



COVERAGE, CLAIMS & LITIGATION COMMITTEE
Meeting Minutes

Thursday, February 6, 2014
IRMA Office – 9:30 a.m.

PRESENT: Julia Cedillo, Chair
Keith Sbiral (via phone)
Eric Ertmoed
Carol LeBeau
Curt Barrett (via phone)
Mike Braiman (via phone)
Dennis Bubenik
Sharon Peterson

ALSO PRESENT: Susan Garvey
Larry Bush
Mary Henzler

ABSENT: Peter Scalera

I. CALL TO ORDER

Chair Cedillo called the meeting to order. Roll was taken and a quorum declared.

Cedillo introduced herself as the new Chair of the Committee and asked everyone to introduce themselves.

II. APPROVAL OF MINUTES – November 7, 2013

A motion was made by Ertmoed and seconded by Braiman to approve the meeting minutes of November 7, 2013. A voice vote was called and the motion carried.

III. WELCOME TO 2014 COVERAGE, CLAIMS & LITIGATION COMMITTEE

Cedillo reported that Blaine Wing is leaving Oak Brook and going to a non-IRMA member, so he will not be serving on the committee. She will be contacting another member that expressed interest in serving on the committee, so there should be a full committee for the next meeting.

Cedillo reviewed the other items under this agenda item, including: CCLC 2014 Meeting Dates, 2014 Board, Standing & Steering Committee Meeting Calendar, IRMA Committee Policy, Statement of Responsibility for the Coverage, Claims & Litigation Committee, Claims Policy Statement, and the Conflict of Interest Policy.

Barrett questioned #1 in the CCLC Statement of Responsibility, regarding the approval of contractual services where the value is in excess of \$15,000, stating that perhaps this was a little low. Bush stated that he was leaving notes for his successor and one of those notes was to take a look at not only this, but the loss authority levels that have been the same since he came to IRMA. Bush commented that right now this committee has settlement authority of anything over \$250,000. In workers' compensation, ten years ago \$250,000 was a very rare amount and right now it is not very rare at all. Bush stated that he would be leaving suggestions for his successor on this.

Cedillo stated that she had talked to Garvey earlier about item #12 in the CCLC Statement of Responsibility regarding the committee serving as the Appeals Committee for appeals of settlement recommendation in accordance with Section 4.02A of the Bylaws. Cedillo asked Garvey to provide a brief overview of what this entails and the frequency of this happening.

Garvey stated that this is very specific to this committee, if there is an objection by the member about a settlement recommendation or the allocation of a settlement recommendation and we can't come to any type of an agreement, a sub-committee of the CCL Committee would serve as an appeals committee.. The CCL Chair would appoint the sub-committee and they would go through the normal appeal process that we have.

Garvey noted that there is another appeals process that we recently went through and the committee would be updated on that appeal later in the meeting. These other types of appeals deal more with coverage questions or issues, and the appeals committee is taken from the entire membership. The Chair of the Board appoints the committee.

IV. CLAIMS & LITIGATION REPORTS

1. Claims Operational Report

Cedillo asked Garvey if she had any comments on the report. Garvey noted that there is an increase in the auto physical damage and property damage claims, partially attributed to the weather. The other thing that Garvey pointed out was that our general liability experience has gone down and we are attributing that to the good work of our adjusters.

2. Litigation Reports

1. New Liability Claims Report

Garvey noted that there were 16 new liability claims from October 25, 2013 to January 20, 2014, commenting that this number has decreased also.

2. Closed Liability Claims Report

Bush commented that there were 23 lawsuits that were closed over the three months being reported and 19 of those were closed without any payments made to the plaintiffs.

3. Litigation Management Report

Bush pointed out that this chart has an error in it. If you look at Sotos Law Firm, you will note that there are dollars listed with no claims count. Bush explained that Sotos is one of our new attorneys and our attorneys have to use our Legal Solutions Suite software and it took awhile for it to get up and running. This should be corrected for the next report.

V. 2014 COVERAGE, CLAIMS & LITIGATION COMMITTEE OBJECTIVES

Cedillo asked Garvey to provide background information on each of the objectives.

1. Review of IRMA Coverage documents and implement needed changes or modifications.

Garvey explained that as staff goes through claims and looks at the coverage, sometimes there is little discrepancies or things that might need clarification. Rather than making minor changes here and there, the goal was set to go through all the coverage documents and see what may need to be clarified and then make all those changes all in one group. Garvey noted that she didn't foresee any substantial changes to the coverage documents, just clarifications. Garvey stated that this review would take place over the coming year and she would probably have something for the committee for their fall meeting.

2. Research resolution to coverage for shared professional services.

Garvey noted that this item is on the agenda and would just go into that agenda item now. Garvey noted that the coverage extension for part-time contracted engineers had been talked about at the October 30, 2013 Board meeting. This came about when we had a member who wanted to share an engineer with a municipality that was not an IRMA member and the non-member wanted to be indemnified and defended by our member. We couldn't do that because that individual was not an employee of our member. We have professional services liability coverage, but that is only for an employee of a member. We were looking at it to see if there was some way we could address this, knowing that members are trying to conserve resources and try to work with these shared services. At the October Board of Directors meeting there were some issues raised by some members that we may be creating some type of employment relationship by adding coverage for a non-employee of a member. Garvey reported that staff has looked at this a little bit more, and based upon that we are withdrawing our proposal to put this into our coverage document.

Garvey stated that the goal is to see if there is some way that we can provide protection and allow our member to have that coverage, if they want to share these services. Cedillo stated that discussion by the committee would take place when we discuss the agenda item on this issue.

3. Research and review the implementation of litigation management techniques including alternative fee arrangements.

Garvey explained that this is just a way to continue to reduce our litigation costs. There may be other things that we can do to help reduce the litigation costs.

VI. COVERAGE MATTERS

A. Coverage Expansion – Part Time Engineers

Cedillo asked whether the Coverage, Claims & Litigation Committee needs to take this back to the Board of Directors with any type of action to withdraw this proposal. Garvey explained that at the last Board of Directors staff said they were going to take it off that agenda. There wasn't any determination made at that meeting. However, if we are going to withdraw this proposal, Garvey stated that we need to send it to the Executive Board saying that it is being withdrawn. Cedillo noted that we will update the Executive

Board and let them know that further review of this issue would be done to see if there are any solutions to this type of coverage. Cedillo asked if the committee should take the opportunity now to discuss this issue. Garvey noted that there was no urgency, but the committee could take the opportunity to discuss this now if they chose.

Braiman stated that since this is the direction that members are going to be looking at, the committee needs to continue to discuss it. Bush stated that he thought it was two issues. The initial issue that we tried to address involved a member whose employee retired and then wanted to come back as a contractor. There were employment issues that were brought to our attention that makes this undoable. While discussing the initial issue, another issue came up. River Forest wanted to have some of their professional services worked on by Oak Park. Oak Park wanted IRMA to indemnify and hold them harmless for any issues that came up. However, under that situation, they would have to be employees. Bush stated that he thought this is the issue our members would like to have us look at further. Our concern is that we don't know what criteria a municipality has used to hire these people and we need to have some kind of process to evaluate these people. We would want to know that they were certified before we indemnify them. Garvey added that on top of that then we are providing professional liability coverage, which we don't do unless a person is an employee. We need to look into whether we can extend that type of coverage in that situation and not create that employment relationship. Garvey added that it might not be feasible, but we should look at it.

Ertmoed stated that the problem to him is that it's difficult for the contracted individual who is not associated with a firm to get professional liability coverage that is affordable. Ertmoed commented that through the TULIP program offered through IRMA, a group can get affordable coverage for holding a function on municipal property. Ertmoed asked if there was any way IRMA could negotiate more affordable professional liability coverage for these part-time contractors. Garvey commented stated that it may be difficult and not cost effective, but staff could ask our broker about it.

The consensus of the committee was to have staff continue to research this and bring something back to the next meeting. Staff will also look at other risk pools to see how they deal with similar issues.

B. Clarification of Law Enforcement Activities

Garvey stated that this item actually came up out of an appeal that was filed by a member. Garvey explained that the IRMA Coverage Documents are set up so they don't stack. The GL and POL documents have their limits - \$10,000,000. In the appeal the member was trying to stack the limits, saying that both the GL and the POL applied. Law enforcement activities are covered under our General Liability Coverage Document and because they are covered under General Liability, they are excluded under the Public Officials Liability Coverage Document. Garvey noted that this appeal didn't become a full appeal before the committee because staff was able to resolve the issue with the member. The member referenced in their argument the word "operational" in exclusion five of the Public Officials Liability Coverage Document limited the exclusion. The word "operational" isn't in the General Liability Coverage Document for law enforcement activities. Staff is recommending clarification be made to the POL Exclusion for Law Enforcement Activities that will mirror the exclusion in the GL Coverage Document.

A motion was made by Sbiral and seconded by Bubenik to approve the clarification of the POL Exclusion for Law Enforcement Activities. A voice vote was taken and the motion carried.

VII. IRMA APPEAL 2013-01 – VILLAGE OF WOODRIDGE UPDATE

Garvey reviewed the background information on the appeal. Garvey reported that the Appeals Hearing had been held on January 22, and the Appeals Committee upheld IRMA's denial. Garvey explained that the Written Findings of the Appeals Committee now goes to the Executive Board for review and they can either approve them or overturn them. If the Executive Board approves the findings, then the Member has the opportunity to bring the appeal to the full Board of Directors for review.

Barrett, who was one of the Appeals Committee members, commented on the appeals process and asked what role Chris Naveja played in the process. Garvey explained that he was the attorney for the Appeals Committee to direct or assist the committee and also was responsible for drafting up the Committee's Findings & Recommendations.

Barrett commented that he didn't know whether there was a better way of doing this. Naveja obviously has affiliation with IRMA and it was pretty clear that he had an opinion of what was right and wrong in the case. Barrett commented that he thought Woodridge could take the view that he was somewhat biased. Barrett commented that maybe this is the way it is supposed to work and noted that Naveja did an excellent job in drawing up the Findings and Recommendations of the Committee.

For background on this issue, Garvey noted that it used to be that the Committee did not have their own attorney. Although it has been sometime since we have had an appeal, Garvey noted that with the first appeal she was involved in, she not only handled the position of IRMA, but also assisted the committee and drafted the findings and recommendations. At that time, it was decided to separate the two positions out and have Naveja as the attorney for the Appeals Committee and Garvey as the attorney for IRMA. The thought was that Naveja is familiar with IRMA's coverage document and would be a good person to assist the Appeals Committee.

Barrett noted that he just wanted to share his thoughts on the appeals process and maybe there isn't any way around this.

IX. ADDITIONS TO AGENDA

Bush noted that he had a settlement authority request that needed to be discussed in Executive Session. It was determined that the meeting would be adjourned and then the committee will go into Executive Session.

X. CONFIRMATION OF NEXT MEETING

Cedillo stated that the next meeting of the Coverage, Claims & Litigation Committee was scheduled for Thursday, May 8, 2014 at 9:30 a.m. at the IRMA Office.

XI. ADJOURNMENT

A motion was made by Peterson and seconded by LeBeau to adjourn the meeting and move into Executive Session. A voice vote was called and the motion carried.

Submitted by:

Susan Garvey
Director of Legal Services

Approved by:

Julia Cedillo, Chair
Coverage, Claims & Litigation Committee