

Claims

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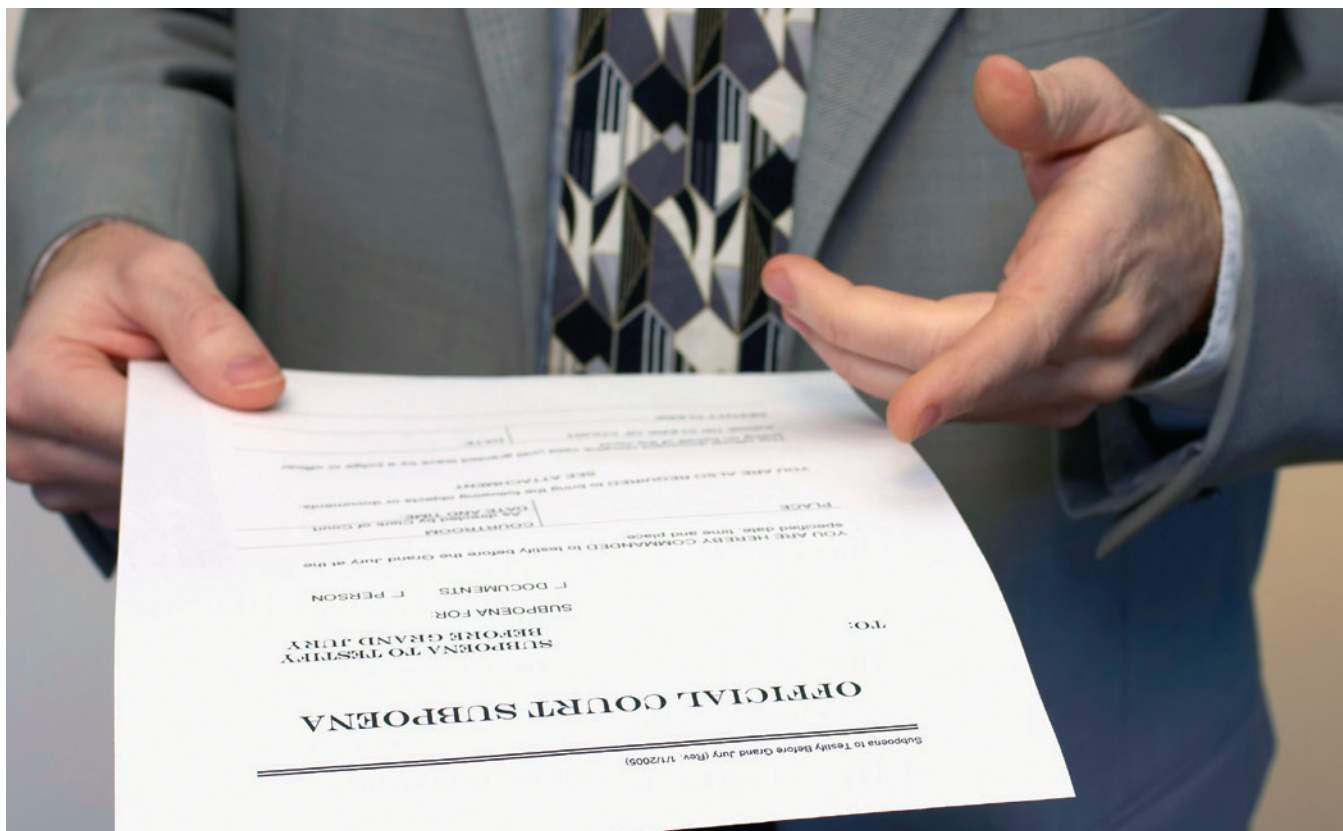
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You've Been Served: How to Process Subpoenas for Claims Files



A recent study commissioned to explore the major challenges facing claims departments uncovered several issues they face relative to successfully processing subpoenas. Here is a look at some of those challenges and strategies to help claims managers thrive within the current environment.

Challenge: The rising number of claims

Adjusters are under a lot of pressure. They are now assigned anywhere from 50 to 100 new claims a month, and they must close at least 50 or more total claims within that same period. They are additionally stressed because the costs of no-fault cases are on the rise.

Solution: Logging, tracking and verifying requests

- Create a workflow for receiving requests.
- Define all the elements that determine if the request is valid. This means asking questions like: Is the claimant identifiable? Is the DOA accurate? Does the authorization meet Health Insurance Portability and Accountability

(HIPAA) compliance guidelines?

- Implement a system for tracking the status of each request.
- Establish standards for validating the request and authorization.

Challenge: Mandatory reporting

New regulations are adding to the challenges claims departments face. For example, the Centers for Medicare and Medicaid Services (CMS) are requiring significantly more data to be reported. They are further scrutinizing what insurers are doing in terms of claims that involve Medicare beneficiaries. Claims that involved no-fault insurance must be re-

ported to the CMS or fines of up to \$1,000 per day per reportable claim are possible. This has put pressure on departments to develop the most effective strategies to implement advanced technology to handle this additional mandatory reporting. The question becomes whether to build or buy these process improvements and new technology. There are clearly time constraints on developing and implementing changes, as well as cost and efficiency challenges to consider such as:

- Will this actually improve our processes over the long haul?
- Are there going to be assessment fees?
- How much are set-up fees?
- Will our system need regular maintenance?
- What are the reporting fees?

Solution: Releasing only authorized information

- Implement a validation process that verifies all requirements are met on the authorization. This includes asking the following questions: Does the date of birth listed on the request match the one on the file? Did the claimant sign and date the authorization? If the claimant is deceased, is the correct paperwork on file, such as a distributee form or proof of relationship in order to release the records?
- Determine if the request can or cannot be processed.
- If the request cannot be processed, immediately notify the requestor and update the status of the request in your tracking system.

Problem: Subpoenas and litigation fees

Almost a quarter of an insurer's claims are in litigation, requiring the use of defense attorneys. The no-fault regulations provide for attorney's fees of 20 percent of the claim, which caps out at \$850. For preparatory services related to the arbitration forum or court, the attorney can receive up to \$70 per hour for a maximum of \$1,400. These fees cannot be avoided. Subpoenas are legal documents issued by the court, so they cannot be avoided or refused without being subject

to fines or incarceration.

Additionally, insurers are required to defend their policyholders against lawsuits. Unfortunately, this has led to some staggering facts and figures about the American tort system. It now stands as the most expensive civil justice system in the world. The growing costs are resulting in ever-increasing insurance premiums to off-set them.



Solution: Completing the request

- Select the appropriate documents to be copied or reproduced.
- Verify the claimant's identification on all the documents.
- Compare the duplicated files with the original request letter.
- Confirm that the status of the request is updated in the tracking system.
- Choose the delivery option, such as hardcopy delivery via USPS or FedEx, CD delivery or electronic transmission.
- Provide customer service throughout the process.

Problem: Privacy issues

Subpoenas are often part of the claims process. Processing subpoenas may include copying or reproducing hundreds, sometimes thousands, of pages of medical records as well as additional parts of the claims file. All of that information is

considered confidential and protected.

As court cases have tested the parameters of HIPAA, certain outcomes created additional challenges for claims departments, specifically as it relates to maintaining privacy of an insured's information. For example, the release of protected health information (PHI) must be limited to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.

Signed standard no-fault forms no longer authorize insurers to release a patient's claim file. In order for a third party to get access to the insurance company's file, a special HIPAA compliant authorization must be signed by the patient/claimant. With such an authorization, a third party is entitled to see only that portion of the insurance company's claims file that is necessary to litigate the issues that are involved in the dispute.

Solution: Safeguarding confidential information

- Examine and review every page that fulfills the request for any and all legally protected or misfiled information.
- Comply with the 15 document types listed on the document release form, including arbitration attorney letterhead, NF10 documents and medical bills.
- Understand the regulations and guidelines laid out by HIPAA, which are intended to protect the medical records found within a claims file.
- Communicate updates with the requestor on the status of the request.

If a subpoena is not processed correctly it could increase turnaround time, violate privacy laws, increase customer complaints, lead to fines and possibly increase insurance rates. Following these recommendations should help reduce many non-compliance issues. ❤️

Fig Gungor has served as the chief executive officer of ClaimFox for the past 11 years. She is responsible for the strategic direction of the company, leads new business development, and oversees several national and regional accounts.