



Topics Concerning Buyers of Commercial Insurance

MSP C 06/2010 – “Workers Compensation Injuries: Employers’ Best Practices”

June 2010

Commercial Insurance Update Newsletter

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Workers Compensation Injuries: Employers’ Best Practices

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Workers compensation claims are an inevitable part of doing business. Even in the safest company in the world, an employee will eventually get injured on the job.

The costs to the company of work-related injuries are high, both directly and indirectly. Direct costs include increased premiums, but work-related injuries can increase your experience modification and make it harder to bid jobs, cost you productivity, and potentially cost you a valued employee and the resources to replace that employee.

The costs of work-related injuries can be mitigated if the appropriate risk controls are put in place prior to the occurrence of an injury. Such risk controls are comprised of an aggressive set of Best Practices in three key areas: Injury Prevention, Accident Response, and Claim Management.

Injury Prevention

The best claim cost mitigation tool is, of course, injury prevention. The single most important practice to employ toward that end is a

comprehensive safety culture. When safety is important to every member of the company, from top management down, the frequency and severity of work-related injuries will diminish.

If you don’t already have one, establish a Safety Committee that includes a member from each department. This creates “buy in” and a sense of responsibility from the CEO to the hourly employee. When everyone “owns” the responsibility for safety, everyone takes it seriously.

The committee should review all injuries and near-misses every month, and collaborate on safety controls which can be put in place to prevent recurrence. The committee should also encourage and review safety suggestions from the entire company. This can be done



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via a suggestion box or other method of anonymous communication.

Establish a Safety Incentive Program that rewards safe practices and periods of time without injury. However, safety incentive programs alone can create a tendency for employees to under-report, which will not improve safety or prevent injuries. In fact, when minor injuries are hidden, the likelihood of a serious injury increases. For this reason, it must be a condition of employment that everyone follows safety protocol. There should be an established, no-exceptions, safety infraction program.

Accident Response

Once an incident or injury occurs, the events of the next 24 hours will have a huge impact on the ultimate cost and outcome of the claim. It is critical to be prepared to respond quickly and efficiently to any injury.

Everyone in a position of responsibility within your company should be trained in Post Accident Response. This should be done even if your company rarely has injuries, because an infrequent claim history makes it more likely that employees and supervisors will not know what to do in the event of an injury, and may inadvertently make a decision that could adversely impact the length or cost of the claim. Your company should implement the following key aspects of an accident response program.

Medical Provider Network (MPN)

In California, employers now have the ability to direct medical care to an approved network of physicians and treatment facilities that meet criteria established by your workers compensation insurance company. These facilities often have agreements with the insurance company to bill at a discounted rate.



In order for the insurance company to be able to enforce its network, however, you must have completed the "roll-out" procedure properly. This entails advising every employee that your company participates in the network, and what their rights and responsibilities are.



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Risk Management Seminars

2010 Series

450 B Tower, 450 B Street, Suite 1800, San Diego, CA 92101-8005

- Mid-Year Legal HR Update
Friday, June 18, 2010 7:30-10:00 am
- Navigating the Leaves of Absence Minefield
Friday, August 20, 2010 7:30-10:00 am
- Sexual Harassment Prevention Training
AB 1825 Compliant
Friday, September 10, 2010 7:30-10:00 am

For more information about upcoming seminars

Click [here](#) to view our seminar list and individual flyers

To sign up for upcoming seminars

Contact **Darcee Nichols** at dnichols@cavignac.com or **619-744-0596**.

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Reserve early / seating is limited! *

* **NOTE:** Due to the popularity of our seminars and limited seating, we regret we cannot provide refunds or credits with less than 72 hours advance notice of cancellation.

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Most insurance companies have a prepared letter, with all the required information, that you should distribute at the time your workers compensation policy becomes effective. Before you distribute this notification, you should choose a clinic from the approved network to which you will direct employees with non-emergency injuries. The name and address of this clinic, along with emergency contact information and hospital information for emergencies, needs to be posted along with your State and Federal required postings.



All new hires should be given the same notifications that were distributed at the time of roll out. It is important to note that these notices need to be distributed in both English and Spanish, regardless of whether you think the employee speaks English or not. Each insurance company has a slightly different procedure, and the format of notifications may vary from company to company. Your broker should assist you in obtaining the proper notices from your

insurance company and determining which ones should be distributed to whom, and when.

Choosing a medical clinic is a very important part of the pre-claim process. It is best to visit several clinics in your area, and choose the clinic that best suits your needs in terms of hours, ease of access, services and treatment types available onsite, staffing, administrative support, and the clinic's philosophy regarding First Aid programs.

Once you have chosen your clinic, establishing a relationship and a rapport with the physicians and administrative staff can be invaluable if a serious or suspicious injury occurs. Making sure your injured workers receive prompt and thorough medical treatment will shorten the length of treatment and disability, and increase the chances for a speedy recovery and claim closure. Discussions with your employees about their satisfaction regarding the treatment they received at your chosen medical facility can help you evaluate, on an ongoing basis, whether or not to continue your relationship with that clinic.

First Aid Program

Establishing a First Aid program allows you to pay for qualifying injuries out of pocket. This will keep those injuries from affecting your claim experience and your experience modification. In California, employers have the right to pay bills for First Aid treatment, and do not have to file a formal injury report with the insurance company. Section 14311(C) of the



2010 Human Resources Seminar Series

Mid-Year Legal Update

Non-Compliance Is Costly!

Friday, June 18, 2010 7:30-10:00 am

Federal and state legal requirements have changed since the beginning of the year—and many more changes are yet to come. ***Don't be caught unaware***—non-compliance is costly!

This informative seminar will review legislation, agency regulations, and case law developments from the first half of 2010, and give you a heads-up on those anticipated for the second half of the year.

Topics we'll discuss include:

- Recent California case developments—and how they impact California employers law
- Overview of **NEW** ADA regulations
- Department of Labor audits for independent contractors
- and MORE!

It's not too late to sign up! Go to www.cavnac.com/pdfs/061810hr.pdf for additional information, or contact **Darcee Nichols (619-744-0596** or dnichols@cavnac.com) now to reserve your seat!



Workers Compensation Rules and Regulations defines first aid as follows:

"First aid is any one-time treatment, and any follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters and so forth, which do not ordinarily require medical care. Such one-time treatment and any follow-up visit for the purpose of observation, is considered first aid, even though provided by a physician or registered professional personnel."



You should advise your clinic that you have a First Aid program and would like to pay these bills out-of-pocket. Whether an injury meets the qualifications for First Aid is a doctor's determination, and attempting to pay bills out of pocket for injuries that, according to the treating physician, do not meet the requirements for First Aid is not recommended.

While employers do not have a requirement to report First Aid injuries to the insurance company, doctors are required by law to do so. It is therefore a recommended best practice that all claims, including first aid cases, should be reported to the workers compensation insurance company as soon as possible. The insurance company can assist you with identifying injuries that will result in permanent disability or escalating medical costs. Delayed reporting of such claims will ultimately create higher costs for the employer.

When first aid medical care is provided for an injured worker, you should send a copy of the bill to the workers compensation company and make it clear that this is "RECORD ONLY/FIRST AID". In general, the insurance company will not establish any reserves on first aid claims unless the employer requests the insurance company to handle the claim on its behalf.

You should notify the insurance company if the injured worker requires treatment beyond first aid. If the insurance company disagrees with your assessment that an injury is a first aid case, claims personnel should call you to discuss the issue prior to creating a claim and establishing reserves.

Injury Reporting Procedures

It is imperative that everyone in the company understand what their responsibility is when there is a workplace injury. A reporting protocol should be established. Every employee should know to

immediately report any work-related injury, no matter how small and no matter whether or not they think they need medical treatment. Every employee should know to whom they should report their injury, and there needs to be a system in place to ensure that report gets to the proper person so the next step can be determined.

If all employees are responsible for reporting injuries to their supervisor, every supervisor needs to know what their responsibilities are. Immediately after any incident the following things need to be done:

- Ensure that the injury is reported right away to the person in your company responsible for handling workers compensation issues. There should be one person designated for this responsibility, and a backup person if the primary person is unavailable.
- Complete an accident investigation report. Document what, why, when, where, and why the incident occurred. Document the names and contact information of any witnesses or potentially liable third parties.

- Remove any dangerous items from the accident location. If these items could be evidence of third party liability, secure them for later inspection by the insurance company, if at all possible. This may include defective, improperly maintained, or damaged tools or equipment.

Your insurance company may be able to recover their costs from a liable third party if it can prove negligence, but pictures may not be enough evidence for this. Although pictures should always be taken, any evidence that can be physically preserved should be.

- Determine if your employee needs medical treatment, and send him or her to your designated clinic immediately, along with a letter reminding the clinic of your First Aid Program and Return to Work capabilities. For emergencies, call 911 or



take your employee to the nearest emergency room.

- All injuries that require medical treatment beyond First Aid or result in lost time past the balance of the shift on the date of the injury are considered "reportable" and should be reported to the insurance company by submitting an Employer's First Report of Injury or Illness (5020 Form) within 24 hours. Such injuries **must** be reported within five days of your knowledge the claim has become reportable.

You must also provide an Employee Claim Form (DWC-1) to your employee within 24 hours of your knowledge of a reportable injury. Timely reporting of claims is the single most important thing you can do to mitigate the ultimate cost of work-related injuries.



Claim Management

Once a claim has been reported, a claims adjuster will be assigned who should contact you within 24 hours. Your employee and his or her physician should also be contacted during this time frame.

It is important to keep current on the claim developments, and you should discuss your expectations with the adjuster. Your broker should have someone assigned to assist you with this process and facilitate communication.

Your broker can be an invaluable resource for you, and should make certain the claim is being handled proactively: negotiating reserves on your behalf, advising you on how to respond to developments, and pressing the insurance company for swift resolution.

Your adjuster, in conjunction with your broker, should always keep you apprised of major developments, the current plan of action based on those developments, and any change in reserves along with the rationale behind those reserves.

Be sure to keep your broker and the claims adjuster informed regarding any major developments on your end as well, so they can respond quickly. Your claims adjuster should explain the process to you and your employee in layman's terms, and return phone calls and emails in a timely fashion. Do not hesitate to speak up if this is not occurring. It is

important that your employee feel informed and "taken care of." Employees who do not understand the system are more likely to obtain legal representation and remain disabled for longer periods of time.

You should also be in regular contact with your employee and his or her physician for current medical status and work restrictions. Keeping injured employees at work and returning them to work as soon as possible can significantly shorten the overall length and cost of the claim as well as decrease the likelihood of permanent disability.

Be sure your clinic knows you have modified duty available, and that you are committed to returning employees to work. Give the physician job descriptions of sample modified duty positions you can provide.

Ensure that your injured employees know you care about them through regular contact, and advise them you will be returning them to modified duty as soon as possible. Keeping your employees engaged with you decreases the potential for long periods of disability.

Once injured employees have returned to modified duty, remain in contact with them regarding their progress. Make sure each supervisor is enforcing the applicable work restrictions and providing a positive environment while injured employees are on modified duty.

The number one thing you can do to promote positive claim resolution during this stage of the game is to foster a good relationship between your employees and their supervisors, where there is mutual respect and trust. Your employees should feel comfortable coming to work during recovery.

Summary

The ability to reduce the frequency and severity of employee injuries can make a huge difference to a company's bottom line. You will never be able to eliminate all employee injuries. However, if you proactively focus on injury prevention, accident response, and claim management, you can substantially improve your company's risk profile, which will drive dollars to your bottom line. ✨

Disclaimer: This article is written from an insurance perspective and is meant to be used for informational purposes only. It is not the intent of this article to provide legal advice, or advice for any specific fact, situation or circumstance. Contact legal counsel for specific advice.



Articles courtesy of Cavignac & Associates Employee Benefits Department

LIVE WELL, WORK WELL

Caring for an Aging Parent

For years your parents cared for you, provided for you and guided you toward independence.



Those years have now passed, and you may be starting to confront their dependence. If you're caring for a parent from a distance, this can

become even more difficult. Consider these tips for long-distance caregivers.

- Seek help from those in your parents' community – their next-door neighbor, their doctor or a family friend. Call them and give them an update. Make sure they know how to reach you if an emergency occurs.
- If your parents already have an on-site caregiver, make a plan for if an emergency occurs. Making prior arrangements will alleviate stress in the event of a crisis.
- Get a directory of senior resources and services from the local senior center. Check for updates of these services on their Web site.
- Put together a list of prescriptions and over-the-counter medications, including doses and schedules, and keep the list up to date. Keep it on hand in case of an emergency.

- Discuss an advance directive that states your parents' health care treatment preferences. If they do not have one, this is the time to set it up. Make sure you have copies and know where the originals are kept. Your parents' doctors should also have copies for their medical records. ✨

Choose the Right Gym

Are you considering joining a health club? Start by visiting the facility and take a tour before signing a contract.

With help from your observations and asking a few questions, you can choose the health club that is right for you and your lifestyle.

- Are the staff members friendly and helpful?
- Is the facility clean and well-maintained?
- Does the fitness staff have adequate educational backgrounds and/or accredited fitness certifications?
- Are new members offered an orientation that includes instruction on how to use the equipment?
- Does the club have the right equipment to help you reach your fitness goals?
- Does the club offer a variety of group fitness programs?
- Is the club too crowded at the time you would be working out? And is there adequate parking?
- Is child care available if you need it? ✨



Community Bulletin Board

"Neighbors helping neighbors in San Diego"



- ✦ "Casabarka" Fur Ball
- ✦ Web Site



Senior Community Centers

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To provide quality and compassionate services for the survival, health and independence of seniors living in poverty

- ✦ How to Help
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- ✦ Web Site
- ✦ Summer Special (expires 06/30/10)
- ✦ Questions? Contact **Alicia Gettys** by phone at **619-232-7451** or e-mail **agettys@ymca.org**



The San Diego Police Foundation supports the men and women who "protect and serve" by raising community awareness of important unbudgeted or "discretionary" needs that will improve crime-prevention and law enforcement efficiency. The Foundation puts your tax-deductible contributions to measureable work in local communities.

- ✦ Web Site
- ✦ SafetyNet
- ✦ For more information, contact **info@sdpolicefoundation.org**

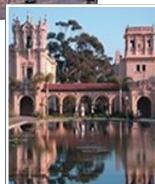


Monarch Schools

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- ✦ Web Site
- ✦ Questions? E-mail **info@SDArchitecture.org**



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