

Bieniek, Joe

From: Hyman, David [dhyman@law.uiuc.edu]
Sent: Friday, September 11, 2009 8:37 PM
To: Bieniek, Joe
Subject: NAIC Medical Profession Closed Claims Reporting
Attachments: Proposed Trial Data Fields for NAIC Model Law 091109-DH.xls

Here's our "slimmed down" proposal for the reporting of information for closed claims that involved a jury verdict (question 8). There are also two questions at the end about the final demand (question 11). I'm sorry to get this to you so late; we wanted to make sure the cross-references all reconciled.

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For all claims in which a trial began, answer 8.A-C.

For all claims tried to verdicts, also answer 8.D and subsequent questions, as indicated.

Numbered Question	QUESTION	DATA FIELD	INSTRUCTIONS
8	A. If the case went to trial, was it trial by jury, or by judge alone?	(Enter 1 for jury, 2 for judge alone)	Choose one option
	B. If the case went to trial, how many defendants started the trial?	(Enter Number)	
	C. If the case went to trial, was there a verdict?	1=Yes, 2 = No	Choose one option. If the answer is "No", proceed to Section 9.
	D. How many defendants were found liable?	(Enter Number)	
	E. Did the plaintiff prevail against your insured?	1=Yes, 2 = No	Choose one option

Answer Questions 8.F-Q only if there was a verdict, and the plaintiff prevailed against one or more defendants. Otherwise, proceed to Section 9.

F.	Was there an appeal, and if so, by whom?	enter 0 if no appeal, 1 if appeal by plaintiff(s), 2 if appeal by one or more defendants; 3 if both plaintiff(s) and defendant(s) appealed	
G.	Enter the total verdict against all defendants.	(Enter dollar amount)	For questions 8.G through 8.K enter the award without applying any damages caps, remittiturs, additurs, interest, or other adjustments
H.	What percentage of fault, if any, was assigned to the plaintiff?	(Enter percentage)	If the plaintiff was partly at fault, the total verdict (previous question) should reflect the amount for which the defendants are liable
I.	If the plaintiff obtained a verdict against more than one defendant, was liability joint and several, or separate?	(Enter 1 if joint and several liability, or 2 if separate liability for each defendant)	If liability is joint and several, skip to question 8.K.

For all claims in which a trial began, answer 8.A-C.

For all claims tried to verdicts, also answer 8.D and subsequent questions, as indicated.

Numbered Question	QUESTION	DATA FIELD	INSTRUCTIONS
J.	If the jury assigned percentage fault among two or more defendants, for what percentage was your insured responsible?	(Enter percentage)	
K.	How was the verdict divided among the following categories of damages?		The sum of 8.K.1-3 must equal the total reported in 8.G. Enter "\$0" if no damages of a particular type were awarded by the jury.
1	Economic compensatory damages	(Enter dollar amount)	Enter amount of economic damages (sometimes called "special damages") awarded by jury without any adjustments
2	Non-economic compensatory damages	(Enter dollar amount)	Enter amount of non-economic compensatory damages (sometimes called "general damages") awarded by jury without any adjustments
3	Punitive damages	(Enter dollar amount)	Enter amount of punitive damages (sometimes called "exemplary damages") awarded by jury without any adjustments
L.	Enter the amount, if any, of pre-judgment interest awarded by the court.	(Enter dollar amount)	Enter "\$0" only if no pre-judgment interest was awarded.
Questions 8.M-P only apply to cases tried to a jury. For cases tried to a judge, skip to question 8.Q			
M.	Did the court reduce the damage award?	1=Yes, 2 = No	
N.	If yes, enter the total reduction.	(Enter dollar amount; enter "\$0" if appropriate.)	Enter the amount, if any, by which the court reduced the jury verdict for any of the reasons identified in O(1) - (7), including any reduction of pre-judgment interest. Enter \$0 if no reduction was imposed.

For all claims in which a trial began, answer 8.A-C.

For all claims tried to verdicts, also answer 8.D and subsequent questions, as indicated.

Numbered Question	QUESTION	DATA FIELD	INSTRUCTIONS
O.	What were the reason(s) for the reduction (indicate all that apply)?		Indicate all that apply.
1	Cap on total compensatory damages.	1=Yes, 2 = No	
2	Cap on economic compensatory damages.	1=Yes, 2 = No	
3	Cap on non-economic compensatory	1=Yes, 2 = No	
4	Cap on punitive damages.	1=Yes, 2 = No	
5	Cap on pre-judgment interest.	1=Yes, 2 = No	
6	Other type of cap.	1=Yes, 2 = No	
7	Remittitur (other than applying a damages	1=Yes, 2 = No	
P.	If the court increased the damage award (additur), enter the total increase	(Enter dollar amount; enter "\$0" if appropriate.)	Enter the amount, if any, by which the court increased the jury verdict as a result of additur. Do not report pre-judgment interest on this line. Enter \$0 if there was no additur.
Q.	Enter the total judgment awarded by the court, including pre-judgment interest, after any adjustment due to damage caps, remittitur, or additur.	(Enter dollar amount; enter "\$0" if appropriate.)	Must equal 8.G (awarded damages) + 8.L (prejudgment interest) - 8.N (effect of damage caps and remittitur) + 8.P (additur).
11	A. Indicate the final demand by claimant or attorney for claimant	(Enter dollar amount)	Always Complete; this field is meant to indicate the final demand by the plaintiff, not the final settlement amount, which may be different.
	B. Did the plaintiff, at any time, demand a settlement equal to or greater than the policy limits for your insured?	1=Yes, 2 = No	