

# **COMPLIANCE AUDIT REPORT**

**STATE OF MAINE  
WORKERS' COMPENSATION BOARD**



**Electric Insurance Company  
Engagement Date: January 7, 2016  
Issue Date: February 21, 2019**

**Office of Monitoring, Audit & Enforcement**

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## SUMMARY

Electric Insurance Company (EIC) is an insurance company that provides workers' compensation insurance to the General Electric Company.

The Audit Division of the Maine Workers' Compensation Board (Board) examined twelve (12) claim files where indemnity benefits were paid for the period under examination (2014-2015) as well as sixty (60) medical payments for the period under examination (2014-2015) to determine compliance with statutory and regulatory requirements in the following areas:

- Timeliness of benefit payments
- Accuracy of benefit payments

The claim sample was drawn from a listing of all of EIC's 2014-2015 Maine workers' compensation claims. The medical payment sample was drawn from a listing of all of EIC's 2014-2015 medical payments for those claims in the sample.

EIC utilizes the services of Sedgwick Claims Management Services to handle the majority of its Maine workers' compensation claims as well as act as its claims agent within the State.

The audit work was conducted as a desk audit.

The compliance tables found on pages 8 through 10 of this report are representative of Board findings as of December 31, 2015. Since that time, the Audit Division has received additional information, missing form filings, form corrections, indemnity payments and adjustments.

Following is a discussion of the aforementioned compliance tables and of the steps taken since December 31, 2015 to rectify identified noncompliance issues. This discussion also includes other significant issues identified by the audit.

◆ **Timeliness of benefit payments**

- Title 39-A M.R.S.A. Section 205(2) provides the time requirements for indemnity payments.
- When there is not an ongoing dispute, failure to pay weekly compensation benefits or accrued weekly benefits within 30 days after becoming due and payable is a violation of Title 39-A M.R.S.A. Section 205(2) and subject to penalty under Section 205(3).
- Initial Indemnity Payments:
  - Thirteen (13) initial indemnity payments were made timely.
    - EIC's compliance rate for initial indemnity payments is 87%, which is the same as the Board's performance benchmark of 87%.
  - Two (2) initial indemnity payments were made late.
- Subsequent Indemnity Payments:
  - One hundred ninety-eight (198) subsequent indemnity payments were made timely.
  - Seventeen (17) subsequent indemnity payments were made late.
- Board Rules and Regulations Chapter 5 states in part, "The employer/insurer shall pay the health care provider's charge or the maximum allowable payment under this fee schedule, whichever is less, within 30 days of receipt of a bill unless the bill or previous bills from the same provider or the underlying injury has been controverted or denied. If an employer/insurer controverts whether a health care provider's bill is reasonable and proper under § 206 of the Act, the employer/insurer shall send a copy of the notice of controversy to the health care provider."
  - Fifty-nine (59) medical payments were made timely.
  - One (1) medical payment was made late.

◆ **Accuracy of indemnity payments**

- Title 39-A M.R.S.A. Section 102(4) and Board Rules and Regulations Chapter 1, Section 5 provide the requirements for calculating average weekly wages (AWWs). Title 39-A M.R.S.A. Section 102(1) and Board Rules and Regulations Chapter 8, Section 9 provides the requirements for determining weekly compensation rates (WCRs). Title 39-A M.R.S.A. Sections 212, 213, and 215 provide the requirements for compensation for total incapacity, partial incapacity, and death benefits.
- The accuracy of indemnity payments was reviewed for twelve (12) claims.
- Average Weekly Wage:
  - Eight (8) AWWs were correct.
  - Four (4) AWWs were incorrect.
- Weekly Compensation Rate:
  - Eight (8) WCRs were correct.
  - Four (4) WCRs were incorrect.
- Partial Benefits Calculation Method:
  - The method used to calculate partial benefits was correct for seven (7) claims.
- Amount Paid:
  - Two (2) claims were compensated correctly.
  - Six (6) claims were underpaid (\$9,612.36 aggregately).
    - Since December 31, 2015, EIC paid \$2,929.99 of the amount due.
  - Four (4) claims were overpaid (\$2,663.41 aggregately).
  - Collectively, the aforementioned errors resulted in a net underpayment of \$6,948.95 to injured workers.

◆ **Accuracy of medical payments**

- Title 39-A M.R.S.A. Section 209-A and Board Rules and Regulations Chapter 5, provide the fee setting requirements for medical and ancillary services and products rendered by individual health care practitioners and health care facilities.
- The accuracy of medical payments was reviewed for nine (9) claims.
- Amount Paid:
  - Medical payments sampled for six (6) claims were correct.
  - Medical payments sampled for three (3) claims were incorrect.

◆ **Other significant issues**

- Box 22 (First Day Of Compensability After Waiting Period Is Met) of the WCB-3, Memorandum of Payment (MOP) must accurately reflect the date of the first compensable day that follows the completion of the 7-day waiting period. See the Board's Forms and Petitions Manual.
  - Incorrect dates were reported in Box 22 of the MOPs that were filed for seven (7) claims.
- Boxes 23a (Date of Incapacity) and 23b (Date Employer Notified) of the WCB-3, Memorandum of Payment (MOP) must accurately reflect the date of incapacity and date that the employer was notified of the incapacity. Note: the Date of Incapacity reported in Box 23a and the Date Employer Notified in Box 23b must equal the Date of Incapacity (DN56) and Date Employer Notified (DN281) reported in Box 43 of the WCB-1, Employer's First Report of Occupational Injury or Disease (First Report). See the Board's Forms and Petitions Manual.
  - Incorrect dates were reported in Boxes 23a and/or 23b of the MOPs *or* Boxes 43a and/or 43b of the FROIs that were filed for three (3) claims.
- Box 24 (Date Check Mailed) of the WCB-3, Memorandum of Payment (MOP) must accurately reflect the date that the initial indemnity payment (for the incapacity addressed by the MOP) is sent to the employee. See the Board's Forms and Petitions Manual.
  - Incorrect dates were reported in Box 24 of the MOPs that were filed for three (3) claims.
- The Maine Workers' Compensation Act provides no vehicle for the unilateral recovery of benefit overpayment(s). See Board decision *Pritchard v. S.D. Warren Co.* and Law Court decision *Bureau v. Staffing Network*. Recoveries under Section 324 and Section 360(2) fall under Board jurisdiction.
  - Evidence of a successful and/or unsuccessful attempt to recover an overpayment of benefits was found on one (1) claim.

## PENALTIES

◆ Penalties payable to providers and/or injured employees

**Title 39-A M.R.S.A. Section 205(3)**

“When there is not an ongoing dispute, if weekly compensation benefits or accrued weekly benefits are not paid within thirty (30) days after becoming due and payable, \$50 per day must be added and paid to the worker for each day over thirty (30) days in which the benefits are not paid. Not more than \$1,500 in total may be added pursuant to this subsection. For purposes of ratemaking, daily charges paid under this subsection do not constitute elements of loss.”

Delays of “other” indemnity payments, subject to penalty under Section 205(3), were found on the following claims:

CLAIM	PENALTY JUSTIFICATION	PENALTY EXPOSURE
Mark Morneau vs. General Electric Company Date of Injury: 3/3/15 Date ER Notified of Incapacity: 3/4/15 Claim #301535962650001 Board #15005214	Payment for the 7-day waiting period was made 7/17/15, which was 89 days after compensation became due and payable (4/19/15).	\$1,500.00
Harvey Poussard vs. General Electric Company Date of Injury: 5/1/15 Date ER Notified of Incapacity: 5/17/15 Claim #301539129550001 Board #15009452	Payment for the 7-day waiting period was made 7/17/15, which was 40 days after compensation became due and payable (6/7/15).	\$500.00
Randy Ross vs. General Electric Company Date of Injury: 12/15/14 Date ER Notified of Incapacity: 4/24/15 Claim #301535300070001 Board #14028353	Payment for part of the 7-day waiting period was made 5/5/16, which was 354 days after compensation became due and payable (5/17/15).	\$1,500.00
<b>Total Penalties to Injured Employees for Delays of “Other” Indemnity Payments</b>		<b>\$3,500.00</b>



◆ **Penalties payable to the State General Fund**

**Title 39-A M.R.S.A. Section 359(2)**

“In addition to any other penalty assessment permitted under this Act, the Board may assess civil penalties not to exceed \$25,000 upon finding, after hearing, that an employer, insurer or 3<sup>rd</sup>-party administrator for an employer has engaged in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims. The Board shall certify its findings to the Superintendent of Insurance, who shall take appropriate action so as to bring any such practices to a halt. This certification by the Board is exempt from the provisions of the Maine Administrative Procedure Act. The amount of any penalty assessed pursuant to this subsection must be directly related to the severity of the pattern of questionable claims-handling techniques or repeated unreasonably contested claims. All penalties collected pursuant to this subsection shall inure to the benefit of the General Fund. An insurance carrier’s payment of any penalty assessed under this section may not be considered an element of loss for the purpose of establishing rates for workers' compensation insurance.”

- No action will be taken at this time.

To avoid future penalty referral(s) under Section 359(2) and/or 360(2), EIC must take corrective measures to address the following inadequacy:

- Failure to pay benefits accurately

**Title 39-A M.R.S.A. Section 360(2)**

“The Board may assess, after hearing, a civil penalty in an amount not to exceed \$1,000 for an individual and \$10,000 for a corporation, partnership or other legal entity for any willful violation of this Act, fraud or intentional misrepresentation. The Board may also require that person to repay any compensation received through a violation of this Act, fraud or intentional misrepresentation or to pay any compensation withheld through a violation of this Act, fraud or misrepresentation, with interest at the rate of 10% per year.”

- No action will be taken at this time.

To avoid future penalty referral(s) under Section 360(2) and/or 359(2), EIC must take corrective measures to address the following inadequacy:

- Failure to pay benefits accurately

# COMPLIANCE TABLES

## ◆ Timeliness of Benefit Payments

### A. Initial Payment of Indemnity Benefits

			2014-2015	
			Number	Percent
Check Issued Within:				
0-14	Days	<b>Compliant</b>	13	87%
15-44	Days		2	13%
Total			15	100%

### B. Subsequent Payment of Indemnity Benefits

			2014-2015	
			Number	Percent
Check Issued Within:				
0-7	Days	<b>Compliant</b>	198	92%
8-37	Days		17	8%
Total			215	100%

### C. Medical Payments

			2014-2015	
			Number	Percent
Check Issued Within:				
0-30	Days	<b>Compliant</b>	59	98%
31+	Days		1	2%
Total			60	100%

◆ Accuracy of Indemnity Payments

D. Average Weekly Wage

		2014-2015	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	8	67%
Incorrect		4	33%
Total		12	100%

E. Weekly Compensation Rate

		2014-2015	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	8	67%
Incorrect		4	33%
Total		12	100%

F. Partial Benefits

		2014-2015	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	7	100%
Total		7	100%

G. Amount Paid

		2014-2015	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	2	17%
Underpaid		6	50%
Overpaid		4	33%
Total		12	100%

◆ Accuracy of Medical Payments

H. Amount Paid

		2014-2015	
		Number	Percent
Calculated:			
Correct	<b>Compliant</b>	6	67%
Incorrect		3	33%
Total		9	100%