

UNDERSTANDING THE WCIRB COVERAGE SHEET INFORMATION

H. NEAL WELLS IV, ESQ
CALABASAS, CALIFORNIA

In the *Workers' Compensation Quarterly* Vol. 33, No. 3 there was an excellent article by WCIRB lead counsel Mary Chapman-Corning discussing the purposes of the WCIRB as well as the different methods and procedures used to obtain workers' compensation information.

Whether the coverage information is obtained by mail or through the WCIRB's website page at www.caworkcompcoverage.com, the provided "coverage sheet" information is not without its limitations and unique lingo as explained below.

ACCURACY: Per the WCIRB, the website information is "not proof, evidence or verification of workers' compensation insurance" because the information shown may not reflect coverage changes that may have occurred in the last 30-90 days. Therefore, it would be prudent to periodically refer back to the website for possible coverage changes.

FIVE YEAR CAP: The website will only provide no-cost coverage information for the five-year period immediately preceding the date of the coverage request. Coverage information for older coverage periods is only available with a direct request to the WCIRB at a cost of \$20 per employer per coverage year.

POLICYHOLDER NAME: The name of the employer aka policyholder needs to be as precise as possible when using the employer name search because employers can have very similar names (*i.e. Advanced Medical Billing Services vs. Advanced Medical Billing Solutions*) which could result in the wrong employer and/or carrier being joined. Additionally, a search misspelling may result in the WCIRB website showing "no coverage" for an employer that is actually insured.

STREET ADDRESS/CITY/ZIP CODE: Refers to the employer's insured location as listed on the workers' compensation policy. Any additionally insured employer locations would be noted in separate listings with reference to those additional jobsites.

MULTIPLE LOCATIONS: An employer can be listed as being insured in multiple locations, usually with the same carrier, which means one policy has been issued with endorsements for multiple locations. However, there are other situations that may arise in a WCIRB coverage sheet:

a) **Jobsite Specific Policies:** An employer may have a policy covering all workers at the main office and a separate policy for a specific jobsite location, which is common in the construction industry where certain major projects require a policy limited to that location and sometimes with a specifically designated insurer;

b) **Classification Policies:** Two concurrent policies may exist if each covers a different classification of employee such as one policy covering the full-time temporary agency clerical staff while another policy covers the temporary workers assigned to various client locations; and

c) **Franchised Businesses:** Franchises may have the same name under a "dba" designation ("doing business as") at numerous locations but with different owners and carriers depending on the particular franchise location. Therefore, knowing the jobsite location including the exact street address can be important to ensure the proper employer and insurance carrier are joined.

FEIN NUMBER: Noted on the second furthest box to the right, the FEIN refers to the insured's "Federal Employer Identification Number". This number can be useful as a way to link the employee to the employer by noting if the FEIN on the worker's paychecks or W-2 form match those of the employer listed on the WCIRB policy information.

BUREAU NUMBER: Noted in the furthest box on the right of the online coverage search form, this refers to the WCIRB's unique own file number that is assigned to each California employer.

TEMP AGENCY/LCF: A "LCF" designation ("Leased Coverage For") in the far left box on a WCIRB coverage sheet reflects an approved arrangement where the employees of a leasing company are covered while working at a client of the leasing company. For example: "*ABC LEASING, INC. LCF A-1 TIRES & DONUTS*" means the insurer of ABC Leasing has agreed to provide coverage to ABC's client (Tires & Donuts), which will be specifically listed within the insurance policy, and most likely on WCIRB Form: WC 04 03 15.

SELF-INSURED EMPLOYERS: Employers that are self-insured are not part of the WCIRB coverage listings because oversight and regulation of self-insured employers are handled through the Office of Self-Insured Plans (OSIP), a program within the Department of Industrial Relations (DIR). To determine whether an employer is self-insured, an inquiry can be made on-line at the OSIP website [dir.ca.gov/osip/databases/sisr] which is a search box in which to input the employer's name or self-insured certificate number. As a side note, pursuant to Labor Code section 3701.9 (eff. 1/1/2015), a professional employer organization, temporary services employer, leasing employer and other similar businesses are no longer allowed to be self-insured, which means a temporary employee placement business that does not appear on the WCIRB search for an injury date after 1/1/2015 is possibly illegally uninsured (unless there is a noted LCF designation).

EXCLUSIONS: A policy may contain approved exclusions such as not covering any leased employees (WCIRB Form: WC 04 03 13 A), or covering only the leased employees of a client in a LCF situation (WCIRB Form: WC 04 03 15) or excluding designated executives (WCIRB Form: WC 04 03 03). While policy exclusions must be approved by the CA Dept. of Insurance and WCIRB, the exclusions are not noted within the WCIRB coverage sheet and can only be confirmed by obtaining a copy of the complete insurance policy.

HOMEOWNERS POLICIES: Per Insurance Code 11590, all homeowner policies issued in California since 1977 contain a provision for workers' compensation. However, individual homeowner policy coverage is not listed on a WCIRB coverage inquiry and there is otherwise no "clearinghouse" to obtain homeowner's coverage information. Therefore, obtaining coverage information on an employer homeowner typically requires inquiries directly to the homeowner, who usually will forward the request to their insurance broker.

CONCLUSION

Overall, the WCIRB on-line coverage search is very efficient when a case only has one known employer. However, if a case involves a general-special employer scenario, has multiple carriers for the same employer and injury date, and/or there is an alleged employee exclusion, then the next step is to subpoena not only the payroll records but also the complete insurance policies to assess which policy applies to your job site injury situation.

H. Neal Wells IV is the senior managing shareholder at the workers' compensation defense law firm Hallett, Emerick, Wells & Sareen. He is a former Chair of the Workers' Compensation Executive Committee of the State Bar of California (now the California Lawyers Association).