

Report of Examination
Crawford & Company

**5620 Glenridge Drive NE
Atlanta, GA 30342-1399**

NAIC Company Code: 13623
NAIC Exam Tracking System: M008-M17

**Examination Period:
April 1, 2006 through March 31, 2007**

STATE OF MAINE

COUNTY OF KENNEBEC, SS

Van E. Sullivan, being duly sworn according to law, deposes and says that in accordance with the authority vested in him by Mila Kofman, Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, he has made an examination on the condition and affairs of the

Crawford & Company

of Atlanta, Georgia for the period April 1, 2006 through March 31, 2007, and that the foregoing report of examination, subscribed to by him, is true to the best of his knowledge and belief.

The following examiners from the Bureau of Insurance assisted:

Paul Greenier
Carolee M. Bisson

Van E. Sullivan
Market Conduct Supervisor

Subscribed and sworn to before me

This _____ day of July, 2008

Patricia A. Galouch, Notary Public

My commission expires:

STATE OF MAINE

BUREAU OF INSURANCE

IT IS HEREBY CERTIFIED THAT THE ANNEXED REPORT OF EXAMINATION
FOR

Crawford & Company

has been compared with the original on file in this bureau and that it is a correct transcript
therefrom and of the whole of said original.

IN WITNESS WHEREOF,

I have hereunto set my hand and affixed the official seal of this Office at the City of Gardiner
this

_____ day of July, 2008

Mila Kofman
Superintendent of Insurance

I hereby certify that the attached targeted market conduct examination report dated, 2008 shows the condition and affairs of Crawford & Company, as described in the scope of examination section of the report and has been filed in the Bureau of Insurance as a public document.

Kendra Godbout, CPA
Director of Financial Analysis

This ____ day of July, 2008

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July 8, 2008

The Honorable Mila Kofman
Superintendent of Insurance
Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

Dear Superintendent Kofman:

Pursuant to the certification of findings in accordance with 39-A M.R.S.A. § 359(2) from the State of Maine Workers' Compensation Board ("WCB") and under the authority of 24-A

M.R.S.A. § 221 and in conformity with your instructions, a targeted market conduct examination has been made of:

Crawford & Company
NAIC Entity Number: 13623

hereinafter referred to as the “Company”. The examination covered indemnity claims that were open during the period from April 1, 2006 through March 31, 2007, for employees residing in the State of Maine or claimants involved in losses in the State of Maine.

The onsite phase of the examination was conducted at the Company’s servicing center located at 20 Mussey Road, Suite 1, Scarborough, Maine 04074.

The following report is respectfully submitted.

HISTORY OF ENGAGEMENT

Pursuant to 39-A M.R.S.A. § 153(9), the WCB established a monitoring, audit and enforcement (“MAE”) division. The functions of the MAE division include but are not limited to certain audits of payment timeliness and claims-handling practices of insurers in accordance with 39-A M.R.S.A. § 359. The WCB audited selected claims of the Company with dates of injury from June 1, 2003 through May 31, 2004 in part to determine whether the company had violated the questionable claims-handling provision of 39-A M.R.S.A. § 359(2). The results of this audit are reported in a Compliance Audit Report dated June 13, 2005. Findings relevant to section 359(2) included non-filing of forms, late and inaccurate forms filings, untimely and inaccurate indemnity payments and various record retention issues. The WCB determined that the pervasiveness and magnitude of the findings constituted a “pattern of questionable claims-handling techniques”. In July 2005, the WCB and the Company entered into a Consent Decree which established patterns of questionable claims-handling techniques and assessed fines therefor.

In accordance with 39-A M.R.S.A. § 359(2), the WCB certified the audit findings to the Superintendent of Insurance. Section 359(2) requires the Superintendent of Insurance to take appropriate action to bring such practices to a halt.

SCOPE OF EXAMINATION

In order to meet the responsibilities set forth in section 359(2), the Superintendent of Insurance had to determine whether or not the patterns of questionable claims-handling techniques found by the WCB still existed. Therefore, an examination was planned in accordance with the National Association of Insurance Commissioners’ (“NAIC”) Market Conduct Examiners’ Handbook and Guidelines (“Handbook”). Bureau examiners developed compliance verification procedures based on the Handbook to measure whether the Company timely filed all required WCB forms, accurately calculated indemnity benefits and timely distributed benefit payments as required by the Workers’ Compensation Act, Title 39-A M.R.S.A. and the WCB rules and regulations issued thereunder. Specifically, the scope of the examination included the review of

all open indemnity claims for the period April 1, 2006 through March 31, 2007. Selection of claims opened before the examination period was limited to claims with dates of injury on or after January 1, 1993.¹

METHODOLOGY

Company records indicated that for the period April 1, 2006 through March 31, 2007 a total of 70 open lost time claims existed. Of the 70 open claims, two had dates of injury before January 1, 1993 and were not selected. Therefore, 68 open claims were reviewed. The Company assumed the Broadspire Services, Inc. (“BSI”) Maine workers’ compensation book of business effective November 2006. There was a total of 19 BSI indemnity claims with dates of injury during the period November 1, 2006 through March 31, 2007. These files were not reviewed as part of this examination.

STANDARDS

The following Handbook standards were the basis for developing the examination procedure. All references are to either the Workers’ Compensation Act or WCB Rules and Regulations.

(1) Standard G-3

Claims are resolved in a timely manner.

Test 1:

Determine if initial and subsequent claim payments are made in a timely manner.

Standard G-3 establishes a general framework for the timely payment of claims in accordance with 39-A M.R.S.A. § 205(2).

(2) Standard G-4

The Company responds to claim correspondence in a timely manner.

Test 2:

Determine if correspondence/WCB forms related to claims is responded to/filed as required by applicable statutes, rules, regulations or protocols.

WCB-1, First Report of Injury	39-A M.R.S.A. § 303 WCB Rule Ch. 8 § 13
WCB-2, Wage Statement	39-A M.R.S.A. § 303
WCB-2A, Schedule of Dependent(s) and Filing Status	39-A M.R.S.A. § 303
WCB-3, Memorandum of Payment	WCB Rule Ch. 1 § 1.1

WCB-4, Discontinuance or Modification of Compensation	WCB Rule Ch. 8 § 11
WCB-4A, Consent Between Employer and Employee	WCB Rule Ch. 8 § 18
WCB-8, (21 Day) Certificate of Discontinuance or Reduction of Compensation	39-A M.R.S.A. § 205(9)
WCB-9, Notice of Controversy (“NOC”)	WCB Rule Ch. 1 § 1.1
WCB-11, Statement of Compensation Paid	WCB Rule Ch. 8 § 1

Standard G-4 establishes a general framework for the timely filing of claim-related documents. Failure to file a required WCB form or other document on time is a violation of 39-A M.R.S.A. § 360(1)(A) or (B).

**(3) Standard G-5
Claim files are adequately documented.**

Test Step 3: Determine if quality of the claim documentation is sufficient to support or justify the ultimate claim determination and meets state requirements.

Standard G-5 establishes a general framework for the adequacy of claim file documentation to correctly calculate claim payments in accordance with 39-A M.R.S.A. § 212, § 213 and § 215.

APPLICATION OF TESTS

This section outlines the application of the tests to the claims selected. The results of testing those open indemnity claims during the examination period are presented in the following tables:

Test 1: Verify that initial and subsequent indemnity payments were made in accordance with 39-A M.R.S.A. § 205(2):

Activity Description	Paid Timely	Not Paid Timely	Not Applicable	Compliance Percentage	2004 WCB Audit ^A
Initial Payment	20	1	47	95.24%	40.00%
Subsequent Payments	702	78	0	90.00%	73.43%

^A The figures in this column are taken for comparative purposes from the WCB Compliance Audit Report conducted on June 1, 2003 through May 31, 2004 data.

TEST 2: Verify the timely filing of the following forms with the WCB in accordance with the Workers' Compensation Act, WCB rules and regulations, or MAE protocols:

Form Type	Filed Timely	Not Filed Timely	Not Filed	Not Applicable	Compliance Percentage	2004 WCB Audit ^A
WCB-1	30	1 ^B	0	37	96.77%	61.36%
WCB-2	20	1	2 ^C	45	86.96%	29.73%
WCB-2A	20	1	2 ^C	45	86.96%	25.00%
WCB-3	21	0	0	47	100.00%	34.38%
WCB-4	22	0	1	45	95.65%	71.43%
WCB-8	5	0	0	63	100.00%	14.28%
WCB-9	3	0	0	65	100.00%	50.00%
WCB-11 ^D	14	2	1	51	82.35%	20.00%
WCB-11 ^E	23	9	1	35	69.70%	n.a.

^A The figures in this column are taken for comparative purposes from the WCB Compliance Audit Report conducted on June 1, 2003 through May 31, 2004 data.

^B This WCB-1 was not filed timely because the employer did not notify the Company timely.

^C The WCB-2 and WCB-2A were not filed in one claim because the Company did not understand how to apply the waiting period in 39-A M.R.S.A. § 204. It believed that the waiting period had not been met.

^D Initial filing of the WCB-11

^E Annual/Final filing of the WCB-11

TEST 3: Verify that average weekly wages and subsequent indemnity payments are calculated accurately for both total and partial incapacity:

Activity	Calculated Correctly	Calculated Incorrectly	Not Applicable	Compliance Percentage	2004 WCB Audit
Average Weekly Wage	31	3	34	91.18%	66.67%

Activity	Paid Accurately	Not Paid Accurately	Not Applicable	Compliance Percentage	2004 Audit
Partial & Total Indemnity Payments	19	14	35	57.58%	43.33%

Note that amounts reported in the TEST 3 tables represent the number of claims rather than the number of specific recalculations or the number of payments. The “Not Paid Accurately” category represents 14 open claims where one or more payments were not made accurately. These claims included nine overpayments and five underpayments.

In reviewing the information contained in this report, it is important to keep in mind the WCB’s benchmarks for routine monitoring of claims that applied to the examination period. The benchmark for timely initial indemnity payments was 80% compliance, and for timely filing of WCB-3 forms (memorandum of payment) the benchmark was 75% compliance.

COMMENTS AND RECOMMENDATIONS

Comment #1:

Test 1 measures compliance with the benefit payment requirements of 39-A M.R.S.A. § 205(2). The percentage of compliance for initial payments made timely has more than doubled from the 2004 WCB audit. This is a commendable accomplishment and demonstrates the Company’s commitment to meeting Maine compliance standards. Compliance concerning subsequent payments has also increased from the 2004 WCB audit level.

The primary test applied to subsequent payments is the time period between indemnity payment checks. Section 205(2) states in part that “[s]ubsequent incapacity payments must be made weekly and in a timely fashion.” The Board interprets this to mean that such payments must be at 7–day intervals. However, the fact that two payments are more than seven days apart does not automatically indicate a break in the stream of benefits. For example, if the insurer pays one week’s benefits early because of a holiday and resumes its normal payment schedule the following week, the second payment will be more than seven days after the previous. If the insurer pays all benefits due for these periods, there is no benefit interruption notwithstanding the payment schedule change. A substantial number of the errors noted under subsequent payments were of this type.

The other situation that typically creates a problem in subsequent payments is timely communications between the employer and carrier when the employee is on partial disability. Carriers must be able to timely obtain payroll data in order to calculate and issue partial disability payments.

It was also noted that 6 out of 9 overpayments resulted from indemnity payments being issued before the end of the benefit period.

Recommendation:

The Company should continue its attempts to ensure that claims adjusters are aware of WCB payment requirements and that managers monitor performance regularly to ensure compliance. As to the issue of timely payments of partial temporary disability, the Company should remind client employers of the necessity of timely communicating payroll data to allow compliance with payment requirements.

As to the overpayments noted, the Bureau recognizes the Company's attempt to ensure timely indemnity payments. By making these payments before the end of the benefit period, however, the Company is in fact paying benefits in advance. This becomes problematic when the employee returns to work after the benefit check has been issued. The Bureau recommends that the Company explore procedures to allow payments to be made promptly after the end of the benefit period.

Comment #2:

Test # 2 measures compliance with the Workers' Compensation Act's form filing requirements. Bureau examiners found that the annual WCB-11 filings were not at an acceptable level and that in some cases the Company filed WCB-11s every six months. After an insurer files the initial WCB-11, it need not file another until the claim's anniversary or when it anticipates paying no further indemnity benefits. Bureau examiners also found that, on two occasions, the Company filed "protective" Notices of Controversy (WCB-9s, also referred to as NOCs). A NOC is not required unless the employer or insurer has "notice or knowledge of a claim for incapacity or death benefits for a work-related injury." WCB Rule Ch. 1 § 1.1. Because "protective" NOCs are filed when the employer or insurer merely suspects such a claim, this practice could be considered a questionable claims handling technique.

Recommendation:

Company policies and procedures that have been implemented since the WCB's examination report issued in June 2005 have shown a marked increase in form filing compliance. The Company should continue its current practices and monitor the process to ensure there is no relapse.

It is commendable when a company strives to meet document filing requirements, but a company can over-react in its efforts to do so. This appears to be the case in filing protective WCB-9s and excessive WCB-11s. The former meet no filing requirements and create additional costs to the Company and the WCB. The Bureau recommends that appropriate training and monitoring be considered as an alternative to ensure timely filing of only required documents.

Comment #3:

Test #3 measures whether the Company accurately calculated average weekly wages and the subsequent indemnity payment(s) for both total and partial disability. The Company's average weekly wage calculations improved by almost 40% over the 2004 WCB audit results. Accurate calculation of indemnity payments for both total and partial incapacity also improved but leaves room for further improvement.

Fourteen claim files had inaccurate payment calculations. Nine of these inaccurate payments were overpayments and five were underpayments. Bureau examiners found that six of the overpayments resulted from the Company making indemnity payments before the relevant benefit period had ended. This practice did not give the employer enough time to notify the Company that the injured employee had returned to work thus resulting in an improper benefit

calculation. Had the Company not made these overpayments, its compliance ratio would have been 84.85%.

Recommendation:

The Company should continue to stress its policies and procedures to ensure that claims adjusters thoroughly understand the Workers' Compensation Act and the WCB's rules and regulations and that managers monitor performance regularly in order to ensure continued compliance with applicable Maine law. The Company should implement procedures to ensure payments are processed when due.

CONCLUSION

This examination reviewed all open workers' compensation indemnity claims related to Maine employees or injuries arising in the State of Maine for the period of April 1, 2006 through March 31, 2007, with dates of injury occurring on or after January 1, 1993. Crawford & Company has made significant efforts to bring its claim handling operating processes into compliance with Maine Workers' Compensation standards. Based on the results of this examination, Bureau examiners found that the pattern of questionable claims handling techniques established by the WCB has ceased.

ACKNOWLEDGMENT

The courtesy and cooperation extended by the officers and employees of the Company during the examination is hereby acknowledged.

¹ The Maine Legislature significantly revised the workers' compensation statute effective January 1, 1993.