

REPORT OF MARKET REGULATION EXAMINATION



Sedgwick Claims Management Services, Inc.

1100 Ridgeway Loop RD STE 200

Memphis, TN 38120-4057

Examination Period:

July 1, 2008 through June 30, 2009

Pursuant to Title 24-A M.R.S.A. § 221, I have caused a Targeted Market Conduct Examination to be conducted of Sedgwick Claims Management Services. I hereby accept this Report of Examination and make it an official record of the Bureau of Insurance.

Honorable Eric A. Cioppa
Superintendent
Maine Bureau of Insurance

Date

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February 29, 2012

The Honorable Eric A. Cioppa
Superintendent
Maine Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

Dear Superintendent Cioppa:

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

Sedgwick Claims Management Services, Inc.

hereinafter referred to as the “Company”. The examination covered workers’ compensation claims with dates of injury from July 1, 2008 through June 30, 2009 (hereinafter, “Review Period”), for employees residing in the State of Maine or claimants involved in losses in the State of Maine. The Maine Bureau of Insurance (hereinafter, “Bureau”) staff conducted the on-site phase of the Examination, from March 29, 2010, through April 9, 2010, at the Company’s branch office located at:

**179 John Roberts Rd, Suite 300,
South Portland, Maine.**

A preliminary review of information provided by the Company, transactional testing, and follow-up communications were also conducted at the offices of the Bureau.

The following report is respectfully submitted.

EXECUTIVE SUMMARY

The Bureau’s Examination focused on claims handling for the Company’s Maine workers’ compensation line of business. The Examination tested the Company’s compliance with Maine statutes and the National Association of Insurance Commissioners’ Market Regulation Handbook Standards (hereinafter, “MRH”).

The Examination identified these substantive issues:

The Company’s compliance rate for First Report of Occupational Injury or Disease filings is 83%, which is below WCB performance benchmark of 85%.

The Company’s compliance rate for Memorandum of Payment filings is 84%, which is below the WCB’s performance benchmark of 85%.

The Company’s compliance rate for Notice of Controversy filings is 71%, which is below the WCB’s performance benchmark of 90%.

The Company’s compliance rate for initial indemnity is 84%, which is below the WCB’s performance benchmark of 87%.

The Bureau considers a substantive issue as one in which corrective action on the part of the company is deemed advisable, or one in which a violation of Maine insurance laws, regulations or bulletins was found to have occurred.

HISTORY

Pursuant to 39-A M.R.S.A. § 153(9), the WCB established a monitoring, audit and enforcement (“MAE”) program. The functions of the MAE program 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 MAE Audit Division examined one hundred (100) claim files for the period under examination (dates of injury between January 1, 2005 and December 31, 2005) in part to determine whether the Company had violated the claims-handling provision of 39-A M.R.S.A. § 359(2). The findings relevant to 39-A M.R.S.A. § 359(2) of the WCB Compliance Audit Report dated August 30, 2007 (“WCB Audit”) include:

- Use of unlicensed claim adjusters
- Failure to file or timely file forms with the Board
- Failure to pay medical benefits timely
- Failure to pay approved agreements timely
- Failure to pay claims accurately
- Failure to correct issues of non-compliance revealed/discussed in previous audit

This examination is pursuant to the certification of findings to the Superintendent of Insurance in accordance with 39-A M.R.S.A. § 359(2), as described by the August 4, 2008 Consent Decree entered into by the WCB and the Company. Title 39-A M.R.S.A. § 359(2) requires the Superintendent of Insurance to take appropriate action to bring such practices to a halt.

SCOPE

In order to meet the responsibilities set forth in 39-A M.R.S.A § 359(2), the Superintendent of Insurance had to determine whether or not the patterns of questionable claims-handling techniques found by the WCB had come to a halt. Therefore, an examination was planned in accordance with the MRH. The Bureau examiners developed compliance verification procedures based on the MRH to measure whether the Company had brought themselves into compliance with 39-A M.R.S.A. Specifically, the scope of the Examination included a sample of claims with dates of injury from July 1, 2008 through June 30, 2009.

Some unacceptable or non-compliant practices may not have been discovered in the course of the Examination. Failure to identify or criticize specific practices does not constitute acceptance of such practices by the Bureau.

It should be noted that this report is by test rather than by exception, in that each test applied is stated and the results are reported.

METHODOLOGY

Audit Command Language (hereinafter, “ACL”) audit software was utilized to obtain the Examination’s claims sample of 60 lost-time claims. Electronic data files were provided by the Company, which contained workers’ compensation claims that were initiated by 1,657 Maine employees during in the years 2008 and 2009. The data file indicated a population of 122 lost-

time claims initiated during in the years 2008 and 2009. The sample parameters specify results at a 95% confidence level and a tolerable error ratio of 5%. Fifty-three claims in the sample had activity during the Review Period, and 58 had one or more medical payments and therefore were selected to test timely payments to health care providers.

FINDINGS

C. Claims

The examiners tested the 53 workers' compensation claims that had activity in the categories listed below. Six claims did not have activity within the Review Period, although they may have had activity in either the year 2008 or 2009. Further, one claim was excluded because it had been examined by the WCB.

Standard 3

Claims are resolved in a timely manner.

NAIC Market Regulation Handbook - Chapter XVI, Section G, Standard 3

TEST 1:

To determine if initial and subsequent indemnity payments were made in compliance with 39-A M.R.S.A. § 205(2).

To determine if health care provider payments were made in compliance with WCB Rule 5.7(2). Tested the 53 claims with one or more indemnity and/or health care provider payments made during the examination period.

Payment Type	Test	Timely	Not Timely	N/A	% In Compliance	WCB Benchmark
Initial Payment	Paid within 14 days of Employer (ER) notice	41	8	0	84%	87%
Subsequent Payments	Paid weekly within 7 days	358	55	0	87%	NA
Health Care Provider Payments	Paid within 30 days of receipt of bill	855	40	4	96%	NA

Findings:

The Company's compliance rate for initial indemnity payments is 84%, which is below the WCB's performance benchmark of 87%.

Standard 4

The regulated entity responds to claims correspondence in a timely manner.

NAIC Market Regulation Handbook - Chapter XVI, Section G, Standard 4

TEST 2:

To determine if timely filing of the following forms with the WCB is in compliance with 39-A M.R.S.A. § 360 (1) (A) or (B) and WCB Rules and Regulations.

Examiners tested the 53 claims with forms filed at the WCB.

Form Type	Test	Timely	Not Timely	% In Compliance	WCB Benchmarks
WCB-1	Filed within 7 days of ER notice	44	9	83	85%
WCB-2	Filed within 30 days of ER notice	43	7	86%	NA
WCB-2A	Filed within 30 days of ER notice	40	10	80%	NA
WCB-3	within 14 days of ER notice	41	8	84%	85%
WCB-4	Filed when employee benefits are modified or discontinued	52	1	98%	NA
WCB-9	within 14 days of ER notice	5	2	71%	90%
WCB-11 Initial	195 days from injury date	10	7	59%	NA
WCB-11 Annual Final	15 days of anniversary date	22	1	96%	NA

Findings:

The Company’s compliance rate for First Report of Injury form (“WCB-1”) filing is 83%, which is below the WCB’s performance benchmark of 85%.

The Company’s compliance rate for Memorandum of Payment form (“WCB-3”) filing is 84%, which is below the WCB’s performance benchmark of 85%.

The Company’s compliance rate for Notice of Controversy form (“WCB-9”) filings is 71%, which is below the WCB’s performance benchmark of 90%.

In response to the Bureau’s comments, the Company filed all forms that were not previously filed.

Claims are accurately paid.

TEST 3:

To determine if the indemnity payments were calculated and issued correctly in compliance with 39-A M.R.S.A. §§ 102(1), 102(4), 204, 211, 212, 213, and 215 and WCB Rules and Regulations.

Examiners tested the 49 lost-time claims having one or more indemnity payments.

	Correct	Incorrect	% Compliant
Indemnity Paid	27	22 (A)	55%

Findings:

- Represents the number of claims rather than each specific calculation or payment. “Incorrect” represents 22 claim files where one or more indemnity payments were not made accurately. These claim files included 12 overpayments (\$1,756.57 cumulative) and 10 underpayments (\$3,186.58 cumulative).

The following table outlines, in greater detail, the 22 errors identified under this standard:

Description of Error	Number of Claims
Used incorrect weekly compensation rate in one or more calculations	8
Unpaid waiting period	5
Employee did not exceed the waiting period	2
Paid beyond the employee's return to work date	2
Tabulation error	2
Unpaid one day	1
Did not offset employee's actual earnings	1
Incorrectly applied Section 102(4) B	1
Total	22

In response to the Bureau’s comments, the Company paid all underpayments.

ACKNOWLEDGMENT

The courtesy 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.

STATE OF MAINE
COUNTY OF KENNEBEC, SS

Allan C. Armstrong, CWCLA, being duly sworn according to law, deposes and says that in accordance with the authority vested in him by Eric A. Cioppa, Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, he has made a targeted market conduct examination on the condition and affairs of:

Sedgwick Claims Management Services

of South Portland as of June 30, 2009, and that the foregoing report of examination, subscribed to by him, is true to the best of his knowledge and belief.

The following examiners from the Bureau of Insurance assisted:

Mary Masi, MCM
Linette Gamache, CIC

Allan C. Armstrong, CWCLA, MCM
Manager Market Regulation

Subscribed and sworn to before me

This 29th day of February, 2012

Notary Public

My commission expires: