

Member responsibilities in loss reporting

By Harlan Stientjes

A new year has begun, new reinsurance policies are in place, and we are off to the races with over 200 claims reported in January. This renewal brings a great opportunity to remind members of their claim reporting requirements and to provide a caution on the hazard of late reporting.

The liability coverage the risk pool provides is based on a contract between WCIA and its members. Our contract with you is backed up by additional contracts with reinsurers. WCIA's liability coverage is occurrence based. This means that coverage is based on the year the event happened. If you were in an auto accident in 2022 and are sued in 2025, we look at the coverage agreement from 2022 to determine what coverage is available to you. Occurrence based coverage allows you the peace of mind that as long as you purchased coverage for a certain time period - it should still be there, no matter when the claim is brought.

The statute of limitations in Washington is generally three years from the date of the incident occurring, so a long time can transpire between when the event happens and when it is litigated. WCIA has to make sure that we have enough money set aside to pay for claims costs when they come due. Since our coverage is occurrence based and the statute of limitations is long - substantial time can pass before that payment comes due. WCIA's current oldest open liability claim happened in 1996 - 28 years ago!

For these reasons, WCIA requires that members report claims and certain incidents to us in a timely manner. Likewise, our reinsurers have certain types of claims that we must report to them in a timely fashion (whether or not we feel the claim is valid or will actually impact them).

WCIA's Coverage Agreement with the membership requires:

A. NOTICE OF OCCURRENCE

Whenever the authorized representatives of the member have information from which the member may reasonably conclude that an occurrence covered hereunder involves injuries or damages which, in the event that the member should be held liable, is likely to involve this coverage, notice shall be sent to the Authority as soon as practicable. However, immediate written notice shall be given to the Authority when any injury of the following type occurs:

1. a fatality or death of a person in police custody,
2. amputation of a major extremity, including any loss of eye(s) or limb(s),
3. any serious head injury (including skull fracture or loss of sight of either or both eyes) or brain injury,
4. any injury to the spinal cord, including any paralysis, paraplegia, quadriplegia,
5. any disability of more than one (1) year or where it appears reasonably likely that there will be disability of more than one (1) year,
6. any burn 25% or more of the body,
7. heart or vascular disorders,
8. accidents where multiple injuries are involved,
9. acts of employment discrimination and/or harassment involving any employee protected class as defined by any state, federal, or local laws including, but not limited to; race, age, gender, religion, disability or prohibited retaliation,
10. any allegations of sexual abuse or molestation.

Such notice shall contain particulars sufficient to identify the member and also reasonably obtainable information respecting the time, place and circumstances of the injury, the names and addresses of the injured and of available witnesses. If suit or other proceeding is brought against the member, the member shall immediately forward to the Authority every demand, notice, summons, or other process or true copies thereof received by the member or the member's representatives, together with copies of reports of investigations made by the member with respect to such claim, suit or proceeding.

WCIA's Claim Manual and the Liability Joint Protection Plan agreement provide additional requirements on claims that must be reported to WCIA in a timely manner. The Claim Manager will work with membership to determine whether a claim file should be opened and actively worked, but all incidents fitting the criteria should be reported to WCIA as promptly as possible. Often after reviewing the brief facts or incident report, WCIA will decide to leave a file as an incident only. "Incident only" status acknowledges to you that you have met our reporting criteria, but we do not open a claim file.

Those of us that have worked in this industry for a longer period can give multiple horror stories of carriers denying coverage based on policy conditions. One circumstance in WCIA's past occurred during a theft from a police department's evidence room. The member finished their investigation before reporting the claim to WCIA, which took quite some time. Unfortunately, by the time they reported the loss to us the commercial crime policy's claims made reporting timeline had passed and the member was denied coverage by the carrier.

If you have any questions or are unsure if a claim should be reported to WCIA, do not hesitate to reach out to WCIA claims staff. When in doubt, report the claim. It is always better to be safe!