

**ATTACHMENT D**



**STATE OF NEBRASKA  
WORKERS' COMPENSATION  
SPECIAL HANDLING INSTRUCTIONS**

**PRIMARY CONTACTS WITH RISK MANAGEMENT**

Shereece Dendy  
Risk Manager  
State of Nebraska  
Risk Management Division  
301 Centennial Mall South, 1<sup>st</sup> Floor  
PO Box 94974  
Lincoln, NE 68508

Phone: 402-471-4436  
Fax: 402-471-2800  
E-Mail: [Shereece.Dendy@nebraska.gov](mailto:Shereece.Dendy@nebraska.gov)

**THIRD PARTY CLAIMS ADMINISTRATOR**

Scott Kirshenbaum  
Branch Manager  
FARA  
9140 West Dodge, Suite 418  
Omaha, NE 68114  
Phone: 402-392-3925  
Toll Free: 866-599-3272  
Fax: 402-393-0265  
E-Mail: [scott.kirshenbaum@fara.com](mailto:scott.kirshenbaum@fara.com)

**CARRIER REPORTING**

The State of Nebraska Workers Compensation program is fully self-insured. At this time, there are no carrier reporting requirements.

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### **CLAIM REPORTING**

New Claims can be reported by:

Logging on to:

<https://www.iclaimsexpert.com/apps/ice/cow/icowlogin.r?brand=ne>

Access to this site can be obtained by notifying [scott.kirshenbaum@fara.com](mailto:scott.kirshenbaum@fara.com)

Fax: 877-297-3272

Email: [claimopening@fara.com](mailto:claimopening@fara.com)

- **Critical Claim Reporting to State of Nebraska:**

In the event FARA receives notification of an occurrence involving death, **either immediate or subsequent to claim filing**, notice shall be provided to Shereece Dendy immediately with notice not to exceed 24 hours from FARA receipt of notice

- **Catastrophic Intake Instructions:**

Upon receipt of a catastrophic claim from State of Nebraska, defined as a fatality, multiple critical injury, limb amputation, and/or third degree burns, Intake is to immediately make phone and e-mail contact with the appropriate Operations personnel. Contact **must** be confirmed at a minimum of one management level. Contact must be made with:

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Branch Manager  
FARA  
9140 West Dodge, Suite 418  
Omaha, NE 68114  
Phone: 402-392-3925  
Toll Free: 866-599-3272  
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E-Mail: [scott.kirshenbaum@fara.com](mailto:scott.kirshenbaum@fara.com)

### **Claim Reporting Requirements to Nebraska Workers' Compensation Court**

The TPA shall file a report of injury with the Nebraska Workers' Compensation Court any time the injury/occupational disease results in:

- (i) Death, regardless of the time between the death and the injury or onset of disease;
- (ii) any time away from work;
- (iii) any restricted/modified work or termination of employment;
- (iv) loss of consciousness or
- (v) medical treatment including first aid.

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### COMPENSABILITY

FARA may delay a compensability determination as necessary, without client approval, subject to Statute requirements.

Before FARA denies a claim or discontinues benefits, the adjuster, supervisor, and manager are to discuss and then contact Shereece Dendy outlining why FARA recommends denying the claim and/or discontinuing benefits. FARA may proceed with proposed recommendations following State's approval. Once the denial has been approved by the State, the examiner may proceed with the denial and will copy the agency contact on the denial.

### FINANCIAL

- **Refund Checks**

Refund checks made payable to State of Nebraska, received by FARA, will be endorsed by FARA personnel and deposited into the State's escrow fund. Any questionable checks should be discussed with Shereece Dendy, Risk Manager prior to endorsement and deposit into escrow.

- **Allocated Expenses**

Allocated Expenses - Shall be the responsibility of the CLIENT (charged to the file) and shall include, but not be limited to:

- legal fees
- professional photographs
- medical records
- experts' rehabilitation costs
- accident reconstruction
- architects, contractors
- engineers
- police, fire, coroner, weather, or other such reports
- property damage appraisals
- statements
- official documents
- transcripts
- surveillance investigations
- extraordinary Cambridge personnel travel made at Clients request
- court reporters
- fees for service of process
- pre and post judgment interest paid
- chemists
- collection costs payable to third parties on subrogation
- any other similar costs, fee or expense reasonably chargeable in the investigation, negotiation, settlement or defense of a claim or loss which must have the explicit prior approval

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- of the CLIENT
- Managed Care

### **Emergency Check Procedures**

Following is the procedure, for the **State of Nebraska** account, in the event of an Emergency, where a payment must be issued and next- day over-nighted to the payee:

1. FARA Adjuster must obtain FARA Manager's consent for an emergency payment. Reason must be clearly defined.
2. Reason for emergency check must be indicated on the check request.

### **Special Funding**

**Any payment of \$100,000 or above must be pre-funded prior to issuance. Email notification should be sent to Sherece Dendy with the following information:**

- Notification must include: Injured Employee's name & file number; amount of check to be issued; date check needs to be issued; and any other pertinent information necessary to communicate need for payment.
- Funding form attached to be completed by Loss Fund and e-mailed to **Sherece Dendy** for funding.

### **Wage information and Agency Contacts**

Contact Scott Kirshenbaum for Agency contact information.

### **INVESTIGATION**

- Indexing:  
Every Indemnity claim should be indexed.  
Open indemnity claims will be re-indexed at 6-month intervals.  
Medical only claims that convert to indemnity will be indexed.  
Other medical only claims as requested by client.
- Initial Contact:  
3 point within 1 business day  
Required Contacts:
  1. Injured employee
  2. Physician
  3. Agency

FARA shall promptly contact any third party claimant within 1 business day of receipt of the claim to make an appointment to inspect the damage and/or take a statement from the claimant

Initial statements shall be completed within 3 business days of receipt of the claim.

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- **Coverage**

FARA shall confirm employment and/or injury status with Risk Management if there is any question regarding such status

- **Recorded Statements**

When facts warrant, or when required by the client, recorded telephone statements will be taken of the State Agency, the injured worker and potential or actual witnesses. In some instances the taking of Signed Statements may actually be more desirable, and under other circumstances it may represent the only available alternative.

- **Vendors**

FARA shall arrange for independent investigators, adjusters, or medical or other experts to the extent deemed necessary in connection with processing of any claim. Assignment of such professional services must be approved by the Risk Manager prior to assignment.

The FARA professional will document the need for assistance and provide specific instruction and time frames for the tasks to be performed. Billing arrangements, budgets, and fees are to be agreed upon in advance as part of prior approval and documented in the claim file(s).

- **File Documentation**

Correspondence (mailed, faxed, or e-mailed) received by FARA shall be date-stamped on the day it is received and shall be documented in the file within 2 business days. If, after exhausting all possible investigation, correspondence or other documents cannot be matched with a claim file, FARA will contact State for direction.

### **LITIGATION**

For the State of Nebraska workers' compensation program, the Attorney General's office will act as defense counsel on all claims.

Nebraska Department of Justice  
2115 State Capitol  
1221 N Street, Suite 500  
Lincoln, NE 68509  
Phone: 402-471-2789  
Fax: 402-471-4725

**Checks are to be sent to:**

**Attn: Office of the Attorney General  
2115 State Capitol  
Lincoln, NE 68509**

The AG's office requests that new files transferred to them include a claim status report providing them with current status of claim.

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- **Notice**

The Risk Manager needs to be advised of all trial dates as soon as FARA receives notice. Trial notices shall be sent to the Risk Manager so these can be added to her calendar.

- **Assistance Requirements**

Should the AG's office require FARA assistance in securing or submitting claim(s) records, mediation recommendations, and/or indemnification assessments, this assistance will be provided as requested.

### **MANAGED CARE**

#### **FARA Bill Review**

Bills will be re-priced in the FARA Medical Bill Review.

Bill review recommendations will be sent electronically to the claims system

**For questions regarding bill re-pricing or customer service contact:**

[medbills@fara.com](mailto:medbills@fara.com)

- **Bills without 1<sup>st</sup> report**

- When the FARA office receives a bill from a hospital, physician, etc. that does not have a corresponding First Report of Injury (FROI), the following procedures are to be followed: 1) Claim will be set up and mark supercontroverted. No payments or reserves can be posted on the claim. 2) Adjuster will send an e-mail to the agency contact regarding if an FROI is going to be sent. 3) If FARA does not receive a valid FROI within three days, FARA will follow-up with the agency to get the report and, if they can't then get Shereece Dendy in Risk Management to get the report from them. 4) In situations where an agency cannot be determined, FARA will contact Shereece Dendy via e-mail to have her office help identify the agency.

- **Medical Management & UR Referrals**

To be managed by the Omaha field office.

- **Nurse Case Management**

Agencies may ask for a nurse case manager (NCM) on a claim. All agency requests for NCM shall be reviewed and considered by FARA in the same manner of consideration of a case for NCM when there is no agency request. If FARA disagrees with the agency request FARA shall send an email to Shereece Dendy identifying the agency request and the reasons FARA is not recommending appointment of NCM. Shereece Dendy will respond with approval to deny the request for NCM or with direction to begin the NCM. Adjusters can assign an NCM after discussion with their supervisor.

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Generally, the State Risk Manager/Risk Management Office does not need to be contacted for permission to assign case management to the claim. The examiner may use a NCM for task assignments, but must maintain management of the claim.

- FORM 50

Should the injured worker or their attorney request a change in treating physician (that is, a different doctor than the one chosen per their signed form 50), the request must be submitted to State Risk Manager with FARA's recommendation. No FARA employee can give the approval. If Risk Manager believes the change is appropriate and warranted, then she will sign off on behalf of the "employer".

- **FARA Case Management Referral Criteria**

### **Immediate referral:**

All new indemnity cases  
Medical only cases exceeding 90 days  
Disability in excess of 4 days  
Surgeries  
Eye injury  
Toxic exposure  
Amputation—full or partial  
Serious head injury  
Serious crushing injury  
Multiple traumas  
Assault----member, vendor, co-employee  
Rape  
Diagnostic testing: MRI, CT scan, bone scan, myelogram  
Stroke  
Potential contagious conditions:  
Aids/HIV  
TB  
Severe burns  
Any injuries that benefit from intervention including:  
Back injury  
Neck injury  
Cumulative trauma  
Post traumatic stress syndrome  
Fibromyalgia  
Psychiatric/stress disorders  
Surgical complications  
Hand injury  
Myocardial infarction  
Joint/orthopedic injuries

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### **Specific Situations that benefit from intervention:**

Failed or vague RTW plans  
Previous injury to same body part  
Home care required  
Institution or custodial care required  
Possible addiction to medication  
Lack of clear diagnosis or changing diagnosis  
Doctor shopping  
Orders/requests for:  
Pain management  
Experimental treatments  
IV medications

### **PROGRAM MANAGEMENT**

- **Meetings with Agencies**

Any request for an Agency meeting or site visit must be coordinated through the Risk Management office.

- **Claim Reviews**

Formal Claim reviews with the State Risk Manager will be done on a quarterly basis. After claims are selected for the review, FARA will complete a summary document for each claim. The summary documents will be provided to Risk Management no less than 3 days prior to each scheduled review.

- **File Retention**

FARA has a paperless system.

### **SECOND INJURY FUND**

The Nebraska Second Injury Fund was in place until 12/1/97. Any claims that might qualify for a claim against the Second Injury Fund would require a date of injury prior to 12/1/97.

### **CLAIM CREATION AND MAINTENANCE**

Correspondence (telephonic, e-mail, mail, fax) received by FARA shall be date stamped on the day it is received and shall be documented in the file within 2 business days.

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### RETURN TO WORK / VOCATIONAL REHABILITATION

- **Return-to-Work Programs**

Risk Management is a valuable resource that assists in assessing health and safety risks and makes risk control recommendations to eliminate and/or reduce losses. However, some accidents and injuries will occur. When an injury occurs, it is then incumbent upon state agencies to help the injured employee return to work as soon as possible.

A successful return-to-work program can greatly benefit both employees and state agencies. These programs involve maintaining frequent contact with the employee and medical provider, providing a modified work environment and/or work assignment, or providing alternate-duty assignments that return the employee to the workplace within his or her temporary medical restrictions. These measures assist the employee in maintaining a positive attitude and reduce the costs associated with a lengthy absence from work.

Return-to-work programs allow injured employees to work within their abilities and within temporary medical restrictions. During this time of work restriction, the employee is said to be on modified or alternate duty. The employee may be doing their regular job with modification or they may be assigned alternate responsibilities unrelated to their usual job. Along with programs aimed at loss prevention and loss reduction, the return-to-work program can lower the agency's workers' compensation costs and reduce the necessity to hire additional staff. Providing the injured worker with an opportunity to return to the workplace in a productive capacity will encourage the worker to return to their regular position much sooner. Although some job modification and/or accommodations may need to be made, many positions can be modified with very little expense.

Each agency's American with Disabilities Act (ADA) coordinator may also have additional information on the topic of reasonable accommodations for persons with disabilities as defined by the ADA.

- **Health & Safety, Wellness, and RM Programs**

The Legislature has mandated that state agency RM programs, health and safety programs, and return-to-work programs must be developed and implemented in accordance with RM's guidelines per LB/757, section 48-443/48-446, Nebraska Workers' Compensation Act. These programs must be approved by RM.

- **Bona Fide Offers of Employment**

A bona fide offer is a written offer of employment delivered to an employee during the period for which benefits are payable. Bona fide offers of employment should be made once the employee has been released to modified duty as reported on the Work Status form by a doctor. Bona fide offers of employment can greatly reduce a claim's cost by getting employees back into the workplace to perform duties not threatening to their

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injuries. Workers are likely to return to their full-time positions more quickly if they take on a modified-duty job rather than staying home. Worker's compensation coordinators must coordinate bona fide offers of employment with their agency's human resources staff.

The written offer must clearly state the following:

- 1) The position offered and the expected duration of the offered position.
- 2) The duties of the position.
- 3) That the employer is aware of and will abide by the physical limitations under which the employee or his treating physician have authorized the employee to return to work.
- 4) The maximum physical requirements of the job.
- 5) The wage.
- 6) The location of employment.
- 7) The training that will be provided, if necessary for the position being offered.

NWCC considers the following items when determining whether an offer of employment is bona fide:

- The manner in which the offer was communicated to the employee;
- The physical requirements and accommodations of the position compared to the employee's physical capabilities and that training will be provided, if necessary for the position being offered; and the distance of the position from the employee's residence.
  
- Employment is "geographically accessible" to the injured employee if it is within a reasonable distance from the employee residence unless the employee proves with medical evidence that their physical condition precludes traveling that distance.

If the employee returns to work or is cleared for the work by their physician but refuses to accept the work, income benefits may be suspended.

It also is important that the TPA receive copies of all correspondence dealing with a bona fide offer of employment. Therefore, always send the adjuster a copy of the letter when the letter is mailed and when an employee's response is received.

### **SETTLEMENTS & RESERVES**

Adjusters have no settlement authority for the State's workers' compensation program. Settlement authority is to be obtained ONLY from the State Risk Manager. The FARA Manager shall send the settlement requests to Shereece Dendy in Risk Management. The Risk Manager will obtain approval from the Attorney General's Office, when necessary, and the Risk Manager will notify the FARA Manager of the approval or denial of the settlement request.

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The Risk Manager for the State should be involved whenever there is discussion involving settlement authority whether with Plaintiff Counsel, Counsel or Attorney General and whether prior to, during, or after litigation.

The Risk Manager must be advised when we are scheduling any LSS payment.

- **Mediations**

Should the Omaha service location receive a request or notice of Mediation, Shereece Dendy is to be copied on the request via e-mail. Phone contact is required should there be an urgency in making a procedural determination.

**The State has sole approval rights in granting settlement authority and/or in determining Mediation participation.**

- **Reserves**

There is no cap on FARA's reserve authority level. Authority level will be according to the internal FARA's authority levels. The Risk Management Department is to be notified of any reserve change in excess of \$100,000.

### **SUBROGATION**

For subrogation involving third parties contact Shereece Dendy in Risk Management for approval to pursue subrogation.

In situations where the third party is a state employee, political sub-division, or other similar entity, please also notify the State Risk Manager prior to beginning to pursue subrogation so that appropriate internal notice may occur. FARA will investigate and initiate approved subrogation possibilities on behalf of the State.

**All claims meeting the criteria below must be referred for potential subrogation review:**

- \* All not at fault automobile accidents (this includes: rear-end collisions, accidents involving lane changes, intersection accidents, etc.)
- \* All claims where the handler becomes aware that a third party claim is being pursued, including: all files subpoenaed, files where a CIB indicates that a third party claim is being pursued, or where the attorney representing an employee indicates that he is pursuing a third party claim.
- \* All claims resulting from alleged mechanical defect
- \* All slip & fall claims off the insured or client premises
- \* All claims resulting from assaults of a non-custodial nature – i.e., assaults on police or corrections facility personnel are not included.
- \* All claims involving injury from machinery

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### SURVEILLANCE

Permission from the Risk Management Office must be obtained before assigning surveillance or an activity check. Send request to Sherece Dendy. If the request is urgent and deemed necessary and timely approval cannot be obtained from the Risk Management Department, the Omaha Manager may elect to approve. That approval will be e-mailed to the Risk Management Department with summary facts to support the overriding approval.

If rush surveillance is being arranged to respond to an immediate beneficial need, prior permission is not needed; however, FARA must send Sherece Dendy a notice that surveillance was done and an explanation to document the need for action prior to approval.

### CLAIM CLOSURES

FARA will be allowed to close Workers Compensation claims **ONLY** with Physician's documentation supporting Maximum Medical Improvement (MMI) and/or documentation indicating no further treatment necessary.

Should a claim(s) be void of the necessary medical documentation yet all other claim aspects be resolved, the claim will remain in OPEN status for the duration of the 2 year State of Nebraska Statute of Limitations OR until medical information is received to support MMI or treatment concluded.

Claims meeting closure requirements with the exception of MMI documentation will be placed on extended diary with the intent of pursuing medical information to support MMI until such time the Statute of Limitations expires. At that time the claim(s) can be closed failing receipt of medical documentation. System notes should reflect the appropriate closing action taken.

### DIARIES

Adjuster diaries (Indemnity AND Medical Only claims) are to be set at 30 day intervals unless prior approval given by the State. Claim notes should clearly outline reason(s) for extended diaries.

Supervisor diaries should mirror adjuster diary intervals. However, extended diaries are allowed if reason(s) is clearly documented in the Claim notes. **Any supervisor diary proposed at greater than a 90 day interval will require the State's approval.**