

SUMMARY

The Los Angeles City Controller engaged Thompson, Cobb, Bazilio & Associates, PC to conduct a performance audit of the City's Workers' Compensation Program for Police and Fire Sworn Personnel. The primary objective of this audit was to assess the efficiency and effectiveness of the City's workers' compensation program for the Los Angeles Police Department (LAPD) and the Los Angeles Fire Department (LAFD) sworn personnel. To accomplish this objective, the audit included a review of the workers' compensation claims handling practices of Cambridge Integrated Services Group, Inc., (Cambridge) the City's Third Party Administrator (TPA), as well as an assessment of the adequacy of the Personnel Department's (Department) oversight and administration of the TPA contract and the City-wide Safety Program. The Controller's Office also compared retiree data for sworn personnel with Injury on Duty (100) salary continuation usage preceding their retirement.

The City is paying Cambridge almost \$7 million annually to manage the City's Workers' Compensation Program for police and fire sworn personnel. Cambridge administers approximately 3,000 open LAFD claims and approximately 7,700 open LAPD claims at any given time. During FY05, there were approximately 1,300 new claims filed by the LAFD and 3,000 new claims filed by the LAPD. Cambridge also administered the payment of \$15.7 million in expenditures for LAFD claims and \$48.8 million in LAPD claims. The City's Personnel Department has oversight responsibility of the City's Workers' Compensation Program, including oversight of Cambridge's contract to process workers' compensation claims for the LAFD and LAPD.

Depending on the severity of the injuries, employees may be: (1) restricted to light duty while receiving their normal pay, (2) unable to work for a period of time recording 100 hours, or (3) possibly leave City service with a permanent disability payment or a disability-related retirement. Sworn employees represent 71 % of the 100 salary continuation costs incurred by the City. The Controller's Office also wanted to determine whether disability retirements are increasing and there are patterns or practices of public safety employees filing workers compensation claims one year prior to retirement, which could result in being off from work on paid 100 for the entire year preceding retirement.

The Controller's Office compared retiree data from the Fire and Police Pension System and the City's payroll system, PaySR, for calendar years 2003-2005, to identify whether disability retirements are on the rise and if there is a pattern of retirees incurring 18001 or more 100 hours in the year preceding retirement. We found that for both LAFD and LAPD, disability retirements decreased during the three-year period. Additionally, the number of retirees with 100 hours totaling 1800 or more in the year preceding retirement has also decreased.

Summary of Audit Results

Overall, we found the TPA's quality and timeliness of service was lacking and improvements are needed to reduce the risks that injured sworn personnel receive poor service, claims taking longer to resolve and costs not being adequately contained. Further, the Personnel Department's monitoring of the TPA does not effectively assess the TPA's performance. Lastly, the Personnel Department needs to take a more proactive role in monitoring compliance with the City's Safety Program. We did not note any issues related to payments of awards to injured workers or medical providers.

Key Findings

- **High turnover of TPA claims adjuster staff, infrequent evidence of supervisor and management review of the claim files, insufficient claims file documentation and diary maintenance, and an average case load per adjuster exceeding best practices of 150 indemnity claims has impacted the quality and timeliness of service provided to LAPD and LAFD injured workers.**

Based on the results of our audit of 214 claim files, we found evidence of several different adjusters working on the claim files, indicating high turnover of adjuster staff. We also noted infrequent evidence of supervision and management presence in the claim files tested, and overall poor claims file documentation and diary maintenance. Poor diary maintenance was found in 43% of the 214 claim files tested. Lastly, while the contract is funded for a workload not to exceed 200 claims per adjuster, and the average workload meets that maximum, best practices are generally at 150 claims per adjuster.

Recommendation

The Personnel Department require the TPA to provide a written plan detailing the timelines to implement corrective actions for the following areas in need of improvement: 1) high claims adjuster staff turnover, 2) supervisory and management review of claims files, and 3) claims file documentation and diary maintenance. The Department should consider setting the maximum caseload per adjuster at 150 indemnity claims to be consistent with best practices.

- **The TPA needs to improve its workers' compensation claims handling procedures to ensure that claims are handled timely and correctly, and are adequately documented.**

Timely claims file set-up and prompt three-point contact with the claimant, doctor, and employer was not always performed within the best practice of 24 hours. Of the 214 files audited, we found that 60 or 28% of the claim files were not set-up timely upon first notice of a claim. Timely set-up is defined as the time the TPA receives the first report of injury to the time it is entered into the computer system as a new claim, file folder

completed, and assignment to a claims adjuster for handling. Timely file set-up provides the best opportunity for claim control, good service to the claimant, and prompt investigation and direction of treatment.

Of the 214 files audited, 122 or 57% of the claim files did not evidence that prompt three-point contact was made. Claimant, doctor, and employer contact is one of the most fundamental claims file processing procedures at the start of handling any new claim. Of the three contacts, claimant contact is the most important. Prompt claimant contact helps control medical costs, avoids litigation when possible, delivers the best customer service to the injured worker, and helps in an early return to work.

The maintenance of claims file diaries was found to be deficient. Of the 214 claim files audited, 92 or 43% of the claim files had insufficient diary maintenance. A claims file diary is the mechanism for documentation and follow-up for the handling of any type of claim. It is the second most important task that an adjuster, supervisor or manager has to do, after handling new receipts of claims. Proper maintenance of diaries sets the stage for effective claims file handling.

Recommendation

The Personnel Department require the TPA to provide a written corrective action plan detailing actions to be taken to improve timely file set-up, prompt three-point contact, and claims file documentation.

- **The TPA could improve its workers' compensation claims handling cost containment procedures.**

We noted several areas where the TPA's claims handling procedures could be improved and result in more effective cost containment strategies. For example, subrogation was ignored, not recognized, or not commented on in claim files where a potential to recover monies on behalf of the City existed. Subrogation is the potential for recovery of money from a third party for the cost of a claim due to legal liability, on behalf of that third party, that resulted in injury to the covered employee. Of the 214 files audited, we identified 32 claim files that had a potential for subrogation. Of the applicable 32 files, we found 20 claim files or 62.5% did not evidence sufficient follow-up for the potential recovery of money from a third party. The Personnel Department's periodic claims audits also noted problems with subrogation follow-up.

Legal referrals and litigated file handling were found to be inconsistent and poorly managed. Files were turned over to counsel with little direction and control of defense counsel by the adjuster or supervisor. Litigation is costly and usually lengthens the life span of a claims file, without reducing the ultimate cost in the final resolution of the claim. Of the 214 files audited, 105 claim files had evidence of litigation. Of the 105 applicable claim files, 45 or 43% of the claim files were found to be deficient in litigation handling.

Claims file reserves were established at too high or too low of an amount. Of the 214 claims files audited, we found that 59 or 27.5% of the claim files did not establish sufficient reserves. Establishing reserves helps self-insured employers plan for future expenses and reserve budget.

The basic standard for determining whether a claim is compensable by AOE/COE (arising out of employment or occurring during the course of employment) was not properly documented and investigated in many of the files. Of the 120 applicable claim files, 24 or 20% were found to be deficient in properly investigating whether the claim was compensable by AOE or COE. The Personnel Department's periodic claims audits also noted problems with documentation and investigation of AOE/COE.

Self-imposed penalties, as required by the Workers' Compensation Appeal Board (WCAB), OBAE, and the Labor Code, were not always being noted, logged, and paid according to best practices. Of the 51 applicable files, we found 23 claims files or 45% that were in noncompliance with the statutory requirement of self-imposed penalties.

P&S (Permanent and Stationary) report processing was found to be sporadic and without uniformity. For example, in some cases, adjusters were not following up to obtain the P&S report despite noting that a report was needed. We also noted that when P&S reports were in the file, some claims adjusters did not evaluate the injury to issue Permanent Disability Advance payments as required by law. P&S report processing must be pursued aggressively, handled timely, and used as a basis for rating the value of any injury permanency. Failure to react to this report timely and correctly can increase costs in the form of overpayment of benefits, penalties, and increased litigation costs. Of the 214 files audited, 108 claim files evidenced P&S report processing. Of the 108 applicable claim files, 72 or 67% of the claim files were found to be deficient in this processing step.

Recommendation

Personnel Department management require the TPA to provide a written corrective action plan with implementation timelines for improving claims handling cost containment procedures. In addition, the Personnel Department should confirm through periodic claims reviews that claim file handling cost containment procedures are improving.

- **The Personnel Department's periodic independent review of the TPA's claims files does not adequately assess the TPA's performance and compliance with the California Office of Benefits Assistance and Enforcement (OBAE) requirements.**

The Personnel Department represented that they audit a sample of 6 to 12 TPA workers' compensation claim files per week. Our review of the Personnel Department's claims file audits performed during the 8-month period of December 2005 through July 2006 found that only 26 claims file audits were performed, averaging less than one

claims file audit per week. Moreover, our review of the claims file audit results indicated that the Personnel Department found some of the same TPA claims handling issues that this audit found, such as the lack of prompt three-point contact and poor file documentation. No written evidence was provided indicating that the Personnel Department required the TPA to take corrective action on the claims handling issues found.

Recommendation

The Personnel Department improve its monitoring of the TPA's performance by 1) consistently conducting claims file audits of 6 to 12 claims files per week, 2) documenting in writing to the TPA the results of the weekly claims file audits identifying areas of concern, and 3) documenting in writing the corrective actions taken by the TPA.

- **The TPA's contractual reporting requirements, including financial incentive performance goals need enhancing to more effectively assess the TPA's performance.**

The type of reports required to be submitted by the TPA to the Personnel Department do not provide the necessary information to adequately assess the TPA's performance, resulting in the inability of the Personnel Department to timely identify performance problems and recommend remedies. Further, the contract does not provide any incentive to increase productivity, nor are there financial penalties for lack of productivity.

- **The Personnel Department is not reporting to the Mayor's Office the City Departments or Bureaus that have not complied with Executive Directive No. CP-1, which directed Department/Bureau Heads to implement proactive safety programs.**

The City's Mayoral Executive Directive No. CP-1, dated August 20, 2004, established a comprehensive, integrated approach to managing safety in the workplace in order to reduce workers' compensation costs. Each City Department or Bureau was directed to implement the provisions of this Executive Directive, which includes the hiring of safety personnel. The Personnel Department was given the responsibility for monitoring compliance with this Executive Directive and reporting its findings to the Mayor's Office on a quarterly basis. We found that the Personnel Department has not reported to the Mayor's Office those Departments and Bureaus who have not complied with this Executive Directive and, as a result, may have conditions that pose a high risk of workplace injury.

Recommendation

Personnel Department report to the Mayor's Office those Departments and Bureaus that are of high risk of workplace injury and have not complied with this Executive Directive.

Provide the Mayor's Office and the high risk Departments and Bureaus with a cost benefit analysis comparing the cost of hiring dedicated safety personnel compared with the estimated reduction in workers' compensation costs and increase in worker productivity.

Detailed auditing findings and recommendations are more fully discussed in the remainder of this report.

A draft audit report was provided to the Personnel Department management on December 21, 2006. An exit conference was conducted on January 26, 2007, where audit staff discussed the findings and recommendations. The Department's comments were considered prior to finalizing the report. Department management indicated general agreement with the findings and recommendations.

In response to the audit findings and recommendations, the Department has taken steps to work more closely with the TPA to improve claim file documentation, better track subrogation and litigation, establish policies for setting reserves, etc. Additionally, the Department indicates that implementation of WorkCompStat (implemented for the sworn program in August 2006) has greatly enhanced their ability to track adjuster performance and address areas where improvement is needed. Lastly, the Department recently issued a Request for Proposal (RFP) for claims administration of the sworn workers' compensation program. The Department also indicated that new contract requirements will address some of the areas of recommendations.

We appreciate the cooperation and assistance extended to us by Department and TPA staff and management during the audit.