



County Connection

News from the Washington Counties Risk Pool

September / October 2013

Autumn Conference



WASHINGTON COUNTIES RISK POOL

2013 Autumn Conference / Board of Directors Meeting

Thursday - Friday, November 7th - 8th, 2013

The conference will take place at the Three Rivers Convention Center located in Kennewick, WA. Lodging has been arranged at the Hilton Garden Inn across the street from the Convention Center.

Roundtable Update: For those attending Steve Clem's presentation on Contract Risk Management on Thursday, there will be 1.5 CLE hours available and 1 CPO Core credit.



David Goldsmith, Member Specialty Services

Light on time and heavy on substance is the theme of the Autumn Board of Directors meeting. Due to the timeframes available, the autumn WCRP conference is usually condensed, and this year will be no different. WCRP attempts to conduct its business in association with or in adjunct to other organizations for which directors' time is also required, such as WCIF (Washington Counties Insurance Fund) and WSAC (Washington State Association of Counties).

This year the Pool's Autumn Conference is scheduled for a half-day on the 7th and a half-day on the 8th. Thursday's meeting is aimed to educate risk managers, claims administrators, legal staff and those managing the property inventory of counties. The evening is devoted to legislative matters anticipated in this upcoming legislative session (tort reform anyone?). The Board of Directors meeting on Friday will include finalizing contracts and agreements necessary to carry out Pool business in this new policy year, as well as to discuss looming issues and the work program for 2014. Every Board of Directors' meeting is important, and this one is no exception. We look forward to seeing you in Kennewick.



Vyrle Hill



Poolside

with Executive Director
Vyrle Hill

This column, as readers of past issues may recall, is intended to share just a few tidbits regarding the Pool and its administration. Please take time to read these periodic newsletters entirely for many other worthy Pool happenings.

Operational: The Washington Counties Risk Pool recently celebrated its Silver Anniversary and twenty five years of operations is as they say *in the books*. Pool Year 2013 is generally complete, except for obtaining the actuary's reserving review needed to prepare the final financial statements as well as resolving the 'open' claims remaining at year's end.

During its first quarter century, the WCRP supported 30 of Washington's 39 counties for a minimum ten years each. The Pool's active membership grew from the 15 counties recognized August 18, 1988 as the founding (initial) members to as many as 28 counties during years 15 thru 22. Pool membership has consisted of 27 Washington counties the past three years.

Claims: 616 third-party liability claims (and lawsuits) were reported during Py2013, a very modest decrease of 8 from the prior year. The newer claims added to the database raised the Pool's 25th Anniversary total (Oct 1988 – Sep 2013) of claims submitted by WCRP member counties to 19,232. Only 326 claims remained classified as 'open' at yearend, a year-over-year decrease of 49, and only 2 of the 'open' claims occurred more than 10 years ago.

Though 40% of all claims-to-date are addressed without any payments and 48% without any indemnity payments, \$216.3 million was paid out during the Pool's first quarter century for all claims. 40.4% of the amounts paid (\$87.5 million) constitute deductibles (being) reimbursed by member counties. 3.2% (\$6.8 million) was covered under excess insurance policies and paid by applicable commercial insurers. The remaining 56.4% (\$122.0 million) represents the "risk shared" component of the joint self-insurance coverage (being) paid from "pooled" funds – \$56.3 million retained by the Pool and \$65.7 million (being) reimbursed by its commercial reinsurers.

Financial: The Pool's yearend financial statements are being compiled, but we are confident that its financial position continues to improve and the forthcoming statements will confirm that the Pool ended its first quarter century with the strongest financial position ever.

The Pool's success over the span of 25 years has certainly resulted somewhat from the combined efforts of the board-retained professionals (actuaries, auditors, producers/brokers and commercial insurers) and the Pool's dedicated staff. But it is the involvement of the elected and appointed officials and the employees of its member counties serving as Pool directors and alternate directors and as its officers and committee chairs/members that contribute substantially to the Pool's success that sets the Washington Counties Risk Pool apart from most other pools across the state, nation and internationally. All those involved with the Pool's operations over the past quarter century can be very proud of its accomplishments and success.

Executive Director Contact: Please feel free to share your comments, concerns, suggestions and criticisms. Knowing what our partner clients are thinking and experiencing helps to determine how we can better serve you. Direct responses to Vyrle Hill – Executive Director, 2558 R.W. Johnson Road S.W., Suite 106, Tumwater, WA 98512-6103; OR phone: 360/292-4500 extension 101, 360/292-4495 direct, 360/292-4501 facsimile, or 360/480-2116 mobile.



POOL NEWS



Welcome New Employees!

WCRP is pleased to welcome TERRY SHEERIN to the claims staff. Terry has been employed as a new Senior Claims Analyst. She comes to WCRP with 28 years of claims experience. She has relocated to Washington State from the east coast; New Jersey to be specific! Terry

has already proven to be a great addition to the team, and we would ask that you greet her and welcome her to the organization. You can expect to hear from her on claims and lawsuits going forward. Welcome Terry!



Executive Committee

Py 2014 President

Tammy Devlin, Thurston County

Py 2014 Vice-President

Andrew Woods, Columbia County

Py 2014 Secretary/Treasurer

Mark Wilsdon, Clark County

Other Members

Keith Goehner, Chelan County

Thad Duvall, Douglas County

Dean Burton, Garfield County

David Alvarez, Jefferson County

Lisa Young, Kittitas County

F. Lee Grose, Lewis County

Lisa Ayers, Pacific County

Steve Bartel, Spokane County

Risk Pool Staff

Administration

Vyrle Hill, Executive Director

Sue Colbo, Accounting Officer

Stacey Spears, Administrative Assistant

Debbie Larsen, Office Assistant

Claims

Susan Looker, Manager

Mike Cook, Senior Analyst

Terry Sheerin, Senior Analyst

Tammy Cahill, Analyst

Lisa McMeekin, Representative

Carli Easter, Assistant

Member Services

David Goldsmith, Specialty Services

Jill Lowe, Loss Control

To access *County Connection's* e-version, go to www.wcrp.info

To receive by email, send your email address to stacey@wcrp.wa.gov or call (360) 292-4490. Have story/photo ideas? Please submit them to the email address above.



Published by
**WASHINGTON COUNTIES
RISK POOL**

Created by Counties for Counties



Debbie Larsen is the Pool's new part-time Office Assistant. She joined the Pool in mid-October and will normally work in the afternoons. Debbie comes to the Pool with strong office experience and great enthusiasm.

Welcome Debbie!

David Goldsmith, Member Specialty Services

We finally received word that Wahkiakum County has declined the preliminary offer to join with the other 27 counties that make up the Washington Counties Risk Pool. The County's decision came after a thorough underwriting effort by Pool staff to fully understand and evaluate the nature of Wahkiakum County operations. The Wahkiakum County Commissioners stated that the price differential between the two programs was not enough for them to sever their relationship with the Washington Rural Counties Insurance Pool. Although disappointing given the effort involved, we do appreciate Wahkiakum's openness to evaluating their current insuring program with that offered by WCRP. We will continue to offer our services and products to non-member counties, pointing out that size and service, content and delivery do make a difference.

CLAIMS CORNER



Check out this noteworthy article from the Summer 2013 edition of Litigation Management Magazine, "Keeping Small Claims Small: How a Penny Saved is Not Always a Penny Earned". http://www.litigationmanagementmagazine.com/litigationmanagementmagazine/summer_2013#pg48



Jill Lowe, Loss Control Coordinator

The Washington Criminal Justice Training Commission (WSCJTC) has been making significant changes since Sue Rohr became Director in 2012. One of those changes includes facility tours for constituents and the public. I took one of the tours late in August and found it very interesting and worthy of my time.

The tour began with a short introduction of those in attendance. Tour attendees included representatives of the Innocence Project and the State Attorney General's Office. There were several State Representatives, and a WSCJTC Commissioner was also in attendance. Director Rohr opened the tour with a few comments. I was surprised to learn that only five states have a similar model in which all law enforcement throughout the state attend one facility for training (with the exception of the State Patrol.)

Director Rohr mentioned a shift in training culture that has occurred in the last year. The culture has gone from "boot camp" to that of "guardian." This means utilizing a leadership style in which trainees are not talked down to or demeaned. Working within a democracy is emphasized along with the importance of utilizing excellent communications skills rather than making demands. The Seattle Times recently ran an article about this change in philosophy and training. A copy of it can be found by clicking on http://seattletimes.nwsources.com/html/localnews/2021389398_policeacademyxml.html

The WSCJTC facility is located in Burien. If you know you are going to be in the area, I recommend taking one of the scheduled tours. You will come out of it with a better understanding of the training law enforcement, including custody, employees receive.



On a personal note, many of you know that I had ankle fusion surgery late in September. During my college days in Bellingham, I drove a motorcycle to work at my night job at a cannery on the docks. While out on a two lane highway called the "guide," I was hit by a vehicle and my leg and ankle were crushed. While my recovery is going very well, I won't be able to put weight on my foot for three months and am enjoying the use of automatic door openers, a temporary disabled driving permit and a knee scooter that supplements crutch use. My thanks go out to my WCRP co-workers who have gone out of their way to welcome me back and make the transition an easy one.

TRAINING & EVENTS



Cyber Security, Risk and Liability



The Pool provided Cyber Security, Risk and Liability training in nine locations in September. 273 people attended the training. The first hour and 45 minutes focused on the problem and detailing how breaches have occurred. The remainder of the day was spent describing a three to five year implementation plan involving 20 controls. Thirty percent of attendees, roughly 90 people,

completed the class evaluation form. Of those completing the evaluation, 82% said that they would recommend the class to co-workers.

Risk Management for Public Entities

On September 25th and 26th, five county risk managers / claims administrators gathered at the Risk Pool office in Tumwater. John Chino of Arthur J. Gallagher flew in from California to provide this Risk Management for Public Entities course review. Passing the Risk Management for Public Entities exam meets one of the Pool's Compact requirements for Advanced Risk Manager certification. The book is thick, and the exam is definitely not easy; therefore, a course review is a huge help in passing the exam. The following comment voices the reaction heard from all class attendees:

"I owe my success to John Chino. I am not sure without the prep test pamphlet and the day-and-a-half review I would have passed it. John kept it enjoyable, light, fun, and serious at the same time, which kept me interested in the discussion. He used real examples and gave great tips on how to remember and what was important to retain for the test. He gave examples of topics where the test may trip us up. In all my studies, both in the books and online with PRIMA, I have not had that information."

Congratulations go to Philip Morley (Jefferson County), Teresa Brooks (Pend Oreille County), Dawn Twiddy (Mason County), Kathy Spoor (Pacific County) and Jessica Neil Hoyson (Skagit County) whose diligence resulted in a 100% passage rate.

Municipal Research and Services Center of WA

For current information regarding **medical marijuana**, see the MRSC page on the topic. The information is updated regularly: <http://www.mrsc.org/subjects/legal/medmarireg.aspx>



HELPLINE NEWS



Here is the latest risk management Question of the Month from the HR Risk Management HELPLINE HR Express Update:

September Question: *Several years ago we purchased software from a company to track FMLA. This software says that the 12 weeks equals 480 hours and has us calculating on 480 hours instead of 12 weeks. Can you tell me which way is the correct way to calculate the time off in accordance with FMLA?*

Example: Employee qualifies and requests FMLA for surgery. She works 56 hours per pay period or 28 hours per week. As of today she has been off work for 12 calendar weeks. According to the software calculation, she still has over 200 hours of FMLA because we have only been counting 28 hours per week towards FMLA. Utilizing this calculation, she could technically be off work for 24 calendar weeks before she exhaust her FMLA hours.

Response: Under the FMLA, the actual workweek is the basis of leave entitlement, so a week of FMLA is based on the number of hours normally worked. The DOL summarized this in an Opinion Letter as follows (citations omitted):

"Under the FMLA, the workweek is the basis for an employee's leave entitlement. The entitlement is not phrased in terms of a particular number of days or hours of leave, but rather as 12 workweeks of leave. Thus if there is a holiday in a week when an employee is on leave for the full week, the employee is still charged with a week of leave. Similarly, if an employee normally works a 50-hour workweek, the employee's statutory entitlement is not capped at 480 hours. Thus, the focus is always on the workweek, and the employee's 'normal' workweek (hours/days per week) prior to the start of FMLA leave is the controlling factor for determining how much leave an employee is entitled to use. Only the amount of leave actually taken may be counted against the employee's 12-week entitlement of FMLA leave."

See the full text of this letter here:

http://www.dol.gov/whd/opinion/FMLA/2002_05_09_1_FMLA.htm.

With regard to calculating the 12 weeks of FMLA leave in a reduced schedule situation, the regulations provide:

"When an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. The

actual workweek is the basis of leave entitlement. Therefore, if an employee who would otherwise work 40 hours a week takes off 8 hours, the employee would use 1/5 of a week of FMLA leave. Similarly, if a full-time employee who would otherwise work 8-hour days works 4-hour days under a reduced leave schedule, the employee would use 1/2 week of FMLA leave. Where an employee works a part-time schedule or variable hours, the amount of FMLA leave that an employee uses is determined on a pro rata or proportional basis. For example, if an employee who would otherwise work 30 hours per week, but works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third (1/3) of a week of FMLA leave for each week the employee works the reduced leave schedule. An employer may convert these fractions to their hourly equivalent so long as the conversion equitably reflects the employee's total normally scheduled hours."

We encourage you to review the FMLA regulations regarding intermittent and reduced schedule leave in sections 825.202 through 825.205 here:

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr;sid=493975f5cd425765ee889817d9696c2d;rgn=div5;view=text;node=29%3A3.1.1.3.54;idno=29;cc=ecfr#29:3.1.1.3.54.2.489>.

Additionally, Washington State has other leave laws that govern employers. Those can be found here:

<http://www.lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare/default.asp>

August Question: *In regard to liability with an employee who is mentioning suicide often, do we have any ability to notify his spouse or any family member about his outbursts, claims, and our concerns? He has not expressed these thoughts directly to a manager, but instead in passing in various situations. Can we share our concerns with a spouse/family member without overstepping privacy issues, etc.?*

Response: Generally, employers have a duty to keep confidential medical information it learns about employees and not to discuss the condition with any third party. In this regard, we do not recommend disclosing confidential medical information about an employee to any third party, including family members, and certainly not without that employee's consent. Although the EEOC has issued guidance on accommodating an individual with a disability (which this employee may or may not

have), stating that a family member, friend, health profession, "or other representative" may request a reasonable accommodation on behalf of an individual with a disability (see: http://www.eeoc.gov/policy/docs/accommodation.html#N_21), here there is no indication that the employee's family is aware of the situation (or that the employee actually has a disability – but keep in mind that the ADA protects employees from being "regarded as" being disabled even if they are not, in fact, disabled). It also is unclear that there is a "direct threat," although the statements may be ongoing, the employee (thankfully) apparently has not attempted suicide.

Although we are not aware of any specific liability an employer may face if an employee commits suicide, on employer premises or not, the facts and circumstances of each situation will dictate whether the employer faces potential exposure if this occurs. From a moral standpoint, the employer may consider providing an employee who indicates he has thought about (or perhaps

attempted) suicide with a suicide hotline number where he could seek help, and if the employer has an EAP, certainly the employer could provide the employee with contact information. Also, you may consider contacting law enforcement authorities if the subject employee makes a credible threat of suicide and certainly if he threatens his fellow employees or actually attempts suicide. Although we are not aware of a specific obligation to do so, an employer generally may face a negligence claim if it knew or should have known of a foreseeable risk and did nothing to mitigate it. If the employer makes an EAP available to its employees, we recommend that you contact its advisors for further advice about calling the employee's spouse or other family member without disclosing medical information per se and without alarming them.

Source: HR Risk Management HELPLINE, www.hrhelpline.com/wcrp, September/October 2013.

© 2013 Advisors Law Group, All Rights Reserved



Many of the Pool staff members are on the road, traveling the state to meet with members, resolve claims and attend county events. There are so many interesting sites to see. We have asked our staff members to take photos we can share in the newsletter. This is one of the first photos submitted.

Can you identify the county where this was taken?