



March 21, 2014

Subject: Workers Compensation Claim Communication in Montana

Due to the rules and regulations that we currently operate under in Montana, as well as the recent Montana Supreme Court decision in *American Zurich Insurance Company vs. Montana 13th Judicial District Court*, 2012 MT 61, 364 Mont. 299, 304, 280 P.3d 240, 246, we'd like to reiterate and further clarify what information we can legally share with our insureds. The goal is to share what is allowed, while at the same time adhere to, and not violate, pertinent Montana case law, statutes, regulations, and the Montana State Constitution.

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Items we can communicate:

- **Receipt of a File:** We can acknowledge that we have received a claim.
- **Initial Investigation:** We can communicate on the investigation as it pertains to: 1) the course and scope; 2) identifying and reporting fraud; and 3) witness identification.
- **Return to Work Accommodations:** Full vs. Limited Duty information.
- **Non-Private Medical (NPM):** This information includes last and next Medical appointment dates, MMI, and RTW restrictions.
- **Discovery Proceedings:** We can communicate in order to respond to discovery. This includes securing the assistance of employees to respond to discovery requests.
- **Trial Notifications:** We will advise the employer of a trial being set in the event an employee is needed to testify as a witness.
- **File Closure:** We can advise customers of a file closing.
- **Administrative Communications:** Those communications necessary to opening claims and coordinating discovery or trial testimony.

Items we cannot communicate:

- **Reserves:** This includes reserve information of any kind.
- **Settlement Amount:** Employers shall not have access to or input regarding settlement amounts offered on claims.
- **Litigation Information:** This item is very broad, including any and all legal strategy and settlement positions.
- **Private Medical Information:** Any medical information protected by HIPAA shall not be shared.

As a matter of practice, we also need to block access to file information on all litigated files. We must also ensure that all claim notes not included in the list of acceptable communication items above, are marked confidential and cannot be shared.

Despite these legally mandated changes, you can rest assured that Zurich will continue to handle Montana workers compensation claims in a professional manner. Zurich will continue to work with you in the investigation of the facts of the claim while also ensuring we comply with our obligations under Montana law.

Thank you for your understanding and for your continued confidence in Zurich NA.

Best Regards,

Steve Hatch
Chief Claims Officer
Zurich North America