This section incorporates the selection of the sample, review procedures, and criteria to conduct these examinations following the guidelines in Chapter VIII G. Claims of the NAIC Market Conduct Examiners Handbook.

A. Introduction

Rule 10 of the CAR Rules of Operation requires CAR to conduct periodic audits of SCs claims including policies ceded to CAR and voluntarily written as specified in G.L. c.175 §113H. To satisfy this rule CAR conducts claim examinations to evaluate the effectiveness of claim handling in meeting Industry Best Practices as well as compliance with the Performance Standards and NAIC Standards. Procedures for the examination are based on Chapter VIII G. of the NAIC Market Conduct Examiners Handbook and are further defined in the Manual of Administrative Procedures Chapter IV - Claims. The Compliance Audit Claim Questionnaire and internal documentation including, but not limited to, claim manuals, reserving and claim settlement procedures, and internal audits will be reviewed at the onset of the examination. The reviews are conducted using a systems application that has been built specifically for the purpose of evaluating claim handling practices and compliance with the Performance Standards.

B. Scope and Sample

1. The SCs will be audited biennially. The scope of the audit includes the review of a randomly selected sample of records for the account year being evaluated from the CAR loss statistical data base.

2. The sample consists of 220 claims (55 for each coverage type: Physical Damage, Property Damage, PIP and Bodily Injury) selected based on company reporting from each commercial class type. The audit provides for the inclusion of all types of transactions from all classifications of business. It allows for the extrapolation of data, provides a standard for measuring the performance of an audited company, and the comparison of one audited company to another.

3. The audited company is required to supply the claim file and any other pertinent documentation supporting the company's handling of the loss. Ceded and voluntary claims are selected randomly in proportion to the total claim population. Statistical testing is completed to determine if any significant difference exists in the handling of voluntary and ceded claims. Each audited company is assigned an overall compliance value and a ceded compliance value.

A penalty is assessed when the audited company does not attain an 80 percent compliance rate for the handling of ceded claims.

4. At the conclusion of each audit, a preliminary report is issued. In any instance that the audited company does not agree with an audit finding and appropriate documentation can be supplied, the necessary adjustments are included in the final report. The company is asked to submit a written response to the audit findings to be included in the final report. The report and response letter is distributed to the Compliance and Operations Committee and the Massachusetts Division of Insurance.

5. The Division of Insurance Summary of Commercial Audits – Annual Report will be submitted biennially to the Compliance and Operations Committee, Governing Committee, and the Division of Insurance.

C. Commercial Ceded Pool Run-Off

1. Run-off Claim Reviews

A sample of ceded claims will be reviewed biennially from those companies that are no longer SCs. Files selected will have ceded claim activity including indemnity and/or expense payments and reserves within the accounting year being evaluated. The sample will be approximately 5 to 10 percent of the claims having activity. A Summary of Review will be prepared for the carrier.

2. Ad Hoc Reviews - Large Loss/Indemnity/Reserve Review

As part of the current Large Loss review procedures, ceded claims are selected quarterly from the Loss Limitations Report. Criteria for selection include a large dollar reserve or indemnity payments, litigation files, payments over a certain threshold, and allocated expenses. CAR will request a summary of the claim file which shall include large loss reports, settlement reports, and adjuster notes. CAR will reserve the right to review the entire file if necessary. Additionally each quarter, a number of files requested by the Loss Reserving Committee are reviewed.

D. Definitions

1. Contact:
   Under the PIP and BI Standards contact must be either in person or by telephone call. If the injured party cannot be reached on this initial contact a letter or email may be sent as a follow-up.

2. Independent Medical Examination (IME):
   A physical examination of the injured party to document the injury and provide an opinion on whether the treatment is reasonable, necessary, and appropriate for the injury sustained. Cut off dates may be established.

3. Major Non-Compliance:
   A carrier is not in compliance with the Standards in one or more areas and claim handling is affected and overpayments may be occurring as a result.

4. Medical Audit:
   Peer reviews of some or all of a claimant's medical bills or records by doctors, nurses, or other medical professionals.

5. Minor Non-Compliance:
   A carrier is not in compliance with the Standards in one or more areas but the quality of claim handling is unaffected and no overpayments result from this situation. Neither a warning nor penalty will result from a finding of minor non-compliance.

6. Medical Bill Review (MBR):
   A review of medical bills using a computerized expert system, PPO, or provider of the same medical discipline as the provider bills being reviewed. Bills are checked for reasonableness of cost and modality. Duplication of treatments or unnecessary modalities are eliminated and not paid.

7. SIU:
   Special investigations may be performed by SIU personnel or other personnel trained to handle suspicious claims using activity checks, surveillance, accident reconstruction, statements or examinations under oath. Special investigations also include third party expert analysis of documents associated with suspicious claims. Liability investigations are not considered to be special investigations.

8. Type 1 Penalty:
   A Type 1 penalty is assessed when a carrier remains in non-compliance in the review subsequent to being warned but has improved its claim handling practices significantly.

9. Type 2 Penalty:
   A Type 2 penalty is assessed when a carrier fails to improve its claim handling practices in the review subsequent to being warned for non-compliance.