



# 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  
[www.wcd.oregon.gov](http://www.wcd.oregon.gov)

June 8, 2009

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

Subject: Changes to Workers' Compensation Division audits

The Workers' Compensation Division (WCD) is changing the way it conducts claims processing performance audits. The new audits will build on education and consultation intended to enhance compliance, focus on identifying industry and company problems, reward companies that perform well, and require greater accountability from poor performers to improve performance. WCD's goals are to provide clear direction and expectations for industry compliance with requirements and audits.

The new audit methodology reflects a significant philosophical shift. The division is transitioning from the "one-size-fits-all" approach where, regardless of performance, we audit companies using rigid cycles, samples, and narrowly defined findings categories. Instead, WCD will now use a risk-based approach to monitor core performance areas in a less-burdensome way, while focusing more effort on other topic-specific performance areas identified through performance data, system indicators, trends, problems, or policy decisions. This methodology will allow us to better monitor the current health of Oregon's workers' compensation system as a whole, rather than limiting our oversight to performance areas in static audit programs with long cycle times.

Starting in late 2009, WCD will shift the majority of our audit activities to the following:

**Annual audits** – focusing on timeliness of benefit payments and processing actions

**Focused audits** – emphasizing specific performance areas

**A summary of the proposed annual and focused audits is attached at the end of this industry notice.**

The annual and focused audits will replace the quarterly claims processing performance (QCPP) audit, the compliance audit, and the Workers' Benefit Fund reimbursement audits (including the Employer-at-Injury Program audit). We are not changing our claims reserve audit of self-insured employers, as its purpose is not related to claims processing. The division anticipates stopping the quarterly penalties under the current QCPP audit, after the third quarter of 2009.

WCD would appreciate industry input on these proposed changes and the information contained in this notice. To help us improve our information and services, please complete the **Audit Changes Survey** online at [http://www.cbs.state.or.us/wcd/communications/for\\_insurers.html](http://www.cbs.state.or.us/wcd/communications/for_insurers.html).

(Over)



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Three performance areas in the annual audit (timeliness of ongoing time-loss payments, and timeliness and accuracy of worker reimbursement payments) will require WCD to obtain annual payment data from insurers to develop appropriate audit samples. We will need five data elements: worker's name, claim number, date of injury, number of payments made in the 12-month period specified, and number of those payments at each processing location.

The survey involves the following issues:

1. Is it feasible for your company to provide this payment data in an annual data transmission?
2. What format would you use to submit this data to us?
3. When could your company easily provide this data?
4. If it is not feasible to provide this data, what are the barriers?
5. What other options do you suggest for WCD to obtain the data for sampling purposes?
6. Additional comments regarding any of the information contained in this industry notice.

WCD is also planning two information sessions where we will share additional details on the upcoming changes and you can ask questions and provide feedback. The first session is scheduled from 1:30 p.m. to 3:30 p.m. on Tuesday, July 14, 2009, at the Labor and Industries Building, 350 Winter St. NE, Room 260, Salem, OR 97309. The second session is scheduled from 10 a.m. to noon on Monday, July 20, 2009, at the State Office Building, 800 NE Oregon St., Room 1A, Portland, OR 97232. We hope you will be able to attend one of these sessions.

Please mail your input to:

Workers' Compensation Division  
Field Audit Unit  
P.O. Box 14480  
Salem, OR 97309-0405

If you have any questions about this notice, contact Field Audit Unit Manager Sally Coen at 503-934-6026 or e-mail [sally.c.coen@state.or.us](mailto:sally.c.coen@state.or.us).

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John Shilts, Administrator  
Workers' Compensation Division

## **Background**

The Workers' Compensation Division (WCD) is replacing the current audit programs that monitor insurer and self-insured employer claims-related activities with a more flexible, risk-based methodology. This approach focuses on industry performance areas rather than on audit "programs." The changes affect the following current audit programs: quarterly claims processing performance (QCPP) audit, compliance audit, reimbursable claims audit, and Employer-at-Injury Program audit. However, the changes do not affect the current self-insured employer claims reserve audit.

## **New approach**

Starting in late 2009, WCD will begin transitioning to a methodology with two major components:

- **Annual audits** – focusing on timeliness of benefit payments and processing actions
- **Focused audits** – emphasizing specific performance areas

## **Annual audits**

The focus of this audit is to regularly and quickly assess current performance in the timeliness of benefit payments and certain processing actions. These are core-processing requirements that support a key performance measure of the workers' compensation system health. In the annual audit, we will review a sample of a company's activities in nine categories, over the course of a one-year period.

### **Timeliness of:**

- First payment of time loss
- Claim acceptance or denial
- Initial claims reports to the division
- Notices of Closure
- Permanent total disability payments
- Fatal benefit payments
- Ongoing time-loss payments
- Worker reimbursement payments

### **Accuracy of:**

- Worker reimbursement payments

WCD will develop the samples based on data that insurers report to the division. In the first six categories listed above, the data will come from the "Insurer's Report" (Form 1502), the "Insurer Notice of Closure Summary" (Form 1503), or Retroactive Reserve reimbursement request forms that insurers already send to WCD. In the other three categories (timeliness of ongoing time-loss payments, and timeliness and accuracy of worker reimbursement payments) will require WCD to obtain annual payment data from insurers to develop appropriate audit samples. We will need five data elements: worker's name, claim number, date of injury, number of payments made in the 12-month period specified, and number of those payments at each processing location.

During the annual audit, WCD will verify actual performance. In the categories in which companies self-report their timeliness on Form 1502 and Form 1503, we will also verify reporting accuracy. Industry performance standards will not change: The categories that directly relate to provision of benefits to workers will remain at a 90 percent timeliness standard, and claims reporting to the department will remain at an 80 percent timeliness standard.

The division anticipates stopping the quarterly penalties under the current QCPP audit, after the third quarter of 2009. To encourage accurate self-reporting, we will issue penalties not just for performance deficiencies, but also for inaccurate reporting. We are developing a penalty matrix that includes a base penalty amount that we will adjust according to a company's actual performance level and the accuracy of its reporting. Since the performance categories in the annual audit are long-standing core processing requirements, the division will penalize in each case where performance does not meet the standards, even after the first annual audit.

Some processors misunderstand the requirements for ensuring that the first payment of time loss is issued timely. Under OAR 436-060-0150(5)(a) and (b), timeliness is calculated based on when the medical provider authorized temporary disability, not when the processor receives the authorization. We have posted information regarding this requirement on our Web site at <http://www.cbs.state.or.us/wcd/compliance/fau/1pay.pdf>. Companies may also contact the division's Field Audit Unit for additional training.

WCD plans to pilot the annual audit at some locations to fine tune the audit and methodology. Thereafter, all companies will initially be subject to the annual audit. After the first or second audit, however, we will reward good performers by omitting them from some subsequent annual audits. We will also post insurer, self-insured employer, and third-party administrator performance in the annual audits on our Web site. Finally, we anticipate that these audits will be less intrusive, as audit teams should be able to review the samples rapidly.

### **Focused audits**

In addition to the annual audits of key timeliness areas, the majority of the division's audit activities will shift to focused audits. These are topic-specific audits directed towards particular performance areas.

WCD will determine the topics and scope of the focused audits based on a number of factors, including:

- Industry and individual company performance
- Trends and problems identified across WCD programs and work processes
- Division policy and program decisions
- Complaints and inquiries received by the department
- The need to establish baseline performance in areas in which we do not currently audit
- Direction from the Legislature, Management-Labor Advisory Committee, and the Director's Office

This approach helps WCD to be quick and flexible in generating more current information, and develop each audit based on needs, instead of cyclical program audits that do not change. Many audits will be industrywide, but we will also use audits to focus on specific poor performers as one way of encouraging them to improve performance. The focused audits may also identify areas where the division needs to change administrative requirements or internal processes that are unclear or are barriers to industry compliance, or to provide additional education and outreach.

Examples of possible focused audits include:

- Accuracy of worker benefits
- Nondisabling claims
- Notices of Closure
- Permanent disability rating and payment
- Medical services
- Managed care
- Accuracy of reimbursements from the Workers' Benefit Fund
- Return to work and vocational assistance
- Proof-of-coverage requirements

The division will regularly communicate its upcoming focused audit plans and schedules with the industry. As with the annual audit, WCD will pilot the focused audits methodology at some processing locations prior to implementing an industrywide audit. This will allow us to test our assumptions about our data or insurer performance and give us the opportunity to adjust the methodology.

Since the focused audits will be topic specific and address different performance areas, we will develop samples and a penalty approach for each audit. We will adjust the penalty approach as needed based on audit findings and the context of other sanctions. Penalties may be based on criteria such as the purpose of the audit, whether the topic is one in which the division has previously audited, and whether additional training or a reaudit is required.

Focused audits will include an educational component and follow-up plan in the audit methodology. When focused audits identify low performance areas, the division will provide follow-up training to the company in those areas within 15 to 30 days after the exit interview. Auditors who conducted the audit, as well as other division technical experts, will provide the training. In addition, WCD will schedule a reaudit six months later to assess whether the company's subsequent processing in those areas meets the required performance thresholds. In instances where the division conducts training and reaudits, we may suspend penalties to give the company the opportunity to address its performance problems.

The division will use the flexibility of our focused audit approach to create incentives for companies to perform well. In addition to penalties, or the absence of penalties, we may reward good performers by omitting them from some audits. WCD will track and post performance and comparison data on our Web site to influence better processing by insurers, self-insured employers, and third-party administrators. We plan to issue industry notices regarding top

performers and share information about their “best practices.” We will also look for other ways to reward good performance and behaviors that go beyond removing negative consequences, such as recognition in department publications or public recognition at department-sponsored conferences.

### **Other performance expectations**

Reducing the division’s intrusiveness during a performance audit continues to be a goal of our audit program. Areas that negatively impact our ability to quickly and efficiently complete audits include industry responsiveness and records availability.

Auditors sometimes have a significant problem getting timely responses to audit referrals. This can delay completion of an audit and affects other planned audits. Therefore, the division will begin assessing penalties for not responding or a late response to audit referrals. Prior to issuing a penalty, auditors will clearly communicate timeframe expectations and provide written direction to processors.

Similarly, auditors frequently have problems with processors not having required files or other records available at audit, despite providing advance notice to companies, and in some cases giving additional time. Therefore, the division will begin assessing penalties when companies do not produce records for the audit in a timely manner. Auditors will provide written direction regarding the required records and the timeframes for having the records available before issuing a penalty.

### **Transition to new approach**

The division continues to plan its transition to this new audit methodology. We will finish the cycles for the current compliance audits and the Workers’ Benefit Fund reimbursement audits while we develop and implement processes for the new annual and focused audits. We anticipate implementing pilots of the annual audit in late 2009 and the first focused audits by early 2010.

We are requesting input from the industry on this plan and will be holding information sessions where we will share additional details. The first session is scheduled from 1:30 p.m. to 3:30 p.m. on Tuesday, July 14, 2009, at the Labor and Industries Building, 350 Winter St. NE, Room 260, Salem, OR 97309. The second session is scheduled from 10 a.m. to noon on Monday, July 20, 2009, at the State Office Building, 800 NE Oregon St., Room 1A, Portland, OR 97232. We hope you will be able to attend one of these sessions.