

# COMPLIANCE AUDIT REPORT

STATE OF MAINE  
WORKERS' COMPENSATION BOARD



**Ryder Services Corporation**  
**Engagement Date: February 25, 2016**  
**Issue Date: July 29, 2016**

**Office of Monitoring, Audit & Enforcement**

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## SUMMARY

Ryder Services Corporation (Ryder) is a third-party administrator (TPA) that handles Maine workers' compensation claims for employees of Ryder System, Inc.

The Audit Division of the Maine Workers' Compensation Board (Board) examined four (4) claim files where indemnity benefits were paid for the period under examination (2013-2015) as well as sixty-one (61) medical payments for the period under examination (2013-2015) to determine compliance with statutory and regulatory requirements in the following areas:

- Timeliness of benefit payments
- Accuracy of benefit payments

The claim sample was drawn from a listing of all of Ryder's 2013-2015 Maine workers' compensation claims. The medical payment sample was drawn from a listing of all of Ryder's 2013-2015 medical payments for those claims in the sample.

Ryder handles its Maine workers' compensation claims solely in Alpharetta, Georgia.

The audit work was conducted as a desk audit.

The compliance tables found on pages 8 through 10 of this report are representative of Board findings as of February 25, 2016. Since that time, the Audit Division has received additional information, form filings and form corrections.

Following is a discussion of the aforementioned compliance tables and of the steps taken since February 25, 2016 to rectify identified noncompliance issues. This discussion also includes other significant issues identified by the audit.

◆ **Timeliness of benefit payments**

- Title 39-A M.R.S.A. Section 205(2) provides the time requirements for indemnity payments.
- When there is not an ongoing dispute, failure to pay weekly compensation benefits or accrued weekly benefits within 30 days after becoming due and payable is a violation of Title 39-A M.R.S.A. Section 205(2) and subject to penalty under Section 205(3).
- Initial Indemnity Payments:
  - Four (4) initial indemnity payments were made timely.
    - Ryder’s compliance rate for initial indemnity payments is 100%, which is above the Board’s performance benchmark of 87%.
- Subsequent Indemnity Payments:
  - Seventeen (17) subsequent indemnity payments were made timely.
- Board Rules and Regulations Chapter 5 states in part, “The employer/insurer shall pay the health care provider's charge or the maximum allowable payment under this fee schedule, whichever is less, within 30 days of receipt of a bill unless the bill or previous bills from the same provider or the underlying injury has been controverted or denied. If an employer/insurer controverts whether a health care provider’s bill is reasonable and proper under § 206 of the Act, the employer/insurer shall send a copy of the notice of controversy to the health care provider.”
  - Fifty-three (53) medical payments were made timely.
  - Eight (8) medical payments were made late.

◆ **Accuracy of indemnity payments**

- Title 39-A M.R.S.A. Section 102(4) and Board Rules and Regulations Chapter 1, Section 5 provide the requirements for calculating average weekly wages (AWWs). Title 39-A M.R.S.A. Section 102(1) and Board Rules and Regulations Chapter 8, Section 9 provides the requirements for determining weekly compensation rates (WCRs). Title 39-A M.R.S.A. Sections 212, 213, and 215 provide the requirements for compensation for total incapacity, partial incapacity, and death benefits.
- The accuracy of indemnity payments was reviewed for four (4) claims.
- Average Weekly Wage:
  - Zero (0) AWWs were correct.
  - Four (4) AWWs were incorrect.
- Weekly Compensation Rate:
  - Zero (0) WCRs were correct.
  - Four (4) WCRs were incorrect.
- Partial Benefits Calculation Method:
  - The method used to calculate partial benefits was correct for three (3) claims.
- Amount Paid:
  - Zero (0) claims were compensated correctly.
  - One (1) claim was underpaid (\$25,686.09).
    - Since February 25, 2016, Ryder resolved the above underpayment issue with a Consent Between Employer and Employee.
  - Three (3) claims were overpaid (\$1,286.19 aggregately).
  - Collectively, the aforementioned errors resulted in a net underpayment of \$24,399.90 to injured workers.

◆ **Accuracy of medical payments**

- Title 39-A M.R.S.A. Section 209-A and Board Rules and Regulations Chapter 5, provide the fee setting requirements for medical and ancillary services and products rendered by individual health care practitioners and health care facilities.
- The accuracy of medical payments was reviewed for four (4) claims.
- Amount Paid:
  - Medical payments sampled for two (2) claims were correct.
  - Medical payments sampled for two (2) claims were incorrect.

◆ **Other significant issues**

- Boxes 43a (Date of Incapacity) and 43b (Date Employer Notified) of the WCB-1, Employer's First Report of Occupational Injury or Disease (FROI) must accurately reflect the date of incapacity and date that the employer was notified of the incapacity. See the Board's Forms and Petitions Manual.
  - Incorrect dates were reported in Boxes 43a and/or 43b of the FROIs that were filed for three (3) claims.
- Except for an injured employee who was employed seasonally as defined by Title 39-A Section 102(4)(C), the WCB-2, Wage Statement must include the employer's payroll week ending dates and the employee's corresponding gross earnings for the prior year, where week 52 is the payroll week that includes the date of injury. See the Board's Forms and Petitions Manual.
- The gross earnings for the payroll week ending prior to the date of injury was reported as week 52 on the WCB-2, Wage Statement filed for one (1) claim.

## PENALTIES

### ◆ Penalties payable to providers and/or injured employees

#### Title 39-A M.R.S.A. Section 205(3)

“When there is not an ongoing dispute, if weekly compensation benefits or accrued weekly benefits are not paid within thirty (30) days after becoming due and payable, \$50 per day must be added and paid to the worker for each day over thirty (30) days in which the benefits are not paid. Not more than \$1,500 in total may be added pursuant to this subsection. For purposes of ratemaking, daily charges paid under this subsection do not constitute elements of loss.”

A delay of an “other” indemnity payment, subject to penalty under Section 205(3), was found on the following claim:

<b>CLAIM</b>	<b>PENALTY JUSTIFICATION</b>	<b>PENALTY EXPOSURE</b>
Thomas Hill vs. Ryder Integrated Logistics Date of Injury: 8/26/14 Date ER Notified of Incapacity: 8/27/14 Claim #ME1-000370-0 Board #14017748	The claimant’s benefits were improperly discontinued on 12/17/14. Payment of accrued benefits has not yet been made.	\$1,500.00*
<b>Total Penalties to Injured Employees for Delays of “Other” Indemnity Payments</b>		<b>\$1,500.00</b>

\* This claim has been settled by a Consent Between Employer and Employee and the Audit Division is not pursuing penalties (on behalf of the corresponding employee) arising from the violation cited.

◆ **Penalties payable to the State General Fund**

**Title 39-A M.R.S.A. Section 359(2)**

“In addition to any other penalty assessment permitted under this Act, the Board may assess civil penalties not to exceed \$25,000 upon finding, after hearing, that an employer, insurer or 3<sup>rd</sup>-party administrator for an employer has engaged in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims. The Board shall certify its findings to the Superintendent of Insurance, who shall take appropriate action so as to bring any such practices to a halt. This certification by the Board is exempt from the provisions of the Maine Administrative Procedure Act. The amount of any penalty assessed pursuant to this subsection must be directly related to the severity of the pattern of questionable claims-handling techniques or repeated unreasonably contested claims. All penalties collected pursuant to this subsection shall inure to the benefit of the General Fund. An insurance carrier’s payment of any penalty assessed under this section may not be considered an element of loss for the purpose of establishing rates for workers' compensation insurance.”

- No action will be taken at this time.

To avoid future penalty referral(s) under Section 359(2) and/or 360(2), Ryder must take corrective measures to address the following inadequacies:

- Failure to calculate AWWs accurately
- Failure to discontinue benefits according to Section 205(9)B when applicable

**Title 39-A M.R.S.A. Section 360(2)**

“The Board may assess, after hearing, a civil penalty in an amount not to exceed \$1,000 for an individual and \$10,000 for a corporation, partnership or other legal entity for any willful violation of this Act, fraud or intentional misrepresentation. The Board may also require that person to repay any compensation received through a violation of this Act, fraud or intentional misrepresentation or to pay any compensation withheld through a violation of this Act, fraud or misrepresentation, with interest at the rate of 10% per year.”

- No action will be taken at this time.

To avoid future penalty referral(s) under Section 360(2) and/or 359(2), Ryder must take corrective measures to address the following inadequacies:

- Failure to calculate AWWs accurately
- Failure to discontinue benefits according to Section 205(9)B when applicable

## COMPLIANCE TABLES

### ◆ Timeliness of Benefit Payments

#### A. Initial Payment of Indemnity Benefits

			2013-2015	
			Number	Percent
Check Issued Within:				
0-14	Days	<b>Compliant</b>	4	100%
Total			4	100%

#### B. Subsequent Payment of Indemnity Benefits

			2013-2015	
			Number	Percent
Check Issued Within:				
0-7	Days	<b>Compliant</b>	17	100%
Total			17	100%

#### C. Medical Payments

			2013-2015	
			Number	Percent
Check Issued Within:				
0-30	Days	<b>Compliant</b>	53	87%
31+	Days		8	13%
Total			61	100%

◆ **Accuracy of Indemnity Payments**

**D. Average Weekly Wage**

		<b>2013-2015</b>	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	0	0%
Incorrect		4	100%
<hr/>			
Total		4	100%
		<hr/>	

**E. Weekly Compensation Rate**

		<b>2013-2015</b>	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	0	0%
Incorrect		4	100%
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Total		4	100%
		<hr/>	

**F. Partial Benefits**

		<b>2013-2015</b>	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	3	100%
Total		3	100%
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**G. Amount Paid**

		<b>2013-2015</b>	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	0	0%
Underpaid		1	25%
Overpaid		3	75%
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Total		4	100%
		<hr/>	

◆ Accuracy of Medical Payments

H. Amount Paid

		2013-2015	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	2	50%
Incorrect		2	50%
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Total		4	100%