

the E&O angle

E&O issues and advice
By David Hulcher

Do Client Claims Equal Agency E&O Claims?

Don't let the handling of your client's claims turn into E&O claims for your agency.

Most industries manufacture and sell tangible goods and services for customers to purchase. Some products are purchased out of need, others for pleasure. The insurance industry is slightly different from other industries in that consumers buy insurance to protect themselves from something they ultimately don't want—a loss. If the insurance consumer never has a claim, they should consider themselves lucky and feel secure knowing their assets were protected. That feeling of security is important, but at the end of the day, clients will be more likely to remember how a claim was handled, if they had one. Handling client claims increases your E&O exposure.

It usually is a stressful time when a client is involved in a claim. But professionally handling claims ultimately is an opportunity to strengthen the client relationship. Conversely, claims that are poorly handled can cause insureds to question the value added by your agency and make them move their business elsewhere. Many clients don't know what to expect when a claim occurs, and the unknown tends to make people anxious. Advise your client on how the claims process works and when they are likely to hear from the insurer. Having empathy can go a long way to making the process easier. However, in your haste to make that client feel more comfortable, never confirm or deny the existence of coverage in the policy—that's the carrier's responsibility.

Read Up on the Rules

Efficiently handling client claims is extremely important, and many states have regulations about the claims process. Review your state's insurance regulation on unfair claims settlement practices for your responsibilities and those of the

carrier. Agents should report claims promptly—preferably the same day. Often, claims are required in writing. Remember a claim reported to the agency is considered made to the carrier. Keep in mind that your client's information is confidential. Share it only with the insurance carrier and no other third party without written permission.

Provisions within the client's policy will indicate any duties of the insured as a condition of coverage. If the insured filed a claim, check the policy language regarding claims. Insured duties may include providing prompt notice, contacting police in case of loss by theft, protecting the property from further damage and descriptions of property. Regardless of the estimated claim payout, simultaneously review the claims notice provisions of other related policies (such as excess or umbrella policies) in case reporting of underlying claims is required for future coverage.

Caution: Claims Ahead

Follow these tips to avoid E&O exposures when you handle a claim:

- Never confirm or deny the existence of coverage provided by the policy.
- Advise the client on what to expect during the claims settlement process and any duties required to be performed.
- Review policy provisions of all policies where coverage may exist, including excess and umbrella policies.
- Report claims to the carrier on the same day they are received.
- Do not deviate from insurer-draft claims authority guidelines.
- Maintain claims handling procedures in agency internal procedures manual.
- Implement a suspense system to follow-up during the claims settlement process and document client files.
- Follow-up until claims are resolved.

Keep Records in Order

Although it's a declining practice, some carriers provide agents with authority to pay for claims below a certain limit. Agents should strictly follow the guidelines for draft claims authority outlined in the carrier's procedures. To eliminate errors from going outside of your authority, it is a good idea to have a key point of contact for payments administration. The other option is to distribute a copy of the carrier guidelines to all personnel that have claims authority, in much the same way that

your agency should do with company binding authority.

Finally, create written procedures for handling claims. At the core of these procedures should be transmitting claims immediately and having a suspense system in place to follow up with the insured or carrier as necessary. Keep following up until the claim is resolved, documenting your client file along the way.

Handling client claims effectively can eliminate potential E&O exposure for your agency and shows value to your client. But before a client ever makes a claim, you can eliminate the potential for uncovered claims by correctly presenting policy terms and coverage. Always do a thorough evaluation of client insurance needs and offering coverage. **IA**

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