
DATE: April 3, 2024

TO: Port of Tacoma Audit Committee

FROM: Eric Johnson, Executive Director
Sara Kern, Risk Manager

SUBJECT: Results of the Department of Labor and Industries Self-Insured Audit

BRIEFING PURPOSE

Provide an update on the outcome of the Washington State Department of Labor & Industries (L & I) Self-Insured Audit.

BACKGROUND

The Port of Tacoma along with the Northwest Seaport Alliance (NWSA) are self-insured for the administration of Workers' Compensation claims. The NWSA is setup as a sub-account of the Port of Tacoma. Claims for both organizations are adjusted by a Third-Party Administrator (TPA) with oversight from the Washington State Department of Labor & Industries. To ensure compliance with self-insured rules and regulations, L & I conducts regular audits of all self-insured programs.

In July of 2023, L & I notified the Port of Tacoma that their compliance section was conducting a Performance Based Wage Audit and requested documentation of wages, benefits, and timecards for five selected employees to validate their time loss payments.

All the employees selected for the audit are employees of the Pacific Maritime Association (PMA), working for the NWSA at the time of their injury. The Port's TPA manages these claims in the same manner as other Port of Tacoma or NWSA Workers' Compensation claims. However, since these workers are employees of the PMA, the TPA must rely on the PMA and the injured employees to provide the information needed to calculate their time loss rates.

The TPA's time loss documentation was submitted to L & I. A request was also made to the PMA to provide the records needed to validate the TPA's calculations and fully respond to the audit. The PMA ultimately provided some, but not all the requested information, citing privacy concerns and stated that to obtain all the requested information a subpoena would be needed.

RESULTS

L & I issued a report stating the Port and by association the NWSA's sub-account did not pass the audit. They identified three employees that exceeded the acceptable variance and identified two areas that led to the payment discrepancies. These areas were the employee classifications and the value of other (non-wage) benefits.

EMPLOYEE CLASSIFICATION: The TPA classified PMA employees working for the NWSA as full-time workers with differing wages and weekly hours. This classification is appropriate for workers that intend to work full time but may not always have that option. L & I disagreed, arguing the workers were intermittent, working seasonally and that full time work was not always available to them. Each classification uses a different methodology determined by L & I to calculate time loss payments. A meeting was held to discuss the discrepancy, but L & I was unwilling to change their position.

VALUE OF OTHER (NON-WAGE) BENEFITS: This value is often irrelevant as it only applies when a worker has lost their employee provided medical coverage. For this value the TPA utilized the value of benefits received by Port's represented workforce. During the audit L & I required documentation directly from PMA, to substantiate this value and the PMA was unwilling to provide it, again citing privacy concerns. In lieu of employee specific benefit information L & I looked to PMA's public website. Their external website and annual report provide an average based on the Total Welfare Plan cost but is not representative of an individual employee's benefit. We concede without cooperation from the PMA this is the best number available.

The audit results are not due to a breakdown in controls or failed processes rather a difference of opinion in employee classification and difficulties obtaining the value of non-wage benefits for a small set of employees.

FINANCIAL SUMMARY

COST: There is limited monetary impact from this audit. Following recalculation based on L & I's report, there were two time loss underpayments and one over payment. We have processed the underpayments and are in the process of working on a collection method for the overpayment. The net impact of the recalculations is close to zero.

NEXT STEPS

Going forward the TPA will use L & I employee classifications and associated calculation methodology to determine an employee's time loss benefits. In addition, each PMA employee injured working for the NWSA is asked to provide their pay statements. This is used to verify wages and to obtain accurate benefits information. If the TPA is unable to obtain the benefits information directly from the injured worker, they will use the website benefit value as instructed by L & I.

These next steps only apply to workers dispatched from the PMA. The Port/NWSA does not experience the same limitations when calculating time loss benefits for other employees as the organization has direct access to the necessary information.