

Training Courses, Best Practices, and Grants: Best Value for Your ABAG PLAN Membership

The resources ABAG PLAN provides to members take on even more significance during tight budgetary times. For the next fiscal year, the 50 percent matching requirement for grants for members meeting the Best Practices requirements has been waived. Members can receive a maximum of 10% of their premiums for policy year 2009-2010. ABAG PLAN has also expanded the Best Practices program and associated grants, and the training courses.

Training

ABAG PLAN has taken training on the road, by bringing training sessions to member locations. More members are attending and requesting more and a wider variety of training sessions. Training offerings have expanded to meet member needs, adding such courses as *Alertness and Ethics* training for police officers, and a *Cash Handling* workshop about procedures and best practices. *Defensive Driving* continues to be a popular course.

Best Practices Update

Los Gatos, San Bruno, and Burlingame are the latest members to meet the Best Practices requirements. Three more members are expected to shortly meet that goal as well. Members continue to work on risk issues, particularly sidewalks, trees, and contractor selection. A new focus is on ADA compliance and injury and illness prevention. All members are continuing to work with a risk management consultant to meet goals or to work on other exposures.

Sample Example

The City of Saratoga's novel risk management approach is to produce a New Employee Safety Newsletter twice a year. "Initially we produced Safety Newsletters three times a year and now they are produced twice a year. They are distributed through the employees' pay envelopes,

and each issue has addressed a number of risk concerns," states Thomas Scott, Facilities Maintenance Supervisor for Saratoga.

Grants

ABAG PLAN members have taken advantage of available Risk Management grants, with almost 1.4 million dollars paid out in 2008 - 2009. This number includes grant money that was "rolled over" from prior fiscal years.

On a case-by-case basis, ABAG PLAN can fund non-traditional items depending on how well the member has done in meeting the traditional Best Practices procedures. The City of Saratoga used grant money to purchase a truck with a crane, as pictured below.



What's Inside

COVER STORY - Training Courses, Best Practices and Grants

- 2 **RISK MANAGEMENT** - ABAG PLAN Integrates New Technology
- PLAN Members and Medicare
- 3 **RISK MANAGEMENT** - ADA Private Boat Marina

- 3 **RISK MANAGEMENT** - Benicia Recognized
- 4 **PEOPLE** - New Staff and Best Wishes
- 5 **PEOPLE** - Spotlight on Committee Chair
- 5 **PEOPLE** - Sewer Smart Summit
- 6 **CALENDAR** - Meeting Schedules for 2009

New Technology to Bring Service Improvements

The insurance industry has cost and operational challenges, such as expensive and expansive document management needs. Other industries have met these challenges. With the new technologies available, ABAG PLAN now has options to improve services while reducing costs and doing more with less.

Toward that goal, ABAG PLAN is implementing a new, integrated claims management software. According to Angela Salsbury, Claims Manager, "The main reason to upgrade is to make us more efficient. The claims process is complex and our operations are predominantly characterized by manual, paper-intensive procedures. The amount of paper that we generate is staggering and the cost of storing all that paper is costly."

Having interviewed several companies, ABAG PLAN selected the iVOS insurance solution and SafetyLogic from Aon eSolutions. Members can access claims files on a read-only basis and direct e-mails to PLAN staff that will attach directly to the specific claim file. Other significant features for ABAG PLAN include the ability to:

- Track grant programs and issue payments from the system
- Reduce storage and overhead costs with the ability to scan documents and store online with specific claims file
- Automate traditional risk control processes

- Share ABAG PLAN information with other public risk management organizations throughout the country through Public Entity Risk Institute (PERI).

PERI is a risk management resource with a national database of public sector liability, judgments, and exposures. ABAG PLAN submits data and receives free benchmarking reports, allowing us to compare losses against similar organization from across the country.

Internal testing is underway with the new system's debut anticipated in 2010. For more information, please contact Angela Salsbury, Claims Manager at 510-464-7954 or angelas@abag.ca.gov.



ABAG PLAN Members Have New Requirement - Medicare Reporting

There is a new requirement from the federal government that could be very expensive for ABAG PLAN members if the mandate is not followed. The Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) adds new mandatory reporting requirements for liability insurance (including self-insurance), no-fault insurance, and workers' compensation. The MMSEA requires that all cities must report detailed information directly to Medicare each time a settlement, judgement, award or payment is made to a claimant who is entitled to receive Medicare benefits. The penalty for failing to comply with these requirements is ***\$1,000 per day per claim.***

To avoid these significant penalties, ABAG PLAN members must report directly to MMSEA

when it is determined that a claimant is entitled to Medicare benefits.

As of August 2009, no additional clarification defining eligibility has been provided by the Centers for Medicare and Medicaid Services (CMS).

It is recommended that members report if the claimant is 65 or over, or the claimant is under 65, but receives (or has applied for) Social Security Disability benefits, or the claimant is under 65 and suffers from end-stage renal disease.

ABAG PLAN members are directly responsible for electronically filing on a secure website currently under development. There will be a designated testing period and actual reporting is scheduled to begin in October. Members should monitor the schedule for changes. For an overview and description of the registration process, visit the CMS website at www.cms.hhs.gov/MandatoryInxRep/Downloads/RegistrationOverview.pdf.

Additional information is available from CMS online at: http://www.cms.hhs.gov/MandatoryInsRep/03_Liability_Self_No_Fault_Insurance_and_Workers_Compensation.asp#TopOfPage. Angela Salsbury, Claims Manager may also be able to provide information. Please contact Angela at 510-464-7954 or angelas@abag.ca.gov.



ADA - Private Boat Marina Deemed Place of Public Accommodation

The Americans With Disabilities Act (ADA) prohibits places of public accommodation from discriminating against people with disabilities. Nicholls v. Holiday Panay Marina, L.P. (2009) 173 Cal. App. 4th 966, involved whether a boat marina constitutes a place of public accommodation.

Defendant Holiday Panay Marina L.P. (Marina) operated a boat marina in Marina Del Rey. The marina was private, and only the marina's tenants, who rented slips, were permitted to use the facilities. Plaintiff Don Nicholls rented a slip at the marina, where he moored his boat. Nicholls is a quadriplegic. He required use of a wheelchair, which made parts of the marina inaccessible to him.

As a result, Nicholls filed suit against Marina alleging that the boat marina inaccessibility violated the ADA. Marina filed a motion for summary adjudication, contending that the ADA did not apply to the boat marina because the marina was not a place of public accommodation. The trial court granted the motion and entered judgment for Marina. Nicholls appealed. The Second District Court of Appeal reversed the judgement.

The ADA is codified under 42 U.S.C. section 12101 et seq. The ADA applies to establishments that fall within any of

12 categories. The Court of Appeal held that there are many places that prohibit the general public from entering, but still are classified as public. The court provided examples of private schools, golf courses and gymnasiums. The fact that there existed selectivity in choosing who among members of the public could enter or use the marina did not defeat the public character of the marina.

What was important for the Court of Appeal was that leases were offered to the general public from time-to-time. At any point, a disabled person such as Nicholls could be given a slip at the marina. Interpreting the ADA broadly, the court held that there needed to be accessibility compliance.

In this case of first impression, the Court of Appeal broadly interpreted the ADA to hold that a boat marina is a place of public accommodation and is subject to accessibility requirements. According to Mark Hazelwood, partner with law firm Low, Ball & Lynch, "This decision is important as it shows how the courts are broadly interpreting the ADA, which has implications for ABAG PLAN members. More facilities are expected to be accessible."

Excerpted from WEEKLY LAW RESUME™, Issue By: Ray Coates, May 21, 2009, © 2009 Low, Ball & Lynch. Used with permission.



Benicia Received Golden Gate Partnerships Recognition

The Benicia Public Works Department received three 2008 Golden Gate Partnerships Recognitions from Cal/OSHA for demonstrated commitment to workplace safety and health conditions at the Water Treatment Plant, Wastewater Treatment Plant, and the Public Works Corporation Yard. These prestigious recognitions are the result of workplace safety audits requested by the Public Works Department.

The demonstrated commitment of the facility staff to improve the effectiveness of workplace safety and health management systems was specifically recognized by the Cal/OSHA Consultation Services. Although Workers' Compensation is not covered under the ABAG PLAN Memorandum of Coverage, PLAN promotes working towards workplace safety as an important goal in a complete risk management strategy. Congratulations to Benicia for the good work.



Downtown Benicia Mainstreet

Photo: citydata.com

People

New Staff, Committee Chair, and Best Wishes

ABAG PLAN Adds New People

Lynn Shea is a Senior Claims Examiner, having joined ABAG PLAN in November 2008. She has 28 years of claims experience, 22 of those years focusing on claims in litigation. An Oakland native, Lynn graduated from Skyline High School and then from the University of San Francisco with a degree in Business Administration.



With one son at the University of the Pacific, Lynn has time to experiment with cooking. She says, "I love to try new recipes and my colleagues are willing guinea pigs." At ABAG, Lynn handles claims from San Mateo, Los Gatos, Half Moon Bay, Millbrae, and

Hillsborough. She also works on claims that have entered litigation in Dublin, Pacifica, Tiburon, East Palo Alto, Benicia, and Ross.

Commenting on working at ABAG PLAN, Lynn says, "The towns and cities have been great to work with. It is very different being on the public entity side of things. It is nice having a variety of claims to work on."

ABAG PLAN's new Claims Administrative Assistant, **Roslyn Morris-Singh**, is also an Oakland native. She graduated from Oakland Technical High and the University of California at Santa Barbara with a degree in mathematics.



Roslyn supports the claims management and risk management programs. Her duties include data entry, filing, and preparing correspondence. She has been with ABAG PLAN for five months.

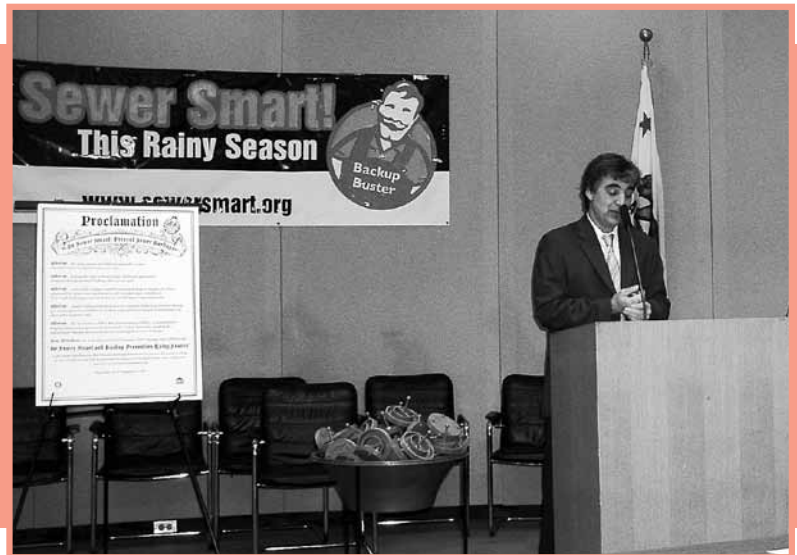
Roslyn is also very interested in remodeling and design, having completed renovations on two units in her apartment building. Roslyn decided to learn to do it herself and now has a Carpentry certificate from Laney College. She is the proud parent of two children, an 11-year old boy and a nine-year old girl.



Best Wishes

Thanks to Marcus Beverly for his nine years of work as Managing Director of ABAG PLAN Corporation.

He was responsible for strategic and operational management, including risk financing strategies, litigation and claim management, and risk management programs. We wish him the best in his new endeavors.

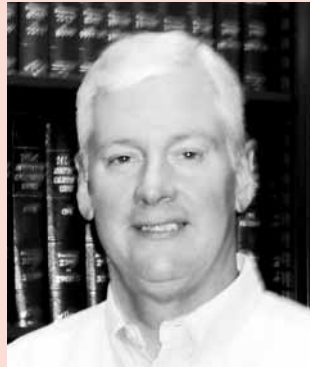


Marcus Beverly (Right) hands out Back Up Devices and conducts annual Sewer Smart Meeting for the Rainy Season.

Claims Committee Chair—Shawn Mason, City of San Mateo

Shawn Mason is the City Attorney for the City of San Mateo. He is the risk manager/contact for San Mateo and is responsible for general liability, property and risk management activities for the City. In San Mateo, the Human Resources manager is responsible for Workers Compensation claims.

The City of San Mateo joined ABAG PLAN in July 2004. San Mateo was previously insured under a joint purchasing program purchasing private insurance with other jurisdictions. When the premium and SIR were doubled during one year, the city needed other opportunities and ABAG PLAN offered a more cost effective alternative. Mason was the new City Attorney and had previous experience with ABAG PLAN while at the City of Benicia. During his research, he found that ABAG PLAN premiums were less and offered greater coverage.



When asked to comment on ABAG PLAN, Executive Board Vice Chair Shawn explained, “The PLAN provides value beyond just saving dollars with attractive and sophisticated risk management programs, such as the sewer loss program, training opportunities, and grant matching programs. ABAG PLAN is and will continue to be very helpful in addressing our risk issues.”

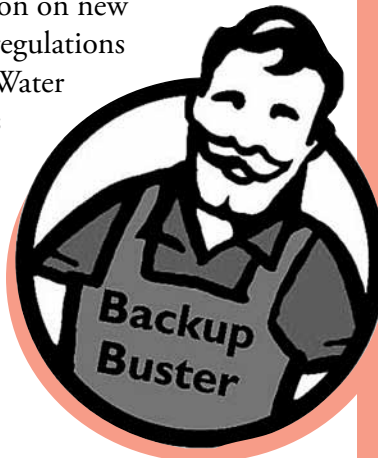
After the City became a member, Mason joined ABAG PLAN claims committee. “Being involved with the Committee helps us (City) make good decisions in responding to claims, due to our ability to learn from others’ claims,” Mason says. “The exposure to a variety of claims makes a difference back in San Mateo. We have implemented several programs to address possible hazards after reviewing another jurisdictions’ claims in the Claims Committee, Mason added.”

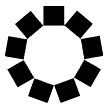
Sewer Smart Summit and New Fats, Oils and Grease Program (FOG)

The Be Sewer Smart Public Education Campaign is adding a new element. The 2009-2010 FOG Program will educate the public on how to properly dispose of fats, oils and greases without harming the sewer system. The FOG Program will be introduced at the 2009 Sewer Smart Summit on October 27th in Oakland.

The Sewer Summit will also feature information on new sewer system maintenance and management regulations and best practices, implications of the Clean Water Act, follow-up on hazard mitigation strategies and sewage issues from a disaster explored in 2008, and the latest best practice ways to prevent backups and backflows. More than 100 local government representatives, public works and building officials, plumbing and water service contractors, and community members annually participate.

The Sewer Summit will be held in the MetroCenter Auditorium, 101 8th Street, from 10 a.m. to 3 p.m. For more information about the Be Sewer Smart campaign and the Sewer Summit, go to www.sewersmart.org.





Meeting Schedule 2009- 2010

All meetings are at ABAG's offices unless noted.

OCTOBER 2009

October 26
Risk Management
Committee 1:30 p.m.

NOVEMBER 2009

November 4 & 5
Board of Directors 9:30 a.m. to 4:30 p.m.
Location to be determined

FEBRUARY 2010

February 3
Claims Committee 10:00 a.m. to 1:00 p.m.

APRIL 2010

April 14
Risk Management
Committee 10:00 a.m. to 1:00 p.m.

April 29
Actuary Committee 10:00 a.m. to 1:00 p.m.

MAY 2010

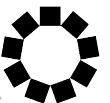
May 13
Executive Committee 10:00 a.m. to 1:30 p.m.

JUNE 2010

June 16
Board of Directors 1:30 p.m. to 4:30 p.m.
Location to be determined



ABAG PLAN Corporation
A Pooled Liability Assurance Network
Providing self-insured coverage to cities in the San Francisco Bay Area



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