



**MINUTES OF THE
CLAIMS COMMITTEE MEETING
March 15, 2018
9:30 A.M.**

A meeting of the Claims Committee was held on March 15, 2018, at City of Downey.

Name	Member	Present	Absent
Vicki Cross	Glendora	x	
Yvette Garcia	Downey	x	
Sergio Ibarra	Bell	x	
Alison Stevens	Hawthorne	x	
Sara Nazir	Inglewood		x

Others in Attendance:

RPA	Beth Lyons
Johnson Schachter & Lewis	Luther Lewis
Carl Warren & Company	Tom Boylan Shari Huff Mary Paydar Gary Phillips Dwight Kunz
Glendora	Christi Giannone

1. CALL TO ORDER

Chair Vicki Cross, Glendora called the meeting to order at 9:36 a.m.

2. ESTABLISHMENT OF QUORUM/INTRODUCTIONS

Introductions took place and it was determined a quorum was present.

3. PUBLIC COMMENTS

There were no public comments.

4. APPROVAL OF AGENDA AS POSTED OR AMENDED

Motion was made by Yvette Garcia, Downey, seconded by Alison Stevens, Hawthorne, to approve the agenda as presented. The motion carried unanimously.

5. CONSENT CALENDAR

A motion was made by Yvette Garcia, Downey, seconded by Alison Stevens, Hawthorne, to approve the minutes of January 10, 2018, and direct staff to finalize. The motion carried unanimously.

6. OPEN SESSION

2017/18 Claims Committee Attendance Record

Pursuant to Section 3.2.5.2 of the Program Bylaws, attendance of committee members is essential to conducting ICRMA's claims management. Further, a committee member missing a maximum of two meetings in a fiscal year shall be subject to the Governing Board's consideration. Sara Nazir (Inglewood) has missed two meetings and was also absent from the March meeting. The Committee values Sara's participation and would like her to continue on the Committee.

RPA staff was directed to follow-up with Sara to determine her interest in continuing Committee membership. If the newly adopted Bylaws allow it, the Committee also asked staff to solicit additional interest in Committee participation through email to the Board and by placing an item on the Board April agenda.

2018-19 Liability Memorandum of Coverage Review

The Liability Memorandum of Coverage (MOC) was reviewed by RPA staff, John Beringer (Carl Warren), liability program manager, Susan Blankenburg (ICRMA broker), and Luther Lewis (Coverage Counsel and interim General Counsel). Attached is a redline version which contains proposed revisions to the MOC. Many of the revisions are presented for "cleanup" or clarification provisions. Two more substantive recommended changes were discussed with the Committee.

Language was added to the cooperation clause to offer some degree of flexibility. Coverage may still be denied altogether in the discretion of the Board. But the Board may also exercise its discretion to impose a lesser remedy. If an actual monetary detriment can be calculated or reasonably estimated, then the Member's Retained Limit (MRL) for that claim may be increased by that amount. The Claims Committee or the Board would itself determine whether a monetary detriment to the pool can be reasonably estimated or calculated, based on information and recommendations from the Liability Program Manager, Coverage Counsel, defense counsel and/or the Member, or whatever other information or sources the Claims Committee or the Board wishes to consider.

It is often the case that a monetary detriment for a failure to fully cooperate is not amenable to calculation or reasonable estimate. In that event, the Board "shall" impose a monetary remedy of increasing the MRL, by some number from 1% to 25%. Note, the intent is that in the event the Board finds a failure to fully cooperate, there must be some form of monetary remedy, even if only a 1% increase in the MRL. If the failure to cooperate is more egregious, the Board in its discretion could increase the MRL by up to 25%.

Similar substantive changes were also recommended to the notice provisions with the goal of offering the Claims Committee and the Board more flexibility. As currently written, in the event of a failure to give timely notice of a claim, the MOC gives discretion to either accept or deny coverage. Most instances of late notice are not so egregious that the Claims Committee or the Board has exercised discretion to deny coverage altogether. The current MOC then requires that in the event coverage is accepted, the MRL “shall result” in an increase to the MRL of 25%.

With the suggested changes, the Claims Committee and then ultimately the Board still have discretion to deny coverage altogether. But if coverage is accepted, then under the suggested new language the Claims Committee or the Board would have further discretion. First, it would be ascertained whether the failure to give timely notice has resulted in a monetary detriment to the pool that can be reasonably estimated or calculated. If so, then the MRL would be increased by that amount. Again, the Claims Committee or the Board would itself determine whether a monetary detriment to the pool can be reasonably estimated or calculated, based on information and recommendations from the Liability Program Manager, Coverage Counsel, defense counsel and/or the Member, or whatever other information or sources the Claims Committee or the Board wishes to consider.

However, as is often the case, it may be difficult to reasonably calculate or estimate a monetary detriment to the pool. In that event, the Claims Committee or the Board has further discretion, within limits, as to how much to increase the MRL. The Claims Committee or the Board still must increase the MRL, but has discretion as to how much. The increase can be 1%, or 25%, or by some percentage in between. The Committee agreed a monetary consequence of at least 1% should be applied for a failure to timely report to ensure members pay sufficient attention to the notice requirements.

A motion was made by Yvette Garcia, Downey, seconded by Alison Stevens, Hawthorne, to recommend the Board adopt the changes noted to the Liability Memorandum of Coverage with an effective date of July 1, 2018. The motion carried unanimously.

2018-19 Workers’ Compensation Memorandum of Coverage Review

Mr. Luther Lewis (Johnson Schachter & Lewis), Coverage Counsel and interim General Counsel, and Mr. Robert Tran (Carl Warren), Workers’ Compensation Manager, and RPA staff completed a review of the Workers’ Compensation Memorandum of Coverage (MOC). The Committee reviewed the redline version of the document, which included date changes to reflect the correct coverage year and the Board-approved member retained limit changes for two members.

A motion was made by Sergio Ibarra, Bell, and seconded by Yvette Garcia, Downey, to recommend the Board adopt the revisions noted to the Workers’ Compensation Memorandum of Coverage with an effective date of July 1, 2018. The motion carried unanimously.

Carl Warren & Company Staffing and Contract Update

Carl Warren will be transitioning staff assigned to the ICRMA Liability Program and would like to ensure a smooth transition and succession planning. Carl Warren plans to have several non-

dedicated resources available to the account along with two dedicated staff. With that in mind, Carl Warren introduced three staff members to the Committee: Shari Huff, Mary Paydar, and Gary Phillips.

After lengthy discussion with the Committee, Carl Warren proposed Dwight Kunz serve as the Liability Program Manager and Rose Nuno serve as the Senior Claims Examiner. Rose will oversee claims not anticipated to exceed the MRL and provide assistance to Dwight in terms of collecting information. Both will be dedicated to the account.

Gary, Shari, and Mary will serve as non-dedicated resources on the account. For succession planning purposes, Gary will work with Dwight and Rose and participate in ICRMA mediations as well as attend ICRMA Board & Claim Committee meetings. Shari will serve as the lead regarding ICRMA process and policy issues. The Committee expressed support for the proposed staffing model.

The contract with Carl Warren was also discussed. RPA staff reported a meeting was scheduled with Carl Warren after the Committee meeting to jointly redline the contract.

To facilitate approval of the contract revisions, and in the interest of time, the Committee gave direction to the Executive Director and general counsel to finish contract negotiations with Carl Warren for presentation to the Board at the April meeting.

7. CLOSED SESSION

The Committee convened in closed session at 12:00 noon.

8. REPORT FROM CLOSED SESSION

The Committee convened in open session at 12:19 p.m. Interim General Counsel Luther Lewis reported no action was taken.

9. CLOSING COMMENTS

There were no closing comments.

10. ADJOURNMENT

The meeting was adjourned by general consensus at 12:19 p.m.