

Risk Monitor



Exploring Methods of Reducing Workers' Compensation Claims

Attributing a company's workers' compensation costs to an individual department encourages managers and group supervisors to pay increased attention to safety and training programs, and to closely monitor the return to work of injured employees. In some companies, as a further incentive to cut workers' compensation costs, reimbursements from claims are deducted from departmental budgets, rather than a general fund.

By initiating simple internal processes that place responsibility for workers' compensation expenses on individual departments, employers can take greater control of implementing preventive measures and injury management procedures, thus decreasing the frequency and severity of injuries. As a result of implementing these procedures, a company could reap substantial savings in reduced claims and workers' compensation premiums.

Employers can meet safety goals by directly communicating with those employees who are potential workers' compensation beneficiaries. First, a simple analysis should be performed to identify high-risk groups based on a history of injuries and claims. Bringing together employees on a departmental level to discuss the injury management process will improve communication between all parties in the working environment. Having those employees at risk discuss how a job can be performed more safely will reduce injuries. Or conversely, having employees explain how injuries can occur because of faulty equipment or incomplete work procedures will also assist the employer in modifying its safety procedures and work environment.

Too often, workplace injuries are not reported promptly. Supervisors often fail to acknowledge accidents hoping they will disappear without resulting in medical or lost-time expenses. Evidence shows that this practice can result in increased expenses because the initial injury was not reported and treated immediately.

A study of more than 53,000 permanent partial disability and

temporary total disability claims indicated the following when compared with claims reported within a week of occurrence:

1-2 weeks after occurrence - 18% more expensive

3-4 weeks after occurrence - 30% more expensive

Greater than 1 month after occurrence - 45% more expensive

Sharing these sobering facts with managers and supervisors should result in timely reporting of injuries, thus reducing their department's workers' compensation costs, and the company's.

When stressing safety on the job during training programs and reviewing work patterns periodically, the company will help reduce injuries within each department. Once an employee is injured, the goal of the employer and employee should be returning that employee to work as quickly as possible. Both parties should share a common desire for the most effective care, a timely recovery and a quick, safe return to the workplace.

With each department being responsible for its own workers' compensation costs, departmental managers can be more involved in helping injured employees return to work. Rather than having the injured employee contacted by a third party - usually a claims adjuster or an attorney in some cases, which can develop into an adversarial stance - the employer's concern and response is directly conveyed to the out-of-work employee.

Although there are a few workers who purposely defraud the system, they are very much the exception rather than the rule. Analyzing workers' compensation costs on a departmental level makes it more difficult for malingerers to file fraudulent claims.

While eliminating all injuries or claims is not possible, accidents do happen. It is feasible, however, that the severity and frequency of injuries can be reduced significantly by placing responsibility for maintaining a safe working environment at the departmental level and in the long run rewarding the department for reducing claims.

We will be contacting all of our clients to roll out our new internet claims service.

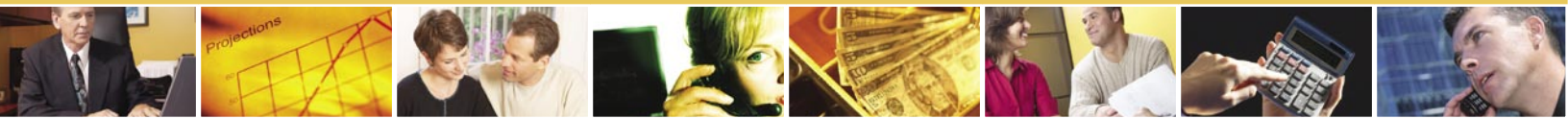
The latest claim forms for all 50 states are available with a direct feed into the OSHA300 report. We will be converting virtually all of the claims data currently saved to provide an easier transition. For more information call your agent or the claims group.

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Certificates of Insurance – A Prudent Means to Avoid Costly Claims

More and more companies are hiring independent contractors to handle not only administrative matters, such as benefits and human resources, but also sales and distribution. With this delegation of authority to third-party suppliers comes less direct control over these operations, and greater becomes the need for clients to demand that vendors provide them with timely Certificates of Insurance (COI).

The COI proves that the insured (the third party) has purchased the insurance coverages as required by the outsourcing client. But, the COI also states that the holder of the certificate has no legal right to be covered by the insurance described in the COI, nor does it amend, extend or alter the represented coverage. The COI only shows that the outside contractor has the insurance coverage as explained on the certificate. This protects the business that has contracted with the third party against liability for negligence caused by the independent contractor up to the limits of the policy.

It is the responsibility of the independent contractor to provide the COI to the client that has hired the firm. Usually a COI is prepared by an agent/broker with a copy sent to the insurance company and the client for whom the third party has contracted to perform certain functions.

The COI contains the name of the insured, the name of the insurance companies issuing the policies as stated on the COI, what specific coverages are contained in the insurance policies issued to the insured, and various descriptions of normal policy terms, exclusions and conditions.

Most often COIs are obtained for commercial general liability to provide protection from liability arising out of the insured's premises or operations, products and completed operations. Usually, a general form will provide broad, standardized coverage terms. In cases, where the coverage is more complex and of a higher risk, manuscript forms of a COI



can be written specifically by or for an insurance company. These manuscript COIs should be reviewed carefully for the scope of coverage being provided.

There are two types of general liability forms -- claims-made and occurrence. The trigger that compels the policy to respond is the main difference between the two forms. In the occurrence policy, occurrences are covered that take place during the policy period, no matter when a claim is reported. A claims-made policy requires that the occurrence take place during the policy period and the claim be reported during the policy period. Most COIs use the occurrence form for all independent contractors as claims-made policies limit coverage.



But simply having a COI in hand does not always mean that the independent contractor has the insurance coverage. A prudent practice is to have a system to audit, review and correct the certificates to reflect the provisions in the contracts. Some clients establish an auditing program in house, while others have the insurance agent or broker manage the program as part of their fee arrangement. This cost depends greatly on the workload.

The consequences of not monitoring COIs of a third party can be costly for the firm that hired the contractor. Consider this sobering example. A business hired an independent contractor to provide distribution service for the company. An employee of the vendor had a serious car accident, and soon afterwards, the contractor ceased business. When the employee began submitting workers' compensation claims, there was no coverage -- the contractor had never maintained that insurance. Unfortunately, the company had not insisted on a COI from the independent contractor to verify this coverage. Casting about for payment of the claim, the court ruled that the vendor's employee was a statutory employee of the company that hired the contractor. The workers' compensation claims have totaled more than \$100,000 with more to come.

This is just one of many chilling cases of companies that have been caught with unexpected losses that came from not requiring proper COIs from independent contractors and auditing them to make sure they remain current and reflect the actual coverages held by the insured.

What is the Difference Between Occurrence vs. Claims Made Forms?



All the property and casualty insurance policies you buy fall into one of two categories – “occurrence” or “claims-made.” This distinction may impact drastically on:

1. Whether or not your policy will respond to a claim;
2. What your responsibilities will be in the event of a claim;
3. How much your policy will cost up front and in subsequent years, and;
4. How much it will cost to keep the coverage in effect, in the event of cancellation.

With all this riding on the type of coverage form you purchase; it helps to understand the pros and cons of each so that you can make an informed decision if options are available.

“Occurrence” form coverage is the simpler of the two. Most property and casualty insurance policies fall into this category. Quite simply, “occurrence” form coverage means that the policy responds to events that occur during the policy period regardless of when the claim is made. Once the policy period is over, the policy will respond to covered claims, even if the claim is made many years after the triggering event (accident, wrongful act, injury, etc.).

The far more complex “claims-made” coverage form responds only to claims that are made during the policy period, though the triggering event may occur prior to the policy period if there is a “retroactive date” on the policy. The key to “claims-made” policies is maintaining continuous coverage. Without “continuity,” insurers will not give you that all important retroactive coverage.

“Claims-made” coverage came into vogue in the sixties and seventies as professional liability policies gained a foothold and underwriters sought to contain the volatile nature of the “tail.” In property and casualty insurance lingo the “tail” refers both to the optional coverage that may be purchased to extend the policy for reporting purposes, and to the typical length of time between the triggering event and the claim. Asbestosis, which often takes years to develop, is considered a “long tail” exposure. Libel and slander lawsuits, on the other hand, usually occur right after the triggering event, i.e., libelous newspaper article or news broadcast.

“Claims-made” policies are becoming more popular in commercial lines because soon after the policy year is over, actuaries will have a pretty good idea of how many more claims might be reported. Subsequent claims, even if the triggering event occurred during that earlier policy period, will be charged to the later policy period when the claim is made. The ability to “close out” policy years quickly, is a palpable benefit to insurers of the “claims-made” form.

How do you identify “claims-made” or “occurrence” policies? “Claims-made” policies are easier to identify because

they will typically advise you in the declarations or the first page of the policy: “THIS IS A CLAIMS-MADE POLICY.” Additionally, you can search for Extended Reporting Period, aka “tail” option, provisions in the form. A space for “retroactive date” on the declarations page is another telltale sign of “claims-made.”

“Occurrence” policies are more difficult to spot. While some policies might herald the occurrence nature of the form, in other cases it will be the lack of “claims-made” language and provisions that will provide the clues.

While “claims-made” might seem more onerous than “occurrence,” for the buyer there are some benefits that warrant mentioning. First and foremost, there is the pricing issue. The first year of “claims-made” coverage should typically cost somewhere between 40 and 85% of an “occurrence” policy. The price automatically increases in subsequent years as the “claims-made” exposure increases. Usually, after three to five years, a “claims-made” policy is thought to be roughly equivalent to an “occurrence” policy and should cost about the same. In addition to the cost savings enjoyed early in the early years of coverage, in a competitive marketplace insureds can benefit as underwriters discount the step factors that bring up the price. Also, although Extended Reporting Period options can be quite costly, it is rare that an insured will need to exercise such an option unless they retire or are unable to find retroactive coverage from another carrier. Still, it’s a good idea to compare Extended Reporting Period options if you are presented with quotes from different carriers. How long are the “tail” options and how expensive?

While “claims-made” coverage can be confusing, it’s clear this coverage form is here to stay as the preferred choice for insurers across an increasingly broad array of product lines. So get used to the concept now and be prepared to explore all the options carefully.



Reinsurer Reviews Natural Catastrophes of 2003

Munich Re, an international reinsurance company, recently released a summary of natural catastrophes for 2003. The report summarizes the effects of natural hazards such as earthquakes, floods, droughts, and other severe weather conditions. It also underscores the disproportionate impact of these catastrophes on leading industrial nations, as opposed to third world or developing nations, when viewed in financial terms or loss of life.

In financial terms, the United States experienced 7 of the 10 largest losses by both economic impact and insured loss. Tornadoes and related severe weather occurring in the Midwest during February 2003 created an estimated \$4 billion in economic losses, with approximately 75% of those losses actually covered by insurance. In contrast, none of the 10 largest natural catastrophes in terms of loss of life occurred in the United States.

The earthquake in Bam, Iran topped the fatalities list with an estimate of more than 40,000-50,000 deaths. This contrasts with an earthquake in Southern California that was only slightly lower on the Richter Scale but caused negligible damage, in part due to the relative proximity to population centers and greater attention to earthquake resistant building techniques.

The study, in addition to providing a dramatic backdrop to the disparity in insurable losses among nations, also points to the disparity in insured losses by exposure type. Out of approximately 70 earthquakes worldwide that caused measurable damage, total economic losses were estimated at \$6 billion, of which, only about

\$100 million was covered by insurance. Windstorms, on the other hand, accounted for about 1/3 of the recorded natural catastrophe events worldwide, yet they represented more than 75% of the insured losses.

The study points to weather conditions such as the extreme heat and drought conditions in Europe during June-August 2003 and poses the question - is this a future norm or an anomaly? In Germany alone, according to the study, "the record temperatures from June to August corresponded to a 450-year event in climatological terms." The study suggests that by 2020 this could be a 20-year event if the global warming threat continues to manifest itself. Dr. Gerhard Berz, head of Munich Re's Geo Risks Research Department calls the summer of 2003 a "summer of the future." Dr. Berz notes, "warmer summers mean a rise in the intensity and frequency of severe weather events."

It isn't clear whether or not the unusually wet weather conditions in the Northeast U.S. have been impacted by the warm weather phenomena mentioned in the study, but these effects certainly seem to mirror those of the relatively recent El Nino and La Nina in the Pacific. Only time will tell whether or not these trends warrant the concern for global warming, or are just occasional anomalies. What is clear from the study is the increasing importance of the insurance industry in providing critical protection to insureds and assistance to the global community in assessment and preparation for future natural catastrophes.

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