



INJURY PREVENTION & PRE-LOSS CONTROLS

A Paradigm Shift In Workers' Compensation

October 2011

INJURY PREVENTION & PRE-LOSS CONTROLS

A Paradigm Shift In Workers' Compensation



Workers' compensation was conceived as a win-win solution that balanced the interests of employers increasingly locked in litigation with injured workers, and employees seeking just compensation for work-related injuries. In its earliest days, it was known as the "great compromise." Today, however, many employers believe

By law, an injured employee is eligible for payment of the medical costs of treating his or her injury, plus he or she will receive indemnification for wages lost while out of work.

their workers' compensation costs are too high. While few begrudge their employees fair payments for medical costs and indemnity, the ability to control these costs by eliminating fraud and managing spiraling medical expenses at times feels like a futile cause. A growing number of employers, however, are discovering that injury prevention and pre-loss controls can be effective in reducing both the frequency and severity of workers' compensation claims, and thereby lower their workers' compensation costs.

The Costs of Employee Injuries

By law, an injured employee is eligible for payment of the medical costs of treating his or her injury, plus he or she will receive indemnification for wages lost while out of work. These costs are covered under a workers' compensation insurance policy, and are referred to as insurable costs. An employer, however, is faced with many other costs when an employee is temporarily or permanently out of work that are not covered under a workers' compensation policy. These are called uninsurable costs, and sometimes can exceed the insurable costs.

Workers' compensation premiums for most organizations are based on a formula that includes an element called an experience modification factor, which takes into consideration a company's exposure (payroll), industry and loss history. The experience modification factor can cause the premium to increase or decrease based on whether the organization has better or worse claims experience relative to similar organizations. Insurable costs are explicitly

included in an organization's workers' compensation premium, and they are readily quantifiable. The impact of efforts to reduce these costs also can be readily quantified since lower claims frequency and severity will result in lower premiums in a proportion determined by the experience modification factor formula.

Uninsurable costs associated with employee injuries are less easily quantified. According to Clayton Shoup, Workers Compensation Line of Business Director for Zurich Services Corporation, "many insured's do not consider the significance of uninsured costs". Shoup describes uninsured costs as administrative expenses, the costs of repairing damaged property, the costs of upgrading safety devices, lost productivity due to lower morale, time spent hiring and training new employees, etc. Even though these costs are harder to quantify, in the aggregate they sometimes can be more substantial than insurable costs.

Many organizations have concluded it is difficult to manage their workers' compensation expenses. Uninsurable costs are difficult to predict and quantify, and insurable costs are influenced by factors such as the spiraling cost of healthcare, fraud and savvy lawyers pushing the boundaries of coverage. While this perception is understandable, in actuality workers' compensation is a line of insurance that offers employers considerable control over their costs. Increasingly employers are recognizing that one of the most effective ways to reduce costs is to keep an injury from occurring in the first place.

Many organizations have concluded it is difficult to manage their workers' compensation expenses.

In 2009 the Bureau of Labor Statistics reported that there were 3.3 million non-fatal and 4,551 fatal workers compensation claims recorded in the private sector. One million of the recordable claims required employees to miss days of work.¹ This comprises a significant portion of the workforce who is unable to perform their duties costing employer's substantial money and resources. In fact, according to the Occupational Health & Safety Administration (OSHA), businesses spend \$170 billion a year on costs associated with occupational injuries and illness.² The traditional way of thinking with regards to controlling these costs focused on purely reactive approaches to managing claims at the time of loss and thereafter. A wide array of measures - including fraud detection, medical expense control measures, and return to work programs - are employed to manage costs after an injury has occurred. While this post-loss approach is important and should be included as a part of an organizations overall workers' compensation risk management program, it does not address all of the key elements of workers' compensation cost control. In recent years the trend has shifted to focusing on injury prevention and pre-loss control methods as a proactive approach to reducing injuries, cutting costs and positively impacting an organizations bottom line.

Unfortunately, all too often workers' compensation claims walk in the door with an employee on his first day on the job.

Hiring and Employee Orientation

The first – and often overlooked – step in managing an organization's workers' compensation costs begins with the hiring process. Unfortunately, all too often workers' compensation claims walk in the door with an employee on his first day on the job. This happens due to insufficient time and resources being committed to the hiring process. Employers too often fail to educate themselves on hiring techniques that can help mitigate the possibility of bringing on an employee who is not a match for the position or the company – in other words, hiring a workers' compensation claim.

While employee protection laws on both the state and federal levels put restrictions on the questions an employer can ask a prospective employee, and how information about a prospective employee can be used in the hiring process, certain techniques can help identify and prevent a company from making a bad hire. Organizations should apply these techniques uniformly for all applicants. Some common hiring strategies include:³

- Review the resume before the interview and look for gaps in employment history.
- Interview the applicant. If gaps are identified, address the reason for the gaps with the candidate. Get a feel for the candidate's work ethic and competency by asking open ended questions about his or her attendance records with previous employers.
- Administer skill and/or personality tests;
- Ask the applicant open ended questions about how he or she handled specific situations and what was the end result (e.g. challenges they may have faced, conflicts with managers and co-workers);
- Ask the applicant safety related question about the job in question and how they would perform their necessary responsibilities;
- Inform the applicant that a thorough background check is required and obtain written consent to do so;
- Verify previous employment (position and dates of employment) and check references;
- Conduct a criminal background check;
- Review previous job-related injuries, workers compensation claims, substance abuse and safety records as part of the background check;
- Contact schools and universities to verify education;
- Check motor vehicle records for prospective drivers;
- Make a conditional job offer that is contingent on the candidate's ability to perform his or her responsibilities; and
- After a conditional job offer conduct drug screenings.

In addition to a comprehensive hiring process, an employee orientation and training program is an effective way to reduce occupational injuries. Clayton Shoup explains that, “employee orientation and training should be part of any good injury prevention program. These programs are critical since studies have shown that new and less experienced employees have a disproportionately higher likelihood of being injured on the job.” While this holds true during any economic cycle, employers should especially consider implementing employee orientation programs once the current economic conditions improve. As demand for products and services rises, employers will require a larger workforce to meet that demand.

Safety and Injury Prevention

Historically, safety and injury prevention programs were not looked at by most organizations as a cost reduction strategy.

Historically, safety and injury prevention programs were not looked at by most organizations as a cost reduction strategy. While many companies may have felt a moral obligation to provide a safe workplace, these programs often were viewed principally as a necessity to remain in regulatory compliance with government agencies like OSHA. In recent years however, organizations have been shifting to injury prevention and pre-loss controls as a way of cutting costs and increasing profits. Research has shown that an organization who invests in safety often more than doubles its return on investment through a reduction of both its insured and uninsured workers compensation costs. According to OSHA, safety and health programs provide a safety culture that contributes to increased morale, less absenteeism, fewer injuries and illnesses, and decreased insurance costs.⁴ In fact, in a survey of business executives, 61 percent reported that they saved three dollars for every dollar they invested in workplace safety.⁵

The complexity of a loss prevention program will vary based on the nature and size of the business. The following list of program elements, however, apply to just about every organization and should be included as part of a comprehensive loss prevention program.⁶

- **Obtain Management Commitment.** A top down organizational approach is essential in achieving the best results. This will ensure that the plan receives proper resources and attention as well as demonstrate a commitment to injury prevention and a safe workplace.

The safety goals should be included as a part of managers and supervisors job assessments. Failure to meet the goals should have consequences.

- **Assign Responsibility.** Someone needs to take ownership of the program and be responsible for loss prevention (risk manager, operations manager etc.). This individual should then assign responsibility throughout the organization for meeting the established safety goals. The safety goals should be included as a part of managers and supervisors job assessments. Failure to meet the goals should have consequences.
- **Develop a Written Safety Policy.** As a way to create employee awareness, develop a written statement explaining the organization's policy with regards to safety.
- **Develop Goals and Objectives.** Clearly establish the safety goals of the loss prevention program. Goals should be clear, realistic, and measurable.
- **Train Employees.** Train employees on how to recognize and avoid potential safety hazards. Some common safety training techniques include:
 - » New employee orientation. New and less experienced employees are significantly more likely to suffer a work related injuries.
 - » Regular employee reminders and instruction on the correct way to carry out their job responsibilities.
 - » Periodic loss prevention talks.
 - » Consistently reinforcing safety awareness and keep the topic on the top of mind for each employee.
- **Get Employees Involved.** Encourage employee involvement by including them in the decisions that will contribute to a safe and healthy workplace. According to OSHA, responsibilities that lend themselves to employee involvement include, "inspection and hazard analysis teams, developing or revising safe work rules, training new hires or co-workers, assisting in accident investigations."⁷
- **Identify and Analyze Worksite Hazards.** Incorporate processes and procedures to identify existing and potential hazards. This proactive approach will help identify potential problems so corrective action can be applied before an accident occurs.⁸
 - » Develop a self inspection form and conduct periodic unannounced inspections of the facility.
 - » Conduct safety and health surveys
 - » Perform a routine analysis of job hazards
 - » Develop system by which employees can inform management of potentially hazardous conditions.
 - » Analyze injury causes over time so that trends can be identified and accidents can be prevented.

Obesity in the United States is considered by many to be an epidemic. The issue has received increased attention as it has been blamed for putting a strain on the healthcare system and being a contributing factor to the problem of skyrocketing health insurance costs.

- **Implement Hazard Control Measures.** After a hazard has been identified it should be eliminated if possible. However, if this is not an option, systems should be in place to control it. Common hazard control procedures include:⁹

- » Develop work procedures around identified hazards.
- » Establish and enforce rules around work procedures.
- » Use protective equipment when necessary.
- » Establish equipment maintenance procedures.
- » Plan for emergencies (fires, natural disasters etc.)
- » Develop medical program specific to the worksite.
- » Be prepared to deal with medical emergencies.

- **Monitor Safety Program.** Businesses and exposures are constantly changing. Because of this it is important to Monitor the effectiveness of the loss prevention program and implement necessary changes so that it remains efficient. OSHA recommends statistical reports, opinion surveys, risk analysis, periodic inspections and process improvement initiatives as ways to monitor a safety programs effectiveness:¹⁰

Changing Demographics & Wellness Programs

Workplace demographics are changing; the percentage of the workforce over fifty five has seen an upward trend in recent years. In comparison, the percentage of younger people entering the workforce is less than in the past. This phenomenon is in part a result of the financial crisis of 2008 and subsequent recession, during which less experienced employees were more likely to have been laid off. However, the changing of age demographics in the workforce had begun prior to the recession and economic conditions simply accelerated the process.

Obesity in the United States is considered by many to be an epidemic. The issue has received increased attention as it has been blamed for putting a strain on the healthcare system and being a contributing factor to the problem of skyrocketing health insurance costs. Clayton Shoup explains that, “the combination of an older and heavier workforce can also contribute to an increase in workers’ compensation claims. An employer needs to consider the demographics of its employees and make necessary adjustments to its safety systems. For example, contractors may need a wider variety of fall protection devices that are suitable for employees of all sizes.”

Many organizations have incorporated corporate wellness programs as an injury prevention and pre-loss control strategy to counter the effects of an older and heavier workforce. These companies view wellness programs as an investment in their most important assets, their employees. They believe that healthy employees are less likely to be absent and more likely to perform when they are feeling well both physically and mentally. Shoup agrees: "One of the things we've seen is that wellness programs can help to strengthen or harden the workforce making them better and safer at their jobs. For example, we have seen stretching programs have favorable results in terms of fewer strain injuries."

Pre & Post-Injury Plans

Employers should establish procedures and specific rules to be followed by employees and their supervisors in the event of a workplace injury.

Even the most safety conscious organizations are not immune to workers' compensation claims. Accidents happen, but employers who play an active role in establishing a pre and post injury plan by taking ownership of the claims process will typically fare better when they do occur. Developing a comprehensive post-loss program is one of the most important pre-loss activities of an organization.

Employers should establish procedures and specific rules to be followed by employees and their supervisors in the event of a workplace injury. The objective is to assure that an injured employee quickly receives appropriate care so that the severity of the loss is minimized. Implementing a post injury-process so that employees know exactly what to do in the event of a workplace injury can have a big impact on the result of the workers compensation claim. These procedures should be communicated to both the employees and their supervisors and training should be provided to assure comprehension and uniformity. Some of the more common post injury-procedures include:

- **Provide Immediate Care.** Immediately administer first aid to the injured employee and accompany him or her to a medical provider.
- **Designate Medical Care Providers.** Direct injured employee to a designated medical care provider who has an established relationship with the company and understands the claims handling process.
- **Early Reporting.** Report the incident to the insurance carrier in a timely manner. Statistics have shown that the earlier the claim is reported (within 24 hours is recommended) the better the outcome will be.

NOTES/REFERENCES:

1. Bureau of Labor Statistics <http://www.bls.gov/iif>
2. United States Department of Labor: Occupation Health & Safety Administration (OSHA) "Making the Business Case for Safety and Health" <http://www.osha.gov/dcsp/products/topics/businesscase/index.html>
3. Ways to Prevent Hiring A Workers' Compensation Claim <http://www.strictlybusinessmah.com/35/199.755/ways-to-prevent-hiring-a-workers-compensation-claim.aspx>
4. United States Department of Labor: Occupation Health & Safety Administration (OSHA) "Safety and Health Management Systems eTool – Question #1" <http://www.osha.gov/SLTC/etools/safetyhealth/index.html>
5. A Majority of U.S. Businesses Report Workplace Safety Delivers a Return http://findarticles.com/p/articles/mi_mOEIN/is_2001_August_29/ai_77653758/turn-on-investment
6. Joanne Sammer "Best Practice in Loss Prevention" (February 2005) <http://businessfinancemag.com/article/best-practices-loss-prevention-0201?page=0%2C1>
7. United States Department of Labor: Occupation Health & Safety Administration (OSHA) "Elements of an Effective Safety and Health Program" http://www.osha.gov/SLTC/pptpresentations/safety_health_program/index.html
8. United States Department of Labor: Occupation Health & Safety Administration (OSHA) "Elements of an Effective Safety and Health Program" http://www.osha.gov/SLTC/pptpresentations/safety_health_program/index.html
9. United States Department of Labor: Occupation Health & Safety Administration (Small Business Handbook" (2005) <http://www.osha.gov/Publications/smallbusiness/small-business.pdf>
10. United States Department of Labor: Occupation Health & Safety Administration (OSHA) "Safety and Health Management Systems eTool – Question #3" <http://www.osha.gov/SLTC/etools/safetyhealth/index.html>

- **Maintain Communication with Injured Employee.** Remain in contact with injured employee showing him or her support through recovery process.
- **Maintain Communication with Medical Care Provider and Insurance Company.** Keeping an open dialogue with all parties involved in the claims process assures timely resolutions to any issues related to the recovery of the injured worker.
- **Implement a Return to Work Program.** Return to work programs accommodates the injured worker by adjusting job requirements and responsibilities to meet their capabilities. This will help provide the employee with increased morale and accelerate his or her return to full time duty.

In Closing

Perhaps surprisingly, some employers continue to embrace the idea that injuries are just a part of the job, and that little can be done to change that situation. Study after study has shown that safety programs work. It may be impossible to completely eliminate injuries, but both the frequency and the severity of those injuries can be materially reduced.

Workers' compensation insurance is essentially a financing mechanism for work related injuries and therefore offers employers the most control over managing its costs. The question an organization faces is not whether it can get control over its ever increasing workers' compensation costs but whether it is willing to dedicate the time and resources to the process. From a bottom line perspective, the answer should be clear: for many organizations pre-loss activities more than pay for themselves by reducing both insurable and non-insurable costs.