

TPA Penalties

Concept

Revise ORS 656.745 to allow WCD to audit service companies directly for their claims processing performance.

Current status of audits

Current law allows WCD to audit only insurers and self-insured employers for claims processing performance. Multiple service companies (TPAs) typically handle claims for any particular insurer.

The current process of auditing insurers' claims at multiple service companies creates administrative issues for the service companies with respect to these insured claims. The errors or deviations identified at each service company during a WCD audit must be combined into a single insurer report in order to determine penalties for the insurer.

The insurer is then responsible for payment of any penalties based on the audit of their collective claims. Penalty orders are provided only to the insurers.

For these audits involving multiple service companies, the insurer must then determine each TPAs respective reimbursement to them, based on each TPAs percentage of errors. Our experience shows that it is this point when the significant challenge arises. We spend considerable time and resources reviewing WCD audit reports and insurer requests for reimbursement to ensure these reimbursements are appropriate and accurate.

Pros

Accountability for performance will clearly be at the level of the processor responsible for handling the claims.

WCD will no longer need to perform audits for insurers in multiple TPA locations, i.e. separate/segregate insurer audits based on processing locations (including TPA locations).

WCD will no longer need to separate/segregate draft and final insurer reports based on each TPA processor.

Insurers will no longer need to calculate and allocate penalties based on percentages of deviations attributable to multiple TPAs.

Communication between WCD and the processors will be more direct and effective because TPAs typically have local/state contacts. This will provide improved responses to requests for payment data, etc.

Data entry for the WCD audit website may be simplified by removing multiple points of entry for insurers based on processor (TPA).

Penalties from the sanctions unit will be sent directly to the processor for the claims being audited, thereby improving overall response and compliance with penalty orders.

The change will create more effective utilization of TPA resources, i.e. allowing TPAs to better focus on creating solutions for improving compliance performance, rather than spending time on reviewing segregated carrier and self-insured reports and reimbursing multiple entities' penalties.

Cons

A potential perception that insurers/self-insured employers lose accountability for claims processing, however, the reality is that all penalties assessed against insurers or self-insured employers for state audits are ultimately paid by the processor (TPA) through reimbursement to the entity who is penalized.

Revenue from penalties – ORS 656.745(3) provides a cap for penalties - an aggregate of \$10,000.00 for all violations within any three-month period. Some larger service companies may ultimately pay a smaller penalty for their annual performance audits than in the past.

However, by removing the audit penalties from the insurer and self-insured sector, there will be expanded capacity for other types of penalties within the \$10,000.00 quarterly aggregate for these entities.

We feel that the possible reduction in penalties paid by TPAs would be offset by the additional penalties paid for other violations by the insurers.