Manager/Supervisor Risk Management
#92– 9/25/12
A twice weekly e-mail training for YCPARMIA members

TOPIC: EXCESS COVERAGE

YCPARMIA is a "primary pool" providing dollar one coverage for liability claims up to a self-insured retention of $500,000 per occurrence. Sitting above us is our "excess pool," the California Joint Powers Risk Management Authority (CJPRMA); its membership is comprised of other JPA's and cities with all members located in Northern California. In this topic we will discuss two areas: coverage and limits.

CJPRMA, like YCPARMIA, is separate public entity, board governed, self-insurance pool; the extended coverage is defined by its Memorandum of Coverage, and that coverage is basically identical to YCPARMIA's primary coverage. Given the high dollar limits provided by CJPRMA, the excess pool currently purchases "re-insurance" to partially protect the pool from catastrophic losses. The re-insurance follows the excess coverage form, so there is consistent coverage across the various layers. Authority to settle claims above YCPARMIA's retention limit comes from the CJPRMA Board.

Our excess liability limits are currently $40,000,000 per occurrence; above that amount our individual members are on their own. The obvious question is whether $40M is too little or too much coverage, and the answer is partly found in jury verdict trends.

- In 1986 CJPRMA was formed with excess limits of $10M.
- In 1999 those limits were increased to $15M around the time of a $15M judgments growing out of a SWAT team shooting in the San Joaquin Valley.
- In 2002 the limits increased to $25M again about the time of a $28M quadriplegic verdict against the City of Walnut Creek for a dangerous swimming pool.
- In 2005 the limits increased to $40M per occurrence shortly before a $49M verdict against the City of Dana Point for a dangerous condition accident that left two women quadriplegic.

The point to be taken is that jury awards against California public entities have been increasing over the last three decades, and there is no reason to think that they will not continue to increase. The excess pool's board follows these trends, and tries to balance the need for coverage against the cost. This process is being done simultaneously by a number of California excess pools, and currently the agreed magic number appears to be $40M per occurrence. That number could be pushed higher with the next catastrophic verdict, or forced lower if the re-insurance market pricing becomes prohibitive.

It is important to remember that the member entities remain responsible for defense costs and judgments made against them. While they have transferred the duty to pay to the self-insurance pools, if a claim is not covered, or exceeds the liability dollar limits, the member entity has to step up and pay. While the Government Code allows the public entity to make periodic payments for uncovered losses under certain catastrophic circumstances, those payments ultimately would come out of the entity's general fund.

Next topic: Sub-limits