

# Recovering money on your behalf

By Harlan Stientjes

Each year a substantial amount of money is spent repairing damage to member-owned properties and vehicles where fault rests with another party. Last year, WCIA recovered \$1,347,143.31 from at fault parties on members' behalf and returned deductibles and out-of-pocket costs to the membership on those files. When signing on to participate in our risk pool, members grant WCIA the ability to pursue those responsible parties for the costs incurred because of an accident through the subrogation clause of the WCIA Property Joint Protection Program:

## *E. SUBROGATION*

*WCIA shall be subrogated to all legal rights to seek and recover damages for injury, theft, loss or destruction of member owned property which the member may have against any person or other entity with respect to any payment made by WCIA under this Property Joint Protection Program. The member shall execute all papers required by WCIA and shall cooperate with WCIA to secure and protect WCIA's rights. WCIA shall have the exclusive right to select, retain, and pay attorneys as necessary to pursue legal remedies for recovery of its subrogation interests. In case any reimbursement is obtained, or recovery is made by the member or WCIA on account of any loss covered by this Property Joint Protection Program, the distribution of such reimbursement or recovery shall be first applied in the following order:*

- 1. Payment of legal costs and attorney fees incurred by WCIA in making the recovery.*
- 2. Second, to recover the member's loss because of application of their deductible.*
- 3. Third, to recover WCIA's payments until WCIA is fully reimbursed.*

A covered claim that WCIA has made a payment on is a precursor to engage subrogation. WCIA must have "standing," or a financial interest of our own in the recovery of funds. Once WCIA has made a payment, we will pursue subrogation on the member's behalf. In attempting to recover funds, WCIA will attempt to recover both our costs and the member's, whether the member's out-of-pocket costs were covered or not. When there is a potential responsible party, members should make the claim adjuster aware of any costs they had associated with the accident and the adjuster will pursue recovery. WCIA takes seriously efforts to recover public money spent repairing damage caused by third parties.

To that end, WCIA has multiple avenues to attempt recovery. We will send restitution requests to prosecutors when the responsible party has been charged with a crime. WCIA has substantial experience pursuing and negotiating with other insurance companies when the

responsible party is insured. We partner with a collections agency for those times they are not. WCIA engages with the Department of Licensing's financial responsibility law and last year we filed lawsuits against four people whose insurance company, in our eyes, wrongfully denied the claims we presented. WCIA recovered money in all four cases.

If you have a claim where another party is at fault, you can help the claim adjuster be successful in recovering funds by: 1) forwarding police reports that identify the responsible party, 2) teaching staff members who respond to incidents to document well and take photos, and 3) promptly forwarding any restitution requests that are received from prosecutors.