

**Nassau County
Office of the Comptroller
Field Audit Bureau**



**Limited Review
of the Nassau County Contract with
Triad Group, LLC**

HOWARD S. WEITZMAN
Comptroller

September 6, 2007

**NASSAU COUNTY
OFFICE OF THE COMPTROLLER**

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Introduction

Under the New York State Workers' Compensation Law, employees who suffer work related injuries are entitled to compensation. Workers' compensation reimburses employees for lost wages up to a statutory maximum and pays for medical expenses associated with job related injuries and occupational diseases. The State authorizes employers to offer workers' compensation coverage through the State Insurance Fund, through a private insurance carrier, or through self-insurance if certain conditions are met. Nassau County is self-insured.

Until July 2004, Nassau County administered its own workers' compensation program for the approximately 15,000 full time, part-time and seasonal County employees. Effective July 12, 2004, Triad Group, LLC (TRIAD) became the third party administrator (TPA) of the County's workers' compensation program. Under the contract between Nassau County and TRIAD, the TPA is responsible for maintaining all claimant files and records, paying workers' compensation claims and related medical bills, filing the County's submissions for State Special Funds created to subsidize certain workers' compensation expenses, and providing claim loss and management reports, to both the Workers' Compensation Board and to the County, on a regular basis. In return for these services during the audit period of July 2004 – July 2006, the County paid TRIAD \$1,024,450 in management fees, \$326,582 in fees based on 15% of all savings achieved from adjustments made to provider bills and \$3,000 in computer access fees.

Before the County hired a TPA in 2004, the County's workers' compensation program was not adequately administered. The New York State Comptroller issued a Review of the Nassau County Workers' Compensation Bureau's Procedures and Expenditures in 2004. This report is available on the New York State Comptroller's web site at <http://nysosc3.osc.state.ny.us/localgov/audits/2004/counties/nassauwc.pdf>. The Review noted significant deficiencies in the County's administration of its program including the lack of any computerized records, late payment of awards, failure to investigate claims, and failure to monitor cases after compensation had been awarded. The Review confirmed similar findings made in a 1998 audit of the workers' compensation program by the Nassau County Comptroller.

By hiring a TPA to manage the workers' compensation program, the County planned to bring the program to acceptable levels quickly. The TPA has helped the County resolve many issues identified by the 2004 State Comptroller Review.

The administration advises that significant reporting and payment obligations to the State have been resolved through the efforts of the TPA. The County had not made any public goods payments or filed any reports as required by the Health Care Reform Act "HCRA", which was enacted in 1997. TRIAD worked with the County to negotiate a payment to cover the nine years of \$400,000, substantially lower than the State's initial estimate of \$3 - \$8 million. Similarly, the County had not filed State reports on its workers compensation expenses, used to determine state assessments. TRIAD obtained the

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State's permission to file the reports for prior years and recalculate the assessments; the County received a credit of \$1.6 million for prior year assessments.

Thus, it appears that the County has made a significant improvement by moving the administration of the workers' compensation program to a TPA. However, the start of a complex administrative program can be difficult and there are areas where performance can be improved. This report examines issues that have arisen under the contract between the County and TRIAD with the completion of the transition of administration of the County's workers compensation program to the TPA.

Some of the issues identified in this report were driven by the terms of the contract entered into by the County. After this report was circulated in draft, the County and the TPA re-negotiated the contract to correct the contract-related problems. We understand that oversight of the TPA has been moved from the County Attorney's Office to joint oversight with a Risk Management unit within OMB. We commend the County administration for its acknowledgement of the problems identified in this report and its effort to find effective solutions.

Audit Scope, Objective and Methodology

The objective of the audit was to verify TRIAD's compliance with the terms of its contract to administer workers' compensation for the County for the audit period July 12, 2004 through July 31, 2006. The audit included an examination and review of procedures for processing the County's workers' compensation claims and a verification of the contractual administrative fees paid by the County to TRIAD. We interviewed company personnel, examined supporting documentation for the fees paid by the County, and examined supporting documentation and reports related to the payment of workers' compensation claims. Our audit scope with regard to examining TRIAD's database was limited because of inadequate data access. We were unable to obtain complete data in an electronic format that allowed us to sort, search and match the data by computer. As a result, the discrepancies noted in the audit were discovered by physically examining printed reports. We found examples of duplicate billings and other erroneous charges but we cannot be certain of the extent of the problem without a computerized review of the data.

Summary of Significant Findings

Inadequate System Reports

TRIAD has advised that its software does not permit downloading of all data for the County's use in developing analytical spreadsheets. TRIAD provides information to the Comptroller's Office in pdf format. When TRIAD provides the information in excel format, it is incomplete because certain data fields can not be downloaded and others are truncated upon conversion. This prevented us from performing data sorts and searches, severely limiting the County's ability to audit TRIAD's claims. As a result, the discrepancies noted in our audit were discovered by physically examining printed reports. If the complete database information were made available in a useable format, all discrepancies could have been readily identifiable through electronic data mining.

Inaccurate Billing and Rebilling of Claim Set –up Fees

We reviewed all 12 vouchers submitted by TRIAD to the County for the payment of claim set-up fees for current claims billed during the period of July 2004 through December 2005. We found that TRIAD had charged duplicate claim set-up fees for 130 claims and billed the County for two "test" claimants. These erroneous charges resulted in the County paying an additional \$49,740 in claim set-up fees, out of the total claim set-up fees bills of \$459,575. We brought this overcharge to the attention of TRIAD during the audit. TRIAD agreed there was an error and the County recovered the overpayment.

TRIAD's outside accountants prepared two sets of corrected bills and TRIAD prepared a third set. Each added new claims and eliminated other claims for the same period without explanation. Neither TRIAD's employees nor its outside accountants were able to resolve these billing issues. The erroneous management fee bills and inability to properly reconcile the bills indicate significant internal control weaknesses over billing.

Duplicate Funding Request

During the audit period, we noted one occasion on which a TRIAD funding request included a duplicate indemnity payment of over \$12,000 to a claimant. The payment was not processed because the Comptroller's Office identified the exception and prevented the payment from being made. Due to the inability of TRIAD to provide us with complete data files in a searchable electronic format, we were unable to confirm that other duplications did not occur. We asked TRIAD to provide the data in an electronic format to enable us to export and audit certain parameters and fields by electronically sorting, matching and searching the data. TRIAD informed us that their system was unable to download complete data fields for use in a spreadsheet software program.

Executive Summary

Medical Bill Review

Under the original terms of the contract, TRIAD reviewed all medical service bills before paying them to ensure they were reasonable and at or below the fee schedule mandated by the Workers' Compensation Board.¹ TRIAD received a fee of 15% of all realized savings, calculated by subtracting the amount paid to the medical service provider from the original amount billed. In a review of the vouchers TRIAD submitted during the period July 2004 through December 2005 totaling approximately \$190,000 for the savings fee we found that, in two instances, the reported savings was not actually a realized savings. Due to the inadequate data access capabilities described above, we are uncertain if these instances of claimed savings, where in fact no savings existed, were isolated occurrences.

TRIAD's Database Security

TRIAD maintained a computerized database of all County claimant information covering each employee injury. We found that there was a major security weakness in TRIAD's database system that potentially allowed Comptroller's Office employees with database access the ability to change or delete pertinent claimant information. This put the County at risk because of potential actions to delete or corrupt TRIAD's database of County claimants. Also, on March 17, 2006, when provided with an internet link to the database we found that we had the option to access the workers' compensation database of all TRIAD's clients.

Poor database security presented significant internal control issues that required an immediate resolution. After we identified the security issues in March 2006, we brought them to TRIAD's attention. We noted that eight months later the security issue still existed, but when we performed another test on July 9, 2007, we found that TRIAD had resolved the internal control weaknesses and we no longer had the option to change data or access other TRIAD client's databases.

The matters covered in this report were discussed with officials of TRIAD during this audit. On November 29, 2006 we submitted a draft report to TRIAD with a request for comments. TRIAD's comments, received on December 19, 2006 are included as an addendum to this report (Appendix I).

¹ The New York State Workers' Compensation Law authorizes the Chair of the Workers' Compensation Board to promulgate a fee schedule for medical bills. N.Y. Workers' Comp. L. § 13(a) (2006). The fee schedule lists the maximum amount to be billed for specific medical services related to workers' compensation injuries.

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Audit Findings and Recommendations

The findings that follow are primarily the result of deficiencies in TRIAD's accounting and information technology ("IT") personnel and IT systems. TRIAD employees were unable to demonstrate to us that payments made to claimants and fees billed to the county were accurate. We found inconsistencies in the reports TRIAD produced and in fees billed to the county. To date, TRIAD has not been able to reconcile contradictory reports by resolving or explaining the differences in data on reports produced from its software system. In addition, TRIAD's lack of IT personnel may have resulted in delays in addressing security lapses concerning access to data in its system. The deficiencies in IT personnel and systems has also limited TRIAD's ability to provide access to data in a format that can be used for monitoring TRIAD's performance under the contract, including monitoring the accuracy of payments it makes on the county's behalf, and monitoring the accuracy of bills it files for payments to TRIAD.

Inadequate System Reports

Audit Finding (1):

TRIAD's system lacks sufficient capabilities to allow for the download of data for use in developing analytical spreadsheets. The information we received was in a pdf format. When we requested that TRIAD provide the data in a format that allowed it to be downloaded into a spreadsheet, we found that TRIAD's system truncated or omitted necessary data fields to perform certain audit tests. This data access deficiency limits the County's ability to review TRIAD reports and work with the data.

The discrepancies in TRIAD's billing of management fees and medical fees discussed below, and the discrepancy in a funding request to pay indemnity claims were discovered by physically examining printed reports. If the information were available in the appropriate format, all discrepancies could be readily identifiable through electronic data mining and analysis. TRIAD has stated that it contracted with its software consultant to make the needed revisions to its data downloads, but as of April 26, 2007, the reports were still not available in a manner that allowed for electronic analysis.

Audit Recommendation:

TRIAD should make available requested reports containing all data fields in formats required by the County or should provide the County the ability to directly download all claim data from its system into a format that can be used for continuously monitoring activity, performing analysis such as data matching to identify duplicate payments, and reconciling management fees prior to approving payment of the claims.

Audit Findings and Recommendations

Inaccurate Billing and Rebilling of Management Fees

Audit Finding (2):

Management Fee

We reviewed all 12 vouchers submitted by TRIAD to the County for the payment of management fees during the period July 2004 through December 2005. We found that TRIAD had charged the County more than once for 130 claimants and also billed the County for two “test” claimants. These erroneous charges resulted in the County paying an additional \$49,740 in management fees, out of total management fees for the period of \$459,575; equal to an overcharge of approximately 11%. This issue was brought to the attention of TRIAD during the audit and the County offset the overcharge against other amounts due to Triad.

TRIAD’s accounting firm stated that the incorrect billing had been due to TRIAD’s employees inputting erroneous date parameters. At our request, TRIAD prepared corrected bills. The corrected bills included 293 additional claims that were not part of the original bills, and eliminated seven claims that had been included in the original bills. We met with TRIAD’s Chief Executive Officer and its outside accounting firm to review the corrected bills. We requested that TRIAD provide additional information. TRIAD’s outside accounting firm then prepared a life-to-date reconciliation of all TRIAD billings to all County payments. The number of additional claims changed from 293 to 311, but totaled \$16,105 less in charges. This new bill did not reconcile the differences in TRIAD’s various billing reports to the County.

As of the date of this report, the issue has still not been resolved and the additional charges have not been paid.

Test Claimants

TRIAD appears to periodically input “test” claimant data. Test claimants are identifiable by a particular code in the claim number field. We found that test claimants were included on four vouchers. This inclusion resulted in TRIAD:

- overbilling and being overpaid \$150 for a tail claim fee;
- overbilling and being overpaid \$1,250 for management fees (this amount was included in the \$49,740 above and has been recovered by the County); and
- overbilling \$625 for a rebilled management fee.

We also found that the County was billed for four test claimants on a medical bill review. Additionally, a list of Nassau County workers’ compensation claims provided by TRIAD on May 5, 2006, included one of these test claimants. The presence of test claimants was brought to TRIAD’s attention; however as of April 26, 2007 we found at least one test claimant in the database.

Audit Findings and Recommendations

The erroneous management fee bills and inability to properly reconcile the bills show that TRIAD has weak controls in billing, including controls over the inclusion and removal of test data in TRIAD's database. The lack of accounting and IT personnel familiar with TRIAD's software and billing parameters may have led to the noted discrepancies.

Audit Recommendations:

TRIAD should:

- a) train staff to ensure that they are familiar with TRIAD's software and billing parameters so that reliable reports and bills can be consistently produced;
- b) establish internal controls requiring the review and approval of all reports and vouchers used for the billing process to ensure that they were produced using correct billing parameters;
- c) implement controls to ensure that test claimants are excluded from billings or payments;
- d) implement a system that prohibits the invoicing of duplicate fees; and
- e) reconcile life-to-date fees earned, billed and collected to ensure that the County has not been overbilled.

Duplicate Funding Request

Audit Finding (3):

The Nassau County Treasurer funds the bank account used to issue workers' compensation payments. Funding is based upon the County Treasurer's approval of requests prepared by TRIAD. We reviewed the July 13, 2006 indemnity funding report which requested \$135,786 in payments to claimants for lost time or permanent injuries and found that TRIAD scheduled a duplicate payment of \$12,485. We advised TRIAD and it voided the duplicate payment prior to the Treasurer funding the bank account.

We are uncertain if this was an isolated occurrence because of inadequate data access discussed in Audit Finding (1). We found the exception because the duplicate payments were included on the same weekly funding request report. However, if the duplicate payments were processed on two different weekly funding request reports, the exception may not have been discovered. Without the ability to perform computerized data matching, the County has only limited capacity to identify duplicate payments on two separate funding request reports. TRIAD appears to lack adequate internal accounting and system controls to prevent duplicate indemnity payments.

Audit Recommendations:

TRIAD should:

- a) enhance its software system to prevent duplicate payments;
- b) require a manager to review and approve payments to ensure their accuracy prior to being sent to the County; and

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- c) use computerized data matching to identify if any duplicate payments have been made in the past and provide details to the County Attorney for possible recovery.

Medical Bill Review

Background

One of TRIAD's functions in the administration of the workers' compensation claims is the review of all medical bills submitted on behalf of the claimants. As an incentive to reduce the cost of the medical expenses, the County's contract with TRIAD originally provided for a fee of 15% of all savings on medical expenses. The contract did not define "savings." Savings typically result from:

- the provider using the incorrect billing codes (i.e. used a code for an initial examination when it was a follow up examination that is paid at a lower rate) or rates;
- negotiating with the provider for discounts; or
- identifying procedures on the bill that are unrelated to a claimant's workers' compensation claim.

Since the audit period, the County and TRIAD have amended the contract to substitute a flat fee for medical bill review.

Audit Finding (4):

TRIAD submitted six vouchers claiming the 15% savings fee for the period of July 2004 through December 2005. In a review of claims submitted requesting payment of the 15% savings fee we found two instances in which there were no actual savings to the County.

We were informed by one provider that when the County self-administered worker's compensation, it was contacted by the County after it submitted a bill over the fee schedule and told it must rebill at the fee schedule rate. TRIAD did not advise the provider to bill only at the statutory rate.

This same provider who billed at the statutory rate when the County administered claims now bills at a rate in excess of the statutory rate. Prior to TRIAD's administration of the claims, when the County handled the processing of the invoices, this medical provider, at the County's request, billed a therapy session, consisting of multiple procedures, at the bundled statutory rate of \$61.60. We noted that after TRIAD became the TPA, the same provider billed the County for the same procedures unbundled at \$113.26. As a result of the provider billing this way, TRIAD reduced the payment to the statutory amount of \$61.60 and claimed a 15% savings fee.

In another example of a correction that resulted in no savings to the County, a random review of TRIAD's May 31, 2006 financial register found that TRIAD claimed a savings of \$1,185 four times on a single medical bill of \$1,580. This occurred because the claimant had four injury claims to which the medical bills had to be apportioned. TRIAD correctly apportioned 25%, or \$395, to each injury but it then claimed a savings on each

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portion of the split bill equal to the difference between the total bill (\$1,580) and the \$395 apportioned. This resulted in TRIAD claiming a fee of \$711 for nonexistent savings. TRIAD was advised of this error, agreed with the finding and submitted a corrected bill. We reviewed other payments made on behalf of this claimant and found that this type of apportionment occurred on six other occasions, resulting in excess fees of \$1,104.

We are uncertain if these instances of claimed savings, where in fact no savings existed, were isolated occurrences. Similarly we could not determine whether there were other instances of apportionment of provider's bills among injuries to determine if TRIAD had overbilled the County.

Audit Recommendations:

TRIAD should:

- a) review all instances in which medical bills were split between multiple claims for the same claimant and refund any overcharges to the County; and
- b) provide data to the County in a format that will facilitate the County's own review of claimed savings from splitting claims.

TRIAD's Database Security

Audit Finding (5):

As part of its contract, the County required that the vendor provide authorized County employees with database access. We found a material security weakness in TRIAD's database system that potentially allowed Comptroller's Office employees with database access the ability to change or delete pertinent claimant information.

A County user with database access was:

- able to change claimant data in the database; and
- given access through the internet that provided the option to access every other TRIAD client's data.

The fact that Nassau County employees could access data of other TRIAD clients raises the question whether other TRIAD clients could access Nassau County's database as well. Section 8 of the contract expressly requires TRIAD to maintain the confidentiality of the information acquired in connection with its administration of the County's workers' compensation claims. Weak internal controls over the confidentiality of data could have serious ramifications such as data tampering and identity theft.

After we identified the security issues in March 2006, we brought them to TRIAD's attention. We noted that eight months later the security issue still existed, but when we performed another test on July 9, 2007, we found that TRIAD had resolved the internal

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control weaknesses and we no longer had the option to change data or access other TRIAD client's databases.

Audit Recommendation:

We commend TRIAD for resolving these security issues prior to the release of the report.

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TRIAD'S Response and Auditor's Follow-up

December 19, 2006

Honorable Howard S. Weitzman
Comptroller
Office of the Comptroller
Nassau County
Mineola, New York 11501

Re: Workers' Compensation Audit

Dear Comptroller Weitzman:

In accordance with our discussions with your staff, please accept this letter and attachments as our reply to the Draft Audit of the Nassau County Contract with TRIAD GROUP, LLC (hereinafter Draft Audit).

Preliminary Statement

At the outset, let me again say that the TRIAD GROUP, LLC (hereinafter TRIAD) welcomed the opportunity to assist Nassau County in the implementation of improvements in the claims administration of their workers' compensation self insurance program over the last two years.

Since July 2004, TRIAD has devoted considerable resources and undertaken a number of steps to improve the overall claims administration of the workers' compensation claims of the County.

In this regard, TRIAD is proud of the following accomplishments:

1. HCRA savings in the amount of about \$2,600,000.00;
2. WCB assessment credit in the amount of \$2,300,000.00;
3. Medical Benefit Savings in the amount of \$2,100,000.00;
4. Section 15-8 recoveries in the amount of approximately \$90,000.00;
5. Section 25-a relief in the amount of \$400,000.00; and
6. Subrogation credits in the amount of approximately \$750,000.00.

As noted in discussions with your staff, much of these efforts and services were done above and beyond the terms of the claims administration contract, and without additional service charge.

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In addition, as discussed with your staff TRIAD has been able to address one of the major issues of the program prior to the involvement of TRIAD, namely the per claim cost of the program. Triad has closed 257 tail claims at an average cost of \$9030.66 or roughly two thirds of the annual expenditure cited by the State Comptroller. On claims handled from inception by Triad, the average cost has been reduced by approximately fifty per cent.

In short, during this past two years, the primary focus of TRIAD has been to improve the work comp program for Nassau County and at the same time reduce the cost per claim, even though it has meant the expenditure of additional time and resources on the part of TRIAD.

At the outset of the engagement, TRIAD began by handling all claims with date of loss of 7/12/2004 or later. Thereafter, in December of 2004, we were asked to begin reviewing and paying medical bills on all claims with a date of service of 12/01/2004 or later.

In March of 2005, Triad was asked to review and reserve all the tail claims, namely those claims with a loss date prior to 07/12/2004, including the DPAYS and did so in a matter of six weeks. We then met with Nassau's then Budget Director and the Risk Manager to advise as to the exposure on these claims. This marked the first time in history that Nassau had a review of this large existing liability.

On 8/11/2005, TRIAD began making payments by check on behalf of Nassau County. TRIAD developed the necessary data programming to deliver an electronic upload to North Fork, the bank selected by Nassau County. North Fork provided bank statements and reconciliations to Nassau. TRIAD absorbs the cost of postage on all payments. (This represents a savings of over \$18,000.00 to the County as of this date.)

In January, 2006 TRIAD began making indemnity payments on the DPAY cases. (Prior to this point the County had incurred around \$150,000.00 in penalties for late payment of awards in those cases.)

Clearly, the past two years of this transition was fraught with issues necessitating additional work and resources on the part of TRIAD as well as County staff.

Accordingly, at this time, TRIAD would initially and respectfully request that your office rename the current Draft Audit and change it to a Draft Management Letter. Doing so would be far more productive in promoting enhanced cooperation between TRIAD and Nassau County to reach the ultimate goal of improving the work comp operation to the highest level possible.

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TRIAD'S Response and Auditor's Follow-up

Background

Prior to July 12, 2004, Nassau County self administered the County's self insured workers' compensation program through their Workers' Compensation Bureau (hereinafter Bureau) of the Office of the County Attorney (hereinafter County Attorney).

A. New York State Comptroller Report

In April 2004 the Office of the New York State Comptroller, Division of Local Government Services & Economic Development issued a Report of Examination of the Nassau County Workers' Compensation Bureau (hereinafter State Comptroller Report). The following is the link to the NYS Comptroller's web site for the State Comptroller Report: <http://nysosc3.osc.state.ny.us/localgov/audits/2004/counties/nassauwc.pdf>

In such State Comptroller Report, the audit staff examined transactions and procedures for the period January 1, 2001 through December 31, 2002. The areas of the examination included (i) Case Management, and (ii) Records and Files.

In the Case Management area, such State Comptroller Report found significant deficiencies in the areas of (a) Late Payment of Awards, (b) Audit of Medical Claims, (c) Investigation of Initial Claims, (d) Lump Sum Settlements, and (e) Monitoring Continuing Eligibility. Accordingly, such State Comptroller Report set forth a number of recommendations in those areas.

In the Records and Files section, such State Comptroller Report found significant deficiencies in the areas of (a) Records, and (b) Filing Systems. Again, the State Comptroller Report set forth recommendations in these areas.

At this same time, the County decided to issue an RFP for the utilization of an independent licensed third party claims administrator.

B. TRIAD GROUP, LLC Contract

Following the issuance of the RFP for workers' compensation claims administration by the County, the contract was awarded to TRIAD.²

² TRIAD included a copy of the contract as an attachment to its response to the audit findings and recommendations. The contract is included on the Nassau County Comptroller's web site at the following address:http://www.nassaucountyny.gov/agencies/Comptroller/NewsRelease/2007/documents/TRIAD_Contract.pdf. The contract was amended to exercise options for the period May 2007 through May 2009 and to revise the fee structure effective December 31, 2006.

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Auditor's Follow-up Response:

The basic essence of the contract involved work comp claims administration. Such included the processing of the claims received by the County. Such processing included functions such as establishing claims files, reviewing and approving/rejecting medical bills, making payments to the claimants, interfacing with the Workers' Compensation Board and a myriad of other traditional claims administration responsibilities.

It also needs to be noted that the contract envisions two categories of cases. The first category is those cases which involve accidents and injuries prior to July 2004. These are commonly referred to as the 'tail claims'. Altogether there are about 2,200 open cases in this category.

The second category is the group of cases involving claims after July 2004. At this time, there are about **1288** open cases in this category.

General Response

As discussed with your staff during our December 5th meeting at your offices, TRIAD is concerned that the procedures used by the team which conducted the review and prepared the Draft Audit were not ones which adequately 'tested' the TRIAD data. In spite of offers from TRIAD to educate and train the team as to the TRIAD system, the team did not accept those offers. Thus the team did not possess an understanding of how to access certain data from the TRIAD system. Further, the team did not conduct an in depth review of the actual files.

TRIAD is also concerned that the findings in the Draft Audit are not supported by sufficient documentation. As noted, the team did not conduct an in depth review of the actual files at the TRIAD offices. Rather, the team relied upon one or two isolated situations which do not represent the true picture. Such means that the findings lack a sense of 'proportionality'.

Finally, TRIAD is concerned that the findings in the Draft Audit lack objectivity due to the inherent 'conflict' which exists in the areas covered by this Draft Audit. For example, one of the areas covered involves the nature of the reports on certain financial matters over which the Office of the Comptroller has certain operational jurisdiction. Thus, is it a situation where some may query as to whether the TRIAD reports were inadequate or the Comptroller's systems inadequate?

For all these reasons, TRIAD believes that the current Draft Audit should be renamed and considered a Management Letter.

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Auditor's Follow-up Response:

The auditors were not offered training in the use of TRIAD's system but we appreciate that TRIAD is willing to train our auditors and will take advantage of the training in the future. TRIAD did not provide reports and data to the auditors in a useable format. Downloaded data fields were truncated, rendering the information unusable for data mining purposes. Instead, data TRIAD provided was in the form of pdf files, essentially printouts of large volumes of data.

TRIAD expresses concern that our findings represent isolated instances. We share a similar concern in that we could not be sure that the problems we identified were isolated instances. Due to the data access limitations discussed in Audit Finding 2, we relied on manual scans of the printouts to detect errors. This method is neither cost effective nor a reliable means of detecting duplicate entries when there is a large volume of data. The data access limitations did not allow us to perform the amount of testing that would have been necessary to do a complete analysis of the data. Even without the ability to electronically sort the data, the problems identified in the management fee and payments to claimants, indicate that TRIAD's internal controls are not sufficient to detect and correct billing and payment request errors before they are sent to the County.

TRIAD's statement that "Further, the team did not conduct an in depth review of the actual files" is incorrect. Auditors spent three weeks at TRIAD's Merrick office, reviewing 80 case files in detail.

We find no conflict of interest in auditing vendor compliance with contracts. Under Nassau County Charter §402, it is the Comptroller's responsibility to review and approve payment of claims and to audit contractors. Further, the Comptroller's Office is organized to separate its Field Audit Unit, which prepares audit reports, from the units performing the Comptroller's operational functions.

Specific Responses to Specific Audit Findings

Audit Finding (1):

Inadequate System Reports

Response

TRIAD believes that the current report formatting substantially meets the contract requirement as regards the claims administration. Some of the concerns as to the report capabilities arise out of collateral areas such as financial reporting.

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In addition, at no time in the last two years and prior to the commencement of the audit did the Office of the Comptroller request the installation of the system programs which would provide the type of data requested by the Comptroller as part of the audit.

In any event, TRIAD will nonetheless discuss adding system enhancements to the current system to assist the Comptroller on future audits.

Discussion

In the Field Audit Report, the draft report states that the current TRIAD computer system lacks sufficient capabilities to allow for the download of data for certain analytical spreadsheets.

TRIAD notes that the current system is one which is called "File Handler". This system can generate a number of standard reports and sort by certain standard criteria such as date of accident, type of payment, date of payment, nature of payment, and similar reports. Altogether, this system can generate about two dozen types of standard claims administration reports. These reports include the following:

1. Loss Runs 4 varieties
2. Financial Reports 3 varieties
3. Claim Lists 3 varieties
4. Note Reports 3 varieties
5. Diary Reports 3 varieties
6. Safety Analysis Reports
7. Reserve Log Reports
8. Party Reports 3 varieties
9. Claim Reports including OSHA and DOSH Logs

TRIAD notes that over the course of the contract such reports have been filed on a weekly basis with the County.

TRIAD further notes that the data elements required by the County as part of the audit are beyond the 'standard' data elements. Such extraordinary elements include such items as identification and segregation of data to various responsibility centers.

Over the last two years and prior to the commencement of the audit, TRIAD did not receive any notice as to any special download requirements or ad hoc reports which would be required under the contract. Absent advance notice to TRIAD as to the actual data needs of the Office of the Comptroller, TRIAD can not be expected to anticipate or otherwise predict the extent of the special data needs. TRIAD did create custom management reports at the request of Nassau's Risk Management Office.

TRIAD believes that data mining is an effective management and audit tool and is willing to revise the current computer programs to accommodate the needs of the County, provided such needs are set forth in specific requests with specific timelines.

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Auditor's Follow-up Response:

We did not request that TRIAD provide data outside of standard data elements, we requested that TRIAD provide data already contained in its database in a usable format. Instead, we found that some of the data provided was truncated and therefore unusable.

We reiterate our concerns that the current computer program cannot provide data in a format to accommodate the needs of the County. Rather than modifying its computer program based on specific data requests, TRIAD should modify the program to make all county data accessible to standard data mining software. Read-only accessibility to data, along with TRIAD's data dictionary describing the files and the records contained in each file, record layouts and descriptions of any codes used will give the County the ability to meet its data needs without making repeated requests for further modifications.

Audit Finding (2):

Inaccurate Billing and Rebilling of Management Fees

Response

TRIAD believes that the billing and rebilling of the management fees has been in substantial compliance with the contract. The use of a per claim fee (as mandated by the contract) requires a retrospective reconciliation of billing as claim types can change over time. TRIAD is scheduled to meet with the Comptroller's Office to conduct this reconciliation.

TRIAD will nonetheless adopt the recommendations to enhance the systems and procedures associated with the billing of the management fees.

Discussion

In the draft audit report the field audit team finds that there are internal control weaknesses in billing for management fees and thus led to certain discrepancies.

TRIAD notes that in the transition of the claims inventory from the County to TRIAD there was a great deal of work done in locating, sorting and establishing the files. This transition process is one which might have produced a small number of errors in billings.

One of the reasons for the billing errors lies in the fact that at the time of the initial contract the inventory of the tail claims was estimated to be around 1,000 cases by the County. Once the transition was undertaken, it was discovered that the number of tail claims was double the estimate. Dummy files had been used to test the data transfer via FTP initially required by the County for issuing payments. Because these files contain payments, they cannot be deleted from the database but TRIAD concedes they should not appear in billing reports. TRIAD has taken steps to eliminate these files from billing in its reconciliation.

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TRIAD believes that at the current time the transition is now complete and that the billing errors should no longer occur. TRIAD is performing a review of claim types for billing reconciliation and will deliver a reconciliation of all billings against actual claims entered.

Auditor's Follow-up Response:

We saw no evidence that an underestimation of the number of tail claims caused duplicate billings. We concur with the corrective actions to be taken by TRIAD to adopt our recommendations to enhance the systems and the procedures associated with the billing of the management fees. We reviewed TRIAD's updated reconciliation of all billings against actual claims entered and found that it did not resolve the billing issues because it contained mathematical errors. We reiterate our recommendation that TRIAD devote the resources necessary to provide the County with accurate bills.

Audit Finding (3):

Duplicate Funding Request

Response

TRIAD believes that there are sufficient safeguards in place to safeguard against duplicate payments.

TRIAD feels that the one case mentioned is not a sufficient sample to demonstrate or support a finding of inadequate controls. Given that TRIAD has made over 48,000 payments the error margin is miniscule and well below industry standard.

TRIAD further notes that the Field Audit Team did not undertake any review of the claims records through the existing TRIAD claims system. Such a review of the TRIAD records could have been conducted at the TRIAD site with little expenditure of time and resources by the Team.

In any event, TRIAD will nonetheless adopt the recommendations to enhance the current system protocols and personnel practices.

In this section, the Field Audit finds that in one case the audit team was able to identify one indemnity payment which was scheduled for a duplicate payment. Such duplicate payment was not actually made.

The Field Audit further suggests (i) there is a lack of adequate internal accounting and system controls to prevent duplicate indemnity payments; and (b) there is an inability on the part of the audit team to undertake a comprehensive review of the payments in the current system environment.

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TRIAD disputes the suggestion by the field team in the Field Audit that there are inadequate controls and that an audit for duplicate payments can not be made.

(a) Adequate internal controls

TRIAD believes that there are sufficient controls in place to prevent duplicate payment.

TRIAD notes that over the course of the contract a total of about 26,000 indemnity payments were made on the old tail claims and the new claims. In each case, the payments are initiated by a claims examiner, and on a regular basis the payment charts are reviewed by a senior adjuster.

Further, on a regular basis the payment registers are reviewed and audited by County personnel.

(b) Accessibility to data

TRIAD believes that there is a sufficient pool of data which is accessible for audit.

First, TRIAD notes that over the course of the contract a significant amount of payment data has been provided to the County. Each week on Wednesdays (medical and expense payments) and Thursdays (indemnity payments) TRIAD electronically provides to the County Comptroller and County Treasurer four reports, including:

1. Check Register in PDF showing the invoiced amount and the paid amount,
2. Pay Register in PDF showing sub-object codes and the paid amount,
3. Financial Register in PDF showing each check and the payee sorted by responsibility center
4. Financial Register in Excel Summary Format showing the total amount paid for each responsibility center.

In addition, TRIAD notes that over the course of the year a number of special payment reports and summaries have been provided to the County. The Risk Management Office of Nassau County has been provided with a variety of reports on a daily basis since April of 2005 on old claims, new claims, expenditures by indemnity, medical and expense, budget forecasts and reviews.

Clearly, there is a sufficient pool of data from which an audit team can audit payments and review. An audit of claim costs and closure statistics would demonstrate TRIAD's exemplary performance under this contract.

Auditor's Follow-up Response:

We concur with the corrective actions to be taken by TRIAD to adopt our recommendations to enhance the current system protocols and personnel practices. We

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reiterate our recommendation that TRIAD use computerized data matching to identify if any duplicate payments have been made in the past and provide details to the County Attorney for possible recovery.

TRIAD is incorrect when it states that we did not review the claims records through the existing TRIAD claims system. We audited 80 claim files at TRIAD's Merrick location.

TRIAD should ensure that the data provided to the County is accurate. TRIAD should have a system that will detect or prevent errors, such as duplicate payments.

Audit Finding (4):

Medical Bill Review

Response

TRIAD believes that the current bill review system and practice is saving the County a substantial amount of money and resulting in 'actual savings' in a number of cases. The contract sets forth the nature of the current bill review system remuneration. Under such contract, TRIAD receives a percentage of the difference between the amount billed and the amount paid.

TRIAD further believes that reliance upon the billing practices of one isolated provider is not a sufficient basis to make a finding or reaching a conclusion as set forth in the Draft Audit. TRIAD has no control over the manner in which such provider (or any provider) bills for services.

In any event, TRIAD will nonetheless be willing to adopt the recommendations for improving the bill review savings program.

In addition, TRIAD will agree to discuss a modification of the current remuneration system.

In this section the Field Audit found instances in which the reported savings from the medical bill review by TRIAD did not always result in actual savings for the County.

At the outset, it should be noted that the claims administration contract contains a clause which dictates that the portion of the bill review service of the overall claims administration service by TRIAD is billed as a percentage of savings. This percentage is based upon the difference between the actual amounts billed and submitted by the doctors versus the actual amounts processed and paid by TRIAD.

Of note, the provisions of the claims administration contract do not require an actual savings to accrue to the benefit of the County.

(a) Multiple Injury Claim Files

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TRIAD agrees that on multiple injury cases the percentage formula dictated by the contract should generate a fee for TRIAD in the aggregate savings as if the treatment was on one file.

(b) Actual Savings

TRIAD notes that the contract sets forth the manner in which the medical bill review fee is paid and does not provide an exception to those instances in which the 'paper' savings do not result in 'actual' savings.

TRIAD is willing to offer the following:

1. in those instances where the County determines that there are no actual savings, the medical bill review fee will be waived, or if already paid to TRIAD the amount will be applied as a credit to future billings by TRIAD on medical bill review cases; or,
2. in the future medical bill review fees will be computed as a fixed fee amount per bill review.

Auditor's Follow-up Response:

We concur with the corrective actions to be taken by TRIAD to review all medical bills that were split between multiple claims and ensure that the savings fees were not incorrectly billed.

It should be noted that the County has amended its contract with TRIAD to change the fee structure for medical bill review from a percentage of savings to a flat fee of \$8.00 for each claims reviewed. As a result, the definition of savings will be irrelevant to future contract expenses.

Audit Finding (5):

Database Security

Response

TRIAD believes that the system has security safeguards, and notes that the access which was granted to the County was the highest level of access available in the TRIAD system. This highest level of access was extended to a particular individual within the County with the assumption that the individual would use it in the appropriate fashion and not seek to alter data or venture beyond the scope of the County files.

In any event, TRIAD will nonetheless adopt the recommendations.

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Discussion

In this section, the Field Audit found a material security weakness in the TRIAD database. This finding arises out of the fact that during the course of the Field Audit Nassau County employees could (a) access data of other TRIAD clients, and (b) the employees could change certain data elements.

TRIAD believes that the phraseology of this finding is one which is misleading in that it erroneously suggests the system is one which has no safeguards. The TRIAD system does in fact have a number of safeguards.

(a) Access to Data

TRIAD does have a practice of allowing 'read only' access to the TRIAD clients so that the specific accounts would only have access to their own accounts.

In this particular case of the Field Audit finding of a weakness in security, such finding arises out of the fact that as part of this audit, the Office of the Comptroller requested and was granted the highest level of access to the data base. Such access was specifically granted to the Deputy Comptroller for Operations – Chief of Staff, and the assistant to the Comptroller and it was expected that such access would be guarded by these staff members and used for the purpose for which it was intended.

Further, such was done with the understanding that the Office of the Nassau County Comptroller would limit their review to the Nassau County files.

In any event, TRIAD will implement an Access Agreement whenever the client is afforded access to account data.

(b) Change to Data

TRIAD does have a system which allows certain individuals to access the data on certain accounts and make additions or modifications to the data on such accounts.

The system does not allow unlimited data changes except for those vested with the highest level of access. At the present time, the only TRIAD staff with such access is staff who are senior adjusters or above.

Further, as regards the outside clients, the clients possess limited power to input data in the select areas. Such may include the following fields:

1. FNOL (First Notice of Loss)
2. File Notes
3. Diary
4. C FORMS

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In all cases, the system contains internal functions which allow the TRIAD computer staff to determine any data changes made.

In any event, TRIAD will implement a new computer log system which will allow for automatic tracking of the changes and additions to the data. Such tracking notes the author of the change, the time of the change and the nature or extent of the change. Hence, there is a trail of any such changes or additions to the data field.

In addition, TRIAD will implement a review of all staff and client access codes and system functions in this area. And, under the new automatic log system TRIAD will conduct a quarterly review of the log activity.

Auditor's Follow-up Response:

We concur with the corrective actions to be taken by TRIAD to adopt our recommendation to provide clients with access to the client's own data only and to require an Access Agreement governing the scope and terms of the access to data.

We also concur with TRIAD providing those clients who perform data maintenance with ability to input to limited fields within the database, but recommend that the new log system be reviewed more frequently than quarterly.

The Comptroller's Office did not request a level of access to TRIAD's database that would enable us to review other client data. We were dismayed to find that TRIAD had given us such access and can imagine no circumstances under which it would be appropriate to give one client access to another clients' database.

Conclusion

TRIAD is looking forward to working with the Office of the Comptroller in a joint effort to improve and enhance the operation of the workers' compensation program for Nassau County.