

ADMINISTRATIVE POLICY AND PROCEDURE

SUBJECT: WORKERS' COMPENSATION CLAIMS HANDLING AND SETTLEMENT AUTHORITY

DATE: August 8, 2010

AMENDED: January 30, 2023

Policy Statement:

In accordance with the Memorandum of Coverage, MBASIA shall pay promptly when due to those eligible under the agreement the benefits required of the Member by the workers' compensation law.

All claims shall be submitted to the Claims Administrator in accordance with the provisions of the Claims Administration Agreements.

Claims will be reported, handled and settled in accordance with the Excess Pool or Carrier's requirements

It is the policy of the Monterey Bay Area Self Insurance Authority that Members of the Workers' Compensation Program shall have the opportunity to participate in the final claim settlement process (i.e. Stipulations with Findings and Award or a Compromise & Release with Findings and Award) as provided for by this policy and procedure. Though Workers' Compensation benefits are mandated and established by State law, the amount and actual settlement of a claim is the responsibility of the Claims Administrator upon approval of the Member, Coverage and Claims Committee and as required the Board of Directors.

It shall be the policy of the Monterey Bay Area Self Insurance Authority to grant the authority to the Coverage and Claims Committee:

1. Meet as necessary to review all open reported claims likely to involve the Authority's pooled funds of the Workers' Compensation program.
2. Resolve claims as outlined in procedure below.

Procedure:

1. Workers' Compensation costs will be reviewed at each Coverage and Claims Committee meeting.
2. A report of large claims settlements will be made to the Board of Directors at each meeting.
3. The Claims Administrator shall notify the Program Administrator (Claims Coordinator) of the need to review potential losses which are likely to involve pooled funds.

4. The MBASIA Claims Administrator shall review any recommendations for the Coverage and Claims Committee with the Member Board Representative and either get the written approval of the Board Representative for the proposed action, or invite the Board Representative to attend or send representation for the Member to the Claims Committee meeting to discuss any objections to the action being recommended.
5. The MBASIA Claims Administrator shall recommend and assign, with the concurrence of the Member City defense counsel, for cases requiring legal representation per the approved MBASIA Attorney Defense Panel.

6. Claims Settlement Authority:

Various levels of settlement authority have been established as MBASIA policy. These levels are as follows:

\$0 to \$50,000 – Member with the Claims Administrator

The Claims Administrator, with the approval of the Member will have authority to settle claims up to, and including \$50,000 per occurrence. Only the Claims Manager for the Claims Administrator will hold this authority. For non-litigated files, the Claims Administrator will have authority to settle claims involving stipulated Award Settlement based on the treating physician's report and or QME (Qualified Medical Evaluation), Compromise and Release, and permanent disability (not to exceed \$10,000.00). For litigated files, the Claims Administrator will have authority to settle claims with Stipulated Awards based on AME or QME reports up to 69% permanent disability, and Compromise and Release Settlements based on same not to exceed \$50,000 new money.

\$50,000 to \$200,000 (Large Claims) – Coverage and Claims Committee

In the event that a loss is likely to be in excess of the Member's Approval above, either through court judgment or agreement, then MBASIA will make such payment to the claimant on behalf of the Member. The MBASIA Coverage and Claims Committee has authority to authorize claims settlement up to \$200,000 per occurrence.

\$200,000 to Pooled Funds Limit

Claims settlement recommendations in excess of the Coverage and Claims Committee's Authority shall be presented by the Claims Administrator and Coverage and Claims Committee to be approved by the Board of Directors prior to final settlement. The excess carrier will be involved in accordance with the carrier's policy reporting and settlement requirements.

7. The Workers Compensation Claims Administrator shall have the responsibility and authority to issue checks from the Authority's trust account in satisfaction of legal requirements to pay benefits to industrially injured workers of the Member. The Administrator will issue checks for state mandated benefits including Medical, Rehabilitation and Expense categories. For checks below \$5,000, one authorized signature or stamp from the administrator is required. For checks above \$5,000, two signatures are required.
8. The Workers Compensation Claims Administrator shall present reserves to the Claims Committee for Committee review and potential action regarding any initial reserve or increased reserves greater than \$125,000.

Indemnity Payments will be tracked by voucher by the Claims Administrator and sent to the Member. Indemnity Payments will be annually reconciled by Calendar Year, and then approved by the Board and credited back to each Member as part of the next Fiscal Year's Workers Compensation program renewal.

All of the foregoing notwithstanding, if time is of the essence in a specific litigation matter, the Chair and Claims Committee Chairperson on the advice of the Claims Administrator shall have the authority to determine terms of emergency settlement, subject to \$100,000 limitation within the Pooled Layer. If however, the Chair or Claims Committee Chairperson's city is involved in this claim, then the authority will be delegated, by the non-conflicted Claims Chair or Authority Chair, to a non-involved member of the Claims Committee.

For any claim in which a Board Member or City Manager is involved in a claim, MBASIA may excuse the conflicted party from related closed session discussions and vote in any of the steps set forth above, and will seek Member Authority from the City Attorney, or their designee, instead. In the event of a coverage dispute or issue between MBASIA and a Member, the Board Member for the affected Member may be recused from discussion and action on the coverage dispute or issue, in order to avoid a conflict of interest.

MBASIA WORKERS' COMPENSATION

ATTORNEY DEFENSE PANEL

(Effective April 5, 2021)

Amended: November 4, 2022

Witzig, Hannah, Sanders & Reagan, LLP

**Mark Hannah
Doug Matheson**

600 Ocean St
Santa Cruz, CA 95060
Phone: 831-425-2835
mhannah@whslp.com
douglas@whslp.com

Laughlin, Falbo, Levy & Moresi, LLP

Justin A. Williams

505 14th Street, Suite 1210
Oakland, CA 94612
Phone: 510-285-2230
JWilliams@lflm.com

Michael Sullivan & Associates LLP

Chris Matthes

7120 N. Whitney Avenue, Suite 105
Fresno, CA 93720
Phone: 559-785-6000
cmatthes@sullivanattorneys.com