



Leaderschoice
INSURANCE SERVICES

Leaders News Alert

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Workers' Comp

What's Behind Rate Hike Trend, and What's Next

ALTHOUGH SOME encouraging news came out in late February that at least one part of the workers' comp reforms has succeeded in reducing some costs, overall the trend continues to be one of increasing rates for the foreseeable future.

Despite benchmark rates climbing about 7.6% for Jan. 1 from a year earlier, rate increases are averaging closer to 10% for many employers. There are a number of reasons for the increases: continually increasing costs in the system, and fewer insurers in the marketplace as some players have pulled back their horns or left the market altogether.

Additionally, many insurers are severely limiting the scheduled credits on policies, and many have implemented territorial rating, where geography affects the rates employers pay (see box on right).

The average rate that insurers charge has increased 33% since workers' comp premiums hit a trough in 2009, when the average rate was \$2.10 per \$100 of payroll. During the last measure (the nine months ended Sept. 30, 2013), the average rate had hit \$2.81.

But rates overall are still relatively low,

compared to 2003, when they hit a high of \$6.29 per \$100 of payroll (120% more than today's rates).

This has all taken place against a backdrop of increasing claims costs as well as injured workers filing claims with increasing frequency.

Increasing claims frequency (defined as the number of claims filed per 1,000 workers) has been most pronounced in the Los Angeles area.

In 2010, claims frequency in the L.A. area shot up 8.3% from the year prior, compared to 4% in the San Francisco Bay Area and 6.1% for all other regions of the state. In 2011, frequency leveled off, followed by another year when frequency shot up nearly 8% in the L.A. area while dropping in the rest of the state, according to preliminary data.

Based on figures from the Rating Bureau, the claims costs and the cost of administering claims shot up dramatically in 2007 and continued into unprofitable levels for insurers from 2009-2011. In 2012, cost increases started subsiding, and it remains to be seen if recent workers' comp reform laws will have any effect in further reducing claims costs.

Territorial Rating 101



Many insurance carriers change their rates based on territory in this manner:

- L.A. Area: +15%
- Bay Area: -6% to -10%
- Rest of state: -3% to -10%

What's ahead

The next shoe to drop, hopefully in your favor, is the possibility that reforms that took effect in 2013 start showing some results. There are some early indications that reforms limiting the maximum fees that can be paid to ambulatory surgery centers have started cutting into some claim costs. For right now, though, the jury is still out on the full effects of the law.

And based on recent insurer rate filings, rates are likely to continue increasing through this year. We will monitor the rate environment and keep you up to date in this newsletter. ❖

Why Claims Frequency Is Increasing



- 1) Increases in cumulative injury claims (where one injury from a prior workplace incident aggravates or is aggravated by a new workplace injury).
- 2) Increases in smaller noncumulative injury claims that may have been reported as medical-only in the past.
- 3) Increases in the percentage of claims that include indemnity benefit payments to injured workers.
- 4) More claims being reported late.

Source: Workers' Compensation Insurance Rating Bureau

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Affordable Care Act

Employer Mandate Delayed Again ... Until 2016

THE TREASURY Department has once again postponed by a year the requirement that “large” employers with 50-99 workers provide coverage for their employees.

Under the new and final rules, employers with 50-99 employees will not face a \$2,000-per-employee fine if they don’t extend coverage to their staff next year, as initially mandated by the Affordable Care Act. The provision was extended until 2016.

Those that claim the exemption must certify under penalty of perjury that they did not reduce their workforce to fewer than 100 employees in order to qualify.

Also, the final regulations state that employers with 100 or more employees will not be liable for the law’s \$2,000-per-employee penalty in 2015, so long as they extend coverage to at least 70% of their full-time workers. That’s compared with a requirement for 95% of full-time (those working at least 30 hours a week) or full-time equivalent workers. That provision too was delayed until 2016.

Phasing in the mandates will help “employers that, for example, may offer coverage to employees with 35 hours or more hours, but not yet to that fraction of their employees who work 30 to 34 hours,” the Treasury Department said.

Currently, there is a bipartisan drive in Congress that would change the definition of a full-time worker, which is someone who works 30 or more hours a week under current law.

The final rules also address other personnel, including seasonal employees: workers whose customary annual employment is six months or less generally will not be considered full-time employees. The regulations define “seasonal worker” as a one who performs labor on a seasonal basis and retail workers employed exclusively during holiday seasons. The final regulations do not indicate specific holidays or the length of any holiday season for this purpose. ❖



California’s 60-Day Rule Full of Pitfalls for Employers

UNDER THE regulations promulgated by the Affordable Care Act, employers that offer group health coverage to new hires must do so within 90 days of them being taken on.

But starting this year, under California law, as employers’ annual anniversaries occur, the maximum waiting period for group health plan participation is only 60 days. That means if your business is like most companies, you’re going to have to change your internal policies to comply with the law.

The main challenge will be reconciling with the law your probationary period policy for new employees, which for most firms is 90 days. While you can still have a 90-day probation during which you evaluate a new employee’s performance, you will have to extend health care benefits after no more than 60 days of hiring.



Strategies

You may want to prepare for the administrative procedures that will be required if you extend health care benefits at one date, and hold off on accruing paid vacation or paid holidays until after 90-day probationary period. Just to be on the safe side, many employers in the Golden State have begun commencing benefits on the first day of the month following 30 days of employment.

Another option is to reduce your probationary period to 60 days to maintain synchronization of the two.

The takeaway

Make hiring decisions carefully, and if you feel someone is not working out, document the problems and move them out of the job as soon as possible.

If you keep them past 60 days, it’s going to create a paperwork nightmare as you’ll have to offer, pay for and then cancel coverage.

Whatever option you choose, put into place procedures for evaluating new hires more quickly, preferably within the first 30 days, rather than waiting a full 90 days. ❖





Workplace Safety

OSHA Publishes Pamphlet on Texting while Driving

“It is well recognized that texting while driving dramatically increases the risk of a motor vehicle injury or fatality. We are asking employers to send a clear message to workers and supervisors that your company neither requires nor condones texting while driving.” – David Michaels, Assistant Secretary, Occupational Safety and Health Administration

FEDERAL OSHA has issued a downloadable pamphlet on the dangers of texting while driving that employers can hand out to their staff. The safety brochure is designed to bring awareness to a workplace danger that is putting millions of Americans who drive on the job at risk every day.

And as texting becomes more widespread, that risk continues to grow despite an increase in the number of states banning the practice.

You should know that as a business owner or manager it is your legal responsibility under the Occupational Safety and Health Act to try to provide the safest working environment for your workers, including those who drive.

That means not only laying down safety rules but also enforcing them in your company's injury and illness prevention plan.

This holds true whether they drive full-time or only occasionally to carry out their work, and whether they drive a company vehicle or their own. When your workers are behind the wheel doing your company's work, their safety is your business.

It's key that you establish workplace rules regarding texting while driving. If OSHA receives a credible complaint that an employer requires texting while driving or organizes work so that texting is a practical necessity, it has promised to investigate and will issue citations and penalties where necessary to end this practice.



The dangers of distracted driving are many:

- Distracted driving crashes killed more than 3,000 people and injured 416,000 in 2010.
- Reaction time is delayed for a driver talking on a cell phone as much as it is for a driver who is legally drunk.
- With each additional one million text messages, fatalities from distracted driving rose more than 75%.
- Studies show that drivers who send or receive text messages focus their attention away from the road for an average of 4.6 seconds. At 55 mph, this is like driving the length of a football field blindfolded.

OSHA can help

OSHA has created a distracted driving web page (www.osha.gov/distracted-driving/index.html), which includes a number of resources for employers, including:

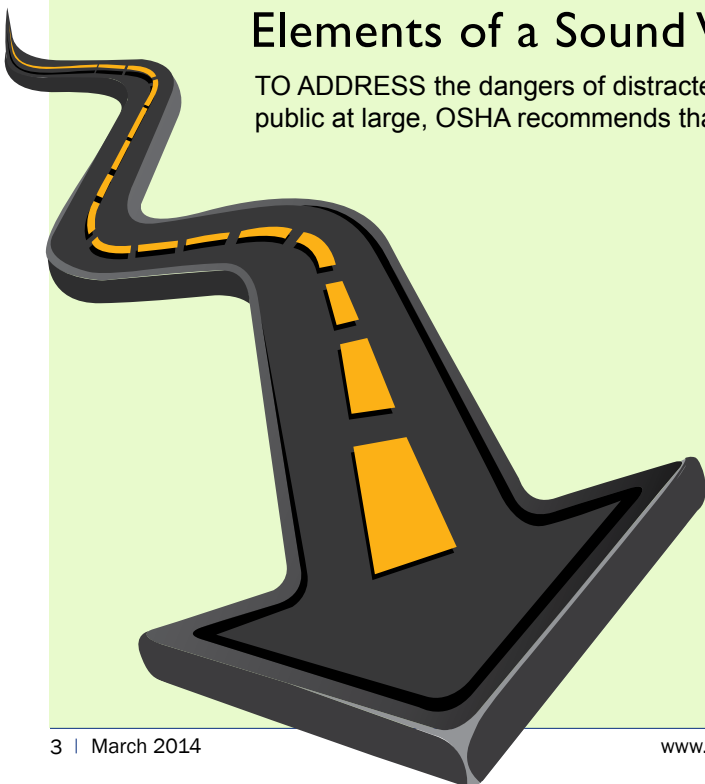
- A model policy to use or adapt for your business
- Information about how employers are combating this hazard
- Educational materials

OSHA also has a consultation program with free and confidential advice, on-site consultation and assistance with identifying workplace hazards and advice on compliance with OSHA standards. ❖

Elements of a Sound Workplace Distracted Driving Policy

TO ADDRESS the dangers of distracted driving, which puts at stake the lives of your employees and the public at large, OSHA recommends that you:

- Explicitly prohibit texting while driving. OSHA encourages employers to declare their vehicles “text-free zones” and to emphasize that commitment to their workers, customers and communities.
- Establish work procedures and rules that do not make it necessary for workers to text while driving in order to carry out their duties.
- Set up clear procedures, times and places for drivers' safe use of texting and other technologies for communicating with managers, customers and others.
- Incorporate safe communications practices into worker orientation and training.
- Eliminate financial and other incentive systems that encourage workers to text while driving.
- Prohibit your employees from also eating while driving on the job.
- Install or let your staff borrow a GPS if they are driving to locations they are unfamiliar with.





Employee Benefits

Wellness Programs Can Cut Workers' Comp Costs

WHILE THE benefits of a corporate wellness program on employee health are widely known, there is growing evidence that such programs reduce the duration of workers' comp claims, and potentially prevent injuries from occurring in the first place.

Multiple studies illustrate that personal health risk factors can have a significant influence on workers' compensation claims.

According to one report, employers like Harley Davidson, Northwestern Mutual Life Insurance Company, Schneider National, Kohler Company, Kimberly Clark and Trek Bicycle have found that investment in on-site training facilities pays off for their employees in terms of lower worker's compensation claims and health insurance claims.

Companies interviewed noted that such training facilities reduced the number of on-the-job injuries, partly from attention given to fitness and preventative health care.

A project conducted by the University of Michigan Health Management Research Center found that employees with high health risks tended to have the highest workers' compensation costs.

The university focused on Xerox Corporation, one of the earliest adopters of corporate wellness initiatives, and found that over four years workers' compensation costs increased for those employees whose health risks were increasing or high already (e.g., smoking, physical inactivity, hypertension, high cholesterol, and life/job dissatisfaction).

There is also something to the notion of treating your employees like professional athletes, and that means going through their main routines during the workday to ensure they perform them without injury.

For example, they should learn proper lifting techniques, proper sit-

Obese Claimants Lose Work Time

Injured workers who are obese incur more medical costs and are away from work recovering 13 times longer than non-obese workers.



Source: National Council on Compensation Insurance

ting posture – and even how to safely get in and out of a vehicle.

And lest you think that your office workers who sit almost all day are not subject to injury, think again – that sedentary work can also lead to injuries. Exercise is especially important to workers who sit all day long. It helps to improve strength, flexibility and circulation.

In the same vein, employees need to learn proper nutrition and many wellness programs include this dietary counseling.

Hydration and nutrition are equally important to workers as for athletes. Athletes drink throughout their practice.

Likewise, employees should drink throughout the day. It also will make them get up frequently to take bathroom breaks, which means they get their blood flowing.

So what can you do?

Proactively engage your human resources and employee benefits personnel to better understand the scope and breadth of existing corporate wellness initiatives, as well as how the organization is tracking the effectiveness of those programs.

Determine how your insurer and/or third-party administrator is capturing data on comorbid factors in workers' compensation claim files, and how that information can be incorporated into effective analytics.

Collaborate with internal safety, health and environment professionals (if possible) to discover how best to integrate employee wellness with workplace safety.

And consult with us on how best to capitalize on synergies between employee wellness and workers' compensation.

The takeaway

Effective corporate wellness initiatives have shown to be successful in not only reducing the duration of lost-time workers' compensation claims, but also in promoting healthy behaviors that potentially inhibit unsafe or inattentive workplace behavior.

If you have not done so, you should consider offering your staff an employee wellness program, as it helps them improve their health outlook. ❖

Office Workers' Prone to Injury

Exercise is important to workers who sit all day as it improves strength, flexibility and circulation.



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