

RISK COMMUNIQUÉ

Workers Compensation Fraud

One potentially significant source of fraudulent workers compensation (WC) claims comes from injuries that should rightly be taken care of through the employee's health insurance. The vast majority of employees are honest people who just want to have WC indemnify them for medical bills and lost wages caused by injuries that have occurred on the job. However, one out of five responders to a survey by the Insurance Research Council said that they were aware of WC fraud in their workplace.

Sometimes an employee will deliberately file an injury claim as work-related rather than have the claim paid by their (group) health plan. From this employee's viewpoint, WC is more lucrative than health insurance; WC pays a portion of lost wages, it has the potential to pay better long-term disability payments and a permanent disability settlement, and the employee does not have to use accumulated sick leave.

The receipt of non-taxable indemnity (wage replacement) checks, even at a reduced WC rate, is a powerful incentive for the most honest employee to file a WC claim that should have been a health insurance claim.

In fact, the most common type of WC fraud occurs when employees file claims for injuries that did not arise out of or in the course of employment. The employee may have been injured over the weekend or may claim an injury from performing duties outside the job description. Managers need to pay attention to injuries that occur right after employees come to work, especially on Mondays. They should not be treated as routine; they should be investigated and documented immediately. The employee's statement and the statements of the witnesses should be taken immediately. Be wary of the injury that occurred without any witnesses. Pin down the time of the injury and other details. Inspect the location of the injury, equipment, and conditions, and take pictures.

It takes time for trauma to cause the skin to turn black and blue and to swell up. If these conditions are present, there is a good chance the coloration, swelling, and bruising happened sometime before the workday started.

Pay special attention to these types of injuries when they are not clearly caused by a work-related accident:

- Back injuries
- Knee injuries
- Strains and sprains of ankles or elbows
- Shoulder injuries to the rotator cuff
- Carpal tunnel syndrome

Fraud Prevention Strategies

1. Analyze the data from WC and group health claims. Identify the types of injuries that occur both on and off the job and set up training programs that help employees avoid those injuries.
2. Pay attention to your hiring procedures. Learn as much as possible about prospective employees while complying with the Americans with Disabilities Act.
3. Make all job offers contingent upon a medical examination and history. Require that this be completed and evaluated before the new employee assumes his duties.

This is a sample guideline furnished to you by Glatfelter Public Practice. Your organization should review it and make the necessary modifications to meet the needs of your organization. The intent of this guideline is to assist you in reducing risk exposure to the public, personnel and property. For additional information on this topic, you may contact your GPP Risk Control Representative. www.glatfelterpublicpractice.com

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4. Develop an accident/injury form and use it consistently to record the employee's statement about how the injury happened. Make sure that all the details are there and that the employee signs the statement.
5. Require the immediate reporting of any and all work-related injuries, subject to disciplinary action (for failure to report, not for being injured).
6. In addition to the completed employee accident report, keep printed e-mail and records of telephone conversations with injured employees. Record the date, time, and content. People who file false claims often give inconsistent descriptions of how the injury occurred.
7. Contact your insurance company claims representative immediately.
8. Partner with the claims representative to investigate all claims. If you suspect fraud, tell your claims adjuster right away. The earlier the adjuster is involved with the case, the better the chances of proving fraud. Your suspicions, as well as anecdotal information may make a big difference in the outcome of the investigation.
9. Educate your employees about the perils of fraudulently claiming or inflating WC claims. Explain that it's a crime that can lead to termination and possible legal prosecution.
10. Encourage employees to report fraud through anonymous reporting.
11. Be on the lookout for early warning signs; employees whose relatives received a WC settlement, employees with financial hardships, and employees who are unhappy with their jobs.
12. However, don't let your vigilance destroy your good relationships with your employees. Demonstrate your compassion for all injured employees, whether their injuries are work-related or not.