	$0.00	$4,350.62	$0.00	$0.00	$0.00	$22,668.91
WILLIAM Z	$5,343.83	$0.00	$0.00	$0.00	$16,763.63	$0.00	$0.00	$550.99	$0.00	$0.00	$22,658.45
ROGER Z	$270.45	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$270.45
(05) TOTAL	$894,119.43	$1,266.46	$44,618.43	$75,977.47	$381,944.62	$66,970.00	$18,969.34	$7,372.68	$8,775.36	$1,236.49	$1,501,250.28
Amount on orig. form	$411,658.99	$1,266.46	$27,873.66	$75,977.47	$381,944.62	$51,970.00	$18,969.34	$6,682.86	$8,775.36	$1,236.49	$985,118.76
				Additional Reimbursable Disability Costs							**$516,131.52**

= costs included in original submission but not added in total.

$482,460.44	$16,744.77	$15,000.00	$689.82	$1,236.49	$516,131.52
					$0.00

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

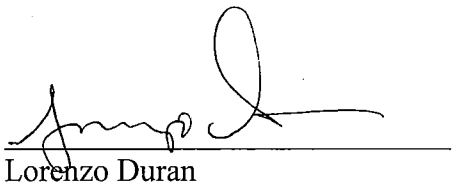
I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On January 13, 2015, I served the:

Claimant Rebuttal Comments
Firefighter's Cancer Presumption, 09-4081-I-01
Statutes 1982, Chapter 1568
Fiscal Year: 2003-2004
City of Los Angeles, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 13, 2015 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/8/15

Claim Number: 09-4081-I-01

Matter: Firefighter's Cancer Presumption

Claimant: City of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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STATE OF CALIFORNIA
EDMUND G. BROWN JR., Governor

COMMISSION ON STATE MANDATES
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March 18, 2016

Mr. Steven Presberg
Senior Personnel Analyst
City of Los Angeles
700 East Temple Street, Room 210
Los Angeles, CA 90012

Ms. Jill Kanemasu
State Controller's Office
Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
Firefighter's Cancer Presumption, 09-4081-I-01
Labor Code Section 3212.1
Statues 1982, Chapter 1568
Fiscal Year: 2003-2004
City of Los Angeles, Claimant

Dear Mr. Presberg and Ms. Kanemasu:

The draft proposed decision for the above-named matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the draft proposed decision by **April 8, 2016**. You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, May 27, 2016**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about May 13, 2016. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,

Heather Halsey
Executive Director

J:\MANDATES\IRC\2009\4081 (Firefighter's Cancer Presumption Program)\09-4081-I-01\Correspondence\draftPDtrans.docx

ITEM ___
INCORRECT REDUCTION CLAIM
DRAFT PROPOSED DECISION

Labor Code Section 3212.1

Statutes 1982, Chapter 1568

Firefighter's Cancer Presumption

Fiscal Year 2003-2004

09-4081-I-01

City of Los Angeles, Claimant

EXECUTIVE SUMMARY

Overview

This incorrect reduction claim (IRC) challenges a reduction made by the State Controller's Office (Controller) to a reimbursement claim filed by the City of Los Angeles (claimant) for fiscal year 2003-2004 under the *Firefighter's Cancer Presumption* program. Following the audit, the Controller, as a result of a mathematical error on one of the claim forms filed, deemed $516,132 "unclaimed." Due to this program's 50 percent reimbursement formula, this resulted in a reduction of the reimbursement claimed by a presumptive $258,066.

For the reasons discussed in this analysis, staff finds that the Controller's reduction is incorrect as a matter of law, and is arbitrary, capricious, and entirely lacking in evidentiary support.

The *Firefighter's Cancer Presumption* Program

In 1982, the Legislature enacted legislation to allow firefighters, under certain circumstances, to claim workers' compensation for cancers which developed or manifested during or (for a limited period of time) after their service.[1] The act added an additional definition of "injury" to the Labor Code that "includes cancer which develops or manifests itself" during a period in which the person was an active firefighting member of a fire department or unit. Provided that the member could demonstrate that he or she was exposed to a known carcinogen while in service and provided that the carcinogen is "reasonably linked to the disabling cancer," then the member, pursuant to Labor Code section 3212.1, became entitled to a rebuttable presumption during workers' compensation proceedings that the cancer arose out of and in the course of the firefighting.

On February 23, 1984, the Board of Control, predecessor to the Commission on State Mandates (Commission), approved the *Firefighter's Cancer Presumption*, CSM-4081 test claim. On October 24, 1985, the Commission adopted parameters and guidelines for the *Firefighter's*

[1] Statutes 1982, chapter 1568, adding Labor Code section 3212.1.

Cancer Presumption program, and amended the parameters and guidelines on March 26, 1987.[2] The amended parameters and guidelines state, in relevant part, that the State of California shall reimburse 50 percent of the actual costs incurred by a local agency for workers' compensation claims that are subject to the *Firefighter's Cancer Presumption*. For a self-insured local agency, the reimbursable costs are 50 percent of "All actual costs," including administrative costs (such as staff costs and overhead costs) and benefit costs (such as "All medical expenses" and "All compensation benefits" (e.g., permanent disability benefits, life pension benefits, and death benefits)). The parties do not dispute that the provisions of the amended parameters and guidelines referring to self-insured local agencies are the provisions which apply to the City of Los Angeles and its claim.

The Controller's Audit and Reduction of Costs

The facts are not in dispute in this case. In adding together all of the costs identified on Form FCP-2.1, the claimant made an arithmetic error and obtained a bottom-line total that was $516,132 less than the actual sum of all of the Total Benefit Payments.[3] Having made an error in computing the sum of all firefighters' Total Benefit Payments on Form FCP-2.1, the claimant transferred the error to the Direct Costs schedule at the end of Form FCP-1.2[4] and to the reimbursement claim made on Form FAM-27.[5]

There is no dispute that $516,132 in disability benefit costs were identified by the claimant on its Form FCP-2.1 and that the claimant filed the Form FCP-2.1 simultaneously with its reimbursement claim on January 10, 2005, as required by the claiming instructions.[6] There is no dispute that the Controller deemed the $516,132 in disability benefit costs to be "unclaimed costs" which were not used to calculate the claimant's reimbursement.[7]

The record also indicates that the mathematical error on Form FCP-2.1 was first noticed by the Controller and summarized in its July 17, 2009 draft audit report[8] and that, on August 6, 2009, the claimant objected in writing to the Controller's decision to deem the $516,132 in disability benefit costs to be "unclaimed costs."[9] In the letter, the claimant requested that the Controller process the Form FAM-27 as if the numbers on the form had been corrected to include the $516,132 which the claimant had mistakenly omitted.[10] The Controller denied the request.

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[2] Exhibit B, Controller's Late Comments on IRC, pages 14-17.

[3] Exhibit A, IRC, pages 3, 40-43.

[4] Exhibit A, IRC, page 39.

[5] Exhibit A, IRC, page 43.

[6] Exhibit A, IRC, page 19.

[7] Exhibit A, IRC, page 19.

[8] Exhibit A, IRC, page 16, 19, 22-23.

[9] Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

[10] Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

Procedural History

The claimant signed and submitted the reimbursement claim for fiscal year 2003-2004 on January 10, 2005. The Controller commenced the audit of the reimbursement claim on June 9, 2008. The Controller provided the draft audit report to the claimant on June 17, 2009. The claimant sent a letter on August 6, 2009, objecting to the Controller's draft audit report. The Controller issued the final audit report on September 4, 2009. The claimant filed IRC 09-4081-I-01 on January 14, 2010. Commission staff deemed this IRC complete on January 26, 2010. The Controller filed late comments on the IRC on December 12, 2014. The claimant filed rebuttal comments on January 12, 2015.

Commission staff issued the draft proposed decision on March 18, 2016.

Commission Responsibilities

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the Controller determines is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs that were incorrectly reduced be reinstated.

The Commission must review questions of law, including interpretation of parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[11] The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[12]

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by courts when reviewing an alleged abuse of discretion by a state agency.[13]

The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.[14] In addition,

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[11] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[12] *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[13] *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984; *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

[14] *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

sections 1185.1(f)(3) and 1185.2(c) of the Commission's regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[15]

Claims

The following chart provides a brief summary of the claims and issues raised and staff's recommendation:

Issue	Description	Staff Recommendation
Reduction of costs due to the Controller's decision to deem $516,132 in total disability costs as "unclaimed costs." The $516,132 was listed in the line items of the claimant's Form FCP-2.1, but, due to an arithmetic error, the amount was not transferred to the claimant's Form FAM-27, and therefore did not appear on the face of the reimbursement claim.	The Controller argues that it acted within its authority because, by the time that the claimant served its protest letter dated August 6, 2009, the claimant's statutory time limit in Government Code sections 17560 and 17568 to amend a claim had expired.	*Incorrect* – The Controller's decision to deem $516,132 in disability benefit costs to be "unclaimed costs" is incorrect as a matter of law, and is arbitrary, capricious, and entirely lacking in evidentiary support. The claimant promptly requested leave to correct the arithmetic error or to conform the claim to the proof which had been attached and submitted with the reimbursement claim when it was originally filed. The Controller had no statutory or regulatory basis upon which to deny the claimant's request.

Staff Analysis

A. The Controller's decision to deem $516,132 in disability benefit costs to be "unclaimed costs" is arbitrary, capricious, or entirely lacking in evidentiary support.

The dispositive issue before the Commission is whether or not, on the facts of this record, the Controller acted within its legal authority by deeming total disability benefit costs of $516,132 identified on Form FCP-2.1 as "unclaimed costs," resulting in a reduction of costs to the claimant.

[15] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

The claimant's request that the Controller process the Form FAM-27 as if the numbers on the form had been corrected to include the $516,132 which the claimant had mistakenly omitted was functionally a request to amend the Form FAM-27 to correct a mistake or to conform to the proof contained in the line items of the attached Form FCP-2.1. Government Code section 17558.5(a) refers to the fact that a reimbursement claim can be "amended," but no statute or administrative regulation delineates the Controller's authority to grant leave for a claimant to amend a claim. Lacking directly controlling legal authority to apply to this situation, the Commission should reason by analogy and apply the law which governs the Superior Court when a plaintiff requests leave to amend a complaint.

"The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of the party, *or a mistake in any other respect*," Code of Civil Procedure section 473(a)(1) states in relevant part. (Emphasis added.) A court may also, under appropriate circumstances, grant a motion to amend a pleading to conform to proof.[16] A court may grant a motion to amend before or during trial.[17] And, under the law, the amended claim that corrects a mistake relates back to the claim's original filing date for statute of limitations purposes.[18] Motions to amend are to be granted with great liberality; it is an abuse of discretion for a court to deny a motion for leave to amend in the absence of demonstrated prejudice to the other parties.[19]

Under the laws governing motions for leave to amend, the Controller's actions toward the claimant constituted an abuse of discretion. Nowhere in the record did the Controller identify how it or any another person would be prejudiced by allowing the claimant to amend its claim. The claimant did not engage in unwarranted delay; rather, the claimant objected to the Controller's draft audit within 20 calendar days of receipt. The claimant did not alter its theory of the case late in the proceedings; rather, the claimant's theory of reimbursement never varied. The claimant was not seeking to submit new evidence; the line items of claimant's Form FCP-2.1 contained the relevant evidence. The claimant was not adding to or increasing its claim; it was merely seeking to have the Controller treat the claim as if the information contained in Form FAM-27 had been accurately calculated. The Controller was not misled; during the course of its audit, the Controller recognized the omitted $516,132 for the arithmetic error it was. The Controller did not challenge the veracity of the line items listed on the claimant's Form FCP-2.1.

Accordingly, staff finds that the Controller's decision to deem $516,132 in disability benefit costs specifically identified on Form FCP-2.1 as "unclaimed" — when, in fact, the costs were claimed but accidentally omitted from the claim cover sheet — was arbitrary, capricious, and

[16] Code of Civil Procedure section 469.

[17] Code of Civil Procedure section 576.

[18] *Smeltzley v. Nicholson Mfg. Co.* (1977) 18 Cal.3d 932, 934.

[19] *Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 761.

entirely lacking in evidentiary support.[20] Under the law, the correction of the mistake relates back to the claim's original filing date of January 10, 2005 and is timely.

B. The Controller's position that Government Code sections 17560 and 17568 bar the claimant from correcting the claim is incorrect as a matter of law.

The Controller takes the position that Government Code sections 17560 and 17568 authorized the Controller's refusal to grant leave to the claimant to amend its reimbursement claim. "It is the city's responsibility to ensure that it files accurate mandated cost claims within the statutory time allowed. Government Code section 17568 states, 'In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in [Government Code] section 17560.' The city did not amend its FY 2003-04 mandated cost claim within the statutory timeframe permitted."[21]

The claimant's counter-argument reads, "The city did not need to 'amend' its claim, inasmuch as each and every dollar pertaining to it was in fact submitted in full detail. While SCO obliquely refers to 'mathematical errors on a supporting schedule' this very supporting schedule — in fact submitted and audited by them — provides all of the details of the claims."[22]

Staff finds that Government Code sections 17560 and 17568 do not support the Controller's position that the claimant no longer had the ability to correct the claim. Government Code section 17560(b) requires a claimant to "file" a claim by a certain deadline; Section 17568 authorizes the Controller to reduce (up to a specified cap) a claim which a claimant "submits" up to one year late; and Section 17568 prohibits the Controller from paying any claim which was "submitted" more than one year late.

The Controller does not dispute the fact that the claimant filed its claim on January 10, 2005, and that, at the time of the filing, the claimant's Form FCP-2.1 contained a four-page listing of all of the relevant disability benefit costs which, by this IRC, the claimant is requesting be included in the total used to calculate the claimant's reimbursement. Claimant was not and is not attempting to add new or late-filed data. Consequently, the claimant's request for reimbursement — a claim which listed the $516,132 in disability benefit costs — was timely filed under Section 17560(b).

In addition, both Government Code section 17560(b) and section 17568 are silent regarding a claimant's ability to amend a previously and timely filed claim. The Controller has not adopted regulations on point. Therefore, as explained above, the law regarding amendments of pleadings to correct a mistake or to conform to proof is applied, and, under that body of law, the Controller's actions constituted an abuse of discretion. Neither Government Code section 17560(b) nor 17568 alters that result.[23]

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[20] Since the Commission's ruling regarding the Controller's refusal to grant leave to the claimant to amend its claim disposes of this IRC, the Commission declines to address the other arguments proffered by the parties.

[21] Exhibit A, IRC, page 21. See also Exhibit B, Controller's Late Comments on IRC, pages 10, 11 [similar language].

[22] Exhibit C, Claimant's Rebuttal Comments, page 3.

[23] Alternatively, an amendment of the Form FAM-27 would relate back to the claim's original filing date for statute of limitations purposes — an outcome unaffected by Government Code

Accordingly, staff finds that Government Code sections 17560 and 17568 do not support the Controller's position that the claimant no longer had the ability to correct the claim.

C. A line of Court of Appeal decisions upholding the authority of the Medi-Cal program to refuse to allow the amendment of reimbursement claims is not applicable to this IRC.

A line of published Court of Appeal decisions held that the formerly named Department of Health Services (Department) acted within its authority in declining to allow the amendment of erroneous reimbursement claims submitted under the Medi-Cal program. However, as explained below, these cases are not applicable to this IRC.

In *Mission Community Hospital v. Kizer*, and *Kaiser Foundation Hospitals v. Belshe*, the claimants were attempting to add new and additional claims or information to their cost reports;[24] *Coastal Community Hospital v. Belshe* does not specify the nature of the claimant's error but, based on language in the opinion, the claimant was also attempting to add new and additional claims or information.[25] In contrast, the claimant in this IRC had submitted all relevant costs in its Form FCP-2.1 and was merely attempting to correct the face of its Form FAM-27; the claimant in this IRC was not attempting to add new or additional claims or information.

The Medi-Cal program does not reimburse a claimant for its actual costs. Rather, following a federal revision of the program in 1980 and 1981, a claimant is entitled to be reimbursed according to a formula "based upon the costs that would have been incurred by an efficient and economically operated facility, even if a provider's actual costs were greater."[26] While the actual costs contained in the cost reports are a factor in determining a Medi-Cal claimant's ultimate reimbursement, the cost reports are merely one part of the equation.[27] In contrast, a claimant incurring state-mandated expenses is entitled to a reimbursement of all actual costs mandated by the state, and the claimant's actual costs are the principal variable in the equation when the claimant is (like the claimant in this IRC) requesting reimbursement under an actual cost methodology.[28] While both the Medi-Cal program and the state mandate program involve claimants filing requests for reimbursement of expenses, the two programs are fundamentally

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sections 17560 and 17568. See *Smeltzley v. Nicholson Mfg. Co.* (1977) 18 Cal.3d 932, 934 ["California courts have established the rule that an amended complaint relates back to the filing of the original complaint, and thus avoids the bar of the statute of limitations, so long as recovery is sought in both pleadings on the same general set of facts."].

[24] *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1685-1686; *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556-1558.

[25] *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 395 ["inaccuracies in the cost reports which resulted in a lesser reimbursement"].

[26] *Robert F. Kennedy Medical Center v. Belshe* (1996) 13 Cal.4th 748, 752.

[27] *Robert F. Kennedy Medical Center v. Belshe* (1996) 13 Cal.4th 748, 757.

[28] Government Code section 17561(a) states that "[t]he state shall reimburse each local agency and school district for *all 'costs* mandated by the state[.]'" (Emphasis added.)

different in terms of the claimant's legal entitlement and the State's use of the submitted expense data.

Furthermore, claimants seeking reimbursement under Medi-Cal operate within a web of federal and state statutes and regulations which provide the claimants with notice of myriad substantive and procedural requirements — including deadlines to amend or correct claims. The *Mission Community Hospital* and *Kaiser Foundation Hospitals* courts based their decisions in part on the fact that the claimants had been placed on notice by a state regulation that the claimants could file amended cost reports with the Department any time before the final settlement of the cost reports.[29] In a decision involving a different aspect of the Medi-Cal program, claimants were placed on notice by a statute that the Department had the ability to correct mathematical or typographical errors.[30]

In sharp contrast, the Controller has not issued regulations regarding the procedure to be followed by claimants or by the Controller when mandate reimbursement claims are audited. Unlike *Mission Community Hospital* and *Kaiser Foundation Hospitals*, the claimant was not placed on notice by the Controller of a deadline by which to amend or correct its previously submitted claim.[31] In the absence of such a regulation, the Controller cannot take advantage of the reasoning in *Mission Community Hospital* and *Kaiser Foundation Hospitals*.

Finally, the *Kaiser Foundation Hospitals* court placed weight on the fact that Medi-Cal cost reports are required by statute to be certified as true and correct by the provider's executive officer[32] and, if unaudited within three years, are deemed to be true and correct.[33] Similarly, the claim in this IRC was certified under penalty of perjury to be true and correct,[34] and the Controller has a three-year window in which to audit mandate reimbursement claims.[35] A distinguishing difference is that, while the Department in *Kaiser Foundation Hospitals* did not conduct an audit, the Controller did. The certification of the data is a moot issue in this IRC, where the presumption of accuracy created by the certification was superseded by the evidence requested and reviewed by the Controller during its year-long field audit.[36] In addition, the *Kaiser Foundation Hospitals* claimants were attempting to add information; in the instant IRC,

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[29] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560-1561.

[30] *Santa Ana Hospital Medical Center v. Belshe* (1997) 56 Cal.App.4th 819, 824. See also Welfare and Institutions Code section 14105.98(f)(5).

[31] As discussed above, the statutory deadline for a claimant to file a claim does not constitute a limitation on a claimant's ability to seek to amend a claim.

[32] Welfare and Institutions Code section 14107.4(c).

[33] Welfare and Institutions Code section 14170(a)(1).

[34] Exhibit A, IRC, page 34.

[35] Government Code section 17558.5(a).

[36] See, e.g., *Rogers v. Interstate Transit Co.* (1931) 212 Cal. 36, 38 ["[I]t is well established in this state that a presumption in favor of a party is entirely dispelled by the testimony of the party himself or of his witnesses."]; *Coffey v. Shiomoto* (2015) 60 Cal. 4th 1198, 1210 ["[I]f evidence sufficient to negate the presumed fact is presented, the 'presumption disappears' (Citation.) and 'has no further effect' (Citation.) . . . ."].

the claimant submitted all information at the time it submitted the claim. Finally, a verified pleading may also be amended.[37]

Thus, while a line of Court of Appeal decisions upholds the authority of the Department to reject amended cost reports, the decisions are not applicable to this IRC, which should be decided on the basis that, on this record, the Controller should have granted the claimant leave to amend its Form FAM-27.

Conclusion

Staff finds that the Controller's decision to deem $516,132 in disability benefit costs as "unclaimed" is incorrect as a matter of law and is arbitrary, capricious, and entirely lacking in evidentiary support.

Staff Recommendation

Staff recommends that the Commission adopt the proposed decision approving the IRC and, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, request that the Controller reinstate the costs incorrectly reduced, and authorize staff to make any technical, non-substantive changes following the hearing.

[37] *Macomber v. State of California* (1967) 250 Cal.App.2d 391, 399.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM ON: Labor Code Section 3212.1 Statutes 1982, Chapter 1568 Fiscal Year 2003-2004 City of Los Angeles, Claimant	Case No.: 09-4081-I-01 *Firefighter's Cancer Presumption* DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7 (*Adopted May 27, 2016*)

DECISION

The Commission on State Mandates (Commission) heard and decided this incorrect reduction claim (IRC) during a regularly scheduled hearing on May 27, 2016. [Witness list will be included in the adopted decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed decision to [approve/partially approve/deny] this IRC by a vote of [vote count will be included in the adopted decision] as follows:

Member	**Vote**
Ken Alex, Director of the Office of Planning and Research	
Richard Chivaro, Representative of the State Controller	
Mark Hariri, Representative of the State Treasurer, Vice Chairperson	
Sarah Olsen, Public Member	
Eraina Ortega, Representative of the Director of the Department of Finance, Chairperson	
Carmen Ramirez, City Council Member	
Don Saylor, County Supervisor	

Summary of the Findings

This IRC was filed by the City of Los Angeles (claimant) in response to an audit by the State Controller's Office (Controller) of the claimant's annual reimbursement claim under the *Firefighter's Cancer Presumption* program for fiscal year 2003-2004. Following the audit, as a result of a mathematical error on one of the claim forms filed, the Controller deemed $516,132 "unclaimed." Due to this program's 50 percent reimbursement formula, this resulted in a reduction of reimbursement claimed by a presumptive $258,066.

Specifically, the claimant submitted its reimbursement claim by filing Form FAM-27, which erroneously failed to include $516,132 in costs even though that $516,132 in costs was listed on the individual line items of the claimant's attached Form FCP-2.1. While the audit report was still in draft, the Controller declined the claimant's request to treat the Form FAM-27 as if the cost and reimbursement totals conformed to the attached proof. The Controller and the claimant concur that (1) the reimbursement amount requested on the face of the claim was inaccurate and incomplete due to an arithmetic error by the claimant and (2) the claimant had submitted correct and complete documentation appended to the claim.

The Commission finds that the Controller's decision to deem $516,132 in disability benefit costs to be "unclaimed costs" is incorrect as a matter of law and is arbitrary, capricious, and entirely lacking in evidentiary support. The Controller had no statutory or regulatory basis upon which to deny the claimant's request. The Controller has not identified any cognizable prejudice which would have resulted if the Controller had treated the Form FAM-27 as if its cost and reimbursement totals had been accurately calculated. The Controller opted to disregard the evidence attached to the claim. The Commission further finds that Government Code sections 17560 and 17568 do not support the Controller's position that the claimant no longer had the ability to correct the claim, and that a line of Court of Appeal decisions upholding the authority of the Medi-Cal program to refuse to allow the amendment of reimbursement claims is not applicable to this IRC.

Accordingly, the Commission approves this IRC and requests the Controller to reinstate all costs incorrectly reduced.

I. Chronology

01/10/2005 Claimant submitted the reimbursement claim for fiscal year 2003-2004.[38]

06/09/2008 Controller commenced an audit of the reimbursement claim.[39]

07/17/2009 Controller issued the draft audit report.[40]

08/06/2009 Claimant sent a letter objecting to the Controller's draft audit report.[41]

09/04/2009 Controller issued the final audit report.[42]

01/14/2010 Claimant filed this IRC.[43]

01/26/2010 Commission staff deemed the IRC complete and issued it for review and comment.

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[38] Exhibit A, IRC, page 34.

[39] Affidavit of Jim L. Spano, dated December 12, 2014, paragraph 7. (Exhibit B, Controller's Late Comments on IRC, page 5.)

[40] Exhibit A, IRC, page 16 ["We issued a draft audit report on July 17, 2009."].

[41] Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

[42] Exhibit A, IRC, page 12 [cover letter], pages 11-23 [final audit report].

[43] Exhibit A, IRC.

12/12/2014 Controller filed late comments on the IRC.[44]

01/12/2015 Claimant filed rebuttal comments.[45]

03/18/2016 Commission staff issued the Draft Proposed Decision.

II. Background

The *Firefighter's Cancer Presumption* Program

In 1982, the Legislature enacted legislation to allow firefighters, under certain circumstances, to claim workers' compensation for cancers which developed or manifested during or (for a limited period of time) after their service.[46] The act (which shall be referred to herein as the "Firefighter's Cancer Presumption" or the "Act"[47]) added an additional definition of "injury" to the Labor Code that "includes cancer which develops or manifests itself" during a period in which the person was an active firefighting member of a fire department or unit.[48] Provided that the member could demonstrate that he or she was exposed to a known carcinogen while in service and provided that the carcinogen is "reasonably linked to the disabling cancer," then the member, pursuant to Labor Code section 3212.1, became entitled to a rebuttable presumption during workers' compensation proceedings that the cancer arose out of and in the course of the firefighting.[49]

On February 23, 1984, the Board of Control, predecessor to the Commission, approved the *Firefighter's Cancer Presumption*, CSM-4081 test claim, finding that the statutes imposed a new program or higher level of service and increased costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution. On October 24, 1985, the Commission

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[44] Exhibit B, Controller's Late Comments on IRC. Note that pursuant to Government Code section 17553(d) "the Controller shall have no more than 90 days after the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the Commission." In this instance, due to the backlog of IRCs, the Controller's late comments have not delayed consideration of this item and thus, have been included in the analysis and decision. (See also California Code of Regulations, title 2, section 1181.10(b)(1)(A), providing that comments received at least 15 days before a Commission meeting shall be included in the Commission's meeting binders.)

[45] Exhibit C, Claimant's Rebuttal Comments.

[46] Statutes 1982, chapter 1568, adding Labor Code section 3212.1.

[47] Upon its chaptering in 1982, the Act did not have a name. A 1989 amendment added peace officers to the statute's coverage and was named the "Police Officer's Cancer Protection Act." Statutes 1989, chapter 1171, section 1. A 2010 amendment doubled the maximum length of time following a firefighter's termination of service — from 60 months to 120 months — during which the evidentiary presumption continued to apply; the 2010 amendment renamed the entirety of Labor Code section 3212.1 the "William Dallas Jones Cancer Presumption Act of 2010." (Statutes 2010, chapter 672, section 1.)

[48] Statutes 1982, chapter 1568, section 1.

[49] Statutes 1982, chapter 1568, section 1.

adopted parameters and guidelines for the *Firefighter's Cancer Presumption* program, and amended the parameters and guidelines on March 26, 1987.[50] The amended parameters and guidelines state, in relevant part, that the State of California shall reimburse 50 percent of the actual costs incurred by a local agency with regard to workers' compensation claims that are subject to the *Firefighter's Cancer Presumption*.[51] For a self-insured local agency, the reimbursable costs are 50 percent of "All actual costs," including administrative costs (such as staff costs and overhead costs) and benefit costs (such as "All medical expenses" and "All compensation benefits" (e.g., permanent disability benefits, life pension benefits and death benefits)).[52] The parties do not dispute that the provisions of the amended parameters and guidelines referring to self-insured local agencies are the provisions which apply to the City of Los Angeles and its claim.

In or about September 1997,[53] the Controller issued an updated Mandated Costs Manual, which included the claiming instructions for this program which detailed the process local agencies were required to follow to apply for reimbursement of costs associated with the *Firefighter's Cancer Presumption* program.[54] In accordance with the amended parameters and guidelines, 50 percent of the costs incurred are eligible for reimbursement and, with regard to self-insured local agencies, the actual costs were a combination of the administrative costs and the benefit costs.[55]

The Controller's claiming instructions specified the four forms which a self-insured claimant was required to submit:

- Form FCP-2.2 — on which the claimant was to detail its relevant administrative costs;
- Form FCP-2.1 — on which the claimant was to list the amount of disability benefit payments actually made to or on behalf of each affected firefighter;
- Form FCP-1.2 — on which the claimant was to re-state the totals on Form FCP-2.2 and Form FCP-2.1 in order to "summarize the increased disability and administrative costs incurred as a result of the mandate." Per the claiming instructions, "Only fifty percent (50%) of the increased costs derived from this form is carried forward to form FAM-27, line (13) for the Reimbursement Claim . . . ."; and
- Form FAM-27 — Per the claiming instructions, "This form contains a certification that must be signed by an authorized representative of the local agency. All applicable

[50] Exhibit B, Controller's Late Comments on IRC, pages 14-17.

[51] Amended parameters and guidelines, section VII [claiming formula]. (Exhibit B, Controller's Late Comments on IRC, page 15.)

[52] Amended parameters and guidelines, section VIII(B) [reimbursable costs]. (Exhibit B, Controller's Late Comments on IRC, pages 15-17.)

[53] See Exhibit A, IRC, pages 5-10.

[54] Exhibit A, IRC, pages 5-10.

[55] Exhibit A, IRC, pages 6-7.

information from . . . FCP-1.2 must be brought forward to this form in order for the State Controller's Office to process the claim for payment."[56]

Data is entered and compiled on Form FCP-2.1 and Form FCP-2.2, and the totals of that data are transferred to Form FCP-1.2 (the claim summary) and Form FAM-27 (the claim itself).[57]

The Reimbursement Claim

On January 10, 2005, the claimant timely submitted to the Controller a reimbursement claim for fiscal year 2003-2004 costs.

On its Form FAM-27 (the claim form itself), the claimant entered the amount of money that it was claiming. With regard to the reimbursement for fiscal year 2003-2004, the claimant filled the following boxes with the following totals:

FCP-1.2, (4)(1)(d):	$985,118.76	[disability benefit costs]
FCP-1.2, (04)(2)(d):	$ 18,683.11	[administrative costs]
Total Claimed Amount:	$501,913.45	
Net Claimed Amount:	$501,913.45	
Due From State:	$501,913.45[58]	

The Form FAM-27 submitted by the claimant was certified under the authority and signature of General Manager Margaret M. Whelan. Ms. Whelan's signature appears directly underneath Form FAM-27's Certification of Claim, which reads in relevant part, "The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements."[59]

The Form FCP-1.2 submitted by the claimant contains the service information of 110 firefighters, followed by a one-page schedule titled Direct Costs.[60] The schedule contains, among other things, the following line items:

(04) Reimbursable Components

Disability Benefit Costs:	$985,118.76
Administrative Costs:	$18,683.11

(05) TOTAL DIRECT COSTS: $1,003,826.90

…

(08) TOTAL DIRECT AND INDIRECT COSTS, SELF INSURED METHOD: $1,003,826.90

[56] Exhibit A, IRC, page 9.

[57] Exhibit A, IRC, page 8.

[58] Exhibit A, IRC, page 34.

[59] Exhibit A, IRC, page 34.

[60] Exhibit A, IRC, pages 35-38.

…

(11) TOTAL CLAIMED AMOUNT

(50% of (08) Total Direct and Indirect Costs): $501,913.45[61]

The Form FCP-2.1 submitted by the claimant details the disability benefit costs for 111 firefighters.[62] For each firefighter, the claimant detailed the costs incurred with regard to that person in ten separate cost categories.[63] Then, in the right-most column of the spreadsheet, the claimant added together the ten categories to yield each firefighter's "Total Benefit Payments."[64]

At the bottom of Form FCP-2.1, the claimant added together the Total Benefit Payments of the 111 firefighters, yielding $985,118.76.[65]

The claimant erred. The sum of the 111 firefighters' Total Benefits Payments was not $985,118.76. The correct sum of the 111 firefighters' Total Benefit Payments was $1,501,250.76. In adding together all of the costs on Form FCP-2.1, the claimant made an arithmetic error and obtained a bottom-line total that was $516,132 less than the actual sum of all of the Total Benefit Payments.[66]

Having made an error in computing the sum of all firefighters' Total Benefit Payments on Form FCP-2.1, the claimant transferred the error to the Direct Costs schedule at the end of Form FCP-1.2 and to the reimbursement claim made on Form FAM-27. If the Total Benefit Payments on Form FCP-2.1 had been calculated correctly, the claimant argues, it would have certified total costs of $1,519,933.87 and would have requested a 50 percent reimbursement totaling $759,966.94.[67]

The claimant's exact arithmetic error is not obvious from the face of the record. The claimant has attached as Exhibit 1 to its IRC a spreadsheet which purports to identify the arithmetic error by shading the spreadsheet cells which it failed to include in the computation of Total Benefit Payments.[68] It is difficult to ascertain from the paper and electronic copies of the record precisely which spreadsheet cells are shaded; moreover, the claimant appears to have shaded

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[61] Exhibit A, IRC, page 39.

[62] Exhibit A, IRC, pages 40-43. While the claimant listed 110 firefighters on its Form FCP-1.2, the claimant listed 111 firefighters on its Form FCP-2.1.

[63] The ten categories are: Medical Expense, Temporary Disability Payment, Permanent Disability Payment, Award, IOD Benefits, Death Benefits, Legal Expense, Travel Expense, Photocopying Expense and Rehabilitation Expense. Accord, Labor Code section 3212.1(c) ("The compensation that is awarded for cancer shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.").

[64] Exhibit A, IRC, pages 40-43.

[65] Exhibit A, IRC, page 43.

[66] Exhibit A, IRC, page 43.

[67] Exhibit A, IRC, page 3.

[68] Exhibit C, Claimant's Rebuttal Comments, pages 7-9.

cells which are located at such disparate but non-random locations within the spreadsheet that it is difficult for the Commission to reconstruct how such an arithmetic error could have occurred.

However, for purposes of deciding the claimant's IRC, the exact provenance of the arithmetic error need not be determined. Throughout the record, both the claimant and the Controller repeatedly state or imply that:

(1) the individual line items of the claimant's Form FCP-2.1, if added together accurately, would have read $1,501,250.76;[69]

(2) the bottom line total appearing on the claimant's Form FCP-2.1 read $985,118.76;[70]

(3) the claimant's bottom-line total of $985,118.76 was inaccurate and was the result of an arithmetic error by the claimant;[71]

(4) the claimant transferred the inaccurate total of $985,118.76 to the Direct Costs schedule of Form FCP-1.2 and to the claiming portion of Form FAM-27;[72] and

(5) the claimant requested, via the Direct Costs schedule of Form FCP-1.2 and the claiming portions of Form FAM-27, a reimbursement of $501,913.45 based on an inaccurate cost total of $1,003,826.90 when the claimant could have, if its arithmetic had been accurate, requested a reimbursement of $759,966.94 based on an accurate cost total of $1,519,933.87.[73]

The Commission utilizes these numbers in this Decision based upon the Commission's independent review of the record and because both the claimant and the Controller used and do not dispute these numbers.[74]

The Controller's Audit and Reduction of Costs

The Controller conducted a field audit of the City of Los Angeles' claim; the field audit commenced on June 9, 2008, and ended on June 19, 2009.[75]

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[69] Exhibit A, IRC, pages 19 [Controller admission], 40-43 [claimant admission].

[70] Exhibit A, IRC, page 43.

[71] Exhibit A, IRC, pages 19 [Controller admission], 22 [claimant admission].

[72] Exhibit A, IRC, pages 34, 39.

[73] Exhibit A, IRC, pages 19 [Controller admission], 40-43 [claimant admission].

[74] The bulk of the arithmetic error appears to be attributable to the claimant's omission of costs incurred in relation to a single firefighter. One particular firefighter referred to in the record incurred medical expenses and total benefit payments which were the highest, by a significant margin, of any firefighter in the claim. In Exhibit A to its Rebuttal Comments, the claimant conceded that it failed to include this firefighter's medical expenses ($391,697.20) and death benefit ($7,500) in the total at the bottom of Form FCP-2.1. (Exhibit C, Claimant's Rebuttal Comments, page 9.)

[75] Affidavit of Jim L. Spano, dated December 12, 2014, paragraph 7. (Exhibit B, Controller's Late Comments on IRC, page 5.)

On July 17, 2009, the Controller provided the claimant with a draft of the audit report.[76] In the draft, the Controller identified the $516,132 which the claimant had listed on the line items of its Form FCP-2.1, but which, due to an arithmetic error, the claimant had failed to include when calculating its requested reimbursement amount.[77] The Controller deemed the $516,132 to be "unclaimed costs," and the Controller excluded the $516,132 from the total used to calculate the claimant's reimbursement.[78]

On August 6, 2009, the claimant served a letter upon the Controller taking exception to the draft audit report and requesting that the $516,132 in disability costs be added back into the total used to calculate the claimant's reimbursement.[79]

On September 4, 2009, the Controller issued a final audit report and served a copy upon the claimant.[80] The draft audit report is not in the record; all references are to the final audit report dated September 4, 2009.[81]

Over the claimant's written objections, the Controller decided in its final audit report to exclude the $516,132 in disability costs from the total used to calculate the claimant's reimbursement.

"The city made mathematical errors on the claim form FCP-2.1, for its 2003-04 and FY 2004-05 claims. The mathematical errors resulted in unclaimed costs totaling $516,132 for FY 2003-04, and $5,440 for FY 2004-05," the final audit report stated.[82] The claimant's incorrect reduction claim is limited to fiscal year 2003-2004.[83]

"The city submitted mandated claim forms FAM-27 (claim for payment), FCP-1.2 (claim summary), and FCP-2.1 (component/activity cost detail). On all these claim forms, the city identified disability benefits costs totaling $985,119. On forms FAM-27 and FCP-1.2, the city identified administrative costs totaling $18,683, actual mandate-related direct costs totaling $1,003,827, and reimbursable costs totaling $501,913 (the mandated program reimburses 50% of total mandate-related costs)," the Controller stated.[84] The administrative costs of $18,683 are not a part of the claimant's IRC.

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[76] Exhibit A, IRC, page 16 ["We issued a draft audit report on July 17, 2009."].

[77] Exhibit A, IRC, page 19.

[78] Exhibit A, IRC, page 19.

[79] Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

[80] Exhibit A, IRC, page 12 [letter], pages 11-23 [final audit report].

[81] Exhibit A, IRC, pages 11-23 [final audit report].

[82] Exhibit A, IRC, page 19.

[83] Exhibit A, IRC, page 1.

[84] Exhibit A, IRC, page 21.

"Our audit report shows that we allowed the reimbursable costs that the city claimed. . . . It is the city's responsibility to ensure that it files accurate mandated cost claims within the statutory time allowed," the final audit report stated.[85]

Consequently, the Controller excluded the $516,132 in disability costs, used the claimant's mathematically incorrect disability cost total of $985,118.76 which appeared on the Form FAM-27 and, adding in administrative costs and applying the program's 50 percent reimbursement formula, approved a reimbursement of $501,913.[86]

The claimant's argument in this IRC is that the Controller should have included the $516,132 in disability costs and used the mathematically correct disability cost total of $1,501,250.76 regardless of what amount appeared on the Form FAM-27 and, adding in administrative costs and applying the program's 50 percent reimbursement formula, should have approved a reimbursement of $759,966.94.[87]

The difference between the reimbursement amount which the Controller approved $501,913.45 and the reimbursement amount which the claimant argues the Controller should have approved $759,966.94 is $258,053.49 — the amount of reimbursement in controversy in this IRC.

III. Positions of the Parties

A. City of Los Angeles

The claimant objects to the Controller deeming $516,132 in disability costs to be "unclaimed costs."[88] When the claimant was adding up the total of disability costs listed on Form FCP-2.1, the claimant mistakenly failed to add in $516,132 in disability costs which were listed on the form; this error propagated through the claim, resulting in the claimant requesting a reimbursement (at 50 percent of actual costs) of $501,913.45 based on an inaccurate disability cost total of $985,118.76 when, in fact, the claimant had submitted documentation supporting a reimbursement of $759,966.94 based on $1,501,250.76 in disability costs.[89]

The claimant takes the following positions:

1. The IRC should be granted because the Controller filed its rebuttal more than four years late.[90]

[85] Exhibit A, IRC, page 21.

[86] "For the fiscal year (FY) 2003-2004 claim, the State made no payment to the city. Our audit disclosed that $501,913 is allowable. The State will pay that amount, contingent upon available appropriations." Exhibit A, IRC, page 16.

[87] Exhibit A, IRC, page 3.

[88] Exhibit A, IRC, page 3.

[89] Exhibit A, IRC, page 3; Exhibit C, Claimant's Rebuttal Comments, pages 2-3. The claim also included an additional $18,683.11 in administrative costs, which are not disputed.

[90] Exhibit C, Claimant's Rebuttal Comments, page 2.

2. The Controller lacks the authority to deem costs "unclaimed," because Government Code section 17561(d) limits the Controller's authority to reducing only claims that are "excessive" or "unreasonable."[91]

3. The Controller, aware that the claimant made an arithmetic error, should have based its reimbursement on a disability cost total of $1,501,250.76 — the amount substantiated on the four pages of Form FCP-2.1.[92]

4. The Controller may exercise its authority under Government Code section 17561(d)(2)(C) — which grants the Controller the power to adjust for underpayments or overpayments in prior fiscal years — to pay the claimant the reimbursement it requests in this IRC.

B. State Controller's Office

The Controller contends that it acted within its authority when it held the claimant to its $516,132 arithmetic error and deemed that amount to be "unclaimed costs" which would not be used to calculate the claimant's reimbursement.[93]

The Controller takes the following positions:

1. The claimant bears the burden of filing mathematically accurate claims.[94]

2. The claimant failed to timely amend its claim, and the Controller was prohibited by the time bar of Government Code section 17568 from allowing the claimant to revise its claim.[95]

3. The claimant cites Government Code section 17561(d)(2)(C) out of context. In any event, while the Controller has the statutory authority to adjust claims for overpayments or underpayments made in prior fiscal years, the authority is irrelevant to this IRC. The Controller's adjustments are based on the claims submitted, and, for FY 2003-2004, the claimant requested a reimbursement of $501,913.[96]

IV. Discussion

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the Controller determines is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9

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[91] Exhibit A, IRC, page 3; Exhibit C, Claimant's Rebuttal Comments, pages 3-4.

[92] Exhibit A, IRC, page 3; Exhibit C, Claimant's Rebuttal Comments, pages 2-3.

[93] Exhibit B, Controller's Late Comments on IRC, pages 10-12.

[94] Exhibit B, Controller's Late Comments on IRC, page 11.

[95] Exhibit B, Controller's Late Comments on IRC, page 10.

[96] Exhibit B, Controller's Late Comments on IRC, page 11.

of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs that were incorrectly reduced be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[97] The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[98]

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion by a state agency.[99] Under this standard, the courts have found that:

> When reviewing the exercise of discretion, the scope of review is limited, out of deference to the agency's authority and presumed expertise: 'The court may not reweigh the evidence or substitute its judgment for that of the agency. [Citation.]'"… "In general, …the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support…." [Citations.] When making that inquiry, the " ' "court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute." [Citation.]' "[100]

The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.[101] In addition, sections 1185.1(f)(3) and 1185.2(c) of the Commission's regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[102]

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[97] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[98] *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[99] *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984; *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

[100] *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

[101] *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

[102] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil

A. The Controller's decision to deem $516,132 in disability benefit costs to be "unclaimed costs" is incorrect as a matter of law and is arbitrary, capricious, and entirely lacking in evidentiary support.

The facts are not in dispute in this case. In adding together all of the costs identified on Form FCP-2.1, the claimant made an arithmetic error and obtained a bottom-line total that was $516,132 less than the actual sum of all of the Total Benefit Payments. Having made an error in computing the sum of all firefighters' Total Benefit Payments on Form FCP-2.1, the claimant transferred the error to the Direct Costs schedule at the end of Form FCP-1.2 and to the reimbursement claim made on Form FAM-27.[103]

There is no dispute that these $516,132 in disability benefit costs were identified by the claimant on its Form FCP-2.1 and that the claimant filed the Form FCP-2.1 simultaneously with its reimbursement claim on January 10, 2005, as required by the claiming instructions.[104] There is no dispute that the Controller deemed the $516,132 in disability benefit costs to be "unclaimed costs" which were not used to calculate the claimant's reimbursement.[105]

The record also indicates that the mathematical error on Form FCP-2.1 was first noticed by the Controller and summarized in its July 17, 2009 draft audit report[106] and that, on August 6, 2009, the claimant objected in writing to the Controller's decision to deem the $516,132 in disability benefit costs to be "unclaimed costs."[107] In the letter, the claimant requested that the Controller process the Form FAM-27 as if the numbers on the form had been corrected to include the $516,132 which the claimant had mistakenly omitted.[108] The Controller denied the request.

Although the claimant's letter of August 6, 2009, objecting to the draft audit report did not use the word "amend" nor explicitly request leave to file amended paperwork, the claimant's letter was functionally a request to amend its claim to conform to proof. Specifically, the claimant was requesting that, for purposes of its reimbursement under the *Firefighter's Cancer Presumption* program, the totals on the claimant's Form FAM-27 be amended or corrected to match the data listed on the line items of its Form FCP-2.1 which was submitted with the original reimbursement claim.

The Commission must therefore decide whether the Controller's denial of claimant's request for leave to amend its claim was correct as a matter of law and not arbitrary, capricious or entirely lacking in evidentiary support.

Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

[103] Exhibit A, IRC, page 43.

[104] Exhibit A, IRC, page 19.

[105] Exhibit A, IRC, page 19.

[106] Exhibit A, IRC, page 16, 19, 22-23.

[107] Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

[108] Letter from Margaret Whelan to Jim L. Spano, dated August 6, 2009. (Exhibit A, IRC, pages 22-23.)

Government Code section 17558.5(a) expressly refers to a claimant's ability to "amend" a claim; in fact, Section 17558.5(a)'s reference to the time when a claim is "last amended" implies that the Legislature intended for a claimant to have, at least under some circumstances, multiple opportunities to amend.[109]

However, the Government Code provisions regarding the Controller's authority to audit mandate reimbursement claims do not address the specific question of when the Controller may lawfully deny leave to amend. Nor has the Controller promulgated regulations on the topic.

Lacking directly controlling legal authority to apply to this situation, and recognizing that the Commission has no authority to rule in equity,[110] the Commission must reason by analogy and decide this IRC by identifying and applying the law which governs the situation most similar to a request by a claimant to amend a mandate reimbursement claim.[111]

The claimant's request to correct the mathematical error in the reimbursement claim is the functional equivalent of a party to a civil action requesting leave to amend a pleading. Under the law, a party to a civil lawsuit may seek permission from the court to amend a pleading to correct a mistake. "The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of the party, *or a mistake in any other respect*," Code of Civil Procedure section 473(a)(1) states in relevant part. (Emphasis added.) A court may also, under appropriate circumstances, grant a motion to amend a pleading to conform to proof.[112] A court

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[109] "A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later." Government Code section 17558.5(a).

[110] In making its decisions, the Commission must strictly construe section 6 of article XIII B of the California Constitution and not apply section 6 as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities." *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[111] See, e.g., *Stockton Theatres, Inc. v. Palermo* (1961) 55 Cal.2d 439, 442 ["There is no controlling authority to which we have been referred, or found, that deals with this particular subject. But the law applicable to the effect of reversals or modifications on interest on judgments generally would seem, by analogy, to be applicable."]; *Fitzpatrick v. Sonoma County* (1929) 97 Cal.App. 588, 596 ["Our attention has not been called to any case directly in point involving a municipal corporation when joined with individual defendants. We are therefore constrained to reason by analogy."]. See also Weinreb, Legal Reason: The Use of Analogy In Legal Argument (2005) page vii [noting "the indubitable fact that the use of analogy is at the very center of legal reasoning, so much so that it is regarded as an identifying characteristic not only of legal reasoning itself but also of legal education."].

[112] "No variance between the allegation in a pleading and the proof is to be deemed material, unless it has actually misled the adverse party to his prejudice in maintaining his action or defense upon the merits. Whenever it appears that a party has been so misled, the Court may order the pleading to be amended, upon such terms as may be just." Code of Civil Procedure section 469.

may grant a motion to amend before or during trial.[113] And, under the law, the amended claim that corrects a mistake relates back to the claim's original filing date for statute of limitations purposes.[114]

Motions to amend are to be granted with great liberality; it is an abuse of discretion for a court to deny a motion for leave to amend in the absence of demonstrated prejudice to the other parties. "Although courts are bound to apply a policy of great liberality in permitting amendments to the complaint at any stage of the proceedings, up to and including trial, this policy should be applied only where no prejudice is shown to the adverse party. . . . . It is an abuse of discretion to deny leave to amend where the opposing party was not misled or prejudiced by the amendment."[115]

In deciding whether to grant or deny a motion to amend, a trial court may review the relevant facts and circumstances to determine whether the other parties will be prejudiced by the amendment. "Although failure to permit such amendment where justice requires it is an abuse of discretion (Citations.), the objectionable subject matter of the amendment, the conduct of the moving party, or the belated presentation of the amendment are appropriate matters for the reviewing court to consider in evaluating the trial court's exercise of discretion."[116] "The law is also clear that even if a good amendment is proposed in proper form, unwarranted delay in presenting it may — of itself — be a valid reason for denial. The cases indicate that the denial may rest upon the element of lack of diligence in offering the amendment after knowledge of the facts, or the effect of the delay on the adverse party."[117]

The Controller's refusal to consider the evidence included in the original claim filing was incorrect as a matter of law and arbitrary and capricious and entirely lacking in evidentiary support. Nowhere in the record did the Controller identify how it or any another person would be prejudiced by allowing the claimant to amend its claim. The claimant did not engage in unwarranted delay; rather, the claimant objected to the Controller's draft audit within 20 calendar days of receipt. The claimant did not alter its theory of the case late in the proceedings; rather, the claimant's theory of reimbursement never varied. The claimant was not seeking to submit new evidence; the line items of claimant's Form FCP-2.1 contained the relevant evidence. The claimant was not adding to or increasing its claim; it was merely seeking to have the Controller treat the claim as if the information contained in Form FAM-27 had been accurately calculated. The Controller was not mislead; during the course of its audit, the Controller recognized the omitted $516,132 for the arithmetic error it was. The Controller did not challenge the veracity of

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[113] "Any judge, at any time before or after commencement of trial, in the furtherance of justice, and upon such terms as may be proper, may allow the amendment of any pleading or pretrial conference order." Code of Civil Procedure section 576.

[114] *Smeltzley v. Nicholson Mfg. Co.* (1977) 18 Cal.3d 932, 934 ["California courts have established the rule that an amended complaint relates back to the filing of the original complaint, and thus avoids the bar of the statute of limitations, so long as recovery is sought in both pleadings on the same general set of facts."].

[115] *Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 761 [citations and internal punctuation omitted].

[116] *Roemer v. Retail Credit Co.* (1975) 44 Cal.App.3d 926, 939.

[117] *Roemer v. Retail Credit Co.* (1975) 44 Cal.App.3d 926, 939-940.

the line items listed on the claimant's Form FCP-2.1. The Controller has not explained in the record how correcting an audit report which was still in draft form would have resulted in a prejudice, nor has the Controller explained in the record how the Controller or any third party is prejudiced by reimbursing the claimant for costs which, it is undisputed, the claimant actually incurred and which the law requires be reimbursed.

The record reveals at best one potential prejudice to an amended claim: the State of California may be required to reimburse the claimant an additional $258,053.49 (50 percent of the omitted disability benefit costs). But such a payment is not an example of a prejudice sufficient to deny leave to amend; the payment would, if all other aspects of the claimant's paperwork are in order, be a legal duty. Throughout the constitutional and statutory scheme related to mandates, the duty to reimburse is worded in affirmative and mandatory language. Section 6 of article XIII B of the California Constitution provides that, once the existence of a mandate has been established, "the State *shall* provide a subvention of funds to reimburse that local government . . . ." Government Code section 17561(a) states that "[t]he state *shall* reimburse each local agency and school district for *all* 'costs mandated by the state[.]'" (Emphases added.) Government Code section 17561(d) states that the "[t]he Controller *shall* pay any eligible claim pursuant to this section by October 15 or 60 days after the date the appropriation for the claim is effective, whichever is later." With regard to both initial reimbursement claims and claims made in subsequent fiscal years, "[t]he Controller *shall* pay these claims" from the funds appropriated therefor.[118] The State cannot be prejudiced by the requirement that it follow its own laws.

With regard to the question of whether the Controller's action is supported by evidence in the record, the answer is no. All of the evidence contained within the line items of the claimant's Form FCP-2.1 supports the claimant's position that it incurred $516,132 in total disability costs which the Controller excluded when calculating the claimant's reimbursement. No evidence in the record supports the Controller's conclusion that $516,132 in disability benefit costs was "unclaimed" or that the claimant was not entitled to a reimbursement which was calculated including the $516,132 in disability benefit costs.

Based on this record, the Commission finds that claimant did in fact claim the $516,132 in disability benefit costs and that the Controller has not shown that any prejudice would result by allowing the claimant to correct the mathematical error on its Form FCP-2.1.

Accordingly, the Controller's decision to deem $516,132 in disability benefit costs specifically identified on Form FCP-2.1 as "unclaimed" — when, in fact, the costs were claimed but accidentally omitted from the claim cover sheet — was arbitrary, capricious, and entirely lacking in evidentiary support.[119] Under the law, the correction of the mistake relates back to the claim's original filing date of January 10, 2005 and is timely.[120]

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[118] Government Code section 17561(d)(1)(C)(2). (Emphases added.)

[119] Since the Commission's ruling regarding the Controller's refusal to grant leave to the claimant to amend its claim disposes of this IRC, the Commission declines to address the other arguments proffered by the parties.

[120] *Smeltzley v. Nicholson Mfg. Co.* (1977) 18 Cal.3d 932, 934.

B. The Controller's position that Government Code sections 17560 and 17568 bar claimant from correcting its claim is incorrect as a matter of law.

The Controller argues that by the time that the claimant served its protest letter dated August 6, 2009, the claimant's statutory time limit to amend a claim had expired.[121]

At the time that the claimant submitted its claim to the Controller in January 2005, Government Code section 17560(b) read:

> A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.[122]

At the time that the Controller received the objection letter from the claimant and issued the final audit report (the year 2009), the above-quoted portion of Government Code section 17560 read the same, except that "January 15" had been amended to read "February 15" and that the entire provision, previously designated subdivision (b), had been re-designated subdivision (a).[123]

At the time that the claimant submitted its claim to the Controller in 2005, Government Code section 17568 read in relevant part:

> If a local agency or school district submits an otherwise valid reimbursement claim to the Controller after the deadline specified in Section 17560, the Controller shall reduce the reimbursement claim in an amount equal to 10 percent of the amount which would have been allowed had the reimbursement claim been timely filed, provided that the amount of this reduction shall not exceed one thousand dollars ($1,000). In no case shall a reimbursement claim be paid which is submitted more than one year after the deadline specified in Section 17560.[124]

In 2009, when the Controller received the objection letter from the claimant and issued the final audit report, the above-quoted portions of Government Code section 17568 read the same, except that the amount of $1,000 had been raised to $10,000[125] and that the two occurrences of the word "which" had been changed to "that."[126]

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[121] Exhibit A, IRC, page 21; Exhibit B, Controller's Late Comments on IRC, pages 8, 10, 11.

[122] Statutes 1998, chapter 681, section 4. This version of Government Code section 17560 was in effect from September 22, 1998, to August 24, 2007.

[123] Statutes of 2007, chapter 179, section 15 [in effect from August 24, 2007, to February 16, 2008]; Statutes of 2008, 3rd Extraordinary Session, chapter 6, section 3 [in effect from February 16, 2008, to the present].

[124] Statutes 1989, chapter 589, section 2, emphasis added. This version of Government Code section 17568 was in effect from January 1, 1990, to August 24, 2007.

[125] Statutes 2007, chapter 179, section 20. This version of Government Code section 17568 was in effect from August 24, 2007, to February 16, 2008.

[126] The current version of Government Code section 17568 came into effect on February 16, 2008. (Statutes 3rd Extraordinary Session 2008, chapter 6, section 4.)

Government Code sections 17560 and 17568 as amended by Statutes 1989, chapter 589 which are quoted above and which were in effect when the claimant submitted its reimbursement claim in January 2005 therefore apply to this Decision.

Consequently, in order for the claimant to timely request reimbursement of actual expenses incurred in fiscal year 2003-2004 pursuant to Government Code sections 17560 and 17568, the claimant was required to file a reimbursement claim on or before January 15, 2005 which claimant did[127]. If the claimant had filed the claim between January 16, 2005, and January 15, 2006, the Controller would have been required to reduce the claim by 10 percent up to a maximum reduction of $1,000. If the claimant had filed the claim on or after January 16, 2006, the Controller would have been required to deny the claim in its entirety.

The Controller takes the position that Government Code sections 17560 and 17568 prohibited claimant from amending its reimbursement claim after the draft audit report was issued. "It is the city's responsibility to ensure that it files accurate mandated cost claims within the statutory time allowed. Government Code section 17568 states, 'In no case shall a reimbursement claim be paid that is submitted more than one year after the deadline specified in [Government Code] section 17560.' The city did not amend its FY 2003-04 mandated cost claim within the statutory timeframe permitted."[128]

The claimant's counter-argument reads, "The city did not need to 'amend' its claim, inasmuch as each and every dollar pertaining to it was in fact submitted in full detail. While SCO obliquely refers to 'mathematical errors on a supporting schedule' this very supporting schedule — in fact submitted and audited by them — provides all of the details of the claims."[129]

The claimant continues, "SCO's reference to the filing deadline having expired for FY 2003-04 is, as already noted, erroneous. Government Code Section 17561, subsection (d)(2)(C) states: [¶] 'The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years.' [¶] There is in fact no time limit attached to this provision. Any overpayment, including those owing to an error of arithmetic, would presumably be the subject of a subsequent offset or recovery by the Controller's Office. Hence, under the terms of the statute, the amount 'disallowed' should have been recalculated and deemed included in the amount claimed."[130]

The Commission is not persuaded by either party's argument.

Government Code sections 17560 and 17568 do not support the Controller's position that the claimant no longer had the ability to correct the claim. Government Code section 17560(b) requires a claimant to "file" a claim by a certain deadline; Section 17568 authorizes the Controller to reduce (up to a specified cap) a claim which a claimant "submits" up to one year late; Section 17568 prohibits the Controller from paying any claim which was "submitted" more than one year late.

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[127] Exhibit A, IRC, page 34.

[128] Exhibit A, IRC, page 21. See also Exhibit B, Controller's Late Comments on IRC, pages 10, 11 [similar language].

[129] Exhibit C, Claimant's Rebuttal Comments, page 3.

[130] Exhibit C, Claimant's Rebuttal Comments, page 4.

Putting aside the question of whether there is a difference between a claim being "filed" as opposed to "submitted," the Controller does not dispute the fact that the claimant filed its claim on January 10, 2005, and that, at the time of the filing, the claimant's Form FCP-2.1 contained a four-page listing of all of the relevant disability benefit costs which, by this IRC, the claimant is requesting be included in the total used to calculate the claimant's reimbursement. Claimant was not and is not attempting to add new or late-filed data. Consequently, the claimant's request for reimbursement — a claim which listed the disputed $516,132 in disability benefit costs — was timely filed under Section 17560(b).

Both Government Code section 17560(b) and section 17568 are silent regarding a claimant's ability to amend a previously and timely filed claim. The Controller has not adopted regulations on point. Therefore, as explained above, the Commission applies the law regarding amendments of pleadings to correct a mistake or to conform to proof, and, under that body of law, the Controller's actions constituted an abuse of discretion and are incorrect as a matter of law. Neither Government Code section 17560(b) nor 17568 alters that result.

Meanwhile, Government Code section 17561(d)(2)(C) — 'The Controller shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years.' — does not have the effect that claimant urges. Section 17561(d)(2)(C) "pertains to the Controller's audit function, allowing the Controller to correct inaccurate fund disbursements after auditing the local entity's supporting records."[131] There is no evidence in the record that the Legislature intended the provision to affect the limitations period for filing or submitting claims. The provision certainly does not authorize the Controller to overpay a claimant because the Controller also has authority to make a later downward adjustment, as the claimant seems to argue.[132] In any event, the provision is irrelevant to this IRC, which is about the Controller's authority to refuse to allow the amendment of the claimant's Form FAM-27 rather than being about the Controller's authority to make upward and downward adjustments in later fiscal years.

Accordingly, the Commission finds that Controller's position that the claimant no longer had the ability to correct the claim based on Government Code sections 17560 and 17568 is incorrect as a matter of law.

C. A line of Court of Appeal decisions upholding the authority of the Medi-Cal program to refuse to allow the amendment of reimbursement claims is not applicable to this IRC.

A line of published Court of Appeal decisions held that the formerly named Department of Health Services (Department) acted within its authority in declining to allow the amendment of erroneous reimbursement claims submitted under the Medi-Cal program. However, as explained below, these cases are not applicable to this IRC.

In *Mission Community Hospital v. Kizer* (*Mission Community Hospital*), a hospital which had entered into a settlement agreement with the Department for the hospital's 1983-1984 fiscal year

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[131] *California School Boards Ass'n v. State of California* (2011) 192 Cal.App.2d 770, 789.

[132] "Any overpayment, including those owing to an error of arithmetic, would presumably be the subject of a subsequent offset or recovery by the Controller's office. Hence, under the terms of the statute, the amount 'disallowed' should have been recalculated and deemed included in the amount claimed." Exhibit C, Claimant's Rebuttal Comments, page 4.

submitted a Medi-Cal cost report for the following fiscal year. According to the hospital, however, it erroneously failed to carry forward financial terms from the settlement agreement, and the Department refused to allow the hospital to amend its cost report.[133]

A unanimous panel of the Second District Court of Appeal affirmed the Department's decision. The Court found that the Department had promulgated a regulation which specified the time period during which cost reports could be amended; since the hospital attempted to amend its cost report after the specified time period, the Department acted within its discretion in refusing to grant leave to amend.[134]

Specifically, the court held, the Department had promulgated Section 51019 of title 22 of the California Code of Regulations, which "provided that amended cost reports may be submitted only during the period before the cost report determination becomes final."[135] The Court held that the regulation was entitled to judicial deference.[136] Since the hospital had attempted to amend its cost report six months after the Department accepted the cost report as final, the court ruled that Section 51019 authorized the Department to reject the attempted amendment.[137]

In *Coastal Community Hospital v. Belshe* (*Coastal Community Hospital*), two hospitals submitted cost reports to the Department and requested reimbursement for expenses incurred under the Medi-Cal program. The cost reports contained errors, although the exact nature of the errors was not described in the appellate opinion. Because of the errors, the two hospitals requested reimbursements which were lower than what the hospitals were arguably due.[138]

Without conducting an audit, the Department approved the cost reports "as filed," meaning that the Department agreed to reimburse the hospitals for the amounts requested on the face of the cost reports.[139]

After the Department's approval of the cost reports, the hospitals learned of their errors and requested an administrative appeal within the Department in order to obtain a larger reimbursement.[140] An administrative law judge denied the hospitals' request.

The unanimous panel of the Second District Court of Appeal affirmed, holding that the hospitals had no right to an administrative appeal. "[P]etitioners logically cannot be aggrieved by the

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[133] *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1686-1687.

[134] *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1690-1691.

[135] *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1691. See also Cal. Code Regs., title 22, section 51019(a) ["An amended cost report may be submitted by a provider and accepted by the Department for the fiscal period or periods for which proceedings are pending under this article."].

[136] *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1691 ["section 51019 is entitled to our deference"].

[137] *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1691-1692.

[138] *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 393-394.

[139] *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 393-394.

[140] *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 393-394.

Department's decision to accept as true petitioners' representations regarding the amount of reimbursement due them," the court held.[141] "Indeed," the court continued later in the opinion, "it would be more accurate to say that petitioners were aggrieved by their own failure to amend their cost reports in a timely manner so that, when the Department accepted the reports as filed, petitioners would be entitled to a larger reimbursement."[142]

In *Kaiser Foundation Hospitals v. Belshe* (*Kaiser Foundation Hospitals*), nine hospitals owned or affiliated with Kaiser Foundation Hospitals (Kaiser) filed inaccurate cost reports seeking Medi-Cal reimbursements. The Department served letters upon each of the nine hospitals indicating that, in accordance with Medi-Cal's multi-part process for calculating reimbursement amounts, the Department had arrived at a "tentative cost settlement" for each hospital. None of the hospitals responded to the letters which provided notice of the tentative cost settlements; the Department then accepted the cost reports "as filed" and authorized payment in the amount that each hospital had requested on the face of its claim.[143]

The hospitals objected to the final settlements and requested leave to file amended cost reports to "reflect claims not included at time of filing."[144] During the ensuing litigation, the hospitals stated that their initial cost reports were erroneous because the cost reports contained an incorrect number of Medi-Cal patient days, a statistic which was used in establishing reimbursement rates.[145]

A unanimous panel of the Third District Court of Appeal ruled in favor of the Department on three intertwined grounds.[146]

The Court of Appeal cited *Coastal Community Hospital* for the proposition that, "[i]f the reimbursement amount matches that claimed by the provider, the provider is not aggrieved and is precluded from filing an appeal."[147] Furthermore, the relevant Medi-Cal regulation limits an appeal to a situation in which a requested reimbursement amount was adjusted — but no adjustment occurred if the claim was approved as filed.[148]

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[141] *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 395.

[142] *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 395.

[143] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1552-1556.

[144] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556.

[145] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556-1558.

[146] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1558-1561.

[147] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560. See also *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1561 ["Kaiser was reimbursed for precisely the amount it had claimed as due. Under these circumstances, Kaiser has no complaint."].

[148] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560 ["As title 22, section 51017 of the California Code of Regulations provides, an appeal can be taken only from an adjustment to a reimbursement claim. A claim that is accepted as filed is not adjusted, and therefore no appeal will lie."].

The Court of Appeal noted that, since a hospital's executive officer was required to certify a claim, the amount of reimbursement requested and the underlying data are deemed to be true and correct if the Department declines to audit or review the claim.[149] "The requirement that a provider file a true and correct cost report is therefore of great importance: a provider who files an incomplete or inaccurate report runs the risk of losing reimbursement to which it is entitled," the Court of Appeal explained.[150]

The Court of Appeal noted that the nine Kaiser hospitals failed to timely amend their cost reports.[151] Department regulations provided the hospitals with the ability to amend their cost reports at any time before final settlement of the cost reports — but the nine hospitals waited until two weeks after receiving most of the final settlement letters to request amendment.[152]

The Court of Appeal explained,

> In short, a provider is statutorily required to submit true and correct cost reports to the Department. ([Welfare and Institutions Code] § 14107.4, subd. (c).) In order to ensure that this requirement is met, a provider also has the obligation to provide amended cost reports in a timely fashion if the initial reports are incorrect. To hold otherwise would permit providers to file incomplete and/or erroneous cost reports and rely on the Department to correct these errors and provide the proper amount of reimbursement, a result at odds with the clear intent of section 14107.4, subdivision (c). Kaiser had more than one year in which to file amended cost reports to include any additional reimbursable costs. It did not do so. Any fault lies with the provider, not the Department.[153]

The decisions in *Mission Community Hospital*, *Coastal Community Hospital* and *Kaiser Foundation Hospitals* are meaningfully distinguishable from the situation presented in the instant IRC.

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[149] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1559-1560. See also Welfare and Institutions Code section 14170(a)(1), which currently reads in relevant part, "Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later. Moreover the cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later."

[150] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560.

[151] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560-1561.

[152] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556, 1560-1561. See also Cal. Code Regs., title 22, section 51019(a), which currently reads, "An amended cost report may be submitted by a provider and accepted by the Department for the fiscal period or periods for which proceedings are pending under this article."

[153] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1561.

In *Mission Community Hospital* and *Kaiser Foundation Hospitals*, the claimants were attempting to add new and additional claims or information to their cost reports;[154] *Coastal Community Hospital* does not specify the nature of the claimant's error but, based on language in the opinion, the claimant was also attempting to add new and additional claims or information.[155] In contrast, the claimant in this IRC had submitted all relevant costs in its Form FCP-2.1 and was merely attempting to correct the face of its Form FAM-27; the claimant in this IRC was not attempting to add new or additional claims or information.

The Medi-Cal program does not reimburse a claimant for its actual costs. Rather, following a federal revision of the program in 1980 and 1981, a claimant is entitled to be reimbursed according to a formula "based upon the costs that would have been incurred by an efficient and economically operated facility, even if a provider's actual costs were greater."[156] While the actual costs contained in the cost reports are a factor in determining a Medi-Cal claimant's ultimate reimbursement, the cost reports are merely one part of the equation.[157] In contrast, a claimant incurring state-mandated expenses is entitled to a reimbursement of all actual costs mandated by the state, and the claimant's actual costs are the principal variable in the equation when the claimant is (like the claimant in this IRC) requesting reimbursement under an actual cost methodology.[158] While both the Medi-Cal program and the state mandate program involve claimants filing requests for reimbursement of expenses, the two programs are fundamentally different in terms of the claimant's legal entitlement and the State's use of the submitted expense data.

Furthermore, claimants seeking reimbursement under Medi-Cal operate within a web of federal and state statutes and regulations which provide the claimants with notice of myriad substantive and procedural requirements — including deadlines to amend or correct claims. The *Mission Community Hospital* and *Kaiser Foundation Hospitals* courts based their decisions in part on the fact that the claimants had been placed on notice by a state regulation that the claimants could file amended cost reports with the Department any time before the final settlement of the cost reports.[159] In a decision involving a different aspect of the Medi-Cal program, claimants were

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[154] *Mission Community Hospital v. Kizer* (1993) 13 Cal.App.4th 1683, 1685-1686; *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1556-1558.

[155] *Coastal Community Hospital v. Belshe* (1996) 45 Cal.App.4th 391, 395 ["inaccuracies in the cost reports which resulted in a lesser reimbursement"].

[156] *Robert F. Kennedy Medical Center v. Belshe* (1996) 13 Cal.4th 748, 752.

[157] "[T]he audited cost report data . . . became only one factor in the final determination of reimbursement liability. . . . . The final determination of the amount of reimbursement due a provider, therefore, requires calculations beyond the mere auditing of the hospital's cost report data." *Robert F. Kennedy Medical Center v. Belshe* (1996) 13 Cal.4th 748, 757.

[158] Government Code section 17561(a) states that "[t]he state shall reimburse each local agency and school district for *all 'costs* mandated by the state[.]'" (Emphasis added.)

[159] *Kaiser Foundation Hospitals v. Belshe* (1997) 54 Cal.App.4th 1547, 1560-1561. See also Cal. Code Regs., title 22, section 51019(a) ["An amended cost report may be submitted by a provider and accepted by the Department for the fiscal period or periods for which proceedings are pending under this article."].

placed on notice by a statute that the Department had the ability to correct mathematical or typographical errors.[160]

In sharp contrast, the Controller has not issued regulations regarding the procedure to be followed by claimants or by the Controller when mandate reimbursement claims are audited. Unlike *Mission Community Hospital* and *Kaiser Foundation Hospitals*, the claimant was not placed on notice by the Controller of a deadline by which to amend or correct its previously submitted claim.[161] In the absence of such a regulation, the Controller cannot take advantage of the reasoning in *Mission Community Hospital* and *Kaiser Foundation Hospitals*.

Finally, the *Kaiser Foundation Hospitals* court placed weight on the fact that Medi-Cal cost reports are required by statute to be certified as true and correct by the provider's executive officer[162] and, if unaudited within three years, are deemed to be true and correct.[163] Similarly, the claim in this IRC was certified under penalty of perjury to be true and correct,[164] and the Controller has a three-year window in which to audit mandate reimbursement claims.[165]

A distinguishing difference is that, while the Department in *Kaiser Foundation Hospitals* did not conduct an audit, the Controller did. The certification of the data is a moot issue in this IRC,

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[160] *Santa Ana Hospital Medical Center v. Belshe* (1997) 56 Cal.App.4th 819, 824. See also Welfare and Institutions Code section 14105.98(f)(5) ("For purposes of payment adjustment amounts under this section, each disproportionate share list shall be considered complete when issued by the department pursuant to paragraph (1). Nothing on a disproportionate share list, once issued by the department, shall be modified for any reason, other than mathematical or typographical errors or omissions on the part of the department or the Office of Statewide Health Planning and Development in preparation of the list.").

[161] As discussed above, the statutory deadline for a claimant to file a claim does not constitute a limitation on a claimant's ability to seek to amend a claim.

[162] "The provider's chief executive officer shall certify that any cost report submitted by a hospital to a state agency for reimbursement pursuant to Section 14170 shall be true and correct. In the case of a hospital which is operated as a unit of a coordinated group of health facilities and under common management, either the hospital's chief executive officer or administrator, or the chief financial officer of the operating region of which the hospital is a part, shall certify to the accuracy of the report." Welfare and Institutions Code section 14107.4(c).

[163] "Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later. Moreover the cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later." Welfare and Institutions Code section 14170(a)(1).

[164] Exhibit A, IRC, page 34.

[165] Government Code section 17558.5(a).

where the presumption of accuracy created by the certification was superseded by the evidence requested and reviewed by the Controller during its year-long field audit.[166] In addition, the *Kaiser Foundation Hospitals* claimants were attempting to add information; in the instant IRC, the claimant submitted all information at the time it submitted the claim. Finally, a verified pleading may be amended provided that the different sets of allegations are not so contradictory as to carry with them "the onus of untruthfulness"[167]; in the instant IRC, there is no actual contradiction, merely an arithmetic error.

Thus, while a line of Court of Appeal decisions upholds the authority of the Department to reject amended cost reports, the decisions are not applicable to this IRC, which is being decided on the basis that, on this record, the Controller should have granted the claimant leave to amend its Form FAM-27.

V. Conclusion

The Commission finds that the Controller's decision to deem $516,132 in disability benefit costs as "unclaimed" is incorrect as a matter of law and is arbitrary, capricious, and entirely lacking in evidentiary support.

The Commission approves this IRC and, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, requests that the Controller reinstate the costs incorrectly reduced.

[166] See, e.g., *Rogers v. Interstate Transit Co.* (1931) 212 Cal. 36, 38 ["[I]t is well established in this state that a presumption in favor of a party is entirely dispelled by the testimony of the party himself or of his witnesses."]; *Coffey v. Shiomoto* (2015) 60 Cal. 4th 1198, 1210 ["[I]f evidence sufficient to negate the presumed fact is presented, the 'presumption disappears' (Citation.) and 'has no further effect' (Citation.) . . . ."].

[167] *Macomber v. State of California* (1967) 250 Cal.App.2d 391, 399.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 18, 2016, I served the:

Draft Proposed Decision, Schedule for Comments, and Notice of Hearing
Firefighter's Cancer Presumption, 09-4081-I-01
Labor Code Section 3212.1
Statues 1982, Chapter 1568
Fiscal Year: 2003-2004
City of Los Angeles, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 18, 2016 at Sacramento, California.

Jill Magee

Jill L. Magee
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/17/16

Claim Number: 09-4081-I-01

Matter: Firefighter's Cancer Presumption

Claimant: City of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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