CIRMA

LESSONS LEARNED

CLAIMS REPORTING

EXECUTIVE SUMMARY

A 53-year-old claimant who had worked for the Town for over 30 years before his retirement, filed a Workers' Compensation claim for a cancer he asserted was related to an occupational exposure. Because the 30C form was not forwarded to CIRMA in time, CIRMA was prevented from denying, and then defending against the claim, resulting in a large settlement that may have been avoided.

BACKGROUND

Shortly after retiring, the claimant was diagnosed with prostate cancer and then underwent surgery and radiation therapy. During this time, the CIRMA member reported the Workers' Compensation claim to CIRMA in which the claimant alleged that his condition was related to an occupational exposure he received during his employment with the Town.

CIRMA issued a denial when it received the First Report of this injury due in part to the fact that the employee was retired when the claim was made and causality between the claimant's condition and occupational exposure was disputable. The claim was heard at an informal hearing with the Workers' Compensation Commission a month after the First Report of Injury to CIRMA. At the hearing, the claimant produced signed documents acknowledging that the Town had been in receipt of a Form 30C along with a letter that addressed the causal relationship between the prostate cancer and the claimant's employment.

Although CIRMA had issued a denial upon its receipt of the First Report of Injury from the Town, the denial was not made within the mandated 28-day response period that began the day the Town received the 30C form.

When a Form 30C is served upon an employer, there is a statutory 28-day response period in which the claim can be denied and contested. Since the Town had not notified CIRMA that it had received the Form 30C, CIRMA's denial was not issued in time, thus resulting in a claim that CIRMA is barred from denying, including any element of the claim whether past, present, and future lost time and medical benefits, and any potential widow's benefits based upon the surviving spouse's life expectancy.

By failing to respond within the 28-day period, CIRMA was faced with the issue of statutory preclusion. This includes:

- Inability to defend compensability.
- Inability to defend extend of disability.
- Increased litigation and administrative costs.

Due to the size of the total liability assessment, significant reserves were established that significantly impacted the Town's premium. Ultimately, this claim was settled at a mediation hearing, somewhat mitigating the loss; however, the settlement of $375,000 could have been avoided had the Form 30C been provided to CIRMA by the member in time.

LESSONS LEARNED

Timely processing of a Form 30C is critical when it is served. The 30C forms are State forms and, as outlined in Public Act 31-294c – Notice of a Claim, use of the form is voluntary on the part of the injured employee. (**Please Note**: A signed letter containing the required information can also act as a formal notice of claim). A recent change to the State statute now directs municipal employees who choose to file a Form 30C **to serve it to the Town Clerk only**.

Therefore, municipalities should have appropriate protocols in place so that any Form 30C that is served upon the Town Clerk is immediately reported to CIRMA. As mentioned, there is a 28-day period in which a response needs to be communicated by CIRMA on behalf of the employer, and, if not communicated in a timely manner, CIRMA could be precluded from defending against the claim.

To forward a Form 30C directly to CIRMA, please send by facsimile (203-773-8134) or contact a CIRMA representative at (203) 946-3700.

RESOURCES:

Public Act 16-112 White Paper*

Download the white paper from www.CIRMA.org/Publications For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit CIRMA.org/Training & Education page for a list of current training programs.

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