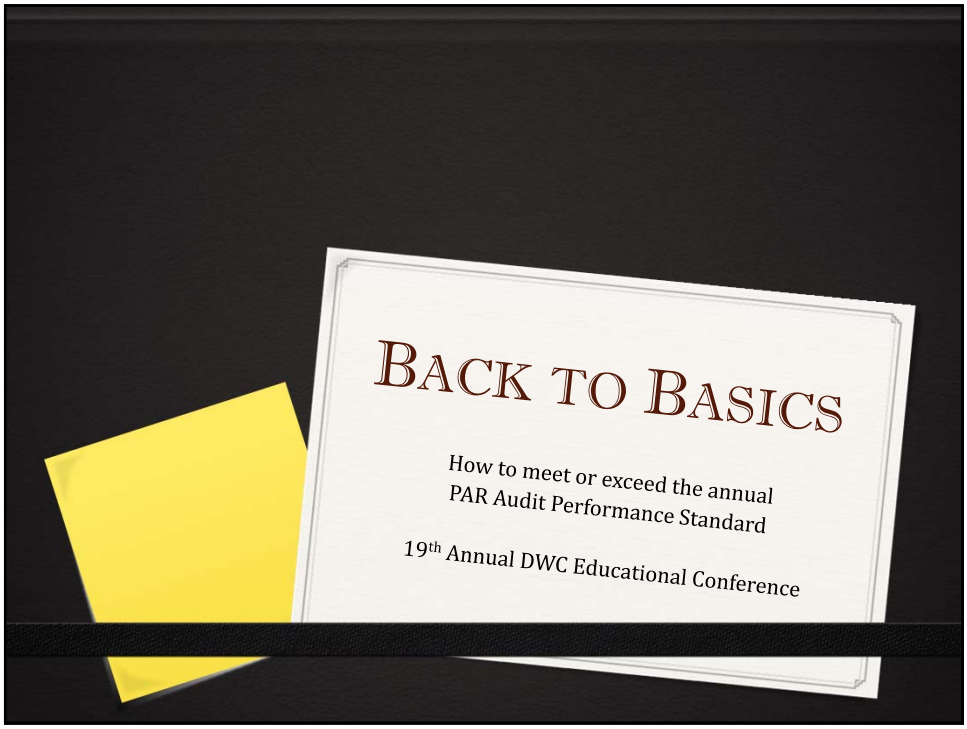

Audit Performance Standard

The annual performance standard is set by the industry using performance ratings for all final audit reports for the 3 CY prior to the year preceding the year of audit commencement [8CCR§10107.1(c)(4)]

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Audit Performance Rating

There are 5 performance factors, 4 of which deal with the provision of indemnity payments

1. Payment of accrued and undisputed indemnity
2. Late first payment of TD / first notice of SC
3. Late first payment of PD and DB
4. Late subsequent indemnity payments
5. Provision of QME/AME and SJDB notice(s)

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How to have a successful audit…

- Document and properly calculate the AWW
- Payment of benefits through the date of the check
- Verify periods and amounts owed
- Payment of all accrued PD
- Payment of SII
- Document / investigate all issues affecting the provision of benefits

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How to have a successful audit…

Document & properly calculate the AWW

Wage statement analysis is critical

- Overtime earnings?
- Broken periods of earnings?
- Additional earnings (tips, meals, commissions, etc)?
- Concurrent employment?
- Change in the earnings rate, pre or post DOI?

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How to have a successful audit…

Document & properly calculate the AWW

(AWH x ST rate) +(AWH x OT rate) = AWW

True or false? *If there is no documentation of earnings, temporary disability must be paid at the maximum rate.*

6

How to have a successful audit…

Payment of benefits through the date of the check

- Payments must be timely and accurate
- Timeliness for first payment is based upon the employer's date of knowledge
- The schedule for subsequent indemnity payments is set by the first payment
- All accrued indemnity is due as of the date of the check

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How to have a successful audit…

Verify periods and amounts owed

For temporary disability

- Document time lost with the employer
- Document medical authorization for TD and TPD
- Confirm periods and amounts owed for injured workers who have received EDD benefits
- When applicable, comply with Labor Code §4661.5
- Provide accurate notices for first and final payments

For permanent disability

- Monitor for permanent and stationary status
- Provide accurate notices for first and final payments

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How to have a successful audit…

Payment of all accrued PD

PD is to be paid in accordance with Labor Code §4650(b)

- Due no later than 14 days after terminating TD
- When must a reasonable estimate of PD be paid?
- PD accrues as of the day after the last day of TD
- If no lost time, PD accrues no later than the day after the injury becomes P&S
- PD rate for TPD and LP may be subject to increase in accordance with Labor Code §4659

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How to have a successful audit…

Payment of all accrued PD

- PD rate for PTD and LP may be subject to increase in accordance with Labor Code §4659
- All uncontested PD must be paid as it accrues

True or false? *When paying PD, 15% can be withheld on all files to cover applicant's attorney fees.*

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How to have a successful audit…

Payment of Self-Imposed Increase (SII)

Paid in accordance with Labor Code §4650(d)

- Applied to late paid TD and PD
- Paid without application
- Protected period: DOI through 14 after filing DWC 1
- When a "first" TD or PD payment is subject to SII, a payment scheduled is imposed to identify the late paid indemnity subject to SII

True or false? *The first 28 days of TD is never subject to SII.*

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How to have a successful audit…

Investigate / Document all benefit provision issues

The employer has both the right and the duty to investigate a claim of industrial injury (8CCR§10109)

- Reasonable and timely investigation
- Obtain information for provision of all benefits
- Must address issues that may effect acceptance of liability and provision of all benefits
- All claimants to be dealt with fairly / in good faith

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How to have a successful audit…

Investigate / Document all benefit provision issues

Documentation of all investigation is to be retained in the claim file

- The employer's DOK of issues is the basis for timely provision of benefits
- Notes and documentation related to the provision, delay or denial of benefits
- Notes or documentation for medical, legal or factual basis for non-payment of delayed payment of benefits
- Documentation of communication of significance to claims handling (include date, substance, and identification of parties)

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How to have a successful audit…

Investigate / Document all benefit provision issues

Claim file contents must provide the bases for determining compliance with the regulations for benefit provision:

- The time frames for provision of benefits are considered when citing and assessing administrative penalties
- A date of receipt should be recorded for all documents
- The penalty for an action taken more than 30 days late will carry an administrative penalty for not taking the action unless the regulations provide otherwise

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How to have a successful audit…

Investigate / Document all benefit provision issues

If an administrator does not pass the PAR audit process, the Audit Unit conducts a more comprehensive review of all benefits, including but not limited to:

- Benefit notices (provision, timeliness, content)
- Payment of medical treatment and medical/legal expense
- Failure to investigate
- Unsupported denial of liability

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How to have a successful audit…

Investigate / Document all benefit provision issues

Issues considered when auditing a denied claim

- Is there a medical, legal or factual basis for the denial?
- The employer has the burden of proof for establishing the affirmative defenses listed in Labor Code §5705
- Is there a reasonable and timely investigation upon knowledge of an injury or claim for benefits?

True or false? *A Doctor's First Report of Industrial Injury (Form 5021) is not medical evidence of an injury?*

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How to have a successful audit…

Investigate / Document all benefit provision issues

Issues considered when auditing a denied claim

- A claim can be denied if an employee's refusal to cooperate with an investigation is critical for the determination of liability
- When investigating liability for a claim an administrator must comply with the regulations for payment of medical and medical/legal expenses
- A "conditional denial" is essentially a delay and must be addressed in a timely manner when the missing information is available

True or false? *A claim can be denied if the injured worker does not file a Workers' Compensation Claim Form DWC 1.*

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