

HCCA COMPLIANCE INSTITUTE

*The Value of Claim & Litigation Management
Audits –
What are They and What Can They Mean?*

April 23, 2007

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Program Overview

- ▲ Discuss what can trigger the need for a claim and litigation management audit;
- ▲ Learn when and how often an audit should be performed, who should perform a claim and litigation management audit and what the audit should cover;
- ▲ Identify what an audit report tells you about your insurance program and insurance financials, and how to cut costs and streamline expenses within your program as a result of audit findings.



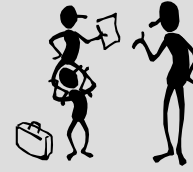
The Amazing Healthcare Balancing Act

- ▲ High quality health care
- ▲ Proper disclosure without admissions of liability
- ▲ Reduction of claims exposure
- ▲ Reduction of litigation costs
- ▲ Maintaining community and patient relations
- ▲ Medical Malpractice Crisis = Alternative Risk Transfer Program (ART) for many healthcare professionals.

Management of Exposure

- ▲ With the decision to manage exposure by healthcare professionals – comes a whole new set of responsibilities – and in many cases – a learning curve;
- ▲ Delicate balance between the aggressive management of risk and the aggressive management of costs and expenses;
- ▲ Recognition that to large extent – the success of an alternative risk transfer initiative will depend upon the program's ability to manage exposure (claims) and costs.

What Triggers an Audit?



- ▲ Many things can trigger the need to look at your claims and litigation management processes through an audit:
 - ▲ Due diligence – either outsourced or in-house claims processes;
 - ▲ Large claim indemnity payments which were unexpected – reserving questions;
 - ▲ Rising costs and expenses to resolve claims;
 - ▲ Claim files being open for long periods of time.

How Often Should We Audit?

- ▲ Due Diligence:
 - ▲ In-house – No less than every two years
 - ▲ Outsourced – Depends upon the outsourced partner and tools available to the client
- ▲ Reserving issues and claim management questions –
 - ▲ As soon as the questions arise

Who Should Perform this Audit?

- ▲ There are many types of audits – the most common audit is a reserve audit done by actuaries and/or excess insurers;
- ▲ These audits tend to focus on reserve amounts;
- ▲ A claim process audit is done by claims professionals and is designed to review the claims and litigation management processes themselves.



What Should be Included?

- ▲ Interviews of Key Claims & Risk Personnel
- ▲ File Duration
- ▲ File Investigation
- ▲ Claim Management
 - ▲ Are there procedures?
 - ▲ Are they being followed in accordance with industry standards?
- ▲ Reserves
- ▲ Litigation Management
 - ▲ Is there evidence of active management of litigation?
 - ▲ This is the area where costs can sky rocket
- ▲ Written Report and Recommendations

What Can Be Learned?

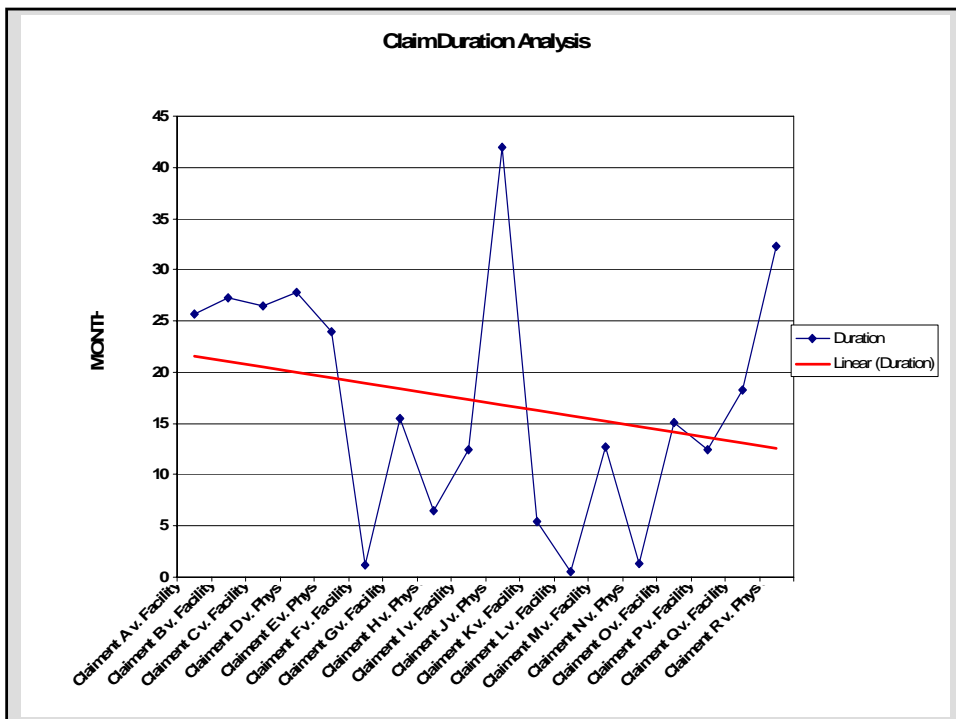
- Once an audit is completed, you should have both the big picture of how your program is being managed;

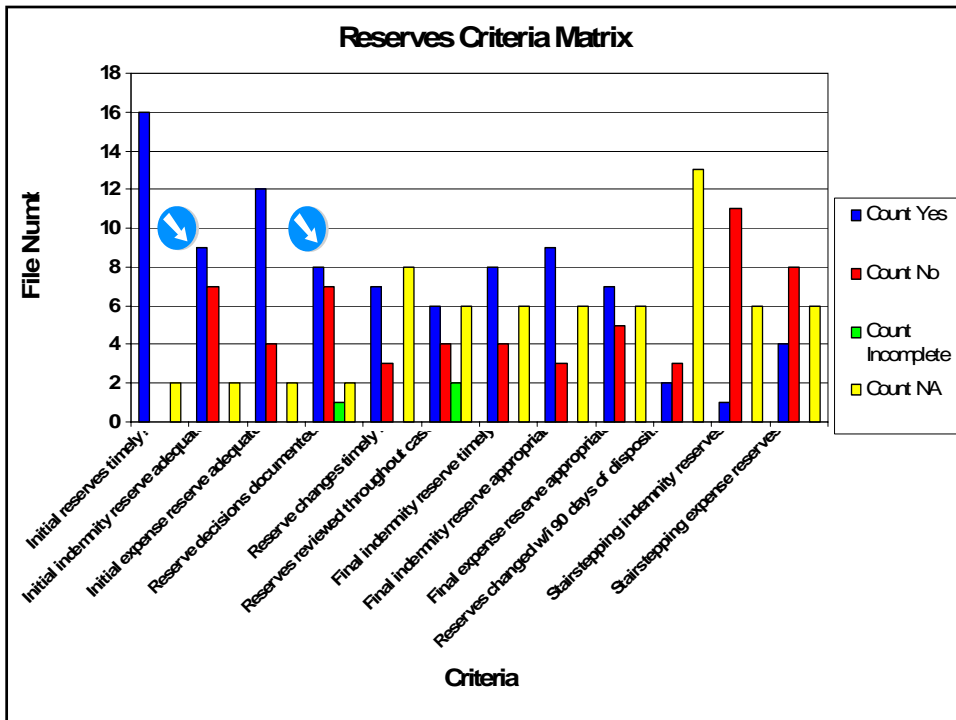
AS WELL AS

- A very specific picture as to each file audited;

AND

- Specific recommendations for improvements and/or concepts for additional ways to manage your exposure.





How Do We Use What We Learn?

▲ Initially:

- ▲ Utilize the audit findings to either know that your program is working or to develop new procedures and philosophies to improve the management of your expenses and exposure.

▲ Over time:

- ▲ By conducting audits every year to two years, you can begin to develop internal benchmarking for your costs and exposure.

An Example

- ▲ Let's Assume the audit report shows:
 - ▲ File Duration is high according to industry standards (longer than 3-5 years for litigated files); and
 - ▲ Defense costs average more than \$100,000 for defense through discovery; and
 - ▲ That most litigated files settle after discovery but before trial.
- ▲ There are many reasons for these results:
 - ▲ Jurisdiction;
 - ▲ Lack of active management by claims personnel;
 - ▲ Lack of movement of file by defense counsel.

What Do We Do?

- ▲ Review litigation budgeting and billing guidelines and practices;
- ▲ Institute new procedures for more active role of claims manager;
- ▲ Contemplate whether there are other ways to resolve claims and disputes outside of the litigation process.



Mediation Before Litigation

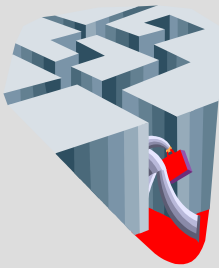
- ▲ A Voluntary Mediation program can be a powerful tool to combine great community relations with effective and early management of exposures.
- ▲ Potentially reduce liability exposure.
 - ▲ Litigation can = Greater Settlement \$\$
- ▲ Reduce costs of defense of claims with clear exposure
 - ▲ Settlement before Litigation = Significantly Reduced Litigation Expenses

How Do We Measure?



- ▲ Quarter to Quarter
 - ▲ The first place to look to see the effect of initiatives as a result of adopting claims audit recommendations is in your loss run reports – are there changes in the reserves, etc.
- ▲ Year to Year
 - ▲ As you build a history of audits and reports, you will have the ability to trend the long term effects of changes to your program and ultimately reduce costs and exposures in your ART program.

Conclusion



- ▲ Managing risk, exposure and all of the other obligations facing healthcare professionals is a huge challenge;
- ▲ Being diligent about how that happens will reduce exposure, expenses and ultimately litigation and claims.

Questions/Comments

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Thank You