



COVERAGE, CLAIMS & LITIGATION COMMITTEE
Meeting Minutes

Tuesday, February 15, 2011
IRMA Office
9:30 a.m.

PRESENT: Kathleen Gargano, Chair
Ashley LaMotte
Bridget Wachtel
Melissa Bohse
Cameron Davis
Curt Barrett

ALSO PRESENT: Susan Garvey
Larry Bush
Mary Henzler

ABSENT: Colleen Nigg
Peter Scalera
Jim Marino
Keith Sbiral

I. CALL TO ORDER

Chair Gargano called the meeting to order at 9:30 a.m. Roll was taken and a quorum declared. Gargano welcomed new member Curt Barrett to the committee and thanked all committee members for serving during 2011.

II. APPROVAL OF MINUTES

A motion was made by Bohse and seconded by Wachtel to approve the Coverage, Claims & Litigation Committee Meeting Minutes of November 18, 2010. A voice vote was taken and the motion carried.

III. WELCOME TO 2011 COVERAGE, CLAIMS & LITIGATION COMMITTEE

Gargano stated that the packet contained several documents pertaining to the committee such as the committee roster, meeting dates and various policies and responsibilities of the committee.

Bush stated that it is IRMA's claims philosophy to defend claims that are clearly defensible, deny those that are clearly not defensible, and compromise those that are in the middle. However, it is not always clear where those lines fall. We have had situations in the past, particularly in police cases, where members really want to fight cases that are somewhat questionable and the cost of defense is something that we really take into consideration. Bush noted that with the change in our formula he believes this will alter some members' decisions to fight claims that are somewhat questionable. Now that the members are sharing a little more, they may just want to pay the claim rather than incur defense costs, particularly if it is a case that wouldn't have a lot of impact on future cases.

IV. CLAIMS & LITIGATION REPORTS

Gargano asked Bush to go through the reports. Bush stated that he would review the reports and wanted to find out whether all the reports are really useful to the committee.

A. Claims Operational Report – December 31, 2010

Bush explained that this report shows the trends from last year compared to the previous year. Bush noted that we are continuing in good shape. Claims were down in 2009 and continue to still be down somewhat in 2010. Bush explained that some of the General Liability numbers were really high, but were due to members having serious floods and FEMA taking the position that they needed to see the denial letters from IRMA before giving grants. This really drove up the claim counts under General Liability.

B. Summary Loss Report as of December 31, 2010

Bush explained that this report gives an overall historical perspective.

Bush explained that a couple of the really old open claims are from Reliance. Reliance is an insurance company that IRMA used for a number of years that went into liquidation and closed. A number of year's ago we wrote down any receivables from them down to twenty-five cents on a dollar. Now it looks like their assets have been depleted and it looks like we won't be getting anything. Therefore, we will be writing this down to zero this year. Bush noted that we have been talking to an attorney who has some minor success in getting something elsewhere; however, IRMA's auditors have recommended that we just write it down to zero now.

C. Litigation Reports

1. New Liability Claims Report

Gargano asked in looking at the description of some of these claims such as age discrimination, whether IRMA makes contact with the municipality to check to see what policies and procedures they have in place and recommend opportunities for improvement? Also, does IRMA ever use these types of reports to develop possible training opportunities?

Garvey stated that anytime you are defending an employment-type case, the policies and procedures are going to come into effect – they will be part of the litigation. The defense attorney will address that with the member and keep us in the loop. A lot of time, just by fixing the policy they may be able to make the case go away. When we see a trend, we do try to gear training toward the trend.

The committee agreed that they wanted to continue to receive this report.

2. Closed Litigation Report

Bush stated that this report is triggered in our data collection system by the closure date. Sometimes a case is settled, but there is other ancillary legal things going on and the case continues with us. The case stays open long after we have settled so we can continue to pay legal bills. Bush noted that staff is thinking about adding another data field, so the case will show up when the settlement check is written and not continue until it is ultimately closed. The

result is that this report isn't really current. Bush noted that staff will be working on making this report more current.

3. Litigation Management Report as of December 21, 2010

Bush explained that this report shows the amount of legal fees spent with each of IRMA's defense attorneys. Bush distributed a chart outlining the legal services over the past seven years and how they have decreased over the past few years. The committee agreed that this report is something that should be maintained for staff's information; however, the committee does not need to see this report.

V. CRITERIA FOR PAYMENT TO MEMBER CORPORATE COUNSEL

Garvey explained that this issue pertains to members asking for their corporate counsels to be assigned to claims and basically the response is, no. However, there have been two recent cases where there has been so much extensive background that the corporate counsel has been involved in years of litigation before it actually triggered coverage. In those cases, IRMA did agree to pay those corporate counsels for a number of hours to help get our defense counsels up to speed. We have been limiting this to a number of hours. Staff thought it might be beneficial to have some criteria to use as a guideline to make sure these types of decisions are made on a consistent basis. Garvey explained that the criteria would become part of the IRMA Claims Manual. It will go through the membership so everyone is aware of the criteria. Bush noted that the ability to say yes to a member requesting payment to their counsel already exists, but staff wanted to be able to explain the background on which the decision is made.

Wachtel asked if the ability to say yes already exists, why does staff find the need to further define it. Bush stated that sometimes he has said yes, and sometimes no, and he wanted to explain the criteria behind his making a judgment. Bush noted that basically this is an internal guideline as much as anything. Davis said he thought it was good for future Executive Directors to use as a guideline. Davis asked if this would be going to the membership. Bush noted that he hadn't really thought about it going any further than this committee. Davis suggested that maybe it could be something talked about in one of the future E-news publications.

After further discussion, the committee agreed that this should continue to be the thought pattern in making these kinds of decisions; however, do not put this in writing to include in the Claims Manual and it doesn't have to go any further to the membership.

VI. NOTIFICATION OF SETTLEMENT TO MEMBER__

Bush noted that at the last Executive Board meeting, the goal and objective to develop a stronger process to ensure members are notified ahead of any settlements being agreed upon or within a designated time period when advance notice is not possible was given to him for the coming year. Bush noted both our IRMA Claims Manual and the Contract and Bylaws provide for the setting of settlement reserves and notification to the member of the reserves. However, occasionally, a member does not get that notification or received it so far in advance of when the case is actually settled, they don't remember receiving notification. Bush also commented that sometimes the nature of the litigation

process does make it difficult to set a designated time period for providing advance notice of settlement amounts.

Barrett talked about a situation he had encountered as the new Manager in Winfield where he was not notified of a settlement on a case that was above his authority and should have been sent to his Board for approval. Bush stated that he was aware of that situation.

Bush stated that staff isn't really suggesting any changes to our current policies and procedures. However, in 2011 an open claims report will be distributed quarterly to allow members to remain informed of the status and potential settlement value of cases.

Davis asked whether there was any value in having one or the other (claims representative or attorney) notifying the member.

Gargano stated that in reading through the policy, she noted that IRMA puts a lot of responsibility on the claims coordinator of a municipality. Gargano explained that in her community, that person then has to take the information to her (the Delegate). She is notified; however, she is not part of any of the discussions. IRMA's policy says sometimes it's the attorney and sometimes it's the claims person calling and they are talking to the claims coordinator, who may not be the Delegate.

Bush noted that officially in our records, the reserve notice goes to the Delegate. Gargano stated that a Delegate may get the official notice, but further discussions are with the claims coordinator who may or may not be the Delegate and this causes miscommunication.

Bush noted, that IRMA will do what each member wants – member by member. In every case the Delegate should have received the settlement reserve notice for the full amount. Bush asked if the committee felt the claims coordinator and delegate should be included in all processes. Gargano stated, yes. It could be that a delegate gets copied on everything. This will actually facilitate IRMA's work because you are notifying someone in her organization as an example who does not have the authority to make decisions and you are adding days to the process as that person has to go talk to the delegate. It works because she is copied on all emails and can sit down immediately and talk about it with the claims coordinator.

Bush explained that some delegates don't want to be notified beyond the settlement reserve notice.

Wachtel stated that she thought it would be best to contact both the claims coordinator and the delegate and that would close the communication gap. Bush noted that, again, this depends on the member. Some member delegates don't want to be involved with every discussion.

Gargano suggested that IRMA survey the membership to see if they actually have a problem with this. Even though it was in the Executive Director's performance review, what she is hearing is that this may be few and far between. If the membership is surveyed, they can be asked the best means of being notified. Even though the Coverage, Claims & Litigation Committee represent various municipalities, you can get the majority by conducting a survey. Bush agreed that this was a good idea and he would bring back the survey results to the committee.

VI. ADDITIONS TO AGENDA

Wachtel asked whether there was a claim involving a death in Western Springs. Bush noted that there was; however, the committee would have to go into Executive Session to discuss this.

A motion was made by Gargano and seconded by Davis to move into Executive Session. A voice vote was taken and the motion carried.

A motion was made by Davis and seconded by Wachtel to move out of Executive Session and back into the regular meeting.

Bush reported that IRMA would not be holding a Coverage Workshop during 2011; however, there would be a full-day Workers' Compensation session being held on April 13th that included several interesting topics.

VII. CONFIRMATION OF NEXT MEETING

Gargano reported that the next Coverage, Claims & Litigation Committee would be held on Thursday, May 19, 2011 at 9:30 a.m. at the IRMA office.

VIII. ADJOURNMENT

A motion was made by Davis and seconded by Wachtel to adjourn the meeting. A voice vote was taken and the motion carried.

Submitted by:

Susan Garvey
Director of Legal Services

Approved by:

Kathleen Gargano, Chair
Coverage, Claims & Litigation Committee