STATE OF CALIFORNIA **EDMUND G. BROWN, JR., *Governor***

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
Audit & Enforcement Unit
160 Promenade Circle, Suite 340
Sacramento, CA 95834-2962

Tel.: (916) 928-3180
Fax: (916) 928-3183

July 12, 2017

Certified Mail Article Number: 7016 0340 0000 0322 3371

Lisa Meredith, Claims Manager
Trindel Insurance Fund JPA
P. O. Box 2069
Weaverville, CA 96093-2069

Re: Findings from Division of Workers' Compensation Audit & Enforcement Unit
Profile Audit Review of: Trindel Insurance Fund JPA
Adjusting Location: Weaverville
Audit No.: SAC-09-17-R1-6

Dear Ms. Meredith:

From June 5, 2017 through June 15, 2017, the Audit & Enforcement Unit conducted an audit of your California workers' compensation claims as required by California Labor Code Sections 129.and 129.5. The purpose of the audit pursuant to Section 129(a) is "to make certain that injured workers, and their dependents in the event of their death, receive promptly and accurately the full measure of compensation to which they are entitled..." This letter and its attachments contain a report of audit findings and Notice(s) of Compensation Due.

The audit was a profile audit review conducted pursuant to Labor Code Section 129(b)(1). The audit consisted of a review of key claims performance areas in an abbreviated sample of indemnity claims randomly selected, pursuant to Title 8, California Code of Regulations, Section 10107.1(c)(1), from your claim logs for the years 2014 through 2016. The Audit & Enforcement Unit reviewed forty-three (43) randomly selected indemnity claims.

Basis for the Profile Audit Review Performance Rating

Pursuant to Title 8, California Code of Regulations, Section 10107.1(c)(3), the Audit & Enforcement Unit calculated your profile audit review (PAR) performance rating following the review of an abbreviated sample of randomly selected indemnity claims. The performance rating is a composite score reflecting claims performance based on:

- The percentages of randomly selected claims with unpaid indemnity and the amounts of unpaid indemnity in those claims;
- The percentages of randomly selected claims with late first temporary disability payments and/or failure to comply with the requirements for first notices of salary continuation in lieu of TD payments;

- The percentages of claims with late first payments of permanent disability and/or death benefits;
- The percentages of claims with late subsequent indemnity payments; and,
- The percentages of claims with violations involving the failure to comply with requirements for notices advising injured employees of the process for selection AME and/or QME evaluations.

As calculated pursuant to Section 10107.1(c)(3), low performance ratings reflect good claims performance, and high ratings reflect poor performance. If an audit subject's PAR performance rating meets or exceeds the PAR performance standard, the audit is terminated and no penalties are assessed for claims violations. In order to meet or exceed the PAR performance standard, an audit subject's PAR performance rating must meet or exceed the ratings of the worst 20% of performance ratings calculated for all audits conducted over the three-year period preceding the year before the audit. In other words, a PAR performance rating for a 2017 audit that falls within the range of the 80% best scores of all audits conducted from 2013 through 2015 will meet or exceed the PAR performance standard for 2017.

PAR Performance Rating for This Audit

For audits conducted in 2017, a performance rating of **1.47885** or less meets or exceeds the profile audit review performance standard. Your performance rating was **1.24567**. **Exhibit 1A**, enclosed with this report, summarizes the audit findings of the profile audit review as related to your PAR performance rating and shows the calculation of the rating.

Notice of Penalty Assessments

Included in this report is a Notice of Penalty Assessments which lists all violations cited during this PAR audit. The total for the penalties listed is $10,555.00. Since you have passed the PAR audit none of the administrative penalties for claims handling violations have been assessed as due (for collection) as directed by Labor Code Section 129.5(c)(1) and Title 8, California Code of Regulations, Section 10107.1(c)(3)(B). Labor Code Sections 129.5(d) and (f) direct that this notice shall become final unless contested within seven (7) days of receipt of this notice.

The Notice of Penalty Assessments lists the penalties assessed, identifying each of your respective clients (insurance carriers or self-insured employers) who provide security for the payment of compensation and whose files were selected for audit. It is your responsibility as the claims administrator to notify your respective clients of the audit findings and the procedure for contesting the findings.

The following categories account for the administrative penalties listed in the Notice of Penalty Assessments:

- Twelve (12) penalties were cited for failure to pay all compensation due.

- Seventeen (17) penalties were cited for a late first payment of temporary disability indemnity (TD) and/or for failure to comply with the regulations for issuing the first notice of salary continuation in lieu of TD.
- Five (5) penalties were cited for a late subsequent indemnity payment.
- Twenty-five (25) penalties were cited for failure to comply with the regulations for issuing notices advising injured workers of the process for selecting an AME/QME examiner.

In order to appeal all or a portion of the penalty assessments, a request for an appeals conference or a request for a written decision without a conference must be filed with the Office of the Administrative Director and a copy served on the Audit & Enforcement Unit within seven (7) days of receipt of the Notice of Penalty Assessments, pursuant to Labor Code Section 129.5(f) and Title 8, California Code of Regulations, Section 10115.1. Title 8, California Code of Regulations, Section 10115.1 contains additional information concerning your obligations should you choose to file an appeal. *Note that the appeal to the Administrative Director of any administrative penalty associated with a Notice of Compensation Due does not constitute an appeal of the Notice of Compensation Due to the WCAB. The Notice of Compensation Due must be appealed separately, as described in the following section of this report.*

Notices of Compensation Due

Seven (7) Notices of Compensation Due are included with this report, totaling $1,760.15 in accrued and unpaid compensation. Also enclosed with this report is **Exhibit 3A**, which summarizes the amounts and types of unpaid indemnity found in the claims reviewed by the Audit & Enforcement Unit.

While the reasons leading to the failure to pay undisputed indemnity vary, auditors noted certain recurrent problems. These include:

- The failure to pay the waiting period for temporary disability in two (2) claims.
- The incorrect calculation of disability rates upon receipt of wage statements in two (2) claims.
- The failure to pay medically authorized benefits with no basis to dispute the obligation to pay in one (1) claim.
- The failure to pay the 10% self-imposed penalty for late paid indemnity in six (6) claims.
- The failure to pay all permanent disability in an Award of the WCAB in one (1) claim.

According to Title 8, California Code of Regulations, Section 10115, the Notice(s) shall become final unless contested within fifteen (15) days of receipt by filing an Appeal of a Notice of Compensation Due with the Workers' Compensation Appeals Board pursuant to Title 8, California Code of Regulations, Section 10952, changed to Section 10208.9, attaching all documentation required by this section, and a copy of the Objection to the Notice of Intention to Issue a Notice of Compensation Due you previously filed with the Audit & Enforcement Unit. Under Labor Code Section 129 the Workers' Compensation Appeals Board retains jurisdiction to determine whether compensation is due. You must also serve a copy of your Appeal of Notice of Compensation Due on the injured worker or dependent and on the Audit & Enforcement Unit at the address contained at the top of the Notice.

For any Notice which is not contested by filing an Appeal of Notice of Compensation Due, the compensation must be paid to the injured worker or dependent within fifteen (15) days of receipt of the notice to avoid penalty assessments under Labor Code Section 129.5(a)(2) and Title 8, California Code of Regulations, Section 10111.2. Under Labor Code Section 129(c), if you do not pay the compensation within thirty (30) days of service, the employer may be liable for reasonable attorney's fees incurred by the employee or dependent to obtain amounts due. *You must forward to the Audit & Enforcement Unit, within thirty (30) days of receipt of this report, copies of documentation showing the dates and amounts of compensation paid.* Note that failure to submit the required documentation within the thirty (30) day period may result in the assessment of penalties pursuant to Labor Code Section 129.5(a).

Documentation may consist of copies of checks and/or other payment records evidencing payment, and should be sent to:

Division of Workers' Compensation
Audit & Enforcement Unit
160 Promenade Circle, Suite 340
Sacramento, CA 95834-2962

If payment cannot be made because the person entitled to payment cannot be located, the amount unpaid shall be paid to the "Workers' Compensation Administration Revolving Fund" (Tax Identification No. 94-3160882). The payment shall identify the audit by number and is to be sent in care of:

Manager, Audit & Enforcement Unit
Division of Workers' Compensation
160 Promenade Circle, Suite 340
Sacramento, CA 95834-2962

For any Notices of Compensation Due which are identified as "For Information Only", documentation has already been received indicating that the compensation has been paid, and no further action is required unless the compensation is returned because the person entitled to payment cannot be located.

Sincerely,

Mark Skarakis
Supervising Workers' Compensation
Compliance Officer

Enclosures:

- Exhibit 1A
- Exhibit 3A
- Notice(s) of Compensation Due
- Notice of Penalty Assessments
- Appeal Documents (DWC-AU-870, 871, 872)

Calendar Year: 2017 **Individual Exhibit 1A**

Profile Audit Review Performance Rating of Randomly Selected Claims

Audit No: SAC-09-17-R1-6

Subject: Trindel Insurance Fund JPA

Location: Weaverville

1. FACTOR FOR FAILURE TO PAY ACCRUED AND UNDISPUTED INDEMNITY

A. Frequency Rate

# claims with unpd indem	7	divide by # claims with payable indem	43	=	0.16279

B. Average Amount of Unpaid Indemnity per Claim with Obligation to Pay Indemnity

Total unpd indem. =	$ 1,760.15	divide by	# of claims with obligation to pay indem.	43
			Avg Unpd Ind =	$ 40.93

C. Severity Rate

Avg Unpd Indem	$ 40.93	divide by avg unpd indem 2013-2015 of	$129.75	=	0.31548

D. Factor for Failure to pay Undisputed Accrued Indemnity

Frequency rate	0.16279	X	Severity rate	0.31548	X	modifier of	2
						=	0.10271

2. FACTOR FOR LATE FIRST PAYMENT OF TEMPORARY DISABILITY / VIOLATION FOR FIRST NOTICE OF SC

# claims with late 1st TD	3	divide by # with TD payments		14	
# claims with first SC notice violations	12	divide by # with salary continuation		33	
Totals	15	divide by	Totals	47	=
					0.31915

3. FACTOR FOR LATE FIRST PAYMENT OF PERMANENT DISABILITY AND DEATH BENEFITS

# claims with late first PD	0	divide by # with first PD		5	
# claims with late first DB	0	divide by # with first DB paid		0	
Totals	0	divide by	Totals	5	=
					0.00000

4. FACTOR FOR LATE SUBSEQUENT INDEMNITY PAYMENTS

# claims with late subsequent payments	3	divide by # with subsequent payments	10	=
				0.30000

5. FACTOR FOR PROVISION OF AME/QME NOTICES

# claims with AME/QME notice violation	22	divide by # requiring notices	42	=
				0.52381

PROFILE AUDIT REVIEW PERFORMANCE RATING - 2017 **1.24567**

Profile Audit Review Performance Rating of 1.47886 or greater is a failing score