

ORM | SEDGWICK

THIRD PARTY ADMINISTRATOR CLIENT SERVICES INSTRUCTIONS

WORKERS' COMPENSATION

(REVISED 10.01.2020)

Client Instructions for Third Party Administration of ORM's **Workers' Compensation** claims.

**CLIENT INSTRUCTIONS – WORKERS’ COMPENSATION CLAIMS – EFFECTIVE
OCTOBER 01, 2020**

ORM INTERNAL AUTHORITY DESIGNATION

In order to streamline and improve the efficiency of our joint claims handling processes, workers’ compensation claims have been assigned by alphabet, by the claimant’s last name. The ORM supervisors will be your primary contact person for approval of payments in excess of \$25,000, requests for an attorney appointment, requests for a contract amendment, and requests for reserve increases. If the requested matter is above their authority level, they will route it to the appropriate person within ORM. Alpha assignments are as follows:

Debi Patt (342-8458) – A through F and X through Z

April Mayle (219-0352) – G through N

Robert Hilborn (219-0401) – O through W

The Third Party Administrator should submit all RSAs relative to workers’ compensation claims to the appropriate ORM supervisor for coordination with claims council.

CUSTOMER SERVICE

The Third Party Administrator is expected to provide excellent customer service to all parties affected by the State’s contract with the Third Party Administrator. Customer service includes timely response to phone and email inquiries. ORM customers include but are not limited to the following:

- Injured workers
- State agency personnel
- Attorneys, both defense and plaintiff
- Medical providers and their staff
- Vendors, etc.

It is expected that good customer service includes use of the telephone for follow-up on any and all inquiries made by mail and/or email.

COMMUNICATIONS BETWEEN the TPA AND ORM

Always include the Third Party Administrator’s claim number and the name of the claimant in the subject line. If there is a critical date or some urgency, flag as high importance and add in subject line such as “Trial date ___ or Follow-up to RSA or Contract Amendment”.

LOCATION CODES

Each State agency is assigned a location code to aid in premium development and claim administration.

Once a claim has been entered into the claims management system, the Third Party Administrator should not change a claim from one location code to another without verification from ORM that the location code change is appropriate.

CLAIMS COUNCIL AUTHORITY

The Third Party Administrator must obtain claims council authority for the following:

- Settlement authority over \$200,000
- Appeals to the Louisiana Supreme Court
- Right to participate in a private mediation (non-OWCA) (Note: Written concurrence of DOJ Senior Counsel to the Attorney General is required.)
- Permission to proceed to trial
- Request to proceed to trial without any monetary authority (Note: Written concurrence of DOJ Senior Counsel to the Attorney General is required.)
- Request to waive a jury trial (Note: Written concurrence of DOJ Senior Counsel to the Attorney General is required.)
- Request to forego an appeal/writ.
- Waiver of greater than 50% of the State's interest in subrogation matters utilizing the appropriate Settlement Evaluation Form.
- Request to stipulate to liability (Note: Written concurrence of DOJ Senior Counsel to the Attorney General is required.)
- A "Settlement Evaluation/Claims Council Review Form" will be provided on all claims submitted for Claims Council review.
- The Third Party Administrator's examiner may present the case in person or by telephone.
- If the settlement amount requires approval from the Attorney General or other parties, ORM will coordinate that approval process.

MEETINGS / STAFFINGS

Requests for a staffing by the Third Party Administrator's examiner are to be directed to Karen Jackson. The examiner should attend the staffing and document the names of those who attended and the outcome of the staffing. A plan of action should state the subsequent steps that are to be taken following the staffing.

CLAIMS INVESTIGATION AND HANDLING

- Three point contacts by the Third Party Administrator will include telephone contact with the injured worker as well as with the agency of employment and the medical provider rather than mail or email correspondence.

- On questionable claims, ORM will convene claims council upon completion of the investigation by the Third Party Administrator. During the claims council meeting, the Third Party Administrator will discuss the merits of the case.
- The Third Party Administrator's investigation will include obtaining a recorded statement on all lost time and questionable claims.
- Where appropriate, the Third Party Administrator's investigation will include surveillance on lost time and questionable claims where warranted.

NON-LITIGATED CLAIMS

The Third Party Administrator will have the authority to settle all non-litigated claims up to and including twenty-five thousand (\$25,000) dollars per claimant without the approval of the State (ORM or DOJ).

Settlements over twenty-five thousand (\$25,000) dollars per claimant must have the approval of ORM **and** the concurrence of the Attorney General's office **prior** to negotiations with the injured worker or the plaintiff's attorney. The Third Party Administrator must submit a completed Settlement Evaluation Request form to ORM for approval. The ORM supervisor will review the settlement evaluation form to see if ORM agrees with the Third Party Administrator's recommendation for settlement of a non-litigated claim. ORM staff may consult with the handling examiner for additional information and/or claim detail.

When a claim is settled within the TPA's authority, ORM requests that the following steps be taken:

- Prepare and enter a justification note to the claim file.
- Review with the ORM supervisor prior to finalizing the settlement.
- ORM has final authority.

Workers' compensation examiners often settle claims that are not in litigation which necessitate the AG preparing an Attorney General Settlement Concurrence Form For Non-Litigated Claims and handling the settlement documents.

Once ORM has determined a recommended amount for settlement authority, ORM will submit a Counsel's Acknowledgment & Acceptance of Appointment letter (transmittal) to the attorney general's office requesting that an attorney be assigned to obtain AG concurrence for that authority. Upon assignment, the attorney general's office will extend AG concurrence on the Attorney General Settlement Concurrence form for Non-litigated claims over \$25,000 (SF-7). When the attorney general's office has concurred on the amount of settlement authority, the attorney general's office will notify both ORM and the Third Party Administrator's examiner of the concurred settlement authority. The Third Party Administrator can begin negotiations for an amount up to AG concurrence once the Attorney General Settlement Concurrence form for Non-litigated claims over \$25,000 (SF-7) has been received.

If the settlement cannot be concluded within the settlement authority granted, the Third Party Administrator's examiner must resubmit the settlement authority request to the appropriate ORM supervisor for review of additional authority and resubmission to the attorney general's office.

If the claim is not settled by the date in the claims council form, the authority will expire and the entire process must begin again.

The Third Party Administrator cannot begin settlement negotiations of a non-litigated claim over \$25,000 without AG concurrence.

The Third Party Administrator will not generate a settlement check until it has received written AG concurrence.

The Third Party Administrator's requests for settlement authority must include the minimum documentation:

- Settlement evaluation form (must be completed thoroughly)
- Medical cost projection, if applicable
- LWC 1007
- MSA with CMS approval, if applicable
- Surveillance report, if applicable
- Voc Rehab report, if applicable
- Any supporting medical or other documentation.
- A signed RSA from DRL prior to sending to ORM for Claims Council

Process for requesting settlement authority on Non-Litigated Claims over \$25,000.

- The Third Party Administrator will submit a request for settlement authority to the appropriate ORM supervisor.
- ORM supervisor reviews the request and may consult with the Third Party Administrator's examiner via phone or email.
- ORM supervisor recommends settlement authority on an ORM claims council form.
- The claims council form will include a date that settlement authority is good for: i.e., MM/DD/YY and not ## days.
- ORM will notify the Third Party Administrator examiner that the recommended settlement authority is being forwarded to the AG's office to obtain AG concurrence and that no settlement negotiations are to be made with the injured worker or their representative until AG concurrence has been obtained.
- ORM will route a completed Counsel's Acknowledgment & Acceptance of Appointment letter (transmittal), the claims council form and all attachments received from the Third Party Administrator to the LitigationCaseIntake@ag.louisiana.gov email address.
- The AG's office will assign the claim to an attorney to obtain AG concurrence.
- The AG's office will notify both ORM and the Third Party Administrator of the settlement authority concurred to by utilizing the Attorney General Settlement Concurrence form for Non-litigated claims over \$25,000 (SF-7).
- Once the Third Party Administrator's examiner receives AG concurrence, negotiations for settlement with the injured worker and/or their representative can begin.

- After the Third Party Administrator has successfully negotiated a settlement within the authority granted, the Third Party Administrator will communicate this amount to the assigned AG attorney and to ORM and request that the settlement documents be drawn.
- The Third Party Administrator will generate a settlement check at the request of the AG attorney.

LITIGATED CLAIMS

The Third Party Administrator will have the right to settle claims up to and including twenty-five thousand dollars (\$25,000) per claimant **after the assigned counsel has submitted an RSA to ORM for approval**. The Third Party Administrator will route the RSA submitted by assigned defense counsel to ORM for review and evaluation. Settlements over \$25,000 must be approved by ORM and the AG. Settlements over \$250,000 must also be approved by the Commissioner of Administration. Settlements of \$500,000 and above must be approved by the Joint Legislative Subcommittee on the Budget.

SUIT ABANDONMENT POLICY FOR LITIGATED CLAIMS

A new policy will be implemented on all cases that abandon **after October 1, 2013**. When a case is believed to have abandoned, defense counsel will consult with the examiner to review relevant dates and to confirm that the delay for abandonment has indeed lapsed. If there is agreement that the case has abandoned, defense counsel will file a "Motion to Declare Case Abandoned " or "Motion to Dismiss on the Basis of Abandonment", or similar pleading between 15 and 45 days from the alleged date of abandonment. In the event the motion is granted, defense counsel will immediately inform the examiner of all costs associated with a dismissal of the case, and will provide the examiner with an itemization of such costs from the Clerk of Court.

Please note that La. C.C.P. Art. 5188 provides that, in the event a judgment is rendered against a party who has been permitted to litigate without the prior payment of costs (i.e., an indigent party who has prosecuted the action "in forma pauperis" pursuant to La. C.C.P. Art. 5181 et seq.), said party should be cast with all costs. This article further provides that failure of the indigent party to pay such costs shall not prevent the entry of a judgment in favor of another party. This article should be referenced within the Motion and Order/Judgment of Dismissal in the appropriate circumstance.

Cases that are currently in the possession of the Litigation Division and that have been administratively closed due to abandonment (i.e., cases that have allegedly abandoned **before October 1, 2013**) shall be reviewed by defense counsel and the corresponding Section/Office Chief to confirm (1) the date it allegedly abandoned, and (2) that there has been no waiver of abandonment. If there is agreement that the case has abandoned, defense counsel shall file a "Motion to Declare Case Abandoned " or "Motion to Dismiss on the Basis of Abandonment", or similar pleading on such cases **prior to December 31, 2013**.

SETTLEMENT AUTHORITY and STATE EMPLOYEES

No workers' compensation settlement should be made with a claimant under the following circumstances:

- The injured worker is still employed with the State.
- The injured worker has transferred to another State agency.

When there is a subrogation claim, settlement may be pursued with the third party.

NEGOTIATION TRACKING:

The examiner is expected to keep up with and document in a note, the settlement negotiation process to include the following:

- Offers
- Counter offers
- Final settlement amount.

SETTLEMENT AUTHORITY WITH MEDIATION

At mediation, the examiner shall complete a copy of the "Mediation Summary". Upon conclusion of mediation, the examiner shall update the Litigation Offer Section in the claims management system to include all offers, counter-offers and settlements and attach the completed form into the claims management system.

SETTLEMENT AUTHORITY WITHOUT MEDIATION

When defense counsel is given monetary authority without mediation authority, the Third Party Administrator examiner shall inform defense counsel that authority has been granted using the following e-mail format.

Per the authority granted by ORM and concurred upon by the Attorney General's Office, you now have settlement authority in the amount of ...(describe monetary authority granted, as well as any non-monetary authority granted: this would include any authority regarding individual plaintiff offers, Medicare and other liens, Medicaid reimbursement claims, future medical expenses payable through the Future Medical Care Fund, stipulations as to the existence of a duty and a breach thereof, waiver of a jury trial, participation in mediation, proceeding to trial, etc.....)

Unless particular circumstances or your granted authority dictate otherwise, please extend an offer in a timely manner. You must advise and update your examiner re: any offers or counter-offers extended, counter-offers received or reasons for withholding any offers, as negotiations progress, but in any case no later than 30 days from receipt of this e-mail. It is vital that all offers, counter-offers and settlements are reported to the Third Party Administrator examiner as negotiations progress. This information is critical to the completion of ORM's bi-annual reports to the Legislature.

Your cooperation is appreciated.

The Third Party Administrator shall create a 30-day diary to follow-up on the e-mail and add additional diaries to obtain the latest information on negotiations until the case is resolved or negotiations are discontinued.

The Third Party Administrator examiner shall enter all offers, counter-offers and settlements in the Litigation Offer section in the claims management system. This information is critical to the completion of ORM's bi-annual reports to the Legislature.

SETTLEMENT EVALUATION

When requesting settlement authority, the TPA examiner must provide the following documents:

- Request for Settlement Authority (RSA) (from the defense attorney)
- Settlement Evaluation Form (see appendix)
- Claims Council Request Form (see appendix)
- MSA / CMS approval if applicable
- Other pertinent documents as warranted

NOTIFICATIONS AND ATTENDANCE AT TRIALS AND MEDIATIONS

The Third Party Administrator must maintain a calendar of all scheduled mediations and trials. The Third Party Administrator examiner must notify the ORM supervisor thirty (30) calendar days prior to any scheduled mediation or hearing before the OWCA. ORM shall be notified of all trials.

Third Party Administrator examiners must attend trials and mediations, as well as meetings of the Joint Legislative Subcommittee on the Budget.

MEDIATION SUMMARY

A mediation summary documenting the offers and demands, initial settlement authority and final settlement amount along with an evaluation of defense counsel should be attached to the file. A copy of the format is in the appendix.

RSA PROCESS

All assigned defense counsel (AAG staff attorneys and contract attorneys) shall submit a RSA in accordance with the guidelines established by the Litigation Program of the Department of Justice and ORM.

RSAs prepared by an AAG should include comments from the section chief or Office Chief if the case has been assigned to a Regional Office and then routed to the Third Party Administrator's examiner. The Third Party Administrator's examiner will review the RSA, provide an email which includes their comments regarding the proposed settlement, a Settlement Evaluation Form (ORM), and a Claims Council Request form, then forward to the appropriate ORM Claims Supervisor for disposition. After the ORM review process, ORM's comments/recommendations and RSA and Claims Council Decision form, where required, will be emailed to the AG at LitigationReportTracking@ag.louisiana.gov for the AG approval process. Upon approval by the AG, they will notify the Third Party Administrator and ORM as to the approved authority. Settlements over \$250,000 are not final until approval has been granted by the Commissioner of Administration. Settlements of \$500,000 and above are not final until approval has been granted by the Joint Legislative Subcommittee on the Budget. ORM will coordinate these approvals. No further action for settlement will be taken by the Third Party Administrator until all required approvals have been obtained.

RSAs prepared by contract counsel will be sent to the assigned The Third Party Administrator examiner. The Third Party Administrator examiner will review the RSA, provide an email which includes their comments regarding the proposed settlement, a Settlement Evaluation Form (ORM), and a Claims Council Request form, then forward to the appropriate ORM Claims Manager for disposition. After the ORM review process, ORM's comments/recommendations and RSA and Claims Council Decision form, where required, will be emailed to the AG at LitigationReportTracking@ag.louisiana.gov) for the AG approval process. The AG will notify the Third Party Administrator and ORM as to the approved authority. Settlements over \$250,000 are not final until approval has been granted by the Commissioner of Administration. Settlements of \$500,000 and above are not final until approval has been granted by the Joint Legislative Subcommittee on the Budget. ORM will coordinate these approvals and notify The Third Party Administrator accordingly. No action for settlement will be taken by The Third Party Administrator until all required approvals have been obtained.

NOTE: RSAs must be forwarded to ORM within 10 days from the date it is received from the AG's office.

1008 DISPUTED CLAIMS RECEIVED ON WORKERS' COMPENSATION CLAIMS

- All OWCA citations (1008) and supplemental/amending petitions must be referred to ORM for referral to the AG for defense counsel assignment.
- All petitions for damages filed against the third party in subrogation matters must be referred to ORM for referral to the AG for an attorney assignment to file an intervention to protect the State's interest.
- When an OWCA citation (lawsuit) is received by the Third Party Administrator, the litigation screen in claims management system must be updated to reflect litigation status.
- ORM will complete the required Counsel's Acknowledgment & Acceptance of Appointment letter and submit it to the AG for appointment of counsel.
- The Third Party Administrator examiner will receive a copy of the appointment form for their records. Legal reserves should be initially set at \$20,000.

- Upon notification of the assigned defense counsel, the Third Party Administrator examiner should contact counsel within seven (7) working days to discuss the case and develop a plan of action for defending the allegations contained in the petition.
- The TPA examiner must provide a complete synopsis of the claim to forward to the AG's office for representation to include:
 1. 1008
 2. 1007
 3. 1002
 4. What led to the dispute
 5. Any documents to support position taken on the claim.
- The TPA examiner must change the litigation status flag when a 1008 is received.
- Litigation screens must also be updated to reflect plaintiff and defense counsels.

Upon assignment of all new lawsuits received beginning January 2018 a team meeting will be scheduled per the terms below:

TEAM MEETING:

Upon assignment of all new lawsuits received beginning January 2018 a team meeting will be scheduled per the terms below:

- A meeting shall be attended by defense counsel, the claims examiner, the appropriate DOJ section chief and the corresponding ORM supervisor (the "team") to discuss a strategy for aggressively defending the case, including discovery to be conducted, available affirmative defenses, possible immunities, the need for and retaining of appropriate experts, and the potential for dispositive motions. Participation of the ORM supervisor is at the discretion of ORM.

Team meetings in Workers' Compensation cases, pre-litigation matters, and cases which are only being monitored for attorneys' fees, shall be at the discretion of the DOJ section chief and ORM manager.

- The claims examiner shall schedule and coordinate the meeting, subsequently document the strategy (action plan) agreed upon, and send an email to each member of the team confirming the plan of action.
- Unless otherwise determined by the DOJ section chief and ORM supervisor, team meetings will be held via teleconference.
- This team meeting shall be held within 90 days of case assignment, or as soon as practicable thereafter, but no later than 30 days before the six month case assessment is due. Additional team meetings shall be held as determined by the DOJ section chief or the ORM supervisor.

DEFENSE COUNSEL ASSIGNMENT OF LITIGATED CLAIMS

- OWCA disputed claims (LWC 1008) received by the Third Party Administrator must be sent to ORM so that proper recording of the citation may be done.
- ORM will complete the required “Counsel’s Acknowledgment & Acceptance of Appointment letter” and submit it along with a copy of the disputed claim to the AG for appointment of counsel.
- AG appointments to contract counsel will require concurrence of the ORM Assistant Director for Litigation Management and the State Risk Director.
- A copy of the appointment will be provided to the Third Party Administrator examiner.

LITIGATION DIARY

Litigated claims must be maintained on a continuous diary to obtain reports from the defense counsel defining the status of the litigation and the plan for resolution of the litigation. At a minimum, the Third Party Administrator examiners should establish diary dates for the following:

- Initial Case Assessment – 60 days from date of counsel acceptance/assignment
- Six Month Case Assessment – 180 days from date of counsel assignment
- Sixty (60) Days Prior to Trial – RSA due from assigned counsel

LITIGATED SETTLEMENTS AND JUDGMENTS

- All litigated settlements must be approved by ORM and the AG.
- Settlement requests above \$250,000 require approval by ORM, the AG and the Commissioner of Administration.
- Settlement Requests of \$500,000 and above require the approval of ORM, the AG, the Commissioner of Administration and the Joint Legislative Subcommittee on the Budget.

CATASTROPHIC CLAIMS

Immediate notification by telephone to the ORM Claims Administrator shall be made in all cases involving catastrophic injuries or fatalities.

CLAIM DENIALS

When it is determined that the State has no liability for a loss, the Third Party Administrator will discuss the denial with the appropriate ORM workers’ compensation supervisor prior to issuing a letter of denial to the claimant. In the event that a denial is appealed, the Third Party Administrator supervisor on the case will review all applicable documentation and issue a supplemental letter to the claimant advising them of the final decision.

CLIENT FUND AUTHORIZATION PAYMENT REQUESTS OVER \$25,000:

Client Fund Authorization approval is required for all payments over \$25,000.

- The Client Fund Authorization must be obtained **prior** to payment of the check.
- Documentation for the payment should be attached to each Client Fund Authorization request.
- Each Client Fund Authorization request shall be sent to the appropriate workers' compensation supervisor for action.
- If the Client Fund Authorization Request is above their authority, it will be routed it to the appropriate person within ORM for approval.
- Where there are multiplies payments in excess of \$25,000, a separate Client Fund Authorizations is needed for each payment.

ORM staff have the following payment approval authority:

Claim Supervisors:	up to \$100,000
Claim Manager:	up to \$200,000
Claim Administrator:	over \$200,000

NOTE: DO NOT include requests for Client Fund Authority and reserve increases in the same email. A separate email is needed for each transaction.

MILEAGE VERIFICATION NOTE

The examiner must enter a note indicating that mileage has been verified at the time that the mileage is reimbursed.

MANUAL PAYMENTS OF BENEFITS

When a manual check for benefits is needed for weeks and/or days,

- Be consistent.
- The weekly comp rate is calculated based on the AWW x 2 divided by 3 = Comp Rate to avoid under payments and/or overpayments.

RESERVES

Initial reserves must be established within seven (7) calendar days of the receipt of the claim. Initial reserves are to be reviewed within 60 days after receipt of the claim as more is known about the claim.

ORM reserve authority is needed to increase reserves with a total incurred reserve of \$250,000 or greater. Subsequent reserve increases shall require approval by ORM. Email requests for reserve approval should reference "**reserves**" in the subject line.

Reserve requests shall be sent to appropriate workers' compensation personnel for action. If the reserve request is above their authority, they will route it to the appropriate person within ORM

for approval. Reserve requests shall include reasons for the increase. Reasons for changes to reserves shall be placed in the claim management system.

ORM reserve authority is not required for the following reserve changes nor should these be included on the monthly reserve report:

- **A decrease in the reserve where the total incurred is over \$100,000.**
- **Funds are shifted from one reserve category to another, but the total incurred amount is unchanged.**
- **Reserve adjustments/reallocations that occur within the same month that results in no change to the total incurred amount.**

RESERVE AUTHORITY OVER \$250,000 FOR CLOSED FILES

There will be instances when it will be necessary for The Third Party Administrator's claims management system to automatically generate reserve increases to accommodate certain transactions.

The TPA must take the following steps when a system generated reserve increase causes the total reserves to exceed \$250,000:

- Provide ORM with a daily report identifying closed claims where system generated reserves has caused the total incurred to exceed \$250,000.
- Seek retrospective approval via email for system generated reserve increases where the total incurred amount exceeds \$250,000 and ORM approval was not obtained.

RESERVES INCREASES FOR AG PAYMENTS ONLY.

1. **Open** claims with current total incurred plus AG payment < \$250,000
 - a. Do not enter the payment and send to examiner to review for reserve adjustment and enter payment manually
2. **Open** claims with current total incurred plus AG payment > \$250,000
 - a. Do not enter the payment and send to examiner to review for reserve adjustment and enter payment manually
3. **Closed** claims with current total incurred plus AG payment < \$250,000
 - a. Automatically update the reserve to cover the payment and then enter the HIS payment.
4. **Closed** claims with current total incurred plus AG payment > \$250,000
 - a. Do not enter the payment and send to examiner to review for reserve adjustment and enter payment manually

RESERVATION OF RIGHTS FOR EMPLOYERS' LIABILITY CLAIMS:

Reservation of Rights letters must be discussed and approved by ORM prior to sending.

When it has been determined that there are allegations in a lawsuit that are not covered under the policy, a reservation of rights letter must be sent to the following persons advising them as to the reason for non-coverage:

- The “head” of the insured state entity, agency or department named as a defendant in the petition or complaint
- Also, any individual state employee named as a defendant in the petition or complaint
- A courtesy copy should be sent to the general counsel of the state entity, agency or department named as a defendant in the petition or complaint.
- A copy should be sent to the assigned defense counsel.

The reservation of rights letter should be sent out no more than thirty (30) days from receipt of the new lawsuit. The Third Party Administrator examiner will draft the reservation of rights letter and submit it to ORM for approval prior to it being sent to the involved party. The reservation of rights letter must be sent by certified mail, return receipt requested. The Third Party Administrator Supervisor will establish a diary system to confirm that the signed return receipt is returned and attached to the claims management system file.

EXPERTS

When the assigned defense counsel needs an expert/consultant, they will complete the Request for Expert/Consulting Services form (revised 7/21/15) and submit it to the assigned TPA for review and approval. Defense counsel will be notified by the TPA of the approval or rejection of the request. Please ensure that defense counsel completes all questions and attaches the fee schedule, curriculum vitae and W-9 to the request. This is what the form looks like. The form will be posted on the website for attorneys to access. A copy of the Request for Expert / Consulting Services is in the appendix.

Invoices for services rendered by the expert/consultant will be made by the examiner as an expense to the claim file. If any invoice amount is reduced by the examiner, an explanation needs to be provided to the vendor.

APPROVAL FOR BUDGET INCREASES FOR LEGAL SERVICES

DOJ/Office of the Attorney General Staff: The Office of Risk Management has an Interagency Agreement with DOJ/Office of the Attorney General for the legal services provided by the attorneys in the Litigation Division. It will not be necessary for Sedgwick to request approval of defense budgets on cases being handled by AG staff attorneys. Sedgwick examiners do need to review billings for services rendered for excessive charges and ensure that they have received adequate documentation for their files.

Outside Counsel – Contract counsel is appointed by the AG and concurred upon by ORM. Outside counsel will be required to read the “Appointment for Professional Legal Services” and sign the Counsel’s Acknowledgment and Acceptance of Appointment. Counsel will be advised of an initial budget amount by TPA. When the initial budget is nearing exhaustion or when

counsel determines that additional funds are required for future tasks to be completed in order to determine liability and damages, outside counsel will submit a budget (through Acuity or paper if he is Acuity exempt) and an email or letter outlining the future tasks which will be reviewed by the examiner and their supervisor. When the budget increase request exceeds \$75,000, the TPA examiner will forward this budget increase request, a copy of the email/letter from defense counsel as well as a current case assessment (must be within 6 months of this request) to the respective ORM supervisor along with their comments and recommendations for approval. The budget increase approval levels are:

<u>ORM Approval Levels</u>	<u>Approval Requested</u>
\$ 75,000.01 - \$100,000	ORM Claims Supervisor
\$100,000.01 - \$199,999.99	ORM Claims Manager
\$200,000 and above	State Risk Administrator – Claims, Assistant Director for Litigation Management, State Risk Director

The email format for submitting request for budget increase approval to \$199,999.99 is as follows:

Subject of email should be noted as Request for Budget Increase

RE: Request for Budget Increase
Claimant:
ORM Claim Number:
Sedgwick Claim Number:
Firm Name:
Current Budget Amount:
Requested Budget Amount:

The first paragraph should be a brief description of the loss and what legal action has been accomplished.

Second paragraph should include additional action required as well as note critical dates (hearings, trial date, etc.).

Third paragraph should include the total amount paid towards the defense of this claim the total amount of outstanding invoice, and a statement recommending that the budget be increased from \$ _____ to \$ _____.

The Sedgwick examiner will route this email to the respective ORM supervisor/manager for approval. If in order, the ORM supervisor/manager will approve it and forward the approval to the Sedgwick who will approve the budget in Acuity and send an email to the firms advising them of the increase approval.

For budget increase requests \$200,000 and above, a Memorandum is required which will be a Microsoft Word document that can be revised. Subject of email should be noted as Request for Budget Increase

Please try to keep the memorandum to two pages. A copy of the Acuity budget and a current case assessment should be included along with the budget request.

This memorandum should be directed to the appropriate ORM Claims Manager for review. If in order, they will route it to Ann Wax to obtain the required signatory approvals, then notify Sedgwick accordingly.

The examiner should

- Send the contract firm the CAAA form.
- Request that the attorney enter a budget in Acuity for the total amount of the new budget.
- Approve the budget once it has been entered into Acuity by the contract firm.
- Once the budget has been approved by ORM, it will be scanned and returned to the TPA.

PERFORMANCE EVALUATION - LEGAL

1. **Interim Performance Evaluation – Legal** form (IPE) will be completed by the handling Sedgwick examiner on cases handled by outside defense and AG staff attorneys. On a monthly basis, each Sedgwick examiner will be provided with a list of all cases that requires the completion of an Initial Performance Evaluation – Legal form. This listing will note the cases that were assigned one year ago. The second section of questions which relate to work tasks, requires that comments be made if the answer to a question is “NO”. The Sedgwick examiner will be responsible for contacting the assigned attorney in order to obtain written responses to questions answered with “NO”. Forms must be signed by the handling examiner and their supervisor. This form should be submitted to Ann Wax at ann.wax@la.gov.

2. **Performance Evaluation – Legal** form (PEL) must be completed on cases handled by outside defense counsel and AG staff attorneys. This form shall be completed upon the conclusion of the case or in the event the case is reassigned to different counsel. If the evaluation is for an outside attorney, the Firm Name should be listed as the name of the law firm – name of assigned defense attorney. If the evaluation is for an AG staff attorney, the Firm Name should be listed as DOJ/AG Litigation Program – name of assigned defense attorney. The Total Defense Costs Paid represents attorney and legal expenses paid, not just the amount we paid the attorney for his professional services. The evaluation must be signed by the handling examiner and their supervisor. This form should be emailed to Ann Wax at ann.wax@la.gov.

DEFENSE COUNCIL BILLING

- Most defense attorneys will submit their invoices through Acuity.
- **Acuity** contact person is Cynthia Troxclair at cynthia.troxclair@la.gov, (225) 342-8442.

UNIFORM QUALIFIED ASSIGNMENTS (UQA)

When an annuity is purchased on a claim as part of a compromise settlement agreement, it will be necessary to have a fully executed Qualified Assignment letter.

The examiner must take the following steps:

- Obtain a UQA form from the annuity vendor.
- Forward to ORM via email to the appropriate ORM supervisor for signature by the Risk Director, Melissa Harris.
- The ORM supervisor will forward the signed UQA back to the examiner.
- The TPA examiner will return the signed UQA to the annuity vendor and send a copy to the AG attorney assigned to handle the settlement agreement.

MEDICARE SET ASIDE GUIDELINES

The Office of Risk Management through its Third Party Administrator will make every effort to protect Medicare's interests when settling workers' compensation claims. When it becomes apparent that settlement is inevitable, the Third Party Administrator must consider the following:

- Is a Medicare Set Aside (MSA) needed?
- If so, does the MSA need to be submitted to CMS for approval?
- Additional considerations

I. Is a Medicare Set Aside (MSA) needed?:

A. Is the claimant currently a Medicare beneficiary/recipient?

- 1) If so, is the total settlement amount greater than \$25,000?
- 2) If both of these conditions are met, *an MSA is required.*

B. If the claimant is not currently a Medicare beneficiary/recipient, is there a "reasonable expectation" the claimant will become Medicare eligible within 30 months of the settlement date?

- 1) If so, is the total settlement amount greater than \$25,000?
- 2) If both of these conditions are met, *an MSA is required.*

- When determining whether there is a “reasonable expectation” the claimant will become Medicare eligible within 30 months of the settlement date, please consider these factors:
 - The age of the injured worker. *Injured workers who are at least 62½ have a reasonable expectation of becoming eligible within 30 months.*
 - Whether the injured worker is receiving or has applied for Social Security Benefits, or is receiving Railroad Retirement Disability. *If so, the claimant has a reasonable expectation of becoming eligible within 30 months.*
 - Whether the injured worker paid into Social Security (if not, there may be no obligation to protect Medicare’s interest). *Note: If an employee was employed by the State prior to March 31, 1986 and worked continuously without a break in service, they likely did not pay into Social Security.*
 - Even if the injured worker did not pay into Social Security, they may still qualify for Medicare benefits due to a spouse’s eligibility
 - Whether the injured worker has been diagnosed with End Stage Renal Disease (ESRD) or Amyotrophic Lateral Sclerosis (ALS). If so, there is a reasonable expectation that the claimant is eligible for Medicare or may become eligible within the next 30 months.

C. Based on A or B above, if an MSA is needed, proceed to **II** below.

II. Does the MSA need to be submitted to CMS for approval?

- A. An MSA where the total settlement amount is more than \$25,000 but less than \$100,000 **will not** be submitted to CMS for approval
- B. An MSA where the total settlement amount is \$100,000 or more **will** be submitted to CMS for approval
 - When evaluating a claim for MSA purposes and recommending a total settlement amount, consider the following:

- What is the claimant's life expectancy after the work-related injury?
- Do co-morbidities exist that may otherwise reduce claimant's life expectancy, or otherwise impact our exposure?
- Consider conditions such as cancer, diabetes, heart disease, and other serious medical conditions.

III. Additional Considerations

- A. While the above are our standard guidelines, each evaluation of the need for an MSA, and the need for CMS approval of an MSA, must be performed on a case by case basis, as every situation is unique. Accordingly, the exercise of discretion is warranted and expected.
- B. In any case that deviates from these established guidelines, the examiner must include notes on the evaluation of the case, the need for an MSA, the non-necessity of an MSA, the need for CMS approval of an MSA, and the reasons supporting the TPA's decision.
- C. There may be times where it is beneficial to bifurcate the claim at issue, settling the injured worker's indemnity claim, but not settling the worker's claim for medical payments/benefits. Such circumstances will avoid the need for an MSA.
- D. If an MSA is funded with an annuity, the examiner should inform the claimant or their representative, as part of the negotiation process, that any unused portion of the annuity will revert back to the State upon the death of the injured worker.

*** E. Remember, Medicare's interests must be considered and protected in the settlement of any worker's compensation claim. Accordingly, when the total settlement amount of a claim is \$25,000 or less (i.e., no MSA is required, as noted above), the Third Party Administrator must insure that the signed settlement agreement/documentation designates a specified portion of the total settlement amount for future medical care and expenses.

SECOND INJURY FUND

The Third Party Administrator is expected to identify, pursue SIF approval and make recovery from the Second Injury Board on approved claims. Submissions to the SIF must be consistent.

- ORM should be notified of submissions for reimbursement to the SIF, complete with the from and thru dates of the submissions.
- Notify ORM when reimbursements have been received from the SIF.
- Notify ORM of newly accepted or denied claims.

On a quarterly basis, the TPA will provide ORM with SIF status report of SIF activity. The report shall include the following:

- Claimant
- Date accepted by the fund
- Claim number
- Current status
- Amount pending at the fund
- Amount received during the quarter
- Aggregate amount from the beginning of the year
- Total amount received on the claim
- Total number of SIF cases pending

Quarterly reports shall be received as follows:

Quarter	Period	Report due to ORM
1 st quarter	January 1 – March 31	April 20
2 nd quarter	April 1 – June 30	July 20
3 rd quarter	July 1 – September 30	October 20
4 th quarter	October 1 – December 31	January 20

NOTE: No Second Injury Fund claim should be closed until all applicable reimbursements have been recovered.

NOTE: Denials by the SIF must be reviewed with ORM to determine if the denial will be accepted or appealed.

EXCESS CARRIER RECOVERY – RUN OFF CLAIMS

The State does not provide Excess Recovery for workers’ compensation claims effective July 1, 1994. There are however, open claims that have exceeded the retention level of \$500,000 or which are expected to exceed that level.

The examiner is expected to pursue recovery of funds due from the excess carrier on claims that have been identified as excess claims on a bi-annual basis. An excess worksheet must be completed and emailed to the appropriate ORM supervisor based on the following timeframes:

Payment period	Excess Worksheet sent to ORM by
January 1 st – June 30 th	July 10 th
July 1 st – December 31 st	January 10 th

NOTE: No Excess claim should be closed until all applicable recoveries have been recovered.

NOTE: The Excess recovery worksheet should be completed using Transaction dates, not service dates.

A list of Excess Carriers with retention levels is in the appendix.

TRANSITIONAL RETURN TO WORK

The Third Party Administrator is expected to actively pursue transitional return to work as a first option once the injured worker has been released to return to gainful employment.

- seek full duty medical release
- meet with State agencies and injured workers to facilitate return to work
- monitor savings as a result of return to work efforts
- monthly report of transitional duty activities
- monthly report of savings from transitional duty return to work

JONES ACT CLAIMS

Certain employees may fall under the Jones Act, a federal statute with regards to seamen injured on the job. Pursuant to the U. S. Supreme Court's failure to grant writs in the Desi Fulmer (3042274) claim, some state on-the-job accidents will be handled under the Jones Act. Section 13.1 of the Statement of Works portion of ORM's contract with the Third Party Administrator requires the contractor to handle these claims in accordance with the Jones Act based on judicial review.

The Third Party Administrator will handle claims that meet the Jones Act criteria as a Jones Act claim and not as state workers' compensation claims.

The Third Party Administrator will **identify** and **convert** applicable workers' compensation claims that fall under the Jones Act so that they can be handled as Jones Act claims.

Accidents that meet the following Jones Act requirements will be handled as Jones Act:

1. The employee is a crew member of a partially navigable vessel (a floating means of transportation).
2. The employee must aid in the navigation or well-being of the vessel.
3. The employee must have some permanent connection with the vessel.

NOTE: Seamen who are injured away from the boat but who are still in course and scope of employment are still subject to the Jones Act.

Jones Act jurisprudence recognizes "*Once a seaman, always a seaman.*"

State agencies with employees who are subject to the JONES ACT include the following:

Employees of the **Department of Transportation and Development (DOTD)** who are

1. Members of a ferry boat crew
2. Employees of Crescent City Connections
3. Employees who work on/under bridges and carry a small boat.

Employees of the **Department of Wildlife and Fisheries (DWLF)**:

1. Wildlife fur and refuge employees
2. Some game wardens
3. Most aquatic hyacinths workers
4. Some biologists and researchers.

Employees who work on water **30% or more** of their time may be classified as a seaman.

Employees who are subject to the Jones Act statute will be compensated with *maintenance* and *cure*.

1. **Maintenance** is the cost of lodging and food paid at a rate of **\$25.00** per day, no exceptions.
2. **Cure** is the cost of medical care. Medical invoices are paid at **100%** of the billed amount.
3. A third party administrator may review medical invoices for the reasonableness of the charges.

Because of the specialty of Jones Act claims handling, ORM requests that there be one designated examiner to handle all Jones Act claims.

MARINE CLAIMS REPORTING

Sedgwick will report claims as outlined below to Arthur J. Gallagher Marine Claims Dept. in Metairie (see below), who will report to the appropriate carriers. Please copy all when reporting a claim. Sedgwick and the excess carriers have agreed to utilize VeriClaim Marine Office in New Orleans for both declared disaster (CAT) and non-CAT hull claims and CAT and non-CAT P&I claims. ORM Underwriting Unit will send quarterly reports to Gallagher showing all open hull, P&I (Protection and Indemnity), and crew claims.

- 1) All hull claims;
- 2) P&I (including crew) claims, when any of the following apply:
 - a. A reserve is initially set at or is increased to 50% of the current SIR (SIR \$750,000);
 - b. Demand(s) where the total of such is greater than 50% of the retained limit;
 - c. Death;
 - d. Paralysis, paraplegia, quadriplegia;
 - e. Loss of eye(s) or limb(s);
 - f. Spinal cord or brain injury;
 - g. Sensory organ or nerve injury, or neurological deficit;
 - h. Serious burns;
 - i. Substantial disability or disfigurement; or
 - j. Loss of work time of six months or more.

3) All named windstorms or other declared disasters, even if the occurrence reserves for either hull or P&I are expected to be less than 50% of the maximum occurrence SIR.

AJG Marine Claims Department Contacts:

Rob Winn (Area Vice President – Marine Claims)

Rob_Winn@ajg.com

504-872-3559 (Direct)

985-265-3759 (Cell)

504-888-1299 (Fax)

Gary Gouzy (Director of Marine Claims)

Gary_Gouzy@ajg.com

504-378-4607 (Direct)

504-554-8724 (Cell)

504-888-1299 (Fax)

Patricia Waidhas (Claims Service Specialist Senior – Marine Claims)

Patricia_Waidhas@ajg.com

504-378-4619 (Direct)

504-888-1299 (Fax)

All vessel pollution incidents should be reported immediately and directly to the U.S. Coast Guard and Safe Harbor Pollution. Safe Harbor will provide the adjuster and Sedgwick will monitor the claim only.

24 Toll Free Hotline: 877-397-9252

Sean Quinn, Vice President

Safe Harbor Pollution

squinn@safeharborpollution.com

516-417-6827

NOTE: A dedicated adjuster is needed for the handling of Maritime claims.

DISABILITY RETIREMENT OFFSET CALCULATIONS

R. S. 23:1225(C)(3) allows an employer to take a credit (reduction in benefits) for the amount that the employer pays towards the injured worker's retirement benefits. The credit taken should be in proportion to the employer's contribution to the injured worker's retirement benefits.

When a State of Louisiana employee is receiving both workers' compensation lost time benefits under the Louisiana Workers' Comp Act and Disability Retirement benefits, it will be necessary for the Third Party Administrator examiner to calculate the disability retirement offset using the guidelines below.

Steps the examiner must take:

1. Send an email request to the appropriate ORM supervisor to obtain an employer/employee contribution history from the appropriate retirement system.
2. The ORM supervisor will forward the retirement information to the Third Party Administrator examiner once it is received from the retirement system.
3. The Third Party Administrator examiner will request an actuarial study once the employer / employee contribution history has been received from ORM.
4. When the actuarial study is received, reduce the benefits using the following criteria:
 - a. Multiply the monthly disability retirement amount times 12 months.
 - b. Divide the product by 52 weeks to get the disability retirement benefit per week.
 - c. Multiply the disability retirement benefit per week times the actuarial percentage to obtain the allowable credit amount.
 - d. Subtract the allowable credit amount from 66⅔ % of the average weekly wage (AWW) to obtain the new comp rate. It does not matter if the reduction takes the new comp rate below the maximum comp rate.
5. Adjust the indemnity benefit record in the claims management system.
6. Attach a calculation worksheet to the file in the claims management system to show the step by step calculation process.
7. Notify the injured worker, the injured worker's attorney if represented, OWCA, and the agency with a new LDOL 1002 form.

DISABILITY RETIREMENT OFFSET CALCULATION SAMPLE:

Assume the injured employee had a salary of \$5000 at the time of the accident on October 1, 2013 and this is what the AWW is based on. In the sample below, assume that the **AWW** is \$1153.85.

Monthly Disability Retirement benefits are \$2100. The actuarial study shows that the employer contributed 54% towards the employee's retirement benefits. The percentage will vary per employer.

1. \$2100 (Monthly Disability Retirement benefits)
 $\underline{\quad \times 12}$
 = \$25,200 (Yearly disability retirement benefits)
2. \$25,200 (Yearly disability retirement benefits)
 $\underline{\quad \div 52 \text{ weeks}}$
 = \$484.62 (Weekly disability retirement benefits)
3. \$484.62 (Weekly disability retirement benefits)
 $\underline{\quad \times .54\%}$ (sample actuarial employer contribution)
 = \$261.70 (This is the credit that the employer is entitled to take)

Note: The contribution percentage will vary per employer and per employee.

Note: Once a contribution percentage is known for an employer, do not assume that this is the percentage to be used for all employees for that agency. Always obtain an individual actuarial study for each injured worker.

4. \$1153.85 (AWW)
 $\times 2 \div 3$
= \$768.71 (This is the amount the employer's credit is taken from. Do not worry about the maximum comp rate at this point)

5. \$768.71 (This is the amount the employer's credit is taken from).
-\$261.70 (The credit that the employer is entitled to take)
\$507.01 = the new comp rate (this figure **is** subject to the maximum comp rate).

If the injured worker is an extremely high wage earner, once the calculations have been completed, the maximum comp rate would apply at that time.

The injured worker is still entitled to a total of 520 weeks of benefits.

NOTE: Once the injured worker reaches age 60, the retirement system will automatically convert retirement benefits from disability retirement benefits to regular retirement benefits. Accordingly, the reduction STOPS at age 60.

To be safe, always verify with the retirement system that benefits have been converted.

When the injured worker reaches age 60, indemnity benefits must be restored to the original comp rate unless other reductions apply.

Failure to stop taking the reduction when the disability retirement benefits are stopped or converted to regular retirement will result in an underpayment of benefits and thus is subject to penalties and attorney fees.

LIST OF LOUISIANA RETIREMENT SYSTEMS

- Louisiana State Employees Retirement System (LASERS)
- Teachers' Retirement System Louisiana (TRSL)
- State Police Retirement System
- Firefighters' Retirement System
- Louisiana School Employees' Retirement System

SUBROGATION

The Third Party Administrator must ensure that the State's subrogation interest is protected on all claims.

Filing of suit to interrupt prescription or filing of suit to recover the State's interest should be requested by the Third Party Administrator examiner at least ninety (90) days prior to prescription.

All requests for the appointment of an AAG staff attorney to handle a workers' compensation subrogation matter will be submitted to the appropriate ORM workers' compensation supervisor along with a Subrogation Summary. ORM will prepare the Counsel's Acknowledgment & Acceptance of Appointment letter and submit it to the AG for assignment. AG will notify the Third Party Administrator and ORM as to the name of the appointed attorney/law firm.

Authorization to waive less than 50% of our subrogation interest on workers' compensation claims can be obtained from the designated workers' compensation staff member as noted in the above section titled ORM Internal Authority Designation. Authorization to waive more than 50% of our interests must be submitted to the ORM claims council utilizing the Subrogation Settlement Evaluation Form.

For all other lines of coverage (except property) where subrogation is involved, request for authorization to waive more than 50% of our interest (this would be submitted in the form of an RSA) and request for the appointment of an attorney to pursue/protect our subrogation lien should be directed to Rita Major at rita.major@la.gov. Subrogation cases involving property damage should be directed to the attention of Sherry Price at sherry.price@la.gov.

When 100% of the State's lien has been recovered and there are no further claim activities or litigation, the Third Party Administrator examiner should close their file. There is no need to involve the Office of the Attorney General for completion in these instances.

When making referrals to the AG's office for investigation of a subrogation matter, please include a written justification for the request.

Where possible, efforts should be made to obtain the policy limits for the third party.

VOLUNTEERS

While volunteers are not covered under the Louisiana Workers' Compensation Act, authorized volunteers at any state agency are provided coverage for medical benefits only under the Act, if they are injured within the course and scope of their duties as assigned by the agency. The TPA examiner should

- Document the volunteer's personal information.
- Document the volunteer's duties while at the agency.
- Document the name of the volunteer's supervisor.
- Verify with the agency that the injured party was registered as a volunteer.
- Open a workers' compensation claim.
- Pay for related medical benefits.
- Do not pay any weekly wage benefits.

CALCULATION OF BENEFITS

In all instances benefits should be calculated by using the following: $AWW \times 2$ divided by 3 = Comp Rate. This includes but is not limited to calculation of the following benefits:

- Temporary Total Benefits
- Supplemental Earnings Benefits
- Survivor's Benefits

MONTHLY REPORTS

On a monthly basis, the Third Party Administrator will provide the following reports to the Workers' Compensation claims manager for the activity in the previous month:

- Transitional Duty Employment
- Adjuster caseloads
- Penalty and Attorney fees paid
- Litigation Report

APPENDIX

FORMS

CLAIMS COUNCIL REVIEW

September 30, 2020

CLAIMANT: _____ **CLAIM NUMBER:** _____

EXAMINER: _____ **DATE OF ACCIDENT:** _____

TYPE OF INCIDENT: _____

PLAINTIFF ATTORNEY: _____ **DEMAND:** _____

DEFENSE ATTORNEY: _____

INDEPENDENT ADJUSTER: _____

DESCRIPTION OF ACCIDENT and INJURY: _____

IA RECOMMENDATION: _____

EXAMINER RECOMMENDATION: _____

SUPERVISOR'S DECISION: _____

SETTLEMENT EVALUATION FORM

(ORM)

1 Today's date:

2 Settlement authority requested:

3 Adjuster's name & ph #:

4 Claim #:

5 Claimant's name & physical address:

6 Date of injury:

7 Description of accident:

8 Body part(s) injured:

9 Employer:

10 Disability:

11 Job Title:

12 Claimant's age at time of injury:

13 Claimant's present age:

14 Wage information: Calculated by prior ORM adjuster

Week	Pay Period Dates	Gross Wages
1		
2		
3		
4		

15 Calculation of wages:

Gross wages /4 = \$ AWW. AWW /3 x 2 =

16 AWW

17 CR

18 Does claimant have "moonlighting" job: Yes No skip to box20

19 Wages obtained from "moonlighting" job: yes No

20 Catastrophic claim:		<input type="checkbox"/> Yes	<input type="checkbox"/> No skip to box22
21 Onetime payment of \$50,000.00 paid to the claimant:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		Date Paid:	
22 Full and final settlement of the claim(s):		<input type="checkbox"/> Yes	<input type="checkbox"/> No
23 If no, please explain in detail:			
24 Structured settlement required:		<input type="checkbox"/> Yes	<input type="checkbox"/> No skip to box26
25 If yes, has annuity been obtained:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
26 Is claimant represented by legal counsel:		<input type="checkbox"/> yes	<input type="checkbox"/> No
		Name	
27 Is claim in litigation:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
28 Is RSA attached:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
29 Name of defense counsel:		30 Date defense counsel assigned:	
31 Name of judge:		32 OWC district:	
33 1008 Received: <input type="checkbox"/> 1 st <input type="checkbox"/> 2 nd <input type="checkbox"/> 3 rd		34 Docket #	
35 Mediation date:			
36 Results of mediation:			
37 Pre-Trial date:		38 Trial date:	
39 Issues in dispute:			
40 Arbitrary & capricious:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
41 Defendable issues:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
42 Explain in detail:			
43 Penalties and attorney fees awarded/negotiated:		<input type="checkbox"/> Yes	<input type="checkbox"/> No skip to box 45

44 If yes, please describe each issue below:	Amount of Penalties	Amount of Attorney Fees		
	\$	\$		
	\$	\$		
	\$	\$		
45 Date 1008 Dismissed: <input type="checkbox"/> with prejudice <input type="checkbox"/> without prejudice				
46 Reserves dated:	Amount paid during last 2 years	Total Paid	Total Incurred	
Medical				
Indemnity				
Legal				
Voc Rehab/MCM				
47 Index (include any prior state claims): <input type="checkbox"/> Positive <input type="checkbox"/> Negative skip to box 49				
48 List results of each claim to include: date, claim type i.e., homeowners, property, liability, etc., body part(s) injured, claim open or closed, with/without settlement.				
Date	Claim Type <small>(on previous state w.c. claims enter claim #)</small>	Body Part(s) Injured:	Claim Open/Closed	Claim Settled
			<input type="checkbox"/> Open <input type="checkbox"/> Closed	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Open <input type="checkbox"/> Closed	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Open <input type="checkbox"/> Closed	<input type="checkbox"/> Yes <input type="checkbox"/> No
49 Has the claimant worked for another state agency: <input type="checkbox"/> Yes <input type="checkbox"/> No skip to box 51				
50 If yes, what agency:		Dates of employment:		
51 Claimant's separation date from current agency:				
52 Reason for separation: <input type="checkbox"/> resigned <input type="checkbox"/> laid off <input type="checkbox"/> terminated <input type="checkbox"/> retired <input type="checkbox"/> SSDI <input type="checkbox"/> other(explain):				
53 If claimant is retired, what type of (state) retirement:		<input type="checkbox"/> Regular retirement Date		<input type="checkbox"/> Disability retirement Date

54 Regular Retirement:	Date 104 weeks of SEB ends		
55 Disability Retirement:	Amount of offset \$	Date adjudicated by OWC	
56 Medicare check completed:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
57 Received inquiry <i>and/or</i> conditional payment letter from CMS:	<input type="checkbox"/> Yes, Letter dated		
	<input type="checkbox"/> No		
58 Receiving SSDI or Medicare Eligible:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	skip to box61
59 If MSA required,	Date of MSA:	Amount of MSA \$	
60 Date MSA submitted to CMS:	Date CMS approved:		
61 Second Injury Fund approved claim:	<input type="checkbox"/> Yes	<input type="checkbox"/> Pending approval	<input type="checkbox"/> No skip to box64
62 Amount of SIF settlement approval: \$	SIF approval expires on:		
63 Subrogation claim:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	skip to box67
64 Third party place on notice:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Date of Notice:
65 Intervention filed: <input type="checkbox"/> Yes <input type="checkbox"/> No	66 Policy limits:		
67 If the claimant is Permanent & Total, date adjudicated by OWC:			
68 Current Medical Status:			
69 Date of MMI:	If not at MMI, anticipated MMI date:		
70 Future medical exposure:			
71 Impairment Rating of scheduled member (PPD):	<input type="checkbox"/> Yes	<input type="checkbox"/> No	skip to box71
	Date of rating:		
72 Percentage of impairment: x (No. of weeks of scheduled member)= wks	73 No. of weeks due \$	x CR \$	=
	for impairment rating.		

74 Number of weeks indemnity paid prior to paying impairment rating:		75 Credit taken for prior indemnity paid: <input type="checkbox"/> Yes <input type="checkbox"/> No	
76 Any apportionment for prior injuries: % to scheduled member/body part			
77 Claimant's choice of physician(s):	Name of Physician		Specialty
78 Employer's choice of physician(s):	Name of Physician		Specialty
79 SMO Requested:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
80 If yes, please explain reason for request:			
81 Date & result of SMO:			
82 Does SMO agree with treating physician's recommendations:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
83 If no, has state IME been requested:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
84 Date & results of IME:			
85 FCE completed: <input type="checkbox"/> Yes <input type="checkbox"/> No		86 Date completed:	
87 FCE releases to: <input type="checkbox"/> Sedentary <input type="checkbox"/> Light <input type="checkbox"/> Medium <input type="checkbox"/> Heavy <input type="checkbox"/> Pre-injury job			
88 Surveillance requested:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
89 Results of surveillance:			
90 Voc Rehab/MCM Requested:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
91 Results of Voc Rehab/MCM:			
92 LMS completed:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
93 LMS approved by physician:		<input type="checkbox"/> Yes, date :	<input type="checkbox"/> No

Additional comments:

Mediation Summary

Date of Mediation:

Case:

ORM Claim Number:

TPA Claim Number:

Mediator: (Name of mediator and affiliated company)

Defense Counsel:

Plaintiff Counsel:

Initial Settlement Authority:

Supplemental Settlement Authority:

Parties present at mediation:

Initial impression of plaintiffs:

Impression of mediator:

Progress of Negotiations:

Plaintiff 1:

Defense 1:

Plaintiff 2:

Defense 2:

Plaintiff 3:

Defense 3:

Plaintiff 4:

Defense 4:

Plaintiff 5:

Defense 5:

Plaintiff 6:

Defense 6:

Plaintiff 7:

Defense 7:

Plaintiff 8:

Defense 8:

Plaintiff 9:

Defense 9:

Plaintiff 10:

Defense 10:

Total Settlement amount:

Evaluation of defense counsel:

EXCESS CARRIERS FOR WORKERS' COMPENSATION

Date of Loss (Policy Period)	Excess Carrier	Contact Information	Reporting Requirements	Excess Liability	Method of Notification	Set up Excess Claim	Request Reimbursement
10/01/80 – 09/30/82	The Travelers Insurance Co. (Policy # TWXUB-171t778-9-81) c/o Daves Insurance Agency	800-832-7839 or 770-521-3576	Serious injury Reserves in Excess of \$200,000	\$500,000 per occurrence	Certified letter	When indemnity, medical & VR reserves and payments reach 500,000	Every six (6) months
10/01/82 – 09/30/85	Shand Morahan & Co, Inc. Ten Parkway North, St 100, Deerfield, Ill 60015	847-572-6000 (p) 847-572-6338 (f)	Disability in excess of nine (9) months and / or \$250,000	\$2.5 million per occurrence	Certified letter	When indemnity, medical and VR reserves and payments reach 500,000	Every six (6) months
10/01/85 – 09/30/86	Safety National Casualty Corp Claim Department 2043 Woodland Parkway, Suite 200 St. Louis, MO 53146-4235	314-995-5300		\$500,000 per occurrence	Certified letter	When indemnity, medical and VR reserves and payments reach 500,000	Every six (6) months
10/01/86 – 06/30/89	Midwest Employers Casualty Com 13801 Riverport Dr., Suite 200 Maryland Heights, MO 63040-4810	314-264-2344 Attn: Warren Weniger	Aggregate reserves in excess of \$100,000	\$500,000 per occurrence	Certified letter	When indemnity, medical and VR reserves and payments reach 500,000	Every six (6) months
07/01/89 – 06/30/92	Specialty Insurance Programs, Inc. 1340 Poydras St., St. 1900 New Orleans, LA 70112-1224	504-561-7830 (p) 504-565-5219 (f)	Aggregate reserves in excess of \$100,000	\$500,000 per occurrence	Certified letter	When indemnity, medical and VR reserves and payments reach 500,000	Every six (6) months
07/01/92 – 06/30/94	National Union Fire Insurance Company (Policy # 4153323) 400 Interpace Parkway Building A Parsippany, NJ 07054			\$500,000 per person / \$2.5 million per occurrence (Retention \$500,000)	Certified letter	When indemnity, medical and VR reserves and payments reach 500,000	Every six (6) months
07/01/94 to current	No applicable Excess Coverage						

FORMAT FOR BUDGET INCREASE REQUESTS \$200,000 AND ABOVE.

TPA Letterhead
Font will be Verdana 12 point
Modified Block style
Justified

MEMORANDUM is uppercase, bold, underscored and centered
Justified paragraphs

TO: Melissa Harris
 State Risk Director

FROM:

DATE:

RE: **Request for Budget Increase**
 Claimant:
 ORM Claim Number:
 Sedgwick Claim Number:
 Firm Name:
 Current Budget Amount:
 Requested Budget Amount:

The first paragraph should be a brief description of the loss and what legal action has been accomplished.

Second paragraph should include additional action required as well as note critical dates (hearings, trial date, etc.).

Third paragraph should include the total amount paid towards the defense of this claim the total amount of outstanding invoice, and a statement recommending that the budget be increased from \$_____ to \$_____.

APPROVED BY:

Melissa Harris
State Risk Director

Date

Joseph M. Roussel
Assistant Director for Litigation Management

Date

Ann D. Wax
State Risk Administrator - Claims

Date

Excess Coverage Receivables Worksheet

Claims Valuation Date 6/30/14

Claim Number

Claimant Name

Excess Coverage Calculation

+ MED/BI/COMP

\$		-
----	--	---

+ IND/PD/COLL

\$		-
----	--	---

+ VOC REHAB

\$		-
----	--	---

= TOTAL PAID

\$		-
----	--	---

- SIR

\$		-
----	--	---

= **TOTAL EXCESS COVERAGE DUE**

\$		-
----	--	---

Excess Coverage Receivable Calculation

TOTAL EXCESS COVERAGE DUE

\$		-
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ADJUSTER'S NAME

NOTES

(REVISED 7.30.2015)
REQUEST FOR EXPERT/CONSULTING SERVICES

THIS FORM MUST BE COMPLETED BY ATTORNEY AND APPROVED BY TPA EXAMINER AND SUPERVISOR PRIOR TO ANY SERVICES BEING RENDERED.

Request Date: _____ Type of Expert/Consultant: _____

Claimant Name: _____

ORM Claim #: _____ TPA Claim #: _____

Anticipated Engagement Date: _____ Anticipated Costs: \$_____

Name of Expert/Consultant: _____

Company Name: _____

Address: _____

City and State: _____

Phone: (_____) _____ E-Mail: _____

Hourly rate: \$_____ Tax I.D./Social Security number: _____

The following items must be attached to this form: Fee Schedule, Curriculum Vitae, and W-9.

COST BENEFIT ANALYSIS

Why is expert needed? _____

Expected cost to State if these services are not provided: \$_____

Description of costs to State if these services are not provided:

SCOPE OF SERVICES: (detailed description of all services that expert will provide)

Signature of Assigned Defense Attorney/Firm Name/Email Address

TPA APPROVAL:

EFFECTIVE START DATE: _____ **APPROVED BUDGET CAP:\$** _____

Examiner Approval (signature)/Date/Phone

Supervisor Approval/Date/Phone

Performance Evaluation – Legal

Agency/Office: DOA/ORM ORM Claim Number: _____ TPA Claim Number: _____

Claimant: _____

Firm Name: _____ Assigned Attorney: _____

Total Defense Cost Paid on File: _____ Hourly Rate of Pay: \$_____

Appointment Date: _____ Number of Budget Increases: _____

Case Ongoing- Evaluation Case Concluded Reassigned

Description of Services: **Legal** representation for the State and/or any named agency or department and any named employee or representative thereof relative to the claim, loss or injury resulting from the accident or incident noted above, all pursuant to the provisions of Louisiana Revised Statute 39:1527, et seq.

Deliverable Products: Various Reports Per Case Handling Guidelines and Reporting Requirements

		Yes	No			Yes	No
1. Were case assessments/reports thorough & timely?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7. Were costs in line with case exposure?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Were request for authority thorough & timely?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8. Were attorney opinions reliable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Was adjuster informed of ongoing case activities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9. Did attorney respond to request for info timely?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Was the case defended in a timely fashion?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10. Would you use this attorney again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Were results as expected based on evaluations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11. Did attorney comply with State Ethics Regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Were budgets generally accurate?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12. Were bills submitted per billing guidelines?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For any "No" response to the questions above, please provide specific comments: _____

13. Overall Performance: Excellent Satisfactory Unsatisfactory

14.State reasons for overall performance rating: _____

15.Strong/Weak Points: _____

Examiner: _____

Date: _____

Supervisor: _____

Date: _____

Interim Performance Evaluation – Legal

Agency/Office: DOA/ORM ORM Claim Number: _____ TPA Claim Number: _____

Claimant: _____

Firm Name: _____ Assigned Attorney: _____ Appointment Date: _____

Total Defense Cost Paid on File to date: _____ Hourly Rate of Pay: \$_____ Number of Budget
Increases: _____

Description of Services: **Legal** representation for the State and/or any named agency or department and any named employee or representative thereof relative to the claim, loss or injury resulting from the accident or incident noted above, all pursuant to the provisions of Louisiana Revised Statute 39:1527, et seq.

Deliverable Products: Various Reports Per Case Handling Guidelines and Reporting Requirements

Yes No

Yes No

- | | |
|---|---|
| 1. Are case assessments/reports thorough & timely? <input type="checkbox"/> <input type="checkbox"/> | 5. Are submitted budgets generally accurate? <input type="checkbox"/> <input type="checkbox"/> |
| 2. Are requests for authority thorough & timely? <input type="checkbox"/> <input type="checkbox"/> | 6. Are costs in line with case exposure? <input type="checkbox"/> <input type="checkbox"/> |
| 3. Is adjuster informed of ongoing case activities? <input type="checkbox"/> <input type="checkbox"/> | 7. Is attorney responding to request for info timely? <input type="checkbox"/> <input type="checkbox"/> |
| 4. Is case being defended in a timely fashion? <input type="checkbox"/> <input type="checkbox"/> | 8. Are bills submitted per billing guidelines? <input type="checkbox"/> <input type="checkbox"/> |

For any “No” response to the questions above, please provide specific comments:

Comments: _____

-
- 9. Has an answer been filed? Yes No
 - 10. Does the answer assert third-party fault or other affirmative defenses? Yes No
 - 11. Have other responsive pleadings been filed (exceptions, etc.)? Yes No
 - 12. Has written discovery been propounded? Yes No
 - 13. Have responses to propounded discovery been received? Yes No
 - 14. Have appropriate medical and other records been otherwise obtained? Yes No
 - 15. Has attorney responded to written discovery received? Yes No
 - 16. Have depositions been conducted? Yes No
 - 17. Has attorney identified and met with witnesses? Yes No
 - 18. Have witness statements/affidavits been taken? Yes No
 - 19. Has attorney completed a sufficient investigation of the incident? Yes No
 - 20. Have appropriate experts been retained? Yes No
 - 21. Have any dispositive motions/exceptions been filed? Yes No
 - 22. Has a trial date been obtained? Yes No

For any “No” responses, examiner will contact assigned defense counsel to provide specific written responses

23. Interim Performance: Excellent Satisfactory Unsatisfactory

24. State reasons for interim performance rating: _____

25. Strong/Weak Points: _____

Examiner: _____

Supervisor: _____

Date: _____

Date: _____