

COMPLIANCE AUDIT REPORT

STATE OF MAINE
WORKERS' COMPENSATION BOARD



Allianz Insurance Group
Engagement Date: December 4, 2015
Issue Date: April 29, 2016

Office of Monitoring, Audit & Enforcement

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SUMMARY

Allianz Insurance Group (Allianz) provides a wide variety of business insurance products including workers' compensation.

The Audit Division of the Maine Workers' Compensation Board (Board) examined all three (3) claim files where indemnity benefits were paid for the period under examination (1/1/13 through 11/30/15) as well as sixty (60) medical payments for the period under examination (1/1/13 through 11/30/15) to determine compliance with statutory and regulatory requirements in the following areas:

- Form filing
- Timeliness of benefit payments
- Accuracy of benefit payments

The claim sample was drawn from a listing of all of Allianz's 1/1/13 through 11/30/15 Maine workers' compensation claims. The medical payment sample was drawn from a listing of all of Allianz's 2013-2015 medical payments for those claims in the sample.

Allianz handles its Maine workers' compensation claims solely in Alpharetta, Georgia. Allianz also utilizes the services of Nelson Larkins, Esq. as its claims agent within the State, although none of the claims under review were adjusted by Attorney Larkins.

The audit work was conducted as a desk audit.

The compliance tables found on pages 12 through 16 of this report are representative of Board findings as of December 4, 2015. Since that time, the Audit Division has received additional information, missing form filings, form corrections, indemnity payments and adjustments.

Following is a discussion of the aforementioned compliance tables and of the steps taken since December 4, 2015 to rectify identified noncompliance issues. This discussion also includes other significant issues identified by the audit.

◆ **Form filing**

- Title 39-A M.R.S.A. and the Board Rules and Regulations provide the requirements for reports to the Board:

| | |
|---|--|
| <i>WCB-1, First Report of Occupational Injury or Disease</i> | <i>39-A M.R.S.A. Section 303, Rules & Regs, Ch 8 Section 13, Rules & Regs, Ch 3 Section 4</i> |
| <i>WCB-2, Wage Statement</i> | <i>39-A M.R.S.A. Section 303</i> |
| <i>WCB-2A, Schedule of Dependents and Filing Status</i> | <i>39-A M.R.S.A. Section 303</i> |
| <i>WCB-3, Memorandum of Payment (MOP)</i> | <i>Rules & Regs, Ch 1 Section 1.1, Rules & Regs, Ch 1 Section 1.3, 39-A M.R.S.A. Section 205(7), Rules & Regs, Ch 8 Section 12</i> |
| <i>WCB-4, Discontinuance or Modification of Compensation</i> | <i>Rules & Regs, Ch 8 Section 11, Rules & Regs, Ch 8 Section 12</i> |
| <i>WCB-4A, Consent Between Employer and Employee</i> | <i>Rules & Regs, Ch 8 Section 18</i> |
| <i>WCB-8, (21 Day) Certificate of Discontinuance or Reduction of Compensation</i> | <i>39-A M.R.S.A. Section 205(9)</i> |
| <i>WCB-9, Notice of Controversy (NOC)</i> | <i>Rules & Regs, Ch 1 Section 1.1, Rules & Regs, Ch 3 Section 4</i> |
| <i>WCB-11, Statement of Compensation Paid</i> | <i>Rules & Regs, Ch 8 Section 1, Rules & Regs, Ch 8 Section 12</i> |

- Failure to file any Board form within established time frames is a violation of Title 39-A M.R.S.A. Section 360(1) (A) or (B).
- First Report of Occupational Injury or Disease (WCB-1):
 - Two (2) First Report of Occupational Injury or Disease forms were filed in accordance with the above requirements.
 - Alliance’s compliance rate for First Report of Occupational Injury or Disease filings is 67%, which is below the Board’s performance benchmark of 85%.
 - One (1) First Report of Occupational Injury or Disease form was filed late.
- Wage Statement (WCB-2) and Fringe Benefits Worksheet (WCB-2B):
 - Zero (0) Wage Statements and zero (0) Fringe Benefits Worksheets were filed in accordance with the above requirements.
 - Three (3) Wage Statements and two (2) Fringe Benefits worksheets were filed late.
 - One (1) Fringe Benefits Worksheet was required, but not filed.
 - Since December 4, 2015, Alliance submitted that one (1) Fringe Benefits Worksheet.

- Memorandum of Payment (WCB-3 or WCB-4A):
 - Two (2) Memorandum of Payment forms were filed in accordance with the above requirements.
 - Alliance's compliance rate for Memorandum of Payment filings is 50%, which is below the Board's performance benchmark of 85%.
 - Two (2) Memorandum of Payment forms were filed late.
- Discontinuance or Modification of Compensation (WCB-4 or WCB-4A):
 - Zero (0) Discontinuance or Modification of Compensation forms were filed in accordance with the above requirements.
 - Two (2) Discontinuance or Modification of Compensation forms were filed late.
 - Eight (8) Discontinuance or Modification of Compensation forms were required, but not filed.
 - Since December 4, 2015, Alliance submitted those eight (8) Discontinuance or Modification of Compensation forms.
- Statement of Compensation Paid (WCB-11):
 - Zero (0) Statement of Compensation Paid forms were filed in accordance with the above requirements.
 - One (1) Statement of Compensation Paid form was filed late.
 - Two (2) Statement of Compensation Paid forms were required, but not filed.

◆ **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:
 - Two (2) initial indemnity payments were made timely.
 - Alliance's compliance rate for initial indemnity payments is 50%, which is below the Board's performance benchmark of 87%.
 - Two (2) initial indemnity payments were made late.
 - Two (2) late initial indemnity payments were made later than 30 days after they became due and payable, in violation of Section 205(2) and subject to penalty under Section 205(3).
- Subsequent Indemnity Payments:
 - One (1) subsequent indemnity payment was made timely.
 - Eleven (11) subsequent indemnity payments were made late.
- 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-seven (57) medical payments were made timely.
 - Three (3) 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 three (3) claims.
- Average Weekly Wage:
 - Zero (0) AWWs were correct.
 - Three (3) AWWs were incorrect.
- Weekly Compensation Rate:
 - Zero (0) WCRs were correct.
 - Three (3) WCRs were incorrect.
- Amount Paid:
 - Zero (0) claims were compensated correctly.
 - Three (3) claims were underpaid (\$3,178.30 aggregately).
 - Since December 4, 2015, Alliance paid the amounts due.

◆ **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 two (2) claims.
- Amount Paid:
 - Medical payments sampled for one (1) claim were correct.
 - Medical payments sampled for one (1) claim were incorrect.

◆ **Other significant issues**

- Every insurance company insuring employers under this Act shall fill out any blanks and answer all questions submitted that may relate to policies, premiums, amount of compensation paid and such other information as the Board or the Superintendent of Insurance may determine important, either for the proper administration of this Act or for statistical purposes. See Title 39-A M.R.S.A. Section 357.
- The auditor noted that Box 18 and/or Box 19 of the WCB-2, Wage Statement were not filled out on two (2) claims.
- Box 2b (Was Employee Paid for ½ Day or More on Day of Injury?) must accurately reflect whether the employee was paid for ½ day or more on the day of injury. Board Rules and Regulations Chapter 8, Section 3 states, “When an employee is paid 1/2 day or more wages on the date of injury, the date of injury will not be considered a day of incapacity.”
- Incorrect information was reported in Box 2b of the FROI that was filed for one (1) claim.
- Box 22 (First Day Of Compensability After Waiting Period Is Met) of the WCB-3, Memorandum of Payment (MOP) must accurately reflect the date of the first compensable day that follows the completion of the 7-day waiting period. See the Board’s Forms and Petitions Manual.
- Incorrect dates were reported in Box 22 of the MOPs that were filed for two (2) claims.
- Boxes 23a (Date of Incapacity) and 23b (Date Employer Notified) of the WCB-3, Memorandum of Payment (MOP) must accurately reflect the date of incapacity and date that the employer was notified of the incapacity. Note: the Date of Incapacity reported in Box 23a and the Date Employer Notified in Box 23b must equal the Date of Incapacity (DN56) and Date Employer Notified (DN281) reported in box 43 of the WCB-1, Employer’s First Report of Occupational Injury or Disease (First Report). See the Board’s Forms and Petitions Manual.
- Incorrect dates were reported in Boxes 23a and/or 23b of the MOPs that were filed for three (3) claims.
- Box 24 (Date Check Mailed) of the WCB-3, Memorandum of Payment (MOP) must accurately reflect the date that the initial indemnity payment (for the incapacity addressed by the MOP) is sent to the employee. See the Board’s Forms and Petitions Manual.
- Incorrect dates were reported in Box 24 of the MOPs that were filed for three (3) claims.
- Section 213 provides the requirements for partial incapacity benefits. Partial benefits must be calculated at a rate of 2/3 of the difference between the employee’s pre-injury (after-tax) AWW and their post-injury (after-tax) weekly (based on payroll, i.e. Saturday through Friday) actual wages (not based on M-1). See Board Rules and Regulations Chapter 8, Section 8.
- It appears that post-injury wages were not reviewed to assess a potential obligation to pay partial benefits when two (2) employees returned to work on “modified duty”.

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.”

Delays of initial indemnity payments, subject to penalty under Section 205(3), were found on the following claims:

| CLAIM | PENALTY JUSTIFICATION | PENALTY EXPOSURE |
|---|--|-------------------|
| Dennis Evans vs. Taymil Partners LLC Date of Injury: 11/19/14 Date ER Notified of Incapacity: 11/22/14 Claim # 00514171124 Board # 14027618 | No NOC was filed, and the initial indemnity payment was made 1/10/15, which was 35 days after compensation became due and payable (12/6/14). | \$250.00* |
| Debra Pelletier vs. Metz Culinary Management, Inc. Date of Injury: 5/22/14 Date ER Notified of Incapacity: 5/22/14 Claim # 00514138748 Board # 14010253 | No NOC was filed, and the initial indemnity payment was made 8/13/14, which was 69 days after compensation became due and payable (6/5/14). | \$1,500.00 |
| Total Penalties to Injured Employees for Delays of Initial Indemnity Payments | | \$1,750.00 |

* Paid.

Delays of “other” indemnity payments, subject to penalty under Section 205(3), were found on the following claims:

| CLAIM | PENALTY JUSTIFICATION | PENALTY EXPOSURE |
|--|--|-------------------------|
| Joseph Bailey vs. IDG Holdco, LLC Date of Injury: 5/28/15 Date ER Notified of Incapacity: 5/29/15 Claim # 00515199302 Board # 15010431 | The claimant was totally incapacitated from 5/29/15 through 5/31/15. Payment for that incapacity was made 4/14/16, which was 305 days after compensation became due and payable (6/14/15). The claimant’s benefits were improperly discontinued effective 8/24/15. Payment of accrued benefits was made 4/14/16, which was 220 days after compensation became due and payable (9/7/15). | \$1,500.00 |
| Total Penalties to Injured Employees for Delays of “Other” Indemnity Payments | | \$1,500.00 |

◆ **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 3rd-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), Allianz must take corrective measures to address the following inadequacies:

- Failure to file or timely file forms with the Board
- Chronic incomplete, inaccurate, or inconsistent information on Board filings
- Failure to pay or timely pay benefits
- Failure to pay benefits accurately

Title 39-A M.R.S.A. Section 360(1)(A)

“The Board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete any report or form required by this Act or rules adopted under this Act.”

Violations subject to penalty under Section 360(1)(A) were found on the following claims:

| Employee | Date of Injury | Forms Not Filed | Penalty Exposure |
|-----------------|-----------------------|--|-------------------------|
| | 11/19/14 | WCB-11, Statement of Compensation Paid | \$100.00 |
| | 5/22/14 | WCB-11, Statement of Compensation Paid | \$100.00 |
| TOTAL | | | \$200.00 |

Title 39-A M.R.S.A. Section 360(1)(B)

“The Board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete such a report or form within the time limits specified in this Act or rules adopted under this Act.”

Violations subject to penalty under Section 360(1)(B) were found on the following claims:

| Employee | Date of Injury | Forms Filed Late | Penalty Exposure |
|-----------------|-----------------------|--|-------------------------|
| | 5/28/15 | WCB-2, Wage Statement | \$100.00 |
| | | WCB-2B, Fringe Benefits Worksheet | \$100.00 |
| | | WCB-4, Discontinuance or Modification of Compensation | \$100.00 |
| | 11/19/14 | WCB-1, Employer's First Report of Occupational Injury or Disease | \$100.00* |
| | | WCB-2, Wage Statement | \$100.00 |
| | | WCB-2B, Fringe Benefits Worksheet | \$100.00 |
| | | WCB-3, Memorandum of Payment | \$100.00 |
| | | WCB-4, Discontinuance or Modification of Compensation | \$100.00 |
| | 5/22/14 | WCB-2, Wage Statement | \$100.00 |
| | | WCB-2B, Fringe Benefits Worksheet | \$100.00 |
| | | WCB-3, Memorandum of Payment | \$100.00 |
| | | WCB-4, Discontinuance or Modification of Compensation (2) | \$200.00 |
| | | WCB-11, Statement of Compensation Paid | \$100.00 |
| TOTAL | | | \$1,400.00 |

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), Allianz must take corrective measures to address the following inadequacies:

- Failure to file or timely file forms with the Board
- Chronic incomplete, inaccurate, or inconsistent information on Board filings
- Failure to pay or timely pay benefits
- Failure to pay benefits accurately

COMPLIANCE TABLES

◆ Form Filing

A. First Report of Occupational Injury or Disease (WCB-1)

| | | 1/1/13-11/30/15 | |
|------------------------|------------------|-----------------|---------|
| | | Number | Percent |
| Received at the Board: | | | |
| Filed | Compliant | 2 | 67% |
| Late | | 1 | 33% |
| Total | | 3 | 100% |

B. Wage Statement (WCB-2)

| | | 1/1/13-11/30/15 | |
|------------------------|------------------|-----------------|---------|
| | | Number | Percent |
| Received at the Board: | | | |
| Filed | Compliant | 0 | 0% |
| Late | | 3 | 100% |
| Total | | 3 | 100% |

C. Fringe Benefits Worksheet (WCB-2B)

| | | 1/1/13-11/30/15 | |
|------------------------|------------------|-----------------|---------|
| | | Number | Percent |
| Received at the Board: | | | |
| Filed | Compliant | 0 | 0% |
| Late | | 2 | 67% |
| Not Filed | | 1 | 33% |
| Total | | 3 | 100% |

D. Memorandum of Payment (WCB-3 or WCB-4A)

| | | 1/1/13-11/30/15 | |
|------------------------|------------------|-----------------|---------|
| | | Number | Percent |
| Received at the Board: | | | |
| Filed | Compliant | 2 | 50% |
| Late | | 2 | 50% |
| Total | | 4 | 100% |

E. Discontinuance or Modification of Compensation (WCB-4 or WCB-4A)

| | | 1/1/13-11/30/15 | |
|------------------------|------------------|------------------------|---------|
| | | Number | Percent |
| Received at the Board: | | | |
| Filed | Compliant | 0 | 0% |
| Late | | 2 | 20% |
| Not Filed | | 8 | 80% |
| <hr/> | | | |
| Total | | 10 | 100% |

F. Statement of Compensation Paid (WCB-11)

| | | 1/1/13-11/30/15 | |
|------------------------|------------------|------------------------|---------|
| | | Number | Percent |
| Received at the Board: | | | |
| Filed | Compliant | 0 | 0% |
| Late | | 1 | 33% |
| Not Filed | | 2 | 67% |
| <hr/> | | | |
| Total | | 3 | 100% |

◆ **Timeliness of Benefit Payments**

G. Initial Payment of Indemnity Benefits

| | | | 1/1/13-11/30/15 | |
|----------------------|------|------------------|------------------------|-------------|
| | | | Number | Percent |
| Check Issued Within: | | | | |
| 0-14 | Days | Compliant | 2 | 50% |
| 45+ | Days | | 2 | 50% |
| Total | | | <u>4</u> | <u>100%</u> |

H. Subsequent Payment of Indemnity Benefits

| | | | 1/1/13-11/30/15 | |
|----------------------|------|------------------|------------------------|-------------|
| | | | Number | Percent |
| Check Issued Within: | | | | |
| 0-7 | Days | Compliant | 1 | 8% |
| 8-37 | Days | | 11 | 92% |
| Total | | | <u>12</u> | <u>100%</u> |

I. Medical Payments

| | | | 1/1/13-11/30/15 | |
|----------------------|------|------------------|------------------------|-------------|
| | | | Number | Percent |
| Check Issued Within: | | | | |
| 0-30 | Days | Compliant | 57 | 95% |
| 31+ | Days | | 3 | 5% |
| Total | | | <u>60</u> | <u>100%</u> |

◆ **Accuracy of Indemnity Payments**

J. Average Weekly Wage

| | | 1/1/13-11/30/15 | |
|-------------|------------------|------------------------|---------|
| | | Number | Percent |
| Calculated: | | | |
| Correct | Compliant | 0 | 0% |
| Incorrect | | 3 | 100% |
| <hr/> | | | |
| Total | | 3 | 100% |
| | | <hr/> | |

K. Weekly Compensation Rate

| | | 1/1/13-11/30/15 | |
|-------------|------------------|------------------------|---------|
| | | Number | Percent |
| Calculated: | | | |
| Correct | Compliant | 0 | 0% |
| Incorrect | | 3 | 100% |
| <hr/> | | | |
| Total | | 3 | 100% |
| | | <hr/> | |

L. Amount Paid

| | | 1/1/13-11/30/15 | |
|-------------|------------------|------------------------|---------|
| | | Number | Percent |
| Calculated: | | | |
| Correct | Compliant | 0 | 0% |
| Underpaid | | 3 | 100% |
| <hr/> | | | |
| Total | | 3 | 100% |
| | | <hr/> | |

◆ **Accuracy of Medical Payments**

M. Amount Paid

| | | 1/1/13-11/30/15 | |
|-------------|------------------|------------------------|---------|
| | | Number | Percent |
| Calculated: | | | |
| Correct | Compliant | 1 | 50% |
| Incorrect | | 1 | 50% |
| <hr/> | | <hr/> | |
| Total | | 2 | 100% |