

HOW WELL DO YOU DOCUMENT?

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A couple of weeks ago, I had some back problems, which landed me in the emergency room on a Saturday morning. I am not sure of the last time you have had any type of medical treatment, whether at a doctor's office or hospital but if it has been a while, you will probably notice one significant change from a few years ago. The expectations for documentation are much higher than in years past. I would surmise that much of this has been driven by their insurance carriers. Why? Probably because they found that the lack of documentation impacted the resolution of some medical claims.

This would not be surprising since it would be fair to say that nothing impacts the resolution of an agent's E&O claim as much as the documentation in the file. In fact, going back over the last 18 years, if you were to ask any instructor what one thing could an agency do to impact the resolution of any E&O claims made against them, their answer would undoubtedly be documentation.

Having been a CSR in my early years in this business, I have always had a tremendous appreciation for the job that these folks do. Their workload is high and non-stop. To ask them to take a few extra minutes to document some of the conversations with clients / prospects is a lot to ask. But if you really want to impact how an E&O claim gets resolved, this really does need to be done.

Imagine a claim against the agency for failure to advise the agency client of the availability of higher limits. The client bought the minimum auto limits, had a loss that exceeds those limits and now is alleging that the agency never advised them of the availability of higher limits. If there was documentation in the file that this was discussed, with the client's signature stating that the limits had been offered but were rejected, the claim should go away fairly quickly. Now look at that same claim without this paper documentation -- the claim gets defended (for an average of \$8,000) and the claim may be resolved without any loss payment, but probably not without a fight.

Okay, so what are the expectations of documentation in your agency? Presuming that you have staff meetings from time to time, this would be a good topic to discuss.

Obviously, conversations involving coverage should be documented extensively. The best type of documentation involves something with the insured's signature on it. This is realistic if the client is in your office or you are personally meeting with them but that may not always be possible. In those circumstances, it is advisable to send the client a note stating "per our conversation, we are deleting coverage for "x" effective today. If this is contrary to your understanding, please contact me immediately".

The following situations would be advisable to get the prospect / insured to acknowledge in writing:

Availability of coverage – where the issue involves limits or additional coverages, the insured should be informed to enable them to make an educated decision. Rejection of coverages / limits available should be signed off on.

Exclusions – where the insured is advised of various exclusions, the file should be noted that this was done. This documentation will be valuable if the insured alleges that they were not made aware of these exclusions.

Deletions of coverage – when an insured requests coverage be deleted, the insured should be asked to send a note advising you of their desire. If not, confirm your understanding of the conversation back to them in writing.

Important information – if the insured contacts you to advise of information that is of value, this should be noted in the file and confirmed back to them. For example, if the insured calls you to tell you that they did not have any losses over the last five years, this should be documented and confirmed back.

Interaction with your companies and wholesalers is also very important as there have been numerous claims where there was a dispute as to who said what.

When an E&O claim is made against your agency, we are going to ask you for your agency file so we can see the documentation. A well-documented file provides us with the tools to provide you with a solid defense. Help us help you – set standards for documentation in your agency and make sure that they are adhered to.