

# HOW TO CONTROL WORKERS' COMPENSATION COSTS

## The cost that can put you out of business

*Editor's note: I have been in contact with Phil Perry for many years. Phil is based in New York City and is an excellent writer who often addresses key business issues for small companies. His byline has appeared more than 3,000 times in the nation's business press. We hope his insights in this article will help you control this critical business expense.*

By Phillip M. Perry

Every door and gate company wants happy and healthy employees. When workplace accidents occur, it's critically important to help the injured to recover and return to their jobs as quickly as possible. Workers' compensation insurance plays an essential role by paying for medical treatment and protecting employers from civil lawsuits.

### Workers' compensation costs, if not managed well, can put a company out of business

What's good for employee health, though, can be bad for your bottom line. If you experience too many workplace accidents or fail to identify and deal adequately with fraudulent claims, escalating premiums will take big chunks out of your profits.

"Workers' compensation costs, if not managed well, can put a company out of business," warned Jeffrey Adelson, general counsel and managing partner of Adelson, Testan, Brundo, Novell & Jimenez, Santa Ana, Calif.

#### Capping costs

When premiums get too high, it's natural to consider dropping coverage altogether.

Unfortunately, that's not an option.

"Employers who do not carry workers' compensation insurance are breaking the law," said James Moore, president of J&L Risk Management Consultants, Raleigh, N.C. "They are also flirting with bankruptcy, which may well be the only way out if they are hit with a big civil

lawsuit. To go bare and hope that something doesn't happen is to chase fool's gold."

The good news is that employers have been taking steps to bring expenses under control. "Workplace safety has been improving, and injuries have been declining in many states in recent years," said Peter Burton, senior division executive for state relations at the National Council on Compensation Insurance (NCCI), Wayne, Pa.

There's also been a moderation in medical costs, thanks largely to the use of more economical outpatient treatment. The net result has been downward pressure on insurance bills.

"The general trend in workers' compensation premiums seems to be static or slightly lower," said Randy Sieberg, president of Workers' Compensation Consultants of Columbia, Mo.

There's one more reason for rate stabilization: workforce participation. "As the economy has picked up in the past few years, more people have entered the workforce," said Daniel Free, president and general counsel of Insurance Audit & Inspection, Indianapolis, Ind. "That creates a larger labor pool, which has helped stabilize costs."

#### Retail risks

Of course, conditions vary by state and employer. How can you control your own workers' compensation bills? Nothing does a better job than improving safety.

"You need to do whatever you can to reduce the number of accidents and injuries," Burton said. The reason is that premiums go up most quickly for those employers who experience a high number of claims. That means a workplace full of people who get back injuries will drive costs up more than will a single expensive car accident.

Accident rates affect your company's "experience modification," which is the factor

by which a business's premium varies from the norm for its industry and state.

"If you have fewer injuries than normal for your type of business, you will get a credit in the form of a lower modification applied to your premium," Burton added. "If you experience a higher number of injuries than normal, your modification, and thus your premium, will be higher."

#### Reducing accidents

To control your own accident rate, train your employees on safe work habits. "Staff training can be especially important at retail businesses, where there is often high turnover and new people coming in all the time," said Moore.

Be especially vigilant about areas of your store and warehouse where people move from one area to another.

"The risk of a slip and fall is high in such places, especially if people are carrying things like cartons of inventory," Moore said. "Make sure the steps are well marked and lighted. And reduce the slipperiness of steps by using what is called 'anti-slip' or 'sandpaper' tape.

### Employers who do not carry workers' compensation insurance are breaking the law

That can really reduce the chance of accidents by adding roughness to the floor."

High shelves in the warehouse can pose special problems. Provide quality ladders for employees who need to retrieve merchandise from upper shelves. Train your employees on good safety habits, including how to walk down stairs with a box in their hands and how to step off ladders.

Also train workers to spot and reinforce stacks of door sections or boxes that look insecure. "Sometimes employees try to get



something off a shelf or stack and end up creating a precarious situation for someone else,” said Free.

### Cost-saving tips

Here are some other tips for door and gate companies.

- Teach warehouse employees about safe lifting techniques and provide back braces.
- Install sufficient lighting in all areas of the store and warehouse.
- Make sure the plumbing is working well so people do not slip on water.
- Make sure employees take appropriate work breaks.

While the ideas listed above will go a long way toward reducing costly accidents, the fact remains that every workplace is unique. Keep

**Avoid the temptation to turn your head the other way when you see dangerous conditions**

your own eyes open for unsafe conditions and practices. “Avoid the temptation to turn your head the other way when you see dangerous conditions,” said Adelson. “Take action to resolve them.”

Finally, when an accident does happen, look upon it as a learning experience. Determine its cause and institute procedures to prevent similar events.

“Get together with your employees and talk about steps you can take to increase safety,” Sieberg said. “Write them down in a manual and have everyone sign off on it. When you take steps like this, your insurance carrier will see you as a more desirable risk.”

### Reduce fraud

Call your insurance broker to report injuries as soon as they occur. Not only is it a crime to fail to report injuries, but delay often results in additional medical costs.

“The longer a case stays open, the higher the medical expenses, which are the biggest driver of workers’ compensation costs,” said Adelson. “Reporting an injury right away will

help your carrier in containing medical costs and will help get the injured employee back to work with the least delay.”

Early reporting can also help increase the chances of uncovering a fraudulent claim, because evidence is easiest to gather immediately following an accident. If you do suspect fraud, start your investigation right away.

### Ask the right questions

“Investigate in a non-threatening and non-emotional manner,” Adelson said. He suggests starting with relevant questions such as these: Why was a Friday afternoon accident not reported until Monday morning? Did the accident occur in a part of the building where the person had no business? If so, maybe they were not really performing their assigned duties. Do you have cameras that might have recorded the accident? Did anyone witness the injury?

Ask for assistance from your insurance company, Adelson suggested. Most carriers have special investigation units that can help assess fraud. They can also provide you



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with handouts or posters that explain the seriousness of bogus claims.

You can help reduce the incidence of fraud by treating people well. "Develop a fair, honest workplace culture," said Adelson. "Unhappy and bitter people who don't value their jobs are going to file claims and take them all the way. People who respect their employers and workplaces will want to get back to work quickly."

### Shop smart

While a safe workplace is the best way to control workers' compensation costs, you should also select the right insurance providers. "You want a broker who understands your business, who works with you on the front end to avoid injuries, and who will advocate for you when you have an issue with your carrier," Adelson said.

"Suppose you believe a certain claim should be investigated for fraud, and your carrier balks at doing so," Adelson said. "You run the risk of a fraudulent claim leading to a higher premium at renewal time unless your broker steps in and

urges the carrier to investigate."

Don't pick an insurance carrier solely on price. "Ask your broker to suggest a company that will give you sound advice about avoiding losses and minimizing risks," Adelson added. "Ask if the carrier will perform ergonomic reviews and educate you on what to do when accidents or injuries occur. And find out if the carrier maintains fraud departments that can help you investigate questionable accidents."

### Find the best carrier

You might first approach so-called "multi-line" carriers who also sell insurance in other categories such as property, general liability, and automobile. However, many



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## The workers' compensation partnership

Workers' compensation insurance is a two-way street. Employees are covered for medical expenses following an accident, and employers are protected against costly civil lawsuits.

In some states, reimbursement might be denied if injuries are intentional or the result of intoxication or drug use. Check with your attorney on how your own state handles these issues.

While employers cannot generally be sued by injured workers, some states allow employees to sue for what is called "serious and willful misconduct." That refers to employer behavior that goes beyond mere negligence and is so wanton that the employer should have known an injury might occur. An example might be deliberately removing ergonomic improvements to employee equipment.

Employers can also be sued for what the law calls "retaliatory discharge," a term that refers to the termination or punishment of an employee who has filed a workers' compensation claim.

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such companies have been exiting the workers' compensation market because the low interest rate environment makes it hard for them to make up any losses with profits from other lines.

That leaves "single-line" carriers who specialize in workers' compensation. Beware, though; many of these have become more selective in their clientele, favoring only those employers who have a history of risk control and claims management.

Shopping your coverage can be a smart way to cut costs, and your broker should be able to suggest additional channels. "Look into Professional Employment Organizations (PEOs)," suggested Moore. "Many of them are accustomed to handling smaller accounts with higher risks. They also provide other fee-based services, which often allows them to provide workers' compensation insurance at a more economical price. Finally, they might be willing to take on employers that might be rejected by insurance carriers."

Employers who are turned down by insurance carriers are forced to use the state pools, where premiums may run up to 25 percent higher than those in the private sector. Service may also be less than optimal. For example, there may be no one who will run an ergonomic review to help you reduce injuries.

### Keep in touch

No one wants to experience the pain and cost of an accident, but the experience can be mitigated by an understanding employer. "Once an

accident occurs, stay in close contact with the injured worker," Burton advised.

## Good management is usually a matter of mitigating rather than avoiding losses

He added, "Helping workers get back into employment as quickly as possible is an excellent way to help reduce expenses that may lead to premium hikes." That's because the employee who returns to work will be collecting less compensation from the carrier, not only for lost salary but also for medical expenses.

Employees are likely to be enthusiastic about any program that gets them back to work early. That's because they will be compensated at their normal salary rather than at the partial level mandated by the workers' compensation system. Bear in mind, too, that adjusters will suspend the workers' compensation claims of those employees who refuse offered positions, even if those positions are for less-demanding duties that the employees don't normally perform.

One final tip: Don't take claims personally. "Understand that every employer is going to face an occasional workers' compensation claim," Adelson said. "Good management is usually a matter of mitigating rather than avoiding losses." ■

## Future shock: Beware these cost drivers

Workers' compensation premiums may increase in the years ahead. One reason is the rising cost of health insurance and the change in employee cost participation.

"An employee who has a \$5,000 annual health care deductible might be more inclined to attribute an injury to workplace duties," said Daniel Free of Insurance Audit & Inspection, Indianapolis, Ind. Drug prices, too, can play a role. "As drug prices go up, insurance companies may try to recover their higher costs through premium hikes."

Another potential cost driver is the recent trend toward legalization of marijuana use. There are bound to be questions as to whether injuries arose from workplace conditions or from cognitive impairment resulting from marijuana use.

Finally, state regulators can make changes that affect premiums. Stay alert to your state's proposals for increases in benefit levels, additions to the list of compensable injuries, or new entries to drug formularies. You can do so by monitoring the website of your state's department of insurance.

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