



June 10, 2013

**To: Members, Excess Workers' Compensation Program**

**From: Kathy McLean, Workers' Compensation Claims Manager**

**Re: Proposed Amendments to Addendum A – Workers' Compensation Claims Administration Guidelines**

At the June 7, 2013 meeting, the Board of Directors of the CSAC Excess Insurance Authority authorized the proposed amendments to Addendum A – Workers' Compensation Claims Administration Guidelines to be circulated to the members for review and comment, with responses due back by September 6, 2013.

The Claims Review Committee reviews Addendum A for potential changes on a regular basis. Due to changes with the implementation of SB863, comments from members and TPAs and continued review of audit results, they have spent time at their last several meetings reviewing the document and are recommending some amendments. Enclosed for your review are proposed changes in redline/strikeout text. The document has been reviewed by the Claims Review and Executive Committee, as well as the Board of Directors.

Highlights of the proposed changes include:

- Reducing the targeted caseload to a maximum of 165, from a maximum of 175;
- Adding a section regarding ongoing claimant contact with unrepresented injured workers;
- Modifying the sections regarding permanent disability, SJDV benefits, payment of medical bills and utilization review to reflect changes in accordance with SB 863;
- Adjusting accomplishment levels to reflect 100% for any guideline also required under the Labor Code or Code of Regulations, and 95% for all others;
- Modifying the reserve section to be consistent with the code of regulations and reflect a requirement to document reserve rationale in the claim file, as well as noting that, where the SIP model does not apply, claims should be reserved for most probable value;
- Adding a section to be consistent with the code of regulations indicating that medical cost containment fees are to be included in allocated expense reserves;
- Adding a section regarding documentation of strategies to protect Medicare's interests on settlements;

75 Iron Point Circle, Suite 200 • Folsom, CA 95630 • 916.850.7300 • FAX 916.850.7800 • [www.csac-eia.org](http://www.csac-eia.org)

**EXECUTIVE COMMITTEE:**

Barbara Lubben President Alameda County	Larry Moses Vice President East Bay Regional Park District	Teri Enos-Guerrero City of Chula Vista	Peggy Scroggins Colusa County	Scott Schimke Golden State Risk Mgmt. Authority	Kristin McMenomey Mendocino County	James Brown Merced County	Maryellen Peters Placer County	Jim Sessions Riverside County	Lance Sposilo Santa Clara County	Peter W. Huebner Sierra County
---	---	--	-------------------------------------	---	--	---------------------------------	--------------------------------------	-------------------------------------	--	--------------------------------------

Chief Executive Officer: Michael Fleming

Legal Counsel: Stephen Underwood

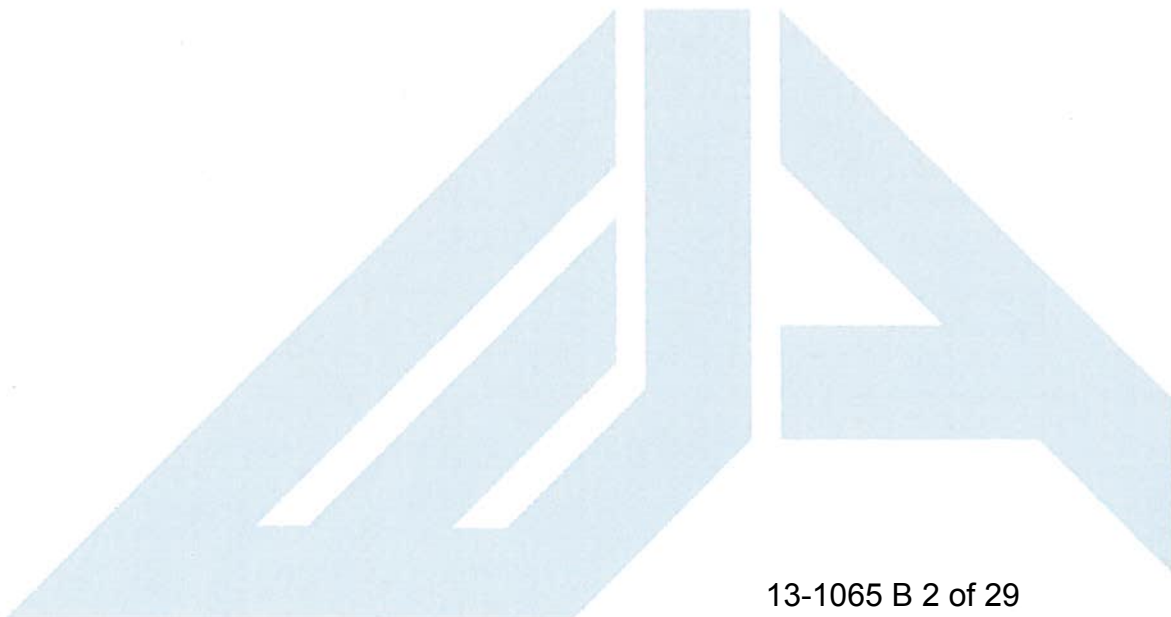
- Adding a section to be consistent with the code of regulations outlining expectations for administratively closing future medical files; and
- Adding a section regarding the need for member approval to waive pursuit or settlement of subrogation.

The review and comment period by the members will end on Friday, September 6, 2013. We will incorporate suggestions received, if any, and present final amendments for consideration by the Board of Directors at the October 4, 2013 meeting. Although we will accept all comments up to the September 6<sup>th</sup> deadline, please provide all feedback you may have as soon as possible to allow sufficient time to prepare the information for the October 4<sup>th</sup> meeting. For all county members: in accordance with action taken by the Board at the June 7, 2013 meeting, this document will not be sent directly to county counsels for review unless requested. Please let me know if you would like me to forward this to your county counsel directly.

If you have any questions, please feel free to contact me at (916) 850-7300 or [kmclean@csac-eia.org](mailto:kmclean@csac-eia.org).

Enclosure

cc: Alliant Insurance Services





Adopted: December 6, 1985  
Amended: March 4, 1988  
Amended: October 7, 1988  
Amended: October 6, 1995  
Amended: October 1, 1999  
Amended: June 6, 2003  
Amended: March 2, 2007  
Amended: July 1, 2009  
Amended: July 1, 2011  
Amended: March 2, 2012  
Amended: October 4, 2013

## ADDENDUM A WORKERS' COMPENSATION CLAIMS ADMINISTRATION GUIDELINES

The following Guidelines have been adopted by the CSAC Excess Insurance Authority (hereinafter The Authority or the EIA) in accordance with Article 18(b) of the CSAC Excess Insurance Authority Joint Powers Agreement. It is the intent of these Guidelines to comply ensure compliance with all applicable Labor Code and California Code of Regulations Sections. In the event that there exists a conflict between the Guidelines, the Labor Code or the Code of Regulations, the most stringent requirement shall apply.

### I. CLAIM HANDLING - ADMINISTRATIVE

#### A. Case Load

- ~~The~~ Each claims examiner assigned to the Member ~~shall~~ should handle a targeted caseload ~~of 150 but of 150 but~~ not to exceed ~~175 165~~ indemnity claims. ~~This caseload shall include future medical cases with every 2 future medical cases counted as 1 indemnity case.~~ In situations where caseloads include future medical and medical only claims, these claims shall be counted as 2:1 in the caseload limit.
- Supervisory personnel should not handle a caseload, although they may handle specific issues.

#### B. Case Review and Documentation

- Documentation should reflect any significant developments in the file and include a plan of action. Plan of action statements should be updated at the time of examiner diary review.

~~12.~~ ~~Documentation should reflect any significant developments in the file and include a plan of action.~~ The examiner ~~should~~should review the file at intervals not to exceed 45 calendar days. Future medical files ~~should~~should be reviewed at intervals not to exceed 90 calendar days. An accomplishment level of 95% shall be considered acceptable.

3. The supervisor shall monitor activity on indemnity files at intervals not to exceed 120 calendar days. Future medical files shall be reviewed by the supervisor at intervals not to exceed 180 calendar days. An accomplishment level of 95% shall be considered acceptable.

24. File contents shall comply with Code of Regulations Sections 10101, 10101.1 and 15400, and be kept in a neat and orderly fashion. If claims are maintained in a paperless system, documents shall be clearly identified (e.g., medical report, WCAB Orders, legal, etc.). An accomplishment level of 95% shall be considered acceptable.

35. All medical-only cases shall be reviewed for potential closure or transfer to an indemnity examiner within 90 calendar days following claim file creation. An accomplishment level of 95% shall be considered acceptable.

### C. Communication

#### 1. Telephone Inquiries

Return calls shall be made within 1 working day of the original telephone inquiry. All documentation shall reflect these efforts. An accomplishment level of 95% shall be considered acceptable.

#### 2. Incoming Correspondence

All correspondence received shall be clearly stamped with the date of receipt. An accomplishment level of 95% shall be considered acceptable.

#### 3. Return Correspondence

All correspondence requiring a written response shall have such response completed and transmitted within 5 working days of receipt. An accomplishment level of 95% shall be considered acceptable.

#### 4. Ongoing Claimant Contact

On cases involving unrepresented injured workers who are off work, telephone contact shall be made at a minimum of once every 45 days and within 3 working days after a scheduled surgical procedure. This is in addition to nurse case management involvement. An accomplishment level of 95% shall be considered acceptable.

#### D. Fiscal Handling

1. Fiscal handling for indemnity benefits on active cases shall be balanced with appropriate file documentation on a semi-annual basis to verify that statutory benefits are paid appropriately. Balancing is defined as, "an accounting of the periods and amounts due in comparison with what was actually paid". An accomplishment level of 95% shall be considered acceptable.
2. In cases of multiple losses with the same person, payments shall be made on the appropriate claim file. An accomplishment of 95% shall be considered acceptable.

#### E. Medicare Reporting

Proper verification of a claimant's status as to Medicare eligibility shall be completed and documented in the claim file. In those cases where the claimant does meet the eligibility requirements, mandatory reporting to the Center for Medicaid Services (CMS) must be completed directly or through a reporting agent in compliance with Section 111 of the Medicare Medicaid and SCHIP Extension Act of 2007 ("MMSEA"). An accomplishment of 100% shall be considered acceptable.

## II. CLAIM CREATION

### A. Three Point Contact

Three point contact shall be conducted with the non-represented injured worker, employer representative and treating physician within 3 working days of receipt of the claim by the third party administrator or self administered entity. If a nurse case manager is assigned to the claim, initial physician contact may be conducted by either the claims examiner

or the nurse case manager. This initial contact should be substantive and clearly documented in the claim file. In the event a party is non-responsive, there should be evidence of at least three documented attempts to reach the individual. Medical-only claims shall have this three point contact requirement as well. An accomplishment level of 95% shall be considered acceptable.

---

B. Compensability

1. The initial compensability determination (accept claim, deny claim or delay acceptance pending the results of additional investigation) and the reasons for such a determination shall be made and documented in the file within 14 calendar days of the filing of the claim with the employer. In the event the claim is not received by the third party administrator or self administered entity within 14 calendar days of the filing of the claim with the employer, the third party administrator or self administered entity shall make the initial compensability determination within 7 calendar days of receipt of the claim. An accomplishment level of 100% shall be considered acceptable.
2. Delay of benefit letters shall be mailed in compliance with the Division of Workers' Compensation (DWC) guidelines. In the event the employer does not provide notice of lost time to the third party administrator or self administered entity timely to comply with DWC guidelines, the third party administrator or self administered entity shall mail the benefit letters within 7 calendar days of notification. An accomplishment level of 100% shall be considered acceptable.
3. The final compensability determination shall be made by the claims examiner or supervisor within 90 calendar days of employer receipt of the claim form. An accomplishment level of 100% shall be considered acceptable.

C. AOE/COE Investigation

If a decision is made to delay benefits on a claim, an AOE/COE investigation shall be initiated within 3 working days of the decision to delay. This may include, but is not limited to, assigning out for witness/injured worker statements, initiating the QME/AME process, requesting medical

records, etc. An accomplishment level of 95% shall be considered acceptable.

D. Reserves

1. Using the information available at claim file set up, an initial reserve shall be established for the most probable case value. An accomplishment level of 95% shall be considered acceptable.
2. The initial reserve shall be electronically posted to the claim within 14 calendar days of receipt of the claim. An accomplishment level of 95% shall be considered acceptable.

E. Indexing

All claims shall be reported to the Index Bureau at time of initial set up and re-indexed on an as needed basis thereafter. An accomplishment level of 95% shall be considered acceptable.

The EIA maintains membership with the Index Bureau that members can access.

III. CLAIM HANDLING – TECHNICAL

A. Payments

1. Initial Temporary and Permanent Disability Indemnity Payment

- a. The initial indemnity payment shall be issued to the injured worker within 14 calendar days of knowledge of the injury and disability. In the event the third party administrator or self administered entity is not notified of the injury and disability within 14 calendar days of the employer's knowledge, the third party administrator or self administered entity shall make payment within 7 calendar days of notification. For dates of injury prior to 1/1/2013, initial permanent disability payments shall be issued within 14 calendar days after the date of last payment of temporary disability. Effective 1/1/2013, permanent disability payments shall be issued upon approval of an Award pursuant to Labor Code Section 4650(b)(4)(2). Prior to a PD Award, advances may be due if the employer has not offered the employee a position paying at least 85% of their wages and compensation at time of injury or the employee is not employed in a position paying at least 100% of their wages

and compensation at time of injury. This shall not apply with salary continuation. An accomplishment level of 100% shall be considered acceptable.

- b. The properly completed DWC Benefit Notice shall be mailed to the employee within 14 calendar days of the first day of disability. In the event the third party administrator or self administered entity is not notified of the first day of disability until after 14 calendar days, the DWC Benefit Notice shall be mailed within 7 calendar days of notification. An accomplishment level of 100% shall be considered acceptable.
- c. Self imposed penalty shall be paid on late payments in accordance with Section III. A.7 of this document. An accomplishment level of 100% shall be considered acceptable.
- d. Overpayments shall be identified and reimbursed timely where appropriate. The third party administrator or self administered entity shall request reimbursement of overpaid funds from the party that received the funds. If necessary, a credit shall be sought as part of any resolution of the claim. An accomplishment level of 95% shall be considered acceptable.

## 2. Subsequent Temporary and Permanent Disability Payments

- a. Eligibility for indemnity payments subsequent to the first payment shall be verified, except for established long-term disability. An accomplishment level of 100% shall be considered acceptable.
- b. Self imposed penalty shall be paid on late payments in accordance with Section III. A.7 of this document. An accomplishment level of 100% shall be considered acceptable.

## 3. Final Temporary and Permanent Disability Payments

- a. All final indemnity payments shall be issued timely and the appropriate DWC benefit notices sent. An accomplishment level of 100% shall be considered acceptable.



- b. Self imposed penalty shall be paid on late payments in accordance with Section III. A.7. of this document. An accomplishment level of 100% shall be considered acceptable.

#### 4. Award Payments

- a. Payments on undisputed Awards, Commutations, or Compromise and Releases shall be issued within 10 calendar days following receipt of the appropriate document. An accomplishment level of 95% shall be considered acceptable.
- b. For all primary and excess reportable claims, copies of all Awards shall be provided to the Authority at time of payment. An accomplishment level of 95% shall be considered acceptable.

#### 5. Medical Payments

- a. Medical treatment billings (physician, pharmacy, hospital, physiotherapist, etc.) shall be reviewed for correctness, approved for payment and paid within 60 ~~working~~ days of receipt. An accomplishment level of 100% shall be considered acceptable.
- b. The medical provider must be notified in writing within 30 ~~working~~ days of receipt of an itemized bill if a medical bill is contested, denied or incomplete. An accomplishment level of 100% shall be considered acceptable.
- c. A bill review process should be utilized whenever possible. There should be participation in a PPO and/or MPN whenever possible.

#### 6. Injured Worker Reimbursement Expense

- a. Reimbursements to injured workers shall be issued within 15 working days of the receipt of the claim for reimbursement. An accomplishment level of 95% shall be considered acceptable.
- b. Advance travel expense payments shall be issued to the injured worker 10 working days prior to the anticipated date

of travel. An accomplishment level of 95% shall be considered acceptable.

7. Penalties

- a. Penalties shall be coded so as to be identified as a penalty payment. An accomplishment level of ~~100~~95% shall be considered acceptable
- b. If the Member utilizes a third party administrator, the Member shall be advised of the assessment of any penalty for delayed payment and the reason thereof, and the administrator's plans for payment of such penalty, on a monthly basis. An accomplishment level of 95% shall be considered acceptable.
- c. If the Member utilizes a third party administrator, the Member, in their contract with the administrator, shall specify who is responsible for specific penalties.

B. Medical Treatment

1. Each Member shall have in place a Utilization Review process. An accomplishment level of 100% shall be considered acceptable.
2. ~~Disputes regarding spine surgery shall be resolved using the process set forth in Labor Code Section 4062(b).~~ Disputes regarding medical treatment, diagnosis and/or utilization review determinations shall be resolved using the Independent Medical Review process set forth in Labor Code Section 4610.5 An accomplishment level of 100% shall be considered acceptable.
3. Nurse case managers shall be utilized where appropriate. An accomplishment level of 95% shall be considered acceptable.
4. If enrolled in a Medical Provider Network, the network shall be utilized whenever appropriate.

C. Apportionment

1. Investigation into the existence of apportionment shall be documented. An accomplishment level of ~~100~~95% shall be considered acceptable.

2. If potential apportionment is identified, all efforts to reduce exposure shall be pursued. An accomplishment level of ~~100~~95% shall be considered acceptable.

#### D. Disability Management

1. The third party administrator or self administered entity shall work proactively to obtain work restrictions and/or a release to full duty on all cases. The TPA or self-administered entity shall notify a designated Member representative immediately upon receipt of temporary work restrictions or a release to full duty, and work closely with the Member to establish a return to work as soon as possible. An accomplishment level of 95% shall be considered acceptable.
2. The third party administrator or self administered entity shall notify a designated Member representative immediately upon receipt of an employee's permanent work restrictions so that the Member can determine the availability of alternative, modified or regular work. An accomplishment level of ~~100~~95% shall be considered acceptable.
3. If there is no response within 20 calendar days, the third party administrator or self administered entity shall follow up with the designated Member representative. An accomplishment level of ~~100~~95% shall be considered acceptable.
4. Members shall have in place a process for complying with laws preventing disability discrimination, including Government Code Section 12926, which requires an interactive process with the injured worker when addressing a return to work particularly with permanent work restrictions.
5. Third party administrators or self administered claims professional shall cooperate with members to the fullest extent, in providing medical and other information the member deems necessary for the member to meet its obligations under federal and state disability laws.

#### E. Supplemental Job Displacement Benefits

1. Supplemental Job Displacement Benefits – Dates of injury on or after 1/1/04 and after and before 1/1/13: Benefits pursuant to Labor Code Section 4658.5 shall be timely provided. Dates of injury on or

after 1/1/13: Benefits pursuant to Labor Code 4658.7 shall be timely provided. An accomplishment level of 100% shall be considered acceptable.

2. The third party administrator or self administered entity shall secure the prompt conclusion of vocational rehabilitation/SJDB, ~~and settle where appropriate.~~ An accomplishment level of 95% shall be considered acceptable.

#### F. Reserving

1. Reserves shall be reviewed at regular diary and at time of any significant event, e.g., surgery, P&S/MMI, return to work, etc., and adjusted accordingly. This review shall be documented in the file regardless of whether a reserve change was made. A reserve worksheet shall be utilized and/or detailed rationale substantiating reserve levels shall be documented within the claim file. Where the SIP model does not apply, claims should be reserved for the most probable value. An accomplishment level of ~~95~~100% shall be considered acceptable.
2. Indemnity reserves shall reflect actual temporary disability indemnity exposure with 4850 differential listed separately. An accomplishment level of ~~100~~95% shall be considered acceptable.
3. Permanent disability indemnity exposure shall include life pension reserve if appropriate. An accomplishment level of 100% shall be considered acceptable.
4. Future medical claims shall be reserved in compliance with SIP regulation 15300 allowing adjustment for reductions in the approved medical fee schedule, undisputed utilization review, medically documented non-recurring treatment costs and medically documented reductions in life expectancy. Detailed rationale and/or reserve worksheet shall be documented within the claim file. An accomplishment level of 100% shall be considered acceptable.
5. Allocated expense reserves shall include medical cost containment, legal, investigation, copy service and other related fees. An accomplishment level of 100% shall be considered acceptable.

#### G. Resolution of Claim

1. Within 10 working days of receiving medical information indicating that a claim can be finalized, the claims examiner shall ~~take~~begin

appropriate action to finalize the claim. An accomplishment level of 95% shall be considered acceptable.

2. Settlement value shall be documented appropriately utilizing all relevant information. An accomplishment level of 95% shall be considered acceptable.
3. Where settlement includes resolution of future medical for a medicare beneficiary or an expected medicare beneficiary, the settlement must document the strategy to protect medicare's secondary payor status. An accomplishment level of 95% shall be considered acceptable.
4. Pursuant to CCR15400.2, claim files with awards for future benefits may be administratively closed two years after the last provision of benefits.

#### H. Settlement Authority

1. No agreement shall be authorized involving liability, or potential liability of the Authority without the advance written consent of the Authority. An accomplishment level of ~~100~~95% shall be considered acceptable.
2. The third party administrator shall obtain the Member's authorization on all settlements or stipulations in excess of the settlement authority provided in any provision of the individual contract between the Member and the claims administrator. An accomplishment level of ~~100~~95% shall be considered acceptable.
3. Proof of settlement authorization(s) shall be maintained in the claim file. An accomplishment level of 95% shall be considered acceptable.

#### IV. LITIGATED CASES

The third party administrator or self administered entity shall establish written guidelines for the handling of litigated cases. The guidelines should, at a minimum, include the points below, which may be adopted and incorporated by reference as "the guidelines".

##### ~~A. Defense of Litigated Claims~~

1. The third party administrator or self administered entity shall promptly initiate investigation of issues identified as material to potential litigation. The Member shall be alerted to the need for in-house investigation, or the need for a contract investigator who is acceptable to the Member. The Member shall be kept informed on the scope and results of investigations. An accomplishment level of 95% shall be considered acceptable.
2. The third party administrator or self administered entity shall, in consultation with the Member, assign defense counsel from a list approved by the Member. Initial referral and ongoing litigation management shall be timely and appropriate. The third party administrator or self-administered entity shall maintain control of the ongoing claim activities. An accomplishment level of 95% shall be considered acceptable.
3. Settlement proposals directed to the Member shall be forwarded by the third party administrator, self administered entity or defense counsel in a concise and clear written form with a reasoned recommendation. Settlement proposals shall be presented to the Member as directed so as to insure receipt in sufficient time to process the proposal. An accomplishment level of 95% shall be considered acceptable.
4. Knowledgeable Member personnel shall be involved in the preparation for medical examinations and trial, when appropriate or deemed necessary by the Member so that all material evidence and witnesses are utilized to obtain a favorable result for the defense. An accomplishment level of 95% shall be considered acceptable.
5. The third party administrator or self administered entity shall comply with any reporting requirement of the Member. An accomplishment level of 95% shall be considered acceptable.

~~B. Subrogation~~

V. SUBROGATION

1. In all cases where a third party (other than a Member employee or agent) is responsible for the injury to the employee, attempts to obtain information regarding the identity of the responsible party shall

be made within 14 calendar days of recognition of subrogation potential. Once identified, the third party shall be contacted within 14 calendar days with notification of the Member's right to subrogation and the recovery of certain claim expenses. If the third party is a governmental entity, a claim shall be filed with the governing board (or State Board of Control as to State entities) within 6 months of the injury or notice of the injury. An accomplishment level of 95% shall be considered acceptable.

2. Periodic contact shall be made with the responsible party and/or insurer to provide notification of the amount of the estimated recovery to which the Member shall be entitled. An accomplishment level of 95% shall be considered acceptable.

3. The file shall be monitored to determine the need to file a complaint in civil court in order to preserve the statute of limitations. An accomplishment level of 95% shall be considered acceptable.

4. If the injured worker brings a civil action against the party responsible for the injury, the claims administrator shall consult with the Member about the value of the subrogation claim and other considerations. Upon Member authorization, subrogation counsel shall be assigned to file a Lien or a Complaint in Intervention in the civil action. An accomplishment level of 95% shall be considered acceptable.

5. Whenever practical, the claims administrator shall aggressively pursue recovery in any subrogation claim. They should attempt to maximize the recovery for benefits paid, and assert a credit against the injured worker's net recovery for future benefit payments. An accomplishment level of 95% shall be considered acceptable.

6. Member approval is required to waive pursuit or settlement of a third party recovery. This approval shall be documented in the claim file. An accomplishment level of 95% shall be considered acceptable.

#### **V.VI. EXCESS COVERAGE**

- A. Claims meeting the definition of reportable excess workers' compensation claims as defined by the Memorandum of Coverage Conditions Section shall be reported to the Authority within 5 working days of the day on which it is known the criterion is met. Utilize the Excess Workers' Compensation First Report Form available through the EIA website. An accomplishment level of ~~100~~95% shall be considered acceptable.

- B. Subsequent reports shall be transmitted to the Authority on a quarterly basis on ~~all~~all indemnity claims and on a semi-annual basis on all future medical claims or sooner if claim activity warrants, or at such other intervals as requested by the Authority, in accordance with Underwriting and Claims Administration Standards. Utilize the Excess Workers' Compensation Status Report Form available through the EIA website, or a comparable form to be approved by the Authority. An accomplishment level of 95% shall be considered acceptable.
- C. Reimbursement requests should be submitted in accordance with the Authority's reporting and reimbursement procedures on a quarterly or semi-annual basis depending on claims payment activity. Utilize the Excess Workers' Compensation Claim Reporting and Reimbursement Procedures available through the EIA website. An accomplishment level of 95% shall be considered acceptable.
- D. A closing report with a copy of any settlement documents not previously sent shall be sent to the Authority. An accomplishment level of 95% shall be considered acceptable.

DRAFT





Adopted: December 6, 1985  
Amended: March 4, 1988  
Amended: October 7, 1988  
Amended: October 6, 1995  
Amended: October 1, 1999  
Amended: June 6, 2003  
Amended: March 2, 2007  
Amended: July 1, 2009  
Amended: July 1, 2011  
Amended: March 2, 2012  
Amended: October 4, 2013

## **ADDENDUM A WORKERS' COMPENSATION CLAIMS ADMINISTRATION GUIDELINES**

The following Guidelines have been adopted by the CSAC Excess Insurance Authority (hereinafter The Authority or the EIA) in accordance with Article 18(b) of the CSAC Excess Insurance Authority Joint Powers Agreement. It is the intent of these Guidelines to ensure compliance with all applicable Labor Code and California Code of Regulations Sections. In the event that there exists a conflict between the Guidelines, the Labor Code or the Code of Regulations, the most stringent requirement shall apply.

### **I. CLAIM HANDLING – ADMINISTRATIVE**

#### **A. Case Load**

1. Each claims examiner assigned to the Member should handle a targeted caseload of 150 but not to exceed 165 claims. In situations where caseloads include future medical and medical only claims, these claims shall be counted as 2:1 in the caseload limit.
2. Supervisory personnel should not handle a caseload, although they may handle specific issues.

#### **B. Case Review and Documentation**

1. Documentation should reflect any significant developments in the file and include a plan of action. Plan of action statements should be updated at the time of examiner diary review.
2. The examiner should review the file at intervals not to exceed 45 calendar days. Future medical files should be reviewed at intervals

not to exceed 90 calendar days. An accomplishment level of 95% shall be considered acceptable.

3. The supervisor shall monitor activity on indemnity files at intervals not to exceed 120 calendar days. Future medical files shall be reviewed by the supervisor at intervals not to exceed 180 calendar days. An accomplishment level of 95% shall be considered acceptable.
4. File contents shall comply with Code of Regulations Sections 10101, 10101.1 and 15400, and be kept in a neat and orderly fashion. If claims are maintained in a paperless system, documents shall be clearly identified (e.g., medical report, WCAB Orders, legal, etc.). An accomplishment level of 95% shall be considered acceptable.
5. All medical-only cases shall be reviewed for potential closure or transfer to an indemnity examiner within 90 calendar days following claim file creation. An accomplishment level of 95% shall be considered acceptable.

C. Communication

1. Telephone Inquiries

Return calls shall be made within 1 working day of the original telephone inquiry. All documentation shall reflect these efforts. An accomplishment level of 95% shall be considered acceptable.

2. Incoming Correspondence

All correspondence received shall be clearly stamped with the date of receipt. An accomplishment level of 95% shall be considered acceptable.

3. Return Correspondence

All correspondence requiring a written response shall have such response completed and transmitted within 5 working days of receipt. An accomplishment level of 95% shall be considered acceptable.

#### 4. Ongoing Claimant Contact

On cases involving unrepresented injured workers who are off work, telephone contact shall be made at a minimum of once every 45 days and within 3 working days after a scheduled surgical procedure. This is in addition to nurse case management involvement. An accomplishment level of 95% shall be considered acceptable.

#### D. Fiscal Handling

1. Fiscal handling for indemnity benefits on active cases shall be balanced with appropriate file documentation on a semi-annual basis to verify that statutory benefits are paid appropriately. Balancing is defined as "an accounting of the periods and amounts due in comparison with what was actually paid". An accomplishment level of 95% shall be considered acceptable.
2. In cases of multiple losses with the same person, payments shall be made on the appropriate claim file. An accomplishment of 95% shall be considered acceptable.

#### E. Medicare Reporting

Proper verification of a claimant's status as to Medicare eligibility shall be completed and documented in the claim file. In those cases where the claimant does meet the eligibility requirements, mandatory reporting to the Center for Medicaid Services (CMS) must be completed directly or through a reporting agent in compliance with Section 111 of the Medicare Medicaid and SCHIP Extension Act of 2007 ("MMSEA"). An accomplishment of 100% shall be considered acceptable.

## II. CLAIM CREATION

#### A. Three Point Contact

Three point contact shall be conducted with the non-represented injured worker, employer representative and treating physician within 3 working days of receipt of the claim by the third party administrator or self-administered entity. If a nurse case manager is assigned to the claim, initial physician contact may be conducted by either the claims examiner or the nurse case manager. ***This initial contact should be substantive and clearly documented in the claim file.*** In the event a party is non-responsive, there should be evidence of at least three documented attempts to reach the individual. Medical-only claims shall have this three

point contact requirement as well. An accomplishment level of 95% shall be considered acceptable.

**B. Compensability**

1. The initial compensability determination (accept claim, deny claim or delay acceptance pending the results of additional investigation) and the reasons for such a determination shall be made and documented in the file within 14 calendar days of the filing of the claim with the employer. In the event the claim is not received by the third party administrator or self-administered entity within 14 calendar days of the filing of the claim with the employer, the third party administrator or self-administered entity shall make the initial compensability determination within 7 calendar days of receipt of the claim. An accomplishment level of 100% shall be considered acceptable.
2. Delay of benefit letters shall be mailed in compliance with the Division of Workers' Compensation (DWC) guidelines. In the event the employer does not provide notice of lost time to the third party administrator or self-administered entity timely to comply with DWC guidelines, the third party administrator or self-administered entity shall mail the benefit letters within 7 calendar days of notification. An accomplishment level of 100% shall be considered acceptable.
3. The final compensability determination shall be made by the claims examiner or supervisor within 90 calendar days of employer receipt of the claim form. An accomplishment level of 100% shall be considered acceptable.

**C. AOE/COE Investigation**

If a decision is made to delay benefits on a claim, an AOE/COE investigation shall be initiated within 3 working days of the decision to delay. This may include, but is not limited to, assigning out for witness/injured worker statements, initiating the QME/AME process, requesting medical records, etc. An accomplishment level of 95% shall be considered acceptable.

**D. Reserves**

1. Using the information available at claim file set up, an initial reserve shall be established for the most probable case value. An accomplishment level of 95% shall be considered acceptable.

2. The initial reserve shall be electronically posted to the claim within 14 calendar days of receipt of the claim. An accomplishment level of 95% shall be considered acceptable.

E. Indexing

All claims shall be reported to the Index Bureau at time of initial set up and re-indexed on an as needed basis thereafter. An accomplishment level of 95% shall be considered acceptable.

The EIA maintains membership with the Index Bureau that members can access.

### III. CLAIM HANDLING – TECHNICAL

A. Payments

1. Initial Temporary and Permanent Disability Indemnity Payment

- a. The initial indemnity payment shall be issued to the injured worker within 14 calendar days of knowledge of the injury and disability. In the event the third party administrator or self-administered entity is not notified of the injury and disability within 14 calendar days of the employer's knowledge, the third party administrator or self-administered entity shall make payment within 7 calendar days of notification. For dates of injury prior to 1/1/2013, initial permanent disability payments shall be issued within 14 calendar days after the date of last payment of temporary disability. Effective 1/1/2013, permanent disability payments shall be issued upon approval of an Award pursuant to Labor Code Section 4650(b)(2). Prior to a permanent disability Award, advances may be due if the employer has not offered the employee a position paying at least 85% of their wages and compensation at time of injury or the employee is not employed in a position paying at least 100% of their wages and compensation at time of injury. This shall not apply with salary continuation. An accomplishment level of 100% shall be considered acceptable.
- b. The properly completed DWC Benefit Notice shall be mailed to the employee within 14 calendar days of the first day of disability. In the event the third party administrator or self-administered entity is not notified of the first day of disability until after 14 calendar days, the DWC Benefit Notice shall be

mailed within 7 calendar days of notification. An accomplishment level of 100% shall be considered acceptable.

- c. Self imposed penalty shall be paid on late payments in accordance with Section III. A.7 of this document. An accomplishment level of 100% shall be considered acceptable.
- d. Overpayments shall be identified and reimbursed timely where appropriate. The third party administrator or self-administered entity shall request reimbursement of overpaid funds from the party that received the funds. If necessary, a credit shall be sought as part of any resolution of the claim. An accomplishment level of 95% shall be considered acceptable.

## 2. Subsequent Temporary and Permanent Disability Payments

- a. Eligibility for indemnity payments subsequent to the first payment shall be verified, except for established long-term disability. An accomplishment level of 100% shall be considered acceptable.
- b. Self imposed penalty shall be paid on late payments in accordance with Section III. A.7 of this document. An accomplishment level of 100% shall be considered acceptable.

## 3. Final Temporary and Permanent Disability Payments

- a. All final indemnity payments shall be issued timely and the appropriate DWC benefit notices sent. An accomplishment level of 100% shall be considered acceptable.
- b. Self imposed penalty shall be paid on late payments in accordance with Section III. A.7. of this document. An accomplishment level of 100% shall be considered acceptable.

## 4. Award Payments

- a. Payments on undisputed Awards, Commutations, or Compromise and Releases shall be issued within 10

calendar days following receipt of the appropriate document. An accomplishment level of 95% shall be considered acceptable.

- b. For all primary and excess reportable claims, copies of all Awards shall be provided to the Authority at time of payment. An accomplishment level of 95% shall be considered acceptable.

#### 5. Medical Payments

- a. Medical treatment billings (physician, pharmacy, hospital, physiotherapist, etc.) shall be reviewed for correctness, approved for payment and paid within 60 days of receipt. An accomplishment level of 100% shall be considered acceptable.
- b. The medical provider must be notified in writing within 30 days of receipt of an itemized bill if a medical bill is contested, denied or incomplete. An accomplishment level of 100% shall be considered acceptable.
- c. A bill review process should be utilized whenever possible. There should be participation in a PPO and/or MPN whenever possible.

#### 6. Injured Worker Reimbursement Expense

- a. Reimbursements to injured workers shall be issued within 15 working days of the receipt of the claim for reimbursement. An accomplishment level of 95% shall be considered acceptable.
- b. Advance travel expense payments shall be issued to the injured worker 10 working days prior to the anticipated date of travel. An accomplishment level of 95% shall be considered acceptable.

#### 7. Penalties

- a. Penalties shall be coded so as to be identified as a penalty payment. An accomplishment level of 95% shall be considered acceptable

- b. If the Member utilizes a third party administrator, the Member shall be advised of the assessment of any penalty for delayed payment and the reason thereof, and the administrator's plans for payment of such penalty, on a monthly basis. An accomplishment level of 95% shall be considered acceptable.
- c. If the Member utilizes a third party administrator, the Member, in their contract with the administrator, shall specify who is responsible for specific penalties.

**B. Medical Treatment**

1. Each Member shall have in place a Utilization Review process. An accomplishment level of 100% shall be considered acceptable.
2. Disputes regarding utilization review determinations shall be resolved using the Independent Medical Review process set forth in Labor Code Section 4610.5. An accomplishment level of 100% shall be considered acceptable.
3. Nurse case managers shall be utilized where appropriate. An accomplishment level of 95% shall be considered acceptable.
4. If enrolled in a Medical Provider Network, the network shall be utilized whenever appropriate.

**C. Apportionment**

1. Investigation into the existence of apportionment shall be documented. An accomplishment level of 95% shall be considered acceptable.
2. If potential apportionment is identified, all efforts to reduce exposure shall be pursued. An accomplishment level of 95% shall be considered acceptable.

**D. Disability Management**

1. The third party administrator or self-administered entity shall work proactively to obtain work restrictions and/or a release to full duty on all cases. The TPA or self-administered entity shall notify a designated Member representative immediately upon receipt of temporary work restrictions or a release to full duty, and work



closely with the Member to establish a return to work as soon as possible. An accomplishment level of 95% shall be considered acceptable.

2. The third party administrator or self-administered entity shall notify a designated Member representative immediately upon receipt of an employee's permanent work restrictions so that the Member can determine the availability of alternative, modified or regular work. An accomplishment level of 95% shall be considered acceptable.
3. If there is no response within 20 calendar days, the third party administrator or self-administered entity shall follow up with the designated Member representative. An accomplishment level of 95% shall be considered acceptable.
4. Members shall have in place a process for complying with laws preventing disability discrimination, including Government Code Section 12926.4 which requires an interactive process with the injured worker when addressing a return to work particularly with permanent work restrictions.
5. Third party administrators or self-administered claims professional shall cooperate with members to the fullest extent, in providing medical and other information the member deems necessary for the member to meet its obligations under federal and state disability laws.

#### E. Supplemental Job Displacement Benefits

1. Supplemental Job Displacement Benefits – Dates of injury on or after 1/1/04 and before 1/1/13: Benefits pursuant to Labor Code Section 4658.5 shall be timely provided. Dates of injury on or after 1/1/13: Benefits pursuant to Labor Code 4658.7 shall be timely provided. An accomplishment level of 100% shall be considered acceptable.
2. The third party administrator or self-administered entity shall secure the prompt conclusion of vocational rehabilitation/SJDB. An accomplishment level of 95% shall be considered acceptable.

#### F. Reserving

1. Reserves shall be reviewed at regular diary and at time of any significant event, e.g., surgery, P&S/MMI, return to work, etc., and

adjusted accordingly. This review shall be documented in the file regardless of whether a reserve change was made. A reserve worksheet shall be utilized and/or detailed rationale substantiating reserve levels shall be documented within the claim file. Where the SIP model does not apply, claims should be reserved for the most probable value. An accomplishment level of 100% shall be considered acceptable.

2. Indemnity reserves shall reflect actual temporary disability indemnity exposure with 4850 differential listed separately. An accomplishment level of 95% shall be considered acceptable.
3. Permanent disability indemnity exposure shall include life pension reserve if appropriate. An accomplishment level of 100% shall be considered acceptable.
4. Future medical claims shall be reserved in compliance with SIP regulation 15300 allowing adjustment for reductions in the approved medical fee schedule, undisputed utilization review, medically documented non-recurring treatment costs and medically documented reductions in life expectancy. Detailed rationale and/or reserve worksheet shall be documented within the claim file. An accomplishment level of 100% shall be considered acceptable.
5. Allocated expense reserves shall include medical cost containment, legal, investigation, copy service and other related fees. An accomplishment level of 100% shall be considered acceptable.

#### G. Resolution of Claim

1. Within 10 working days of receiving medical information indicating that a claim can be finalized, the claims examiner shall begin appropriate action to finalize the claim. An accomplishment level of 95% shall be considered acceptable.
2. Settlement value shall be documented appropriately utilizing all relevant information. An accomplishment level of 95% shall be considered acceptable.
3. Where settlement includes resolution of future medical for a medicare beneficiary or an expected medicare beneficiary, the settlement must document the strategy to protect medicare's secondary pay or status. An accomplishment level of 95% shall be considered acceptable.

4. Pursuant to CCR15400.2, claim files with awards for future benefits may be administratively closed two years after the last provision of benefits.

#### H. Settlement Authority

1. No agreement shall be authorized involving liability, or potential liability, of the Authority without the advance written consent of the Authority. An accomplishment level of 95% shall be considered acceptable.
2. The third party administrator shall obtain the Member's authorization on all settlements or stipulations in excess of the settlement authority provided in any provision of the individual contract between the Member and the claims administrator. An accomplishment level of 95% shall be considered acceptable.
3. Proof of settlement authorization(s) shall be maintained in the claim file. An accomplishment level of 95% shall be considered acceptable.

#### IV. LITIGATED CASES

The third party administrator or self-administered entity shall establish written guidelines for the handling of litigated cases. The guidelines should, at a minimum, include the points below, which may be adopted and incorporated by reference as "the guidelines".

1. The third party administrator or self-administered entity shall promptly initiate investigation of issues identified as material to potential litigation. The Member shall be alerted to the need for in-house investigation, or the need for a contract investigator who is acceptable to the Member. The Member shall be kept informed on the scope and results of investigations. An accomplishment level of 95% shall be considered acceptable.
2. The third party administrator or self-administered entity shall, in consultation with the Member, assign defense counsel from a list approved by the Member. Initial referral and ongoing litigation management shall be timely and appropriate. The third party administrator or self-administered entity shall maintain control of the ongoing claim activities. An accomplishment level of 95% shall be considered acceptable.

3. Settlement proposals directed to the Member shall be forwarded by the third party administrator, self-administered entity or defense counsel in a concise and clear written form with a reasoned recommendation. Settlement proposals shall be presented to the Member as directed so as to insure receipt in sufficient time to process the proposal. An accomplishment level of 95% shall be considered acceptable.
4. Knowledgeable Member personnel shall be involved in the preparation for medical examinations and trial, when appropriate or deemed necessary by the Member so that all material evidence and witnesses are utilized to obtain a favorable result for the defense. An accomplishment level of 95% shall be considered acceptable.
5. The third party administrator or self-administered entity shall comply with any reporting requirement of the Member. An accomplishment level of 95% shall be considered acceptable.

## **V. SUBROGATION**

1. In all cases where a third party (other than a Member employee or agent) is responsible for the injury to the employee, attempts to obtain information regarding the identity of the responsible party shall be made within 14 calendar days of recognition of subrogation potential. Once identified, the third party shall be contacted within 14 calendar days with notification of the Member's right to subrogation and the recovery of certain claim expenses. If the third party is a governmental entity, a claim shall be filed with the governing board (or State Board of Control as to State entities) within 6 months of the injury or notice of the injury. An accomplishment level of 95% shall be considered acceptable.
2. Periodic contact shall be made with the responsible party and/or insurer to provide notification of the amount of the estimated recovery to which the Member shall be entitled. An accomplishment level of 95% shall be considered acceptable.
3. The file shall be monitored to determine the need to file a complaint in civil court in order to preserve the statute of limitations. An accomplishment level of 95% shall be considered acceptable.
4. If the injured worker brings a civil action against the party responsible for the injury, the claims administrator shall consult with the Member about the value of the subrogation claim and other considerations. Upon Member authorization, subrogation counsel shall be assigned

to file a Lien or a Complaint in Intervention in the civil action. An accomplishment level of 95% shall be considered acceptable.

5. Whenever practical, the claims administrator shall aggressively pursue recovery in any subrogation claim. They should attempt to maximize the recovery for benefits paid, and assert a credit against the injured worker's net recovery for future benefit payments. An accomplishment level of 95% shall be considered acceptable.
6. Member approval is required to waive pursuit or settlement of a third party recovery. This approval shall be documented in the claim file. An accomplishment level of 95% shall be considered acceptable.

## **VI. EXCESS COVERAGE**

- A. Claims meeting the definition of reportable excess workers' compensation claims as defined by the Memorandum of Coverage Conditions Section shall be reported to the Authority within 5 working days of the day on which it is known the criterion is met. Utilize the Excess Workers' Compensation First Report Form available through the EIA website. An accomplishment level of 95% shall be considered acceptable.
- B. Subsequent reports shall be transmitted to the Authority on a quarterly basis on all indemnity claims and on a semi-annual basis on all future medical claims or sooner if claim activity warrants, or at such other intervals as requested by the Authority, in accordance with Underwriting and Claims Administration Standards. Utilize the Excess Workers' Compensation Status Report Form available through the EIA website, or a comparable form to be approved by the Authority. An accomplishment level of 95% shall be considered acceptable.
- C. Reimbursement requests should be submitted in accordance with the Authority's reporting and reimbursement procedures on a quarterly or semi-annual basis depending on claims payment activity. Utilize the Excess Workers' Compensation Claim Reporting and Reimbursement Procedures available through the EIA website. An accomplishment level of 95% shall be considered acceptable.
- D. A closing report with a copy of any settlement documents not previously sent shall be sent to the Authority. An accomplishment level of 95% shall be considered acceptable.