R.C. 2090

To the Members of the Board

Re: New York Workers Compensation Statistical Plan
    Loss Conditions – Data Element Name Change

The New York State Insurance Department has approved an amendment to the New York Workers Compensation Statistical Plan that changes the data element name “Type of Coverage” to “Type of Claim”.

Since the advent of revised unit statistical plans by the data collection organizations in the mid-1990s, an increase in the number of loss records submitted with incorrect Loss Conditions – Type of Coverage codes has been observed in many jurisdictions.

As a result of an investigation of the problem, it has become apparent that the miscoding is the result of carrier misinterpretation of the data element name, Type of Coverage. Carriers had misunderstood the element to mean what the “policy covered” rather than the intent of the field to capture “under which provision(s) of the policy the loss was incurred”.

In order to clarify the intent of the data element, the Advisory Statistical Work Group (ASWG) at its March 2005 meeting, approved a change in the name of the field from “Type of Coverage” to “Type of Claim”. At that meeting, a unanimous decision by the data collection organizations, including New York, determined that the change in wording would clarify the intent and improve the accuracy of this data field.

A copy of the amended section of the New York Statistical Plan is attached.

Since this amendment does not change the existing reporting requirements, but merely changes the name of the data element, an issue date of July 1, 2005 has been established for this change.

A revised manual page will be distributed as soon as it is available.

Very truly yours,

Monte Almer

President

MH/ab
Encl.
Cumulative Injury Other Than Disease—Code 03

Cumulative Injury Other Than Disease is an injury that results in disability or death and is not traceable to a definite compensable accident occurring during the worker’s present or past employment. The injury is understood to have occurred from, and has been aggravated by, a repetitive employment related activity.

Example: A cement mason, carpet Installer or tile layer presents a claim for injury to the knee caused by repetitive bending and kneeling on the job.

c. Type of Recovery

Report the applicable Type of Recovery associated or anticipated with each claim:

- Code 01 - No Recovery
- Code 02 - Special Disability Fund (Second Injury Fund) only
- Code 03 - Subrogation Only (Third Party)
- Code 04 - Subrogation with Special Disability Fund (Third Party)

In any case for which the Special Disability Fund has been held legally liable for reimbursement of payments beyond the first 260 weeks, only the indemnity and medical corresponding to the first 260 weeks shall be reported on the unit statistical report. If the Special Disability Fund has not been held legally liable for reimbursement of payments beyond the first 260 weeks, the full indemnity and medical losses incurred shall be reported.

In any dust disease cases for which the Special Disability Fund is liable for reimbursement of payment beyond the first 260 weeks, only the indemnity and medical for which the carrier is liable shall be reported on the unit statistical report. Such dust disease cases shall be reported as Special Disability Fund cases if the carrier expects that the Special Disability Fund will be liable for reimbursement even though the Fund has not been legally liable at the date of valuation.

d. Type of Claim

Report the applicable Type of Claim being reported.

- Code 01 - Workers Compensation only
- Code 02 - Employers Liability only
- Code 03 - Workers Compensation and Employers Liability, including Liability-Over
- Code 04 - Liability-Over only

Liability-Over or "Action-Over" refers to a particular employers liability coverage situation where a third party, who is being sued by an employee, in turn sues the employer on the grounds of primary negligence, or like theory.

Example: A person operating a drill press is injured, and, although the injury is compensable, the worker brings suit against the manufacturer of the drill press on the grounds of faulty design or manufacture. The manufacturer then succeeds in suing the employer for damages on the grounds of faulty installation or maintenance of the drill press. The damages thus incurred to the employer, if covered under his workers compensation policy, are classified as liability-over, and are in addition to compensation payments made to the injured employee.