

Risk Management – CPLIC Claims Handling Guidelines

SUGGESTED RECORD RETENTION CONSIDERATIONS

Proper record retention is a function of the law, licensing, proper risk management and contracting with clients and business partners. A claim professional is exposed when records are not maintained in compliance with expectations and requirements.

For guidance on records to be retained for tax purposes, please consult with your tax advisor.

CPLIC provides these general record retention suggested considerations to assist insured claim professions with planning for a successful retention program. These suggestions may not cover all areas of concern for your practice. You are responsible for the completeness and accuracy of your retention program.

Claims professional should carefully assess whether the records in their possession are original documents or copies. For each client a clear understanding should exist regarding the collection and storage of original documents. Where a written agreement is in place, record storage responsibilities should be clear.

Digital images are an important and evolving aspect of modern business. Their status as a substitute original is also evolving. Great care and attention to the fact and circumstances should be applied before destroying originals in favor of retained digital copies.

You should assess whether original documents will be preserved before concluding that copies are duplicates. If originals are with another party, you should assess whether you will have access to them should the holder become an adversary.

Copies of documents may be part of an audit trail that must be preserved to support financial transactions and accountabilities for execution of responsibilities under the law, contracts and licensing requirements.

Legal and licensing requirement generally escalate where you are the claim administrator, or are involved with disbursement of funds. Each state's licensing requirements may include record retention requirements. Each state's claims practices acts may contain record retention requirements. Record retention provisions of law may exist at the local, state and federal levels of government.

The statute of limitation applicable to any type of program or file should be considered along with the subject of the claim. Fraud situations may not be subject to a limitation under the statutes.

Where performing work on public entities the record retention may be dictated by regulations promulgated at the local, state or federal levels of government. Local government units may be funded in part by federal money which may trigger regulations from the issuing federal departments.

Most public entities are regularly audited by external and government auditors. Knowing the audit process and cycle time is important so that documents can be preserved for audit purposes.

Where a claim professional is responsible for reporting to excess carriers regarding specific and aggregate retentions practices should accommodate the potential for extended retention as all claims may need to settle before recoveries are fixed.

Where an incident regarding a claim indicates that actions on the claim may need to be defended, retentions should be appropriately extended. Subrogation activities and litigation on a file may indicate that retention periods should be extended.

Where a claim is expected to stay open for an extended period, such as with lifetime medical, the retention period may need to be extended.

Where a successor claim handler is appointed for a claim or program, the signoff on the transfer should contain a release regarding records that complies with regulators requirements such as with a TPA to TPA transfer on self-insured workers compensation accounts.

When taking on responsibility for the records from another TPA, care should be taken to ensure that the records received are complete, before executing a release of the prior claim handler. A conditioned release may be in order.