WORKERS COMPENSATION CLAIMS OVERVIEW: PART I

by Monte Gale, JD, CPCU

> *"Value-added" services can go far to help agents get, and keep new business. In this two-part article, Monte Gale focuses on techniques for keeping Workers Comp costs — and your clients' premiums — under control.*

Unfortunately, many insurance carriers don't spend their Workers Compensation claims dollars judiciously. After 17 years of experience, National Risk Services has found that carriers overpay Comp claims by a *minimum* of 20%, over an entire claims portfolio — leading to higher premiums. This two-part article will examine the causes of the problem and recommends solutions for carriers, agents, and insureds.

THE PROBLEM

Overpayment of Comp claims stems from a number of basic mistakes, including:

- Payment of non-compensable, fraudulent claims (no coverage for the injury, claimant not employed at the time of loss, etc.), with incomplete or ineffective fraud investigations often compounding these losses;

- Ineffective use of loss adjustment dollars through misusing case management techniques;

- Payment of claims when the carrier fails to investigate and discover such other sources of payment as second injury funds, social security and/or other federal or state disability programs; and

- Inability to close large claims in a timely and economical way, due to underutilizing structured settlements.

THE SOLUTION

To reduce its claims expenses, generate superior returns, cherry-pick the risks that it's willing to underwrite, and help keep Workers Comp premiums under control, carriers can use these "best practices" methods:

1. **More Aggressive Fraud Investigations**

   NCCI estimates that one in five Workers Compensation claims involve fraud. Unfortunately, budget restrictions prevent many carriers from completing Investigations of suspected fraud. In all too many cases, a company spends money on a cursory probe that leads to payment of a fraudulent claim — with both activities driving up the company's claims costs.

A company’s investment in aggressive investigations to root out fraudulent claims will reduce overall claims, as well as helping deter future scam artists.

2. **Improved Control over Case Management**

The case management approach focuses on communication between injured employees, employers, insurers, and physicians to reduce indemnity payments by minimizing lost work time and evaluating prescribed treatments. Case management differs from claims adjusting in that it centers on medical treatment and rehabilitation. Specialized firms usually provide these services, which are an additional claims expense for carriers.

Some carriers apply case management, in varying degrees, to all claims and even conduct reviews on non-compensable claims (before doing a proper analysis). Overuse of case management reviews can increase the total payout on a claim by as much as 15% to 20%.

To minimize these overpayments, and optimize the effectiveness (and cost) of case management, the company should establish and follow protocols for this system.

3. **Claims Payment Mitigation**

Many claims are overpaid because adjusters don’t investigate reducing payouts through other sources of compensation to the claimant. These alternatives include: verifying whether the claimant has taken another job; determining if Second Injury Fund relief is available; ascertaining potential state or federal disability claim offsets; investigating subrogation opportunities; and so forth. These issues can be straightforward (as in a death claim in which payments to minors can be halted when a child is age18 or 21 to 23 if enrolled as a full-time student, or more subtle (as in the remarriage of a widow).

The Company should, directly or through its vendors, review *all* claims for payment mitigation opportunities. Although these alternate resources might require additional time and effort to identify, the payback can be substantial.

4. **Structured Settlements**

Structured settlements use periodic, rather than lump sum, payments to compensate a claimant. The National Structured Settlement Trade Association estimates that carriers purchase between $4 and $5 billion worth of annuities a year for structured settlements. Such claims disposition offers an effective, rational settlement approach because it compels the parties to consider the future, rather than focusing on the emotions of the moment, while providing a cash stream that can meet the needs of the claimant more effectively

Using structured settlements can reduce the total amount of the payout for the carrier and expedite timely and economical closing of claims that might otherwise remain open indefinitely.

The second part of this article will focus on curbing Workers Comp payout costs through third-party claims administration, reserves, and petitions.

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