

Table of Contents

JOB DESCRIPTION – ORM-C650 3
 Update job description 4

CLAIMS HANDLED BY MEDICAL MALPRACTICE – ORM-C651 6

Incident Reports..... 6

Amicable Demands 6

Medical Review Panel..... 6

ROUTINE SUPERVISORY ACTIVITIES – ORM-C652..... 8

Process Daily Mail..... 8
 Medical malpractice claims 8
 Appointment and Contract Approval Form 8
 Medical Review Panel Request 8
 Satellite office adjuster 8

Supervise Satellite Office and Adjusters..... 8

Case Management..... 9
 Review of Data Entry and Pending Claims 9

Process Contract Performance Evaluation Forms 9

Hire New Employee to Fill Vacancies 9

Time and Attendance Records..... 9

Prepare Personnel Performance Ratings (PPR) 9

Provide Training 10

Judgments and Appeals..... 10

Attend Mediations, Trials, Claims Council and DRL Staffings 10

Evaluate Proposed Legislation..... 11

Handle Complaints 11

Assigned Projects and Resolution of Claims 11

RESERVES – ORM-C653..... 12

DOA ORM Claims: Claims Adjuster 5-Medical Malpractice

INVESTIGATE AND SETTLE VARIOUS CLAIMS – ORM-C654 13

Select and Assign Investigator 13

Claims Investigations..... 13

Obtain Settlement Approval 14

Future Medical Expenses 15

Unfavorable Medical Review Panel (MRP) Decision 15

Independent Medical Expert 15

CLAIM FILE CLOSURE – ORM-C655..... 16

Close Claim File 16

JOB DESCRIPTION – ORM-C650

Responsibility

The Medical Malpractice Unit State Risk Claims (SRC) Adjuster 5 updates the SRC Adjuster 5 job description when requested by a supervisor or ORM Administration.

Forms or Reference Material Required

Job description (general for all SRC Adjuster 5s regardless of unit)

Procedure

Depending on the line of coverage an Adjuster is assigned to, some of the following duties may not be fully applicable.

The SRC Adjuster 5 position performs the following:

- Supervises units of claims adjusters in the investigation, evaluation, negotiation, settlement, and management processes through conclusion for new and pending claims involving the various lines of coverage administered by the Louisiana Self Insurance Program.
- Evaluates cases involving litigation and assigns cases to adjusters based on level of complexity.
- Refers cases to the Department of Justice for legal opinions and representation.
- Directs and supervises the beginning of claims assigned to the individual adjusters.
- When specifically overseeing workers' compensation claims:
 - Supervises and administers the application of the workers' compensation laws, rules, regulations, policies, and procedures.
 - Receives and processes all petitions filed by employees to receive compensation for work-related injuries.
 - Oversees the rehabilitation of injured workers, working closely with the rehabilitation efforts of the physician and rehabilitation counselors in an effort to return the claimant to gainful employment.
 - Evaluates permanent partial and permanent total disability cases upon completion of the rehabilitation program to determine claimant's occupational ability.
- Evaluates cases involving litigation.
- Obtains legal opinions and case evaluations from defense attorneys, especially on cases requiring legal interpretation and/or posing major financial losses to the State.
- Provides and submits completed case analysis with settlement recommendations to appropriate claims level and/or Claims Council, negotiates settlements with plaintiff's attorney(s), supervises, evaluates, and disposes of difficult litigation cases in satellite offices.
- Attends and participates in mediations towards resolution of disputed issues and/or settlement of claim.
- Attends trials and testifies as needed.

DOA ORM Claims: Claims Adjuster 5-Medical Malpractice

- Serves as a voting member of claims council which authorizes claims settlements up to a limit of \$5,000,000.
- Possesses individual payment and settlement authority of \$50,000 without additional approvals.
- Extends an adjuster's payment and settlement authority within the authority of the Adjuster 5, up to a maximum of \$50,000, that exceeds the authority granted to the individual adjusters under his/her supervision.
- Performs audit/file reviews (quality control) to determine the progress of the adjusters while assessing files for correctness and completeness of data and to ensure adjusters adherence to established guidelines, policies, and procedures.
- Ensure the claim has been submitted to an excess carrier, second injury fund, or referred to ORM subrogation unit for potential recovery, e.g., any major head injuries must be reported to excess carrier.
- Ensure that adjusting staff establishes adequate claim reserves that reflect the State's liability and exposure.
- Directs discrepancies to handling adjuster for additional investigation assessment.
- If the claim is a small claim involving DOTD, ensure claimant reports claim to the appropriate DOTD office prior to processing claim.
- Assists individuals and state agencies with claim filing procedures and coverage questions.
- Engages in joint projects with the loss prevention unit and the underwriting section, coordinating the activities of subordinate adjusters to address and resolve special problems in specific agencies and departments which have produced or could result in personal injury and/or property damage.
- Participates in training seminars and assist Adjuster 7 and Adjuster 6 in the proper training of staff adjusters.
- Assists in drafting legislation to modify and improve the self insurance program.
- Evaluates proposed legislation to assess the fiscal and functional impact on the self insurance program and the overall fiscal condition of the state.
- Be willing to travel to any part of the state of Louisiana or elsewhere in the performance of his/her duties and to assist staff adjusters in accomplishing the investigation, adjusting, and handling of a claim to its conclusion.
- Performs any and all other duties as assigned.
- Adjusters, Supervisors and Managers are subject to be moved to another unit at the discretion of management.

Update job description

The SRC Adjuster 5 uses the following procedure for updating and maintaining the SRC Adjuster 5 job description.

1. Revise the SRC Adjuster 5 job description as requested.

DOA ORM Claims: Claims Adjuster 5-Medical Malpractice

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2. Give the revised job description to the requesting manager and/or administrator for review and approval.
3. Make changes as needed and return it to the approval authority.

CLAIMS HANDLED BY MEDICAL MALPRACTICE – ORM-C651

Responsibility

The Medical Malpractice Unit State Risk Claims (SRC) Adjuster 5 performs activities for handling the various types of claims within Medical Malpractice Unit as follows.

Forms or Reference Material Required

Incident report

Suit Log

Appointment and Contract Approval Form

Contract Performance Evaluation form (g:\Claims-General\ORMtemplates)

Attorney General Performance Evaluation (g:\Claims-General\ORMtemplates)

Procedure

Incident Reports

1. Review all incident reports and determine if claim will be set up.
2. Check computer to see if the incident report has been received.
3. File alphabetically.

Amicable Demands

1. Enter the following information in the log:
 - Date claim was received
 - Type of claim
 - Name of plaintiff and insured
 - Plaintiff attorney
 - Adjuster Assigned
 - Comments (claim number issued by STARS)
2. Assign a new claim to an Adjuster who enters the claim information in the computer system.
3. Review substance of claim; advise the assigned Adjuster of any special tasks that should be done for the case, e.g., obtain medical records for defendant if claim is filed late.
4. Advise the Adjuster on reserves and worth of case.

Medical Review Panel

1. Claimant has 45 days from the date of confirmation or receipt of the request for MRP in which to pay filing fee of \$100 per named defendant. When verification that payment is made has been received, then the claim is forwarded to the Attorney General's Office for assignment of defense counsel.

DOA ORM Claims: Claims Adjuster 5-Medical Malpractice

2. Perform steps of Amicable Demands (immediately above).
3. Investigate all requests to the Commissioner of Administration for Medical Review Panel.
4. Make decisions on a case by case basis regarding requests to waive or consolidate the private (Patient's Compensation Fund) and state panels.

Suits

1. Perform steps of Amicable Demands (above).
2. Ensure all medical malpractice claims are submitted to the Commissioner of Administration for establishment of a Medical Review Panel pursuant to RS 40:1299.39.1.

NOTE: All suits filed prior to a decision being rendered by the Medical Review Panel are in violation of RS 40:1299.39.1. The defense counsel will be instructed to file an Exception of Prematurity on all suits filed without the claim first being submitted to the Commissioner of Administration for a Medical Review Panel (performed by the assigned Claims Adjuster).

ROUTINE SUPERVISORY ACTIVITIES – ORM-C652

Responsibility

The Medical Malpractice Unit State Risk Claims (SRC) Adjuster 5 performs routine supervisory activities as described in this procedure.

Forms or Reference Material Required

Appointment and Contract Approval Form

Suit Log

Medical Review Panel Request

Contract Performance Evaluation form (g:\Claims-General\ORMtemplates)

Attorney General Performance Evaluation (g:\Claims-General\ORMtemplates)

Procedure

Process Daily Mail

Medical malpractice claims

1. Review all mail associated with medical malpractice claims on a daily basis.
NOTE: Reviewing mail provides an opportunity to monitor what is going on with cases assigned to Adjusters.
2. Determine if there are significant circumstances or situations that need to be addressed, address the issue(s) and inform the Adjuster of situation, e.g., situation that may require approval authority that Adjuster does not have.

Appointment and Contract Approval Form

1. Receive Appointment and Contract Approval Form for appointment of attorney from the Attorney General's Office.
2. Enter information in Suit Log (see Incident Reports section of Types of Claims Handled by Medical Malpractice – ORM-C652).

Medical Review Panel Request

3. For new claims, receive copy of Medical Review Panel Request from Panel Office.
4. Assign to adjuster.

Satellite office adjusters

1. Receive mail from the Adjuster.
2. Send mail to the Adjuster when needed.

Supervise Satellite Office and Adjusters

Travel to satellite office periodically to meet with Adjuster, review files and provide training.

Case Management

Review of Data Entry and Pending Claims

1. Receive, generate and review STARS monthly report of new claims entered by each adjuster.
2. Review 10% of new claims entered per adjuster by checking the claim file against the data entry. Entries should be made in accordance with procedures outlined in ORM-C800 Claims Adjuster 1-4 General ORM-C802, Set Up New Claim File section.
3. Complete an entry in the Supervisor Log (located in g:_PEOPLE) for New Claims Entered with the review date, claim number, date entered, supervisor code/initials, and comments.
4. Comments should indicate that the entry was properly coded or the corrections required.
5. If it is determined that a new code is needed, the supervisor will submit a request to the STARS committee.
6. If corrections are needed, have the adjuster make the corrections. Then enter the log to note corrections made, date and initials for verification.
7. For pending claims, review work in progress, steps to be taken and/or corrective action.
8. Review all closed claims by staff for completion of required entries in STARS. All appropriate fields on the Litigation tab, particularly the Suit Financial Information must be completed. In addition, check the State Level Court Information and Medical Review tab for completion. Note review in STARS.

Process Contract Performance Evaluation Forms

Contract expiration notices posted on TrialNet. See ORM-C800/TrialNet.

Hire New Employee to Fill Vacancies

1. Interview potential employee to fill vacancy as needed.
2. Hire new employee per Civil Service procedures and provide training as described below.

Time and Attendance Records

1. Be responsible for time and attendance records for staff. Approve leave and compensatory time requests as deemed appropriate. Make sure that time sheet times and codes agree with LEO entry.

Prepare Personnel Performance Ratings (PPR)

1. Perform a performance evaluation for each Adjuster in Medical Malpractice Unit within 60 to 14 days of anniversary date.
2. Review Adjusters' files.
3. Check computer entries for accuracy.

DOA ORM Claims: Claims Adjuster 5-Medical Malpractice

4. Prepare performance rating for each Adjuster.
5. Submit to Claims Manager for review 14 days prior to due date.
6. Prepare new expectations and review with adjuster within 30 days after PPR.

Provide Training

1. Provide training to new hires and to Adjusters on how to do their job.
2. For current Adjusters, provide training on new laws, recent significant court decisions, and claims procedures.
3. Provide Adjuster training on how to investigate a case.
4. Require new Adjuster to review newly assigned caseload.
5. Provide guidance and pre-approval to Adjusters for meeting with Claims Council.
6. Provide other periodic training as needed.
7. Receive requests for training from supervised employee. Provide training to employees as needed or as requested.
8. Ensure training records are maintained.
9. Provide training on payment of contract attorney invoices submitted through TrialNet.
10. Provide training for handling of contract diary sent to adjuster through TrialNet.

Investigations:

11. Provide Adjuster training on how to investigate a medical malpractice case.
12. Assist the Adjuster in preparing medical record summaries until assured that the Adjuster knows how to do them well.
13. Help Adjusters prepare questions associated with claims.
14. Accompany Adjuster to facility to take recorded statement.
15. Review Adjuster's investigative report.

Judgments and Appeals

1. Inform Claims Administrative Manager if a case is on appeal and give brief explanation of facts of the case and decision of the court.
2. Handle cases that are in excess of the Adjuster's limit for approval authority or very complicated cases.
3. Handle future medicals cases by paying medical bills as incurred directly to the provider if so stated in settlements or judgments.

Attend Mediations, Trials, Claims Council and DRL Staffings

1. Attend mediations and trials on as needed basis.
2. Sit on Claims Council on any line of Claims outside of Medical Malpractice.
3. Attend and coordinate meetings with the Attorney General's Office, Medical Directors at hospitals, and Administration personnel at hospitals regarding medical malpractice items or claims that require decisions.

4. Serve as backup in Claims Council for satellite adjuster presentations.

Evaluate Proposed Legislation

Evaluate proposed legislation that affects medical malpractice to assess the fiscal and functional impact on the self insurance program and the overall fiscal condition of the state.

Handle Complaints

1. Receive complaints from doctors regarding their legal representation.
2. Address complaints and resolve issues as appropriate.

Assigned Projects and Resolution of Claims

1. Work on projects as assigned by Supervisor.
2. Answer Adjusters' questions and assist them in resolution of claims.
3. Review and approve amounts for settlement.
4. Make sure claims are handled in a timely manner.

RESERVES – ORM-C653

Responsibility

The Medical Malpractice Unit State Risk Claims (SRC) Adjuster 5 performs activities for reserves associated with medical malpractice claims as described in this procedure. Adjuster 5 has authority to input reserves up to and including \$150,000.

Forms or Reference Material Required

Eason's Louisiana Quantum Study

ORM-C800 Claims Adjuster 1-4 General – Reserves section

Procedure

Setting reserves is the responsibility of the Adjuster assigned to the claim with recommendations and, as needed, approval from the Adjuster 5.

Check initial reserves when reviewing the data input into STARS to determine whether the amount entered in the claims information is a realistic amount for the alleged damages.

Advise adjusters to periodically review reserve amounts to maintain an adequate balance.

Payment Review Procedure

A list of all check requests will be emailed to supervisors daily for review. Randomly review at least (10 payment per adjuster under supervision and note review in the Payment Review Log. Review file to determine validity of payment and verify that all documentation is attached to the payment request.

INVESTIGATE AND SETTLE VARIOUS CLAIMS – ORM-C654

Responsibility

The Medical Malpractice Unit State Risk Claims (SRC) Adjuster 5 performs activities to investigate, select and assign investigators, and settle various claims as described in this procedure.

Forms or Reference Material Required

Log book

Adjuster Activity Sheet

Procedure

Select and Assign Investigator

1. Discuss with Adjuster if case needs to be assigned to an outside adjuster.
2. Approve requests to assign the investigation of medical malpractice claims to contract services.
3. Enter the name of patient, claim number, and amount allocated for the contract in the log book.
4. Make assignments only to investigators having a minimum of three (3) years experience in the investigation of medical malpractice.
5. Ensure investigators on the list are used on a rotating basis.
6. Review each contract investigator on the timeliness and acceptability of the work product involved and evaluate in accordance with ORM procedures.

Claims Investigations

1. Initial Report
 - a. Receive and review copy of the initial report from the Adjuster.
 - b. Assist the Adjuster as needed.
2. Final Investigative Report
 - a. Ensure contract investigators, as well as ORM adjusters, follow ORM standards although the form of reporting may vary.
 - b. Review the report and provide guidance as appropriate.
3. Pre-Trial Status Report
 - a. Before a case goes to Claims Council, receive pre-trial recommendations from assigned Adjuster.
 - b. Review recommendations and give approval to try the case.
 - c. Assist assigned Adjuster in presentation of the pre-trial recommendations to Claims Council for final decision, as needed.

National Practitioner Data Bank Reporting

Effective September 1, 1990, ORM was required by Federal Mandate Regulation 45CFR60 to report payments made on behalf of health care providers who were named defendants in malpractice claims.

A health care provider is reported only when the following circumstance exists:

- He/she is a named defendant in both the demand and settlement documents and the payment is made on their behalf.
- There is documented evidence that he/she committed malpractice by in-house review, medical review panel opinion, or expert's opinion.
- No adjuster should report a physician to the NPDB without approval of the unit supervisor or other authority (Claims Council, Claims Manager, or State Risk Administrator-Claims..

Complete a Medical Malpractice Payment Report Form as required by the NPDB.

Submit the completed form within thirty (30) days of the payment to the Data Bank and the appropriate licensing board..

Subrogation potential may exist for medical equipment malfunctions. If so, refer to ORM-C800 General procedure – Case Management / Subrogation Process section.

Obtain Settlement Approval

By statute, concurrence must be obtained by the Attorney General for settlements above \$25,000 on litigated cases. When the RSA or agreement to settle is submitted by a contract attorney for over \$25,000 and is approved by Claims Council, it is required that the Adjuster requests the concurrence of the AG by submitting a copy of the RSA and Claims Council decision with a cover memo to the Senior Executive Secretary, DOJ.

If a small claim, or non-litigated claim, is filed, it is usually settled with claimant. If it is a lawsuit, the claim is settled with lawyers and claimant. Payment is usually made directly to claimant.

1. Requests for Settlement Authority over \$100,000 received by ORM must be transmitted to the General Counsel for review and comments prior to the case being scheduled for Claims Council.
2. Settlements of \$500,000 or more require the approval of the Commissioner of Administration and the Joint Legislative Subcommittee on the Budget.
3. Supervisor has settlement authority up to \$50,000. Review RSA's with Adjuster prior to Adjuster's presentation to Claims Council.
4. If significant or complicated case, request that the Claims Council review the claim.

NOTE: The ORM Claims Council consists of the Claims Officer (or designee) plus two (2) supervisors/managers (The Assistant Director of Litigation may elect to attend the ORM Claims Council and decide claims). Claims supervisors are not permitted to decide claims under their direct supervision that are valued at or above \$100,000.

DOA ORM Claims: Claims Adjuster 5-Medical Malpractice

5. The Claims Council must decide all settlements for amounts above \$100,000. Requests to mediate, waive a jury, permission to try the case or appeal must be presented to the appropriate level of supervisory authority or to the Claims Council if the settlement amount is above \$100,000.
6. The Office of the Attorney General must concur on all settlements above \$25,000 on litigated cases.
7. The Office of the Attorney General supervisory staff must review and approve all requests for settlement authority submitted by AG staff attorneys prior to submission to ORM.
8. Notify the ORM Loss Prevention of any alleged defect that may need correction.

Future Medical Expenses

The Medical Malpractice Unit SRC Adjuster 5 supervises and assists Adjusters who are responsible for tracking and recording payments for future medical expenses.

1. Assist adjusters as needed with settlements and payments of future medical expense claims.
2. Approve payments for future medical expenses if the amount exceeds authorized limit of the assigned Adjuster.

Unfavorable Medical Review Panel (MRP) Decision

1. Upon receipt of an unfavorable MRP decision, discuss with adjuster and/or attorney as to whether settlement should be considered.
2. For all MRP decisions from Medical Center of New Orleans and University Medical Center in Lafayette, instruct the Adjuster to copy the panel decision, and then on a quarterly basis, send all panel decisions to Quality Management Department.
3. Keep a running total of panel decisions and whether won or lost.

Independent Medical Expert

1. Prior to consideration of settlement or trial, ensure **every** medical malpractice claim is evaluated for the necessity of review by an **independent** expert in the appropriate area of medicine involved in the incident.
2. If necessary, retain more than one independent expert if more than one medical specialty is involved.

NOTE: Physicians at Tulane School of Medicine may be considered independent experts **only if** Tulane staff, residents, interns or medical students are not involved in the care in question.

3. Suggest experts that the Adjusters should use and amounts for fees to ensure exorbitant amounts are not charged (Adjuster 5).

CLAIM FILE CLOSURE – ORM-C655

Responsibility

The Medical Malpractice Unit State Risk Claims (SRC) Adjuster 5 performs activities associated with closing a claim file as follows.

Forms or Reference Material Required

Close a file – ORM-C810

Procedure

Close Claim File

The claim file is usually closed by the assigned Adjuster in conformance with Close File – ORM-C810. The Adjuster 5 reviews claims for accuracy and completeness on a routine basis (see Routine supervisory activities – ORM-C653).