



ARE YOUR VOLUNTEERS COVERED?



Volunteers are unquestionably one of the greatest assets that most municipalities possess. These unpaid agents for the town often provide robust help during spring clean-up, plan and supervise a full array of recreational activities, serve tirelessly on budget, comprehensive plan and bicentennial committees, and act judiciously as planning and appeals board members.

The actions or decisions of volunteers may leave the town exposed to general liability or public officials liability claims. A volunteer injured while performing municipal duties might seek reimbursement from the town for medical or dental costs. Even if the town is not at fault, the defense against such claims may be costly. Thus, it is important for each municipality to be knowledgeable about the coverages it carries with regard to volunteers.

LIABILITY COVERAGE

The Risk Management Services Property and Casualty Pool coverage document was written specifically for municipalities and quasi-governmental entities, therefore, it inherently recognizes the important role played by volunteers. The coverage document's definition of "Member" reads, "It is agreed that the unqualified word "Member" wherever used in this Certificate includes not only the Named Member but also:... All employees, volunteer workers, officers, servants, elected or appointed officials, and any member, trustee, director or officer of the aforementioned groups set forth in Subsection 1 above, are also included as Members but only for acts within the scope of their employment or duties for the Named Member and while under the Named Member's direction, jurisdiction and control." While each claim against the municipality is evaluated on its own merits, the intent of the Pool coverage document is to provide the town with protection (defense costs as well as any judgment) for a negligent act or omission of a volunteer that results in a claim against the town.

If your municipality carries commercial liability coverage, it is wise to ask your local agent or insurance carrier to provide you with written verification that the liabilities of your volunteers are covered through your existing policies. Coverage language changes from time to time, therefore it is advisable to obtain such documentation on an annual basis.

WORKERS COMPENSATION

Maine state law requires municipalities to carry workers compensation coverage for all paid employees, paid municipal officers/officials and volunteer fire fighters (including unpaid and paid fire fighters).

ACCIDENT INSURANCE FOR VOLUNTEERS

The potential for a volunteer to be injured while performing duties for the municipality is real:

- ◆ An unpaid Planning Board member breaks her ankle while participating in a site inspection and insists that the town pay the medical costs.
- ◆ A volunteer hockey coach, finding himself on the wrong end of a hockey stick and chipping a tooth, asks the town to pay his dental insurance deductible.
- ◆ A college student who carries no health insurance donates time teaching guitar at the town's youth center. He slips on icy stairs and breaks his wrist.
- ◆ The town's volunteer librarian seriously strains her back while lifting books. She asks the town to pay for physical therapy that is not covered by her health plan.

Injury to a volunteer is always unfortunate. Not only may the town temporarily lose the services of the individual, the incident may place a rift in the relationship between the town and the

volunteer. Unless the municipality has provided some mechanism to pay for volunteer injury claims, the volunteer may be placed in a position of having to file a claim against the town's general liability coverage and assert that the town was negligent and thereby responsible for the injury. Defense costs, negative publicity and the potential permanent loss of one or more volunteers could result.

Priced at \$3.75 per volunteer, per year, Accident Insurance for Volunteers is an extremely cost effective coverage that serves multiple purposes. It provides coverage for medical and dental reimbursement as well as death and dismemberment compensation. Obtaining such coverage for your municipal volunteers sends a message that their services are valued. Additionally, the coverage benefits the town since it reduces the risk that a volunteer's work related injury will result in adversarial action against the municipality.

Participants of the Risk Management Services Workers Compensation Fund or Property and Casualty Pool are eligible to enroll in the Accident Insurance for Volunteers Program through Risk Management Services' broker, C.J. McCarthy Insurance Agency. The coverage, which is not part of the MMA Property and Casualty Pool, is underwritten by CIGNA. The policy provides up to (per accident): \$25,000 for medical expense reimbursement; \$900 for dental expense reimbursement; and \$2,500 for death or dismemberment.

Are your volunteers covered? Does your municipality carry coverage for the negligent acts or omissions of its volunteers? What will your town's exposure be if a volunteer is injured while performing municipal work? The New Year presents an excellent time to review your coverages and ask questions of the Risk Management Services staff at: 1-800-590-5583 or contact your local commercial agent.

The Municipal Risk Manager

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

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Workers Compensation Coordinating Council

At the Annual Meeting and Seminar of the Workers Compensation Coordinating Council on November 12, 2003, attendees had the opportunity to learn how to improve communication between employers, insurers, and medical providers.

Jennifer Christian, MD, the presenter, identified three opportunities for improving the management of disabilities. First, employers and insurers must become skilled in managing the non-medical issues that often drive disabilities. Second, physicians must develop skills in disability prevention and management. Third, improved communication among medical offices, employers and insurers should be fostered.

A disabled employee requires medical time away from work or light duty due to a decreased ability to function after a job related injury. However, all medical conditions are not necessarily disabling. Employers may not be aware of the pre-existing permanent or temporary limitations that many employees have. Dr. Christian spoke of the results of a study reporting that Doctors estimate that only 5% to 10% of workers compensation cases need more than a few days away from work. Statistics, however, show that 25% to 30% of cases actually result in longer periods of time away from work.

It is important that medical care for an injured worker not be inadequate or delayed, that communications are open, that employers are knowledgeable about and supportive of return to work efforts, and that there are no administrative or procedural delays. Management accountability for these issues is essential. Also critical is Management's awareness of other problems an employee may have that are masquerading as medical and Management's acknowledgement of contract provisions that may hinder return to work efforts.

Success of return to work programs hinge on the employee's medical condition, the employee's ability and willingness to cope with his/her limitations, and external support for the employee. An interested supervisor who provides accommodation for an injured employee's return to work can make all the difference. Encouragement from medical providers also helps.

Dr. Christian outlined several screening strategies. These could be useful for supervisors who are in touch with an injured worker at his or her home and could also be used by medical providers. Asking the following questions will help assess the injured worker's willingness to cope with his/her limitations and also give insight into the worker's perception of his/her external support. (1) What impact is this injury going to have on your ability to do your usual job in the pre-injury way? (2) Have you thought about ways in which to work around the limitations of your injury while you are recovering? (3) Do you think you will have any problems with your boss or co-workers because of these limitations?



Another way to think about an injured employee is for the medical provider to ask him or herself: what if the injured employee owned his/her own mom and pop grocery store, would s/he be able to find a way to work safely? If the answer is yes, then perhaps the absence from work is not medically necessary. Consider what obstacle prevents the employee from returning to work today. When you see an injured employee making a mountain out of a molehill or when a minor health condition is having a major effect on daily life and function, there may be a motivational problem affecting the disability. It is possible that the motivational problem is the employee's, but it may also be due to the supervisor. Employees with high morale have lower absenteeism. Employees who like their jobs return to work faster. Employees whose supervisors keep in touch with them when they are out of work due to an injury return to work faster. Employees who have their questions answered and whose worries are addressed come back to work sooner.

Jennifer Christian, MD, MPH is President and Chief Medical Officer of Webility Corporation – Innovations in Disability Management and may be contacted by mail at: 95 Woodridge Rd., Wayland, MA 01778-3624. By phone at 508-358-5218. By email at: jennifer.Christian@webility.md and the website is: <http://www.webility.md>

Adapted from the December 2003 WCCC Alert, by permission of Martha F. H. Mayo, 83 Green St., Bath, ME 04530



WELCOME NEW MEMBERS!!!

Property & Casualty Pool

Town of Jonesboro
 Town of North Yarmouth
 Auburn Housing Authority
 Town of Belgrade
 Town of Cherryfield
 Town of Whitneyville
 Sabattus Sanitary



Workers Compensation Fund

Town of Cherryfield
 Town of Whitneyville
 Tenants Harbor Water District
 Washington County Comm
 Town of Robbinston
 Scarborough Economic Dev



Certificates of Insurance And Additional Insured Endorsements

In many courts Certificates of Insurance are not recognized as part of an insurance policy contract. Therefore, relying on Certificates of Insurance obtained from the municipality's independent contractors, even those that show the municipality as an Additional Insured, is not effective. In order to be sure that the municipality has been added to the contractor's insurance policy, it will be necessary to require that you be provided not only with a Certificate of Insurance but also a copy of the endorsement.

There are many different endorsements used by commercial insurance companies to confer additional insured status. Therefore, the coverage offered may differ depending upon the endorsement form the company chooses to use. Requiring contractors to provide you with a copy of the Additional Insured Endorsement allows you to review it and determine whether or not it is acceptable.

