

**County of Solano
Office of the Auditor-Controller**



Review of Risk Management Division Workers' Compensation Process

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INTRODUCTION

Pursuant to the fiscal year 2019/20 audit plan, we performed an internal control review of the Human Resources Risk Management Division workers' compensation process.

BACKGROUND

Workers' Compensation (WC) is state-mandated benefits for workers injured on the job. *California Labor Code 3700* requires every employer to provide workers' compensation benefits to their employees. The benefits include medical treatment, temporary disability payments, permanent disability payments, supplemental job displacement vouchers and death benefits.

Solano County is a member of the California State Association of Counties Excess Insurance Authority (CSAC-EIA) Excess Workers' Compensation Program¹. The Excess Workers' Compensation Program provides bodily injury coverage for employees injured on the job. Since July 1, 2003, the County has elected to self-insure the County's workers' compensation program. The County has a self-insured retention² level of \$125,000 (deductible) per occurrence. Coverage includes reimbursement for payments above individual self-insured retention (SIR)³. Coverage includes compensation for loss of earnings at statutory rates, medical benefits and some allocated expenses.

The County contracts with a third-party administrator, *Athens Administrators*, to administer the workers' compensation program including claims management and handling, fraud prevention and litigation management. The County's contract with *Athens* is from July 1, 2015 to June 30, 2020. *Athens* was recently awarded the contract for the period from July 1, 2020 to June 30, 2023.

Risk Management Division of the Human Resources Department oversees the workers' compensation program for the County and works closely with *Athens* to resolve claims. The Risk Management Division consists of eight (8) staff members – one (1) Risk Manager, five (5) Risk Analysts, one (1) Wellness Coordinator, and one (1) Office Assistant.

As part of its oversight, Risk Management Division contracted with *Bickmore Actuarial* for the review of self-insured workers' compensation program to estimate the County's liability for outstanding claims, project ultimate loss costs and provide funding guidelines to meet the outstanding liabilities and future costs. The review is done annually.

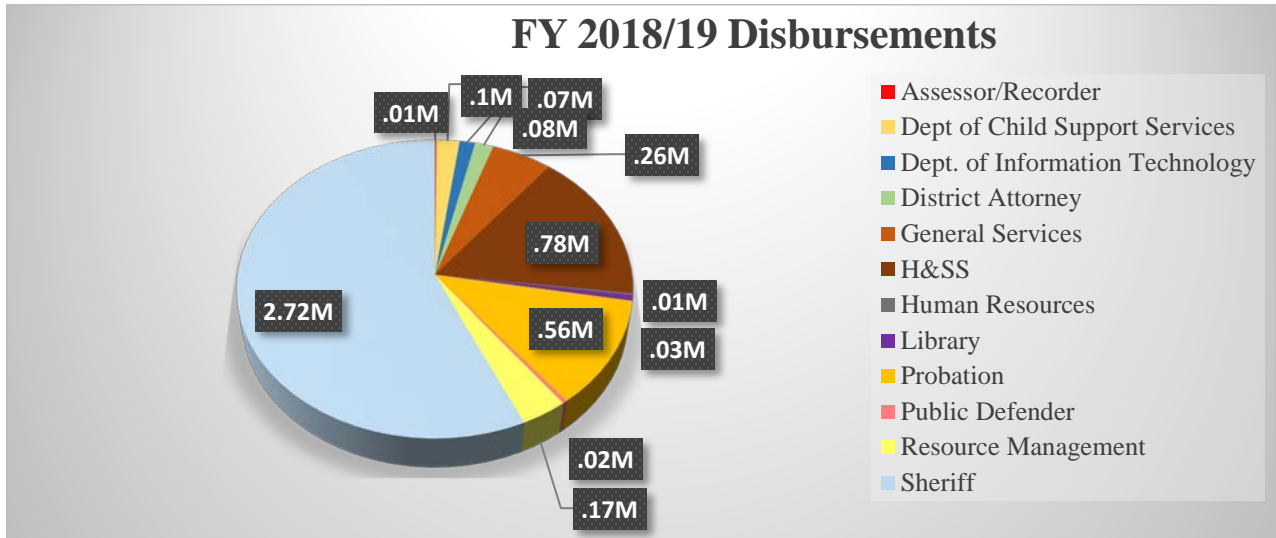
CSAC-EIA requires a biennial audit of the workers' compensation claims for its members. The last audit of the workers' compensation claims was done in July 2018 by *North Bay Associates*.

¹ CSAC-EIA is a Joint Power Authority (JPA) created to provide insurance program for its fifty-three (53) member counties.

² Self-insured retention level is a dollar amount specified in a liability insurance policy that must be paid by the insured before the insurance policy will respond to a loss.

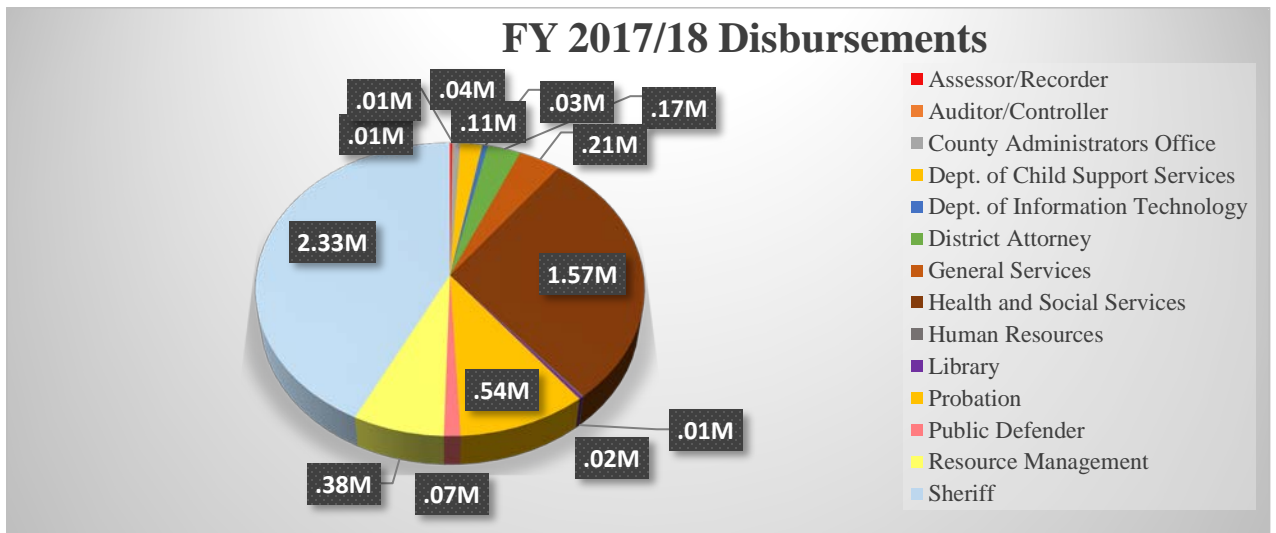
³ CSAC-EIA will reimburse eligible claim costs in excess of the \$125,000 self-insured retention subject to statutory limit.

For the fiscal year ended June 30, 2019, approximately \$4.8 million⁴ in Workers' Compensation disbursements were made. The disbursements represented 591 claims and allocated loss adjustment expenses including medical, legal and indemnity. The following chart provides the breakdown of the disbursements by department:



Source: Athens

For the fiscal year ended June 30, 2018, approximately \$5.5 million⁵ in Workers' Compensation disbursements were made. The disbursements represented 619 claims and allocated loss adjustment expenses including medical, legal and indemnity. The following chart provides the breakdown of the disbursements by department:

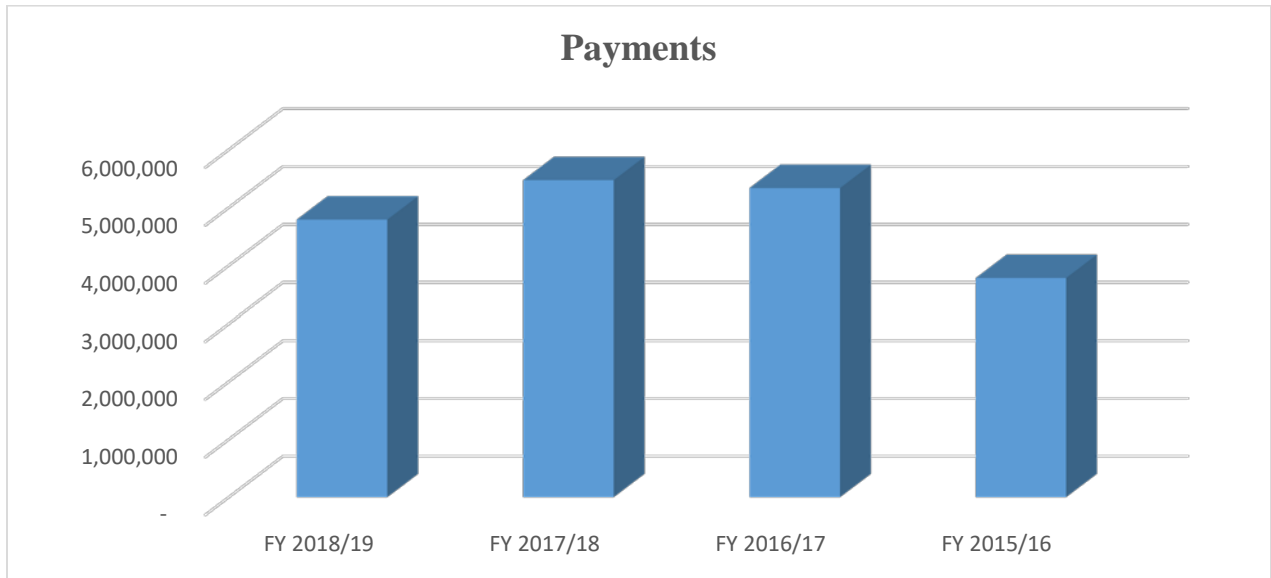


Source: Athens

⁴ Includes claims and allocated loss adjustment expenses including medical, legal and indemnity prior to July 1, 2018.

⁵ Includes claims and allocated loss adjustment expenses including medical, legal and indemnity prior to July 1, 2017.

The following chart shows the workers' compensation payments for the last four (4) fiscal years regardless of the loss date:



Source: Athens

The following table provides the number of claims opened and closed during fiscal years 2018/19 and 2017/18⁶.

	FY 2018/19	FY 2017/18
New Claims Opened	287	360
No. of Claims Closed	296	269
Dollar Amount Paid	\$ 952,439	\$ 908,837

Athens manages a trust account on behalf of Solano County for payments of claim benefits and other allocated loss adjustment expenses. The account has an established funding limit of \$250,000. A replenishment request is made weekly⁷.

⁶ Table provides only the claims opened during the year or the 1st year of the claims.

⁷ Prefunding request authorization is required for payments over \$25,000. Prefunding occurs when a higher payout is anticipated such as settlements of claims or payment of medical procedures.

OBJECTIVE

The objectives of our review were to determine the sufficiency of Risk Management Division's design and implementation of appropriate internal controls in administering the workers' compensation benefits and the third-party administrator's, Athens Administrators Inc., compliance with the requirements of the contract.

SCOPE AND METHODOLOGY

The scope of our review included claims and the process for the FY 2018/19 and FY2017/18. To achieve our objective, we interviewed management and staff of Risk Management Division and Athens Administrators Inc., reviewed policies and procedures and applicable government codes, and examined relevant controls and documentation.

We conducted our review in accordance with the *International Standards for the Professional Practice of Internal Auditing* as developed by the Institute of Internal Auditors.

In any system of internal controls, inherent limitations exist which may result in errors or irregularities occurring and not being detected. Limitations may include, but are not limited to, resource constraints, management override, and circumvention of internal controls by collusion. Accordingly, our review would not necessarily disclose all weakness in the operating procedures, accounting practices, and compliance with County policy.

CONCLUSION

Our review disclosed the following deficiencies in internal controls and opportunities for improvement:

1. Four (4) County departments did not follow the State and County mandated process for reporting employee's injury/illness.
2. Two (2) employees received both temporary disability payments and regular pay.
3. Athens did not enter one (1) claim within 24 hours of receipt of the employer's report of injury.
4. A third-party provider of nurse triage services incurred delays in notifying the County and Athens on two (2) claims.
5. Missing Report of Work-Related Injury Form on twenty (20) claims.
6. Lack of documentation of prior approval from Risk Management for referral to investigation on four (4) claims.

The following pages provide a detailed description of our findings and the related recommendations.

The Internal Audit Division thanks the Department of Human Resources Risk Management Division and Athens Administrators Inc. for their time, assistance, and cooperation during our review.

FINDINGS AND RECOMMENDATIONS

A. Four (4) County departments did not follow State and County mandated process for reporting employee's injury/illness.

Our sample of sixty (60) claims disclosed four (4) departments did not notify Risk Management and Athens of the employee's injury/illness in a timely manner on six (6) claims. The departments did not provide the Workers' Compensation Claim Form (DWC-1) to employees for completion upon learning of the injury on five (5) claims. In addition, we did not find evidence that a department provided DWC-1 form to the employee on one (1) claim.

Labor Code § 5401 (a) requires the employer to provide a claim form and a notice of potential eligibility for benefits within one (1) working day of receiving notice or knowledge of injury which results in lost time beyond the employee's work shift at the time of injury or which results in medical treatment beyond first aid.

Failing to provide the required form/s and failing to notify Risk Management and Athens in a timely manner may expose the County to penalties.

Recommendation:

1. Risk Management should continue to reiterate the importance of reporting employee's work-related injuries or illness to Risk Management and Athens in a timely manner and to provide the DWC-1 form to employees.
2. Risk Management should consider sending periodic reminders to managers and supervisors on the procedures for reporting work related injury or illness of employees.

Management Response:

Risk Management concurs with the recommendation to consider ways to reiterate the importance of following the mandated process for reporting and engage all levels of staff.

B. Two (2) employees received both temporary disability payments and regular pay.

Our review of twenty-seven (27) claims disclosed Athens made advance payments to employees for attending appointments with a qualified medical evaluator (QME) on two (2) claims. The employees reported for work and did not attend the appointment. As a result, the employees received both their regular pay and temporary disability pay amounting to \$191.35. Athens requested reimbursement on one (1) of the two (2) claims. Overpayments on both claims were not recovered as of the date of this report.

California Labor Code § 4600 (e) (1) states when at the request of the employer, the employer's insurer, the administrative director, the appeals board, or a workers' compensation administrative law judge, the employee submits to examination by a physician, the employee is entitled to receive, in addition to all other benefits herein provided, all reasonable expenses of transportation, meals, and lodging incident to

reporting for the examination, together with one (1) day of temporary disability indemnity for each day of wages lost in submitting to the examination⁸.

According to Athens, an advance payment is a typical practice and Athens has been paying in advance because employees were not receiving pay for the day of the appointment. This practice may result in double payment should the employee decide to cancel the QME appointment and report to work.

Recommendation:

1. Discontinue the practice of paying an employee in advance for attending QME.
2. Recover the overpayments made on two claims.

Management Response:

Risk Management partially disagrees with the recommendation to discontinue the practice of paying an employee in advance temporary disability benefits for attending a Qualified Medical Examiner appointment. There is no Labor Code that requires the advance payment for attending a Qualified Medical Examination. However, this is a typical practice throughout the industry. In most cases, the employee is not receiving regular pay for the day of the appointment.

Risk Management agrees that overpayments should be recovered. Letters have been sent requesting recovery from both employees as of the report date. Without an actual approval order from the Workers' Compensation Appeals Board (WCAB) to compel the employee to pay the County, there is no mechanism to collect the overpayment. The legal expenses that the County would incur would far outweigh recovery. The most cost-effective way is to have the WCAB to approve a petition for credit for overpayment at settlement.

C. Claim not entered within 24 hours of receipt of the employer's report of injury.

Athens did not make initial contact with the injured worker and did not establish the claim file within 24 hours of receipt of the employer's first report of injury from the County on one (1) claim out of the sixty (60) claims we tested.

The contract with Athens requires Athens to make initial contact with the injured worker and establish the claim file within 24 hours of receipt of the employer's first report of injury from the County.

Delaying initial contact and entering of claims may result in additional complaints which could eventually result in higher claim costs.

⁸ The Code did not specify that payment of temporary disability for attending QME has to be made in advance.

Recommendation:

Make initial contact and establish claims within 24 hours to comply with the requirement of the contract.

Management Response:

Risk Management agrees with the recommendation. Athens Administrators has been reminded that initial claims contact must be completed within 24 hours. If this cannot be completed, the reasons must be clearly documented in the claim file.

D. A third-party provider of nurse triage services incurred delays in notifying the County and Athens of the claims.

Based on our sample of sixty (60) claims, on two (2) claims, the third-party vendor handling nurse triage services (TriageNOW) for injured workers did not notify Risk Management and Athens of the employee's injury within the required timeframe.

Workers' Compensation claims are time-sensitive and needs to be acted upon immediately. California Labor code requires forms such as DWC-1 form to be provided to the employee within 24 hours after the employer obtained knowledge of the injury. The Labor Code also provides the required timeframe for employer and third-party administrator to act on the claim.

Claims not acted upon within the mandated timeframe may result in additional liabilities or penalties.

Recommendation:

Athens should require the nurse triage services to notify Risk Management and Athens in a timely manner.

Management Response:

Risk Management agrees with the recommendation. Athens nurse triage services partner does have very specific time frames for notification to Risk, County departments and Athens claims examiners. As of October 2018, Athens is no longer contracting with TriageNOW for these services. Their new partner is CarivaCare and they are performing with in the specific time frames.

E. Eight (8) County departments did not submit the Work-Related Injury Form

Our review of sixty (60) claims disclosed eight (8) County departments did not submit Report of Work-Related Injury (IIPP-5) form on twenty (20) claims. Employee's manager or supervisor did not submit the form despite follow-up by Risk Management.

IIPP-5 form is an internal form used by Risk Management to collect information that can help determine corrective actions and preventative risk techniques.

Risk Management represented the supervisor or manager may not be aware of the requirement to submit IIPP-5 form. Failing to submit the form results in missed opportunity for Risk Management to establish better processes for preventing work related injuries.

Recommendation:

1. Continue to reiterate the importance of submission of IIPP form to managers during trainings.
2. Consider sending a quarterly newsletter of the workers' compensation process to managers and supervisors.

Management Response:

Risk Management disagrees with the recommendation of creating and sending a quarterly newsletter on the workers' compensation process to managers and supervisors.

Risk Management will, though consider ways to reiterate the importance of following the mandated process for reporting and engage all levels of staffing.

F. Lack of documentation of prior approval from Risk Management for referral to investigation.

Based on our review, four (4) out of eight (8) claims did not have documentation of Risk Analyst prior approval and justification of referral for investigation.

Athens may request for an outside investigation to determine the facts surrounding an alleged injury to a worker on the job. Risk Management Division's Special Claim Handling Instructions require Athens to obtain approval for all "Arising Out of Employment/Course of Employment (AOE/COE)" investigations and for all activity check and surveillance requests. The need for outside AOE/COE activity check and surveillance requests should also be documented in the claim notes.

Recommendation:

Require Athens to document the manner in which the authorization is given and the justification for the investigation on the claim notes.

Management Response:

Risk Management agrees with the recommendation that authorization and justification for outside investigations are to be documented in the claims file. The County has reminded Athens of this expectation.