

INSURANCE BULLETIN

BULLETIN #8

Practical Tips to Control Workers' Compensation Costs

CNA and NESPA are proud to provide you with this information. We trust that you will find it useful in understanding the insurance and risk management issues associated with your business.

Every year, billions of dollars are paid out in workers' compensation claims. These payments are for medical treatment, rehabilitation, lost wages, permanent disabilities and legal expenses resulting from work-related employee injuries.

As a spa and swimming pool company, you're already aware that a strong safety and health program aimed at preventing and reducing injuries is critical to keeping your workers' compensation insurance costs under control. However, many employers relinquish all involvement in the claim process once the claim is reported to the insurance company. Meanwhile, all the other people involved in that process can have a very great impact on the total costs and outcome of the claim. Doctors, claim adjusters, lawyers, pharmacists, investigators, vocational rehabilitation specialists and the injured person – even the injured person's family – all have a significant impact on the ultimate cost of the claim, which eventually affects the workers' compensation premium you pay as an employer.

Keep in mind that workers' compensation insurance is essentially a pay as you go system for all but the smallest employers. You may have large claims in the current year, while your premiums for the current year are relatively low. But these claims will be factored into your experience modification rating (EMR) in future years, raising your insurance premiums. You've only spread the time of paying for the claims over several years. Since the money for all of this ultimately comes from your pocket, it is in your best interest to learn what you can do to reduce the costs and get involved in the process.

Designate Someone in Your Company as Claim Coordinator

Choose someone who has at least some familiarity with the workers' compensation system in your state. The clerk who fills out the forms is probably not the best person unless they have been or will be trained in all the in's and out's of the workers' compensation system. Smaller companies will have to combine this function with other assignments, such as safety coordinator, office manager or personnel director. Large companies may have enough claim volume to justify and support a full-time, dedicated claim coordinator position, especially if it is combined with other insurance claims such as automobile, general liability, etc.

Make sure all employee injuries and illnesses are reported in a timely manner and treatment is provided by competent medical providers as quickly as possible. Supervisors, as well as the claim coordinator, must avoid adversarial comments to the employee and show genuine concern for their injury. When your claim coordinator establishes and maintains regular contact with the injured employee, it shows concern and demonstrates your intention to help as much as possible. Early, competent medical treatment often reduces the severity of an injury and can help prevent medical or legal problems in the future.

Timeliness when reporting a claim serves several functions, including getting your insurance carrier on the case quickly. It also demonstrates to the injured employee that you are taking the case seriously and doing your best to help them. While required by law, timely claim filing and medical care also help reduce the likelihood of the injured employee filing a workers' compensation lawsuit. This can happen if the injured employee feels abandoned by their employer. Last, timely claim reporting is crucial if the circumstances surrounding the injury suggest the need for a formal investigation, such as fraud. Your claim coordinator should report any suspicious circumstances or indications of fraud to your workers' compensation claim adjuster immediately for potential investigation.



The single most important task for your claim coordinator is to maintain communication with the injured employee, the physician* and the claim adjuster. Contacting the injured employee on a consistent basis, preferably weekly, is critical. Regular contact with the treating physician* and your insurance company claim representative is of equal importance. This communication allows you to confirm the diagnosis and treatment plan, and potentially reduce the total claim costs by making sure the physician is treating the employee only for conditions related to the on-the-job injury or illness.

*As permitted by law. Certain communications between an employer, or its legal representative, and an injured worker's health care provider outside of the presence of the injured worker, or their legal representative, may be prohibited. Consult your legal counsel about the jurisdictions in which you operate.

Modified Duty And Return-to-Work Programs

A significant factor in the total claim cost of an employee injury is the length of time an injured employee is out on workers' compensation leave. Statistics show that if an employee is away from the job for six months, the chances of returning to work are less than 50 percent. If an injured employee is off work beyond 12 months, the chances of returning to work are less than 10 percent. This means adding the costs of permanent disability and vocational rehabilitation to the cost of medical treatment and lost wages, increasing the total cost of the workers' compensation claim. That's why having modified, alternative or transitional duty available for an injured worker's return-to-work is so critically important for spa and swimming pool companies. It's the single most effective way of mitigating workers' compensation claim costs, other than preventing the injury.

Make sure the physician knows you have modified duty available, so the employee can return to work as quickly as medically possible. The physician cannot in good medical conscience, return an employee to work without some assurance that the employee won't be further harmed by the tasks to be performed on the job. Your claim coordinator must be able to provide this assurance and help coordinate modified, alternative or transitional duty for the employee upon their return to work.

Work with the employee, the physician and the union in getting your injured employees back to work in a capacity that fits their physical and medical restrictions. The focus should be on what the worker can do, not on his or her limitations. Be creative, think outside the box and try to find truly productive work for the employee. There are all sorts of productive modified duty tasks an injured employee may be able to do, such as organizing storage areas, running errands, making deliveries to job sites or assisting with vehicle or equipment maintenance.

Providing modified duty and having physician cooperation is also an excellent way to determine whether the injury is legitimate or the employee is indolent. They will keep finding excuses to return to the doctor with complaints. If the physician is well aware of your firm's return-to-work program and the availability of modified duty, they may quickly determine the complaints are without merit and return them to work.

Pre-select a Medical Provider

Many job-related injuries are more like sports injuries than other types of diseases or illnesses. Frequently, sports injuries don't require complete removal from the game in order for the injured player to heal. Many job-related injuries are better treated in a similar manner: effective medical treatment, physical therapy as needed and appropriate modified duty.

Your medical claim coordinator should arrange for the treatment of your injured workers with occupational medical specialists near each job site. They are trained to evaluate how much the injury affects mobility and productivity and determine what restrictions the worker must adhere to in order to heal properly. Select physicians who will work with you on your modified duty efforts. If most of your jobs are within a relatively small geographic area, you can probably use the same physician or a small number of physicians repeatedly. For long-term jobs, choose a physician as close to the job site as possible. If you ever need it, it will be well worth the effort.

Job Task Analysis

In order for a modified duty program to be truly effective, a treating physician needs a written job task analysis for the job your injured employee would be doing. A job task analysis is basically a step-by-step analysis and documentation of work tasks for a specific job or function, so that a comparison can be made between the demands of the job or function and the abilities of the injured worker. These should be done for all existing jobs or functions in your firm prior to any employee injury or illness. This information should be readily available for the treating physician, so that at the time of an employee injury, the physician can easily determine if an injured employee is medically capable of returning to their pre-injury job or function. If possible, bring the physician to the job site so they can see firsthand the conditions the injured worker will be facing.

Job task analyses are also used to identify alternate work assignments and necessary modifications to jobs or functions to enable the injured worker to return to work safely, based on information provided by the physician.

Criteria that should be considered in a job task analysis include:

- What specific activities are involved?
- What physical functions are required? How much lifting strength, bending, twisting, sitting, standing and walking is necessary?
- How frequently are the physical activities performed?
- What is a typical daily schedule for the job?
- What equipment and tools are required? How are they used?
- What postures are involved?
- What skills are required?
- What are the heights and weights of objects to be moved or lifted? How often are they moved or lifted?

Supervisor Involvement is Critical

Insist that your field supervisors cooperate fully in providing modified duty for injured employees. This is often one of the biggest obstacles to implementing an effective return-to-work program. Supervisors usually are not accustomed to dealing with employees with limitations and, like most of us, they respond to new situations by saying "it can't be done." Your response should be "it will be done." Modified duty/return-to-work programs have been implemented effectively by successful companies all over the country. All it takes is the full commitment and support of senior management and the union, if applicable, along with a little bit of imagination.

Your supervisors and managers know more about the job functions, processes, tools and tasks than anyone else. Get them involved in the process and use their knowledge:

- Supervisors can identify alternate duty or modified duty tasks.
- Supervisors can help identify possible modifications in various tasks.
- Supervisors must deal with the returning worker in a fair and sympathetic manner.

Fear of dismissal or reprisal, cost of medical treatment and loss of income due to on-the-job injuries are all common reasons employees fail to report injuries or seek attorney representation. Because company supervisors have daily interaction with employees, they are best suited to combat these problems. Your supervisors should cover the following points in training sessions for all workers on a regular basis.

- The expectation that all work must be performed safely, in accordance with company safety policies.
- What workers' compensation insurance is and that legal action is not necessary to receive benefits.
- What to do when an injury occurs – report the injury immediately.
- Where to seek medical treatment.
- How lost wages will be compensated.
- That the company has a return-to-work program and all workers are expected to cooperate and participate in it.

Through the SPLASH program, CNA can provide a business insurance program that offers comprehensive risk control (safety) services, expert claim handling and property/liability insurance coverages designed specifically for spa and swimming pool professionals. So when your business is insured with the CNA/SPLASH program, you'll have peace of mind knowing it's a program backed by a carrier with more than 60 years experience in the construction industry. Give us an opportunity to earn your business – ask your insurance agent to obtain a quote from CNA and discover how you can benefit from this partnership.

For more information, contact your local independent agent or visit www.cna.com.

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