

WASHINGTON COUNTIES RISK POOL
Roundtable for County Claims Administrators and Risk Managers

NOTES

Thursday, November 4, 2010
The Davenport Hotel, Spokane, Washington

ATTENDANCE:

Adams County: *Not represented at Roundtable*
Benton County: Bryan Perry, Safety Officer
Chelan County: Keith Goehner, Commissioner
Cindy Dietz, Legal Administrative Supervisor
Cathy Mulhall, County Administrator
Clallam County: *Not represented at Roundtable*
Clark County: Mark Wilsdon, Claims Administrator / Risk Manager
Bronson Potter, Deputy Prosecuting Attorney
Columbia County: Drew Woods, Risk Manager
Cowlitz County: Clyde Carpenter, Claims Administrator / Risk Manager / Safety Officer
Douglas County: Thad Duvall, Auditor
Franklin County: Ryan Verhulp, Chief Civil Deputy Prosecuting Attorney
Garfield County: Karl "Butch" Low, Claims Administrator / Risk Manager / Safety Officer
Grays Harbor County: Rose Elway, Claims Administrator / Risk Manager
Dale Gowan, Central Services Director
Joy Carossino, Safety & Claims Coordinator
Island County: Angie Homola, Commissioner
Bruce Rohm, Claims Assistant
Jefferson County: David Alvarez, Chief Civil Deputy Prosecuting Attorney
Kittitas County: Lisa Young, Risk Manager/Safety Officer
Zera Lowe, Deputy Prosecuting Attorney
Lewis County: Lee Grose, Commissioner
Harry Green, Risk Manager
Paulette Young, Safety Officer
Mason County: Ross Gallagher, Commissioner
Dawn Twiddy, Risk Manager/Safety Officer
Shannon Goudy, Claims Administrator
Okanogan County: Andrew Lampe, Commissioner
Nanette Kallunki, Risk Manager
Pacific County: Bryan Harrison, Administrative Officer
Pend Oreille County: Don Ramsey, Risk Manager
Teresa Brooks, Claims Administrator
San Juan County: Pete Rose, County Administrator
David Kelly, Risk Manager
Skagit County: Billie Kadrmas, Risk Manager
Skamania County: Marilyn Butler, Claims Administrator / Risk Manager
Spokane County: Steve Bartel, Claims Administrator / Risk Manager
Thurston County: Tammy Devlin, Claims Administrator / Risk Manager / Safety Officer
Walla Walla County: Jay Winter, Claims Administrator / Risk Manager / Safety Officer
Whatcom County: Randy Watts, Claims Administrator / Risk Manager
Karen Goens, Human Resources Manager
Yakima County: Larry Peterson, Claims Administrator / Risk Manager

Producer Services: Mike Croke, Area Senior Vice President – AJGRMS, Inc.
Liz Miser, Area Vice President – AJGRMS, Inc.

Speakers: Jim Rocha, Independent Adjuster for Crawford & Company
Mike Patterson, Patterson Buchanan Fobes Leitch & Kalzer, Inc. P.S.
Keller Allen, Keller Allen Law Firm
Eric Johnson, WSAC Executive Director

WCRP Staff: Vyrle Hill, Executive Director
David Goldsmith, Member Services
Jill Lowe, Loss Control Coordinator
Sue Colbo, Accounting/Auditing Officer
Claire Thompson, Administrative Assistant
Susan Looker, Claims Manager
Mike Cook, Claims Analyst
Candy Drews, Senior Claims Analyst
Tammy Cahill, Claims Representative
Lisa Daly, Claims Assistant

Welcome: Claims Manager Susan Looker called the Roundtable to order at 8:35 am and welcomed all attendees. She introduced Lisa Daly, who gave a short program on the changes to the electronic claims reporting forms as a result of changes to the Claims Handling Policy. Members should contact Lisa Daly or Claire Thompson regarding access to or assistance with the online claims reporting system.

Susan Looker reviewed a presentation including a Claims Flowchart and a Lawsuits Flowchart (attached to these notes) and emphasized the importance of timely reporting of all claims, especially those with bodily injuries or those with clear liability. Once the claim/suit is reported, a decision will be made about who will handle the claim. The Pool will send a letter of official designation of defense counsel.

Programs:

Susan Looker introduced Jim Rocha, a multi-lines adjuster with Crawford & Company. Mike Cook also said a few words about the importance of hiring a thorough auto adjuster whenever dealing with an auto liability claim. Jim Rocha commented that an appraiser can save money; if an appraiser is not involved, repairs will be padded and cost more. Appraisers handle all the paperwork, including reporting to the state, supplements, and provide valuable knowledge to the settlement process. Members can call Tammy Cahill if they have any questions.

After Rocha's program, the microphone was sent around the room for introductions, immediately followed by a break from 9:20 am to 9:35 am.

After the break, Susan Looker introduced Keller Allen, a labor and employment law attorney. He spoke on "2010 Employment Law Updates." He posed several common employment law scenarios that are causing continuing litigation – lack of performance evaluations before terminations, terminations while employee is off work on FMLA leave, lack of termination criteria during layoffs, and lack of documentation. He then discussed the topic of litigation hold, where notification is given in writing to retain documents related to a potential claim or lawsuit. He urged the notification should take place as soon as a potential claim is identified, and follow up on the hold to be sure it is being applied. Mr. Allen then discussed some current legal decisions, both U.S. Supreme Court and Washington courts.

Mr. Allen's presentation was followed by a break from 10:37 am to 10:58 am.

Susan Looker introduced Mike Patterson, a well-known civil litigator; approximately 85% of his work consists of litigation for public entities. Mr. Patterson presented a program on “Anti-SLAPP, A Legislative Vision for Public Entities, and Litigation and Discovery Tactics.” SLAPP stands for Strategic Lawsuit Against Public Participation. The original Anti-SLAPP statute (RCW 4.24.510, enacted in 1989) provided only limited protection. The new statute (RCW 4.24.525, effective June 10, 2010) provides a broader definition of protected conduct, adds expedited dismissal procedure, postpones all discovery until the Court rules on expedited motion for dismissal, sets fines and costs for defending against the claim or for successfully defending against a special motion to dismiss, and must be applied and construed liberally. Patterson feels the result of the changes to the statute will potentially limit malicious prosecution counterclaims, and that claim denials and answers should be more detailed. Mr. Patterson went on to discuss the importance of “fighting back,” – he encourages public entities to stand together to keep costs down and stop the erosion of defenses available to public entities. He cited a few instances where he hopes to use the initiative process to take the offense, most notably ending joint and several liability for public entities.

Lunch Break, 11:55 am to 1:05 pm

Eric Johnson, Executive Director of WSAC, presented highlights from the 2010-11 Legislative Agenda during lunch. They continue to pursue additional local revenue options, flexibility within existing revenue sources, increased public health and human services funding, flexibility in conducting business, and reducing harm from state budget reductions.

The Roundtable reconvened at 1:15 pm. Jill Lowe, Loss Control Coordinator, introduced speaker John Newman from Agility Recovery Solutions. Their business ensures access to emergency equipment and workspace following emergencies. They are affiliated with GE Capital and have over \$50 million in recovery assets. They also formulate customized recovery plans. The Small Business Administration has joined with them to help businesses recover from catastrophic emergencies. Information can be found at www.prepareyourbusiness.org. Agility’s services could be contracted at the county level, or at the Pool level.

Roundtable Items:

1. Mark Wilsdon (Clark) commented their utilities franchise agreement has expired and they are working hard to be sure all poles and other structures have a franchise.
2. David Alvarez (Jefferson) reported they are also dealing with franchise agreements.
3. Lee Grose (Lewis) commented they are inundated with public records requests; it is costing a lot of time and money to deal with them.
4. Thad Duvall (Douglas) reported the county has a new payroll system with a strong HR component. They are working to centralize services.
5. Karen Goens (Whatcom) commented the county is dealing with a lot of internal hires due to employees exercising bumping rights. They are also receiving a lot of public records requests and the county is using the tools allowed by law to deal with them.
6. Jill Lowe asked if anyone was using tasers with cameras. No affirmative responses.
7. Angie Homola (Island) praised the performance evaluation class given on Wednesday. She also commented they are receiving many public records requests, and has endured an abusive U-Tube of her personal residence.

The Roundtable concluded at 2:10 pm.



CLAIMS REPORTING

Using the County Claim Form



New Claims Handling Policy

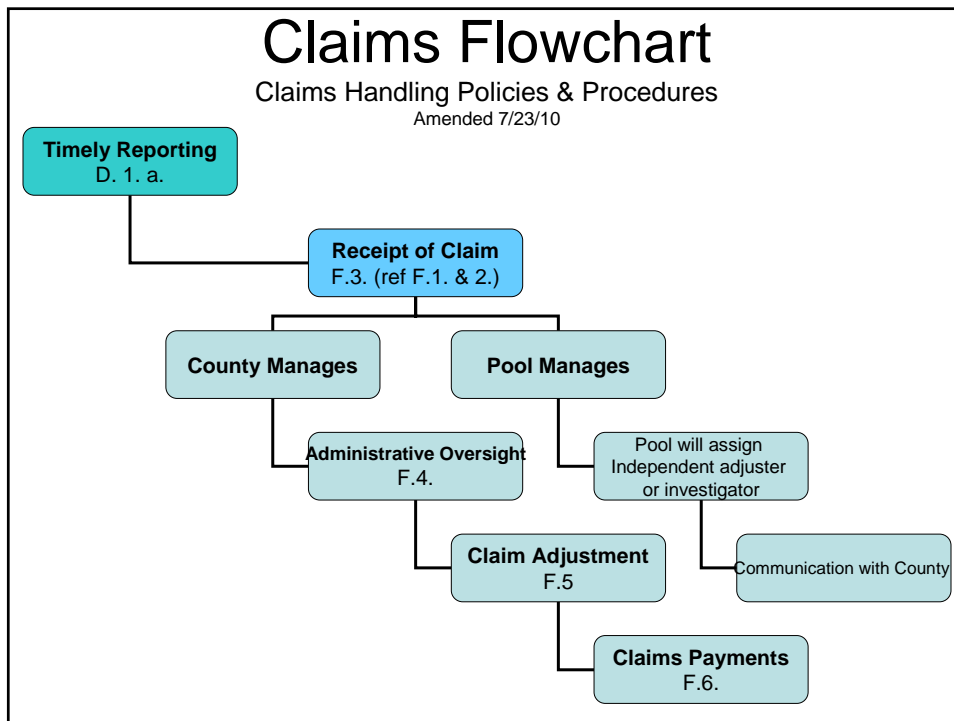
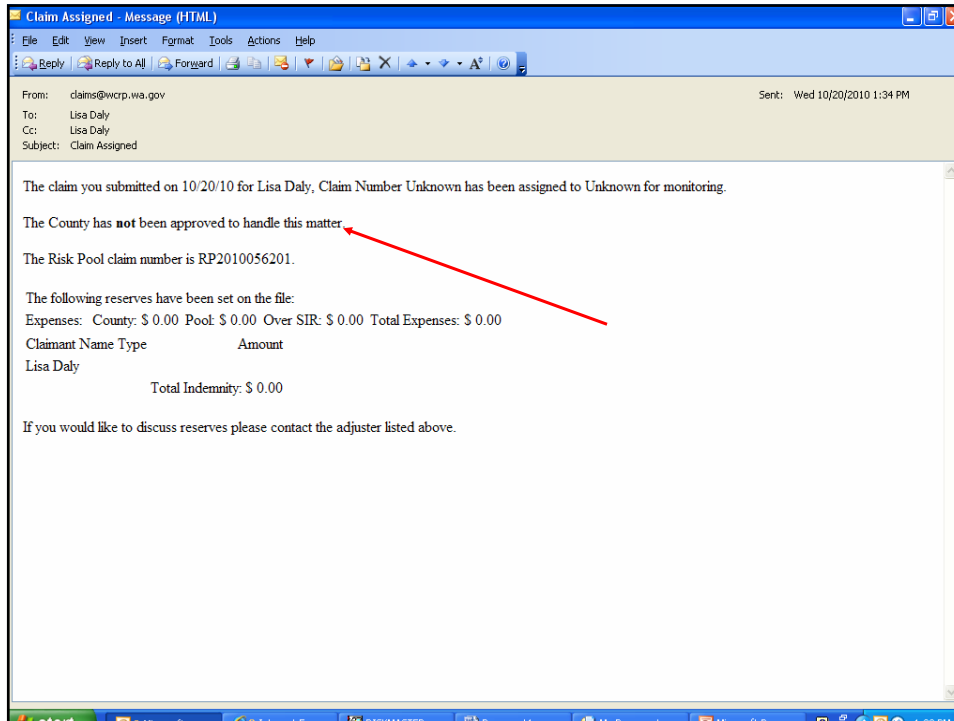
Effective 7/23/2010

- E.1.b. “The Pool’s claims staff will coordinate the administration of a Member’s claims with the Member’s designated County Claims Administrator.”

Report Form			
WA Counties Risk Pool		County Claim#: <input type="text"/>	<small>* indicates required field</small>
Contact*	Lisa Daly		Department Involved:* RP-RP-Risk Pool
Email*	<input type="text"/>		Date of Loss:* <input type="text"/>
Phone:	<input type="text"/> Ext: <input type="text"/>	Date County Received Claim:*	10/18/2010
The County requests to:	<input type="radio"/> Handle in House <input type="radio"/> Outside Assistance	With whom was this claim filed?*	Auditor
			Form#: <input type="text"/> <input type="button" value="Search"/>
<input type="button" value="Claim Info"/> <input type="button" value="Opt. Cause of Loss"/> <input type="button" value="Attachments"/>			
Claim Info			
Description of Claim*			
<input type="text"/>			
Bodily Injury:*	<input type="radio"/> Yes <input type="radio"/> No		
Claim Type:*	Auto Liability	Allegation:*	Assault by Employee-Not Sheriff Dept
Claim Status:*	Open	Damage Code:*	Bodily Injury-Permanent
Claimant			
Claimant Name:	First* <input type="text"/>	Middle <input type="text"/>	Last* <input type="text"/> <input type="checkbox"/> Primary
Address:	<input type="text"/>		
City:	State: Washington	Zip:	<input type="text"/>
Phone:	Amount Claimed: 0.00	<input type="button" value="Add"/>	
Name	Claim Amt	Phone	Primary <input type="button" value="Delete"/>
<small>If you are creating a new form, once you add your first claimant you will be able to print your form using the 'Print Form' button.</small>			
<input type="button" value="Submit to Pool"/>			

Receipt of Claim

- F.3. "Upon receipt of a claim for damages, the Pool shall determine after discussion with the Member whether the claim will be handled 'in county' by the Member or assigned to an independent adjuster for investigation and evaluation. An acknowledgement form shall be sent to the Member identifying the Pool's claim number, date of loss, the initial claim reserve (if determined), and who is assigned to handle the claim. The claim is entered into the Pool's electronic claims database."





Timely Reporting – Claims

D. 1. a.

- i. “All claims where monetary damages will equal or exceed \$50,000 shall be submitted to the Pool within seven (7) days after receipt by the Member.”

- ii. “All claims where monetary damages are less than \$50,000 shall be submitted to the Pool within thirty (30) days after receipt by the Member.”



Receipt of Claim

F. 3. (ref. F. 1. & 2.)

- “Upon receipt of a claim for damages, the Pool shall determine after discussion with the Member whether the claim will be handled “in county” by the Member or assigned to an independent adjuster for investigation and evaluation. An acknowledgement form shall be sent to Member...”

- Member will be notified whether approved or not approved to handle claim.



County to Manage



Administrative Oversight

F. 4.

- “The Pool’s claims staff shall actively monitor all claims regardless of the party assigned (“in-county” or independent adjuster) to handle the claim for the Member.”



Claim Adjustment

F. 5.

- “Even though a Member may be granted permission to manage a claim, the Pool’s claims staff will, without exception, be provided reasonable notice of any mediation or arbitration session(s) involving the claim and shall be allowed to attend and participate in all sessions.”



Claims Payments

F. 6.

- “If there are no actual or potential exposures for bodily injury, a Member may pay an adjusted claim directly. However, **any claim for which bodily injury is a component or a potential component must be paid directly by the Pool** to assure maximum compliance with the Medicare Medicaid SCHIP Act of 2007 (“MMSEA”).”

Pool to Manage

- Pool will assign independent adjuster or investigator
- Pool will be in open communication with Member as claim progresses

Lawsuits Flowchart

Claims Handling Policies & Procedures

Amended 7/23/10

Timely Reporting
D. b. i. & iii.

Receipt of Suit
G. 1.

Designation of Defense Counsel
G. 2.

Inside or Outside Counsel
G.6.

Notice of Appearance
G.3.



Timely Reporting – Lawsuits

D. 1. b. i. & iii.

- “All suits shall be submitted immediately, but no later than five (5) days after the date of service.”
- “The Prosecuting Attorney, if the Pool-designated defense counsel has not yet been determined and assigned, will file a Notice of Appearance for the Member with the court. A copy of the ‘NOA’ will be submitted promptly to the Pool and the Pool shall coordinate the defense with the Member – (see section G – *Legal Defense and Administration*).”



Receipt of Suit

G. 1.

- “Upon receipt of a Suit involving a covered claim, a copy of the suit papers served shall be immediately provided to the Claims Manager, but not later than five (5) days from the date of service.”



Designation of Defense Counsel

G. 2.

- “After discussion with the County Claims Administrator to determine if defense counsel is required, the Pool’s claims staff will formally designate and assign defense counsel for any JSILP-covered claim or suit.”



Inside or Outside Counsel

G. 6.

- “The Pool has specific reporting requirements (refer to the Pool’s website at www.wcrp.info for format and instructions) which are required to be followed by Pool-designated defense counsel, whether retained ‘outside’ or a prosecuting attorney or deputy prosecuting attorney ‘in-county’, unless this reporting requirement is expressly waived by the Pool’s Executive Director or Claims Manager.”



Notice of Appearance

G. 3.

- ... “If ‘outside’ defense counsel is assigned by the Pool, a Notice of Substitution and Withdrawal shall be filed and served. The Member’s prosecuting attorney may, with the permission of the Claims Manager, continue to associate as co-counsel so long as any Pool-designated defense counsel is lead counsel.”