TITLE: Local Government, Free Clinics, Pro Bono and State Court Appointed Attorney and Court Appointed Guardians Liability Claims Administration

PURPOSE: To describe claims management procedures used to administer the liability claims and suits covered by the VIRGINIA LIABILITY RISK MANAGEMENT PLAN (VaRISK 2).

POLICY: The Division of Risk Management (DRM) shall establish, maintain and administer risk management plans pursuant to § 2.2-1839 of the *Code of Virginia* (providing political subdivisions, state court appointed attorneys, free clinics, certain pro bono attorneys and certain court appointed guardians with protection against liability imposed by law for damages resulting from their acts or omissions of any nature while in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization).

PROCEDURE: Members, claimants and / or their legal representatives, and the OAG send claim notices, notices of potential claim and suit papers to the DRM claims unit.

Claim technicians collect reported information, review the risk management information system (Civitas) to determine whether DRM previously received notification, and (a) attach the reports to any previously created active files and pass to assigned claim handlers, or (b) attach reports to any previously created inactive files and pass to senior claim staff.

Senior claim staff review and give written instructions for distribution on the face of paperwork received, record assignments in unit log, and return paperwork to claim technicians for file set up.

Claim technicians generate computerized records and create paper files for each notice of claim, notice of potential claim or suit. Claim technicians distribute active notices of claim to assigned staff members for handling and establish incident records for inactive paperwork. Inactive files are stored on site. For lawsuits filed against plan members, see "Suits", below.

Individuals performing file related activities enter and maintain in each electronic file: progress notes, a diary ("to do" list) of future file activity and a complete account of all financial activities.

**Claims (pre-litigation):**

Coverage assessment
The file handler examines the reported claim and relevant statutes, regulations and procedures; conducts investigation to determine the presence or absence of coverage under the terms of the Plan; and informs members about the status of coverage.

Handling covered claims
When a claim is covered, the file handler may investigate the facts (using outside resources as necessary and as authorized by DRM management), analyze covered parties' liability, and assess monetary exposures. File handler maintains notes of activities and establishes reserves in Civitas. If the loss exposure of a file is valued at or above $100,000, a file handler must prepare an initial large loss report within six months following file assignment and must distribute the report to the handler's supervisor, DRM Director and DRM Assistant Director. The file handler must update and re-distribute the large loss report when significant events occur (e.g. increase or decrease in exposure, additional significant facts are discovered or develop, etc.) as necessary.

If the file handler determines that there is no liability, he/she may issue denial of the claim. When liability is established and the need for settlement is determined, the file handler:

- Makes internal report to DRM in the manner dictated by performance expectations
- Informs the risk management contact and solicits the member's concurrence with recommendation for claim payment
- Contacts the claimant or his legal representative
- Negotiates settlement on behalf of the member (within monetary levels delegated by DRM management)
- Reviews and approves related expenses or indemnity payments within level of monetary authority assigned by DRM management and passes approved payment requests to claim technicians for payment processing

After all claim payments have been made, the file handler directs claim technician to begin collections (deductible payments, subrogation payments, sanctions awards or restitution payments) by way of a file transfer note. See Receivables, below.

Files remain active until the collection process concludes.

**Suits:**

The file handler reviews information and communicates with the plan member to establish priority of all available insurance carriers, examines the allegations of the lawsuit, reviews related statutory provisions, contacts members and/or other affected parties and conducts an investigation to determine the presence or absence of coverage. File handler informs member(s) of coverage status and requests that OAG appoint counsel for covered parties.

File handler maintains communication with plan member and assigned defense counsel, actively participates in negotiation strategy; establishes and maintains accurate loss, legal and expense reserves throughout the life of the file; generates internal reports (e.g. large loss reports, pre-trial reports, etc.), correspondence and other communications in a clear, concise manner as required by performance expectations; approves related litigation expenses or indemnity payments within levels of monetary authority assigned by DRM management; provides written payment instructions to claim technicians and otherwise takes steps to ensure that prompt payment requirements are met. Legal bills are reviewed and approved as specified in Civitas Help. These bills are isolated for approval and further endorsement by a representative from the Office of the Attorney General. When all endorsements have been obtained claim technicians enter payment data into Civitas and then pass the documents to Treasury Operations for processing.

File handler generates draft reports to regulatory boards and agencies, if required. Draft reports are reviewed and authorized for submission by DRM management.

After all payments have been made handler directs claim technician to begin collections (e.g. deductible payments, subrogation payments, sanctions awards, restitution payments). The file handler makes a file transfer note in Civitas identifying debtors and specific amounts to be collected. See Receivables, below.

Files remain active until the collections process concludes.

**Receiveables:**

Claim technicians review file transfer notes and generate invoices as notes direct to parties responsible for paying DRM. Claim technicians maintain collections files on diary.

When notified by Treasury Operations that payments have been received, technicians record receivable information in Civitas. File is closed when outstanding amounts have been collected.

If payment arrangements are not made or not honored, claim technician notifies Treasury Operations to commence debt set off procedures. Claim technicians provide Treasury Operations with copies of file materials to support debt set off request.

Treasury Operations commences its debt set-off procedures. Claims accepted by debt set off process entitle DRM to collect any money the debtor may be owed by the Commonwealth. When Treasury Operations is notified that money may be available, it issues notice to the debtor that the money will be collected in thirty days. If no arrangements have been made by the debtor to make payment to DRM, Treasury Operations notifies Department of Accounts, and the money transfers to Treasury Operations.

Treasury Operations notifies the claim technician that money has been received via debt set off. The claim technician enters receivable data into Civitas and requests that Treasury Operations credit the related DRM fund. The claim technician closes the DRM file.

**File closure, storage and retrieval**

File closes when all claim activites are complete. For litigated files, the handler updates Civitas records to show case outcome. Claim technicians send a letter to the plan member notifying of the final disposition, mark file as "closed" in Civitas, affix a sticker to the file jacket showing the year of closure, and shelve with other closed files on DRM premises. DRM keeps closed files on site for two years. To transfer closed files to archives, claim technicians enter archive information into Civitas, contact representatives of the Library of Virginia for pickup, and otherwise ensure that files are transported to the state library in keeping with agency records retention policies.