

BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER  
OF THE STATE OF WEST VIRGINIA

*In the Matter of:*

**WEYERHAEUSER COMPANY**

Administrative Proceeding No. 23-IC-155835

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ADOPTING  
REPORT OF SELF-INSURED MARKET CONDUCT COMPLIANCE EXAMINATION

NOW COMES Allan L. McVey, Insurance Commissioner of the State of West Virginia (hereinafter, "Commissioner"), who after consideration of *the Report of Self-Insured Market Conduct Compliance Examination* (hereinafter, the "*Examination Report*") of Weyerhaeuser Company (hereinafter, "Weyerhaeuser") for the audit period ending June 30, 2023, make the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. A Self-Insured Compliance Audit concerning the operational affairs of Weyerhaeuser for the period ending June 30, 2023, was conducted in accordance with W.Va. Code §33-2-9, W.Va. Code §23-2-9, W.Va. Code §23-2C-22, W.Va. Code §33-2-21 and W.Va. Code R. §85-18-1, *et seq.* by auditors duly appointed by the Commissioner. The Self-Insured Compliance Audit began on March 5, 2024, and concluded on April 18, 2024.

2. On or about May 9, 2024, the examiner filed with the Commissioner, pursuant to W. Va. Code § 33-2-9(j)(2), the *Examination Report*.

3. A true copy of the *Examination Report* was provided to Weyerhaeuser and Weyerhaeuser was notified pursuant to W. Va. Code § 33-2-9(j)(2) that it had ten (10) days after receipt of the *Examination Report* to file a submission or rebuttal with the Commissioner.

4. As set forth in the *Examination Report*, the examination focused on the methods used by Weyerhaeuser to manage its operations for each of the business areas examined, including whether and

how Weyerhaeuser, a self-insured employer, complies with West Virginia's statutory and regulatory law.

5. The exam found Weyerhaeuser was 100% compliant in the areas examined.

6. The Commissioner reviewed the *Examination Report* and considered Weyerhaeuser's submissions, if any, prior to issuing these findings of fact, conclusions of law and order.

#### CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the subject matter and the party to this proceeding.

2. This proceeding is pursuant to and in accordance with W.Va. Code §33-2-9, W.Va. Code §23-2-9, W.Va. Code §23-2C-22, W.Va. Code §33-2-21 and W.Va. Code R. §85-18-1, *et seq*

3. As detailed in the *Examination Report*, Weyerhaeuser was compliant in all areas examined.

4. The Commissioner is charged with the responsibility of verifying Weyerhaeuser's continued compliance with West Virginia Law.

#### ORDER

Pursuant to W. Va. Code § 33-2-9(j)(3)(A), as a result of his review of the *Examination Report*, the examination work papers, and Weyerhaeuser's response thereto, it is **ORDERED** as follows:

1. The referenced and attached *Examination Report* is hereby **ADOPTED** and **APPROVED** and, by this reference, incorporated herein and made a part hereof;

2. Weyerhaeuser shall continue to monitor its compliance with applicable West Virginia law.

Entered this 3<sup>rd</sup> day of July, 2024.



Allan L. McVey  
CPCU, ARM, AAI, AAM, AIS  
Insurance Commissioner

# Report of Self-Insured Market Conduct Compliance Examination

As of June 30, 2023



## **Weyerhaeuser Company**

1785-B Weyerhaeuser Rd.  
Vanceboro, NC 28586

### **TPA**

Sedgwick CMS, Inc.

**Examination Number 23-IC-155835**

**Date Prepared:**  
**05/09/2024**

## Table of Contents

<u>COMPLIANCE WITH PREVIOUS EXAMINATION</u> .....	4
<u>EXECUTIVE SUMMARY</u> .....	4
<u>HISTORY AND PROFILE</u> .....	5
<u>METHODOLOGY</u> .....	5
<u>ELEMENTS OF THE REVIEW</u> .....	5
<u>COMPLIANCE TABLE</u> .....	10
<u>OBSERVATIONS</u> .....	11
<u>RECOMMENDATIONS</u> .....	13
<u>EXAMINER’S SIGNATURE AND ACKNOWLEDGEMENT</u> .....	14
<u>EXAMINER’S AFFIDAVIT</u> .....	15

05/09/2024

The Honorable Allan L. McVey, CPCU, ARM, AAI, AAM, AIS  
West Virginia Insurance Commissioner  
900 Pennsylvania Avenue  
Charleston, West Virginia 25305

Dear Commissioner McVey:

Pursuant to your instructions and in accordance with West Virginia Code §§ 33-2-9, 33-2-10(b), 33-2-21(a), 23-1-1, 23-2-9(b)(1) & (2), 23-2C-22 and West Virginia Code of State Rules Title 85, a Market Conduct examination has been made for the period of July 1, 2020 – June 30, 2023 on the Workers' Compensation self-insured claims handling of

Weyerhaeuser Company  
1785-B Weyerhaeuser Rd.  
Vanceboro, NC 28586

hereinafter referred to as the "Self-Insured Employer." The following report of the findings of this examination is herewith respectfully submitted.

## **COMPLIANCE WITH PREVIOUS EXAMINATION RECOMMENDATIONS**

All of the previous recommendations have been addressed by the Self-Insured Employer and we found no subsequent failure of those standards.

## **EXECUTIVE SUMMARY**

This Self-Insured Market Conduct Compliance Examination (“examination”) was initiated to determine the compliance of Weyerhaeuser Company with the West Virginia statutes, rules and regulations governing the self-administration of workers’ compensation claims.

The examination work related to Weyerhaeuser Company commenced March 05, 2024 and concluded April 18, 2024. Weyerhaeuser Company maintains an electronic environment; the majority of the examination work was conducted by electronic virtual private network through the Third-Party Administrator’s (“TPA’s”) computer systems. Due to the limited number of claims for Weyerhaeuser Company during the examination period, the entire claim population of twenty-four (24) claims was reviewed, consisting of fifteen (15) Medical Only (MO) claims and three (3) Permanent Partial Disability (PPD) claims. The entire population of six (6) Denied (D) claims was also reviewed. Upon completion of this review, there were no areas of concern for this exam.

## HISTORY AND PROFILE

Weyerhaeuser, a wood products manufacturer began over 100 years ago in Tacoma, Washington. Weyerhaeuser Company has been self-insured in West Virginia since 1995 and has 502 active employees in the state.

## METHODOLOGY

The examiner conducted file reviews and was familiar with the Self-Insured Employer/TPA claim process in as much as prior examinations had been performed. This examination report is a report by test, rather than a report by exception, and all elements tested are described and the results indicated.

Typically, areas below 93% would generally require systemic corrective action. Any element scoring below 100% will detail the observations of the specific issue and include a recommendation.

Except as otherwise noted, all tests were conducted via a given population of twenty-four (24) claims files. Paid and Denied Claims: Typically, a maximum initial sample of twenty-five (25) denied claims files would have been selected. Since the company populations of both paid and denied claims were less than twenty-five (25), then the entire population was reviewed. A weighted sampling methodology of "80% Indemnity" (20 Claims) and 20% "Medical Only" (5 Claims) will be utilized. If the population of indemnity claims is less than the indicated indemnity sample size, then the remaining sample size will be medical only. Supplemental (Secondary) Samples: Supplemental or secondary samples will be obtained if the pass rate for any given standard is greater than 80% but less than 100%. If the pass rate is less than 80% on the initial sample, no additional sample will be obtained.

Each area of the examination has specific elements that were tested, and the areas and elements are listed below. The examiners may not have discovered every unacceptable or non-compliant activity in which the Self-Insured Employer/TPA is engaged. The failure to identify, comment on, or criticize specific practices does not constitute an acceptance of the practices by the West Virginia Offices of the Insurance Commissioner or its' designee. A compliance table follows containing results of each area of review with the compliance percentage for the Self-Insured Employer/TPA.

## ELEMENTS OF THE REVIEW

- A. COMPLAINTS: THE TIME FRAME WITHIN WHICH THE EMPLOYER RESPONDS TO COMPLAINTS IS IN ACCORDANCE WITH APPLICABLE STATUTES, RULES AND REGULATIONS.**

1. Did the Self-Insured Employer respond to complaints received from the WVOIC within fifteen (15) working days? [W. Va. Code R. § 85-1-16]

**B. INITIAL COMPENSABILITY DECISIONS AND INVESTIGATIONS ARE CONDUCTED IN A TIMELY MANNER.**

1. Did the Self-Insured Employer properly investigate then provide a written ruling on a claim within fifteen (15) working days, or if “tolled” while evidence for the claim is gathered, rule in the appropriate time? [W. Va. Code §§ 23-4-1c (a) and (b) & W. Va. Code R. § 85-1-10.1]
2. Did the Self-Insured Employer include on the written notice of the decision the protest clause? [W. Va. Code § 23-5-1(b)(1) & W. Va. Code R. § 85-1-7.2]

**C. TEMPORARY TOTAL DISABILITY (TTD)**

1. Did the Self-Insured Employer/TPA properly notify the claimant of the TTD award? [W. Va. Code § 23-5-1]
2. Did the Self-Insured Employer/TPA immediately pay amounts due the claimant for benefits upon determination of eligibility? [W. Va. §§ 23-4-1c(b) and (g)]
3. Did the Self-Insured Employer/TPA calculate and pay indemnity payments correctly? [W. Va. Code § 23-4-14(b)(2) and Informational Letter 162A]
4. Did the Self-Insured Employer/TPA issue temporary total disability closure letters properly? [W. Va. Code §§ 23-5-1, 23-4-7a and 23-4-22]

**D. PERMANENT PARTIAL DISABILITY (PPD)**

1. Did the Self-Insured Employer/TPA act on PPD evaluations timely? [W.Va. Code R. § 85-1-10.5 a. The responsible party shall act on a permanent disability evaluation report received from a physician to whom the responsible party referred a claimant in a claim for injuries and occupational diseases other than occupational pneumoconiosis within thirty (30) working days of receipt by the responsible party of the report.]
2. Did the Self-Insured Employer/TPA make timely IME referrals? [W.Va. Code R. § 85-1-10.5 b. The responsible party shall make a referral of a claimant to a physician for examination and evaluation in response to a request by or on behalf of the claimant for consideration of a permanent disability award in a claim for injuries and



occupational diseases other than occupational pneumoconiosis within thirty (30) working days from the date the request was received by the responsible party.]

3. Did the Self-Insured Employer/TPA commence PPD award payments timely? [W.Va. Code R. § 85-1-10.5 c. Permanent partial disability awards may be paid, at the discretion of the responsible party, either by lump sum or in installments consistent with applicable law. Payment of permanent partial awards shall commence within fifteen (15) working days of the decision granting the award.]
4. Did the Self-Insured Employer/TPA calculate and pay the payment correctly? [W. Va. Code § 23-4-14(b)(2) and Informational Letter 162A]

#### **E. MEDICAL AUTHORIZATIONS**

1. Did the Self-Insured Employer/TPA comply with W. Va. Code R. § 85-1-10.3? “Medical treatment, medications, appliances, devices and supplies. – The responsible party shall act upon an injured worker’s request for authorization of medical treatment, medications, appliances, devices and supplies within fifteen (15) working days from the date the request was received by the responsible party.”

#### **F. NON-AWARDED PARTIAL BENEFITS (NAP)**

1. Were non-awarded partial disability benefits paid at the same rate as the permanent partial disability rate per W. Va. Code R. § 85-1-9.7?

#### **G. DEATH CLAIMS (FATAL)**

1. Were the death benefits in the proper amounts and to the proper person(s) per W. Va. Code §§ 23-4-1 and 23-4-10.

#### **H. CLOSURE**

1. Were the claims properly closed and a notice issued? [W. Va. Code § 23-4-16 and Supreme Court of Appeals of West Virginia decision May 23, 2008, LOVAS v. CONSOLIDATION COAL COMPANY]

#### **I. OCCUPATIONAL PNEUMOCONIOSIS**

1. Did the Self-Insured Employer enter non-medical decisions in occupational pneumoconiosis claims within ninety (90) days from the date the responsible party

receives properly executed, prescribed forms? (can be “tolled” for no more than thirty (30) additional days during the evidence gathering process) [W. Va. Code § 23-4-15b and W.Va. Code R. § 85-1-10.2] (If necessary, this should reflect in the report as N/A with explanation as none were in the samples.)

**J. DENIED AND CLOSED WITHOUT PAYMENT**

1. Did the Self-Insured Employer properly investigate then give a written ruling on a claim within fifteen (15) working days, or if “tolled” while evidence for the claim is gathered, rule in the appropriate time? [W. Va. Code § 23-4-1c (a) and W. Va. Code R. § 85-1-10.1]
2. Were claims handling practices meeting West Virginia statutes, rules and regulations of “denied” and “closed without payment” claims including proper notifications, reasonable basis for denial, and whether or not claimants are provided adequate instructions for rebuttals? [W. Va. Code §§ 23-5-1(a) 23-5-1(b)(1)]
3. Were claims denied inappropriately due to a technicality? [W. Va. Code § 23-5-13]
4. Were appropriate protest/grievance language on the decision order? [W. Va. Code §§ 23-5-1(b)(1) and 23-4-3(f) and W. Va. Code R. §§ 85-1-7.2 and 85-21-10.2b]
5. Were denied claim investigations by the Self-Insured Employer/TPA complete and thorough?

**K. OFFICE OF JUDGES (OOJ) AND BOARD OF REVIEW (BOR) ORDERS**

1. Did the Self-Insured Employer comply with all orders of the Office of Judges (“OOJ”) and the Board of Review (“BOR”) and all mandates of the West Virginia Supreme Court of Appeals within thirty (30) days from the date of receipt, unless the responsible party is required to act sooner under the terms of the order or mandate, or the order or mandate is subject to a lawfully ordered stay? [W. Va. Code § 23-5-9(f) and W. Va. Code R. § 85-1-10.7]

**L. DOCUMENTATION**

1. Did the Self-Insured Employer follow state statutes, rules and regulations which require that claim files contain adequate documentation and to be maintained in a

manner so that pertinent events and dates of such events can be reconstructed if necessary? [W. Va. Code R. §§ 85-18-13.3 and 13.4]

**M. EDI - DOES THE SELF-INSURED EMPLOYER PROMPTLY AND ACCURATELY PROVIDE THE WVOIC WITH ALL NECESSARY CLAIM INFORMATION TO MAINTAIN THE WORKERS' COMPENSATION CLAIM INDEX? [W. VA. CODE §23-2C-5(C)(8) AND W. VA. CODE R. §85-2-1 ET SEQ. AND WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER'S ELECTRONIC DATA INTERCHANGE ("EDI") IMPLEMENTATION GUIDE]**

1. FROI – Did the Self-Insured Employer/TPA submit the First Report of Injury report timely within ten (10) business days?
2. SROI - Did the Self-Insured Employer/TPA submit the Subsequent Reports of Injury report(s) updates on each claim either monthly or quarterly?
3. Closing - Did the Self-Insured Employer/TPA properly report closure of the claim when no additional transactions are expected on the claim? (For example: A notification that an accident has occurred is not a request for a compensability decision and therefore should not be denied (FROI 04) or administratively closed (SROI FN) and should be canceled as a FROI 01.)

**N. THE SELF-INSURED EMPLOYER COOPERATES ON A TIMELY BASIS WITH EXAMINERS PERFORMING THE EXAMINATION.**

1. Did the Self-Insured Employer respond to RFI's in a timely manner?
2. Did the Self-Insured Employer provide records in a timely basis and cooperate with the examination? [W. Va. Code R. § 85-18-13.6]

**O. OTHER ISSUES**

**COMPLIANCE TABLE**

<u>Review Section</u>	<u># Pass</u>	<u># Fail</u>	<u>N/A</u>	<u>Compliance %</u>	<u>Individual Corrective Action</u>	<u>Systemic Corrective Action</u>
A1	N/A	N/A	N/A	N/A		
B1	17	0	1	100%		
B2	17	0	1	100%		
C1	1	0	17	100%		
C2	1	0	17	100%		
C3	1	0	17	100%		
C4	1	0	17	100%		
D1	1	0	17	100%		
D2	1	0	17	100%		
D3	1	0	17	100%		
D4	1	0	17	100%		
E1	1	0	17	100%		
F1	N/A	N/A	N/A	N/A		
G1	N/A	N/A	N/A	N/A		
H1	22	0	2	100%		
I1	2	0	0	100%		
J1	6	0	0	100%		
J2	6	0	0	100%		
J3	6	0	0	100%		
J4	6	0	0	100%		
J5	6	0	0	100%		
K1	2	0	0	100%		
L1	24	0	0	100%		
M1	24	0	0	100%		
M2	24	0	0	100%		
M3	24	0	0	100%		
N1	24	0	0	100%		
N2	24	0	0	100%		
O	N/A	N/A	N/A	N/A		

\*See "Observations and Recommendations" below.

## OBSERVATIONS

- A.1.**– This element of review was N/A as there were no complaints for the exam period.
- B.1.**– Eighteen claims were reviewed and there were no violations for failure to provide initial compensability ruling within fifteen (15) working days.
- B.2.**– No violations were noted for failure to provide protest language on a claim decision.
- C.1.**– No violations were noted for failure to provide proper notification of TTD award.
- C.2.**– No violations were noted for failure to make timely TTD payment.
- C.3.**– There were no violations for improper calculation of TTD payment.
- C.4.**– No violations were noted for failure to provide TTD closure letter.
- D.1.**– No violations were noted for failure to act upon an IME within thirty (30) working days.
- D.2.** – No violations were noted for failure to make IME referrals within thirty (30) working days of request.
- D.3.**– No violations were noted for failure to issue PPD payment within fifteen (15) working days of decision.
- D.4.**– No violations were noted for improper calculation of PPD award.
- E.1.**– No violations were noted for failure to act upon medical authorization within fifteen (15) working days.
- F.1.**– This element of review was N/A as there were no benefits awarded for Non-Awarded Partial (NAP) during the examination period.
- G.1.**– This element of review was N/A as there were no benefits awarded for Death Claims (FATAL) during the examination period.
- H.1.**– There were no violations for improper closure of claims.
- I.1.**– There were two (2) Occupational Pneumoconiosis claims reviewed and no violations were noted.
- J.1.**– There were no violations for failure to give a written ruling on a claim within fifteen (15) working days.

**J.2.**– No violations were noted for failure to provide reasonable basis for denial and instructions for rebuttal.

**J.3.**– No violations were noted for improper denial.

**J.4.**– No violations were noted for failure to include appropriate protest/grievance language on the decision order.

**J5.**– Six (6) closed claims were reviewed with no violations for incomplete investigation.

**K.1.**– Two claims were reviewed and there were no violations for failure to comply with orders from the Board of Review (“BOR”) and all mandates of the West Virginia Supreme Court.

**L.1.**– There were no violations noted for inadequate documentation.

**M.1.** – No violations were noted for failure to send the First Report Of Injury (FROI).

**M.2.** – No violations were noted for failure to submit Subsequent Reports of Injury -(SROI) updates for the examination period.

**M.3.** – No violations were noted for failure to upload “closed” claim status to EDI.

**N.1.** – No violations were noted for failure to respond to RFI’s in a timely manner.

**N.2.** – No violations were noted for failure to provide records on a timely basis.

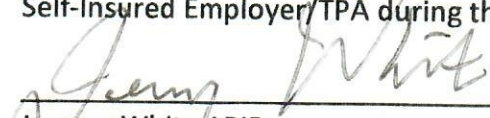
**O.** – This element of review was N/A as there were no additional issues for the exam period.

## RECOMMENDATIONS

There are no recommendations being suggested for this exam.

**EXAMINER'S SIGNATURE AND ACKNOWLEDGEMENT**

The examiner would like to acknowledge the cooperation and assistance extended by the Self-Insured Employer/TPA during the course of the examination.

  
\_\_\_\_\_  
Jeremy White APIR  
Examiner-in-Charge



**EXAMINER'S AFFIDAVIT**

State of West Virginia  
County of Kanawha

**EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION**

I, Jeremy White, being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of Weyerhaeuser Company.
2. I have reviewed the examination work papers and examination report, and the examination of Weyerhaeuser Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

  
\_\_\_\_\_  
Jeremy White APIR

Subscribed and sworn before me by Jeremy White on this 9th Day of May 2024.

  
\_\_\_\_\_  
Notary Public

My commission expires: 10-11-2024

