

# COMPLIANCE AUDIT REPORT

STATE OF MAINE  
WORKERS' COMPENSATION BOARD



FAIRFIELD INSURANCE COMPANY  
April 24, 2002

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

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## SUMMARY

The Audit Division of the Maine Workers' Compensation Board (WCB) examined 18 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

Fairfield Insurance Company sent to the WCB the claims listing which contained 24 claims for the year 2001. Eighteen claims were chosen for the audit sample per the Audit Sample Section. The six remaining claims were encompassed in the audit population for the Compliance Audit Report of Crawford and Company, drafted on October 25, 2002 and finalized on January 3, 2003.

Of the claims files audited, there were five "reportable" claims, eleven "medical only" claims and two "incident only"<sup>1</sup> claims.

Our audit revealed:

Fairfield Insurance Company is an insurance company that insures Beacon Mutual Insurance, Western Integrity Insurance and Atlantic Charger. These insurance companies contracted with the following third party administrators (TPA) to administer their workers' compensation claims:

- CCMSI, located in Danville IL
- Crawford, located in Portland ME
- Spencer Services, located in Lewiston ME

Each of the claims in the audit sample was handled through one of the above mentioned third party administrators. Fairfield did not administer the workers compensation benefits for any of the claims that were in the audit sample.

Maine WCB Audit Division's on-site audit of Fairfield Insurance Company was held on January 28, 2003. The compliance tables found on pages 8 through 10 of this report are representative of our finding as of January 28, 2003. Following is a discussion of the aforementioned compliance tables.

➤ Form filing:

- The five "reportable" claims sort out as follows:
  - Two claims were compensated claims.
    - One compensated claims' Employer's First Report of Occupational Injury or Disease was filed timely, which is in compliance with Title 39-A, M.R.S.A, Section 303.

- One compensated lost time claims' Employer's First Report of Occupational Injury or Disease was not filed timely, which is not in compliance with Title 39-A, M.R.S.A, Section 303.
- Three claims were non-compensated lost time claims.
  - One non-compensated lost time claims' Employer's First Report of Occupational Injury or Disease was not filed timely, which is not in compliance with Title 39-A, M.R.S.A, Section 303.
  - Two non-compensated lost time claims' Employer's First Report of Occupational Injury or Disease were not filed, which is not in compliance with Title 39-A, M.R.S.A, Section 303.

Title 39-A, M.R.S.A Section 303 provides the requirements for reports to Board.

- It appears that the WCB-1 filings were 20 percent compliant. The non-compliant rates were 40 percent for the WCB-1 forms that were filed late and 40 percent for the WCB-1 forms that were not filed. See "Form Filing".
- The Wage Statement and Schedule of Dependent(s) and Filing Status Statement compliance rates appear to be 50 and 50 percent respectively. See "Form Filing".
- The Memorandum of Payment (WCB-3) compliance rate appears to be zero percent. One claimant in the audit sample required a WCB-3 form, which was filed late. This compliance rate does not meet the WCB performance benchmark, which is at 75 percent.. See "Form Filing".
- The Discontinuance or Modification of Compensation (WCB-4) compliance rate appears to be 100 percent. See "Form Filing".
- The Statement of Compensation Paid compliance rate appears to be zero percent. Fairfield complied with this Division's request to file the required form. The non-compliance stemmed from a miss communication between at least one of the TPAs and Fairfield regarding whom was responsible for filing this form. See "Form Filing".

➤ Timeliness of the two compensated claims:

- Two claimants were not paid the initial indemnity benefits timely, which is not in compliance with Title 39-A, M.R.S.A. Section 205.
  - One claimant's benefit payment was made on the 30<sup>th</sup> day.
  - One claimant's benefit payment (per consent) was made on the 55<sup>th</sup> day and is subject to the provisions of §205(3).

- The initial indemnity payment benefit compliance rate is at zero percent. This compliance rate does not meet the WCB performance benchmark, which is at 80 percent. See “Indemnity Benefits”.
- One subsequent indemnity payment shown as “15+” was made later than 30 days after the payment became due and payable, and is subject to the provisions of §205(3).
- The subsequent payment of benefits compliance rate is at zero percent. See “Indemnity Benefits”.

*It appears that in the above cases the timeliness of benefits was hampered because of the TPA’s involvement in the payment process. The insurer was not advised timely by the TPA, consequently the employees were not paid the indemnity benefit timely.*

- *One letter from the TPA (Spencer) was dated 40 days after benefits became due and payable and 10 days after the timeframe provided by Section 205 (3).*
- *One letter from the TPA (Crawford) was dated 64 days after benefits became due and payable and 34 days after the timeframe provided by Section 205 (3).*

Title 39-A, M.R.S.A. Section 205 (2) provides the requirements for benefit payment.

➤ Accuracy of the two compensated claims:

- An overpayment of \$218.27 was discovered.

The following is a brief description of the claimant that had the appearance of non-compliance under Title 39-A, M.R.S.A, Section 212 and/or 213.

- The overpayment of \$218.27 on one claimant resulted because of Crawford’s (TPA) letter, dated 2/27/02, advising One Beacon of the amount of compensation due. That letter stated the wrong number of days in their calculation of benefits.
- The compliance rates for accuracy of both, average weekly wage calculations and weekly benefit rates are at 100 percent. See “Indemnity Benefits”.

Title 39-A, M.R.S.A Sections 212 and 213 provides requirements for compensation for total incapacity and partial incapacity.

The Audit Division would like to thank Fairfield Insurance Company and its staff for the use of their facilities and providing the audit staff the necessary materials needed to complete the audit in a proficient manner.

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

## PENALTIES

◆ **Section 205(3), M.R.S.A. Penalties (payable to injured employees)**

“When there is not an ongoing dispute, if weekly compensation benefits or accrued weekly benefits are not paid within 30 days after becoming due and payable, \$50 per day must be added and paid to the worker for each day over 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.”

Penalties pursuant to 39-A M.R.S.A. Sec. 205(3) are paid directly to the injured employee. The penalties below are being sought. If you disagree, you have the right to a hearing before the Abuse Investigation Unit. Please provide proof of payment for all undisputed penalties.

CLAIM	PENALTY JUSTIFICATION	PENALTY AMOUNT
Ron Cousins VS Willis, Inc Date of Injury: 06/08/01 Fairfield Insurance # CC214634 WCB File #: 10102300	Compensation for the specific loss became due and payable as of 09/06/01. However, the compensation for that was mailed 10/17/01, 41 days after due date.	\$550.00
Jessica Carver VS. Capital Video Corp Date of Injury: 11/23/01 Fairfield Insurance # BO137443 WCB File #: 1018068	The subsequent payment was due on 12/18/01 however that payment was made on 03/01/02, 73 days after the due date.	\$1,500.00
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Total Penalties to Injured Employees		\$2,050.00

## PENALTIES (Continued)

### ◆ 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;”

- Two (2) forms were not filed (\$200.00)

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.”

- Seven (7) forms were filed late (\$700.00)

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

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

### B. Prompt Subsequent Payment of Benefits

			<b>2001</b>	
			Number	Percent
Check Mailed Within:				
0-7	Days	<b>Compliant</b>	0	0%
15 +	Days		1	100%
Total Due			1	100%

### C. Accuracy of Average Weekly Wage

			<b>2001</b>	
			Number	Percent
Calculated:				
Correct	<b>Compliant</b>		1	100%
Total			1	100%

### D. Accuracy of Weekly Benefit Rate

			<b>2000</b>	
			Number	Percent
Calculated:				
Correct	<b>Compliant</b>		1	100%
Total			1	100%

## FORM FILING

### A. First Report (WCB-1)

		<b>2001</b>	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	1	20%
Filed Late		2	40%
Not Filed		2	40%
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Total		<u>5</u>	<u>100%</u>

### B. Wage Statement (WCB-2)

		<b>2001</b>	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	1	50%
Filed Late		1	50%
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Total		<u>2</u>	<u>100%</u>

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

		<b>2001</b>	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	1	50%
Filed Late		1	50%
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Total		<u>2</u>	<u>100%</u>

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

		<b>2001</b>	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	0	0%
Filed Late		1	100%
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Total		<u>1</u>	<u>100%</u>

## FORM FILING (Continued)

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

		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	1	100%
Total		<u>1</u>	<u>100%</u>

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

		2001	
		Number	Percent
Received at the Board:			
Filed	<b>Compliant</b>	0	0%
Not Filed		2	100%
Total		<u>2</u>	<u>100%</u>