

INSURANCE BULLETIN

BULLETIN #7

Fighting Fraud in Workers' Compensation Insurance

CNA and the PLANET Safety and Risk Management Council are proud to provide you with this information. We trust that you will find it useful in understanding the insurance and risk management issues associated with your business.

The dictionary defines fraud as a deception deliberately practiced in order to secure unfair or unlawful gain. Fraud in insurance has undoubtedly existed since the industry's beginning in the seventeenth century, but it received little public attention until the 1980s.

Law enforcement agencies had other priorities and were reluctant to provide the training needed to investigate and prosecute cases of insurance fraud. There is a fine line between investigating suspicious claims and harassing legitimate claimants, and some insurers were afraid that a concerted effort to eradicate fraud might be perceived as an anti-consumer move. In addition, the need to comply with the time requirements for paying claims imposed by fair claim practice regulations in many states often makes it difficult to fully investigate suspicious claims.

Workers' compensation is a "no-fault" method of paying workers for medical expenses and wage loss due to on-the-job injuries. No matter the cause of the work-related injury, it is automatically covered by workers' compensation statutes.

Over the years, workers' compensation fraud has become one of the leading factors contributing to the rise of insurance premiums. However, there are indications that fraudulent claim activity may be on the decline as increased anti-fraud activity on the part of fraud bureaus and insurance carrier Special Investigation Units (SIU) have resulted in more prosecutions. Successful fraud prosecution not only prevents future fraudulent activities by individuals who would otherwise be repeat offenders, but news of successful prosecutions also acts as a deterrent to others who may be contemplating submitting fraudulent workers' compensation claims. From a cost-benefit standpoint, SIUs save their companies about \$10 for every \$1 that is invested in them.

According to the National Insurance Crime Bureau (NICB), the most common workers' compensation fraud schemes include cooperating with dishonest professionals to collect benefits for exaggerated or non-existing injuries; working a second job while collecting workers' compensation benefits from another employer; and claiming a non-work related injury was sustained on the job to collect workers' compensation benefits.

Public attitude is a critical component of fraudulent claims. One opinion poll showed that one in 12 adults think it is acceptable to file a workers' compensation claim for an injury that occurred at home and another six percent indicated they would file a claim for a home injury if the employer did not provide health insurance. Even worse, one in 20 adults say they would cooperate with lawyers and doctors to file false or exaggerated claims!

The best way for a business to control their workers' compensation costs is to control the frequency of all insurance claims, legitimate and fraudulent. A well-orchestrated safety program and a zero tolerance for fraud strategy should be the standard practice for all businesses. The following tips can help businesses reduce workers' compensation fraud.

Preventing Fraud

The Zero Tolerance Approach to Fraud

- Screen employees before you hire them. Verify the information of job applicants and check their references. Candidates who misrepresent information on applications may be more likely to commit insurance fraud.
- Provide all new hires with a written statement of your company's workers' compensation policies and a separate statement concerning safety. Update these at least once a year.
- Use a fraud prevention employee exit interview. When possible and where allowed by law, have terminated employees sign a form attesting that they have not been injured in your workplace to reduce any exposure to future claims.
- Display fraud awareness and prevention posters in the workplace, as well as the NICB hotline number: 1-800-TEL-NICB.

Identifying Fraud

Common Indicators of Workers' Compensation Fraud

- First report of injury is substantially delayed or the incident is not reported in a timely manner.
- Injured worker is disgruntled or about to be fired or laid off.
- Injured worker is in seasonal work that is about to end.
- Injured worker takes more time off than the injury seems to warrant.
- Injured worker is having financial difficulties.
- Accident occurs late Friday afternoon or when the worker returns on Monday.
- The alleged accident is not witnessed, or there is a lack of corroborating witnesses.
- The alleged accident occurs just before a strike or layoff or near the end of a probationary period.
- Diagnosis is inconsistent with treatment and doctors' reports include information contrary to the employee's report.
- Changes are made in the employee's description of how the injury occurred.
- The circumstances surrounding the alleged accident, as explained by the injured employee, seem to be inconsistent with the work environment.
- The details of the alleged incident are vague.
- The employee has a history of filing workers' compensation claims or a history of unstable or short-term employment or substance abuse.

No one indicator by itself is necessarily suspicious. Even the presence of several indicators, while suggesting possible fraud, does not prove that fraud has definitely been committed.

What To Do When Fraud Is Suspected?

If you doubt the validity of a reported injury or any circumstances surrounding it, all information should be brought immediately to your insurance claim representative's attention.

In accordance with applicable laws and regulations, your insurance carrier should then carefully determine coverage, thoroughly investigate claims, and promptly and fairly pay meritorious claims or vigorously defend claims without merit.

It is important to remember that the initial written claim report should indicate that an injury is "alleged" by the employee. Do not report an alleged injury as an actual injury. Any speculative information that raises questions of compensability or employee honesty should always be provided separately from the initial written claim report.

If you want to question a claim, your claim representative will discuss the pros and cons with you to determine the best course of action. Then, when a claim is questioned, a more in-depth investigation will be required. This could include an independent medical examination, a poll of other employees for information or in extreme cases, a lawful surveillance of the employee's routine activities away from the job.

As stated before, proving fraud is difficult, and it is a problem that insurers constantly grapple with. State laws often complicate thorough investigations of suspected fraudulent claims. In most states, insurers have two weeks to start paying workers' compensation claims, and that is not a lot of time to thoroughly investigate a suspected fraudulent claim.

Generally, if an insurance company denies a claim, the incident may then be reviewed by the applicable workers' compensation industrial commission. If the claim denial is upheld, the employee has a specific time period, which varies by state to appeal the decision before the industrial commission appeal panel. If the hearing again upholds the claim denial, the employee is still allowed to file an appeal with the civil court. Appeal procedures also vary by state.

Although the insurance industry has done studies that indicate that the majority of workers' compensation claims are valid (statistics show that about 90 percent are valid), if you suspect something might be wrong with a particular claim, you should contact your insurance carrier to ascertain its desire to identify, investigate and defend against potentially fraudulent claims.

Fraud is a significant problem in workers' compensation insurance. It drives up the price you, the employer, pay for insurance and may hamper your ability to compete in the marketplace. Higher workers' compensation insurance costs can result in lower company profits and higher costs of doing business and a need to reduce operating expenses through layoffs or salary reductions. Since your employees will be affected by these business decisions, they need to partner with you to recognize and discourage attempts to commit fraud.

Since 1983, CNA has partnered with PLANET to provide a business insurance program that offers comprehensive risk control (safety) services, expert claim handling and property/liability insurance coverages designed specifically for landcare professionals. So when your business is insured with the CNA/PLANET program, you'll have peace of mind knowing it's a program your association helped develop. Give us an opportunity to earn your business – ask your insurance agent to obtain a quote from CNA and discover how you can benefit from this partnership.

For more information, contact your local independent agent or visit www.cna.com.

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