



# Management Strategies

What can be done to lower workers' compensation insurance costs? From establishing programs to reduce losses to interpreting your loss runs, this section provides some of the tools necessary to reduce losses and, in the long run, lower premium costs.



# Managing Workers' Compensation

## **Throughout the Year:**

Review class codes and ask agent for copy of the *Scopes* definitions. Review your facility and staff. Do you have workers who might be able to divide their payroll among class codes?

Use a claims tracking form and be sure that the agent/carrier keeps you informed and you agree on handling of claims and reserves. If you have had losses, ask your carrier, in writing, for loss runs on at least a quarterly basis and make sure you know how to read them. Tracking losses and ensuring that they are closed accurately and quickly is important.

Communicate with agent and carrier in writing. Keep good records.

Review *An Overview of Workers' Compensation* should you have any regulatory questions or concerns about handling a claim. Call the mediator with questions. A copy of the publication may be obtained from the Workers' Compensation Agency at 1-888-396-5041.

Set up a written safety program and make sure your carrier knows about it. Establish a return-to-work program. Utilize Consultation Education and Training (CET)—call them at (517) 322-1809.

## **Approximately 2-3 Months Prior to the Policy Anniversary Date:**

Review glossary of terms prior to talking to your agent/carrier. Ask questions if a term is not understandable.

Have agent get a *Michigan Experience Rating Form* showing the new "mod" (experience modification factor.) Review all claims history to make sure records are current and accurate. Ask agent to get quotes from several carriers including a schedule credit. Consider a quote from a group fund. If you don't qualify for a schedule credit, ask why not and what you need to do to qualify.

Also ask about the premium credit programs and how to qualify for said programs—savings of an additional 25% are possible in many cases.

Review the pages on premium calculation in the "Michigan Business Guide to Workers' Compensation." Know how your premium was calculated and remember you are in control with manual rates, experience mod and schedule credits.

## **Know Your Rights and Responsibilities:**

Read your policy, especially the page "Notice to Michigan Policy Holders." Be aware of the complaint process and exercise it if necessary.

## **Questions/Concerns:**

Contact the Michigan Economic Development Corporation at (517) 373-9808 or your Michigan Economic Development Corporation Account Manager.



## Major Cost Drivers—What Are They?

**Increased Wages:** As wages increase, the amount of workers' compensation premium increases. When an employee receives lost-wage benefits, he or she receives 80 percent of the after-tax value of his or her wages, not to exceed the state's average weekly wage. Therefore, as salaries increase, lost wage benefits increase.

**Longer Time Off the Job:** There are no lost-wage benefits if you are off the job for one week or less (seven calendar days). This can encourage employees, who could return to work earlier, to stay off the job longer.

**Medical Costs:** Medical costs have risen dramatically for both diagnostic tests and treatments. Medical costs now exceed 40 percent of all benefits paid. All medical costs are paid for work-related injuries.

**Litigation:** Because of the dollars involved and the ambiguities in some areas of workers' compensation laws and regulations, employees, employers and insurance carriers contest many claims. Therefore, attorneys have found workers' compensation law to be a lucrative field.

**Administrative Costs:** As premiums, payments, and litigation increase, so do administrative costs. Also, as premiums increase, profits of insurance providers increase.



# Steps to Guide Your Return-to-Work Efforts

Like all employers, you would love to return your injured employees to work as soon as possible to minimize lost time and workers' compensation payments — and keep down the future costs of your workers' compensation insurance!

Below is a checklist of important measures that should be taken. First, remember that you want to be proactive not reactive with your return-to-work.

**Organize a Return-to-Work Team.** Set up a group to coordinate information and support for the rehabilitation of injured workers. The group should include the case management coordinator, the health care provider, your management representative and, if your employees are union members, a union representative. You should also include employees who have had a work injury in the past. Make sure that you have the necessary input and insight for each job and/or shift.

**Return-to-Work Strategies.** Remember that the worker is probably still recovering when they first return to work. Asking a recovering employee to do too much can cause a big setback and defeat the goals of return to work. Keep the lines of communication open! Everyone needs to have a clear understanding of the individual worker's return to work plan and should be prepared to monitor and modify the plan as needed.

Many employers make mistakes when developing programs which address only one or two types of employees. This can have a detrimental effect on employee/employer relations and result in inflated workers' compensation costs.

Most employees fit into one of the four types described below. Using the right strategy will deter many problems.

### *The Active-Satisfied Group*

This worker is a happy, active employee — the “joiner who hasn't missed a day of work until now.”

Appropriate response would be a get-well card. This person will want and be ready to return to work without being asked.

### *The Passive-Satisfied Group*

This is also a happy employee but one who is a little more complacent. This employee needs some gentle intervention to ensure return to work.

Appropriate response would be phone calls, weekly meetings and an early intervention to make sure the worker maintains a positive attitude about the employer and returning to work.

### *The Active-Dissatisfied Group*

The active-dissatisfied worker is noticeably unhappy with his employment and will actively try to separate from the workforce. These are considered the most problematic workers and can lead to workplace violence.

Appropriate response would be strong fraud control measures. Some employers hire a workers' compensation fraud investigator.

*The Passive-Dissatisfied Group*

These workers may malingering or stay out longer than medically necessary. They don't often willfully concoct schemes but will quietly take advantage of a situation.

Appropriate response would be to have a fraud control tip line, which can expose this type of worker. Constant interaction with physicians or follow-up examinations to avoid communication breakdown or further delays is recommended.

**Plan Ahead and analyze tasks.** Analyze your jobs and workstations to recognize what could be made easier, what may or may not be essential functions of the job, identify risky areas and consider ways to redesign them. One possible way to do this is videotaping or photographing workers performing tasks. An inventory of the physical demands in your workplace (done before you have an injury) will help you match jobs to the abilities of recovering employees and can help a physician determine if an injured worker can return.

**Develop Alternative Productive Work Assignments.** Alternative work could be the worker's original job with an accommodation, such as modified duties or reduced hours. It can also be a combination of tasks from other positions. However, this should be temporary and the employee needs to be made aware of this. To maintain the injured employee's sense of work, try to avoid "busy-work" tasks. The goal remains to return the injured worker to the pre-injury job but you may need *transitional work*.

**Implement Loss Prevention Activities.** Use your task analyses to minimize ergonomic risks and eliminate unnecessary hazards.

**Inform the doctor.** Make sure to provide the treating physician with specific information on what the injured worker's job entails. Find out not only what the worker *cannot do* but also what he/she can do – and what you need to do to assist a full return-to-work. Explain your return-to-work program and policies.

**Educate Everyone Involved.** Explain your return-to-work policies to all your employees. It is vital that everyone understands what will happen if he or she is injured. This includes educating the supervisors as to how they should prepare and respond to employees being injured and returning to work.

**Checklist.** To ensure that you have a true transitional work program, evaluate your existing program using this checklist:

Discuss work restrictions with the employee and supervisor.

Follow up with the treating medical provider after each visit to determine progress.

Adjust the employee's work assignment after each medical visit if restrictions change.

Have a maximum time limit for alternate duty assignments.

Discuss the purpose of alternate duty with the employee before each assignment

Keep a log of employees in alternate duty assignments and review it regularly.

Meet with employees in transitional assignments periodically to discuss progress.

For more information, contact the Michigan Economic Development Corporation at (517) 373-9808.

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Additionally, the following resources are available to you:

Job Accommodation Network (JAN). No enforcement duties; agency provides free job accommodation information. Call (800) 232-9675.

Michigan Department of Labor and Economic Growth, Consultation Education and Training Division (CET) can help develop a safety program, improve an existing program, or find the help needed to solve tough safety problems. Assistance is free.  
Call (517) 322-1809.

Your individual insurance carrier. This is part of your policy's service. If not, something you need to address when "shopping" for your coverage. Service is a key component to controlling your costs.



# Workers' Compensation Fraud

Fraud is something that should concern us all and is too common in insurance as a whole. The end result with workers' compensation is that some injured workers are paid too much, some injured workers are paid too little, and the honest employers who pay the premiums pay too much.

There are many types of fraud:

***Employee Fraud:*** This is what most people think of and yet it is only a small portion of the problem. This occurs when a worker "fakes" an injury when there is no injury, or the injury is less serious than claimed or happened outside of work. Employers and co-workers must report the people who "cheat the system".

Keep in mind that many employees are only reacting to what they are told by medical providers and attorneys and do not knowingly commit fraud!

***Employer Fraud:*** Occurs when employers incorrectly classify employees into lower rate classifications, under report their payroll, discourage claims, or simply fail to provide coverage. These unfair labor practices hurt everyone and impair fair competition.

If the abuser is a subcontractor, it could make your company vulnerable to prosecution as well as a potential target for lawsuits filed by injured employees.

This also increases the cost of workers' compensation statewide which leads to higher costs and less profit. In turn, this lessens the benefits you can offer your employees thereby reducing your ability to secure the most qualified workers.

***Insurance Carrier/Self-Insured Fraud:*** It is fraud when an insurance carrier knowingly permits an employer to incorrectly classify employees, fail to submit accurate payroll figures or fail to insure some employees.

An example of this is when a claims representative purposely misrepresents the truth in order to either deny or support a claim; or offers or accepts any form of consideration for the referral or settlement of a claim

Another type of fraud can be classified as "bad faith." This occurs when a carrier fails to make justified payments or unreasonably and repeatedly fights claims.

**Medical Provider Fraud:** A medical provider is guilty of fraud if over-treating or over-utilizing medical services. This includes any verbal or written lie that forms the basis of any billing for services or benefits in the workers' compensation system. This also includes any provider in the system such as doctors, rehabilitation counselors, pharmacists or chiropractors. Examples are billing for exams of patients never examined or for treatment never rendered. Duplicate billing and/or receiving payment from different insurance carriers for the same treatment – and not making restitution.

**Attorney Fraud:** Attorneys also contribute or cause fraudulent conduct by knowingly participating in misrepresentation of the truth in order to either secure or deny compensation for their clients and/or themselves. Examples include knowingly assisting a client in pursuing a false claim and soliciting a person to file a false claim. Simply initiating communication could solve many problems!

### **WHAT IS THE DIFFERENCE BETWEEN FRAUD AND ABUSE?**

In the simplest terms, insurance fraud occurs when someone knowingly and with intent to defraud, presents or causes to be presented, any written or oral statement that is materially false and misleading to obtain some benefit or advantage, or to cause some benefit that is due to be denied.

The deciding factor between fraud and abuse is defined as the presence or absence of a provable lie.

Fraud occurs if:

There is a false representation – the lie,

The lie is to be intentional or knowingly made,

The lie must be made for the purpose of obtaining a benefit the claimant is not due, denying a benefit that is due, or obtaining insurance at less than the proper rate,

The lie must be material, that is, it must make a difference; “If the truth had been told, would you have done anything differently?”

### **WHAT ABOUT KICKBACKS?**

Though not legally fraud, offering or accepting kickbacks for the referral or settlement of cases is a reportable and highly prosecutable crime. Kickbacks indirectly feed the problem of fraud and as a result, cause damage to our society and our economy.

## TAKE A BITE OUT OF FRAUD

Insurance fraud ranks second to tax evasion as the costliest white collar crime. But there are steps companies can take to prevent these crimes from taking a bite out of their earnings.

The National Insurance Crime Bureau has issued a report that lists a number of such steps, including instituting a well run safety program and exercising a zero tolerance of fraud.

The report also suggests that companies observe the following tips in order to prevent fraud:

Since job candidates who lie on their applications may be more likely to commit insurance fraud, it is recommended that companies institute a thorough screening program for all potential hires. Verify applicants' information and check references before making a hiring decision. If you don't have the time to do all of this, use a temporary agency until you are able to do a good job in hiring.

Let new hires know where you stand on fraud. Provide them with a written statement of the company's workers' compensation policies and a separate statement concerning safety. Update these statements annually. According to an Insurance Research Center survey, 35 percent of employees said it's almost always acceptable to prolong a workers compensation claim by feigning illness or injury.

Employers should take measures to inform their employees that workers' compensation fraud directly affects the company's economic stability and will not be tolerated. Clear answers deter attorney involvement and get your employees back to work, which is the goal after all!

The following indicators may help identify fraudulent claims:

The injured worker is about to be fired or laid off;

The injured worker takes more time off than the injury warrants;

The accident is not witnessed, or occurs in an area where the employee would not normally be working;

The diagnosis is inconsistent with the treatment.

Employers should note, however, that no one indicator determines that fraud exists; while several indicators may suggest fraud, they do NOT mean that fraud has definitely occurred.

Again, employers must establish a workers' compensation policy and review this with each new worker. Inform employees that all cases will be investigated to determine the validity of the claim. Create a system for workers to report fraud and abuse. This includes having an internal staff person monitoring claims and reserves.

Remember, fraudulent activity happens in only a fraction of cases. The vast majority of claims are genuine. Always offer your support to injured employees—even if you suspect fraud at first. Unusual circumstances, questionable events, or a difference between your records and your memory do not necessarily mean fraud has been committed. Misunderstandings, lack of awareness, or errors can often be easily resolved.

In summary, know your rights and responsibilities and keep good documentation. Try to think intellectually and not emotionally about fraud.

For more information, contact the Michigan Economic Development Corporation at (517) 373-9808.



## Investigate Late-Filed Claims

Requiring employees to report all incidents and injuries immediately to a supervisor is one of the best ways to keep your workers' comp costs under control. Not only do employees get the medical care they need as soon as possible, but also employers may begin accident investigation immediately. All employers should have a written policy that spells out the procedures for accident reporting. The policy should be stressed in training for new employees, posted in workplace notices, and included your employee handbook. (An employee-signed receipt accepting the handbook should be in the personnel files.)

But what if you receive a claim filed days, weeks or months after the alleged injury? Certainly, the delays raises red flags, but most employers immediately rush to report it to their insurers.

If workers have received care and have been taken off work by the doctor, then the insurer's claims personnel rush to get wage information so they can begin to pay the claim. Soon the case is processed and benefits are flowing.

But wait!

This all too common reaction to a late-field claim drives up claim costs and perpetuates fraud in many instances. In the rush to make up for lost time, the focus on the questionable details is often lost. These cases often lead to ended periods of disability, doctor shopping, symptom magnification and litigation.

You have a duty to report claims promptly to the carrier, but promptly doesn't mean immediately. When you get a late-reported claim, explain to the reporting party – that the employee's failure to follow your injury reporting procedures requires you to perform an accident investigation before the claim can go to the insurer.

Document that this is the first notice you have received of the injury. State law imposes notice requirements on reporting injuries. A delay in reporting an injury may be a defense to the claim, so you may need this information in later proceedings.

Require the employee to come to the office to complete the accident investigation. It's best to get the details face-to-face in the presence of a witness. If the worker can't or won't come in, conduct the questioning over the phone. In either event, document all the questions and answers, particularly if the worker refuses to answer any questions typical of an accident investigation such as where, when, why and how the incident happened.

Notify the worker of your policy requiring a post-coincident drug test if you have a drug-free workplace policy. If you don't have one, ask your carrier about establishing one. Even in claims filed well after the incident, you may still insist the worker undergo the test if it is required of all other employees reporting injuries. To do otherwise discriminates against the workers who have reported injuries timely and give the workers who broke

the rules a free ride.

If the worker refuses testing, the worker has now violated another workplace policy, which you have in your employee handbook! Under normal circumstances, a positive drug test taken promptly after an incident may give you a valid defense to a claim. A positive result on a test performed more than 24 hours after an incident may not.

Document and follow up with witnesses identified by the worker. In most workplaces, employees are rarely absent from the view of coworkers, so unwitnessed accidents could mean fraud. Document the precise location of the alleged event. Take pictures and ask coworkers if they know anything about dangerous conditions or anyone being hurt there previously.

Get copies of any medical records, particularly objective medical findings, and diagnostic test results documenting a medical condition directed related to a workplace injury. Note any subjective medical complaints, such as complains of pain or other symptoms. Obtain a medical release before you send injured workers to the physician. Medical providers may not release records without one. An employee is most likely to sign a release immediately after an injury. Later, an employee may retain an attorney, which will make it much more difficult to obtain a release.

### **How to Report the Claim**

From the information gathered, consider how to present the claim to the insurance carrier. If the results of the investigation suggest fraud, file the notice of injury with a detailed explained of your reasons. Require the claims adjuster to report back if he or she disagrees, so you can appeal to his or her manager, your insurance agent, or if need be the state insurance commissioner. Ask the carrier to assign a skilled accident investigator to come to your workplace, interview coworkers, observe the site of injury, talk to management and provide a written report. Request this in writing also!

Though state law requires prompt payment of benefits upon being notified of an injury, insurers may issue a "reservation of rights" letter to the injured worker. This allows the carrier to investigate the incident and pay for the first medical visit, but preserves its right to deny the case if circumstances support it.

Remember: Not all late-filed claims are fraudulent. The employee may have a legitimate reason for the delay. An injury from a likely source and witnessed by a credible employee is likely to be valid. These strategies ensure only that you weed out those valid claims from any fraudulent ones.



## Reviewing your loss runs

You should be getting your Michigan Experience Rating Form prior to renewal so that you can verify the accuracy of the information and use this as a shopping tool.

You should also be getting loss runs and reviewing your claim reserves. Claim reserves should be based on an actual review of the claim status and should be the claims adjuster's estimate of the cost to close the claim. If you question reserves, call the adjuster, who should be able to explain how the reserve was calculated, especially if it was just increased. A claim reserve is really a series of reserves. An adjuster sets reserves for each type of expenditure, including medical, expenses, and indemnity.

When you talk to your adjuster, ask what new information leads to the change in claim values. You may be satisfied once you learn of recent developments. If not, ask the adjuster to explain the reserving assumptions for each component of the reserve. For instance, ask how many weeks of lost wages (indemnity) are expected and what sort of medical care is anticipated. Then, address the reserve in terms of these assumptions.

The bottom line: If the adjuster can't justify a reserve, ask him or her to reduce it. If he or she won't and you still feel it's too high, make your case to the adjuster's supervisor. Remember also to follow up this conversation in writing – documentation is key to controlling your workers' compensation cost.

If all else fails, review your Notice to Policyholders and follow the information contained there.



## EVALUATION OF LOSS CONTROL PROCESS

Many employers have a general perception that workers' compensation costs are out of control. They are scrambling for solutions but finding that ergonomics, loss control services, or vocational rehabilitation programs alone are not enough. They need a corporate culture that *promotes* and *expects* participation in, and *accountability* for, the constraining of accident frequency, severity and cost of claims.

Briefly, an employer needs to:

- Train people;
- Establish a comprehensive safety management program to reduce accidents;
- Establish effective relationships with the medical provider network; and
- Utilize individual case management.

Following is a survey to help you evaluate your company's management processes. Hopefully the questions will provide you with additional factors to consider in planning and achieving long-term loss control objectives.

## Evaluation of Loss Control Process Survey

This survey will help you evaluate whether or not your company has a management process in place to assist in achieving long-term loss control objectives.

Yes	No	Not Sure	Statement
			Our company does written accident reports along with investigation policies and procedures.
			Our accident report and investigation procedures are consistently followed by all personnel (senior management, front line supervisors, hourly personnel).
			Front line supervisors are held accountable for verifying that corrective actions identified in accident investigations have been taken –and there is a written procedure to insure that this occurs.
			Safety committee responsibilities have been clearly identified and all members have been trained to adequately perform these responsibilities.
			We have a written return to work policy and procedure.
			Our return-to work program is positively supported by all personnel (senior management, front line supervisors, hourly personnel)
			Personnel responsible for safety inspections are trained in hazard identification.
			Senior management utilizes positive reinforcement for safe job practices.
			It is typical for our employees (hourly and salary) to caution other employees about unsafe practices or potential safety problems.
			It is company policy for each front line supervisor to review accidents and injuries.
			Management personnel clearly display commitment to safety and workers' compensation concerns through prompt corrective action and follow up.
			Our management consistently follows written procedures for company and/or safety rule violations.
			Accident investigations are used as positive tools to identify and correct the root causes of injuries
			We have a clear policy and procedure for medical care and return to work following injury.
			There is a management representative assigned the responsibility to identify return to work opportunities within their facility based upon medical information received following injuries.
			It is our policy to provide employees the opportunity to return to work in a reduced capacity as soon as possible following injury.

Yes	No	Not Sure	Statement
			Frequency, severity and workers' compensation cost statistics are clearly communicated to all personnel – at least quarterly.
			Our work culture encourages open communications and team work among all employees (management and hourly).
			Specific frequency, severity and workers' compensation cost goals have been established and communicated to all employees. Accountability to achieve goals has been clearly assigned among all personnel.
			There are clearly defined evaluation procedures and time frames to assess the effectiveness of established loss control procedures in relationship to established goals.
			Frequency, severity and workers' compensation costs have been significantly reduced over the past three years.
			Severity and costs of injuries have been significantly reduced over the past three years and are now at an acceptable level.
			We are satisfied that our management is doing all that can be done to control frequency and costs and there is little room for improvement.
			There are identified management personnel assigned the responsibility to assist injured employees with workers' compensation issues/concerns.
			Our company culture and management style clearly promotes equal emphasis on production, quality and safety.

There are 25 questions. Multiply the number of "yes" answers by 4 = \_\_\_\_\_ points.

A score of greater than 80 points shows evidence of management process and should identify those areas which must be evaluated to achieve process excellence.

A score of 60-80 points indicates the presence of some key management principles and should identify those principles which must be addressed.

A score of less than 60 points indicates the need for management to critically evaluate the management culture and current programs and activities.

## ACCIDENT INVESTIGATION TECHNIQUES

- ✓ Observe the scene as soon as possible
- ✓ Talk to those people who know
- ✓ Don't interject your opinions
- ✓ Repeat the story
- ✓ End with positive statement
- ✓ Record critical data in writing
- ✓ Make drawings, take pictures
- ✓ Be careful of re-enactments
- ✓ Maintain two-way communications

## FORM COMPLETION

Evaluate all the facts

Define corrective action and completion dates

Evaluate severity and recurrences potential

Follow-up





