

Session 201

Workers' Compensation From the Facility Level Up – PART I

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**Worker's Compensation from
the Facility Level Up
Part I**



Keys to Success

Ohio Academy of Nursing Homes

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DISCLAIMER: The following Presentation is informational only and should not be taken as legal advice. The reader should consult his or her own legal counsel regarding specific issues.

Definitions

- ⊗ MO Medical Only
- ⊗ LTC Lost time claim
- ⊗ MCO Managed Care Organization
- ⊗ TPA Third Party Administrator
- ⊗ MIRA Micro Insurance Reserve Anal.
- ⊗ DOI Date of Injury
- ⊗ IC Industrial Commission
- ⊗ MSD Muscular-Skeletal Disorder

Definitions cont.

- ⊗ LM Living Maintenance
- ⊗ MMI Maximum Medical Improvement
- ⊗ LSS Lump Sum Settlement
- ⊗ IME Independent. Medical Exam
- ⊗ DFWP Drug Free Workplace Program
- ⊗ FROI First Report of Injury

Definitions Cont.

- ⊗ TT--Temporary Total Disability
- ⊗ PTD--Permanent Total Disability
- ⊗ WL--Wage Loss
- ⊗ PPD%--Permanent Partial % Disability
- ⊗ PPD--Scheduled Loss

BWC Facts to know

- ⊗ 8 Billion spent on Workers Compensation annually.
- ⊗ Rate premiums are set based on the oldest 4 years out of the last last five years of loss experience.
- ⊗ Once a claim is filed it takes two years for it to enter your experience for rate setting purposes.

BWC Facts to know. Cont.

- ⊗ A claim will stay in experience for fours years.
- ⊗ Claims that have reserves set on the (LWD claims) will effect you the most
- ⊗ Rates are set based on claims experience (MO & LTC), and is calculated using semi-annual payroll reports.

**BWC Facts to know
Cont.**

- In 2004 Musculoskeletal Disorders (MSD's) accounted for 69% of all BWC claims in the service industry.
- 94% of all MSD's are litigated.
- The cost of serious injuries from 1998 to 2002 increased by 3.5 million dollars.

MCO's Responsibilities

- Provides medical management for claims.
- Responsible for authorization or denial of requested medical treatment.
- Works with providers and employers to return claimants to employment.
- Provides dispute resolution on medical treatment issues.

TPA's Responsibilities

- Only party whose sole purpose is to represent employer
- Strive to reduce clients' premiums through aggressive claims management.
- Provide representation for clients at Industrial Commission hearings.
- Provide financial analysis and verification of annual premium rates.

Types of injuries a facility is exposed to.

- Strains & Sprains
- Cuts
- Burns
- Bruises/ Contusions
- Fractures
- Exposures (Blood, Chemicals)

Pre-Claim Planning

- Consider enrolling into the DFWP program.
- Meet with your local hospital ER Dept. and/or Occupational Health Clinic.
- Develop an effective Safety Program
- Meet with your employees regularly to discuss safety performance, and give them a voice to report hazards.
- Interview worker's compensation attorneys to represent you when the case arises

Forms Handouts

- Injury Packet (Facility Specific)
 - Injury Instruction Sheet
 - Initial Report of Injury
 - Supervisor's Report of Injury
 - Witness Statement
 - Illustrations
- MEDCO 14 Form
- Wage Continuation Form

Injury Packet

- ⊗ Injury packets should be available to all employees on all shifts.
- ⊗ Usually kept at the nurses stations.
- ⊗ Must be completed on all injuries.
- ⊗ Must be filled out entirely.
- ⊗ Must be filled out within 24 hrs of injury.

Anatomy of a Claim

- ⊗ An injury Occurs.
The Supervisor needs to conduct an accident investigation at the time of injury and document their findings.
 - ⊗ Will the injury generate a claim?
If not, can employee file the claim later?
 - ⊗ Injury file started.
Contains completed injury packet, and all claim related paperwork.
 - ⊗ Employee brings MEDCO 14 to employer.
review the MEDCO 14 for claim information (Days off/ Restricted Duty)
- NOTE: Do Not Allow days off from work ...

Anatomy of a Claim Cont.

- ⊗ If days off are received, get the employee back to work ASAP on TWD. 14 Days Max!
- ⊗ In this case, when should an employer consider Salary Continuation, and what will that effect?
- ⊗ Draft the TWD offer letter containing work duties that comply to the restrictions. (TWD does not have to be enjoyable!)
- ⊗ MCO calls for certification of claim.
What does this mean?

**Anatomy of a claim
Cont.**

- TPA notified by MCO and BWC.
SHO, DHO, and IC hearings are scheduled.
- Who goes to the hearings?
- Facility gets employee back to full duty as soon as possible.
- Calculate lost work days, and restricted duty days and enter them in the injury file. (Inside Cover)
- Enter the injury on the OSHA 300 log.

**Anatomy of a Claim
cont.**

- What injuries need to go on the OSHA 300?
- What is a Privacy Case?
- After six months of no activity on a claim the claim will go into a inactive status.
- Depending on the complexity of the claim, correspondence will continue to come in regarding the claim, and should be filed ASAP in the injury file.
- Does Salary continuation avoid a lost time claim?

Managing the MEDCO 14

- Make sure you get it!
- Insist that follow up appointments are made weekly.
- Follow the recovery progress on the restrictions side of the page. You should see improvement from week to week.
- Make sure to get a new MEDCO 14 following each appointment. If appointments are missed the employee should be taken off the schedule until the new MEDCO 14 is received.
- Try to get the original or make a copy from the original

Red Flags to a claim

- ⊗ IW immediately retains representation.
- ⊗ Injury reports not turned in, or turned in late.
- ⊗ No witnesses.
- ⊗ Positive drug screen following an injury.
- ⊗ The employee neglects to give a MEDCO 14 following an appointment.
- ⊗ Restricted Duty goes on and on and on.
- ⊗ Employee insists on days off.

Things to remember

- ⊗ Aggressively manage the claim from the onset and avoid LT claims as much as possible.
- ⊗ Lost time claim have the potential to have reserves set on them. Reserves negatively impact premiums.
- ⊗ The day of the injury is not counted as a lost day.
- ⊗ Lost days and restricted days are calculated by calendar days, not scheduled days.
- ⊗ We have 8 days to get a injured employee to transitional duty before compensation is considered.

Things to remember cont.

- ⊗ Get the employee back to full duty as soon as possible.
- ⊗ If the employee has PT,OT orders, have them do their therapy at the facility while on duty.
- ⊗ If the IW retains an attorney, you should too.
- ⊗ Ask your TPA for a Loss Run Report and review all your active claims with them every six months.
- ⊗ Work with your TPA to close/settle claims that are in your rate setting experience window.
- ⊗ If an employee refuses TWD this may effect their claim for any compensation.

**Things to remember
cont.**

- ⊗ Always notify TPA and MCO of refusal of TWD.
- ⊗ Administrators/ designated staff member should attend all hearings with the TPA.
- ⊗ If you are represented by an attorney, the TPA will more than likely step aside and just monitor the claim. Your TPA should still work closely with the attorney.

**Things to remember
cont.**

- ⊗ Consider an IME early in the case.
- ⊗ During TWD the employee is still your employee and must follow the your workplace rules (Attendance, Dress Code, Attitude) while accommodating their restrictions.
- ⊗ Communicate to the MCO and TPA any concerns that you have about the claim, or things that you have heard that would be in conflict with the claim.

**Things to remember
cont.**

- ⊗ An employee has two years to file a claim for a work related injury.
- ⊗ Administration must set the bar for a Safety Culture, and set the expectation that safety is not an option.
- ⊗ Most accidents are preventable.
- ⊗ The cause for most accidents are taking short cuts, and just not thinking.

FAQ's

- ⊗ Can I fire an employee while they have an active BWC claim?
- ⊗ Can I make a IW on TWD work on another shift?
- ⊗ Can I get BWC claim information on an employee prior to hiring?
- ⊗ Can I hire a Private Investigator to conduct surveillance on an IW?
- ⊗ Can I make an IW go to the clinic or ER that I tell them to?
- ⊗ Can I write up an employee for getting hurt on the job?

Conclusion

- ⊗ As you can see, managing a claim can be time consuming and in some cases become a little costly.
However, this is time and money well spent. A little hard work put into managing claims will pay dividends later in paying lower premiums, and stabilizing your workforce.

What is the best way to manage a claim?

⊗ **Prevent one!**

Questions?
