

COMPLIANCE AUDIT REPORT

**STATE OF MAINE
WORKERS' COMPENSATION BOARD**



**Bath Iron Works
Engagement Date: February 1, 2018
Issue Date: March 20, 2019**

Office of Monitoring, Audit & Enforcement

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SUMMARY

Bath Iron Works (BIW) is a self-insured, self-administered Maine employer.

The Audit Division of the Maine Workers' Compensation Board (Board) examined thirty-nine (39) claim files where indemnity benefits were paid for the period under examination (2016-2017) as well as sixty (60) medical payments for the period under examination (2016-2017) 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 BIW's 2016-2017 Maine workers' compensation claims. The medical payment sample was drawn from a listing of all of BIW's 2016-2017 medical payments for those claims in the sample.

BIW handles its Maine workers' compensation claims solely in Bath, Maine.

The on-site audit work was conducted in BIW's office from May 14 through May 16, 2018.

The compliance tables found on pages 9 through 11 of this report are representative of Board findings as of February 1, 2018. Since that time, the Audit Division has received additional information, missing form filings, form corrections, indemnity payments and adjustments.

Following is a discussion of the aforementioned compliance tables and of the steps taken since February 1, 2018 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:
 - Forty-one (41) initial indemnity payments were made timely.
 - BIW's compliance rate for initial indemnity payments is 93%, which is above the Board's performance benchmark of 87%.
 - Three (3) initial indemnity payments were made late.
- Subsequent Indemnity Payments:
 - Five hundred eighty-seven (587) subsequent indemnity payments were made timely.
 - Seven (7) 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."
 - Sixty (60) medical payments were made 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-nine (39) claims.
- Average Weekly Wage:
 - Thirty (30) AWWs were correct.
 - Nine (9) AWWs were incorrect.
- Weekly Compensation Rate:
 - Thirty-one (31) WCRs were correct.
 - Eight (8) WCRs were incorrect.
- Partial Benefits Calculation Method:
 - The method used to calculate partial benefits was correct for four (4) claims.
 - The method used to calculate partial benefits was incorrect for sixteen (16) claims.
- Amount Paid:
 - Twelve (12) claims were compensated correctly.
 - Twenty-two (22) claims were underpaid (\$17,706.61 aggregately).
 - Since February 1, 2018, BIW paid \$6,281.78 of the amounts due.
 - Five (5) claims were overpaid (\$1,491.06 aggregately).
 - Collectively, the aforementioned errors resulted in a net underpayment of \$16,215.55 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 medical payments was reviewed for twenty-six (26) claims.
- Amount Paid:
 - Medical payments sampled for twenty-six (26) claims were correct.

◆ **Other significant issues**

- Box 19b (to (Return Date)) of the WCB-4, Discontinuance or Modification of Compensation must accurately reflect the date the incapacity ended. See the Board's Forms and Petitions Manual.
- Incorrect dates were reported in Box 19b of the WCB-4, Discontinuance or Modification of Compensation forms filed for seventeen (17) 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
Elwood Butler vs. Bath Iron Works Date of Injury: 11/27/17 Date ER Notified of Incapacity: 11/28/17 Claim #1700754 Board #17026744	The claimant’s benefits were improperly discontinued 12/7/17. Payment of accrued benefits was made 2/28/18, which was 69 days after compensation became due and payable (12/21/17).	\$1,500.00
Catrina Green vs. Bath Iron Works Date of Injury: 2/21/17 Date ER Notified of Incapacity: 2/23/17 Claim #1700075 Board #17003616	The claimant’s benefits were improperly discontinued on 3/13/17. Payment of accrued benefits was made 8/8/18 and 8/16/18, which was 499 and 507 days respectively after compensation became due and payable (3/27/17).	\$1,500.00
Total Penalties to Injured Employees for Delays of “Other” Indemnity Payments		\$3,000.00

◆ 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), BIW must take corrective measures to address the following inadequacies:

- Failure to pay benefits accurately
- Improper offsets of vacation wages
- Improper offsets of unearned wages

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), BIW must take corrective measures to address the following inadequacies:

- Failure to pay benefits accurately
- Improper offsets of vacation wages
- Improper offsets of unearned wages

COMPLIANCE TABLES

◆ Timeliness of Benefit Payments

A. Initial Payment of Indemnity Benefits

			2016-2017	
			Number	Percent
Check Issued Within:				
0-14	Days	Compliant	41	93%
15-44	Days		3	7%
Total			44	100%

B. Subsequent Payment of Indemnity Benefits

			2016-2017	
			Number	Percent
Check Issued Within:				
0-7	Days	Compliant	587	99%
8-37	Days		7	1%
Total			594	100%

C. Medical Payments

			2016-2017	
			Number	Percent
Check Issued Within:				
0-30	Days	Compliant	60	100%
Total			60	100%

◆ Accuracy of Indemnity Payments

D. Average Weekly Wage

		2016-2017	
		Number	Percent
Calculated:			
Correct	Compliant	30	77%
Incorrect		9	23%
Total		39	100%

E. Weekly Compensation Rate

		2016-2017	
		Number	Percent
Calculated:			
Correct	Compliant	31	79%
Incorrect		8	21%
Total		39	100%

F. Partial Benefits

		2016-2017	
		Number	Percent
Calculated:			
Correct	Compliant	4	20%
Incorrect		16	80%
Total		20	100%

G. Amount Paid

		2016-2017	
		Number	Percent
Calculated:			
Correct	Compliant	12	31%
Underpaid		22	56%
Overpaid		5	13%
Total		39	100%

◆ **Accuracy of Medical Payments**

H. Amount Paid

		2016-2017	
		Number	Percent
Calculated:			
Correct	Compliant	60	100%
Total		<u>60</u>	<u>100%</u>