

# The Municipal RISK MANAGER

WINTER 2012

A Publication of the Maine Municipal Association

## The Town Covers Us, Right?

Many Towns provide support for various volunteer organizations by appropriating funding at a Town Meeting or by an action of the Town Council. As a result of such funding endeavors, MMA Risk Management Services staff commonly receives questions about whether the Town's coverage extends to these organizations that have a connection to the Town but are not a department or directly under the Town's jurisdiction.

For example, many Towns in Maine have some type of "Old Home Days" or "Homecoming" events during the summer. These events are often organized by a group of volunteers, who hold the event on Town owned property, and receive some funding from the Town. These volunteer groups commonly raise additional independent funds through event sales, donations and vendors fees. The volunteers have the ultimate discretion to manage the event and all of the funds. It is often assumed by both the members of such volunteer groups, and sometimes by Boards of Selectmen and Councils as well, that these groups and the event are covered under the Town's insurance. That is not automatically the case, whether the Town participates in the MMA Property & Casualty Pool or purchases commercial insurance.

Independent volunteer groups commonly ask to be included in the Town's coverage, by name, on commercial insurance policies. When a Town does that, it is important to understand what it means and the potential dangers presented. Typically a standard commercial insurance poli-

cy provides an occurrence limit of liability and an annual aggregate limit of liability. When another group is named as an insured, they have been added to the policy. As a result, the per occurrence limit as well as the annual aggregate limit is now shared by the Town and the Volunteer Group. Simply put, if a claim is presented as a result of the event that had involvement from both the Town (held on Town property) and the Volunteer Group (organizers of the activity), it is likely that both the Town and the Volunteer Group will be named by a claimant as being responsible for the property damage or bodily injury alleged in the claim. Under such circumstances, there is generally one liability limit available to pay the claim. Should a damage award result for the Town and for the Volunteer Group, there is only the single limit of liability to pay the awards. It is quite possible that the single liability limit will not be sufficient to pay both awards, thereby leaving each with additional, uncovered, payments due.

For municipal MMA members participating in the Property & Casualty Pool, coverage for these independent volunteer groups is not included. To be included under the Town's Property & Casualty Pool coverage, an organization must truly be under the jurisdiction of the Town. It cannot be a separate legal entity from the Town. Its funds must be accounted for in the Town's annual audit, and the Selectmen or Council must appoint or confirm the group or committee and have the ultimate authority and responsibility for the event.

Municipalities should always attempt to define relationships between internal and external groups. If the municipality works with outside groups, independent contractors or other entities to perform some service on their behalf or conduct events on municipal property, it is recommended that the municipality obtain Certificates of Insurance from every independent party. The Town will also want to be named on the other entity's insurance policy as an Additional Insured to protect the Town in claim situations where the other entity is responsible for the loss. ■

## Welcome New Members

### Workers Compensation Fund

Town of Hammond

Town of Kingfield

Kingsbury Plantation

Town of Ludlow

### Property & Casualty Pool

Gorham Economic Development

Town of Northport

West Forks Plantation

## Workers Compensation Payroll Audit Begins....

Each fall, members of the MMA Workers Compensation Fund are asked to complete an exposure questionnaire to identify potential hazards and to determine coverage needs. At that time, we request your anticipated payroll so we can calculate the estimated Workers Compensation contribution for the coming year.

The projected payroll of an entity is a useful tool to evaluate future exposures and to ensure that adequate coverage is present. Actual payroll figures can vary considerably from estimates made over a year earlier. A special project may come to an end earlier than expected, a severe weather incident may occur that requires additional employees, or a position may remain vacant for a long period while you search for the ideal candidate.

No matter the reason for variation in estimated payroll, we are committed to treating each member fairly. Workers Compensation contributions are calculated based on each employee's payroll, and job classifications are reviewed individually so employers are properly classified.

Each year the Workers Compensation Fund conducts an actual payroll audit from January to April for the prior year. You will be contacted by Risk Management Services (who handles some audits in house), or by one of our auditors at GEM Associates who will complete the data and forward it to us to process. It would be appreciated if all the necessary paperwork can be available for the auditor to review or is mailed promptly to them for review. The State of Maine mandates that all audits are completed by May 1<sup>st</sup> of each year, for the WC Fund.

An important part of this review is to ensure that any independent contractors you have hired are properly insured and do not need to be considered your employees and included in your payroll audit. Certificates of Insurance show proof that independent contractors have the required

Workers Compensation coverage. We recommend that you have these Certificates of Insurance available for review. If the contractor is actually not required by the State to have Workers Compensation coverage, we recommend that they provide you with a Certificate of Insurance showing General Liability coverage. Another option is to complete a Predetermination of Independent Contractor Status form located at <http://www.maine.gov/wcb/petitions/wcb261.pdf> and forward it to the Maine Workers Compensation Board for a determination of their independent contractor status. A copy of the response should be retained and made available during the payroll audit.

If you have any questions, please contact the MMA Risk Management Services Underwriting Department at 1-800-590-5583. 

The Property & Casualty Pool is celebrating its 25<sup>th</sup> Anniversary in 2012



### 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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MAINE MUNICIPAL ASSOCIATION



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### VOLUNTEER FIREFIGHTER BLANKET ACCIDENT COVERAGE

Supplementary accident, death and disability benefits for Volunteer Firefighters, Ambulance and Rescue personnel.

Sponsored by MMA Risk Management Services.

**NEW EXPANDED COVERAGE**

**REDUCED PREMIUM EFFECTIVE 01-01-2012**

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# Safe Winter Driving

Winter driving in Maine can be hazardous and scary while navigating through snow, sleet and freezing rain. Simple preparation can help make your trip safer and aid you in the event of an emergency.

## Prepare

Conducting a pre-trip inspection of your vehicle is a safety measure that is often overlooked. Especially during the winter season it is important to visually inspect your vehicle to ensure the proper functioning of your headlights, brake lights, directional lights, wipers, tires, fluids, etc. We also recommend that you periodically check your battery, wiring, hoses, belts, filters and spark plugs. Corroded battery terminals commonly create poor connections resulting in a vehicle's inability to maintain a charge and ultimately failing to start in cold conditions. A pre-trip plan and inspection should also include some emergency provisions and tools. Have on hand and readily available:

- Shovel
- Flashlight
- Jumper cables,
- Sand, salt or litter (abrasive material)
- Food and water,
- Cell phone,
- Blankets, and
- Warning devices.

Pre-trip preparation can prevent accidents from occurring while providing assistance in the event of an emergency.

## Stopped, Stalled or Stuck

If you are ever caught in a situation where your vehicle has become stalled or stuck, you should attempt to remain calm and consider all of your options. A first step in any emergency

is to call for help and alert people of your location. The National Highway Traffic Safety Administration recommends that you stay with your car and place bright markers on windows and the antenna. If you run your car, ensure that you clear the exhaust pipe and run your vehicle only long enough to stay warm.

If you are stuck in the snow, clear away as much of the snow as possible from around the vehicle and tires but remember not to over exert. Then, if available, spread sand, salt or any other abrasive material around your tires. You can even utilize your floor mats by placing them under your tires to give the tires some improved traction. Once the area has been cleared of snow and the surface prepped, attempt to accelerate the vehicle slowly pointing the front wheels straight ahead while avoiding the spin of your tires. If these efforts do not work, remain calm and attempt to call or flag down assistance.

## Controlling the Vehicle

During inclement weather, it is important to understand how your vehicle responds, plan your route and advise others of your route and your intended arrival time.

- It is always recommended to practice winter driving:
- During daylight rehearse slowly in

large open areas

- Steer into a skid
- Determine stopping distances
- Learn what type of brakes you have and use them according to manufacturer's recommendations.

While driving in wintery conditions it is important to be cautious, drive more slowly and allow greater distance between other vehicles. By driving slower, you allow greater distance and time for stopping and for avoiding unforeseen obstacles. It can take three to nine times more distance to stop on wet, icy or snow covered roadways. Always accelerate, brake and steer as gently and smoothly as possible.

## Additional Tips

- Never drink and drive.
- Always buckle your seat belt and the seat belts of others in your vehicle.
- Do not drive when you are tired. Avoid fatigue, get plenty of rest before a trip, and stop to take breaks and alternate drivers if possible.
- Do not talk or text on a cell phone

Winter driving can indeed be trying and hazardous at times. However, if we recognize the dangers and take the proper precautions we can all have a safe and enjoyable ride. 🚗

## Did you know .....

At no cost to you, Risk Management Services offers all MMA members the opportunity to consult with our professional staff on risk management insurance matters specific to your municipality. We will assist you in identifying your exposures and evaluating the coverage you need to protect your community. We will provide an unbiased comparison of coverage and identify potential coverage gaps. Call us today at 1-800-590-5583 and set up an appointment. 🚗

## Over \$267,000 Awarded for Safety

Maine Municipal Association Risk Management Services has been awarding safety grants to members of the Workers Compensation Fund since 1999. The Grant program has assisted municipalities by awarding more than **\$2,248,900** through the funding of Safety Enhancement Grants and Scholarship Grants. Since the inception of the grant programs, MMA Risk Management Services has approved 1921 grants. Ed MacDonald, Loss Control Manager for MMA Risk Management Services, is pleased to report that the program received **124** grant applications for the October 2011 period and that 102 were approved, funding a total of **\$114,002**.

The Safety Enhancement Grant and Scholarship Grant Programs offer financial incentives to members of the Maine Municipal Association Workers Compensation Fund. Safety Enhancement Grants are used to purchase safety equipment or services that assist in reducing the frequency and severity of workplace injuries. Grants are awarded in May and October each year.

### Congratulations to the October 2011 Grant recipients

Albion	Gray	Penobscot County
Androscoggin County	Greater Augusta Utility District	Perham
Androscoggin Valley Council	Hallowell	Phillips
Arrowsic	Hampden	Piscataquis County
Augusta	Hampden Water District	Pittston
Baileyville	Harmony	Princeton
Bath	Harpwell	Rangeley
Belfast Water District	Hermon	Richmond
Belfast	Hermon Volunteer Rescue Squad	Rockport
Bowdoinham	Hodgdon	St. Agatha
Bradford	Howland	Sabattus Sanitary District
Brewer	Kennebunk	Sabattus
Brunswick	Liberty	Sanford
Bucksport	Lincoln	Scarborough
Buxton	Lincoln County	South Berwick
Central Maine Community College	Lincolntonville	Starks
Chesterville	Livermore Falls	Stetson
Clinton	Lovell	Sumner
Corinth	Madison	Union
Denmark	Mattawamkeag	Vassalboro
Ellsworth	Mexico	Veazie
Farmingdale	Millinocket	Warren
Farmington	Mount Vernon	Wells
Fayette	Naples	Westbrook
Fort Kent	Newport	Westport Island
Franklin County	Northern Oxford Regional Ambulance Service	Wilton
Frenchville		Winslow
Fryeburg	Old Town	Woolwich
Goodwin Mills Fire Department	Orono	York County

The Grant Recipients have put their funds to use by purchasing such equipment as Gas Detectors, Ergonomics Devices, Lockout / Tagout Stations, Training Aids, Material Handling Equipment, and Traffic Control Signage to assist in reducing the frequency and severity of workplace injuries.

For more information about any of the Maine Municipal Association Risk Management Service programs, including Safety Enhancement Grants eligibility and applications, please visit our website at [www.memun.org](http://www.memun.org) and click on the Risk Management Services link, or call us at 1-800-590-5583.