

SPRING 2009

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MMIA BOARD OF DIRECTORS

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What's in a name?



By Alan Hulse, *Chief Executive Officer*

The Montana Municipal Insurance Authority is undergoing some changes. While we remain fundamentally the same, after significant deliberation, your Board of Directors has elected to change our name to:

Montana Municipal Interlocal Authority

This slight change in name is intended to reflect and emphasize that the MMIA is a member service organization created through Interlocal agreements of our member entities, and is not an insurance company. From the beginning, MMIA has struggled to project the image of a unique municipal risk retention pool. The perception has been that we are so 'insurance like', we must be insurance. This is a fair rationale since the concept of insurance is more easily understood than risk retention pooling, but it has led us into a morass of insurance issues which unfairly label and restrict the MMIA. With this name change, we hope to break away from the connotations of insurance and become recognized for what we really are, a group of cities and towns collectively pooling resources to manage risk and reduce the costs for their municipal tax payers.

At first you would think a simple name change could be done with little effort (the

signs, letterhead, and business cards), but there are legal nuances requiring change to our formation documents, bylaws, and program agreements as well. Members have recently received revised program agreements and a revised interlocal agreement reflecting the change of name. Additionally, the MMIA has grown from simple Workers' Compensation and Liability Program's in the mid 80's to the complexity of four individual programs extending municipal coverage for liability, workers' compensation, property loss, and, most recently, employee benefits. Each program was formed at different times and under different circumstances. Now that the programs have matured, the time has come to revisit all originating documentation and make relevant changes that reflect current operations. We ask that you please give these documents your immediate attention. These documents need to be reviewed and executed by you, and returned to the MMIA by June 1, 2009 to enable us to continue to provide the coverage you have come to expect from your MMIA.

While the name has changed, the fundamentals remain constant. The MMIA is still the MMIA, and we remain dedicated to being a member service organization, that provides risk management services and long term rate stability to the cities and towns of Montana. ■



5 Things

You should know when getting a prescription

By Helen Gonsowski, MMIA EB Program Manager

- 1. GENERIC DRUGS** are your least expensive prescription drug option.
- Some medications previously available as “prescription only” products are now available **OVER THE COUNTER** (Prilosec, Zyrtec and many others), offering you additional savings and convenience. These products would still be eligible for reimbursement through a Flexible Spending Account.
- By **DISCUSSING YOUR PHARMACY BENEFIT** with your doctor and requesting generic or preferred brand medications, you can save money every time you have a prescription filled.
- If you are in the MMIA Employee Benefits

program, you can view a complete **DESCRIPTION OF YOUR PHARMACY BENEFIT PROGRAM**, including benefit/copayment descriptions and the location of participating pharmacies, by logging on to www.catalystrx.com. Be sure to use your participant identification number and date of birth.

- If you are a **DIABETIC** and enrolled in the MMIA Employee Benefits program, you can empower yourself to meet the challenge of diabetics through participation in the **CATALYST RX DIABETIC SENSE** program. Diabetic Sense is provided as part of your pharmacy benefit coverage and will assist you with your therapy compliance and improve your quality of life through the following products and services.

- Savings on diabetes care products through Liberty Medical supply

- Telephone access to diabetes specialists and Registered Pharmacists during normal business hours:
Mon – Fri, 8:00 am to 5:00 pm EST
- Extended customer services hours:
Mon – Fri 8:00 am to 8:00 pm EST;
Saturday: 9:00 am to 3:00 pm EST
- Reorder reminders so you always have the supplies you need on hand
- Complimentary educational materials
- Quarterly telephonic testing reminders (eye and foot exams, A1c testing, etc.)
- Supplies covered and available through Diabetic Sense Mail Order include:
Free Blood Glucose Monitor (applies to Roche Diagnostics Accu-Chek® and Bayer HealthCare Ascensia® only)
Blood Glucose Test Strips
Lancets
Spring Powered Device for Lancets
Syringes
Alcohol pads
B-D pens
3cc Novo Pens

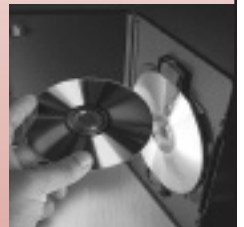
There is no charge for shipping of diabetic supplies and participation is free of charge. To enroll, call 1-877-852-3512 or contact the Catalyst Rx Customer Service Department for more information.

As a member of the MMIA Employee Benefits program, the Catalyst Rx Customer Service Department is available 24 hours a day, seven days a week at 1-888-869-4600 to assist with any questions you have. ■

VIDEO LIBRARY

You can rent VHS and DVD training videos through MMIA's video library—FREE! This program is in coordination with MACo and is a great resource for risk management training.

For a list of titles and rental instructions, go to our website: www.mmia.net, click on Resources & Links, and then Video Library.



Do You Need Someone to Talk to?

By Helen Gonsowski, *Employee Benefits Program Manager*

The MMIA Employee Benefits Program is committed to providing our members with the information they need to make informed choices about life and work issues. We also recognize that home and work issues may impact job performance. Because nobody can anticipate when these issues come up, the Employee Assistance Program (EAP) is designed to provide you with immediate access to information available any time day or night—you can call 866-248-4094 or enter the web site, www.liveandworkwell.com, as frequently as you need. The services are free for MMIA EB Participants and CONFIDENTIAL. The Employee Assistance Program gives you access to the help you need to manage life's challenges. An EAP Specialist will listen supportively, conduct an assessment, and clarify your needs so that they can find the right resource; they will counsel you on the things you need to know to make the right choice for your situation, and follow up to make sure you received what you needed!

Here are some examples of the types of issues that can be addressed by an Employee Assistance Specialist or Clinician.

Call the EAP when you...

- Are on the verge of burnout, with too much to do and too little time in which to do it.
- You have a volatile home situation and are anxious about your safety.
- Have a teenager at home whose school work and attendance has suddenly become a problem, or they seem less focused and upbeat than usual.
- Having marital problems, feeling down, stressed at work...

You do not need to experience a catastrophic event in order to call the EAP. Getting assistance when problems first appear can make them easier to resolve.

The EAP provides services and resources in the following areas:

- Face to face or telephonic counseling
- Legal Services
- Mediation Services

- Financial Assistance
- Information and Referrals into Community Resources

Call for Legal Support When ...

- Your neighbor is about to put up a fence that encroaches on your property.
- You need to put together your will but don't know where to start.

When appropriate, mediation services can provide a less expensive alternative to legal services. Typical issues may include:

- Property and debt division required by divorce or separation
- Development of visitation, child care or parenting plans
- Post-divorce disagreements about visitation and parenting

Call for financial support when...

- You need to start planning your strategy for retirement.
- You are getting behind in your car/mortgage/credit card payments and you don't know what to do.

Financial professionals can give strategic financial advice. This consultation is by telephone only. Should you need additional financial consultation, the consultant will assist you in finding an appropriate adviser.

Specific stocks or funds are not recommended.

Call for community resource support when...

- A family member is struggling with drugs or alcohol and you'd like to join Al-Anon 12-step program for personal support
- You recently lost a family member and would like to join a grief and loss support group
- You need help with paying your electric bill

Employee Assistance Specialists frequently refer callers to community resources to address their particular needs and as a valuable adjunct to counseling.

The EAP also has a comprehensive website at www.liveandworkwell.com. Liveandworkwell.com is designed to respond to each member's needs and interests. To begin an initial session on liveandworkwell.com, the enrolled EB participant must enter the MMIA access code, which is MMIA. The member then has the option of personalizing the site to reflect his or her interests. To do so, the member completes a brief online questionnaire and an "interests" checklist and creates a user name and password.

MMIA EB participants can call the EAP anytime day or night, toll free at 1-866-248-4094. Phone lines are open and most information is available 24 hours a day, seven days a week.



SAVE THE DATE: Jim Tollotson Service Program, Municipal Institute and Municipal Elected Officials Workshop coming

Clerks, Treasurers and Finance Officers: You're invited to attend the Municipal Institute in Billings May 3-8.

Elected Officials: The Municipal Elected Officials Workshop is also in Billings May 6-8.

And City Attorneys: The Jim Tillotson Service Program will be held May 7 and 8, 2009 at the Grand Montana Holiday Inn in Billings. CLE credits will be available for this training. Some of the items that will be discussed during this year's program will be:

- Open Meetings and the Freedom of Information Act
- Information on the new Americans with Disabilities Amendment Act
- Update on Land Use Cases
- Law Enforcement Legal Updates

For more information, or to sign up, contact the Local Government Center at 406-994-6694 or the MMIA at 800-635-3089.



Municipal Institute	May 3-8, 2009	Billings
Municipal Elected Officials Workshop	May 6-8, 2009	Billings
Jim Tillotson Service Program	May 7-8, 2009	Billings

Fire Suppression Systems: Good News or Bad News?

By John Craig, Property Program Manager

There can be little argument that fire suppression systems (sprinklers) are a valuable safety and risk management asset. There are numerous case histories touting their value and efficiency. When the systems perform as designed they dramatically reduce losses from a fire peril. However, fire suppression systems are expensive to install and maintain.

not properly maintained, or for some reason have been disabled, the structure's property coverage could be void. This came to light recently when the owner of a large sprinkler protected building found they were facing a dilemma. The structure was empty. The primary tenant had moved out. It was winter and the utility bills were huge. The only reason for heating the structure was to prevent freezing of the liquid fire suppression system, but they couldn't just shut it off without re-



Sprinkler systems are good news. But if you own one, be aware of their added responsibility.

Once a fire suppression system is installed, it must remain operational or be removed completely from the structure. If your building occupancy changes or the building becomes vacant, the fire suppression system must stay ready to perform its mission.

What may not be understood (and is the primary reason for this article) is if a building has fire suppression systems and they are

moving the system completely. If they did, they could be fined by the state fire marshal and their property coverage would be void. Their only options were to leave the heat on and pay the utilities plus inspect and maintain the sprinkler system; shut the system down and remove it (a very expensive system in addition to the demolition cost); or convert the system to dry chemical before shut-

ting the utilities off. As you can see, there is no easy way out.

In conclusion, sprinkler systems are good news. If you own one, be aware of their added responsibility. If you're thinking of adding one to a new design or remodel, be aware of their added obligation.

Got questions? Call or e-mail me at (800)356-3089 or jcraig@mmia.net

The ADA Amendments Act

By John Cummings, Human Resources and Risk Management Programs Manager

MMIA would like members to know that on January 1, 2009, new amendments to the Americans With Disabilities Act went into effect. In a quick summary, the general analysis of an ADA claim has not changed:

- A.** Employee must have a “disability” under the Act;
- B.** Employee must be a “qualified individual” under the Act; and
- C.** Then, if both A and B are present, the employer must offer the employee a reasonable accommodation (if a reasonable accommodation can be found).

The ADA Amendments Act (“ADAAA”) will directly impact how your city or town may have to view a potential disability and may increase the number of individuals entitled to the protections under the ADA.

Congress overturned several U.S. Supreme Court holdings and concluded that the definition of “disability” must be broadly construed in favor of coverage.

Congress rejected the EEOC’s definitions of the term “substantially limits,” as meaning “significantly restricted” and ordered the EEOC to enact new regulations with a lower threshold.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The determination of disability shall be made without considering mitigating measures such as medication, medical supplies, equipment or appliances. However, eyeglasses can still be considered in evaluating disability.

Congress provided a new definition of “major life activities” to include the following activities: caring for oneself, performing



manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. The operation of major bodily functions is also a major life activity.

An individual is “regarded as” disabled if subjected to discrimination because of an actual or perceived impairment “whether or not the impairment limits or is perceived to limit a major life activity.”

A person is not “regarded as” disabled if he has an impairment that is both transitory (defined as impairment with actual or expected duration of 6 months or less) and minor.

Recommendations for Cities/Towns and Supervisors:

Management needs to know that the disability threshold is much lower and will include conditions not previously covered by the ADA.

There will be renewed emphasis on whether the employer has “reasonably accommodated” the employee’s qualifying disability.

Managers must not act on stereotypes and/or treat or “regard” a person as disabled.

It is important to note that a person who

may be “disabled” still needs to be able to perform the “essential functions” of the job with reasonable accommodations. Employers can generally apply the same performance and conduct standards for all employees. If the employee cannot perform the “essential functions” with the accommodation, then the City or Town does not have to change the job or offer the employee a different job.

Probably the most important thing for your City or Town to remember is if an employee, or applicant, approaches their supervisor and indicates that they believe they are disabled and/or may need an accommodation, supervisors should be trained to contact the Mayor, City Manager and/or Human Resource Director (oftentimes the Clerk/Treasurer) to assist in this type of discussion. In most cases these types of requests or discussions would benefit from input from the City/Town Attorney to ensure that the municipality is engaging in the required “Interactive Process” with the employee in question. As always, cities and towns are encouraged to contact MMIA for input and guidance.

Whether or not someone has a qualifying disability and is eligible for an accommodation is not something that typically happens in an initial meeting. Instead, it is important to document the employee’s request, document their desired accommodation, and typically not make a decision in the initial meeting. Instead, follow the advice of your City/Town Attorney as to the next steps which may include the employee visiting a physician for more detailed information. It is also useful for your City or Town to be sure it has up to date Job Descriptions that outline the physical requirements of each municipal position. If you have questions, please feel free to contact John Cummings, Human Resource and Risk Management Programs Manager at MMIA. ■

MMIA Offers Risk Management Training Endowment

MMIA’s Risk Management Training Endowment is available to member municipalities to assist with training efforts and to encourage training partnerships among Montana’s cities and towns. Municipal departments can request up to \$2,000—up to \$4,000 for a single member per fiscal year. Requests for the endowment must be a formal application and submitted by a member of one of MMIA’s coverage programs. The application must identify a risk management initiative that includes registration of at least 10% of MMIA’s member entities. If you are interested in learning more about this program or getting an Endowment Application, contact John Cummings at MMIA 800-635-3089. ■

Bob Worthington Risk Management Achievement Award: Second Finalist for 2009

The second finalist for the 2009 Bob Worthington Risk Management Achievement Award (BWRMAA) is the Missoula Parks Department for coordinating and hosting a Playground Safety Inspector Certification Course this spring. They brought in a trainer from the National Playground Safety Institute to conduct the training in Missoula, which required a minimum of 20 attendees. This meant that the Missoula Parks Department had to work to get that many individuals registered. The course had a total of 25 participants from all over Montana and Idaho, including representatives

from six MMIA members.

While the National Playground Safety Institute's course fees were an expense for participants, the payoffs for learning proper playground safety are huge. Attaining such a certification is not a requirement in the state of Montana, yet is very beneficial in conducting thorough park maintenance and operations. Preventing injury and harm to a community's young kids can go a long way toward avoiding costly liability claims.

The 2009 BWRMAA winner will be selected from three finalists that have been chosen throughout the year. The finalists will

be announced in the MMIA newsletter and the winner will be presented at the MMIA annual meeting in October. The BWRMAA recognizes exceptional efforts of members to manage municipal risk and prevent losses. For this award, MMIA claims and risk management staff nominate people, groups, departments or members that demonstrate proactive behaviors that positively affect their community and the MMIA pool membership. If you know of a member group that is going above and beyond to manage their municipal risks, send your nomination ideas to amartin@mmia.net. ■

Claims Corner

By Ann Komac, Claims Manager

What if there was a program available to employers and their qualifying employees, or potential employees, that limits an employer's liability under the Workers' Compensation Act? Well, there is such a program called the Subsequent Injury Fund (SIF).

The SIF was established by the Montana Legislature in 1973 to assist persons with disabilities in becoming employed by offering a financial incentive to employers who hire certified workers. The statute defines a person with a disability as a person who has a medically certifiable, permanent impairment which is a substantial obstacle to obtaining employment or reemployment considering the person's age, education, training, experience, and employment rejection. The disability does not have to be the result of a work related injury, although it can be.

As an employer, you will benefit from hiring a certified worker because you are hiring an experienced, skilled worker while limiting your workers' compensation liability. If the certified worker is injured or reinjured while in your employ, you will only be liable for the first 104 weeks of benefits. After 104 weeks of benefits have been paid, the SIF assumes all remaining liability on the claim.

The benefit to a worker being certified is

they are more likely to be hired because there is the 104 week limit on the employer's workers' compensation liability, should the worker become injured or reinjured on the job. When the limit is reached, the SIF assumes liability. If a worker is injured on the job, they are entitled to all benefits due under the Workers' Compensation Act. Certification is not body part specific and the certification applies to any new injury.

The SIF is administered by the Montana Department of Labor & Industry, Employment Relations Division. If you think a current employee or a potential employee may have a certifiable permanent impairment, and a physician has given permanent restrictions because of this impairment, the employee may apply to the department for certification under the SIF. The department will then conduct an investigation and issue a certificate to the person who, in the department's discretion, meets the requirements for certification. A person shall apply for certification before employment or within 60 days after the person becomes employed or reemployed and before an injury occurs that is covered. The certification is effective on the date of employment or reemployment. For a person who applies for



certification more than 60 days after employment or reemployment, but before an injury occurs, the certification is effective on the date the application is approved. Once certified, the person is certified for life.

Certification under the SIF is a win-win for both the employee and the employer. This is especially true in cases where an employer is considering making, or has already made, permanent modifications to a position in order to employ or reemploy someone with a disability. If you think you have an employee who may qualify, or if you are considering hiring a person who may qualify, please contact Bruce Chamberlain, Subsequent Injury Fund Administrator at 444-7732 or email him at bchamberlain1@mt.gov. If you have general questions about the Subsequent Injury Fund, please feel free to call me at 1-800-635-3089 ext. 121 or email me at akomac@mmia.net. ■

Let's Go To the Park!

By Lenny Lundin, *Liability Claims Adjuster*

Spring is just around the corner and that means increased activities in our parks and playgrounds.

Weather in Montana takes it toll on everything outside and our park and playground equipment is no exception. Usually this time of year our equipment gets that much needed facelift from the beating Mother Nature has inflicted over the last few months. Aesthetics are important and considered to be an integral part of maintenance. Park equipment needs to be safe and in proper working condition when considering the bottom line.

There are many areas in and around the park equipment that might be taken for granted or have "always been that way" which may not initially be considered as a safety risk. What does the ground cover or fall zone area look like? Does the fall zone area require a certain depth of material throughout the area? Is there material separating the fall zone from the grass that could use some attention?

What about the general condition of the landscape in the park? Are there areas within



Keeping our parks and equipment well maintained and free from defects provides our community with safety and a sense of pride.

the park landscape that are worn or have excessive use? Are there areas that could be closed off to the public until they are adequate for the use they were intended? Trails, ballparks and grassy areas used for recreation need as much attention as the park

equipment, if not more.

The general public utilizes these areas regularly with the expectation they are free from any danger. Children innocently play on all equipment and run through the park in anticipation of nothing but fun. ■

What's New with the MMIA Board of Directors?

In February, Dale Longfellow resigned from the Board due to personal reasons. We appreciate the time that Dale took



to serve on the Board. He will be missed.

Kevin Myhre was appointed to fill the remainder of Dale's term, representing those pool members with a population of less than 20,000. Kevin also serves as the City Manager and Chief of Police for the City of Lewistown. Kevin brings to the Board a broad base of administrative and law enforcement knowledge. Kevin has

been with the City of Lewistown for eighteen years where he started as a police patrolman. He became the City Manager in 2002. The MMIA welcomes Kevin to the Board and would

like to thank him for his willingness to devote significant time in service to the membership.

Eileen Joyce was also appointed in January by Butte-Silver Bow County to represent the entity on the Board. Eileen began serving as County Attorney for Butte-Silver Bow in January 2009, following the November 3, 2008 general



election. She has worked in the County Attorney's office since 1988; first as Deputy County Attorney, before being promoted to Chief Deputy in 2007. Prior to that, she worked for the US Bankruptcy Court. Welcome to the Board Eileen, and thank you for your commitment to contribute your time and efforts to the membership. ■



MONTANA MUNICIPAL INSURANCE AUTHORITY

Montana Municipal Insurance Authority

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www.mmia.net

Calendar of Events

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|--------------|------------|--|
| April | 23 | Employee Benefits Committee Meeting, Helena |
| | 24 | MMIA Board of Directors meeting, Helena |
| May | 4-8 | Clerks Institute, Billings |
| | 6-8 | Municipal Elected Officials Workshop, Billings |
| | 7-8 | Jim Tillotson Service Program, Billings |
| | 25 | Memorial Day, holiday |
| June | 26 | Board of Directors meeting, Helena |

