

# Commercial Insurance Update

Topics Affecting Buyers of Commercial Insurance

MSP C 04/00- "Improving Employee Relations"

April,

## Improving Employee Relations

### The Problem

#### Why Employees and Employers Often Perceive Workers Compensation to Be Adversarial

Within the last few decades, workers compensation has been largely viewed as an adversarial issue that pits businesses against workers. Fueling this attitude is an apparent and basic distrust between employers and employees.

Employer distrust may be at least partially the product of scandalous stories, hyped by the media, of employees who "milk the system" for thousands of dollars and an extended "paid vacation." On the employee side, unions and plaintiffs' attorneys preach that workers compensation claims are necessarily adversarial, and fight to expand workers' rights to legal representation during the claim settling process.

While fraud and malingering are very real concerns, not all workers are dishonest and lazy. On the contrary, studies of lost time claims indicate that most workers compensation claims are legitimate and most injured workers want to return to work.

Ironically, poor claims management is the major reason that so many claims *become* problematic. Squabbling over benefits, taking a hard line on claims that show substantial merit, and neglecting injured employees both scares and angers them. And while most employees have a vague under-

standing that workers compensation is available for job-related injuries, few really understand the extent of their rights and benefits under the workers compensation law. Some employees even fear retribution for filing a claim.

### The Solution

Employers can stave off many of the problems associated with workers compensation claims by fostering an atmosphere of trust and cooperation. To gain an employee's trust, the employer must first *exhibit* a certain degree of trust. Employers need to give employees the information they need and treat them as assets rather than liabilities, both before and after an injury occurs. By doing so, the morale of injured and non-injured workers alike is enhanced, which in many cases translates into di-

(Continued on page 2)

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*(Continued from page 1)*

rect and measurable cost savings.

Two key strategies for reducing workers compensation costs are to get employees back to work in their normal or a modified capacity as soon as it is medically feasible, and to reduce the amount of litigation in what is supposed to be a no-fault system. While workers compensation litigation adds significantly to the total cost of providing workers compensation benefits, most of that increase goes to attorneys and does not directly benefit injured workers.

Numerous companies have reported positive financial outcomes from their efforts to improve relations with injured workers. While these savings reflect a number of radical changes in how their workers compensation claims were handled, the company's policies on how injured workers are to be treated are cited as instrumental in achieving these results.

The direct savings are only the starting point. Improvements in morale and loyalty can lead to increased productivity and job satisfaction, and enhance the overall corporate atmosphere. These factors, in turn, may lead to lower turnover rates, which cut recruiting and training costs. In sum, the benefits to the employer extend well beyond the savings realized on a particular workers compensation claim.

## Communication

The key to building trust between management and the rest of the workforce is communication. Among reasons employees cited for retaining an attorney were (1) lack of contact, (2) asking the injured worker to resign or take a leave of absence, (3) penalizing the injured worker for missing meetings or other functions, and (4) making implicit or explicit accusations against the employee.

With or without supporting data, the need for good communication is obvious. Human nature being what it is, most people want to reduce the amount of uncertainty (which is a primary source of fear) in their lives and to feel valued. These tendencies are as true in the workplace as they are in the home. Employers can meet these needs by providing injured employees with complete information and by treating them with compassion and respect.

When these tasks are performed adequately, workers compensation claims go more smoothly and costs go down.

## Education

In general, employees know that workers compensation benefits are available if they are injured on the job, but surprisingly few are aware of the types and amount of those benefits.

Give employees the information they need. It is not necessary to call a public meeting to announce the availability of workers compensation benefits, but certain basic information should be readily available to employees. For purposes of basic orientation, general information about the system and about what to do when an accident occurs is usually sufficient. However, once an injury has occurred, employees will want much more specific information.

## Before Injury Occurs

Prepare a concise, easy-to-read explanation (in multiple languages if necessary) of employees' rights and benefits under the applicable workers compensation law, and make it available to all employees, possibly in your employee handbook (your workers compensation insurance company can probably provide the necessary information).

Take the opportunity to encourage employees to report injuries immediately, as numerous studies show that claims costs increase dramatically when reporting is delayed. Some workers, such as minimum wage employees, may benefit more from a video than from a written description.

## After Injury Occurs

In addition to the basic summary, a detailed supplemental document that addresses a wide variety of issues should be automatically provided to any worker whose work-related injury or illness results in at least one full day off work.

Most injured employees will have questions about the types and amounts of benefits they will receive, and how their injury will affect their employment. This document should spell out, in detail, exactly what to expect from the workers compensation system, including when benefits begin (most

*(Continued on page 4)*

# Sample Basic Workers Compensation Summary

This summary is designed to answer certain basic questions about workers compensation. If you have suffered an injury on the job, please report it to your supervisor **immediately** so that we can make sure you obtain the appropriate medical care as quickly as possible.

## What Is Workers Compensation?

In compliance with state law, [insurance company name] provides workers compensation benefits to any covered employee who is injured on the job. With a few exceptions, these benefits are available regardless of who is responsible for the injury (that is, even if the injury is the result of the employee's own carelessness), as long as it is work-related. This is called a "no fault" system.

Most injuries that occur on the job will be covered by the workers compensation law. In that case, because workers compensation benefits are automatic, the employee cannot pursue any common law action against the employer. This is known as the "exclusive remedy provision." Together, the no-fault provision and the exclusive remedy provision form the heart of the workers compensation system.

## What Types of Benefits Does It Provide?

The workers compensation law determines workers compensation benefits, which can be summarized as follows:

- All reasonably necessary medical expenses associated with the injury
- A *portion* of the injured workers' wages until the employee is cleared by the attending physician to return to work. Payment for permanent injuries is determined based on the type and severity of the injury.
- The cost of most types of rehabilitation services
- In the event of a work-related death, limited burial expenses, and survivor's benefits (a portion of the deceased employee's wages) to dependents for a limited time.

## Can Filing a Workers Compensation Claim Affect My Job?

Employees cannot be fired, disciplined, or otherwise discriminated against for filing a workers compensation claim. Such "retaliatory" actions are strictly prohibited by the workers compensation law. However, the workers compensation law does not prohibit disciplinary action, including termination, for safety violations or other breaches of company policy.

[Insurance company name] views "modified duty" as a positive, integral part of an employee's recovery. In support of that position, we will work with the attending physician to determine an appropriate modified duty assignment that accommodates any physical limitations and work restrictions this physician determines to be appropriate.

Refusing any reasonable offer of employment, transitional or permanent, can jeopardize an employee's continued benefits. While the law does not require us to hold an employee's previous position open indefinitely, most employees with temporary disabilities return to their previous position when they fully recover.

## What Do I Do If I Get Hurt?

If you suffer any sort of injury during the course of a workday, please report the incident to your supervisor **immediately**, even if you are not sure how severe the injury is, and even if you are not sure it is covered by workers compensation. Those facts can be determined at a later date. The important thing is to get prompt medical attention to avoid aggravating the injury.

If the injury occurs outside of normal office hours and your supervisor cannot be reached, report the injury **immediately** by calling \_\_\_\_\_. [Provide 24-hour emergency hotline number if available, the supervisor's home telephone number, or some other designated contact.] In case of a severe injury, seek appropriate medical attention and report the injury as soon as possible. ✦

*(Continued from page 2)*

states have a waiting period), how medical bills are paid, what the law requires of the employee, and who to contact for more information or if a problem or question arises.

Take the opportunity to educate employees on how the workers compensation system operates. Some workers believe that workers compensation benefits are paid out of tax revenues; others believe that insurance companies have to “eat” any extra payments they collect. These fallacies contribute to employee apathy and a willingness by some to “milk a little extra” out of the system.

Let them know that while the benefits are legislated, one way or another these costs come directly out of the employer’s pocket. Higher costs will reduce the company’s overall profitability, which directly affects raises, bonuses, and other benefits.

## Supplemental Benefits

Depending on the size of the company and the frequency and severity of injuries, employers might want to consider voluntarily providing certain benefits that exceed statutory requirements. For example, paying wages during the statutory “waiting period” and paying all or part of a relative’s expenses to be with an employee who suffers a life-threatening injury while traveling out of town are “voluntary” benefits since they exceed what the workers compensation law requires.

If the employer is committed to providing specified benefits (monetary or otherwise) on a voluntary basis across the board, they should be included in the summary of benefits and noted as such. Do not bury them. Realize, however, that including these items in a list of benefits constitutes a commitment to provide the benefits.

## Show Compassion

While open hostility toward workers compensation claimants may be rare, neglect and apparent indifference are not. Many employers simply turn claims over to their insurance companies and make no further contact with workers to express an interest in their progress or offer assistance during their recovery.

Understandably, most employees – long-term employees, in particular – feel hurt when their employers fail to show any loyalty or concern for their welfare following an injury. The not-surprising result is an employee who is not eager to return to work, which leads to malingering and lawsuits.

Injured workers should be treated with dignity and respect, even if the circumstances surrounding the claim are questionable. Until there is sufficient evidence to deny a suspicious claim, handle it as you would any other injury. Other suggestions, most of which seem obvious but warrant mention anyway, are provided below:

- Designate a company representative to escort the injured worker to the hospital
- Immediately notify relatives of the incident
- When initially questioning the employee about the accident, keep it basic and non-threatening – just enough to gather information. Save more detailed questions for the second interview.
- Maintain regular, friendly contact during recovery
- Offer reasonable assistance with daily needs, such as transportation to and from medical treatments or rehabilitation sessions
- Return all telephone calls from injured workers within 24 hours

Contact during recovery should be friendly and personal, and focus on the employee’s needs. If the employee expresses any frustration with any aspect of the claim, take proactive measures to either correct the problem, or explain to the employee in an understanding manner why it has to be the way it is.

Because the person who performs these functions is, in the eyes of the injured worker, “the company,” this representative should be carefully selected. Having one person maintain regular contact can also be helpful in detecting problems or suspicious behavior. Documenting these calls, including the date and substance of the conversation, provides both a way to evaluate compliance with the employer’s policy on this matter and a record of communications that could prove useful if a claim ends in a dispute.

*(Continued on page 5)*

(Continued from page 4)

## Designate a Contact Person

The number of people an injured employee has to deal with should be minimized. Not only does this strategy help establish a more personal relationship, it also reduces the chance of something “falling through the cracks,” and it makes it more difficult for employees with ulterior motives to successfully manipulate the system.

## Pay Bills on Time

Suffering a disabling injury of any type is a stressful event, with financial worries being the most prevalent concern. If the insurance company is late paying a bill (as they have been known to do) the employee may receive threatening letters from creditors or collection agencies. Instruct employees – in the literature they are given following an injury as well as verbally – to forward all such calls or letters to the designated contact person within the company and handle it for them.

If the insurer is causing the problem, make it

clear that this level of service is unacceptable; if the problem continues, seriously consider moving your policy to another insurer.

## Be Available

One of the biggest frustrations injured workers have is not understanding all the paperwork they are asked to fill out or sign. Most workers will feel overwhelmed, and many will feel abandoned by their employer. These people are now prime targets for the all-too-available lawyers who go on television and preach that “your employer and insurance company don’t care about you, but I do.” However, if the employer has taken the opportunities to start building a relationship based on trust, the employee will probably try to get the answers there first.

Establish a policy regarding how soon telephone calls from injured workers must be returned; barring unusual circumstances, 24 hours is usually a reasonable goal. Enforce it strictly. If the employee needs assistance with paperwork, arrange a time where the employee can come in and get help, or send a representative to the worker’s home if neces-

(Continued on page 6)



# Charitable Opportunities



I’d like to take a moment to congratulate one of our employees, Sue Marberry.

Sue was recently selected as this year’s “Star Award” Volunteer of the Year by the San Diego Junior Theatre. This award recognizes the countless contributions and invaluable service that Sue has made to the San Diego Junior Theatre.

Sue has served as Treasurer of the SDJT Auxiliary for five years. In addition, she has been involved with the financial end of the annual Christmas on the Prado and Auction events. Sue has also served as Production Chairperson and worked on numerous production-related committees.



Sue Marberry  
*Office Manager and  
Resident Super Star!*

Cavnac & Associates supports its employees, and has been a major contributor to the San Diego Junior Theatre.

In addition, we contribute approximately five percent of our profits to a number of other local organizations, including the Child Abuse Prevention Foundation, the YMCA, and the San Diego Downtown Senior Center.

We are justifiably proud of what Sue Marberry has accomplished, and we also feel privileged to be part of San Diego’s business community.

– Jeff Cavnac, President  
Cavnac & Associates ✦

(Continued from page 5)

sary. Consider offering this service automatically rather than waiting for the employee to ask for it.

Improved employee relationships will go a long way towards managing your workers compensation exposure, improving the workplace environment, and ultimately lowering your workers compensation costs. ✦

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## Insurance fraud causes premium increases

Only tax evasion surpasses insurance fraud as the most costly white-collar crime in the U.S.

Contrary to what those committing it might think, the victims are not big insurance companies, but innocent consumers. The average policyholder may be paying an extra \$200-300 a year because of insurance fraud.

The Western Insurance Information Service found that a growing number of Americans believe that insurance claim padding is acceptable. A recent survey found that more than one in three people think it is all right to overstate their insurance claims make up for premiums

they have paid, compared with one-in-five four years ago.

More fraud means insurance companies have to put more resources into fighting crime, spending three times as much in 1996 as in 1992.

The industry is using more innovative means of combating insurance fraud, setting up investigative units, filing civil lawsuits and creating nationwide databases to track fraudulent activity. These costs get passed along to consumers in the form of higher premiums. ✦

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