



Defense Costs Higher for Medical, Product Liability Claims

Rising defense costs, especially for product and medical liability litigation, have prompted insurers to work more closely with risk professionals to identify potentially high losses early on to limit expenses, according to AM Best.

“Claims that involve litigation can typically drive up costs by tying up staff resources and extending the claims life cycle,” the ratings firm said in a new report on defense and cost containment (DCC) expenses. “As the cost of legal defense rises, escalating litigation expenses can begin to eat up a larger chunk of premium earned.”

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- David Blades, AM Best

Across all casualty lines, medical professional liability (MPL) and product liability were found to have the highest net DCC ratios. AM Best attributed the higher costs for MPL claims to expert witness fees and medical records costs, even for withdrawn, dismissed or otherwise closed claims. Medical liability claims settled out of court can bring defense costs higher than those that go to trial. A recent report from Fitch Ratings revealed a fifth consecutive year of underwriting losses for the U.S. medical liability line.

Product and food recalls have also been rising due to heightened regulatory scrutiny, complex global supply chains with fewer suppliers and improved technology to detect problems. The COVID-19 pandemic may also have a pronounced impact on food and product recalls.

“Factories that have been temporarily closed and restarted, the huge expansion in remote work and a decline in regulatory inspections owing to the pandemic could cause risk exposures to rise,” AM Best said. “These factors could push defense costs for product liability claims even higher.”

Despite the elevated costs in MPL and product recall, AM Best said DCC expenses as a portion of incurred losses have trended down over the last 10 years, meaning cost-containment measures are having an impact.

“Predictive analytics for claims handling has helped speed up the claims process and, in turn, has limited claim expenses,” David Blades, AM Best’s director of industry research and analytics, said.

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