

Insurance Commission of Western Australia

Compulsory Third Party - Claims Management Review
Summarised Version

November 2014

1. Executive summary

1.1 Background

As part of the routine internal audit program, ICWA has requested Ernst & Young (EY) to undertake a claims management review of CTP claims commonly referred to as a 'technical audit'. The objectives of the review are to assess ICWA's performance in respect of:

- The quality of the claims decision making
- The level of pro-active decision making
- The strategic application of the legislation to achieve optimum outcomes
- The extent of claims leakage.

Claims leakage can be viewed as the quantified leakage estimated by the claims reviewer if improved claims management had been applied to the claim (i.e. the cost of claims would have reduced by this amount). Claims leakage is inherent within any insurance portfolio and is able to be reduced but not eliminated.

1.2 Approach

Our approach in conducting the review was as follows:

1. Develop a consistent set of evaluation criteria to assess claims
2. Select claims files in accordance with the sample selection criteria

Review the claims files using the evaluation template developed in step 1 above and record the findings.

The following is a brief description of the numeric scoring procedure for the technical elements:

- There is a degree of subjectivity and this is unavoidable when assessing personal injury claims
- The assessment is a comparison with other workers compensation insurers or the 'industry'
- Historically a score in excess of 6.5 compares favourably with the industry

- Some assessments vary depending on the longevity of the claim.

3. Consolidate the individual review findings and discuss main issues emerging with ICWA staff
4. Document our findings in this report.

1.3 Benchmarking against industry

In undertaking our review of claims management we benchmarked ICWA's quality of claims management against general industry standards. We adopted a benchmark rating system used for a number of claims reviews we have undertaken over the last ten years. The rating system designated a score based on the performance benchmarked to an industry standard for workers compensation and personal injury claims. Due to the nature of personal injury claims, it is a subjective measure. Nevertheless, a consultative approach took place during the review in order to maximise the level of consensus in relation to claims management practices. It is recognised however that some differences of opinion exist and this is particularly so in the case of claim reserving. The ratings used are set out in the following table.

Table 1: Claims benchmarking rating

Benchmark Description	Rating
Excellent - almost no leakage	9 to 10
Exceeds industry standard - limited claims leakage	7 to 8
Equivalent to industry standards - claims leakage consistent with industry	6.5
Falls below industry standards - significant claims leakage	5 to 6
Falls well below industry standards - substantial claims leakage	1 to 4

1.4 EY point of view

ICWA CTP's overall management of claims is equivalent to the industry standard of personal injury insurers in an underwritten environment. This is a good result, as in our experience claims management in a private insurer underwritten environment is generally superior to claims managed by governments whether outsourced or managed internally.

The assessment is based on overall performance and there was some variation in the accuracy and effectiveness of certain claims management practices. The table below shows ICWA's scores based on the sample of claims we reviewed. The ratings provided had a strong emphasis on technical issues but do include items in relation to timeliness and other key factors concerning service provided to key stakeholders. The ratings also took into consideration any prevailing procedures such as settlement and estimating philosophies.

Table 2: Rating of technical claims management components

Standard of claims management	Rating out of 10
Accuracy of case estimates	5.0
Assessment of liability	8.0
Medical management	7.4
Rehabilitation management	7.0
Legal management	7.1
Recovery/Involvement of other parties	7.3
Management of service providers	7.4
Effectiveness of settlement strategy	6.8
Factual surveillance/investigations	6.6
Accuracy of payments	7.0
Timeliness of actions/other issues	7.8
Average rating	7.0

The results of the claims review indicate there is limited claims leakage in ICWA's CTP portfolio. Based on the sample of claims reviewed our subjective assessment of claims leakage is between 3% and 5%. While this should be viewed as a favourable result we note:

- ▶ The nature of personal injury claims means a certain level of claims leakage is inherently subjective
- ▶ There is always claims leakage in any claims portfolio
- ▶ CTP claims, by their very nature, mean negligence needs to be proven and this can lead to litigation. We recognise ICWA's understandable reticence in calling on claimants to prove their case in Court in relation to both liability and quantum. This approach does have the potential to give some claimants the benefit of the doubt and this has the potential to have an inflationary effect.

The above rating of 7.0 compares favourably with our 6.8 rating of commercial insurers. Even though ICWA's performance should be pleasing it should be borne in mind that the rest of the industry has scope for improvement. Additionally, the current rating of 7.0 highlights the opportunity to further improve performance and subsequently reduce the extent of any claims leakage.

The above scores represent overall performance and there is some variance in performance between each of the key claims management tasks. A more detailed assessment is contained in the following table.

Table 3: Rating of technical claims management components against the industry

	Low	Acceptable Standard	High
Accuracy of case estimates	Δ	◇	
Assessment of liability		◇	Δ
Medical management		◇	Δ
Rehabilitation Management	◇	Δ	
Legal Management	◇	Δ	

	Low	Acceptable Standard	High
Recovery actions/involvement of other parties	◇	△	
Management of service providers		◇ △	
Effectiveness of settlement strategy		◇ △	
Factual surveillance /investigations		◇ △	
Accuracy of payments		◇ △	
Timeliness of actions/other issues		◇	△

△ ICWA ◇ Industry

With the notable exception of case estimating, the scores on assessed CTP claims were above industry standards. ICWA's performance relative to the industry was particularly good in relation to assessing liability, the legal management of claims and the service given to all key stakeholders. Furthermore, the identification of other negligent parties was identified whenever appropriate and this had a material impact in defraying ICWA's overall exposure.

The review also identified a marked difference in the current case reserves and expected payments. On a number of the claims with minor potential there was a tendency to allow a payment for loss of amenities. These payments ran somewhat contra to the application of the impairment thresholds. There is some scope for challenging the level of pain and suffering alleged and the subsequent entitlement to receive a lump sum payment under this head of damage. It should be noted these types of claims are regularly accompanied by an excessive claim for legal representation.

The scores identified strengths and weaknesses in respect of various claims management tasks. The main strengths were the early and accurate identification of negligent parties and, in the whole, a proper assessment of a claimant's entitlements. This led to a proactive and early resolution of matters.

The review did not identify any unnecessarily latent claims arising from ICWA's failure to promote resolution of outstanding issues. It was positive that ICWA's claims department always maintained control of its claims. A common affliction affecting insurers relates to the abdication of responsibility whenever outside service providers such as legal providers were appointed. In ICWA's case there was ongoing active involvement and proper decision making.

Administrative functions involving attending to payments and responding to correspondence was undertaken in a timely fashion. This was best evidenced by the absence of any sign of dissatisfaction from any outside parties.

The main weakness arose in relation to the over reserving of claims.

We identified a need to revisit the method by which smaller claims are settled and whether any entitlement for Loss of Amenities (LOAM), should make up part of this settlement. These smaller type settlements regularly incorporate a generous allowance for the claimant's legal advisors and the justification for the amount claimed and paid warrants further discussion.

Resourcing and caseloads

ICWA has a good mixture of experienced and more junior personnel. Their roles and workloads are commensurate with their level of experience. There is also variation in workloads depending on the size and complexity of claims. On average claims personnel handle between 150 and 170 claims. There is strict application of authority levels so as to avoid the incorrect management of claims.

There is an effective training program which includes a four week training course for new claims personnel. Additionally, the hard copy and on-line claims manual properly addresses all relevant claims management tasks.

Consultation with ICWA claims management confirmed the adequacy of current claims personnel. One of the most positive aspects emerging from this review was the timeliness in which claims functions were attended to. Because of these two factors there is no reason to believe the department requires additional resources.

Recommendations

Even though the review failed to reveal any significant claims leakage there is some scope to reduce the current level of claims costs. The area in which some improvement could occur mainly centres on the willingness to pay a lump sum to claimant's with no or very little loss of amenities (LOAM). The review also identified some initiatives which could be applied to individual claims. Under no circumstances was there a systemic failure to address key claims management issues and our recommendations relate to low frequency issues.

The following list of recommendations has the potential to reduce the current level of claims leakage:

1. Stronger application of the loss of amenity threshold
2. A more challenging approach to the amount of costs claimed by legal representatives
3. The adoption of a claims estimation philosophy which more accurately reflects ICWA's outstanding claims liabilities
4. The filing and/or serving of Calderbank Letters and 24A Notices. When such offers are served they should be in the amount so they are effective in attracting costs penalties
5. Additional training in order to more effectively identify the existence of "professional" claimants/litigants
6. Greater use of surveillance
7. Forensic analysis of the accident scene in order to confirm the veracity of the accident.

1.5 Overall management comment

A pleasing outcome which validates the CTP Division's approach to claims management and identifies areas for improvements.

This review serves as a good marker against which progress towards further improvements can be measured.

On the issue of estimating, our philosophy and practice has been developed to suit our business needs.

Fab Zanuttigh
General Manager CTP

2. Rating of technical claims management components

Accuracy of case estimates (5.0)

At present the ICWA CTP claims department adopt a “reasonable worst case” estimating philosophy. When assessing the accuracy of the current reserves we also adopted the same philosophy. Despite applying a “like for like” approach a high degree of over reserving was identified. A detailed analysis of the proposed decreases reveals a number of reasons why there is a high degree of over reserving. The main reason for over reserving is based on an exaggerated application of the reasonable worst case estimation philosophy. Our review identified estimates which regularly reflected an exposure somewhat in excess of the worst case scenario.

Assessment of liability (8.0)

ICWA CTP is particularly strong in the assessment of liability part of claims management. All claims reviewed were decided correctly in respect of negligence on the part of the insured.

Medical Management (7.4)

The standard of ICWA’s medical management is higher than the industry average. There is effective communication between ICWA, the treating doctor, and the claimant. Also, there was evidence of claims personnel closely monitoring the type and frequency of treatment provided. This approach extended to pharmaceuticals and other service providers such as physiotherapists, naturopaths and chiropractors.

Rehabilitation Management (7.0)

ICWA’s performance in rehabilitation management of claims management is good. This is despite the limited involvement in this area compared to other classes of personal injury claims such as workers compensation.

Legal Management (7.1)

The review of claims we noted the involvement of legal providers was kept to a minimum. This was a very positive approach as ICWA’s claims personnel are more than capable of establishing issues such as liability and the value of a claim.

Recovery/involvement of other parties (7.3)

Circumstances in which another party (other than another car), causes a claimant’s loss does not occur with a great deal of regularity. There was only one claim with potential for contribution from a Shire Council. Despite the obscure nature of the Council’s involvement, they were identified, and a contribution in the region of \$8M can be expected.

Management of service providers (7.4)

Outside service providers were appointed whenever appropriate. The appropriate experts were identified and appointed in a timely fashion. When giving outside providers instructions this was done in the form of unique correspondence addressing the specific aspects of the claim. Costs were properly scrutinised and challenged if they were considered excessive. Even though outside providers were appointed ICWA did, at all times, maintain control of the claim and maintained its role in the decision making process

Effectiveness of settlement strategy (6.8)

Overall the settlement strategy and the resultant settlements were fair and reasonable. This was particularly so with regards to the larger claims. The methods by which all the relevant heads of damages was scrutinised and quantified was appropriate. The method by which many claims were settled by way of informal and pre-trial conferences also proved effective.

Factual surveillance investigations (6.6)

A number of claims reviewed were either suspicious or had some circumstances which required additional investigation. Many of these investigations were completed internally within ICWA as the IT system allows claims personnel to cross check claims histories.

Accuracy of payments (7.0)

ICWA effectively scrutinises the payment of claims. Duplication of payments is avoided by the IT system which avoids this occurrence. Additionally, the IT system is programmed to ensure payments are made in accordance with scale fees.

Timeliness of actions/other issues (7.8)

Issues such as responding to correspondence, appointment of services and the payment of entitlements occurred in an extremely timely fashion.

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Reliances and Limitations

In undertaking this claims management review, reliance has been placed upon information supplied by ICWA. These include claim files listings, electronic claim files, and claims data contained in ICWA's IT claims system. In general, reliance was placed on but not limited to the information provided. Except where indicated, we have used the information without independent verification. However, it was reviewed where possible for reasonableness and consistency.

The claims selected for review only constitute a very small proportion of ICWA's workers compensation claim portfolio, therefore it should be expected the review does not identify all potential issues and opportunities for improvement in ICWA's claims management practice.

We have performed the work assigned and have prepared this report in conformity with its intended utilisation by persons familiar with the areas addressed and for the stated purposes only. Judgements based on data, file reviews and interviews contained in the report should be made only after studying the report in its entirety, as conclusions reached by a review of a section or sections on an isolated basis may be incorrect. EY staff are available to explain or amplify any matter presented herein.

In accordance with normal professional practice, neither EY, nor any member or employee thereof undertakes responsibility in any way whatsoever to any person other than ICWA in respect of this report.

However if the report is distributed to third parties then it must be distributed in its entirety.

Neither the whole of this report, or any part thereof, or any reference thereto may be published in any document, statement or circular nor in any communication with other third without prior written approval from EY of the form and context in which it will appear.

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We believe that the statements made in this report are accurate, but no warranty of completeness, accuracy or reliability is given in relation to the statements and representations made by, and the information and documentation provided by ICWA management and personnel. We have indicated within this report the sources of the information provided. We have not sought to independently verify those sources unless otherwise noted with the report. We are under no obligation in any circumstance to update this report, in either oral or written form, for events occurring after the report has been issued in final form unless specifically agreed with ICWA. The internal audit findings expressed in this report have been formed on the above basis.

Third party reliance

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