

# Consider

# The **Cost**

Before trimming claims expenses, insurers should analyze how future losses and expenses are impacted.

by Faiz Ahmed and Saeed Fotovat

**H**ard and soft market cycles are a reality of the insurance business, and property/casualty carriers today are positioning themselves to weather the new soft market.

If the past is a guide, carriers will concentrate on underwriting and pricing while pushing claims organizations to trim expenses. In fact, claims organizations typically represent the largest cost center of an insurance company. However, often they are already short on resources, and even in the best of markets, many claims organizations are understaffed and receive less attention and fewer resources than premium-generating parts of the company.

One of the most visible claims expense categories is the legal expense associated with defending claims in litigation. In fact, such legal fees represent one of the largest expense items for a

P/C carrier. Depending on the line of business being written, each year carriers typically spend 5% to 15% of premium on legal expenses in defending lawsuits filed against policyholders. For some of the largest carriers, these legal expenses can amount to more than \$1 billion per year. Given these numbers, it is hardly surprising that legal expense often is an early target of claims cost-cutting initiatives.

However, reducing costs through initiatives such as bill reviews, retaining law firms based on the lowest hourly rate or retaining a large legal staff without sufficient regard to case types and jurisdictions, may not serve a carrier's long-term financial interests. Such decisions often are made without a full understanding of how changes will impact the ultimate loss payments—the single-largest expense category for an insurance carrier.

So, while some adjustments may improve short-term results, carriers must be careful that these cost-cutting tactics don't ultimately lead to increased indemnity costs, losing skilled claims staff or attorneys who deliver the best overall case results, or

► **The Background:** A soft market typically causes P/C insurers to trim claims costs and legal fees—the two largest expense items.

► **The Issue:** Insurers should understand how the changes will impact all aspects of the business, not just the bottom line.

► **What Needs to Happen:** Insurers should use an operating model to discover how and where legal costs should be trimmed.

policyholders who are unhappy with the quality of legal representation and adverse case results.

## Gathering Information

Achieving transparency within claims litigation management begins with the automated capture of information that is transmitted daily between claims adjusters and law firms. At a minimum, the data will likely include elements such as case assignment date, case type, case jurisdiction, selected law firm and detailed expense information.

This information is best captured from claims systems, e-billing systems and other case-management systems

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that support the litigation process.

Ideally, the raw data is summarized and conveyed through real-time decision support tools. This can help claims executives identify matters such as top-performing claims personnel and law firms, the activities which appear to correlate with successful indemnity results and other developing issues and trends. Only through regular review of such information can both the strategy and the tactics in support of the larger strategy be developed.

As transparency into the management of claims litigation is achieved, carriers also may begin to identify some simple “quick win” improvements that can be easily carried out. For instance, results based on select key performance indicators can reveal best and worst performers.

So, rather than incurring the time and expense of training all claims personnel on how to best manage the litigation process, the carrier may choose to implement a targeted, cost-effective training program for those who truly need the coaching.

For most claims executives, a detailed and flexible quantitative review of the claims organization in real time will offer an entirely new set of insights and possibilities. For

example, many insurance carriers today are using internal staff counsel instead of panel counsel to save money. By leveraging detailed information on past performance, the carrier can compare overall aggregate performance between staff counsel and panel counsel.

They also can make more granular comparisons by examining legal expenses, indemnity results or case durations by case type, severity and jurisdiction. With this added insight, a carrier can direct a more targeted expansion of staff counsel that will ultimately position it for the best overall financial results.

Claims executives also can leverage the detailed information to determine which claims personnel coordinate with successful outcomes in litigated cases—by office, case type and jurisdiction to name a few categories.

### Making the Commitment

Thorough views into the data through multiple vantage points allow claims leadership to model how particular adjustments can impact aggregate financial results, as the “levers” that control the health of the litigation management function are now identified. Armed with this

knowledge, detailed strategies can be established that optimize the proper use of the claims staff and attorneys, refinement or development of work flow processes and selection of supporting technology.

Claims executives can now begin to design multiple end-state scenarios, implementing the option that best fits with the overall corporate strategy. For instance, perhaps the mandate to the claims organization is to make immediate cost reductions. Through informed decision making, expense reductions can be carried out in such a way that the risk of increased indemnity expense is minimized.

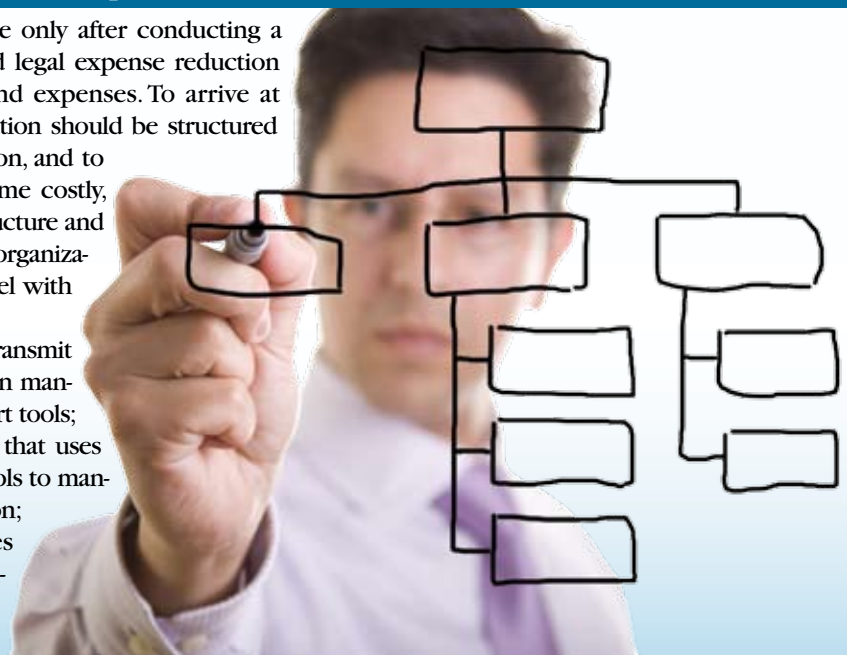
Or, perhaps, the claims organization is asked to invest in ways to reduce costs over the long term. With the information available, it is more likely that such investments will be made in those areas where the financial return is likely to be the greatest. Under either scenario, claims executives are in a far better position to meet the needs of the business.

Implementation of an operating model for litigation management is no simple task. It requires an investment of time and resources to establish, and most lasting benefits are delivered over time rather than in the short

## Analyzing Losses and Expenses

Cost-cutting decisions should be made only after conducting a proper analysis of how the intended legal expense reduction initiatives will impact future loss and expenses. To arrive at such informed decisions, the claims organization should be structured to regularly gather and review key information, and to proactively identify issues before they become costly, long-term problems. To implement such a structure and gain insights into the operation, the claims organization will need to carry out an operating model with the following features:

- An automated method to capture and transmit claims litigation data from claims and litigation management work flow tools into decision support tools;
- An empowered claims leadership team that uses information presented in decision support tools to manage the carrier's entire claims litigation function;
- Identification of the people, processes and technology that allow optimal and efficient communication between law firm and adjuster.



term. However, it is an important task.

For most carriers, litigation expense issues are understood only marginally better today than at any time in the past. That's a critical short-

coming in an industry where the costs associated with litigated claims have grown year after year. Only a commitment to informed decision making and a properly aligned orga-

nization will enable claims organizations to identify and manipulate the levers that impact legal expense costs and, just as importantly, the overall indemnity expense. **BR**

## The Litigation Operating Model

**A** target operating model for litigation management represents the planned coordination of claims personnel, claims leadership, law firms and staff counsel. The operating model also requires a finance and project management function, to prioritize areas for improvement based on financial opportunity and also to implement the initiatives.

It sets forth the function of each work group and maps how each group interacts with others. Finally, the operating model outlines the technologies needed to support the work flow processes, capture necessary data and present the information through simple yet powerful reporting tools.

In short, the operating model represents a confluence of people, process and technology in litigation management.

In a typical model, certain segments of the claims organization have assigned responsibilities:

**Claims Handlers:** This group includes claims adjusters and supervisors who manage the day-to-day handling of all claims and who work directly with law firms on litigated cases. This group uses technology tools including a claims system, e-billing system and other integrated litigation management solutions from which data are extracted and upon which reports are premised.

**Law Firms:** This group includes both staff counsel and outside law firms working directly with the claims organization in defending litigated claims. Like the claims handling group, law firms use litigation management and e-billing tools from which data are extracted and upon which reports are premised.

**Claims Leadership:** This group is generally comprised

of a small number of senior claims executives with responsibility for claims and litigation management. Claims leadership sets the strategic direction for organization and monitors progress against established benchmarks.

**Staff & Panel Counsel Management Office:** This group is comprised of managers devoted to the detailed review of lawyer and law firm performance based on selected key performance indicators, projected case volumes and the developing needs of the claims organization. This group reports to Claims Leadership.

**Project Management and Claims Finance:** This group includes personnel who review the claims handlers' performance based on key performance indicators and prioritization of initiatives, based on projected financial benefit and implementation services. This group interacts heavily with both Claims Leadership and the Claims Handlers, and typically reports to Claims Leadership.

The central feature of the operating model is each group's ability to detect issues and direct improvements upon review of selected key performance indicators based on data presented through a reporting system. A baseline state can be determined and new areas for financial improvement can be identified. The operating model structure and the ability to extract information provide a framework to ensure that decisions are made in full consideration of different perspectives and with mutual support.

It is each group's ability to hypothesize, query, understand and discuss that allows for a properly run litigation management function and the implementation of sound solutions that have the greatest chance to reduce overall expenses.

