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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 24, 1998

Mr. Donald N. Nelson
President
Metro-North Railroad
347 Madison Avenue
New York, NY 10017

Re: Report 97-F-22

Dear Mr. Nelson:

According to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution, we reviewed the actions taken by officials of the Metro-North Railroad (Metro-North), a wholly-owned subsidiary of the Metropolitan Transportation Authority, as of November 21, 1997 to implement the recommendations included in our prior audit report 95-S-55. This report, which was issued May 20, 1996, examined Metro-North's administration of employee claims for work-related injuries.

Metro-North was created in September of 1982 pursuant to the New York State Public Authorities Law. Metro-North provides commuter transportation between New York City and Westchester, Dutchess, Putnam, Orange and Rockland counties in New York State, and New Haven and Fairfield counties in Connecticut. In 1995, Metro-North received \$300 million in operating revenues and incurred \$574 million in operating expenses, resulting in an operating deficit of \$274 million for the year. Metro-North's annual deficits are financed by Federal, New York, Connecticut, and MTA Bridge and Tunnel subsidies, as well as Metro-North bond issues.

Metro-North has a staff of 6,039 employees, including conductors and engineers, track maintenance workers, and office personnel. Since the staff's work is varied and complex, Metro-North officials place a high priority on maintaining a safe and healthy work environment that will enhance employee productivity and minimize employee work-related injuries. During the period July 1, 1995 to November 21, 1997, Metro-North settled \$2.6 million in work-related injury claims initiated by its employees.

Summary Conclusions

In our prior audit, Metro-North settled \$8.8 million in work-related injury claims. We concluded that Metro-North officials needed to improve their management of work-related injuries consistent with maintaining a safe and healthy work environment and to ensure only valid employee claims are settled. In our follow-up review, we found that Metro-North has improved its handling of work-related injuries.

Summary of Status of Implementation

Metro-North officials have fully implemented nine recommendations and partially implemented one.

Follow-up Observations

Recommendation 1

Ensure that all employees receive adequate training to help prevent work-related injuries.

Status - Partially Implemented

Agency Action - Metro-North's Safety Department has established adequate training to help prevent work-related injuries by means of a mechanism which tracks accidents involving employees who should be counseled for failure to follow safety guidelines. Additionally, the Department has a mandatory Employee Safety Performance Counseling Program and has set up a monitoring program to ensure that employees are counseled.

Auditors' Comments - Based on our tests of the files, we found that Safety Department staff do not always follow up to ensure that employees are counseled. Metro-North officials need to more effectively monitor compliance with established program requirements.

Recommendation 2

Ensure that all required Accident Injury and Summary of Personal Injury reports are submitted to the Safety Department within the required time frame for all employee work-related injuries. These reports should serve as the basis for follow-up investigations and as reference for claim-settlement negotiations.

Status - Fully Implemented

Agency Action - Pertinent injury reports are now submitted timely to the Safety Department, and are used as a basis for follow-up investigations. These reports are used in the negotiations to settle claims.

Recommendation 3

Develop a plan of action that will encourage injured employees to seek immediate medical attention following a work-related accident. Consider including this issue in future collective bargaining negotiations.

Status - Fully Implemented

Agency Action - The Railroad's policy is to have employees who report work-related injuries seek immediate medical attention. Each of our five sampled employees received medical attention on the day of the injury.

Recommendation 4

Ensure that work-related injury sites are corrected soon after they are identified. Where prompt correction of the site is not feasible, such a determination should be documented, and necessary warning signs and/or barriers should be posted at the site.

Status - Fully Implemented

Agency Action - The Safety Department takes corrective action promptly and has a program whereby a Safety Superintendent visits 6-7 accident sites per quarter to ensure that the cause of the accident was eliminated.

Recommendation 5

Ensure that prompt, thorough, and accurate investigations of reported work-related injuries are performed. A checklist denoting all necessary steps should be maintained as a guide.

Status - Fully Implemented

Agency Action - Metro-North uses a checklist as a guide for investigating work-related injuries. Applicable checklists are completed.

Recommendation 6

Ensure that all necessary investigative steps are performed by directing supervisors to review investigation claim files. If certain investigatory steps are deemed unnecessary, the reason(s) for such a decision should be documented in the files.

Status - Fully Implemented

Agency Action - A supervisory employee reviews all claim files to ensure that all investigative steps deemed necessary are performed. The supervisor makes recommendations for further action as needed.

Recommendation 7

Establish formal procedures delineating when and how surveillance should be employed.

Status - Fully Implemented

Agency Action - Metro-North has established surveillance guidelines. Among items considered in determining whether surveillance should be conducted is whether a claimant's off-duty activities are inconsistent with the disability.

Recommendation 8

Require claim agents to document their justification for negotiated claim settlement amounts. All justification should be reviewed and approved by an independent supervisor.

Status - Fully Implemented

Agency Action - Railroad claim agents document their justification for settlement amounts. Justifications are reviewed and approved by independent supervisors.

Recommendation 9

Direct agents to consult with legal staff when a claim is questionable.

Status - Fully Implemented

Agency Action - The Legal and Risk Management Departments are now in close proximity of each other, which facilitates the flow of information between these Departments. Lawyers and claim agents discuss cases when necessary.

Recommendation 10

Study the benefits of assigning employee claims administration to independent contractors or another agency's risk management unit, thus avoiding possible conflicts of interest.

Status - Fully Implemented

Agency Action - Metro-North has studied the benefits of assigning claims to other agencies. It has an agreement with the Long Island Rail Road in this regard.

Major contributors to this report were William Challice, Frank Russo, Aaron Fruchter, John Gimberlein and Alina Mattie.

We would appreciate your response to this report within 30 days, indicating any action planned or taken to address the unresolved matter discussed in this report. We also thank the Metro-North management and staff for the courtesies and cooperation extended to our staff during this review.

Yours truly,



Carmen Maldonado
Audit Director

cc: Charles Wytenus
Robert L. King