

Subsequent Injury Fund

The Department of Labor and Industry effectively manages the Subsequent Injury Fund, but improving management controls associated with assessments and anomaly identification could enhance the program.

Audit Findings

The Subsequent Injury Fund (SIF), as a component of the state’s Workers’ Compensation program, is managed by the Department of Labor and Industry. The SIF is intended to help disabled workers obtain work by reducing an employer’s long-term financial liability if that worker is reinjured on the job. In Montana, the SIF program will reimburse employers if a SIF-certified worker experiences a workers’ compensation claim that lasts more than 104 weeks.

compliance with Montana statutes in determining SIF assessments and detecting/detering potential abuse to control costs?

- Is the department in compliance with applicable Health Insurance Portability and Accountability Act (HIPAA) requirements as it relates to the SIF program?

We found that the department complies with statutes related to calculating SIF assessments. However, lack of written procedures to guide the assessment process increases the workload of staff assigned the task of calculating the SIF assessment. There is also a lack of documentation of management’s approval of assessment decisions, which would also assure statutory requirements are met. The department has initiated procedures to correct both of these issues.

During our audit activities, we found instances where anomalies existed in SIF data. While these anomalies did not appear to result in increased assessments or reimbursement of fraudulent claims, the program did not have procedures in place to detect the anomalies. For example, we found the program did not screen their database for deceased workers. Once a screen was conducted, 392 certified workers were identified as deceased and 68 names did not match social security numbers on file.

The department has implemented changes to its database that automatically identify Workers’ Compensation claims filed by SIF certified workers. There was a concern this automatic notification process might violate HIPAA regulations that protect individuals

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Montana Subsequent Injury Fund Certified Workers (1973 - Present)		
Year	Certified Workers	Cumulative Total
2003	194	3,229
2004	173	3,402
2005	208	3,610
2006	216	3,826
2007	177	4,003
2008	162	*4,165

*Includes 392 deceased individuals

Source: Compiled by the Legislative Audit Division from Department of Agriculture records and SABHRS data.

The SIF program funds these reimbursements solely from assessments against the state’s employers. Since 1950, Montana employers have been reimbursed \$7.1 million by the SIF program for injuries to SIF certified workers.

Two objectives were identified for this performance audit.

- Does the department have sufficient management controls in place to ensure

from disclosure of medical conditions. We found the department complies with HIPAA disclosure requirements and is careful to ensure notifications do not identify the nature of a SIF certified employee's disability.

Audit Recommendations

The SIF program is a small program that serves a limited population of employers. However, each employer has the same potential for reimbursement by the SIF program in the future. As such, each employer should be able to expect that the program is complying with statutory requirements, has effective oversight, and is protected against unnecessary loss. Management controls can be improved in those areas that have the

greatest impact on employer costs, namely SIF assessments and anomaly detection.

We recommend the Department of Labor and Industry improve management controls to ensure:

- Written procedures are established for determining SIF assessments.
- Documentation of management approval of SIF assessments.
- SIF data is screened annually to identify anomalies.
- Procedures are established to ensure identified anomalies are evaluated and corrected, if necessary, to assure program costs are contained.

For a complete copy of the report (09P-03) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the web site at <http://leg.mt.gov/audit>
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