

COMPLIANCE AUDIT REPORT

STATE OF MAINE
WORKERS' COMPENSATION BOARD



Travelers Insurance Group
Engagement Date: October 26, 2022
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Office of Monitoring, Audit & Enforcement

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SUMMARY

The Travelers Insurance Group of affiliated companies (collectively Travelers) provides a wide variety of business insurance products including workers' compensation.

In April 2012, Travelers entered into an agreement with the Superintendent of the Maine Bureau of Insurance (Superintendent) and the Office of the Maine Attorney General for the purpose of bringing to a halt, without resort to an adjudicatory proceeding, violations of 39-A M.R.S.A. certified to the Superintendent by the Maine Workers' Compensation Board (Board) pursuant to Title 39-A M.R.S.A. Section 359(2). Regrettably, Travelers failed to fully meet compliance rates stipulated in the agreement and, therefore, voluntarily opted to pay a \$15,000 penalty in lieu of undergoing an expanded Look-Back review as ordered by the Superintendent in a letter dated April 1, 2015.

The Audit Division of the Board examined thirty-eight (38) claim files where indemnity benefits were paid for the period under examination (2020-2021) as well as fifty-nine (59) medical payments for the period under examination (2020-2021) to determine compliance with statutory and regulatory requirements in the following areas:

- Form filing
- Timeliness of benefit payments
- Accuracy of benefit payments

The claim sample was drawn from a listing of all of Travelers' 2020-2021 Maine workers' compensation claims. The medical payment sample was drawn from a listing of all of Travelers' 2020-2021 medical payments for those claims in the sample.

Three (3) "Complaint for Audit" forms that named Travelers as the claims administrator were filed with the Audit Division since the last audit, but all issues raised by those documents were addressed and resolved by Travelers prior to this audit engagement. Therefore, those three (3) complaints were not included in this audit.

Due to questionable claims-handling techniques identified early in the audit process, this review was expanded to include a limited-scope audit of various claims with 2017–2021 dates of injury. These sixteen (16) claims were referred to Audit by the Board's Claims Management Unit due to Travelers' persistent unresponsiveness and/or delayed reactions regarding form filing requests. Of the claim files audited, there was one (1) 2017 claim, one (1) 2018 claim, four (4) 2020 claims and ten (10) 2021 claims. The audit of those claims addressed the following issues:

- Missing form filings
- Form corrections

Travelers handles its Maine workers' compensation claims primarily in its New England claim center located in West Bridgewater, Massachusetts. Travelers also utilizes the services of Travis Gulliver as its claims agent within the State, although none of the claims under review were adjusted by Mr. Gulliver.

The audit work was conducted as a desk audit.

The compliance tables found on pages 21 through 26 of this report are representative of Board findings as of October 26, 2022. 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 and updated form filings as of the issuance of this report.

Following is a discussion of the aforementioned compliance tables and of the steps taken since October 26, 2022 to rectify identified noncompliance issues. This discussion also includes other significant issues identified by the audit.

◆ **Form filing**

- Title 39-A M.R.S.A. and the Board Rules and Regulations provide the requirements for reports to the Board:

<i>WCB-1, First Report of Occupational Injury or Disease</i>	<i>39-A M.R.S.A. Section 303, Rules & Regs, Ch 8 Section 13, Rules & Regs, Ch 3 Section 4</i>
<i>WCB-2, Wage Statement</i>	<i>39-A M.R.S.A. Section 303</i>
<i>WCB-2B, Fringe Benefits Worksheet</i>	<i>39-A M.R.S.A. Section 303</i>
<i>WCB-3, Memorandum of Payment (MOP)</i>	<i>Rules & Regs, Ch 1 Section 1.1, Rules & Regs, Ch 1 Section 1.3, 39-A M.R.S.A. Section 205(7), Rules & Regs, Ch 8 Section 12</i>
<i>WCB-4, Discontinuance or Modification of Compensation</i>	<i>Rules & Regs, Ch 8 Section 11, Rules & Regs, Ch 8 Section 12</i>
<i>WCB-4A, Consent Between Employer and Employee</i>	<i>Rules & Regs, Ch 8 Section 18</i>
<i>WCB-8, (21 Day) Certificate of Discontinuance or Reduction of Compensation</i>	<i>39-A M.R.S.A. Section 205(9)</i>
<i>WCB-9, Notice of Controversy (NOC)</i>	<i>Rules & Regs, Ch 1 Section 1.1, Rules & Regs, Ch 3 Section 4</i>
<i>WCB-11, Statement of Compensation Paid</i>	<i>Rules & Regs, Ch 8 Section 1, Rules & Regs, Ch 8 Section 12</i>

- Failure to file any Board form within established time frames is a violation of Title 39-A M.R.S.A. Section 360(1) (A) or (B).
- First Report of Occupational Injury or Disease (WCB-1):
 - Eleven (11) First Report of Occupational Injury or Disease forms were filed in accordance with the above requirements.
 - Travelers' compliance rate for First Report of Occupational Injury or Disease filings is 29%, which is below the Board's performance benchmark of 85%.
 - Twenty-seven (27) First Report of Occupational Injury or Disease forms were filed late.
- Wage Statement (WCB-2) and Fringe Benefits Worksheet (WCB-2B):
 - Sixteen (16) Wage Statements and twelve (12) Fringe Benefits Worksheets were filed in accordance with the above requirements.
 - Travelers' compliance rate for Wage Statement filings is 41%, which is below the Board's performance benchmark of 75%.
 - Travelers' compliance rate for Fringe Benefits Worksheet filings is 31%, which is below the Board's performance benchmark of 75%.
 - Seventeen (17) Wage Statements and nineteen (19) Fringe Benefits Worksheets were filed late.

- Six (6) Wage Statements and eight (8) Fringe Benefits Worksheets were required, but not filed.
 - Since October 26, 2022, Travelers submitted five (5) of those Wage Statements, and six (6) of those Fringe Benefits Worksheets.
- Memorandum of Payment (WCB-3 or WCB-4A) and Notice of Controversy (WCB-9):
 - Twenty-two (22) Memorandum of Payment forms and four (4) Notice of Controversy (“lost time”) forms were filed in accordance with the above requirements.
 - Travelers’ compliance rate for Memorandum of Payment filings is 55%, which is below the Board’s performance benchmark of 85%.
 - Travelers’ compliance rate for Notice of Controversy filings is 100%, which is above the Board’s performance benchmark of 90%.
 - Eighteen (18) Memorandum of Payment forms were filed late.
- Discontinuance of Compensation (WCB-4D or WCB-4A):
 - Eighteen (18) Discontinuance of Compensation forms were filed in accordance with the above requirements.
 - Twelve (12) Discontinuance of Compensation forms were filed late.
 - Two (2) Discontinuance of Compensation forms were required, but not filed.
 - Since October 26, 2022, Travelers submitted those two (2) Discontinuance of Compensation forms.
- Modification of Compensation (WCB-4M or WCB-4A):
 - Five (5) Modification of Compensation forms were filed in accordance with the above requirements.
 - Six (6) Modification of Compensation forms were filed late.
 - Two (2) Modification of Compensation forms were required, but not filed.
 - Since October 26, 2022, Travelers submitted one (1) of those Modification of Compensation forms.

- (21 Day) Certificate of Discontinuance or Reduction of Compensation (WCB-8 or WCB-4A):
 - Four (4) (21 Day) Certificate of Discontinuance or Reduction of Compensation forms were filed in accordance with the above requirements.
 - One (1) (21 Day) Certificate of Discontinuance or Reduction of Compensation form was required, but not filed.
- Statement of Compensation Paid (WCB-11):
 - Thirty-eight (38) Statement of Compensation Paid forms were filed in accordance with the above requirements.
 - Eleven (11) Statement of Compensation Paid forms were filed late.
 - Eleven (11) Statement of Compensation Paid forms were required, but not filed.
 - Since October 26, 2022, Travelers submitted two (2) of those Statement of Compensation Paid forms.

◆ **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.
 - Travelers' compliance rate for initial indemnity payments is 74%, which is below the Board's performance benchmark of 87%.
 - Eleven (11) initial indemnity payments were made late.
 - Three (3) late initial indemnity payments were made later than 30 days after they became due and payable, in violation of Section 205(2) and subject to penalty under Section 205(3).
- Subsequent Indemnity Payments:
 - Five hundred sixty-three (563) subsequent indemnity payments were made timely.
 - Seventy (70) subsequent indemnity payments were made late.
 - Three (3) late subsequent indemnity payments were made later than 30 days after they became due and payable in violation of Section 205(2) and subject to penalty under Section 205(3).
- 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."
 - Fifty-nine (59) medical payments were made timely.
- Title 39-A M.R.S.A. Section 324(1) provides the requirements for compensation payments per an approved agreement, order or decision. Board Rules and Regulations Chapter 8, Section 18.2 provides the requirements for compensation payments per a Consent Between Employer and Employee (WCB-4A).
 - Three (3) Consents Between Employer and Employee and one (1) Lump Sum Settlement were paid timely.

◆ **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 thirty-eight (38) claims.
- Average Weekly Wage:
 - Twenty-three (23) AWWs were correct.
 - Fifteen (15) AWWs were incorrect.
- Weekly Compensation Rate:
 - Twenty-three (23) WCRs were correct.
 - Fifteen (15) WCRs were incorrect.
- Partial Benefits Calculation Method:
 - The method used to calculate partial benefits was correct for nine (9) claims.
 - The method used to calculate partial benefits was incorrect for eight (8) claims.
- Amount Paid:
 - Twelve (12) claims were compensated correctly.
 - Twenty (20) claims were underpaid (\$43,664.76 aggregately).
 - Since October 26, 2022, Travelers paid \$21,193.78 of the amounts due.
 - Six (6) claims were overpaid (\$1,297.69 aggregately).
 - Collectively, the aforementioned errors resulted in a net underpayment of \$42,367.07 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 fifty-nine (59) medical payments was reviewed among nineteen (19) claims.
- Amount Paid:
 - Fifty-five (55) medical payments sampled were correct.
 - Four (4) medical payments sampled were incorrect.

◆ **Other significant issues**

- Boxes 19a and 19b of the WCB-4, Discontinuance or Modification of Compensation and/or Boxes 21a and 21b of the WCB-4D, Discontinuance of Compensation must accurately reflect the date the incapacity began (Boxes 19a and 21a) and/or ended (Boxes 19b and 21b). See the Board's Forms and Petitions Manual.
 - Incorrect dates were reported in Box 19a and/or 19b of the WCB-4, Discontinuance or Modification of Compensation and/or Box 21a and/or 21b of the WCB-4D, Discontinuance of Compensation forms filed for seven (7) 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 thirteen (13) claims.
- Boxes 23a (Date of Incapacity) and 23b (Date Employer Notified) of the WCB-3, Memorandum of Payment (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 (First Report). See the Board's Forms and Petitions Manual.
 - Incorrect dates were reported in Boxes 23a and/or 23b of the MOPs and/or 43a and/or 43b of the FROIs that were filed for nine (9) claims.
- Box 24 (Date Check Mailed) of the WCB-3, Memorandum of Payment (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 three (3) claims.
- Medical Treatment reported on the WCB-11, Statement of Compensation Paid form must not include allocated expenses. See the Board's Forms and Petitions Manual.
 - The auditor noted that allocated expenses were reported as Medical Treatment on the "Final" WCB-11s that were filed for three (3) claims.
- Additional payments were made since the "Final" WCB-11 Statement of Compensation Paid was filed for ten (10) claims.

◆ **Limited-scope audit**

➤ Due to questionable claims-handling techniques identified early in the audit process, this review was expanded to include a limited-scope audit of various claims with 2017–2021 dates of injury. These sixteen (16) claims were referred to Audit by the Board’s Claims Management Unit due to Travelers’ persistent unresponsiveness and/or delayed reactions regarding form filing requests. The audit of those claims addressed the following issues:

➤ Missing form filings were noted for the following claims:

Employee Name	Date of Injury	Claim#	Missing Form	Last Date Requested from Board’s Claims Management Unit
Bates, Derek	07/01/20	FQE1779	WCB-2B, Fringe Benefits Worksheet	08/31/21
Gagnon, Tracy	06/26/18	FEU0951	WCB-2B, Fringe Benefits Worksheet	08/27/21
Merrill, Keith	04/28/21	FSR7233	WCB-2, Wage Statement	08/08/22
			WCB-2B, Fringe Benefits Worksheet	08/08/22
Rajaniemi, Donald	09/02/21	FTH9837	WCB-2, Wage Statement	12/07/21
			WCB-2B, Fringe Benefits Worksheet	12/07/21
Williams, Kelly	12/22/20	FRT1417	WCB-2B, Fringe Benefits Worksheet	03/15/22

These five (5) claims represent 31% of the claims tested. Since October 26, 2022, Travelers has filed all missing WCB-2s and/or WCB-2Bs related to these claims.

➤ Form corrections were required for the following claims:

Employee Name	Date of Injury	Claim#	Form Requiring Correction(s)	Last Date Requested from Board’s Claims Management Unit
Bates, Derek	07/01/20	FQE1779	WCB-2, Wage Statement	08/31/21
Bonito, Allen	4/16/21	FRS4113	WCB-2, Wage Statement	12/28/21

Employee Name	Date of Injury	Claim#	Form Requiring Correction(s)	Last Date Requested from Board's Claims Management Unit
Chessie, Seth	6/30/21	FSZ8434	WCB-4M, Modification of Compensation	12/13/21
			WCB-4D, Discontinuance of Compensation	12/13/21
Downer, Jr., John	8/30/21	FTH8927	WCB-2, Wage Statement	3/28/22
Dyer, Scott	10/2/20	FQS8571	WCB-2, Wage Statement	8/31/21
Jordan, Mcayla	11/24/21	FUE4681	WCB-2, Wage Statement	2/15/22
Leavitt, Brian*	03/04/20	FPF5792	WCB-2, Wage Statement	9/15/20
Martin, Jeffrey	2/12/21	FSG0436	WCB-2, Wage Statement	4/14/21
Miller, Molly	8/11/21	FTH5094	WCB-2, Wage Statement	12/7/21
Norton, Ian	8/29/21	FTH8909	WCB-2, Wage Statement	3/28/22
Ricker, Hope	9/30/17	FBR3607	WCB-3, Memorandum of Payment	11/9/21
			WCB-4M, Modification of Compensation	11/9/21
			WCB-4D, Discontinuance of Compensation	11/9/21
			WCB-11, (Final) Statement of Compensation Paid	11/9/21
Tourtlotte, Connie	11/27/21	FUE4657	WCB-2, Wage Statement	5/19/22
Williams, Kelly	12/22/20	FRT1417	WCB-2, Wage Statement	03/15/22

*This claim was settled by Lump-Sum on 9/7/22. Therefore, no form correction was requested.

These thirteen (13) claims, two (2) of which are also included under “Missing form filings” above, represent 81% of the claims tested. Since October 26, 2022, Travelers has made all requested form corrections related to these 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 initial indemnity payments, subject to penalty under Section 205(3), were found on the following claims:

CLAIM	PENALTY JUSTIFICATION	PENALTY EXPOSURE
Nicole Crowell vs. BH Shoe Holdings, Inc. Date of Injury: 11/3/20 Date ER Notified of Incapacity: 11/3/20 Claim #FRB3583 Board #20026787	No NOC was filed, and the initial indemnity payment was made 4/6/21, which was 102 days after compensation became due and payable (12/25/20).	\$1,500.00*
Michael Look vs. L&D Safety Marking, Corp. Date of Injury: 10/7/21 Date ER Notified of Incapacity: 11/2/21 Claim #FUE1709 Board #21025052	No NOC was filed, and the initial indemnity payment was made 12/23/21, which was 37 days after compensation became due and payable (11/16/21).	\$350.00*
Cassandra Schmidt vs. Apothecary RX, Inc. Date of Injury: 3/2/21 Date ER Notified of Incapacity: 6/5/21 Claim #FSG8324 Board #21015479	No NOC was filed, and the initial indemnity payment was made 7/13/21, which was 39 days after compensation became due and payable (6/4/21).	\$450.00
Total Penalties to Injured Employees for Delays of Initial Indemnity Payments		\$2,300.00

* Paid.

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

CLAIM	PENALTY JUSTIFICATION	PENALTY EXPOSURE
Basil Al Mashkooor vs. Enterprise Holdings, Inc. Date of Injury: 10/8/20 Date ER Notified of Incapacity: 10/13/20 Claim #7126250 Board #20019468	A subsequent indemnity payment was made 12/15/20, which was 42 days after compensation became due and payable (11/3/20).	\$600.00

CLAIM	PENALTY JUSTIFICATION	PENALTY EXPOSURE
Joshua Gosselin vs. Monro, Inc. Date of Injury: 12/19/20 Date ER Notified of Incapacity: 12/20/20 Claim #FRT4309 Board #20026829	A subsequent indemnity payment was made 4/22/21, which was 82 days after compensation became due and payable (1/30/21).	\$1,500.00
John Muse vs. Swiss Time, Inc. Date of Injury: 8/19/20 Date ER Notified of Incapacity: 8/20/20 Claim #FQS1127 Board #20016242	A subsequent indemnity payment was made 5/14/21, which was 135 days after compensation became due and payable (12/30/20).	\$1,500.00
Total Penalties to Injured Employees for Delays of Subsequent Indemnity Payments		\$3,600.00

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

CLAIM	PENALTY JUSTIFICATION	PENALTY EXPOSURE
Nicole Crowell vs. BH Shoe Holdings, Inc. Date of Injury: 11/3/20 Date ER Notified of Incapacity: 11/3/20 Claim #FRB3583 Board #20026787	Payment for part of the 7-day waiting period was made 7/28/23, which was 923 days after compensation became due and payable (1/16/21).	\$1,500.00
Lauren Eldridge vs. Enterprise Holdings, Inc. Date of Injury: 12/17/21 Date ER Notified of Incapacity: 12/20/21 Claim #4A21120J9MV0001 Board #21028469	A provisional WCR was used to pay this claim. Payment of accrued benefits was made 9/9/22, which was 244 days after compensation became due and payable (1/8/22).	\$1,500.00
Robert Engelberg vs. Douglas Dynamics, Inc. Date of Injury: 7/12/21 Date ER Notified of Incapacity: 7/13/21 Claim #FSZ9137 Board #21014677	A provisional WCR was used to pay the period 7/13/21 through 8/15/21. Payment of accrued benefits was made 6/8/23, which was 648 days after compensation became due and payable (8/29/21).	\$1,500.00
Joshua Gosselin vs. Monro, Inc. Date of Injury: 12/19/20 Date ER Notified of Incapacity: 12/20/20 Claim #FRT4309 Board #20026829	A provisional payment was used to pay the period 4/23/21 through 5/13/21. Payment of accrued benefits has not yet been made.	\$1,500.00

CLAIM	PENALTY JUSTIFICATION	PENALTY EXPOSURE
Jeremy Labonte vs. Lincare Holdings, Inc. Date of Injury: 7/15/20 Date ER Notified of Incapacity: 7/16/20 Claim #FQE3559 Board #20012766	The claimant's benefits for the 1 st period of incapacity were improperly discontinued on 7/30/20. Payment of accrued benefits was made 6/8/23, which was 1,029 days after compensation became due and payable (8/13/20). A provisional payment was used to pay the period 1/18/21 through 2/15/21. Payment of accrued benefits was made 6/8/23, which was 829 days after compensation became due and payable (3/1/21).	\$1,500.00
Sabrina Lapointe vs. The Shack Date of Injury: 12/8/21 Date ER Notified of Incapacity: 12/9/21 Claim #FUE9722 Board #21028862	A provisional WCR was used to pay this claim. Payment of accrued benefits was made 6/8/23, which was 492 days after compensation became due and payable (2/1/22).	\$1,500.00
Andrue Leach vs. Douglas Dynamics, Inc. Date of Injury: 5/19/21 Date ER Notified of Incapacity: 5/26/21 Claim #FSZ0607 Board #21011173	A provisional WCR was used to pay the period 5/26/21 through 6/12/21. Payment of accrued benefits was made 8/6/21, which was 41 days after compensation became due and payable (6/26/21).	\$550.00
Michael Look vs. L&D Safety Marking, Corp. Date of Injury: 10/7/21 Date ER Notified of Incapacity: 11/2/21 Claim #FUE1709 Board #21025052	The claimant's benefits were improperly discontinued on 2/15/22. Partial payment of accrued benefits was made 7/12/23, which was 498 days after compensation became due and payable (3/1/22). Payment of the remaining accrued benefits has not yet been made.	\$1,500.00
Paula MacMillan vs. Cintas Corporation Date of injury: 2/7/20 Date ER Notified of Incapacity: 2/8/20 Claim #40200204A6C0001 Board #20002564	The claimant's benefits for the period 9/21/21 through 9/26/21 were not paid as specified on a Consent Between Employer and Employee dated 9/30/21. Payment of accrued benefits was made 9/5/23, which was 695 days after compensation became due and payable (10/10/21).	\$1,500.00
John Muse vs. Swiss Time, Inc. Date of Injury: 8/19/20 Date ER Notified of Incapacity: 8/20/20 Claim #FQS1127 Board #20016242	A provisional WCR was used to pay the period 8/20/20 through 12/25/20. Payment of accrued benefits was made 3/22/21, which was 73 days after compensation became due and payable (1/8/21). A provisional payment was used to pay the period 5/17/21 through 6/6/21. Payment of accrued benefits was made 6/8/23, which was 718 days after compensation became due and payable (6/20/21).	\$1,500.00

CLAIM	PENALTY JUSTIFICATION	PENALTY EXPOSURE
Philip Parker vs. Acme Monaco Corporation Date of Injury: 12/7/20 Date ER Notified of Incapacity: 12/8/20 Claim #FRB9278 Board #20024039	Payment for the 7-day waiting period was made 6/6/23, which was 864 days after compensation became due and payable (1/23/21).	\$1,500.00
Janice Pomerleau vs. Corning Incorporated Date of Injury: 3/24/21 Date ER Notified of Incapacity: 3/25/21 Claim #FSG9545 Board #21011921	A provisional WCR was used to pay this claim. Payment of accrued benefits was made 6/7/23, which was 640 days after compensation became due and payable (9/5/21). The claimant's benefits were improperly discontinued on 8/23/21. Payment of accrued benefits was made 6/7/23, which was 639 days after compensation became due and payable (9/6/21).	\$1,500.00
Total Penalties to Injured Employees for Delays of "Other" Indemnity Payments		\$17,050.00

◆ **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.”

- The Board may refer Travelers to the Abuse Investigation Unit to pursue penalties under Section 359(2) for the following reasons (including, but not limited to):
 - Failure to file or timely file forms with the Board
 - Failure to pay or timely pay indemnity benefits
 - Failure to pay indemnity benefits accurately
 - Failure to respond or respond fully to Board staff regarding form filing requests
 - Failure to obtain completed WCB-2, Wage Statement(s) and/or WCB-2B, Fringe Benefits Worksheet(s) from employers
 - Failure to pay total benefits and/or adjust provisional payments for the 21-day period related to the filing of WCB-8, (21-Day) Certificate of Discontinuance or Reduction of Compensation forms when wages to justify reduction in benefits are unavailable
- **Penalty exposure: \$25,000.00**

Title 39-A M.R.S.A. Section 360(1)(A)

“The Board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete any report or form required by this Act or rules adopted under this Act.”

Violations subject to penalty under Section 360(1)(A) were found on the following claims:

Employee	Date of Injury	Forms Not Filed	Penalty Exposure
	5/27/21	WCB-11, Statement of Compensation Paid	\$100.00
	11/3/20	WCB-4M, Modification of Compensation	\$100.00
	4/9/21	WCB-11, Statement of Compensation Paid	\$100.00
	11/1/21	WCB-11, Statement of Compensation Paid	\$100.00
	12/8/21	WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
	10/7/21	WCB-11, Statement of Compensation Paid	\$100.00
	7/1/21	WCB-11, Statement of Compensation Paid (2)	\$200.00
	7/8/20	WCB-2B, Fringe Benefits Worksheet	\$100.00
	4/7/20	WCB-11, Statement of Compensation Paid	\$100.00
	2/28/20	WCB-11, Statement of Compensation Paid	\$100.00
	3/11/21	WCB-11, Statement of Compensation Paid	\$100.00
TOTAL			\$1,300.00

Title 39-A M.R.S.A. Section 360(1)(B)

“The Board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete such a report or form within the time limits specified in this Act or rules adopted under this Act.”

Violations subject to penalty under Section 360(1)(B) were found on the following claims:

Employee	Date of Injury	Forms Filed Late	Penalty Exposure
	10/8/20	WCB-1, Employer’s First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00
		WCB-11, Statement of Compensation Paid	\$100.00
	3/16/20	WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-11, Statement of Compensation Paid (2)	\$200.00
	1/13/20	WCB-1, Employer’s First Report of Occupational Injury or Disease	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-11, Statement of Compensation Paid	\$100.00
	5/27/21	WCB-1, Employer’s First Report of Occupational Injury or Disease	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00

Employee	Date of Injury	Forms Filed Late	Penalty Exposure
	11/3/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00**
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
		WCB-11, Statement of Compensation Paid (2)	\$200.00
	9/16/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00*
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
	4/9/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
	12/17/21	WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00
	7/12/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
		WCB-4M, Modification of Compensation	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00
	10/13/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
	12/19/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00*
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
	3/30/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00
	1/28/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00*
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
	8/10/20	WCB-4D, Discontinuance of Compensation	\$100.00
	7/15/20	WCB-2, Wage Statement (2)	\$200.00
		WCB-2B, Fringe Benefits Worksheet (2)	\$200.00
		WCB-4M, Modification of Compensation	\$100.00
	8/1/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00**
		WCB-3, Memorandum of Payment	\$100.00
		WCB-4M, Modification of Compensation	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00

Employee	Date of Injury	Forms Filed Late	Penalty Exposure
	12/8/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00
		WCB-11, Statement of Compensation Paid	\$100.00
	5/19/21	WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-4M, Modification of Compensation	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00
	2/1/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-11, Statement of Compensation Paid	\$100.00
	10/7/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
	7/1/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00
	8/19/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-11, Statement of Compensation Paid	\$100.00
	7/8/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00**
		WCB-2, Wage Statement	\$100.00
	2/10/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-4, Discontinuance or Modification of Compensation	\$100.00
	12/7/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
		WCB-4M, Modification of Compensation	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00
	4/7/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
	12/9/21	WCB-3, Memorandum of Payment	\$100.00
	3/24/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00*
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-4M, Modification of Compensation	\$100.00
		WCB-11, Statement of Compensation Paid	\$100.00

Employee	Date of Injury	Forms Filed Late	Penalty Exposure
	2/28/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
	3/2/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00*
		WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-3, Memorandum of Payment	\$100.00
		WCB-11, Statement of Compensation Paid	\$100.00
	2/20/20	WCB-2, Wage Statement	\$100.00
		WCB-2B, Fringe Benefits Worksheet	\$100.00
		WCB-4, Discontinuance or Modification of Compensation	\$100.00
	3/11/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-4M, Modification of Compensation	\$100.00
		WCB-4D, Discontinuance of Compensation	\$100.00
	11/14/20	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
		WCB-2, Wage Statement	\$100.00
		WCB-11, Statement of Compensation Paid (2)	\$200.00
	8/9/21	WCB-1, Employer's First Report of Occupational Injury or Disease	\$100.00
TOTAL			\$12,600.00

* Paid AIU.

** Dismissed AIU.

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.”

- The Board may refer Travelers to the Abuse Investigation Unit to pursue penalties under Act §360(2) for the following reasons (including, but not limited to):
 - Failure to file or timely file forms with the Board
 - Failure to pay or timely pay indemnity benefits
 - Failure to pay indemnity benefits accurately
 - Failure to respond or respond fully to Board staff regarding form filing requests
 - Failure to obtain completed WCB-2, Wage Statement(s) and/or WCB-2B, Fringe Benefits Worksheet(s) from employers
 - Failure to pay total benefits and/or adjust provisional payments for the 21-day period related to the filing of WCB-8, (21-Day) Certificate of Discontinuance or Reduction of Compensation forms when wages to justify reduction in benefits are unavailable

- **Penalty exposure: \$10,000.00**

COMPLIANCE TABLES

◆ Form Filing

A. First Report of Occupational Injury or Disease (WCB-1)

		2020-2021	
		Number	Percent
Received at the Board:			
Filed	Compliant	11	29%
Late		27	71%
Total		38	100%

B. Wage Statement (WCB-2)

		2020-2021	
		Number	Percent
Received at the Board:			
Filed	Compliant	16	41%
Late		17	44%
Not Filed		6	15%
Total		39	100%

C. Fringe Benefits Worksheet (WCB-2B)

		2020-2021	
		Number	Percent
Received at the Board:			
Filed	Compliant	12	31%
Late		19	49%
Not Filed		8	20%
Total		39	100%

D. Memorandum of Payment (WCB-3 or WCB-4A)

		2020-2021	
		Number	Percent
Received at the Board:			
Filed	Compliant	22	55%
Late		18	45%
Total		40	100%

E. Discontinuance of Compensation (WCB-4D or WCB-4A)

		2020-2021	
		Number	Percent
Received at the Board:			
Filed	Compliant	18	56%
Late		12	38%
Not Filed		2	6%
<hr/>			
Total		32	100%
		<hr/>	

F. Modification of Compensation (WCB-4M)

		2020-2021	
		Number	Percent
Received at the Board:			
Filed	Compliant	5	39%
Late		6	46%
Not Filed		2	15%
<hr/>			
Total		13	100%
		<hr/>	

G. Certificate of Discontinuance or Reduction of Compensation (WCB-8 or WCB-4A)

		2020-2021	
		Number	Percent
Received at the Board:			
Filed	Compliant	4	80%
Not Filed		1	20%
<hr/>			
Total		5	100%
		<hr/>	

H. Notice of Controversy (WCB-9)

		2020-2021	
		Number	Percent
Received at the Board:			
Filed	Compliant	4	100%
<hr/>			
Total		4	100%
		<hr/>	

I. Statement of Compensation Paid (WCB-11)

		2020-2021	
		Number	Percent
Received at the Board:			
Filed	Compliant	38	64%
Late		11	18%
Not Filed		11	18%
<hr/>			
Total		<u>60</u>	<u>100%</u>

◆ **Timeliness of Benefit Payments**

J. Initial Payment of Indemnity Benefits

			2020-2021	
			Number	Percent
Check Issued Within:				
0-14	Days	Compliant	32	74%
15-44	Days		8	19%
45+	Days		3	7%
Total			43	100%

K. Subsequent Payment of Indemnity Benefits

			2020-2021	
			Number	Percent
Check Issued Within:				
0-7	Days	Compliant	563	89%
8-37	Days		67	10%
38+	Days		3	1%
Total			633	100%

L. Medical Payments

			2020-2021	
			Number	Percent
Check Issued Within:				
0-30	Days	Compliant	59	100%
Total			59	100%

M. Payment of Approved Agreements, Orders, Decisions

			2020-2021	
			Number	Percent
Check Issued Within:				
0-10	Days	Compliant	4	100%
Total			4	100%

◆ Accuracy of Indemnity Payments

N. Average Weekly Wage

		2020-2021	
		Number	Percent
Calculated:			
Correct	Compliant	23	61%
Incorrect		15	39%
<hr/>			
Total		38	100%
		<hr/> <hr/>	

O. Weekly Compensation Rate

		2020-2021	
		Number	Percent
Calculated:			
Correct	Compliant	23	61%
Incorrect		15	39%
<hr/>			
Total		38	100%
		<hr/> <hr/>	

P. Partial Benefits

		2020-2021	
		Number	Percent
Calculated:			
Correct	Compliant	9	53%
Incorrect		8	47%
<hr/>			
Total		17	100%
		<hr/> <hr/>	

Q. Amount Paid

		2020-2021	
		Number	Percent
Calculated:			
Correct	Compliant	12	32%
Underpaid		20	52%
Overpaid		6	16%
<hr/>			
Total		38	100%
		<hr/> <hr/>	

◆ Accuracy of Medical Payments

R. Amount Paid

		2020-2021	
		Number	Percent
Calculated:			
Correct	Compliant	55	93%
Incorrect		4	7%
Total		59	100%