

W.C Claims Management Best Practices- The Critical Path

Aside from variable and fixed operating expenses of a third party payor, the major cost of Workers' Compensation premiums arise from the claims expenses and the loss costs. State rates and state advisory loss costs provide a guideline or average "loss pick" for homogenous hazard classifications and these losses are based on incurred losses (paid losses plus any reserve).

The rates (defined as the pure loss cost plus the average of Premium) may therefore be controlled by managing carrier expenses, the cost of the claims and the final paid losses of the claims.

Claim Mechanics

The claims administration is a misnomer and in itself belies the lack of urgency and necessity for expediency in processing a claim. The term "administration" is descriptive of a standardized series of steps that is a specific means to an end. Cost-effective claims processing or handling is less administrative as it is a critical path of timed, deliberate actions that will control and define the outcome irrespective of an unsympathetic WC Board judge, a contentious and deceptive claimant or a series of disingenuous medical providers.

The Bi-furcated Claims Process

The general claims adjustment process provides for an adjuster that maintains the production of a claims file. Duties include gathering the First Report of Injury, any witness statements, medical information including diagnosis, prognosis and quantification of any residual loss of use. The adjuster will handle the carrier's (employer's) checkbooks and voucher out the payments to claimants (indemnity of lost wages or scheduled loss of use awards proscribed by the WC Law) payments proscribed to the claimant and claimant's attorney by the WC Board, payments to service providers (defense counsel, independent medical examiners, case managers, utilization review nurses, surveillance/private investigation services and infrequently, structured settlement providers).

The collateral, parallel function when a claim is litigated is handled by defense counsel, often termed "the legal department" by the adjusters themselves.

The Critical Path®

Claims costs are dramatically increased or reduced along the path to a final, closed claim depending on where the path is followed. Deviating from the path in terms of timing or task will increase costs in the following typical claim profiles:

- 1) The medical payment only claim- This claim is usually the simplest to facilitate closure and costs associated with a claim file. The first report of injury may indicate no lost time and the medical diagnosis indicates no residual trauma. This claim is closed. However, in practice, many adjusters will not review the claim for up to three years after the final payment. Experience rated policies may reflect reserves greatly in excess of the paid amount.

- 2) The indemnity claims that remain open for lifetime payments to the claimant- these claims invariably are open with the adjusters' notes reflecting the claimant's reluctance or outright refusal to settle. All aspects of finalizing a claim payment may be met with a lump sum payment or a lifetime weekly or monthly payments to the claimant.
- 3) Failures to investigate or request surveillance – many claims are reported week, months or years after the alleged date of accident. This fact should alert the adjuster to supportable evidence regarding the occurrence and the availability of witnesses and prior employer's records. Missing or unsupportable facts should be researched through medical records and employment records and if insufficient on their face, the file requires verified claimant profiling – current address, current employment and manifestation of alleged injuries through investigation and surveillance.
- 4) Failure to investigate claimants' identity leads to claim payments based on fraudulent medical records, employment records and payroll records. Benefits are generally premised on an average weekly wage. Miscalculating though either incorrect information or incorrect arithmetic produces a potential pitfall in the inaccurate benefit payments to the claimant.
- 5) Claim validity – employee status at the date of the injury? Was the injury in the scope of claimant's employment? Was the Statute of Limitations tolled? Was there concurrent employment?
- 6) Applying for third party recoveries, apportionment or credits is critical to reducing the allocation of claim adjudicated claim costs. This portion of the claim file must be assigned regarding the responsibility for a final determination. Up to sixty-six per cent may be recovered though filed liens and worker's compensation board hearing requests regarding contribution to a loss based on prior employment.
- 7) Defense strategies and adjuster file availability – Is the attorney or representative briefed for the WCB hearing? Has the file been reviewed? Are the affidavits, medical records, IME's, witnesses, expert and surveillance reports, and statutory forms completed and accessible? Were subpoenaed documents from opposing counsel received and reviewed and available?

Claim information must be accessible, updated and available 24/7 to all parties involved in the claim process. Adjusters must have a back up safety net to catch error, omissions and avoid unintentional mishandling of a claim though skilled supervision. The Critical Path is a "Best Practices" system that provides the benefits to be derived in claims costs.