Florida Workers' Compensation Insurance Guaranty Association

by Drew Roberts, CPCU, ARM - Tuesday, May 24, 2011

http://www.floridawc.com/insurance/fwciga/

The Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) was established in 1997. It was created to evaluate claims and pay workers' compensation benefits on behalf of insolvent insurance carriers or self-insurance funds. (This guaranty fund only pays workers' compensation claims, and should not be confused with the Florida Insurance Guaranty Association that pays for other property and casualty claims of insolvent carriers.) Florida is one of the very few states that has its own workers' compensation guaranty fund.

FWCIGA receives its funding from two sources. The first source is from assessments of member insurers. The assessment rate that a member insurer is required to pay can be between zero and two percent of net written premium for workers' compensation policies in Florida. For self-insurance funds, their assessment maximizes at 1.5% of their annual net direct written premium for workers' compensation policies in Florida. If these assessments are insufficient, upon certification by the FWCIGA board, the department may levy additional assessments against insurers but not self-insurance funds. The assessment percentages are recommended by the association's Board of Directors and are levied by the Department of Financial Services. In general, assessments against insurers may be passed on to their policy holders since such assessments are included as an appropriate factor in the making of rates.

The association also receives funds from early access distributions, which are monies that are reimbursed to the various state guaranty funds by the state of domicile of the insolvent insurer. These funds are based upon the liquidation of estate assets of the insolvent entity. If the carrier is a Florida domiciled company, asset distribution will come from the Florida liquidator.

In addition to paying workers' compensation benefits to employees insured by insolvent insurers, the association may: make reports and recommendations to the Department of Financial Services regarding solvency, liquidation, or rehabilitation of member insurers; request an examination of member insurers that may be impaired or insolvent; and make recommendations to the Department concerning the detection and prevention of an insolvency.

The association is made up of an eleven-member Board of Directors and officers. Administratively, the association maintains a small in-house staff. Claims handling is outsourced to different third party administrators (TPAs). The association has a Director of Claims who regularly performs audits to ensure proper management and settlement of claims by the TPAs.

Some states have a "net worth limitation" law precluding guaranty fund liability if the net worth of an employer (not the carrier) is at a certain level. if the net worth of an employer is at a certain level and that company's insurance carrier goes bankrupt, the guaranty fund will not pay for losses otherwise payable by the bankrupt carrier. Florida does not have a guaranty fund net worth limitation law, but if another state's guaranty fund denies a claim based upon their net worth limitation, Florida's guaranty fund would likewise deny such claim.

Sometimes, claims are covered by several insurance guaranty associations. For workers' compensation claims, the state of the residence of the claimant pays first. The state where the employer has its principal place of business is a secondary payer. Accordingly, if a claimant is a resident of a state that has a net worth limitation at the time of the accident and the primary state guaranty association denies a claim because of the net worth limitations, Florida likewise will deny that claim even though Florida does not have a net worth limitation law.

FWCIGA is required to pay a "covered claim," which means an unpaid claim. This includes a claim for return of unearned premiums within the coverage and limits of workers' compensation insurance policies, which are made on behalf of a claimant or insured who was a resident of this state at the time of the injury. The guaranty fund will not pay for employer liability claims under coverage B of a standard workers' compensation policy.
