

Workshop W6

Wednesday, October 11, 1:30–3:00 p.m. and 3:30–5:00 p.m.

PRACTICAL AND EFFECTIVE CLAIMS MANAGEMENT TECHNIQUES

Presented by



Frank Keres
President
Construction Risk Associates, Inc.

Claims, individually and collectively, can impact a contractor's very existence. How claims are handled is therefore one of the most important aspects of construction risk management.

This workshop will show you how to establish, or fine-tune, a claims methodology. Contractors and their insurance representatives will learn practical steps they can take in working with insurers to resolve claims effectively.

- Examines the impact of changes in various aspects of insurance coverage, such as additional insured endorsements, notice requirements, and per-occurrence issues.
- Reviews contractors' rights and obligations with respect to counsel selection, accident investigation, and settlement of a claim.
- Provides strategies for dealing with a third-party administrator, setting reserves, and using claims information systems.

Risky?

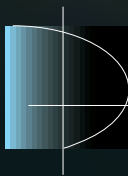
We don't think so.



The Construction Industry has experienced a variety of Insurance challenges recently. The legal environment has dramatically changed the Insurance marketplace for Residential Construction projects. For over twenty years, insurance brokers representing Construction Risks have relied on our market knowledge and expertise in satisfying the unique coverage requirements of the Construction Industry.

We represent the specialty underwriters who are ready and willing to provide Insurance for your coverage challenge - whether Artisan or General Contractor. We also have Builders Risk markets - including Frame and Coastal exposures!

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Frank Keres
President
Construction Risk Associates, Inc.

Mr. Keres is presenting Workshop W6, "Practical and Effective Claims Management Techniques," on Wednesday afternoon. He is principal of Construction Risk Associates, Inc., with a main office near Chicago Illinois and another office in Brookfield, Wisconsin. Mr. Keres works with contractors and brokers, insurers, and owners who deal with contractors. He works on specific assignments, general consulting, and the majority of his work is as an outsourced risk manager. Before forming Construction Risk Associates, Mr. Keres was risk manager for Safway Services, one of the nation's largest subcontractors with more than 70 locations. Mr. Keres had also worked within Aon Risk Service's Construction Group, working with contractors on developing risk programs and with owners of larger construction projects. He was one of the earliest construction risk managers when he worked for James McHugh Construction Co. in Chicago.

Mr. Keres believes in the full integration of insurance, claims management, loss control, and operations to have a comprehensive and productive risk management program. He utilizes his legal training and background, a thorough knowledge of coverage, a realistic approach to claims, and his safety experiences to provide a unique focus to risk management. Mr. Keres is well recognized as a leader in the area of construction risk. Among the groups to whom he has made presentations are the National Safety Council, International Conference on Construction Safety and Health, National Inland Marine Underwriter's, Construction Safety Conference.

Mr. Keres holds a B.A. from the University of Notre Dame and a J.D. from John Marshall Law School.

Notes

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PRACTICAL AND EFFECTIVE CLAIMS MANAGEMENT TECHNIQUES

**Frank Keres
Construction Risk Associates, Inc.**

1. Claims Handling: Introduction
 - A. Traditional: Report, Adjuster, React
 - i. Experienced in Construction?
 - ii. Conflict of Interest?
 - iii. Reactive not Proactive
 - B. Contractor Should Control
 - i. Has more at stake
 - ii. Better control of situation
 - a. Has immediate access to site/situation
 - b. If a GC: can control subcontractor
 - c. Has documents on hand
 - d. Has a “plan” (you hope)
 - C. Claims are a living thing
 - i. Snapshot in time: good or bad?
 - ii. Internal reviews:
 - a. More important than outside claims reviews
 - iii. YOU KNOW YOU
2. Written Claims Plan
 - A. NOT a crisis management plan
 - B. Elements:
 - i. Reporting
 - a. By whom, to whom
 - b. When
 - c. Contents (will be referred to later on summary and there will be a sample First Report)
 - d. Mandatory state reports: what to include

- C. Crisis plan: brief overview
 - i. Control
 - ii. Communicate
 - iii. Coordinated
- 3. Claims scenario:
 - A. Two electricians employed by a Subcontractor fall off a scaffold erected by another subcontractor; one dies, one is injured.
 - B. What coverages are included? What contractual terms, etc.?
 - i. Coverage B or GL? Indemnity between parties
- 4. Worker's compensation claims
 - A. Report or not report?
 - i. It's a fact of life
 - ii. "Report only" claims
 - B. Medical adviser
 - i. Important and cost-effective
 - a. Interpreter between you and medical provider
 - C: Work comp administrator
 - i. Cost/Benefit analysis
 - D. Jurisdiction
 - i. Where will claim be made?
- 5. Some medical things
 - A. IMEs
 - B. Medical permission slips
 - C. Laws on selection of medical providers
 - D. Therapy
 - i. Twice for three or three for two example
 - ii. Video your operations
 - iii. If local, supply materials
- 6. Specific techniques:
 - A. Make arrangements on treatment/billing with medical providers
 - B. ALL referrals: medical, services, lawyers to be questioned

- C. NO therapy by treating medical provider
 - D. Undercover investigation
 - i. Ramifications
7. Ramifications/Recoveries
- A. Is there a possibility for third-party action?
 - i. Have WC and GL adjusters share files
 - a. Many Coverage B cases handled by liability adjuster (this is a good thing)
 - C. Subrogation
 - i. Know statute of limitations
8. Financial
- A. Direct payments to employee
 - B. 30/60/90 claims reserving
 - C. Service providers selected and paid by you
9. Some points to ponder
- A. If before 8, investigate
 - B. If it's Wednesday.....
 - C. Merry Christmas
 - D. Benefit plan comparison
 - E. Should I really "pay" the death benefit?
 - F. 30/60/90

GENERAL LIABILITY CLAIMS

- 10. Investigation
 - A. Things to look for immediately
 - B. Getting the investigations of others
 - C. Written things
- 11. Financial
 - A. Hold funds on subcontracts?
 - B. Internal accounting?

Many of the CLAIMS TECHNIQUES below are GL-based and instrumental

CLAIMS TECHNIQUES

12. Counsel

- A. Have your OWN counsel
 - i. Knowledge of construction and coverage
LITIGATOR
 - ii. You are to get ALL documents
 - iii. Conflicts when reservation of rights issued
 - iv. Preferred billing/payment
 - v. Consider “coordinating counsel”
 - vi. Include in claims reviews
 - vii. The “construction team” caveat
 - viii. Written litigation plans

13. Claims Instructions

- A. Specific
- B. Separate adjuster and JUST ONE for GL and Auto
- C. Reserve/payment limitations
- D. IF using a TPA

One of the attachments will be an “exemplar” of the attached TPA specifications

14. Drive the Data:

- A. Find out everything the IS can do
- B. Learn and play
- C. Develop your own reports
 - i. Daily notes
 - ii. Averages of incurred, paid, reserves, changes, etc.
 - iii. Use for job costing

Samples to be provided with further explanations

15. Claims Reviews

- A. Plan for it
 - i. Get full reports a week ahead
 - ii. Set up highs and lows
 - iii. Do NOT focus on one or two claims, do that separately

- B. The actual meeting is COMMUNICATING
 - i. The adjuster not the supervisor
 - ii. Broker to listen, but only talk on contractor's side, not as intermediary
 - iii. Insurer to listen
 - C. POST review meeting
 - i. Contractor, broker, insurer communicate
 - D. The "talk to your hand" method of control
16. Some specifics
- A. Claimants information
 - i. Follow up on the accidents of all potential claimants
 - B. Subcontractor injuries
 - i. Use those subcontract provisions
 - C. Sometimes you have to "punt"

SUMMARY

- 17. Sometimes you lose
- 18. Sometimes you win
- 19. Keep track of changes in law, coverage, etc.
- 20. Claims are an everyday "What's up"
- 21. How you handle claims is critical

Notes

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Practical and Effective Claims Management Techniques

**Presented By:
Frank Keres
President
Construction Risk Associates, Inc.
Northbrook, Illinois**

Practical and Effective?

- These are suggestions based on “doing it.”
- Will they work all the time?
Not always.
- Look at these as stepping stones.
- Each contractor is different.
That’s why this can be fun and not tedious.

2

Most Important !! THE ONE THING

- These are things to DO!
- Select one or three or more “suggestions” and TRY IT!
- Look at this presentation as an ACTION PLAN.
- Go with your “instinct”: make the selection and try it!!

3

Let's Begin!!!

- We will discuss some general applications and practices.
- We will discuss some very specific actions/reactions.
- Some “Quick Hitters” but important nonetheless.
- Exhibits are important, especially as to some finer points.

4

We All Deal with Claims

- Claims is one of the most important aspects of a risk management program.
- Contractor: MUST get involved with claims, it is in their interest, no one better to deal with them.
- Brokers: KEY element to claims handling. They can be the IMPETUS to proper claims handling.
- Insurer: not really a conflict of “monies.” Fantastic resources that should be focused.

5

What is a “Claim”?



- **Not just a legal proceeding.**
- **Not just a demand for payment.**
- **Not just a tender of defense.**
- **Not just a first report of injury.**
- **Not just a demand for benefits.**
- **Not just a letter from a lawyer.**
- **Not just an injury to your employee.**
- **Not just an injury to some person or thing.**

6

What is a “Claim”?



- **It is any occurrence that can result in YOU being HELD liable, THOUGHT to be liable, MIGHT be liable, REQUIRED to be liable.**

7

Time Frame of a Claim

- When does a claim begin?
- A claim begins at the time of the occurrence.
- When does a claim end?
- A claim ends when you are no longer liable, asked to be liable, etc. etc.

8

What is a Claim?

**A CLAIM IS A
LIVING
THING!!!!**

9

What is a Claim?

**THE CLAIM
IS
YOURS!
SO TAKE OWNERSHIP**

10

Major “Mistake” on Claims Handling

- The most common and most disastrous error we all make with claims is to handle them at intervals. Point in time.
- Claims should be dealt with on a constant and consistent basis.
- *“Claims progress thus claims handling should be a progression, or you won’t make progress”*

11

The Claims Reality

- **SOMETIMES, YES, YOU ARE LIABLE!**
Therefore, you have to be **OPEN MINDED** enough to accept this reality.

“FOCUS ON THE FACTS”

12

Quick Hit #1

- Have a WRITTEN PLAN for each aspect of Claims: reporting, investigation, adjusting, reserving, claims handling, etc, etc. etc.
- Corollary 1: Change the written plan quarterly with improvements.
- Corollary 2: Don't be afraid to "go with your GUTS."

13

Who Shall Handle?

- The person/persons who handle claims are important.
- Is the safety person the right choice?
- A good claims person can save lots of \$\$\$\$, so spend \$\$ for that person.
- YOU know your operation better than anyone, so YOU do it.
- Think about the "outsiders": some are great, some need to take a bus.

14

WHAT NOT TO REPORT

- Near misses
- “What could we have done to prevent the accident?”
- “Disciplinary actions taken”
- Other self-incriminating statements that will equate to handing plaintiff’s counsel a smoking gun and an open check book.
- Remember: a claim is a living thing—don’t start it with something that kills you.

15

Who’s on First?

- Decide who are the people to get the first notice of an “occurrence.”
- Routine occurrences: set up a written report (and follow up).
- Major occurrences: who gets notified, priority of notifications (this is not crisis management for which you should have a separate plan).

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Accident Investigation

- Do on all occurrences, you just never know.
- There are hundreds of thousands of definitions of root cause analysis.
- TAKE CONTROL over as much as you can.
- Get training in accident investigation and find out about the training/experience of “outsiders.” (Give them bus money.)

17

Accident Investigation

- Most “experts” say look for the “corporate culture” that contributed. Who really cares and it just adds “plaintiff ammunition.”
- Consider having an attorney available, not for advice but for attorney privilege.
- Practice, yes really, practice accident scenarios.

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Quick Hit #2

- DON'T WAIT, ACCUMULATE.

With every claim that MIGHT result in litigation, including WC cases that might end up in third-party suits OR have subrogation potential, get all the paperwork together (contracts, payroll records, job site meeting minutes, etc.).

Important so as to not waste time in future, and necessary to win, not just helpful but NECESSARY.

Corollary: As the claim is a living thing, FEED it with the documents, evidence, reports, etc.

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Outside Claims Adjusters

- Insurer or TPA?
- Both have advantages.
- In either case: have written claims handling instructions. (See Exhibit.)
- The instructions should have everything you want and need for YOU to have an effective claims program. DON'T BE SHY BUT BE SPECIFIC!

20

Important Claims Provider Reqt.'s

- Guaranteed minimum for medical bill review.
- Cooperation (and notice) between WC and GL adjusters.
- Define allocated loss expenses.
- Penalties paid by claims provider.
- Jurisdictional requirements (the broker can be a big help here).

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Quick Hit # 3

Some specifics for claim handling instructions:

- Look at the data systems, select the best—not the cheapest.
- Interview and select adjusters.
- One adjuster for GL, one for auto.
- Set limits for payments without your permission.
- Set notification requirements for reserve changes.

22

Counsel

- He/She works for YOU, not the insurance company.
- Have your own counsel for WC and GL.
- Make sure they know both CONSTRUCTION and INSURANCE. ALSO, make sure they are litigators.
- Educate them on your operations, contracts, situations, even your “politics.”

23

Counsel

- Have counsel copy you on all documents.
- Prepare written instructions to counsel. (Don't be shy.)
- Prompt payment for reduction in rates.
- If the attorney says he/she will “oversee” the construction team, re-consider.
- Ask for recommendations from a contractor client.
- Get litigation plans.
- Have “claims” reviews with counsel.

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Quick Hit #4

- If you are in multiple jurisdictions, consider having an attorney to assist in overseeing and communicating and advising you. Should be experienced litigator. Helps you to control and can be a sounding board for litigation tactics.

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Drive the Data

- Information systems are critical.
- USE, ANALYZE, INTERPRET.
- SPEND HOURS ON DATA.
- SPEND MORE HOURS.
- PLAY ON THE SYSTEM.
- DEVELOP YOUR OWN REPORTS.

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Quick Hit #5

- On data systems, do all that you can to get the adjuster notes. Read them.
- Try to get system to identify any new notes made the day before. Not complicated, really. (Insurers and brokers: get and give this to your contractor client.)

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Quick Hit # 6

- Use your own data and blend:

For example, a simple format is to divide the total incurred for WC by the number of hours worked. You now have a simplistic valuation of cost of claims per hour worked.

This can be used for estimating (on SIR/Deductible programs) and you can back in your insurance premium to get a simple cost of risk.

Drive the data down to get to individual job sites, super's etc.

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Reserves

- One of the most critical aspects of claims.
- Objective: EMR, policy renewal, taxes on SIRs/deductibles, financial statements.
- Subjective: the checkbook has XXX in it; I can spend that much, attitude to claims in general and on individual claims.
- “Outstanding really means a guess.”

29

Reserves

- In claims handling instructions, get as much control, information, data as you can on reserves.
- Develop analysis of reserving. Use on a time scale.
- Watch for “step up” adjusting.
- Your adjuster is overworked and underpaid. Be nice, but firm.

30

Quick Hit # 7

- **30/60/90 reserving:**

Demand and ask for, or “work on” having reserves set at 30 days, then at 60 days and 90 days. The 90-day reserve is the goal all work for as the “final” reserve. Encourages cooperation and action. No reason why it cannot be done.

SHOULD BE THE MOST IMPORTANT 90 DAYS IN THE LONG LIFE OF THAT CLAIM!!!

31

Quick Hit #8

- **KNOW** your EMR computation date (6 months before renewal date).
- Set the first day of the month before your computation date as a **CRITICAL** date.
- Get the WC reserves down as much as possible.
- Brokers should be involved in calculations and documenting to assure correct data.

32

Claims Reviews

- Not just a reason to go to lunch afterwards.
- Do not focus on those claims you think are problems but look at big picture. (Cooperate—don't disintegrate the contractor/adjuster relationship.)
- Your broker should be there, and it is okay if they act as intermediary (to a point).
- Broker should document result to the underwriter.

33

Quick Hit # 9

- The claims adjusters prepare summaries to be given at the claims review.

ASK FOR, GET AND REVIEW THESE A WEEK BEFORE THE REVIEW MEETING.

(As you have hopefully been reading the notes, you really should not be surprised by the “summary,” should you?)

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Settlements

- Set up a time frame and amount graph, after your 90-day reserving. This graph is your “guts” on what you will pay at certain time events.
- Remember, the claim is alive and can change as things are discovered. Thus, evaluate regularly.

35

Quick Hit #10

- **MERRY CHRISTMAS!!**

On all claims, consider settling, with promise of prompt payment, around the second week of December. It is amazing how many people will settle before Christmas. Be ready to make immediate payment and you can often get a “cash discount.”

36

Worker's Compensation Claims

- *“The coverage we have the most control over, and has the most control over us.”*

37

Work Comp Techniques or Lots of Quick Hits

- “Double Dippers” check your unemployment claimants against your work comp TTD recipients. In many states, this is a crime. At the least it’s a fraud allegation. (Remember to get unemployment you have to be “ready to work” so get the application for UC.)

38

More WC Quick Hits

- “If before 8, investigate”: if the accident happens early in the day, particularly a back injury, a strain or sprain, investigate. Is the worker a “weekend warrior,” an athlete?
- Check the medical benefits paid by the union plan. You will need employees signed permission to get.
- IMEs: use them. I believe in using them early to “set the standard.”

39

More WC Quick Hits

- Go to the WC hearing. It makes an impression on the hearing officer.
- Surveillance: use it when YOU and not the adjuster deem it appropriate. Find your own investigator, not the adjuster’s best friend.
- Seriously consider having a WC administrator. Train this person—not just make them push the paper. Can be the best investment you will ever make.

40

More Work Comp Quick Hits

- THERAPY

Why twice a week for 3 weeks and not three times a week for 2 weeks? (Savings of 1 week TTD.)

Tell adjusters and medical providers that ALL referrals for therapy will be questioned. NO referrals for therapy to the clinic the medical provider owns.

Provide tools and equipment to therapy provider.

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More WC Quick Hits

- MEDICAL ADVISER: Your claims adjuster will have a nurse case manager in tougher cases. Thus, select one that YOU know and have them learn all about your operations.

This person can be the medical interpreter for you and the employee's family. Should be bi-lingual.

Have them work on "Light Duty Video" that they can use to explain available work to providers.

42

The Last of Work Comp Quick Hits

- Go to local hospital. Make a deal to pay them promptly in return for lower costs and prompt treatment.
- Recalcitrant claimant: for that special employee that just cannot do light duty. Have him/her greet employees who come to the site each morning and say good night when they leave. In between, he can do light cleanup, etc. He will be off light duty or be a claimant very shortly.
- Have employees pick up their TTD checks at your office.

43

BUT a BIG WC Quick Hit before We Leave WC

- IMMUNITY: is there erosion of immunity for the employer?
In Florida, this seems to be happening. AND in more and more states there are attacks on WC immunity.
Thus, you may wish to have injured employee sign an acknowledgment that he/she is accepting WC as their sole recourse as to you.

44

Quick Hit # 11

- Read all the provisions of all the documents! YOU know your business and how it works better than anyone. For example: *Cerestar v. Safway*:

The contract required the contractor to acquire insurance for its “acts or omissions necessary to protect the Owner.”

Counsel for the contractor was close to admitting this meant provide additional insured coverage.

The court agreed with risk manager’s view that this just meant that the contractor had to get insurance.

COROLLARY: “BE NOT AFRAID”

45

Should You Pay Small Claims?

First of all, the rule is: Claims are living things.

Can YOU GUARANTEE that the claim will stay small?

If you decide to engage in this practice, make sure you can do “notice only” reporting.

46

SUBROGATION

- Investigate and deal with EVERY claim for the possibility of subrogation.
- Note the differences in statutes of limitations as the cause of action might be different.
- BE CAREFUL of the difference in statutes for work comp and for tort liability. Your injured employee may not file for benefits in a time frame that allows subrogation.
- ALWAYS make sure medical liens are filed on WC cases.

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Quick Hit #12

- Read all the “other” policies that are involved in a claim.
- Many times we only act and react based on our policy.
- Another policy may also be applicable (such as another contractor).
- *American Country v. McHugh*. The other defendant, the scaffold erector, read the American Country policy language, figured out what would happen (get nailed) so settled early for nuisance value.

48

CHANGES, CHANGES, CHANGES

- Court cases have changed things.
- Endorsements have changed things.
- Certain elements of coverage have changed or been eliminated.
- Where does this leave us:

WE CAN NO LONGER ELIMINATE RISK,
BUT CAN ONLY MANAGE IT.

49

Those Endorsements Change More than Coverage!

- There are more than changes to coverage for negligence on additional insured endorsements.
- Many insurers are adding other “stuff.”
- This affects the “named insured” AND the “additional insured.”
- You have to READ the ENDORSEMENTS.
“Just accept it: you must read them, know them.”

50

Effect of these Changes on Claims

NOTICE

Livorsi Case: Insurers used to have to show prejudice to deny a claim based on inadequate notice. Now, prejudice is just a factor and they have to show the reasonableness of denial based on late notice.

51

Notice Continued

- There has always been language that the named insured has to give notice.
- There is also language that the additional insured had to cooperate and give notice.
- Many additional insured endorsements now have language with strong specifics as to “notice” from the additional insured.

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Notice Continued

- In light of *Livorsi* and “trends,” GIVE NOTICE as SOON as YOU CAN.
- Why not? Does it hurt you?
- Examples: If you are add'l insured and the named insured's employee gets injured, you will probably get sued in a third-party-over action. Should you give notice to the named insured's insurer? (Why not?)

53

Occurrence

- Every day there is a new definition of occurrence.
- Economic Loss Doctrine: WHAT IS HAPPENING? *American Girl, T-3, Glendenning*, CRIPES!! The BLOB!!
- The extensions of coverage may continue.
- The only real suggestion is “when in doubt, claim it.”

54

Is There Enough Money?

- Per project aggregates are disappearing.
- There are limited per project aggregates.
- Do YOU have enough?
- What about the entity that named you an additional insured? Do they have enough?
- Should you get “loss reports” from those who name you additional insured?
- What about the “design partner” on design build projects?

55

This Leads to Umbrellas

- Umbrella policies are not what they used to be. “Cheap is not the way to go.”
- Since per project aggregates are gone, so is the umbrella coverage on top.
- Umbrellas are now in play.
- **DON'T FORGET NOTICE TO THE UMBRELLA INSURERS!!!!!!!!!!!!!!!!!!!!**

56

Those “New” Endorsements

- With changes on coverage for additional insured’s negligence there are some claims handling problems:
- Who will tender? To whom? When? What should tender say?
- Each case, each coverage provision and each jurisdiction will determine.

57

How Will this Work?

Sub’s employee gets injured and files suit against GC, who was named additional insured by sub.

- Assume the traditional third-party-action over:
OLD: defense and coverage.
NEW: GC will have to establish that its liability to the subcontractor’s employee arises out of subcontractor’s “acts or omissions.”

58

Realities?

- Yet, in the complaint against the GC there will be no allegations against sub/employer (immunity)
- Various interpretations:
 - Strict: some states only look at 4 corners of pleadings (Texas). Thus no defense nor coverage.
 - Intermediate: (Illinois) strict unless insurer is made aware of “possible trigger” (thus, addl. insured should provide information).
 - Liberal: (California, Indiana) insurer has duty to determine if there is “potential of coverage.”

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Tenders

- Because of all of these changes, tendering defense becomes important.
- Also, to whom you tender becomes important.
- Tender to all: contractor, broker, insurer, umbrella insurer and, why not, the contractor’s registered agent.
- SIR/Deductible: there is a difference on tendering and even making a claim?

60

Those “New” Endorsements

- More than changes as to coverage for the negligence of the add'l insured.
- Probably language on notice.
- Changes in primary and noncontributory are becoming common. For example: primary except when another contractor also has shown the entity as an add'l insured.
- Courts are starting to interpret all this.

61

CLAIMS

- They are ALIVE.
- They are YOURS.
- They are manageable.
- They are important.
- They are key to your risk management.
- “As you cannot Eliminate Risk, Manage it.”

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IRMI 2006 Exhibit 1
Practical & Effective Claims Mgt. Techniques
ACCIDENT/INCIDENT REPORT

*****IMPORTANT***** All blanks must be complete – use n/a if not applicable.

Employee Name:		Date of Incident:	
Employer (if not “Company”):			
Time of Occurrence: <input type="checkbox"/> AM <input type="checkbox"/> PM		Occupation:	
Division/Subsidiary	Hire Date:	Time on Present Job:	
Jobsite Name:		Jobsite Address:	
Description How Injury or Property Damage Occurred:			
Police Report? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, Police report #?		Were photos taken? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, send photos.	
Company Vehicle Involved? <input type="checkbox"/> No <input type="checkbox"/> Yes	Vehicle #	Make & Year	
Describe type of Injury/Property Damage:			
Witness		Employer	
What task was person performing?			
What Equipment was involved?			
Do we have items in our possession? <input type="checkbox"/> No <input type="checkbox"/> Yes		Who was “Company” Foreman/Supervisor?	

If Incident took place at a jobsite, send copy of contract(s), P.O.’s, etc., within 24 hours. Send names, phone numbers of anyone else (client, owner, etc.) who made a report or did an investigation.

Has (First Receiver) been Notified? No Yes → *If Yes: Date & Time?*

Medical Treatment?
 No Yes

Light Duty?
 No Yes

Lost Time?
 No Yes

Investigating Supervisor:	Date:
Manager:	Date:

** Please e-mail report to Risk Dept. c/o “Company Email” andl Safety Manager.

IRMI 2006
Exhibit 2
Practical & Effective Risk Mgt. Techniques

Claims Administration
Specifications

Prepared by Construction Risk Associates, Inc.

The following list of General Service Expectations should be reviewed and commented in written form. Most of this list pertains to all lines of coverage. In addition, the following pages list additional items particular to each coverage.

General

Specifications/General Service Expectations

1. Quarterly claim reviews in person or by phone, to include Account Manager.
2. Status reports for Claims Reviews should be received two working days before review.
3. All penalties to be paid by TPA directly and not by (CRA CLIENT) or insurers, or from escrow.
4. (CRA CLIENT) will select all counsel.
5. Initial Reserve authority is set at \$5000, including increments.
6. Settlement authority is set at \$1000.
7. No payments should be made over \$5000 without authority.
8. Escrow – A.) (CRA CLIENT) will keep funded. B.) No minimum - _____ will be standard for Workers Compensation - _____ Standard for Auto.
9. Please provide client references with names and phone numbers.
10. No written or oral communication with insure without prior notice to (CRA CLIENT) and Broker.
11. Immediate notification is required to (CRA CLIENT) and Broker of any communication, oral or written, from an insurer.
12. All written correspondence from or to any party is to be copied to (CRA CLIENT). This includes medical reports, letter to and from any claimant, counsel or any other person or entity, investigators, state agencies, etc.
13. (CRA CLIENT) to be notified of any adjuster's absence of four or more days.
14. Medical Index Reports on all claimants to be made within 48 hours of claim notification, 3 month follow up on WC claimants, 6 month follow up on all non-WC claimants. Reports are to be put in notes, with copies to (CRA CLIENT).
15. No assignment of surveillance/subrosa will be made without (CRA CLIENT) permission.
16. No referrals to any counsel on any matters without (CRA CLIENT) permission.
17. No contact with other (CRA CLIENT) personnel without (CRA CLIENT) permission. This does not include injured employees.
18. TPA to notify (CRA CLIENT) of contact from any (CRA CLIENT) Personnel.

Prepared by Construction Risk Associates, Inc.

Practical & Effective Risk Mgt. Techniques -- Exhibit 2 (cont.)

19. Only (CRA CLIENT) personnel have authority on any claim in any matter. No other CRA personnel will have authority on any claim.
20. Reserves on every case to be evaluated at least every 60 days.
21. TPA shall prepare and file 1099's.
22. TPA to provide (CRA CLIENT) coding procedures and information.
23. (CRA CLIENT) to approve all additional expenses such as surveillance, hearing attendance, and experts.
24. (CRA CLIENT) to be notified as soon as possible on any adjuster changes.
25. (CRA CLIENT) shall not pay overnight charges unless approved by (CRA CLIENT).
26. Adjusters should be educated on and have an understanding of the (CRA CLIENT) program and that they are spending (CRA CLIENT) funds when managing claims.
27. All claims should be confirmed in writing via an acknowledgment that will include the claim number and the name of the assigned adjuster.
28. Liability claims have a threshold settlement value of _____. Any settlement and/or reserve amount must involve (CRA CLIENT).
29. (CRA CLIENT) will be consulted on all cases and investigation involving subrogation and/or about the potential for subrogation.
30. The adjuster will handle all claims until conclusion.
31. The Administrator will provide each (CRA CLIENT) facility/major site with a PPO/medical care provider listing appropriate to that Geographic area.
32. (CRA CLIENT) will be notified of any claims handled by a company other than the Administrator.
33. (CRA CLIENT) should be notified immediately of any planned or instituted claims office consolidations or reorganizations.
34. The Account Manager will initiate and schedule quarterly claims reviews for all TPA branches. More informal frequent telephonic claims reviews will be accommodated. The Account Manager must be available for these.
35. Explain assignment of adjusters by jurisdiction.

The following shall be paid as allocated loss expense except where specifically precluded by the Labor Code or State Regulations:

1. Medical-Legal examinations of claimants, including transportation
2. Reports from attending or examining physicians on disputed medical claims
3. Attorneys' fees and disbursements
4. Court Reporter Services and Transcripts
5. Witness Fees
6. Court Costs
7. Appeal Bonds
8. Printing Costs related to Trials & Appeals
9. Testimony, opinions, appraisals, reports, surveys & analyses of Professionals and Experts
10. Trial and Hearing Attendance Fees
11. Reports from Government Agencies or Branches
12. Credit Bureau Reports
13. Private Investigators
14. Photographs

Practical & Effective Risk Mgt. Techniques -- Exhibit 2 (cont.)

15. Medical Cost Containment Services, including Utilization Review, Pre-Admission authorization, hospital bills, audits, provider bill audit and medical case management.
16. Extraordinary claim investigation and/or travel expense incurred at the request of the insurer. (CRA CLIENT) to have approval over any travel on (CRA CLIENT) claims.
17. Any similar service related to the investigation and defense of a particular claim.

General Information Required/Questions

1. Account Manager -
 - a) Define scope, role, and authority.
 - b) Can you give (CRA CLIENT) three candidates?
2. Is Escrow information in data system (deposits, balances, etc.)?
3. Please provide states, locations, and offices.
4. Ownership – Any interests in TPA by insurers, brokers, etc.?
5. Please provide all insurers with which you have contracts.
6. Please provide TPA copy of Best Practices Guide on all lines.
7. Will receive findings or action plans of any audits or quality contract procedures?
8. Explain TPA policies and procedures on any Bureau filings.
9. Explain “Notice Only” and “Report Only” policies or procedures.
10. Explain TPA’s recommended counsel criteria.

Specifications

Workers' Compensation

Specifications/General Expectations

1. (CRA CLIENT) will pay attorneys directly.
2. (CRA CLIENT) may pay major settlements directly.
3. No denial of a claim should be made without (CRA CLIENT) approval.
4. Contact must be made with an employee within 24 hours.
5. Supervisor should review all indemnity cases every 45 days with comments and suggestions in notes of MIS system.
6. Average weekly wage will come from (CRA CLIENT).

General Information Required/Questions

1. Who files state first reports?
2. How is claim initially handled (after 800# report)? Who gets, who determines if Med only or Indemnity? What are the standards?
3. Initial reserves – who determines method of determination? What is the time frame?
4. What is the time period between first report and adjuster action?
5. Is Texas precertification per claim included in claim cost?
6. Is Texas mandatory attorney representatives included in claim costs?
7. Reserving practices – Describe process, and time frames.
8. Are you licensed in every state?
9. Can monopolistic states be included in data?
10. Define Claim reported, date reported: date of 800# report or date of entry into system.
11. Please explain TPA initial Work Comp investigative best practices.
12. Please explain procedures and time periods for closing medical only claims.
13. Please explain review procedures for subrogation although (CRA CLIENT) will make all subrogation decisions.
14. Explain how TPA will research and follow up on Second Injury Funds, New York Statutes on Grave Injury Funds, or similar statutes?
15. Will TPA complete Florida wage statements?
16. Please explain how reserve changes are documented.
17. Please explain TPA procedures on compensability.
18. Will check stock be (CRA CLIENT) or TPA?
19. Please explain definition of a Med Only and Indemnity claims.
20. Please state and address Turnover Ratio.
21. Please state and address Caseload.

Specifications

Auto

Specifications/General Service Expectations

1. One adjuster who will actually handle the claims. (Please provide resume.)
2. Files to be under claimant name and (CRA CLIENT) employee's name.

General Information Required/Questions

1. How are Notice Only claims handled?
2. How are Report Only claims handled?
3. Are independent adjusters used?
4. If there is an occurrence with two vehicles, Property Damage only, is this one claim?
5. How are Multiple Claims/Occupants handled for one occurrence?

Specifications

General Liability

Specifications/General Service Expectations

1. (CRA CLIENT) requests alternate pricing for General Liability adjusting on an hourly rate in lieu of per claim charges for all Liability Claims.
2. Processing person for bills and copies of correspondence should be at separate rate?
3. GL adjuster is to be a resource and to provide reserves. No contact is to be made with the claimant, counsel or any other person without (CRA CLIENT) approval.
4. (CRA CLIENT) and TPA to draft form letter for counsel to be sent on litigated matters.
5. (CRA CLIENT) will pay all bills, settlements and expenses directly, with copies to the TPA.
6. GL TPA will have access and TPA control of WC subrogation files once subrogation claim is made.

General Information Required/Questions

1. What is the Construction Expertise of the adjuster?
2. What is the adjuster's existing caseload?

Specifications

Telephonic Claim Reporting

Specifications/General Service Expectations

1. Three point contact (adjuster, (CRA CLIENT), local facility).
2. (CRA CLIENT) requires immediate phone contact on fatalities, ambulance is called, or 3 persons or more involved.
3. Time reports on call (length of call) will need to be provided.
4. Phone answering tailored to (CRA CLIENT).
5. Please provide sample scripts with proposal.
6. No Separate charge for “after hour” reporting.
7. (CRA CLIENT) script to be incorporated into other 800 reporting scripts.

General Information Required/Questions

1. Is service In House or contracted (if so to whom)?
2. How are 800 reports received by (CRA CLIENT) (e-mail or fax)?
3. Please explain staff levels and turnover.
4. If a car accident involves injury to employees, how is it treated and who gets reports?
5. 24/7/365?
6. Does the 800-system file first report to the State?
7. What is the maximum time period from call to making of three-point contact?
8. Are calls taped and if so, when are they purged?
9. Is it possible to utilize (CRA CLIENT’S) existing 800 number?
10. What is the average hold time?

Medical Management

Specifications/General Expectations

1. PPO/MBR – not included in claim cost, (CRA CLIENT) requires separate billing.
2. Provide 30% minimum savings.
3. If TPA provides Telephone Case Management, it shall only be provided with (CRA CLIENT) approval.

General Information Required/Questions

1. Is Medical Management provided?
2. Are they independent of TPA?
3. Provide qualifications.
4. Is Telephonic Case Management provided?
5. Do adjusters use on staff RN's, LPN's etc.? At no cost to client? Are nurse notes included in data?
6. Is use of TPA's med management unit required or can this be unbundled?
7. Describe PPO networks – geography, savings, etc.
8. MBR – Price per item?
9. What is the time factor when a bill is submitted to bill review before bill is paid?
10. Minimum savings? On per item or in total? Applied monthly, quarterly or annually?
11. Are MBR's done on PPO Vendors?
12. Is MBR facility In House or is it an outside entity?

Claims Management System

(CRA CLIENT) monitors and is actively involved in the management of claims.

The claims system is critical to this.

In addition to the claims and data occurring forward, (CRA CLIENT) may be transferring open claims from prior years along with closed data.

Please provide a conversion plan, along with a timeline, and associated costs for this.

General Expectations

1. Account Manager must have access to the same data system as (CRA CLIENT).
2. All items should be printable.
3. Time gap between call to 800 number and entry into the system to be no more than 24 hours.
4. All checks including checks written by (CRA CLIENT) are to indicate payee names.
5. Adjuster to have same system, or at minimum, have access and understand how data affects (CRA CLIENT) and what is required.
6. Adjusters must enter data, notes, and claim developments.

General Information Required/Questions

1. Real time or day delay?
2. Are all notes entered and from all parties and with note writer's name?
3. Are there user fields? If yes, describe.
4. Web based? (Can (CRA CLIENT) access remotely such as home, traveling?)
5. Last year, how many hours was system down?
6. When is data downloaded? (If not real time)
7. End of month shut downs?
8. 24/7/365?
9. Hook up charge? Amount per computer? One time annual?
10. Help Line? Average response time? 24/7/365?
11. Explain how training will be handled. Manual? Shadowed or in person?
12. Number of computer accesses?
13. Unlimited access (time restrictions)?
14. Can (CRA CLIENT) enter responses, questions, etc.?
15. Can (CRA CLIENT) enter User Data Fields? Explain in depth.
16. Drive down or lateral system?
17. Explain if TPA IS is compatible with any "off the street" claims administrative software.
18. Reports – A.) Explain all available reports. B.) Explain customization capabilities.
19. Explain in detail how data from prior TPA will be handled, length of time and how data will be reflected.

Practical & Effective Risk Mgt. Techniques -- Exhibit 2 (cont.)

20. Can Monopolistic State Claims be included in data?
21. Is the system In House or a Third Party System?

Cost Analysis

Please list all charges and fee structure by Line of Coverage and State, along with your list of unallocated fees and allocated. Also included all Miscellaneous Charges and Services. We will assume if not quoted separate, that this will be included in the per claim charges.

Please also separate charges for open takeover claims including any consideration for nearly closed or low maintenance claims.

Quotes should be based on life of contract, and should include a three-year commitment.

Also include costs associated with the MIS system, including Data Conversion, tapes, access, Specialized Report Costs, and installation and training.

Include costs to reopen a prior closed claim by prior TPA's.

Include all charges associated with Telephone Claim reporting.

Notes

This file is set up for duplexed printing. Therefore, there are pages that are intentionally left blank. If you print this file, we suggest that you set your printer to duplex.

Thanks to
Patrick Duggan
Insurance/Risk Management
Siemens Building
Technologies, Inc
For the following information
on calculating a
Business Loss Claim

Notes

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Calculating a Business Interruption Claim



Calculating a Business Interruption Claim

- Step 1 – Determine the Loss Period
- Step 2 – Calculate the Loss
Production

Projection – (actual + make-up production) =
Loss

2

Calculating a Business Interruption Claim (cont.)

- Step 3 – Calculate the Business Income Value
 - Sale value of production lost – minus the variable expense incurred to produce the unit.

Before you start, you need to determine the following:

- Sales value of each lost unit of production;
- Total cost per unit;
- Variable and fixed expense per unit;

Example: variable expense = 75%
 Sales Price = \$200
 75% of \$200 = \$150
 \$200 - \$150 = \$50 (Business Income)

3

Calculating a Business Interruption Claim (cont.)

- Step 4 – Calculate the expenses to reduce loss of income (post-loss mitigation expenses):
 - OT for repairs & make-up for lost production;
 - Air freight for expedited repairs;
 - Purchases of substituted product;

4

Calculating a Business Interruption Claim (cont.)

■ Step 5 – Determine the Actual Loss Sustained

- Sales / Sale values of production lost
- COGS / COSS
- Discounting Expenses
- Expenses that reduce the business income loss
- = Actual Loss Sustained

5

Calculating a Business Interruption Claim (cont.)

- ### ■ Step 6 – Segregate Extra Expense from both the property damage and Business Interruption Claim
- The goal is eliminate duplication;
 - Identify missing submissions;
- ### ■ Step 7 – Submit your information and start negotiating!

6

Notes

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