

# Insider

THE UTAH LOCAL GOVERNMENTS TRUST NEWSLETTER :: WINTER 2014

## Reservation of Rights - Why are they sent?



**Steven A. Hansen**  
CEO

In the context of insurance, a reservation of rights letter is issued by an insurer to communicate to the insured that a claim may not be covered under the insured's policy. It provides the insured notice that the insurer is retaining its full legal rights, as articulated by the terms and conditions of the insurance policy.

Oftentimes, an insurer will issue a reservation of rights letter when a claim involves allegations that may partially fall within the exclusionary language of the insurance policy. For example, a claim may involve allegations of negligence, which are generally covered under most liability insurance policies, but may also involve allegations of intentional conduct or may seek punitive damages, which are excluded and uninsurable under most insurance policies and state laws. In such instances, an insurer will issue a reservation of rights letter so that it may defend the insured and reserve its rights to deny coverage

if it is established that the claim arose solely from conduct that is excluded from coverage under the insured's policy.

An insurer will also commonly issue a reservation of rights when the facts of a claim or loss have not yet been fully developed. A reservation of rights allows the insurer to provide the insured a defense without prejudicing its rights to deny coverage if its investigation later reveals that the loss is not covered under the insured's policy. In some instances, courts have found that insurance companies providing a defense without issuing a reservation of rights have waived their right to deny coverage because the insured has been prejudiced by not being notified that coverage may be limited or excluded under the policy. A reservation of rights letter allows insurers to provide its insureds the protection of a defense to claims where coverage is questionable without the risk of being forced to continue providing coverage for a claim that is later determined to be excluded under the insured's policy.

While the language of a reservation of rights letter can vary, the insurer

should generally identify the allegations of the claim that may not be covered under the insured's policy and the particular policy language under which those allegations may be excluded. Understanding that the insured may not agree with the veracity of the allegations brought against it, a reservation of rights should invite the insured to provide the insurer any information it has that might impact its analysis of the allegations and the language of the policy. In most jurisdictions, coverage is determined by comparing the allegations, as set forth in the complaint, with the language of the insurance policy. An insurer should also remind its insured to provide it with copies of any amended pleadings that add to or modify any of the allegations in the complaint so that the insurer may consider whether a change in its coverage position is warranted.

## VEGETABLE FRITTATA

Potatoes, peeled and sliced  
 Broccoli florets  
 Zucchini, diced  
 6-8 eggs  
 1-2 C sharp cheddar cheese, grated

Fry potato slices in small amount of olive oil and butter until tender and browned on both sides. Place in bottom of oven-proof skillet or baking dish (sprayed with non-stick spray). Season with salt and pepper. Boil broccoli for 3-4 minutes. Drain; layer evenly over potatoes. Layer uncooked zucchini evenly over potatoes. Whisk eggs with a little bit of milk, salt, and pepper. Stir in cheese. Pour egg mixture evenly over zucchini. Bake in preheated 350-degree oven for 40-45 minutes. Check for doneness - frittata is done when eggs are set in the middle. Cut into wedges and serve. No specific amounts are listed in ingredients - use desired amounts that will fit in the skillet or pan. This basic frittata recipe will work with any favorite vegetable or cooked meat. Keep in mind that most vegetables and all meats need to be pre-cooked before adding to frittata.



## Dispute Resolution through Mediation



**Chris Rozelle**  
 Claims Manager

There is a rare third party claim that's submitted wherein the insured will view both the liability and damages of a case exactly as the claimant. It's the nature of a dispute. In an ideal environment, we as your insurance company can step in on your behalf with an object and practical perspective to bring matters to resolution. Oftentimes that will not satisfy a claimant. When that happens, one tool available to us in alternative dispute resolution is mediation.

Mediation is one of the single most effective methods for dispute resolution. It allows the parties to reach an agreement with an acceptable outcome. By contrast, litigation (which is decided by judge or jury) strips the parties of their power to decide the ultimate resolution. Mediation allows the parties to engage in confidential discussions with the mediator and the opposition to better assess the risks of litigation. It also offers the expertise of a professional moderator who not only hosts the discussions, but also guides the parties toward a practical solution. Essential to the resolution of any matter is an understanding of the difference between genuine and false issues raised by the parties. Often, a mediator - through private caucus - is the only one who can flush that out.

Ultimately, the resolution of any claim can come with some degree of angst. Our responsibility as your insurer is to bring covered claims to resolution for the true value of that incident.

## Past Due: How to Avoid it with the Trust



**Jody Pettet**  
 Accounting Manager

We realize that scenarios occur, like payments crossing in the mail before the next statement is processed. However, one challenge we face is when a payment comes in short or over the amount billed. If for some reason you are not paying the full amount of the statement, we need your help by sending in the provided statement copy with a note explaining exactly what you are paying for, so we know how you want it applied. This will speed up our

process in keeping your statement current. Thanks for your help.

As always, please feel free to contact us in Accounts Receivable at Ext 1309.



## What Does Payroll Consist Of?



**Travis Garton**  
Member Services  
Manager

Workers Compensation premium is based on estimated payroll at the beginning of the policy period. Once the policy period expires, actual payroll is submitted and a final premium is calculated. Payroll is the primary exposure for determining workers compensation premium, but what does “payroll” actually consist of? Here are some of the components of payroll that should be included upon renewal and audit:

- Payroll, both salary and hourly
- Commissions
- Bonuses
- Overtime pay, but payroll can be adjusted down to the normal salary or hourly rate
- Holiday, vacation, and sick pay

Items that should not be included as payroll include some of the following:

- Tips and gratuities received by employees
- Payments made by employers for group insurance plans
- Dismissal or severance pay except for time worked and accrued vacation
- Value of employer-provided vehicles

These lists are not meant to be comprehensive, but should include the majority of what applies to our membership. If you would like a complete list, please let me know. Also, I would be glad to help with any questions regarding class code determination for a particular employee.

## The Value of Pooling



**Ryan D. Hatch**  
Membership  
Development  
Manager

Last quarter, my article touched on the history of public agency risk pools. Today, I’ll focus on the value of these specially designed organizations. Risk pools emerged in the 1970s and 1980s when commercial insurers abandoned local governments. Since then, 450 risk pools act as the stabilizing force for the public sector insurance, protecting nearly 85% of public agencies nationwide.

Risk pools are non-profit, member-driven organizations with an operational focus on loss prevention. Over time, pools have saved taxpayers billions of dollars – here are several reasons why:

- Pools don’t add profit margins to rates (typically 15% for commercial insurers)

- Pools spend less by avoiding middlemen
- Pools are generally exempt from taxes commercial carriers pay
- Pools are local and emphasize training to help members mitigate losses and reduce costs

When comparing the stability of Utah’s risk pools, it might be helpful to consider membership demographics. Here are a few on the Trust:

- Largest risk pool in the state – 550 members
- Tenure of many Trust partnerships exceed 30 years
- Average annual membership growth of 15% (last 7 years)
- Retention rate of 99.6% (last 7 years)
- Diverse membership includes local governments of all types and sizes

For Trust members, insurance isn’t just a commodity, but a strategic partnership aimed at protecting constituents and their resources. For those who aren’t members, we invite you to explore the Trust’s programs and discover what many have found to be the leading risk pool in the state.



## Do You Backup?



**Brady Loveland**  
IT Technician

A Study in 2013 conducted by Iron Mountain revealed that more than half of organizations surveyed did not conduct a daily backup. This is a very scary statistic. Backups are critical in our agencies, and in our own homes. In my line of work, I've dealt with my fair share of data loss, and nobody has ever been excited about knowing their data is lost. The small costs to back up their systems would have far outweighed their loss.

At the Trust, we believe that backups are of the upmost importance. We back up all mission critical systems, workstations, and servers to three on-site and off-site locations on an hourly basis. To ensure that backups are viable, we receive nightly backup restore reports. We also conduct quarterly basic restore tests and yearly full system restore tests.

If you don't run backups, aren't sure about backups, or don't know about your backups, get with an expert right away. Hard drive failures, accidental deletions, user error, and disasters could happen at any time.

## MBWA



**Jason Watterson**  
Loss Prevention  
Manager

In our Fall Leadership Conference, we learned techniques to change or improve our organization's culture—particularly our safety culture. In addition to the great advice we received at the conference, I wanted to share another powerful means to build our safety culture. This is the concept of Management By Walking Around (MBWA). Sound silly? Stick with me and I'll explain.

The basic concept of MBWA is management being seen looking at and acting on safety. If a manager regularly takes a walk around his or her department, looking for safety hazards, asking people about their safety, and commenting on peoples' safety actions (both positive and negative), safety becomes a departmental value. In truth, MBWA shows everyone in our organization that we are serious about safety. I've always believed the adage of, "If it's important to my boss, it's important to me."

MBWA lets everyone know that safety is important to you.

How do you start MBWA? Take a walk and observe your surroundings. As I do risk assessments at Member facilities, it amazes me how many managers are not familiar with their facilities' operations and equipment. Use MBWA as a tool to better understand your processes, where your budget dollars go, and, most importantly, how safe or unsafe your operations are. If you're not quite sure what to look for, check out the Audit Checklists we provide on [utahtrust.gov](http://utahtrust.gov).

We would love to hear about your experiences with MBWA. Have fun making safety a value to your organization.



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