Manager/Supervisor Risk Management
#93– 9/27/12
A twice weekly e-mail training for YCPARMIA members

TOPIC: SUBLIMITS

On an annual basis, the premium cost of YCPARMIA's excess liability coverage is about equal to the cost of defending and settling claims within our primary retention. While the limits are very high, the frequency of impacting those limits is relatively rare; over the last thirty years we have had fewer than ten claims exceed our retention and pierce the excess. Insurance coverage becomes less expensive as the limits increase because the frequency of claims dramatically diminishes as the dollar exposures rise.

In order to maintain the affordability of excess coverage, pools and carriers will raise the deductible/retention, and/or reduce coverage limits in certain high exposure areas – <u>sublimits</u>. The insured retains the option, like they do in the area of most exclusions, to purchase separate coverage with higher limits.

Under our coverage there are two sub-limits that have impacted YCPARMIA members.

- <u>Employment Practices Liability</u> (EPL): There is an $8M sublimit that applies to employee's claims for employment practices – discrimination, harassment, retaliation, wrongful termination. It should be noted that coverage for this type of claim was only added in 2002; prior to that it was excluded from coverage. Absent a truly catastrophic injury, EPL claims have become our most expensive claims; defense costs are generally much higher than other exposures, and the claims are politically much more difficult to settle.
- <u>Pollution</u>: The pollution exclusion is probably our most complex. It starts out by stating that there is no coverage, and then there are seven paragraphs that create exceptions to that absolute exclusion. In four of the paragraphs that bring coverage back in, there is a $5M sublimit. YCPARMIA has responded to both the exclusion and the sublimit by purchasing a separate Pollution Liability Policy with a $100,000 self-insured retention, and a $10M limit per occurrence.

These two exposures are probably illustrative of the business necessity to transfer risk. Not very long ago there was no coverage for these areas. Claims development put pressure on entities to find ways to fund these exposures, and the California pools and insurance carriers responded by providing limited coverage. As they became more comfortable with the exposures the limits gradually increased. As a practical matter it is doubtful that these sublimits will ever disappear; it is also a reality that the member agencies, in effect, are individually self-insured for catastrophic exposures above the sublimits.

- Next topic: Contract Risk Transfer