

Report of Examination
Claims Management, Inc.

P.O. Box 5020
Rogers, AR 72757

FEIN: 71-0738006

NAIC Examination Tracking System: ME008-M28
Examination Period:
January 1, 2007 through December 31, 2007

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July 28, 2008

The Honorable Mila Kofman
Superintendent of Insurance
Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

Dear Superintendent Kofman:

Pursuant to the certification of findings in accordance with 39-A M.R.S.A § 359(2) from the State of Maine Workers' Compensation Board ("WCB") and under the authority of 24-A M.R.S.A. § 221 and in conformity with your instructions, a targeted market conduct examination has been made of:

Claims Management, Inc.

(FEIN: 71-0738006)

hereinafter referred to as the "Company". The examination covered indemnity claims that were open between January 1, 2007 and December 31, 2007, for employees residing in the State of Maine or claimants involved in losses in the State of Maine. The onsite phase of the examination was conducted at the offices of the Company located at:

**922 West Walnut, Suite B
Rogers, AR 72757**

The following report is respectfully submitted.

HISTORY OF ENGAGEMENT

Pursuant to 39-A M.R.S.A. § 153(9), the WCB established a monitoring, audit and enforcement ("MAE") division. The functions of the MAE division include but are not limited to audits of payment timeliness and claims-handling practices of insurers in accordance with 39-A M.R.S.A. § 359. The WCB audited selected claims of the Company with dates of injury between January 1, 2004 and August 1, 2005, in part to determine whether the Company had violated the questionable claims-handling provision of 39-A M.R.S.A. § 359(2). The results of this audit are reported in a Compliance Audit Report dated August 3, 2006 ("WCB Audit"). The WCB Audit's findings relevant to section 359(2) included:

- Excessive form filing and/or failure to file or timely file required forms;
- Failure to discontinue benefits properly;
- Failure to calculate benefits accurately;
- Failure to pay claims timely;

- Filing Notices of Controversy (“NOCs”) prior to investigation of claims;
- Filing NOCs that were not required;
- Filing NOCs contesting lost time because the “10-day provider” did not authorize the lost time; and
- Filing NOCs even though the only medical report was an M-1 report indicating the injury was work-related.

The WCB determined that the pervasiveness and magnitude of the findings constituted a “pattern of questionable claims-handling techniques”. In September 2006, the WCB and the Company entered into a Consent Decree which established patterns of questionable claims-handling techniques and assessed fines therefor.

In accordance with 39-A M.R.S.A. § 359(2), the WCB certified the WCB Audit findings to the Superintendent of Insurance. Section 359(2) requires the Superintendent of Insurance to take appropriate action to bring such practices to a halt.

SCOPE OF EXAMINATION

In order to meet the responsibilities set forth in section 359(2), the Superintendent of Insurance decided to determine whether or not the patterns of questionable claims-handling techniques found by the WCB still existed. Therefore, an examination was planned in accordance with the National Association of Insurance Commissioners’ Market Conduct Examiners’ Handbook and Guidelines (“Handbook”). Bureau examiners developed compliance verification procedures based on the Handbook to measure whether the Company timely filed all required WCB forms, accurately calculated indemnity benefits, timely distributed benefit payments and did not unreasonably contest claims as required by the Workers’ Compensation Act (“Title 39-A”), and the WCB Rules and Regulations issued thereunder. Specifically, the scope of the examination included the review of a statistical sample of all open indemnity claims for the period January 1, 2007 through December 31, 2007, with dates of injury on or after January 1, 1993.¹

METHODOLOGY

Company records indicated 354 loss time claims, 516 medical only claims and 826 incident reports from January 1, 2007 to December 31, 2007. The software program ACL was utilized to select a random sample of 50 files from the loss time population of 354 claims. WCB records indicated that the Company had filed 17 NOCs on claims with 2007 dates of injury during the examination period. The 2006 Consent Decree between the WCB and the Company addressed a number of issues dealing with NOCs. Therefore, Bureau examiners decided to review all 17 of these NOCs.

The following Handbook standards were the basis for developing the examination procedure. All references are to either Title 39-A, WCB Rules and Regulations or MAE Protocols.

(1) Standard G-3

Claims are resolved in a timely manner.

Test 1:

Determine if initial and subsequent claim payments are made in a timely manner.

Standard G-3 establishes a general framework for the timely payment of claims in accordance with 39-A M.R.S.A. § 205(2).

(2) Standard G-4

The Company responds to claim correspondence in a timely manner.

Test 2:

Determine if correspondence/WCB forms related to claims is responded to/filed as required by applicable statutes, rules, regulations or protocols.

WCB-1, First Report of Injury	39-A M.R.S.A. § 303 WCB Rule Ch. 8 § 13
WCB-2, Wage Statement	39-A M.R.S.A. § 303
WCB-2A, Schedule of Dependent(s) and Filing Status	39-A M.R.S.A. § 303
WCB-3, Memorandum of Payment	WCB Rule Ch. 1 § 1.1
WCB-4, Discontinuance or Modification of Compensation	WCB Rule Ch. 8 § 11
WCB-4A, Consent Between Employer and Employee	WCB Rule Ch. 8 § 18
WCB-8, (21-Day) Certificate of Discontinuance or Reduction of Compensation	39-A M.R.S.A. § 205(9)
WCB-9, Notice of Controversy	WCB Rule Ch. 1 § 1.1
WCB-11, Statement of Compensation Paid	WCB Rule Ch. 8 § 1

Standard G-4 establishes a general framework for the timely filing of claim-related documents. Failure to file a required WCB form or other document on time is a violation of 39-A M.R.S.A. § 360(1) (A) or (B).

(3) Standard G-5

Claim files are adequately documented.

Test 3:

Determine if quality of the claim documentation is sufficient to support or justify the ultimate claim determination and meets state requirements.

Standard G-5 establishes a general framework for the adequacy of claim file documentation to correctly calculate claim payments in accordance with 39-A M.R.S.A. § 212, § 213 and § 215.

APPLICATION OF TESTS

This section outlines the application of the tests to the claims selected. The results of testing those open indemnity claims during the examination period are delineated in the following tables:

TEST 1: Verify that initial and subsequent indemnity payments were made in accordance with 39-A M.R.S.A. § 205(2).

	Paid Timely	Not Paid Timely	N/A	% In Compliance	WCB Audit ^A
Initial Payment	11	0	39	100%	86.0%
Subsequent Payments	166	22	0	88.3%	73.0%

^A For comparative purposes in this and the following tables, these percentages are taken from the WCB Audit conducted on 2004 and 2005 data.

TEST 2: Verify the timely filing of the following forms with the WCB in accordance with Title 39-A, WCB Rules & Regulations or MAE Protocols.

	Form Type	Filed Timely	Not Filed Timely	Not Filed	N/A	% In Compliance	WCB Audit
Test	WCB-1	35	0	0	15	100.0%	89.0%
Test	WCB-2	14	0	0	36	100.0%	34.0%
Test	WCB-2A	14	0	0	36	100.0%	11.0%
Test	WCB-3	11	0	0	39	100.0%	85.0%
Test	WCB-4	10	0	0	40	100.0%	94.0%
Test	WCB-8	3	0	0	47	100.0%	37.5%
Test	WCB-9	3	0	0	47	100.0%	97.0%
Test	WCB-11 First	13	0	0	37	100.0%	16.0%
Test	WCB-11 Annual/Final	8	0	0	42	100.0%	NA

TEST 3: Verify that the average weekly wages (“AWW”) are calculated accurately and the subsequent indemnity payments are calculated accurately for both total and partial incapacity.

	Calculated Correctly	Calculated Incorrectly	NA	% of Compliance	WCB Audit
AWW	13	1	36	92.9%	35.0%

	Calculated	Calculated	NA	% of	WCB
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	Correctly	Incorrectly		Compliance	Audit
Weekly Benefit Rate	13	1	36	92.9%	23.0%

	Paid Accurately	Not Paid Accurately	N/A	% In Compliance
Partial & Total Indemnity Payments	11	3	36	78.6%

Numbers in the last table represent number of claims rather than each specific calculation or payment. “Not Paid Accurately” represents three claim files where one or more payments were not made accurately. These files included two overpayments and one underpayment. It should be noted that the AWW and Compensation Rate were calculated correctly for the overpayments and incorrectly for the underpayment.

In reviewing the information contained in this Report, it is important to keep in mind the WCB benchmarks for routine monitoring of claims. For the examination period, the benchmark for timely initial indemnity payments is 80% compliance and for timely filing of memorandums of payment (“WCB-3”) the benchmark is 75% compliance.

COMMENTS AND RECOMMENDATIONS

Comment #1:

Test 1 was designed to determine compliance with Title 39-A requirements for timely payment of initial and subsequent benefits. Compliance in the area of initial and subsequent indemnity payments increased over the WCB Audit findings. Results of the examination showed 100% compliance with the timeliness of initial payments and 88% compliance with the timeliness of subsequent payments.

Recommendation:

The results of the audit relating to compliance with Title 39-A requirements for timely payment of initial and subsequent benefits exceeded WCB requirements. It is determined at this time that the “pattern of questionable claims handling techniques” relating to timeliness of payments no longer exists.

Comment #2:

Test 2 was designed to determine compliance with Title 39-A’s form filing requirements. The overall improvement in compliance in this area is dramatic. The Company achieved 100% compliance on all required form filings with the WCB.

Recommendation:

The results of the audit relating to compliance with Title 39-A requirements for form filings exceeded WCB requirements. It is determined at this time that the “pattern of questionable claims handling techniques” relating to form filing requirements no longer exists.

Comment #3:

Test 3 was designed to verify accurate calculation of the AWW and compensation rate (“CR”) as well as to determine if indemnity payments were calculated accurately for both total and partial incapacity. The Company has reached a high level of compliance in calculating the AWW and the CR. The results of the examination for accuracy of payments showed 79% compliance.

Recommendation:

As with previous categories, overall performance has shown a marked improvement. The area of payment accuracy compliance can best be described as the results of random occurrences. No systematic process fault was noted. Each of the discrepancies was thoroughly discussed with claims personnel. The Company expressed understanding of the need to improve payment accuracy. We recommend that the Company develop procedures that focus on the accuracy of indemnity payments in order to avoid careless errors.

CONCLUSION

This examination reviewed a statistical sample of workers’ compensation indemnity claims for Maine employees that were open during the period of January 1, 2007 through December 31, 2007 with DOIs occurring on or after January 1, 1993. The results of the examination showed that the “pattern of questionable claims handling techniques” relating to form filing requirements and timeliness of payments no longer exists. The examination results indicated that the rate of compliance for payment accuracy was 79% and it appears that the “pattern of questionable claims handling techniques” in this area no longer exists. We note that the Company did err on the side of overpaying employees. This practice does not comply with the letter of Title 39-A but is preferable to underpaying and the risk of penalties for failing to correct underpayments. If one treats the overpayments as accurate, on the theory that they did not harm the affected workers, then the Company’s compliance rate rose to 93%.

As noted in the Methodology section, the filing of NOCs was a particular concern in the WCB Audit. The Bureaus’ review of all NOCs filed during the examination period revealed no discrepancies.

ACKNOWLEDGMENT

The courtesy, hospitality and cooperation extended by the officers and employees of the Company during the course of the Examination are gratefully acknowledged. The Examination was conducted and is respectfully submitted by the undersigned.

¹ The Maine Legislature significantly revised the workers' compensation statute effective January 1, 1993.

STATE OF MAINE

COUNTY OF KENNEBEC, SS

Carolee M. Bisson, being duly sworn according to law, deposes and says that in accordance with the authority vested in her by Mila Kofman, Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, she has made an examination on the condition and affairs of the

Claims Management, Inc.

of Rogers, Arkansas for the period January 1, 2007 through December 31, 2007, and that the foregoing report of examination, subscribed to by her, is true to the best of her knowledge and belief.

The following examiners from the Bureau of Insurance assisted:

Van E. Sullivan

Carolee M. Bisson AIE, AIRC
SR Market Conduct Examiner

Subscribed and sworn to before me

This ____ day of _____, 2009

Patricia A. Galouch, Notary Public

My commission expires: