

## "Best Practices for Managing Your Company's Workers' Compensation Program"

By Jason D. Guinasso, Esq.

Question: What is the most important workers' compensation decision an Employer can make?

- (a) Build A Proactive Safety Program;
- (b) Develop An Aggressive Return to Work/Transition Work Policy;
- (c) Implement a Comprehensive Accident/Injury Reporting System; or
- (d) Select an Insurer or Third Party Administrator Who Employs Quality Claims Examiners.

Answer: (d). No other decision has as profound and as immediate an impact on the cost and effectiveness of a workers' compensation program than the selection of an Insurer or Third Party Administrator (TPA) who employs quality claims examiners.

In Nevada, Employers should always remember that they have choices in deciding who will provide workers' compensation coverage for their employees. There are over 300 insurance carriers who provide workers' compensation coverage. Because Nevada Employers have so many choices, they should never settle for inadequate claims management services from their insurers or TPAs.

As an attorney who has worked with (and sometimes against) claims examiners at all of the major workers' compensation carriers and administrators in the State of Nevada, I am convinced that the claims examiner, more than any other person in the process, has the greatest impact on the cost and effectiveness of a workers' compensation program. Therefore, I believe Employers should closely examine their current or prospective insurer or TPA and get answers to several important questions about the quality of service they receive from the claims examiners who handle their claims.

First, Employers should inquire about the experience and tenure of the claims examiners who handle their claims. In addition, the focus of this inquiry should be upon the claims examiner's specific experience in handling Nevada claims. The best claims examiners have at least ten years of experience working in the Nevada workers' compensation system. Experienced claims examiners have a firm understanding of Nevada law and know when to accept or deny a claim or benefit, when to investigate, what to investigate, when to settle and when to fight. Additionally, experienced claims examiners have developed significant relationships with health care providers, claimants' attorneys, defense attorneys, administrative tribunals, administrative agencies and others within the workers' compensation community. These relationships help the experienced claims administrator quickly and efficiently administer claims to a successful resolution.

Second, Employers should expect the claims examiners working on their claims to communicate effectively and frequently with them about the status of their claims. Close monitoring of claims coupled with regular claims review with the claims examiner gives Employers and their insurers the best opportunity for cost-saving outcomes on workers' compensation claims.

Third, substantial savings occur when an experienced claims examiner manages the medical administration of a claim. A quality claims examiner coordinates with the employer, medical provider and any nurse case manager who may be assisting with the management of the medical aspects of a claim. The goal is to provide competent and complete medical care to the injured worker quickly and efficiently.

Fourth, Employers should ask whether and to what extent the claims examiners handling their claims have caused administrative fines and/or benefit penalties to be incurred by their company as a result of errors or omissions in administering workers' compensation claims. Experienced claims examiners rarely, if ever, make mistakes that result in administrative fines and/or benefit penalties.

Fifth, an Employer should ask the insurer or TPA how many claims the examiner handling the Employer's account is managing. Many insurers and TPAs expect their claims examiners to handle 300 or more claims. Any more than 100 active claims per examiner is simply too much, even for the most experienced claims examiners. The level of service an Employer can expect and the quality of the results from a claims examiner is directly proportional to the experience and workload of the claims examiner.

Relatedly, an Employer should inquire about the retention rate of an insurer's or TPA's claims examiners. If the company administering your workers' compensation claim cannot recruit and retain experienced claims examiners, then you should look elsewhere for workers' compensation services.

Sixth, an Employer should demand that the claims examiner assigned to the Employer's account remain with that account and all the claims associated with the account. Workers' compensation claims that are handled by multiple examiners are generally more expensive than claims that have one examiner from initial report and assignment to closure.

Finally, Employers should expect claims examiners to have knowledge, skill and experience to avoid litigation except when absolutely necessary to defend a determination. Experienced claims examiners are good at explaining the workers' compensation claims process to the injured worker upon the initial reporting. Additionally, they are responsive to the injured worker's questions, concerns and needs. Most importantly, a good claims examiner keeps the lines of communication open with the claimant and the claimant's representative, if any. A good deal of workers' compensation litigation (and the costs associated with such litigation) can be avoided with clear and consistent communication between the claimant and the

claims examiner. A quality claims examiner executes litigation management strategies that prevent litigation or help resolve litigation in a timely manner. The claims examiner carefully works with defense counsel to manage litigation activities and related costs for successful defense.

In closing, it is vital that Employers review their insurer's and/or TPA's claims handling practices to ensure claims examiners are experienced, competent, responsive and effective. More often than not, the best way for an Employer to reduce workers compensation costs is to build a strong relationship with its insurer's or TPA's claims examiner.

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