

COMPLIANCE AUDIT REPORT

**STATE OF MAINE
WORKERS' COMPENSATION BOARD**



**Acadia Insurance Company
Engagement Date: October 3, 2023
Issue Date: March 13, 2024**

Office of Monitoring, Audit & Enforcement

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SUMMARY

The Acadia Insurance group of affiliated companies (collectively Acadia) provide a wide variety of business insurance products including workers' compensation.

The Audit Division of the Maine Workers' Compensation Board (Board) examined twenty-nine (29) claim files where indemnity benefits were paid for the period under examination (2022) as well as sixty (60) medical payments for the period under examination (2022) to determine compliance with statutory and regulatory requirements in the following areas:

- Timeliness of benefit payments
- Accuracy of benefit payments

The claim sample was drawn from a listing of all of Acadia's 2022 Maine workers' compensation claims. The medical payment sample was drawn from a listing of all of Acadia's 2022 medical payments for those claims in the sample.

One (1) "Complaint for Audit" form that named Acadia as the claims administrator was filed with the Audit Division since the last audit, but all issues raised by that document were addressed and resolved by Acadia prior to this audit engagement. Therefore, that one (1) complaint was not included in this audit.

Acadia operates primarily from its home office situated in Westbrook, Maine. Maine workers' compensation claims are handled by adjusters located within the State who either telework exclusively or maintain hybrid schedules, working both in-office and remotely.

The audit work was conducted as a desk audit.

The compliance tables found on pages 8 through 10 of this report are representative of Board findings as of October 3, 2023. Since that time, the Audit Division has received additional information, missing form filings, form corrections, indemnity payments and adjustments. Based on this information, the Detailed Claims Information provided as an appendix of this report is representative of Board findings as of the issuance of this report.

Following is a discussion of the aforementioned compliance tables and of the steps taken since October 3, 2023 to rectify identified noncompliance issues. This discussion also includes other significant issues identified by the audit.

◆ **Timeliness of benefit payments**

- Title 39-A M.R.S.A. Section 205(2) provides the time requirements for indemnity payments.
- When there is not an ongoing dispute, failure to pay weekly compensation benefits or accrued weekly benefits within 30 days after becoming due and payable is a violation of Title 39-A M.R.S.A. Section 205(2) and subject to penalty under Section 205(3).
- Initial Indemnity Payments:
 - Thirty-two (32) initial indemnity payments were made timely, and one (1) claim received “salary continuation” from its respective employer for two (2) consecutive periods of incapacity.
 - Acadia’s compliance rate for initial indemnity payments (timely payments and “salary continuation” collectively) is 97%, which is above the Board’s performance benchmark of 87%.
 - One (1) initial indemnity payment was made late.
- Subsequent Indemnity Payments:
 - Two hundred ninety-one (291) subsequent indemnity payments were made timely.
 - Thirty-four (34) subsequent indemnity payments were made late.
- Board Rules and Regulations Chapter 5 states in part, “The employer/insurer shall pay the health care provider's charge or the maximum allowable payment under this fee schedule, whichever is less, within 30 days of receipt of a bill unless the bill or previous bills from the same provider or the underlying injury has been controverted or denied. If an employer/insurer controverts whether a health care provider’s bill is reasonable and proper under § 206 of the Act, the employer/insurer shall send a copy of the notice of controversy to the health care provider.”
 - Forty-two (42) medical payments were made timely.
 - Eighteen (18) medical payments were made late.

◆ **Accuracy of indemnity payments**

- Title 39-A M.R.S.A. Section 102(4) and Board Rules and Regulations Chapter 1, Section 5 provide the requirements for calculating average weekly wages (AWWs). Title 39-A M.R.S.A. Section 102(1) and Board Rules and Regulations Chapter 8, Section 9 provides the requirements for determining weekly compensation rates (WCRs). Title 39-A M.R.S.A. Sections 212, 213, and 215 provide the requirements for compensation for total incapacity, partial incapacity, and death benefits.
- The accuracy of indemnity payments was reviewed for twenty-nine (29) claims.
- Average Weekly Wage:
 - Twenty-six (26) AWWs were correct.
 - Three (3) AWWs were incorrect.
- Weekly Compensation Rate:
 - Twenty-six (26) WCRs were correct.
 - Three (3) WCRs were incorrect.
- Partial Benefits Calculation Method:
 - The method used to calculate partial benefits was correct for fourteen (14) claims.
 - The method used to calculate partial benefits was incorrect for two (2) claims.
- Amount Paid:
 - Twelve (12) claims were compensated correctly, and one (1) claim received “salary continuation” from its respective employer.
 - Six (6) claims were underpaid (\$1,760.94 aggregately).
 - Since October 3, 2023, Acadia paid the amounts due.
 - Ten (10) claims were overpaid (\$3,210.44 aggregately).
 - Collectively, the aforementioned errors resulted in a net overpayment of \$1,449.50 to injured workers.

◆ **Accuracy of medical payments**

- Title 39-A M.R.S.A. Section 209-A and Board Rules and Regulations Chapter 5 provide the fee setting requirements for medical and ancillary services and products rendered by individual health care practitioners and health care facilities.
- The accuracy of sixty (60) medical payments was reviewed among twenty-one (21) claims.
- Amount Paid:
 - Thirty-eight (38) medical payments sampled were correct.
 - Twenty-two (22) medical payments sampled were incorrect.

◆ **Other significant issues**

- Boxes 21a and 21b of the WCB-4D, Discontinuance of Compensation must accurately reflect the date the incapacity began (Box 21a) and/or ended (Box 21b). See the Board's Forms and Petitions Manual.
 - Incorrect dates were reported in Box 21a and/or 21b of the WCB-4D, Discontinuance of Compensation forms filed for three (3) claims.
- Box 22 (First Day Of Compensability After Waiting Period Is Met) of the WCB-3, Memorandum of Payment (MOP) must accurately reflect the date of the first compensable day that follows the completion of the 7-day waiting period. See the Board's Forms and Petitions Manual.
 - Incorrect dates were reported in Box 22 of the MOPs that were filed for four (4) claims.
- Boxes 23a (Date of Incapacity) and 23b (Date Employer Notified) of the MOP must accurately reflect the date of incapacity and date that the employer was notified of the incapacity. Note: the Date of Incapacity reported in Box 23a and the Date Employer Notified in Box 23b must equal the Date of Incapacity (DN56) and Date Employer Notified (DN281) reported in box 43 of the WCB-1, Employer's First Report of Occupational Injury or Disease (FROI). See the Board's Forms and Petitions Manual.
 - Incorrect dates were reported in Boxes 23a and/or 23b of the MOPs and/or Boxes 43a and/or 43b of the FROIs that were filed for three (3) claims.
- Box 24 (Date Check Mailed) of the MOP must accurately reflect the date that the initial indemnity payment (for the incapacity addressed by the MOP) is sent to the employee. See the Board's Forms and Petitions Manual.
 - Incorrect dates were reported in Box 24 of the MOPs that were filed for two (2) claims.
- Additional payments and/or adjustments were made since the "Final" WCB-11 Statement of Compensation Paid was filed for six (6) claims.

PENALTIES

♦ Penalties payable to providers and/or injured employees

Title 39-A M.R.S.A. Section 205(3)

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

Delays of “other” indemnity payments, subject to penalty under Section 205(3), were found on the following claims:

CLAIM	PENALTY JUSTIFICATION	PENALTY EXPOSURE
Kevin James vs. Atlantic Landscape Construction, Inc. Date of Injury: 7/26/22 Date ER Notified of Incapacity: 7/27/22 Claim #52 WC 000000226123 Board #22016501	Payment for part of the 7-day waiting period was made 2/7/24, which was 541 days after compensation became due and payable (8/15/22).	\$1,500.00
Karl McLaughlin vs. Comprehensive Land Technologies, Inc. Date of Injury: 5/9/22 Date ER Notified of Incapacity: 5/16/22 Claim #52 WC 000000239569 Board #22021783	Payment for part of the 7-day waiting period was made 2/7/24, which was 367 days after compensation became due and payable (2/5/23).	\$1,500.00
Kurt Stefancyk vs. Avesta Housing Development Corp. Date of Injury: 1/26/22 Date ER Notified of Incapacity: 1/28/22 Claim #52 WC 000000195677 Board #22002154	The claimant was totally incapacitated from 2/5/22 through 2/11/22. Payment for that incapacity was made 2/8/24, which was 713 days after compensation became due and payable (2/25/22).	\$1,500.00
Larry Thach vs. Portland Airport Limousine Company, Inc. Date of Injury: 6/12/22 Date ER Notified of Incapacity: 6/14/22 Claim #52 WC 000000218132 Board #22012885	The claimant was totally incapacitated from 6/14/22 through 6/25/22. Payment for one (1) day of that incapacity was made 2/8/24, which was 579 days after compensation became due and payable (7/9/22).	\$1,500.00
Cassandra Veilleux vs. Hallowell Brewing Company Date of Injury: 10/9/22 Date ER Notified of Incapacity: 10/16/22 Claim #52 WC 000000243209 Board #22023279	Payment for part of the 7-day waiting period was made 2/8/24, which was 438 days after compensation became due and payable (11/27/22).	\$1,500.00
Total Penalties to Injured Employees for Delays of “Other” Indemnity Payments		\$7,500.00

◆ Penalties payable to the State General Fund

Title 39-A M.R.S.A. Section 359(2)

“In addition to any other penalty assessment permitted under this Act, the Board may assess civil penalties not to exceed \$25,000 upon finding, after hearing, that an employer, insurer or 3rd-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. The amount of any penalty assessed pursuant to this subsection must be directly related to the severity of the pattern of questionable claims-handling techniques or repeated unreasonably contested claims. All penalties collected pursuant to this subsection shall inure to the benefit of the General Fund. An insurance carrier’s payment of any penalty assessed under this section may not be considered an element of loss for the purpose of establishing rates for workers' compensation insurance.”

- No action will be taken at this time.

To avoid future penalty referral(s) under Section 359(2) and/or 360(2), Acadia must take corrective measures to address the following inadequacies:

- Failure to pay medical benefits timely
- Failure to pay benefits accurately

Title 39-A M.R.S.A. Section 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.”

- No action will be taken at this time.

To avoid future penalty referral(s) under Section 360(2) and/or 359(2), Acadia must take corrective measures to address the following inadequacies:

- Failure to pay medical benefits timely
- Failure to pay benefits accurately

COMPLIANCE TABLES

Timeliness of Benefit Payments

A. Initial Payment of Indemnity Benefits

			2022	
			Number	Percent
Check Issued Within:				
0-14	Days	Compliant	34	97%
15-44	Days		1	3%
Total			35	100%

B. Subsequent Payment of Indemnity Benefits

			2022	
			Number	Percent
Check Issued Within:				
0-7	Days	Compliant	291	90%
8-37	Days		34	10%
Total			325	100%

C. Medical Payments

			2022	
			Number	Percent
Check Issued Within:				
0-30	Days	Compliant	42	70%
31+	Days		18	30%
Total			60	100%

◆ **Accuracy of Indemnity Payments**

D. Average Weekly Wage

		2022	
		Number	Percent
Calculated:			
Correct	Compliant	26	90%
Incorrect		3	10%
Total		29	100%

E. Weekly Compensation Rate

		2022	
		Number	Percent
Calculated:			
Correct	Compliant	26	90%
Incorrect		3	10%
Total		29	100%

F. Partial Benefits

		2022	
		Number	Percent
Calculated:			
Correct	Compliant	14	88%
Incorrect		2	12%
Total		16	100%

G. Amount Paid

		2022	
		Number	Percent
Calculated:			
Correct	Compliant	13	45%
Underpaid		6	21%
Overpaid		10	34%
Total		29	100%

◆ **Accuracy of Medical Payments**

H. Amount Paid

		2022	
		Number	Percent
Calculated:			
Correct	Compliant	38	63%
Incorrect		22	37%
Total		60	100%