

Report of Market Regulation Examination



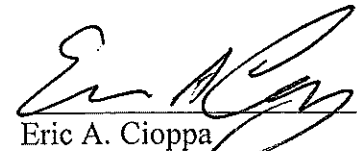
GAB Robins North American Inc.

9 Campus Drive
Parsippany, NJ 07054-4412

FEIN: 13-2747054
License # TAF31965

Examination Period:
January 1, 2008 through December 31, 2008

Pursuant to Title 24-A, M.R.S.A. § 221, a Targeted Market Conduct Examination was conducted of GAB Robins North American Inc. I hereby accept this Report of Examination and make it an official record of the Bureau of Insurance.


Eric A. Cioppa
Acting Superintendent of Insurance
Maine Bureau of Insurance

8/24/11
Date

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August 24, 2011

The Honorable Eric A. Cioppa
Acting Superintendent of Insurance
Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

Dear Acting Superintendent Cioppa:

Pursuant to the certification of findings in accordance with 39-A M.R.S.A. § 359(2) from the State of Maine Workers' Compensation Board ("WCB") and under the authority of 24-A M.R.S.A. § 223 and in conformity with your instructions, Bureau staff has made a targeted market conduct examination of:

GAB Robins North American Inc.
(FEIN: 13-2747054)

hereinafter referred to as the "Company".

The following report is by test. All tests applied during the examination are reported and respectfully submitted.

EXECUTIVE SUMMARY

The Company provides risk and claims management services and solutions to the insurance and self-insured market place. The Company's headquarters is in Parsippany, New Jersey, and it handles Maine workers' compensation claims in its East Hartford, Connecticut office.

The material findings and violations contained in this report are summarized below.

Significant Findings:

- The Company is non-compliant with 24-A M.R.S.A. § 1474 regarding nine claims that were handled for one employer.
- The Company's compliance rate for First Report of Occupational Injury or Disease (WCB-1) filings is 29%, which is below the WCB's performance benchmark of 85%.
- The Company's compliance rate for Memorandum of Payment (WCB-3) filings is 83%, which is below the Board's performance benchmark of 85%.
- The Company's compliance rate for Notice of Controversy (WCB-9) filings is 50%, which is below the Board's performance benchmark of 90%.

HISTORY OF ENGAGEMENT

Pursuant to 39-A M.R.S.A. § 153(9), the WCB established a Monitoring, Audit and Enforcement (“MAE”) program. The functions of the MAE program include but are not limited to audits of payment timeliness and claims-handling practices of insurers in accordance with 39-A M.R.S.A. § 359. The WCB MAE Audit division examined twenty-five (25) claim files for the period under examination (dates of injury between January 1, 2006 and December 31, 2006) in part to determine whether the Company had violated the claims-handling provision of 39-A M.R.S.A. § 359(2). The findings of the WCB Compliance Audit Report dated July 12, 2007 (“WCB Audit”) were:

- Failure to file or timely file forms with the Board
- Failure to file First Reports electronically
- Failure to complete Board forms
- Failure to report accurate information on forms filed with the Board
- Failure to discontinue benefits properly
- Failure to pay approved agreements timely
- Failure to pay claims accurately

The WCB determined that the pervasiveness and magnitude of the findings constituted a “pattern of questionable claims-handling techniques”. On December 19, 2007, the WCB and the Company entered into a consent decree, which established the patterns of questionable claims-handling techniques described above and assessed fines therefore.

In accordance with 39-A M.R.S.A. § 359(2), the WCB certified the WCB Audit findings to the Superintendent of Insurance on December 21, 2007. Section 359(2) requires the Superintendent of Insurance to take appropriate action to bring such practices to a halt.

SCOPE OF EXAMINATION

In order to meet the responsibilities set forth in 39-A M.R.S.A. § 359(2), the Superintendent of Insurance decided to determine whether or not the patterns of questionable claims-handling techniques found by the WCB still existed. Therefore, an examination was planned in accordance with the National Association of Insurance Commissioners’ Market Regulation Handbook (“Handbook”). Bureau examiners developed compliance verification procedures based on the Handbook to measure whether the Company timely filed all required WCB forms, accurately calculated indemnity benefits and timely distributed benefit payments as required by the Workers’ Compensation Act (“Title 39-A”) and WCB Rules and Regulations.

The examination period covered all claims with dates of injury occurring on or after January 1, 1993 that were open between January 1, 2008 and December 31, 2008, for employees residing in Maine or claimants involved in losses in Maine. No on-site examination phase was conducted.

METHODOLOGY

Company records indicated a population of forty-four (44) claims during the examination period.

During the examination period the company transferred the National Semiconductor account to another company and did not keep any records as required by 24-A M.R.S.A. § 1474. Bureau staff was not provided access to those nine (9) paper files. Therefore, all conclusions pertaining to those claims are based only on the Company's electronic financial records and the Board's records.

FINDINGS

A. Company Operations/Management

Standard 7
Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.

Findings:

- Records of nine (9) claimants from one employer were not retained pursuant to 24-A M.R.S.A. § 1474
- Original claims files were sent to the Bureau instead of the requested copies

Observations: The examiner advised the Company of the above referenced section. The Company's response was that "we no longer have those files", and they were returned to the employer.

In addition, the examiner advised the Company of the Bureau's concern about the receipt of original claim files for examination. The Company's response was "there is only one file that is active" and "we should have the information needed to move forward".

Recommendations: It is recommended that the Company implement certain policies and procedures to ensure that the Maine statutes, rules and regulations governing record retention requirements are followed.

Standard 9
The regulated entity cooperates on a timely basis with examiners performing the examinations.

Findings:

- The timely cooperation and the professionalism of its management team is acknowledged with appreciation

Recommendations: none

B. Claims

Standard 3 Claims are resolved in a timely manner.

TEST 1:

Verify the timeliness of the initial indemnity payments made in accordance with **39-A M.R.S.A. § 205(2)**. Bureau staff tested the six (6) workers' compensation claims that had an initial indemnity payment made.

Verify the timeliness of subsequent indemnity payments made in accordance with **39-A M.R.S.A. § 205(2)**. Bureau staff tested the four (4) workers' compensation claims that had one or more subsequent indemnity payments made.

Verify the timeliness of health care providers' payments in accordance with **WCB Rule 5.7(2)**. Bureau staff tested the thirty-three (32) workers' compensation claims that had one or more payments made to health care providers.

Payment Type	Testing	Paid Timely	Not Paid Timely	WCB Benchmark	% Compliant
Initial	Paid within 14 days of Employer notice	4	2	87%	67%
Subsequent	Paid weekly	16	3	NA	84%
Health Care Provider Payments	Paid within 30 days of receipt of bill	96	12	NA	89%

Findings:

- The Company's compliance rate for initial indemnity payments is 67%, which is below the WCB's performance benchmark of 87%.
- While the WCB does not have performance benchmarks for the subsequent indemnity payment and payments to health care providers, the above levels are acceptable.

Recommendations: It is recommended that the Company implement certain policies and procedures to ensure that claims adjusters are aware of the Maine statutes, rules and regulations governing the initial indemnity payment.

Standard 4

The regulated entity responds to claims correspondence in a timely manner.

TEST 2:

Verify the timely filing of the following forms with the WCB in accordance with 39-A M.R.S.A. § 360 (1) (A) or (B) and WCB Rules and Regulations as follows:

<i>WCB-1, First Report of Occupational Injury or Disease</i>	<i>39-A M.R.S.A. Section 303, Rules & Regs, Ch 8 Section 13, Rules & Regs, Ch 3 Section 4</i>
<i>WCB-2, Wage Statement</i>	<i>39-A M.R.S.A. Section 303</i>
<i>WCB-2A, Schedule of Dependents and Filing Status</i>	<i>39-A M.R.S.A. Section 303</i>
<i>WCB-3, Memorandum of Payment (MOP)</i>	<i>Rules & Regs, Ch 1 Section 1.1, Rules & Regs, Ch 1 Section 1.3, 39-A M.R.S.A. Section 205(7), Rules & Regs, Ch 8 Section 12</i>
<i>WCB-4, Discontinuance or Modification of Compensation</i>	<i>Rules & Regs, Ch 8 Section 11, Rules & Regs, Ch 8 Section 12</i>
<i>WCB-9, Notice of Controversy (NOC)</i>	<i>Rules & Regs, Ch 1 Section 1.1 Rules & Regs, Ch 3 Section 4</i>
<i>WCB-11, Statement of Compensation Paid</i>	<i>Rules & Regs, Ch 8 Section 1, Rules & Regs, Ch 8 Section 12</i>

Form	Testing	Filed Timley	Not Filed Timely	WCB Benchmarks	% Compliant
WCB-1	within 7 days of ER notice	5	12	85%	29%
WCB-2	within 30 days of ER notice	4	2	NA	67%
WCB-2A	within 30 days of ER notice	3	3	NA	50%
WCB-3	within 14 days of ER notice	5	1	85%	83%
WCB-9	within 14 days of ER notice	2	2	90%	50%
WCB-11 Initial	195 days from injury date	0	2	NA	0%
WCB-11 Interim/ Final	15 days of anniversary date and as a Final Report when no further payments are anticipated	4	3	NA	57%

Findings:

- The Company’s compliance rate for First Report of Occupational Injury or Disease (WCB-1) filings is 29%, which is below the WCB’s performance benchmark of 85%.
- The Company’s compliance rate for Memorandum of Payment filings is 83%, which is below the WCB’s performance benchmark of 85%.
- The Company’s compliance rate for Notice of Controversy filings is 50%, which is below the WCB’s performance benchmark of 90%.
- While the WCB does not have performance benchmarks for the WCB-2, WCB-2A, and WCB-11(Initial, Interim and Final), the above levels are not acceptable.
- The Company did not distribute the WCB-2, WCB-2A and WCB-11 forms properly.

Observations: The examiner advised the Company of the inadequate distribution of the WCB-2, WCB-2A and WCB-11 forms. The Company’s response was that “this was an oversight [sic]” and provided a Corrective Action Plan (CAP), “effective immediately”.

Recommendations: It is recommended that the Company implement policies and procedures to ensure that claims adjusters understand the Maine statutes, rules and regulations governing the WCB form filing requirements and that the managers monitor the CAP and adjusters’ performance regularly to ensure compliance.

Claims are accurately paid.

TEST 3:

Verify that payments are calculated correctly in accordance with 39-A M.R.S.A. § 212, § 213 and § 215. The Bureau staff tested the six (6) workers’ compensation claims that had one or more indemnity payments made.

	Correct	Incorrect	% Compliant
Indemnity Paid	5	1	83%

Findings:

- While the WCB does not have performance benchmarks for the accuracy of indemnity paid, the above level appears to be acceptable.

Observations: The examiner advised the Company of the one claim where the indemnity was calculated incorrectly. The adjuster did not consider the 7-day wait, which resulted in an overpaid claim.

Recommendations: It is recommended that the Company implement policies and procedures to ensure that claims adjusters understand the Maine statutes, rules and regulations governing the WCB calculations for indemnity paid.

ACKNOWLEDGMENT

The courtesy, hospitality and cooperation extended by the officers and employees of the Company during the course of the examination are gratefully acknowledged. The examination was conducted and is respectfully submitted by the undersigned.

STATE OF MAINE

COUNTY OF KENNEBEC, SS

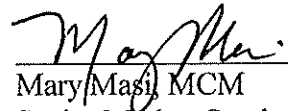
Mary Masi, being duly sworn according to law, deposes and says that in accordance with the authority vested in her by Eric A. Cioppa, Acting Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, she has made an examination on the condition and affairs of

GAB Robins North American Inc.

of Parsippany, NJ for the period January 1, 2008 through December 31, 2008, and that the foregoing report of examination, subscribed to by her, is true to the best of her knowledge and belief.

The following examiners from the Bureau of Insurance assisted:

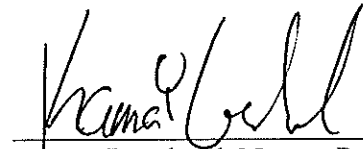
Janvier Smith
Carolee Bisson



Mary Masi, MCM
Senior Market Conduct Examiner

Subscribed and sworn to before me

This 24 day of August 2011



Karma Lombard, Notary Public

My commission expires:

KARMA Y. LOMBARD
Notary Public, Maine
My Commission Expires June 12, 2016