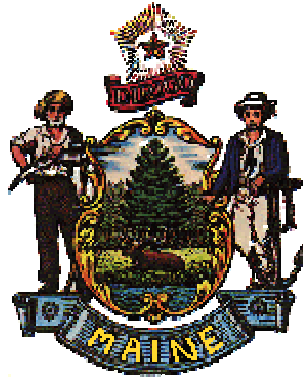


# COMPLIANCE AUDIT REPORT

STATE OF MAINE  
WORKERS' COMPENSATION BOARD



CRAWFORD & COMPANY  
SEPTEMBER 11, 2002

**Monitoring, Audit & Enforcement (MAE) Division**

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## SUMMARY

The Audit Division of the Maine Workers' Compensation Board (WCB) examined a sample of 25 claim files for the period under examination (2001) to determine compliance with statutory and regulatory requirements in the following areas:

- Form filing
- Timeliness of indemnity payments
- Accuracy of indemnity payments

Of the 25 claim files audited:

- Eight were “lost time” claims (Of the eight “lost time” claims audited, four were compensated, but only two of those four were compensated by Crawford.)
- Twelve were “medical only” claims.
- Two were “incident only”<sup>1</sup> claims.
- One claim fell under Massachusetts’ jurisdiction.
- One claim fell under Federal jurisdiction
- One claim involved only an investigative role (provided for Liberty Mutual by Crawford & Company).

A number of entities assign some or all of their workers’ compensation claims to Crawford & Company to be adjusted. Crawford performs both partial and full-service claims-handling services for its clients. It appears that all partial-service claims handling is performed in their Portland, Maine, office, and that the full-service claims handling is performed at their (four) other locations. The following entities had claims that were included in this audit:

- Beacon Mutual Insurance
- Florist Mutual Insurance
- Liberty Mutual Insurance
- Lumberman’s Mutual Casualty
- Safeco Insurance
- Vanliner Insurance

Our on-site audit of Crawford & Company began April 18, 2002, and ended April 19, 2002.

The compliance tables found on pages 7 through 9 of this report are representative of our findings as of April 19, 2002. Since that time, the Audit Division has requested missing form filings, form corrections, and payment adjustments. The first request was hand-delivered to Crawford on April 19, 2002, and had a response deadline of May 3, 2002. Crawford responded to that request (on May 3, 2002) with a phone call that was followed by a faxed summary of the actions they were taking in response to our request. No forms were filed in response to our request until May 8, 2002. A summary of forms that were still outstanding was provided to Crawford via the formal Exit Conference, dated (and e-mailed to Crawford) May 24, 2002. The final response (from Crawford) to those requests was received July 2, 2002.

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<sup>1</sup> “Incident only” claims incur no medical expenses and less than a day of lost time.

## SUMMARY (continued)

Following is a discussion of the aforementioned compliance tables and of the steps taken since April 19, 2002 to rectify identified noncompliance issues. This discussion also includes other significant issues identified by our audit.

- Form filing compliance ranged from 0 percent to 100 percent.
  - ◆ The highest percent of compliance (100 percent) was found in the filing of WCB-9, Notice of Controversy (NOC) forms for “lost time” claims.
    - Crawford did not controvert any “medical only” claims. However, two “medical only” claims were incorrectly reported to other insurance carriers, and those carriers filed NOCs to protect themselves. Those two NOCs are not included in the compliance tables shown on page 9 of this report.
  - ◆ The second highest percent of compliance (75 percent) was found in the filing of WCB-1, Employer’s First Report of Occupational Injury or Disease forms.
    - The First Report shown as “Filed Late” was filed 14 days after the employer’s notice of incapacity.
    - The First Report shown as “Not Filed” represents a claim where the employee lost two days from work, but no First Report had been filed. This Division requested that form on April 19, 2002, and imposed a response deadline of May 3, 2002. The form was not filed until May 8, 2002.
  - ◆ Sixty-seven percent compliance was found in the filing of WCB-4, Discontinuance or Modification of Compensation forms.
    - The WCB-4 form shown as “Not Filed” represents a claim where compensation had been discontinued, but no WCB-4 form had been filed. This Division requested that form on April 19, 2002, and imposed a response deadline of May 3, 2002. The form was not filed until May 8, 2002.
  - ◆ Twenty-five percent compliance was found in the filing of WCB-3, Memorandum of Payment (MOP) forms.
    - One MOP shown as “Filed Late” represents a claim where the MOP was filed 20 days after the employer was notified of the incapacity.
    - One MOP shown as “Filed Late” represents a claim where the MOP was filed 32 days after the employer was notified of the incapacity.
    - One MOP shown as “Filed Late” represents a claim where the MOP was filed 74 days after the employer was notified of the incapacity.

## SUMMARY (continued)

- ◆ Seventeen-percent compliance was found in the filing of WCB-2, Wage Statements and in the filing of WCB-2A, Schedule of Dependents and Filing Status Statements.
  - All of the WCB-2 and WCB-2A forms shown as “Filed Late” were filed within 10 days of their due date.
  - This Division requested all of the WCB-2 and WCB-2A forms shown as “Not Filed” on April 19, 2002, and imposed a response deadline of May 3, 2002. None of those forms were filed until after that deadline, but all have now been received.
- ◆ Zero-percent compliance was found in the filing of WCB-11, Statement of Compensation Paid forms.
  - It appears that Crawford had not been filing this form for any of their claims at the time of our on-site audit. Therefore, we urge Crawford to devise and implement a system to ensure their compliance with WCB-11 filing requirements.
- Incorrect dates were reported in Box 24 of the initial MOPs for three of the four compensated claims.
  - ◆ Box 24 (Date Check Mailed) of the WCB-3, Memorandum of Payment (MOP), should accurately reflect the date that the initial indemnity payment is sent to the employee.
    - This issue was discussed in the Exit Conference (dated May 24, 2002).
- Fifty-percent of the initial indemnity payments (made by Crawford) were paid timely.
  - ◆ The initial indemnity payment shown as “29+” was made 35 days after the employer received notice of the incapacity.
- As previously mentioned, our audit included two other compensated claims that were not paid by Crawford. Both of the other compensated claims were paid by Vanliner Insurance, but it appears that Crawford provided advisory services to Vanliner on at least one of those claims. This Division is seriously concerned by the following information regarding the payment of that claim:

Based on information found in Crawford’s paper file, Vanliner Insurance was not advised to pay indemnity until 33 days after compensation became due and payable. Crawford further advised Vanliner to mail the indemnity check to their Portland, Maine, office for disbursement to the employee. The check was not mailed to the injured employee until 58 days after compensation became due and payable (§205.3 violation).

*Crawford should advise its clients of their statutory and regulatory obligations, and should encourage compliance whenever they provide advisory services.* This issue was discussed at the Informal Exit Conference (April 19, 2002).

## SUMMARY (continued)

- Crawford was not responsible for any subsequent indemnity payments made on the claims that were audited.
- The average weekly wage (AWW) was calculated correctly for 25 percent of the compensated claims audited.
  - ◆ The “Incorrect” AWW represents a claim where a mathematical error occurred in totaling the wages reported on the Wage Statement. That erroneous total was divided by 52 weeks, rather than by the actual number of weeks of wages (43). These (combined) errors reduced the AWW, but did not affect the compensation rate (Both the incorrect AWW and the correct AWW were subject to the maximum benefit rate.)
  - ◆ Circumstances surrounding the two “Unknown” AWWs are as follows:
    - Although the Employee Advocate’s notes for one claim indicated that the AWW had been stipulated to (by the parties) prior to audit, Crawford had not made any corresponding corrections and no Wage Statement had been filed at the time of audit.
    - The AWW for one claim had not been calculated at the time of audit because Crawford had not received any wage information.
- Fifty-percent compliance was found in calculating weekly benefits rates (prior to audit).
  - ◆ The two rates shown as “Unknown” were directly linked to the above-mentioned “Unknown” AWWs.
    - After receiving the missing wage information for these two claims, Crawford recalculated benefits (as requested by this Division) and issued additional benefits (\$8.79 and \$22.06 respectively).

The penalties listed on page 6 of this report are representative of compliance as measured on May 3, 2002. (May 3, 2002 was the deadline given for response to the Audit Division’s first request for information, forms and corrections needed.)

## PENALTIES

### ◆ Penalties Allowed by Law (Payable to the Workers' Compensation Board)

39-A M.R.S.A. Sec. 359(2)

“In addition to any other penalty assessment permitted under this Act, the board may assess civil penalties not to exceed \$10,000 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.”

39-A M.R.S.A. Sec. 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;”

- Eleven (11) forms were not filed (\$1,100).

39-A M.R.S.A. Sec. 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.”

- Nine (9) forms were filed late (\$900).

39-A M.R.S.A. Sec. 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.

## INDEMNITY BENEFITS

### A. Prompt Initial Payment of Benefits

			2001	
			Number	Percent
Check Mailed Within:				
0-14	Days	<b>Compliant</b>	1	50%
15-28	Days		0	0%
29+	Days		1	50%
Total Due			<u>2</u>	<u>100%</u>

*This table includes only those payments that were made by Crawford & Company.*

### B. Prompt Subsequent Payment of Benefits

			2001	
			Number	Percent
Check Mailed Within:				
0-7	Days	<b>Compliant</b>	0	0%
8-14	Days		0	0%
15+	Days		0	0%
Total Due			<u>0</u>	<u>0%</u>

### C. Accuracy of Average Weekly Wage

			2001	
			Number	Percent
Calculated:				
Correct		<b>Compliant</b>	1	25%
Incorrect			1	25%
Unknown			2	50%
Total			<u>4</u>	<u>100%</u>

### D. Accuracy of Weekly Benefit Rate

			2001	
			Number	Percent
Calculated:				
Correct		<b>Compliant</b>	2	50%
Incorrect			0	0%
Unknown			2	50%
Total			<u>4</u>	<u>100%</u>

# FORM FILING

## A. First Report (WCB-1)

		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	6	75.0%
Filed Late		1	12.5%
Not Filed		1	12.5%
Total		8	100.0%

## B. Wage Statement (WCB-2)

		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	1	17%
Filed Late		2	33%
Not Filed		3	50%
Total		6	100%

## C. Schedule of Dependent(s) and Filing Status Statement (WCB-2A)

		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	1	17%
Filed Late		3	50%
Not Filed		2	33%
Total		6	100%

## D. Memorandum of Payment (WCB-3)

		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	1	25%
Filed Late		3	75%
Not Filed		0	0%
Total		4	100%

## FORM FILING (Continued)

### E. Discontinuance or Modification (WCB-4)

		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	2	67%
Not Filed		1	33%
Total		3	100%

### F. Notice of Controversy (WCB-9)

<b>Lost Time Claims</b>		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	4	100%
Filed Late		0	0%
Not Filed		0	0%
Total		4	100%

<b>Medical Only Claims</b>		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	0	0%
Not Filed		0	0%
Total		0	0%

### G. Statement of Compensation Paid (WCB-11)

		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	0	0%
Not Filed		4	100%
Total		4	100%