



 Association of Bay Area Governments

**Date:** June 24th, 2015  
**To:** ABAG PLAN Board  
**From:** ABAG PLAN Executive Committee  
**Subject:** Agenda #10 – Claims Committee Report

**Action Required**

None. Information only.

**Attachments**

1. PLAN Claims Audit – Final Report
2. Claims Committee Activity Report – FY 14/15



**Date:** June 10, 2015  
**To:** PLAN Board of Directors  
**From:** Jill Stallman, ABAG PLAN – Claims Manager  
**Subject:** 2015 PLAN Liability Claims Audit

## **OVERVIEW**

In compliance with our duty and obligation under the ABAG PLAN Claim policy (3.1 Claims Management) a comprehensive liability claim audit was completed using the services of AON in March 2015 and the findings follow as a report with visuals to illustrate their observations.

## **RFQ and SELECTION**

An RFQ was issued on April 16, 2014 for claims audit services. Four responses were received and AON was selected to perform the audit. The scope of the audit included a review of claim files handled between July 1, 2010 and June 13, 2013.

The original goal was to conduct the audit in June 2014, however, due to the possibility of a transition to an outside claims administrator the audit was postponed. After the selection of York Risk Services as the PLAN TPA, we deferred scheduling the audit to allow a reasonable assimilation period for York. We also expanded the sample group to include claim files that were handled after the TPA contract began on August 1, 2014. AON was very accommodating and did not alter their price with the expanded and added variables to consider during the audit.

## **FILE SELECTION**

A loss run was provided to AON and AON drove the selection of files within agreed parameters to achieve random sampling yet proportionate representation of the book. The sampling represented a variety of perils, members, claim values, file handlers, litigated versus non-litigated and the like. We decided to review 100 files to focus on quality. The auditor deemed the sample set as providing an adequate and fair assessment of the claim portfolio.

The audit was conducted by accessing York's Claims Connect claims system and also by reviewing the ABAG IVOS claims system in addition to paper files. There were a lot of moving parts with the transition of operations and this made the audit more complicated than usual.

The audit concluded with a general finding that the claim files overall are being handled within establish best practices and meet most expectations.

## **SCORING**

As noted in the following report from AON the scoring scale used was:

- 5 – Exceeds Expectations
- 4 – Meets and Sometimes Exceeds Expectations
- 3 – Meets Expectations

2 – Partially Meets Expectations and Sometimes Needs Improvement  
1 – Need Immediate Attention / Does Not Meet Expectations  
N/A

The following criteria were scored:

- Investigation
- Coverage
- Claims Handling
- Litigation Management
- Evaluation / Negotiations
- Risk Transfer
- Reporting
- Supervision

While some categories may have little potential to score beyond "Meets Expectations" like Coverage, for example; the same scoring legend was used universally during the audit to maintain consistency. Keep in mind that the target score is 3.0 with a goal of having all files meet the expectations as set out in the generally accepted best practices for file handling on at least 90% of the files reviewed in any category. Higher scores can be achieved in some areas (Claims Investigation and Litigation Management) given some of the intangible aspects (creativity, proactivity, extraordinary activity) of this area of claims handling.

## **CONCLUSION**

As noted, the auditors have found that as the pool administrator designated with the duty and obligation to assure the member's claims are being addressed timely and competently, ABAG has fulfilled their responsibility to members in the area of Claims Administration in both environments (in house claim staff and contracted TPA). No adverse findings or recommendations were noted in the audit report.

**This report has been prepared on behalf of the ABAG PLAN Board of Directors and its Executive Director. Information contained herein should be considered personal and confidential, and often in association with litigation. Do not discuss the contents of this report with anyone outside of the Board without the prior authorization of the Executive Director or the Board.**

## **Executive Summary**

The Association of Bay Area Governments PLAN Corporation (ABAG) is a government entity pool which was formed in 1986 in order to provide property and liability coverage through risk-sharing for its member entities.

Aon Risk Services (Aon) was retained to undertake a claims management audit for ABAG. The audit was to include a review of files handled before and after the retention of a third party claims administrator (TPA) on August 1, 2014. The TPA selected was York Risk Services Group (York). Our principal ABAG contact during the audit was Ms. Jill Stallman, Claims Manager. Our principal contact at York was Mr. Alex Davis, who manages the team of three adjusters assigned to the ABAG account.

Between March 31 and April 2, 100 files were reviewed at the York office in Concord, California. This sample included 33 files that were handled solely by ABAG adjusters and 35 files that were handled solely by York adjusters. The 32 files handled by both entities tended to be larger files which were typically open for a year or more. The sample included 49 files were closed (all closed within the past year) and 51 files were open; 27 of the files involved litigation. The audit was complicated; two different claims management information systems were involved (Claims Connect for York, iVOS for ABAG), and there was a combination of paper and paperless files. Overall, claims and litigation management of the ABAG account has been solid, both before and after the transition. Some general pre and post transfer observations include the following:

### **ABAG in-house:**

1. Prior to Ms. Stallman's arrival, there was little evidence of any supervision in the files
2. Legal budgets were inconsistently used, and counsel had a tendency to run cases
3. There was a tendency to reserve large losses very conservatively

### **York managed:**

1. There is better supervision of adjusters documented in the files
2. There are efforts to manage litigation by York, but members and their attorneys still control most of what happens
3. Reserves are now being set at probable ultimate outcome.

We conclude that both before and after August 1, 2014 that ABAG's interests were well protected by its claims staff. We did not see any instances where claims settlement payments were unjustified and only a few where counsel's approach or fees were out of line. Interactions with the members and the public were generally good under both models. Procedures, diary, reporting and litigation management are tighter with York, with room remaining for improvement.

## Review Scope

Claim audit worksheets were prepared for each of the 100 files examined. This included 49 closed and 51 open files. Some salient statistics are addressed in the following statistical findings.

Files were reviewed for timeliness and completeness of investigation including communication with ABAG management as well as members and claimants, control over vendors, reserve development including accurate reporting on case reserves and payments, reporting to reinsurers and excess insurers, litigation management, risk transfer evaluation, subrogation and coverage evaluation.

The audit report includes a "heat map" providing a visual summary of the audit. Scores and color codes are as follows:

- 1: An orange cell = Needs Immediate Attention/Does not Meet Expectations
- 2: A yellow cell = Partially Meets and Sometimes Needs Improvement
- 3: No color = The Category Meets Expectations
- 4: A green cell = Always Meets and Sometime Exceeds Expectations
- 5: A dark green cell = Exceeds Expectations

The heat map was sorted in multiple versions to illustrate the audit findings. A 3.0 rating indicates the adjuster is meeting best practices 90% of the time, and is a "passing" grade. Below 3.0 does not meet best practices. Sorts include:

Sort 1	By date the file was created, with total adjuster scoring
Sort 2	By Member
Sort 3	By closed and open files
Sort 4	By files handled only by an ABAG adjuster, with scoring
Sort 5	By files handles only by a York adjuster, with scoring
Sort 6	By department

### A. Statistical Findings

#### 1. Incurred Value Summary

	Incident	1
0 - \$999		47
\$1,000 - \$4,999		16
\$5,000 - \$24,999		10
\$25,000 - \$99,999		14
\$100,000 and over		<u>12</u>
		100

The total incurred value on the files examined was \$4,210,006, or approximately \$42,000 per file. Many of the files with zero incurred value at conclusion were

property claims that started out with reserves in the \$5,000 range, but were closed with no payment due to the claimant deciding not to pursue the matter after rejection. This information is tracked on sheet seven of the attached exhibits.

<u>2. Member</u>	<u>File Count</u>	<u>Incurred</u>	<u>Average</u>
Benicia	9	\$11,608	\$1,000
Burlingame	7	\$8,037	\$1,000
Cupertino	6	\$1,231,142	\$205,000
Hillsborough	5	\$7,885	\$1,000
Milpitas	8	\$16,096	\$2,000
Morgan Hill	10	\$886,837	\$89,000
Newark	7	\$8,700	\$1,000
S. San Francisco	7	\$660,534	\$94,000
San Bruno	9	\$480,905	\$53,000
San Carlos	8	\$97,782	\$12,000
<u>Other</u>	<u>26</u>	<u>\$790,490</u>	<u>\$30,000</u>
<b>Total</b>	<b>100</b>	<b>\$4,210,006</b>	<b>\$42,000</b>

### 3. Adjuster Analysis

See sorts one (overall totals), four (ABAG only totals) and five (York only totals) for the scoring. It was difficult to rate the individual adjuster's performance on this sample; 65 files started with an ABAG adjuster; 32 of those then transitioned to a York adjuster leaving 33 that were "ABAG only". In an effort to better describe adjuster performance, we created sorts four and five to supplement overall scoring totals. The lower "file ratings" (third column below) on the "ABAG Only" evaluations were associated with a lack of supervision, which should not weigh against the individual adjuster's evaluation. Removing the supervision category generates the last column below, coded "adjuster rating".

All of Ms. Shea's files\* moved to York adjusters after 7/31/14. The attached values are a combination of ABAG and York. The rating on these six files was good, and at least half of the time the files were open, she was the file handler, supporting a positive finding (3.36) on her performance as a litigation manager.

<u>ABAG Only</u>	<u>Files</u>	<u>File Rating</u>	<u>Adjuster Rating</u>
Barr	2	2.75	2.90
Coleman-Doan	10	3.13	3.32
Hew	14	2.89	3.07
Nagal	2	2.15	2.36
Wong	5	3.07	3.20
Shea*	6*	3.33	3.36

Three out of the six ABAG adjusters had file ratings that did not reach 3.0, but "adjuster rating" resulted in four out of six passing and one just missing the mark.

<u>York Only</u>	<u>Files</u>	<u>File Rating</u>	<u>Adjuster Rating</u>
Gordon	10	3.18	3.18
Roduit	12	3.10	3.10
Rogers	13	3.11	3.10

As files are discussed in this report, it is helpful to note that 71730 – 72467 were created at ABAG between 1/14/11 and 7/23/11; ABGV00003 – ABGV23801 were created at York between 8/1/14 and 3/18/15 (at times, the ABGV prefix is omitted in this report).

<u>3. Departments</u>	<u>Count</u>	<u>Incurred</u>	<u>Average</u>
Administration	3	\$91,000	\$30,000
Fire	3	\$560	\$200
Park & Rec	2	\$435,132	\$218,000
Police	18	\$605,509	\$34,000
Public Works	74	\$3,077,745	\$42,000

See sheet 6 for supporting information on losses sorted by department.

Public works (including streets, water and sewer) made up the largest part of the sample examined. 74 files were included, with an average incurred value of \$42,000. Eight (8) of the files had incurred values in excess of \$100,000.

Public works streets claims were split evenly between the various adjusters, with one exception. All of the 12 claims we examined that Ms. Roduit handled were water and sewer related, primarily with single claimants. The benefit of this claims handling model (focusing on one person specializing in a particular class of claims) is that the adjuster develops a superior understanding of the nuances of handing the claim type, the law associated with this exposure and the vendors (principally remediation contractors in this instance) who generate good outcomes. Sewer claims can be particularly difficult to resolve. Ms. Roduit averaged a 3.09 rating on claims handling, which supports this adjusting model at York.

As we have seen with many other municipal focused file reviews, Park and Recreation claims, while infrequent, can have high values (it should be noted we coded tree related claims and some water related losses as public works as opposed to Park & Recreation, but this has no material effect on the data). In one of the two claims we coded for Park and Recreation (071562) there are recovery efforts associated with risk transfer that could result in a substantial reduction in the paid expense.

The 18 police claims examined did not develop any significant trends. Most of these files were well handled. There is a shooting case being pursued by Burris' firm where it appears an expense reserve needs to be increased (072905). File

072662 was very well handled. There was an early recognition that while liability was very questionable; an early economic resolution was in order. A case that could have cost hundreds of thousands of dollars to defend was resolved for much less than the probable cost of defense. Conversely, on file 071730, over \$90,000 was spent on law and motion on a pro per case. There was little in the way of cost control. The initial legal budget was exceeded, and the bills seemed to have been paid.

There was no particular focus on assigning adjusters who specialize in police cases in either the ABAG or York models. More often than not, TPAs and self-administered pools assign adjusters to specific members in order to develop familiarity and foster clearer communication as opposed to assigning adjusters by department type (police for example). Another variation often seen is assigning all litigated files (caseload permitting) to one litigation manager and having adjusters handle non-litigated files.

## **B. Reserving**

Reserving under both the ABAG and York models has been very good. See Sheet 5 which tracks the files by total incurred value (incurred being the combination of paid and reserved values) for background information. The file review sheets capture both loss and expense values. Rather than create a score for reserving, we color coded the incurred value columns where we believe that there were or are issues with payments or reserving. Where possible, we captured interim developments in order to track the history of incurred values. Questionable values occurred on only seven files. In three instances, reserves were too conservative and in four instances reserves were too optimistic.

The tendency at ABAG was to reserve conservatively (i.e., estimate that more money than is probably needed should be kept available) on larger losses. When Aon was assisting CJPRMA with an evaluation of ABAG's reserving history we noted the same trend on larger files. This provides the pool with the benefit of a high comfort level that there is enough money in reserve to pay all potential losses. It could have a slightly adverse effect on actuarial modeling, as artificially high reserves and the associated incurred but not reported (IBNR) values that actuaries add based on existing reserves could make the pool look like it has higher loss potential than it actually does. Three cases on point include 07306 (\$80,000 settlement on \$200,000 in reserves), 072662 (\$122,202 paid on \$612,997 in reserves) and 072660 (\$459,467 paid on \$803,300 in reserves).

With respect to under reserving (being too optimistic), there are four examples. On file 071785 a lack of accurate budgeting led to several interim expense reserve changes (pre-York). Files 072419 and 072905 currently need expense reserve increases. It is not clear how York is accounting for the possible

recovery of expenses on 071562, where there was an appropriate tender of defense early in the life of the file. York's attempts at getting legal budgets from counsel should help fine tune the issue of reserving around legal costs. Budgeting will be discussed in more detail in the litigation management caption.

We did not see many files where we thought that under reserving with respect to loss values was an issue; however, it is difficult to tell in many of the files how the reserve values are achieved. York's Claims Management Review documents do provide an overall assessment of the claim, including liability and damages issues. They could be enhanced by more commentary on specifically how the injury or property damage reserves are being determined.

We do believe that since the York take-over, reserving is more focused on "probable ultimate cost" or "ultimate outcome" than it was in the past. The reserves that have either been set up on new files or reviewed and changed on existing files after August 1, 2014 do appear to have a stronger correlation to what will eventually be paid on a file for both loss and expense. Reserving, one of the most important factors in a claims management program, appears to be trending towards improved accuracy. ABAG has delegated this responsibility to York. It would be helpful if York could consistently give ABAG a clearer understanding of how reserves were set so that they could have a higher comfort level with them.

### **C. Investigation/Contact/Control**

The overall scoring in this category for all 100 files was 3.12. The 33 ABAG only files rated out at 3.06 and the 35 York only files also rated at 3.06.

Early contact with claimants and members is seen routinely in all files. York is doing a very good job of documenting their efforts in this area. First day acknowledgement, contact with the member and with the claimant or their counsel is seen in almost every file examined.

Efforts at maintaining "control" over claimants are very good. There are several files where it is clear that the adjuster is either maintaining or attempting to maintain a rapport with claimants in an effort to keep them away from plaintiff counsel (see files ABGV-0095A2, 23619, 23643, 23689, 23735, 23851, 23889, and 23919). While this tactic is not always successful, it is definitely a "best practice", and one which we saw frequently in the files.

There is a good deal of interaction with the members relative to investigation. Most of this is documented in emails or notes on phone calls followed up by action requests to the members in the form of reports. We did see a few files where ABAG adjusters were going to accident scenes and taking photographs, this was infrequent (about 10 – 15% of the files). Most investigation consisted of

directives from adjusters to various city departments (often through the City Attorney's office) to provide photographs, records relative to sewer line clean-out efforts, accident history at locations and police reports. Early evaluation of liability through both on scene and documentation has almost uniformly allowed ABAG to issue timely rejections in order to get time running on required filings, thus reducing the time that a file is open.

Files where investigations and control issues could have been improved include 072535 (no documentation of what the ABAG adjuster did on site), 072612 (very late recognition on ownership issues) 20662 (late efforts to document a sidewalk deviation), 23728 (late photos, locus history and witness statements to document line of sight issues).

There were two files (23703D2 and 23703F2) where a vendor was retained for property inspections. In both instances, reporting on the findings was slow. If vendors are going to be used to assist on outside investigations, they need to be kept on diary. We did note that York followed up in these instances. If needed in the future, ABAG needs to be notified of such issues and press the issue with the vendor concerned.

One thing that we did not see documented with any regularity was the aggressive use of internet and/or social media (Google, Google Maps, Facebook, Superior Court website case lookup, and other social web sites) when investigating and validating claims. It is very common for people to "post" information that can yield valuable information. We encourage York to use this resource going forward, particularly on injury claims and claims of exterior property damage.

#### **D. Reporting**

Reporting on all 100 files reviewed averaged a best practices level of 3.0. ABAG's overall rating was 2.81 and York's was 3.09. York's initial Claims Management Reports are well designed, giving the recipient a good basic understanding of the claim facts, typically within two weeks of file creation. Mr. Davis reviews all outgoing reports. Interim reporting is good.

Files where reporting from ABAG adjusters was inadequate include 072464, 072535, 072612, 072801, 072865, 072964, 073025, 073220, 073281 and 073439; files where York's reporting was inadequate include ABGV-0095A2 and 23469.

#### **E. Communications with Excess Insurers**

There were not enough excess reported files to generate scoring. All of the files that we reviewed that had any excess potential had been immediately reported.

ABAG and York have done a good job of communicating with the excess carrier. The excess carrier advises as to whether or not they needed continuing reporting. There is good communication between the claims department and the excess carrier (AIG on the files examined). ABAG's proactive approach to resolving serious cases of disputed liability, when possible, is appropriate and cost effective, and will be viewed in a positive light by any excess provider.

#### **F. Litigation Management**

Overall, litigation management rated at 3.29. There were multiple files that included both ABAG and York adjusters. The ABAG only files rated at 3.0 and the York only files at 3.5 (in both instances, too few files from which to draw significant inference). Ms. Shea handled litigation for ABAG, and as noted earlier, files she was involved in along with York averaged 3.33.

All municipal pools that provide general liability coverage have challenges with litigation management issues. The fact that members have their own retentions and their own relationships with counsel can result in a city having a different agenda than the pool might. We did not see a great deal of conflict around this issue going on in the litigated files reviewed.

Prior to August 1, 2014 the attention to obtaining case evaluations, initial and ongoing reports from counsel, and legal budgets was spotty. For example, on file 073007 the initial evaluation was late, but compliance was good going forward. File 071785 shows a history of increasing expense reserves without budgets, and defense counsel recommending settlement values, which we believe is the adjuster's job. On 072626 a budget was requested on January 23 but had not been received as of April 1. Files 072260, 072801, 072905, ABGV-0005A1, 19683 and 23664 did not include litigation budgets. Counsel's reporting on 072464 was inadequate. File 23469 requires clarification on counsel's duties relative to the case due to possible coverage issues. File 23664 shows a request for reporting from counsel, but while promised, it is late.

There was a tendency for the prior ABAG adjusters to abandon management of the litigation management process to the various law firms involved. We did not see a great deal of direction or collaboration relative to the course of some cases.

There are some positive trends. While file 073007 originally lacked a budget and was underreported, communication and case planning have improved since August 1, 2014. File 073388 has been well developed (but is due for a comprehensive report from counsel). A good example of a well-managed file is 072662, where both Ms. Shea and the following adjuster at York were well engaged with counsel relative to a police case involving the Town of Ross that had the potential to generate a large award. ABAG's claims manager was

involved from inception. While the budgeting process was absent, the result on 19683 was good. Other examples of files where communication and litigation management appears to have been good are 071562, 073007, 073388, and ABGV-0089A2.

Going forward, there should be an increased emphasis on getting accurate legal budgets early in the life of litigated files. Since many of the "York only" files reviewed are relatively new, it is difficult to make an assessment of how well they are doing. There are efforts to obtain budgets but they are not always successful. York and ABAG need to make this a priority, as budgeting is a critical component of early assessment. Litigation planning depends on case strategy – is this a case that will likely be settled or a case that will likely go all the way to or through trial? Getting an accurate budget from counsel is a critical factor in this analysis. If ABAG and the member both understand that it is going to take \$75,000 in fee and expense to defend a case of questionable liability that can be resolved now for \$25,000, they can have an intelligent business discussion about which way to go. Politics can affect settlement decisions, but economics can override this. If, however, counsel has projected a \$25,000 budget in a case like this, then politics will prevail. Basing such discussions on accurate budgets helps better frame how the case will be litigated, and prevents finger pointing after the fact. Similarly, good ongoing reporting from counsel validates the litigation plan, which can be changed as needed.

#### **G. Settlement/Case Resolution**

The overall rating for evaluating and settling cases was 3.14. ABAG only files rated at 3.09 and York 3.17. The settlements reviewed were all appropriate. We did not see any files (with the exception of the subrogation case noted below) where we thought that settlement values were out of line or could have been significantly better had other courses of action been taken on the files. Some of the logic behind the settlements could be better explained in the files, but in large, we were able to follow it and agree with the resolutions that were reached.

Examples of good claims resolutions can be found in files 073238, ABGV-0111A2 (a good early compromise to prevent litigation), a number of Ms. Roudit's sewer claims, including ABGV-0112A2 and 072662 (a death case where a good early economic resolution was reached).

Case resolution was slow on 073229, and we believe that the adjuster could have been more aggressive in dealing with a subrogation claim on file 073248.

One recommendation we have for ABAG and York involves the concept of "roundtables". These would be in addition to claims committee presentations, where a claim is nearing some kind of adjudication and its course is essentially set. In many pools, there is a quarterly roundtable meeting where several cases

being handled by a firm are discussed, especially those that are showing evidence of drifting away from the litigation plan, or where the budget has been exceeded. Defense counsel is asked to meet with the adjuster, pool claims staff, and, if appropriate, a member representative (this tends to be optional). Counsel is asked to address the case at hand, and justify what has occurred to date on the file and explain where the case is headed and what the settlement value is. This face to face approach is very helpful in dealing with issues such as, "What happened to that \$40,000 expense budget?", "Why are you recommending settlement now when you indicated this was a case to defend?", or "Great job on this case, you were spot on and we agree with your analysis". While there is a cost involved in having counsel spending half a day with you, the benefits going forward (once counsel knows he or she will be on stage on future cases he or she tends to be more responsive) are usually clear – better communication and more accurate budgeting. This translates into lower incurred values on both settlements and expenses.

#### **H. Coverage/Contractual Issues**

Confirming coverage is really a basic requirement on all files. Opportunities for risk transfer can occasionally be missed, so we do review all files for this. Scoring on coverage and contractual issues was good, with an overall average of 3.20 including 3.40 for ABAG and 3.06 at York; risk transfer rated at 3.20 overall, including 3.60 at ABAG and 3.0 at York; however, these results are a bit nebulous because only 20 cases involved risk transfer issues.

We found no instances where coverage issues were missed. In those rare files where coverage issues existed, we could see them addressed. Contractual risk transfer opportunities are well recognized, with both adjusting operations doing well in this area. For example, see file 071652 where defense and indemnity was tendered early to Zurich. Here, post tender cost recovery efforts are still ongoing. The method of tender and reserving issue that results are a bit unusual on file 23899 but if the responsible party is paying and has funds (in fact, they do), there is no harm in fronting the money for them.

#### **I. Self-Insured Retentions**

Member SIRs are tracked and noted in every file on either an ABAG or York data entry document. Attention to erosion of the member's SIR was noted in litigated files. Collaboration between members and ABAG adjusters relative to threshold issues (i.e., any financial concerns to the pool once the SIR is approached) was noted. We did not see any instances wherein a member's SIR became an issue in relation to whether or not to settle a claim.

## **J. Housekeeping**

Housekeeping in the vast majority of files reviewed was good. There were no examples of any misfiled documents in either ABAG or York files. Material in the electronic York files and the ABAG hard files matched the data which was captured in the financial sections of the claims management systems. There are some instances where one has to search in the York claims system to match documents to the appropriate notes, but the connections can be made.

## **K. Claims Management Information System**

Two claims management information systems were reviewed in association with the audit. ABAG files were on the iVOS system, with York using their proprietary "Claims Connect" system. Our access to data on iVOS was limited to tracking paid and reserved values when the files were transitioned to York on August 1, 2014. The values we found in the database were consistent with that seen in the hard files. We are quite familiar with iVOS, and are certain it met the basic needs of the ABAG adjusting staff.

The Claims Connect system also works well, although the user interface was a bit difficult at times. We have not encountered this problem on other York audits we have done in their Roseville office. The York staff advises us that the Concord office occasionally has issues with the system that requires accessing data through alternate routes (we also found this to be the case – you can get at data but sometimes you need to get creative about how). A better system failsafe might have caught the error in paying legal invoices twice on file 72464. Overall, the system does work well most of the time, and the data it produces is consistent with that found in the file notes.

## **L. Supervision**

The overall rating for supervision on the 100 files reviewed was 2.69. The ABAG files did not meet best practices for supervision on many of the older files. The supervision score for ABAG only files was 2.0; in fact, 24 of the 65 files (37%) with an ABAG file creation date lacked any evidence of supervision. Supervision improved in ABAG files after the addition of Jill Stallman. After her arrival, we could see supervisory efforts in the files. Based on the sample of files reviewed, there was not a formal supervisory process in effect before her addition, as there is rarely any comment in a file from anyone other than the file handler before then.

York's rating for supervision was 3.0. Documentation in support for supervisory input in the files was common in the files. While we gave York consistent 3s for meeting their internal standards, we were actually quite impressed with the

adherence to supervisor diary. Mr. Davis reviews files when they are set up, and then on a quarterly basis or when payment or reserve changes are requested and monitors the case reporting. While he does add supervisory comments on many files, this could be enhanced or better documented. While the supervision at York is of a higher standard than that seen in the ABAG files, it is essentially now meeting a best practices level that is to be expected. Finally, while Mr. Davis is responsible for supervision at York, some of Ms. Gordon's files were reassigned to him in March. Scoring on these files was still coded to Ms. Gordon. It is too early to assess whether or not managing these cases will compromise his ability to supervise colleague's files.

Of the 60+ York managed files (either take over or York created), we felt that there were only two files where supervision could have been improved while there were nine where there was clear evidence of good interaction.

#### **M. Summary**

We conclude that ABAG's members interests have been well protected both before and after the transition from an in-house claims management program to a third party administered program. The current model, based on the file sampled, is better documented, and is more effective relative to both reserving and litigation management; however, the settlements achieved under both models were good. We see some increasing efforts to manage litigation on the part of York, which will probably grow in effectiveness as the adjusters and counsel chosen by ABAG and its members grow more familiar with each other. Enforcement of existing litigation management protocols, perhaps enhanced through roundtables and claims committee meetings will help get everyone on the same page and build an even more collaborative approach to claims resolution.

We thank you for this opportunity to have been of service, and look forward to discussing this report with staff or the board as is deemed necessary.

Sincerely,

Craig Bowlus, ARM  
Managing Director | Risk Pooling  
Aon Risk Services



**Date:** June 17, 2015  
**To:** PLAN Board of Directors  
**From:** Jill Stallman, ABAG PLAN – Claims Manager  
**Subject:** Claims Committee Activity - FY 2014/2015

### **Overview**

In accordance with the ABAG PLAN Bylaws, Article VIII – Committees, “The Claims Committee is charged with the duty and responsibility of reviewing and authorizing all payment of settlements which exceed a Member Entity’s deductible and is above the authority level of the PLAN Risk Management Officer. The Claims Committee, upon request by ABAG or a Member Entity, may hear and make recommendation(s) on the initial appeal on all staff determinations of coverage for, and settlement of, a third party claim against a Member. The Claim Committee may also establish a Defense Counsel list.”

### **Activity Summary**

During this past fiscal year the Claims Committee met four times; July, October and November 2014 as well as March 2015. During those meetings regular dialogue takes place on selected claims as to changes in the legal landscape and potential settlement opportunities. During the meetings, round-tableing of ideas and strategy, including early intervention, take place. PLAN continues to work with members individually on managing larger and more complex claims so as to arrive at the lowest ultimate outcome for the Member and for the pool as a whole. We take a collaborative approach and factor in feedback from the member which impacts the overall big picture.

Following are some broad highlights of the committee activity.

- Settlement authority on three larger cases was granted.
- A new defense attorney, Matthew Orebic (former Deputy City Attorney for the City of Berkeley who now has a private practice) was added to the Defense Panel list. Matt is currently working on cases for Tiburon, Dublin and Newark.
- The Committee reviewed and discussed PLAN Large Loss Report and identified claims in the pool with Total Incurred exposure of \$150K or more. The most recent Large Loss Report was also presented to and discussed with the Executive Committee.
- Conducted a review of the Litigation Activity and 6 month calendar of scheduled activities. Liability Claims Audit was presented and discussed. A member satisfaction survey will be coming soon to members to get feedback regarding the intangible service elements.

Staff and committee welcome open discussion from members of the board. Active participation amongst the Committee Members is very high and the Q&A is vibrant.