



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services

Workers' Compensation Division

350 Winter Street NE

P.O. Box 14480

Salem, Oregon 97309-0405

1-800-452-0288, (503) 947-7810

TTY (503) 947-7993

www.wcd.oregon.gov

April 11, 2007

To: Workers' compensation insurers, self-insured employers, and third-party administrators

Subject: 2004-2006 Compliance Audit Results and Civil Penalties

This notice provides information about the industry's performance in processing claims, based on the April 2004 - August 2006 Compliance Audit performed by the Workers' Compensation Division's (WCD) Field Audit Unit. It also provides notice of an adjustment in WCD's methodology for assessing civil penalties in the new audit cycle, which began in late 2006.

Claims Processing Performance

The industry's overall claims processing performance met or exceeded established thresholds for 2004-2006 in most areas. The industry, as a whole, paid 92.6 percent of benefits timely, paid 85.5 percent of benefits accurately, and accurately reported 91.7 percent of required information to WCD.

However, the lowest performance results were for "Paid as Authorized" (accuracy of temporary disability), where only 66 percent of claims were paid accurately. Only 37 percent of the companies paid 80 percent or more of these claims accurately. Overpaid benefits occurred more than twice as often as underpaid benefits. In the claims audited, overpayments totaled \$349,435 and underpayments totaled \$226,012. Based on that finding, we estimate that overpaid time loss on all disabling claims during the audit period may have reached \$1.98 million and estimate underpayments at \$1.28 million. The overpayments were due to claims processing errors, excluding statutory or intentional overpayments. These statistics are significant because "error-based" overpayments increase insurance costs for Oregon employers. Claims processing errors harm workers by delivering lower paid benefits than those that are due.

The statute allows overpayments and deleting them from the "Paid as Authorized" performance statistics brought the industry's performance level up to 88.8 percent. However, the same types of errors created both underpayments and overpayments. One of the most commonly encountered errors during the audit was the inaccurate computation of average weekly wages (AWW). Several factors accounted for this. Many claims processors did not obtain payroll records or, if they did, they misapplied AWW calculation rules to the records. Another contributor to inaccurate computation was an absence of earnings and work attendance information during authorized temporary disability. This information is crucial for accurately paying temporary disability. Poorly documented time loss information and failure to audit paid time loss at claim closure to reconcile inaccuracies were common problems representing opportunities for significant quality improvement.

Accuracy and timeliness of Notices of Closure were the second and third lowest performance areas identified in the audit. The most common errors were incorrect time loss awards and medically stationary (or statutory qualifying) dates. Timeliness of claim closure showed the most significant decrease in performance from the prior audit cycle completed in 2003. Elsewhere, inaccurate reports to the division regarding the timeliness of first time loss payments resulted in the most frequent and severe penalties. Many claims processors did not



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services

Workers' Compensation Division

350 Winter Street NE

P.O. Box 14480

Salem, Oregon 97309-0405

1-800-452-0288, (503) 947-7810

TTY (503) 947-7993

www.wcd.oregon.gov

appear to be aware of the current requirements for timely first payments (usually within 14 days of the employer's date of knowledge, regardless of the date of receipt of authorization).

You will find a summary of the overall 2004-2006 audit results, a "Temporary Disability Checklist" (with tips for improving the accuracy of temporary disability payments), and individual company performance statistics at www.cbs.state.or.us/external/wcd/compliance/fau/ptd/audinfo.html.

Penalties for Claims Processing Performance

The 2004-2006 audit used a new methodology that significantly shortened the audit cycle and reduced intrusiveness for the companies audited. In determining the civil penalties to be assessed based on the audit results, however, WCD continued its prior approach of grouping performance categories. After completing that audit cycle and analyzing the results, we have determined that approach has several disadvantages. It is difficult for companies to know what penalties they may receive, and poor performance in a single area can result in the same penalty as that assessed for three areas, depending on the penalty "group." For WCD, this approach tends to "blend" performance data instead of clearly identifying problems in processing areas with distinct and unrelated requirements. This approach complicates our ability to compare performance across the industry, as well as our ability to prioritize our monitoring, enforcement, and education activities.

Therefore, effective immediately, for the current Compliance Performance Audit cycle that began in October 2006, WCD will assess penalties for each individual claims processing performance area that does not meet the established performance thresholds (90 percent for timeliness and accuracy of benefits and 80 percent for accurate reporting to WCD and timely medical payments). Doing so will ensure that penalties are assessed on the performance of distinct processing areas; that better performance data is developed for the division, industry, and stakeholders; and that the penalty amounts themselves are more consistent and predictable for the companies audited. For this current audit cycle, determining penalty amounts in this manner would have affected only four penalties assessed thus far. You can find specific information about the claims processing performance areas reviewed at audit and civil penalty amounts that may be assessed at the Web site referenced above.

If your company is interested in scheduling WCD training in particular claims processing areas or issues or if you have questions about this notice or the Compliance Audits in general, please contact Sally Coen, Manager of the Field Audit Unit, at (503) 947-7687 or send e-mail to sally.c.coen@state.or.us.

John Shilts, Administrator
Workers' Compensation Division

Distribution: PD 8002, PD 8013, IY