California Workers’ Compensation Training

WC-101

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Welcome

ABD Workers’ Compensation & Disability Team

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Agenda

• Workers’ Compensation Overview
• What is a work related injury/illness/What is not
• Red Flags and potential defenses
• Knowledge of injury/illness
• Classification of Claims
• WC Benefits
• Types of Claim Settlements
• Roles & Responsibilities
• Medical Providers
• Return to Work/Transitional work duty
• Accident Investigation
• WC required posters, notifications and claim forms
• Workers’ Compensation Workflow
• Resources
• Upcoming WC webinars
• Open for Questions
Workers’ Compensation Overview

Employer paid benefit:
- Insurance policy from a licensed insurance carrier authorized to write WC policies in California, or
- Self insured plan, upon state approval

Claims Administration
- Insurance carrier’s claims department
- Third Party Administrator
- Self Insured/Internal claims department

Benefits include:
- Medical Care
- Temporary disability/lost wages
- Permanent disability payments
- Job displacement voucher
- Death payments

Benefit levels determined by the state
- Limited to work related injury, illness or death
- No fault system/Exclusive Remedy
  - Employee relinquishes the right to sue the employer in exchange for a specified set of benefits
Workers’ Compensation

- Provides WC coverage
- Reports injuries/illness
- Engaged throughout life of claim

- Medical Provider
- Nurses
- Investigator
- Attorneys

- Receives benefits
- Participates in medical treatment, claim process and return to work program

- ABD provides client services and advocacy
- Carrier or TPA administers the claims

WORKERS’ COMPENSATION TRAINING 101
Average cost of a WC claim: $87,000

- Medical – 60%
- Indemnity – 40%

Prescription Drugs

- Physician dispensed RX average cost per claim increased over 50%
- Narcotics account for 25% of drug costs

“Sometimes the walk to the doctors’ office is a better cure than the medicine you receive.”

— Benny Bellamacina
What is a work related injury/illness?

The injury or illness must arise out of employment (AOE) and occur during the course of employment (COE)

Examples (on-the-job):

• Cumulative trauma injury caused by repetitive keyboarding (RSI/musculoskeletal)

• A broken arm from falling off a ladder

• Lower back strain from lifting a box or prolonged seating

• Hearing loss due to ongoing exposure to excessive noise levels
Ouch...

Cumulative injury claims have increased 25% since 2010
Less recognized work related injuries

• Special errand or assignment carried out at employer’s direction
• Business trips
• Employer furnished or employer required transportation
• Mandatory attendance at company sponsored events
• Lunch and break time accidents occurring on the employer’s premises
Not related work injury?

Injuries & Illnesses usually not considered work related include:

- Post termination or after notice of lay-off
- Ordinary commute to or from work (going and coming rule)
- Off-duty recreational activity
- Injuries caused by intoxication or drugs (medical evidence by physician)
“Red Flags” and potential employer defenses

Red Flags:

• Personnel or performance issues
• Late reporting by employee
• Immediate litigation of claim for minor injury
• High risk activities as a hobby
• Inconsistent facts between the employee and witnesses on incident
• New hire with specific or cumulative injury
Employee Tenure... when do employees get hurt?

0-2 years: 48%
2-6 years: 22%
6+ years: 30%
Knowledge of injury/illness

Report of a work related injury/illness to an employer can come from:

- Injured employee
- Medical Provider
- Attorney
- Dependent, Spouse, Partner
- Witness or co-worker
## Classification of WC claims

<table>
<thead>
<tr>
<th>Incident or report only</th>
<th>• No medical care needed/optional reporting to carrier</th>
</tr>
</thead>
<tbody>
<tr>
<td>First aid</td>
<td>• Requires one time first aid treatment and one follow up visit for observation</td>
</tr>
<tr>
<td></td>
<td>• No lost time beyond day of injury (DWC-1 not required)</td>
</tr>
<tr>
<td>Medical only</td>
<td>• Medical care needed (DWC-1 required)</td>
</tr>
<tr>
<td></td>
<td>• No lost time</td>
</tr>
<tr>
<td></td>
<td>• Full recovery and discharge is anticipated</td>
</tr>
<tr>
<td>Indemnity</td>
<td>• Lost time (DWC-1 required)</td>
</tr>
<tr>
<td></td>
<td>• Entitled to lost wage replacement and medical benefits</td>
</tr>
<tr>
<td></td>
<td>• Injury results in permanent disability</td>
</tr>
<tr>
<td></td>
<td>• Potential for 3rd party subrogation</td>
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<td></td>
<td>• Delayed claim</td>
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<td>• Litigated claim</td>
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</tbody>
</table>
Benefits

Medical Care:

• Prompt and quality medical treatment subject to approval (Utilization Review process)

• Governed by American College of Occupational and Environmental Medicine

• Injured worker is covered 100% of costs (limits to physical therapy and chiropractic treatment – 24 visits)

• Costs subject to state mandated fee schedule based on Medicare fee schedule (Bill Review process)

• Provided until medically discharged from care or possibly for life if medically indicated and awarded
Benefits

<table>
<thead>
<tr>
<th>Medical Care</th>
<th>Temporary Disability</th>
<th>Permanent Disability</th>
<th>Supplemental Job Displacement</th>
<th>Death Benefits</th>
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</table>

Temporary Disability (DOIs as of 1/1/2014)

• Payments employee receives if they can’t perform his/her usual and customary work

• Paid when no modified or alternative work is available

• Calculated at 2/3’s of average weekly wages up to a statutory maximum benefit

  • Minimum $161.19/per week
  • Maximum $1,074.64/per week
  • Paid every 2 weeks (tax free)
  • For most injuries, payments may not exceed 104 weeks within 5 years from date of injury
Benefits

Permanent Disability

- Is any lasting disability from a work injury or illness that prevents the injured worker’s ability to earn a living
- Determined at the time injured worker is deemed Permanent & Stationary (P&S) or reached Maximum Medical Improvement (MMI) by physician
- Compensation due per the AMA guidelines based on doctor’s medical reports where a PD rating formula is used to calculate the impairment level expressed as a percentage and dollar value
- PD rating formula is based on injured worker’s diminished future earning capacity, age and occupation
- Amount of compensation is established by the state PD rating schedule and often rated by the Disability Evaluation Unit (DEU)
- Payments due and payable after temporary disability ends
- As of 1/1/13, if injured worker returns to work, PD payments are not due until an “award” is issued
Benefits

Supplemental Job Displacement

- Vouchers to help pay for retraining or skill enhancement if employee doesn’t recover completely and does not return to work

- Voucher must be used at a state approved school

- 10% of amount used can be for vocational and return to work counseling, if needed

- Amount of voucher – fixed amount of $6,000 (DOIs as of 1/1/2013)

- Can be used out-of-state and must meet similar provisions
Benefits

Death Benefits

- Payments to employee’s spouse, children or other dependents if employee dies from a job injury or illness
- Amount of benefits depends on number of dependents, paid every 2 weeks
- Burial expenses – up to $10,000 (as of 1/1/2013)
Types of Settlements?

1. Stipulations with Request for Award
   Settles the extent and level of Permanent Disability and leaves open future medical care provision

2. Compromise and Release
   Settles the entire aspect of the claim – Permanent Disability, Temporary Disability, and future medical care
Medical Providers

- Maintain close communications with the medical provider
- Request work status after each visit
- Provide job descriptions with essential functions of job
- Discuss your return to work program and work together on each RTW plan
  - Job Analysis/Work Abilities/Functionality
Injured employee – will they ever return?

4 weeks – **90%** chance of returning to work
6 months – **50%** chance of returning to work
12+ months – **5%** chance of returning to work

**Productivity losses** are estimated at **double to triple** total workers’ compensation costs
Return to Work – Transitional Work Duty

• Transitional work duty is temporary alternative or modified employment for employees not able to perform their regular job

• Temporary work restrictions given by the treating doctor

• Advantages of transitional work:
  • Employee stays in a work routine
  • Provides work hardening
  • Eliminates the ‘disability syndrome’
  • Reduces indemnity and medical costs
Return to Work

• Developing a return to work plan should be interactive between the employer, the employee and the treating physician

• Important to maintain clear and concise documentation

• If an injured worker is given permanent work restrictions, follow same as above – determine if alternative or modified work can be provided (with reasonable accommodation)

Note: for any complex employment related issue, seek advise from an employment or labor law attorney
Rest when you’re weary
Refresh and renew yourself, your body, your mind, your spirit.
Then get back to work.

— Ralph Marston
Accident Investigation

• Goal is to gather and document facts about the injury, identify cause(s) and implement safety controls to prevent similar injuries from occurring

• Identify any potential 3rd party liability- subrogation. Insurance company may have a right to recover partial or all claims they have paid against a 3rd party at fault who caused the injury

• All serious/catastrophic injuries or fatalities caused by work-related incident, contact and report to OSHA within 8 hours from incident or employer’s knowledge

• Department of Industrial Relations website – https://www.dir.ca.gov/title8/342.html

• Cal-OSHA Enforcement Unit – https://www.dir.ca.gov/dosh/districtoffices.htm
Accident Investigation
Checklist

✔ Conduct investigation as soon after the injury as possible

✔ Preserve any evidence of 3rd party liability, i.e. photographs, damaged material/defective products

✔ Complete a written investigation report

✔ Obtain witness statements

✔ Provide copy of investigation to the claim adjuster
Required posters, notifications and claim forms: Pre Injury

WC Posters

• Notice to Employees – Injuries Caused by Work (DWC-7) State Poster

• Medical Provider Network (MPN) Notification Poster

Time of Hire Notices

• Time of Hire Pamphlet/Your WC Benefits/Pre-Designation of personal physician

• New Hire Notice for non-exempt employees of private sector employers – LC Section 2810.5

• Medical Provider Network (MPN) notification
**Required notifications and forms: Post Injury**

**Reporting a WC Claim**

- Workers’ Compensation Claim form & Notice of Potential Eligibility (DWC -1)
- Medical Provider Network Notification
- Employer’s Report of Occupational Injury or Illness (DWC- 5020)
Workers’ Compensation Claim Workflow

**Accident Occurs**
Medical Treatment Needed

- Emergencies: Call 911. Every serious injury, illness or death must be reported immediately to the nearest office of the California Division of Occupational Safety and Health
- Non Emergencies: Direct employee to designated medical facility, medical provider network or pre-designated physician
- Provide employee with work status to be completed by physician or request employee obtain work status from treating physician
- Contact clinic – provide name and contact info of injured employee, WC insurance info, and make sure they take WC injuries/claims

**Investigation And Claim Reporting**

- Conduct accident investigation to determine cause and any potential 3rd party liability
- Within 24 hours of notice of claim, provide injured employee with the Workers’ Compensation Claim Form & Notice of Potential Eligibility DWC-1 form and the MPN notice (if applicable)
- After employee completes the employee section of the DWC-1, employer completes the form and send to the carrier/third party administrator
- Within 5 days of knowledge of injury, complete the Employer’s Report of Occupational Injury or Illness DWC-5020 form and send to carrier or third party administrator along with any accident investigation report

**Return to Work And Claim Resolution**

- If physician gives the employee work restrictions, create a return to work plan with the employee. Provide written modified/alternative duty offer letter to employee and send to carrier/TPA
- Maintain communications with the claim adjuster on employee’s work status (i.e. full duty release, modified work, etc.), when claim reaches permanent and stationary or medical maximum improvement status, any permanent disability and when claim is ready to be settled or closed
Resources

• ABD’s Workers’ Compensation Claim and Risk Control Informational Packet for California Employers

• Glossary of Workers’ Compensation terms

• State of California – Department of Industrial Relations, Division of Workers’ Compensation: www.dir.ca.gov/dwc

• State of California – Department of Occupational Safety and Health: www.dir.ca.gov/DOSH
What’s Next?

July – Integrating wellness into your Injury & Illness Prevention Program

October – WC 201 Employer strategies for controlling workers’ compensation costs
Questions?

View links to the resources in the presentation at http://pages.theabdtteam.com/WC101Seminar42214_Documents.html
Thank You!

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