



COVERAGE, CLAIMS & LITIGATION COMMITTEE
Meeting Minutes

Thursday, September 15, 2016
IRMA Office – 9:30 a.m.

PRESENT: Julia Cedillo, Chair
Katy Rush
Kate Andris
Bryon Vana
Dan LeTourneau

Dennis Bubenik
Sharon Peterson
Art Malinowski
Kevin Wachtel

ALSO PRESENT: Margo Ely
Mary Henzler

Susan Garvey
Margie Zarcone (Exec. Session only)

ABSENT: Carol LeBeau
Barbara Maziarek

I. CALL TO ORDER

Chair Cedillo called the meeting to order at 9:31a.m., roll was taken and a quorum declared.

II. APPROVAL OF MINUTES - May 5, 2016

Cedillo asked if anyone had any questions and/or comments on the minutes of May 5, 2016. Hearing none, a motion was made by Rush and seconded by Wachtel to approve the minutes of May 5, 2016. A voice vote was called and the motion carried.

III. CLAIMS & LITIGATION REPORTS

- A. Claims Operational Report
- B. Litigation Reports
 - 1. New Liability Claims Report
 - 2. Closed Liability Claims Report
 - 3. Litigation Management Report

Cedillo asked if anyone had any questions and/or comments on the Claims & Litigation Reports. Garvey noted that she will be working on revising the reports to make them more easily understandable.

IV. PRELIMINARY BUDGET

Cedillo stated that this item was on page 13 of the packet. Cedillo noted that the Coverage, Claims & Litigation Committee (CCLC) is responsible for four items.

1. Under Contractual Services - 3rd Party Claims Administration, Gallagher Bassett continues to administer a 1986 workers' compensation wage differential claim. The annual cost is expected to be \$600.
2. Contractual Services – Claims Audit: The independent claims audit was completed in 2016. There is no budget needed for this category for 2017.

3. Contractual Services – Insurance Brokerage Consultant Services.
4. Commercial Insurance Services.

Cedillo asked if there were any comments from staff on any of these items. Garvey mentioned the recommended bonus for JLT RE. They have done an excellent job this year helping us with the cyber liability, other significant assistance to members in pursuing individual non-program related policies and placing optional coverage for members. So staff is recommending a 5% bonus.

A motion was made by Peterson and seconded by Rush to approve the 2017 CCLC Preliminary Budget. A voice vote was called and the motion carried.

Cedillo noted that the group would now move to Agenda Item VIII and asked LeTourneau to give this report.

VIII. 2017 COVERAGE RENEWAL

LeTourneau gave a summary of the 2017 Excess/Reinsurance Coverage Renewal, reflecting favorable rates and premium resulting in an overall 2.3% premium reduction when compared to the same coverage and limits from 2016. LeTourneau explained that this includes the exposure reductions resulting from the departure of the Village of Buffalo Grove and the exposure increases of current members. LeTourneau noted that additional details were included in the complete commercial reinsurance/excess coverage renewal proposal that was distributed. LeTourneau stated that rate decreases of up to 5% were achieved, in addition to flat rates in both liability and workers' compensation where million dollar claims have been experienced over the past five years.

LeTourneau stated that the proposed coverage program also incorporates the addition of an expanded Cyber Risk Response and Coverage program, which will be included for all members along with a new Drones/Unmanned Aerial Systems (UAS) coverage. The optional Cyber Risk program introduced in 2016 was incorporated into the IRMA coverage program for all members with IRMA self-insuring the liability & defense and the first party property portions of the program. HSB will be providing the breach response coverage/services and the e-Risk Portal for loss prevention resources.

LeTourneau added that we also recommend offering optional higher liability limits at either a \$2 million or \$5 million option for members choosing to increase their overall limits to either \$12 or \$15 million based on a revenue base pricing rate

LeTourneau presented the 2017 Proposed Excess Reinsurance Program Summary as follows:

2017 Proposed Excess Reinsurance Program Summary

Coverage	Carrier	Exposure	2017 Rates	2017 Premium	2016 Premium
Liability (2M xs 3M)	Great American	Revenue - 1.25%	Flat	\$522,347	\$529,000
Liability (5M xs 5M)	Munich Re	Revenue - 1.25%	Flat	\$475,969	\$482,073

Workers' Compensation	Safety National	Payroll < 1% decrease	Flat	\$585,050	\$586,181
First Party Property	Hartford	Values < 1% decrease	-5%	\$627,672	\$665,513
Crime	Travelers	N/A	Flat	\$56,049	\$56,270
Boiler and Machinery	Travelers	Values < 1% decrease	-4%	\$45,882	\$48,192
PO Bonds	Travelers	N/A	N/A	\$7,234	\$7,141
Cyber Risk (New)	HSB/IRMA	Revenue	N/A	\$45,387	Optional

Total Premium	\$2,365,590	\$2,374,370
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LeTourneau also reviewed the lines of optional coverage for 2017.

Ely stated that staff is looking for direction from the CCLC to stay with the \$10 million limit and be able to offer optional higher liability limits at either a \$2 million or \$5 million option for members choosing to increase their overall limits to either \$12 or \$15 million based on a revenue base pricing rate.

A motion was made by Rush and seconded by Wachtel to approve the 2017 Excess Reinsurance Program, including adding the Cyber and Drone Coverage and staying with the \$10 million limit and offering optional higher liability limits at either a \$2 million or \$5 million option for members choosing to increase their overall limits to either \$12 or \$15 million based on a revenue base pricing rate. A voice vote was called and the motion carried.

V. CLAIMS DRAFT AUDIT REPORT

Cedillo stated that the CCLC had received the draft report on August 29th and it is also included in the packet. Included also is a staff memo that notes what kind of action is being requested of this committee and gives a summary of the audit report, the process that was used, what was looked at and the recommendations provided by the auditor, which was Northshore and staff's comments on those recommendations.

Garvey went through the recommendations. Garvey noted that the staffing recommendations will be dealt with through the Administration & Finance Committee. Garvey stated that, overall, the audit was in the compliant to excellent range. There were some issues mainly with the investigations and follow-ups through the workers' compensation system. New policies will be put in place to address the issues of investigation and follow-ups. Garvey indicated that the auditor was suggesting that the employee's supervisor be contacted and interviewed in every case; staff disagrees and will put a procedure in place which will require the adjusters to contact supervisors or other witnesses on the very questionable cases of compensability. The adjusters will also be required to put more notes and summaries in the file.

Rush brought up the fact that in her community they have one central person who handles and looks after the claims -- their claims coordinator. If the claims coordinator has questions they would contact the supervisors.

Garvey explained that our current practice is to work with a claims coordinator from a municipality; however, the auditor doesn't agree with this. Garvey stated that we are not taking the claims coordinator out of this completely, it's just that if it is a serious case and we do not have the information we need, we are directing our adjusters to contact the supervisor.

Ely noted that some of our members' claims coordinators are not as proactive as others and in those scenarios the contact with the supervisor may be more helpful because we have found that with some members supervisors are not kept apprised of the injured worker's progress since our emails only go to the claims coordinator and there is a level of frustration.

Ely noted that the auditor thought that our culture tends to involve members input too much, which we are not going to change. They were quite surprised that a member could object to a settlement reserve or even to a reserve.

Cedillo asked what document these recommendations will be going into. Garvey replied that they would become part of our Claims Manual. Garvey stated this would be coming back to the committee at their last meeting of 2016 or the first meeting of 2017.

Garvey stated that she has been going back and forth with the auditor on recommendations regarding Member Contact, Investigation and Documentation on some of the cases that we mentioned. For the most part, the auditor didn't make any changes. However, he did make the change on one or two cases from non-compliant to compliant.

The other part that the auditor questioned was in regards to reserving practices. Two or three of those were the issue of reserving at the percentage of potential winning based upon what our defense counsel says. The auditor doesn't agree with that reserving practice. In all the cases that they mentioned we actually won at less than the percentage or equal to the percentage we were reserving at.

The other issue that the auditor had was holding a reserve at \$9,999 which is done when there is not enough information to take it above the \$10,000. Garvey stated that this was kind of the bottom line with the auditor, going back and forth. Garvey stated that she has finally gotten the auditor to acknowledge that IRMA is unique in the way its members are involved in the reserving practices and acknowledging that our actuaries say that we are very well reserved. Staff is not recommending that we make any changes to our reserving practices.

Ely commented that the auditor indicated that our workloads are too high. You will see at the Board meeting in October that we will be going to the Administration & Finance Committee's September meeting a recommendation to add two full-time claims representatives to our staff. Even with adding these positions, we are still above the industry standard, which are 125-150 claims.

Wachtel asked if maybe some kind of evaluation/short survey could be sent out after a claim is closed -- kind of a barometer to keep IRMA apprised of any problems. Ely noted that we currently have a survey out to our members and the results of the survey will be brought back to the Membership Relations committee for evaluation.

Wachtel asked whether we will have an opportunity to have changes to auditor responses included in the report, or is staff satisfied with having a supplemental memo to go along with the report. Garvey stated that what she really wanted out of the response is the auditor's acknowledgement on the reserving, and an acknowledgement that they are aware that our actuaries are fine with our reserving practices. Garvey stated that she received a letter last

night that acknowledged those two items. Garvey commented that she was comfortable with this report as it is and suggested that the CCLC approve it conditionally until we get the final report. Ely asked if the report should come back to the CCLC or are they comfortable sending it to the Board in October. The CCLC asked that it be brought back to the November CCLC meeting.

A motion was made by Rush and seconded by Wachtel to accept this preliminary audit report with the staff findings. A voice vote was called and the motion carried.

VI. REVISED LITIGATION GUIDELINES

Cedillo noted that there a couple of revisions being recommended to the Litigation Guidelines. There are two main areas, the first of which is reporting requirements required throughout the claim. Secondly, the number of attorneys that can participate when a case goes to trial.

Cedillo noted that there was information included in the packet that provides all the recommended changes to the guidelines. The revisions also include some housekeeping cleanup.

Garvey commented that the reporting requirements were not as tight as we wanted them. The adjusters were having some issues in getting the reports in a timely manner.

Garvey noted that we have changed our process on how many attorneys participate at a trial. Generally, the rule was that only one attorney could try a case unless there is pre-approval. In almost every case, a second attorney was approved to try the case with the lead attorney. Staff felt that it made a lot of sense. The Litigation Guidelines are being revised so there does not have to be approval in complex cases.

A motion was made by Andris and seconded by Rush to concur with the revisions to the Litigation Guidelines and Billing Protocols. A voice vote was called and the motion carried.

VII. DRAFT OF EARLY INTERVENTION POLICY

Cedillo noted that resolving, mitigating or preventing a potential claim before it results in a loss is part of the mission of IRMA. Based on this mission, staff has long promoted early intervention by encouraging members to contact IRMA if they believe an incident may result in or escalate to a claim or loss. Staff has put together an Early Intervention and Pre-Litigation Management Program that is included in the packet.

Garvey stated that this started years ago when we were seeing a lot of employment cases and we were encouraging members to contact us beforehand to see what we could do to help. It's still there for the employment cases, but has also morphed into cases of serious injuries, death or shootings where we are assigning defense counsel before it is an actual claim in order to help the member with the pre-litigation type of issues. The fees are initially paid out of our corporate counsel fund and then if it turns into a claim, the corporate counsel fund is reimbursed from the claim.

Rush brought up a situation in her community where the Park District had an employee who was brought up in the news and it was not getting good advice on how to handle the public face of this claim. The Village interceded because the Park District still has the community tag.

They recommended that the Park District work with a particular person on the public face of the issue. Rush asked whether this was something we need to incorporate as part of this early intervention program or at least make available to IRMA members in the sense of "don't step in it" advice. There is this face out there that we have to protect in terms of our image.

Garvey stated that we do a lot of time have defense counsels help members write press releases. Rush stated in the case she mentioned, the press release was horrible. Garvey stated that this is definitely possible if it is going to help with a claim and is certainly something that a member should be contacting us on. Vana asked whether Rush wanted something written into the policy. Rush stated that she wasn't sure it needed to be written in the policy, but it should be part of the practice. It needs to be something that we and IRMA need to be using as part of the tool kit. Ely stated that it is already written in the policy that it would include the use of potential consultants, so it is already included in the policy.

A motion was made by Peterson and seconded by Andris to approve the Early Intervention Policy. A voice vote was called and the motion was carried.

IX. ADDITIONS TO AGENDA

There were no additions to the agenda.

X. EXECUTIVE SESSION

A motion was made by Rush and seconded by Andris to move into Executive Session to discuss matters of: review of closed session minutes and pending litigation pursuant to 5 ILCS 120/2(c)(21) and (11) respectively.

A roll call vote was called and the motion carried.

Back in regular session, a motion was made by Peterson and seconded by Rush to approve the Executive Session Minutes of May 5, 2016. A voice vote was called and the motion carried.

X. CONFIRMATION OF NEXT MEETING

Cedillo reported that the next scheduled meeting of the CCLC would be Thursday, November 3, 2016 at 9:30 a.m. at the IRMA Office.

XI. ADJOURNMENT

A motion was made by Rush and seconded by Peterson to adjourn the meeting. A voice vote was called and the motion carried.

Submitted by:

Accepted by:

Susan Garvey
Director of Legal Services

Julia Cedillo
Chair, Coverage, Claims & Litigation
Committee