

# WORKERS' COMPENSATION, WORKPLACE SAFETY AND JOB RELATED DISABILITIES

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This presentation will focus on legal and procedural issues related to workers' compensation, workplace safety and job-related disabilities.

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MIAA Workers' Compensation Director of Claims*

# HR Guide to Work Comp

## Your role in the Life cycle of a claim

### Claim reporting

- Prompt claims reporting results in:
  - Timely and appropriate medical care
  - Accelerated return to work
  - Ability to challenge questionable claims
  - Less litigation
  - On average lower cost per claim

### Claims Investigation

- The Insurer investigates all claims to determine compensability. Some indicators of a questionable claim are as follows:
  - Mechanism of injury doesn't make sense
  - Unwitnessed accidents
  - Unspecific event/accident
  - Employee reports after the fact
  - Employee has been treating and says his doctor now relates it to work
  - Suggestion of seeking secondary gain
  - Employee claims injury after being disciplined

*At the completion of the investigation, the adjuster should notify you of the basis for accepting or contesting a claim.*

### Disability Management

- Collaboration with the Adjuster is critical for effective disability management. These are some practices you can follow to improve the process:
  - Communicate regularly with the Injured Worker when out of work (as you would with a sick employee)
  - Provide Transitional duty (don't call it light duty) subject to business needs and for a limited duration (not permanent).
  - FMLA – it should run concurrent with workers' compensation leave.
  - Administrative Separation – track six months limit and communicate with the adjuster if an employee is approaching separation.

### Medical Management

- The Adjuster is responsible for managing the medical portion of the claim. These are some of the resources the adjuster will engage:
  - Telephonic Nurse Case Manager
  - Field Nurse Case Manager
  - PPO Networks
  - Physical Therapy Networks
  - Independent Medical Exams

*You can help facilitate this process by requiring the Injured Worker to bring you the medical note after each office visit and sending it to the adjuster.*

### Litigation Management

- The Adjuster will retain an attorney to defend the claim. However, the adjuster is responsible for managing the litigated process. Every litigated matter should be managed around this fundamental framework:
  - Litigation Strategy & Case Goals
  - Litigation Budget

*All hearing notices or other legal communications should be forwarded to the adjuster immediately. As appropriate, a representative of the school district should attend hearings.*

# What Does Workers' Compensation Really Cost?

- Direct Costs
  - Indemnity or Wage benefits
  - Medical benefits
  - Expenses incurred to administer and defend the claim
- Indirect Costs
  - Indirect costs associated with WC losses may be three to five times the direct claim costs. These are, perhaps, more important as they are not covered by insurance and impact profits directly, including:
    - Overtime salaries
    - Reduced/delayed productivity
    - Managers/Supervisors lost time
    - Hiring/training costs



# HR Guide to Work Comp – Your role in the Life cycle of a claim

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- Medical Management
  - The Adjuster is responsible for managing the medical portion of the claim. These are some of the resources the adjuster will engage:
    - Telephonic Nurse Case Manager
    - Field Nurse Case Manager
    - PPO Networks (preferred provider organization)
    - Physical Therapy Networks
    - Independent Medical Exams
  
- *You can help facilitate this process by requiring the Injured Worker to bring you the medical note after each office visit and sending it to the adjuster.*

# Return to Work Program

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- A Return-To-Work program is designed to return an injured employee to the workplace as soon as it is medically reasonable to do so. This reduces the amount of time the employee is out of work and, thus, workers' compensation costs. A Return-To-Work program is designed to break the standard employee disability cycle by rehabilitating and returning the injured employee to productive work in the shortest possible time. Implementing Return-To-Work programs into the workplace improves employee morale as the injured employee feels positive about their contributions while they continue to rehabilitate from the injury.

# Return To Work Program

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- An effective Return-To-Work program requires a set of policies and procedures that facilitates post-injury management of the injured employee during every step of rehabilitation. It requires excellent communication, cooperation, and coordination between the employee, management, the workers' compensation insurer and medical care providers. The following steps are required for implementation of a Return-To-Work program:
  - *Develop and issue a policy statement.*
  - *Appoint a coordinator to explain the program to department heads.*
  - *Create modified job and task description manuals.*
  - *Conduct a task assessment.*
  - *Provide the treating physician with information that increases the physician's knowledge of your operations and specific job functions.*
  - *Develop a communication plan.*
  - *Prepare a written procedure that details the steps to be taken when an accident occurs.*
  - *Alert the workers' compensation carrier immediately to all workplace injuries.*
  - *Upon returning to work, the employee and supervisor must work together to increase the employee's capabilities until her/she reaches to pre-injury levels.*

## Why Have an Effective Return to Work Policy?

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- 50% of workers' compensation claimants do not return to work once out of work over 6 months
- Retain productive employees
- Control and reduce workers' compensation costs/insurance premiums (best evidence in a workers' compensation proceeding)



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- *All hearing notices or other legal communications should be forwarded to the adjuster immediately. As appropriate, a representative of the school district should attend hearings.*
- Financial Management
  - The Adjuster establishes a cost projection for each claim based on its unique characteristics.
  - Resolving claims at a lower cost results in an improved historical loss experience. Closed claims are no longer outstanding liabilities on the Balance Sheet.

## CH. 152, S.69 & SICK TIME BUY-BACK EXAMPLE

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- Pursuant to Chapter 152, S.69, employees of cities and towns covered under this chapter “who is entitled to any sick leave allowance may take such sick leave allowance payment as, when added to the amount of any disability compensation herein provided, will result in the payment of full salary and wages.” Essentially this enables an employee to supplement the 60% workers compensation rate with 40% sick time (paid by the employer) provided the employee has sick time accrued.

- **SICK TIME BUYBACK EXAMPLE:**

Annual compensation not including OT = \$41,600 (\$800/week) (hourly rate = \$20/hr)

Last 52 weeks of wages including OT = \$46,800

$\$46,800/52 = \$900/\text{week}$

Average Weekly Wage = \$900/week

Comp. Rate =  $\$900 \times 60\% = \$540$

Weekly wages from employer = \$800

Supplement from sick time = \$260

$\$260/\text{hourly rate of } \$20 = 13 \text{ hours charged to employee's sick time per week or } 2.6 \text{ hours per day}$

# Seven Steps to Build an Effective Workers' Compensation Program

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- Program Coordinator: Responsible for managing claims and dealing with frequency and severity
- Employee health and wellness program
- Safety and loss protection: Make it a priority
- Claims administration: Reported immediately, get involved, resolve. Report, Investigate, Defend (RID)
- Medical management: 60% of workers' compensation cost.
- Return to work (6 month rule): Transitional duty
- Data management is cost management



# Questions & Answers

