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SE·GA Workplace Consulting P.C.

ADVISOR NEWSLETTER

WSIB RED FLAGS

WARNING SIGNS: What to watch out for with WSIB claims!

The critical element of successful claims management is a return to work management system where employees are aware of their responsibilities and begin their modified work assignment as quickly as possible.

The majority of WSIB claims are routine; the employer is able to offer productive modified work to an engaged employee who transitions back to their regular duties within the expected healing time. These claims tend to be relatively low cost with a minimal absence from work due to the employee's workplace injury.

Claims become costly, very quickly, when employees are unable to perform modified work. For NEER employers claim costs increase ten-fold if a worker misses a sixth day of work due to the injury. For construction employers, the CAD-7 frequency count (on average $32,000) is charged against your company on day eight. It is absolutely critical that every employer has their workers engaged in a modified work assignment before these milestones are reached.

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*Many employees still feel entitled to the benefits of being "paid to stay at home". These are the **RED FLAGS** employers should look for to avoid a costly claim.*

THEIR DOCTOR SAYS THEY ARE OFF WORK!

A Doctor cannot tell an employer that the worker is to be "off work"; they can only tell an employer what the restrictions are for the injured worker. Once you have these restrictions, the challenge for the employer is to find the most productive modified work possible within those restrictions.

It may be painful to pay someone when it feels like they are "doing nothing", but that is much less expensive than the WSIB paying for them to stay at home.

***SE-GA** can perform the analytics to demonstrate the cost/benefit analysis of modified work.*

THE WORKER HAS DISAPPEARED!

Employees should have a clear understanding *(training, in their manuals, postings on the safety board, payroll stuffers)* of their obligation to participate in modified work. Every employee should know and understand that they are required to contact the office the day following their injury *(in person, or on the phone)* to discuss their modified work assignment.

If a worker does not contact the office, and the contact information you have is incorrect, the worker may be trying to avoid their responsibility.

THE ACCIDENT SEEMS FISHY!

- *No one witnessed the accident*
- *Medical services were sought after work*
- *The restrictions don't seem to align with the injury*

These are the circumstances where employers wonder if they should challenge the worker's entitlement to WSIB benefits. While entitlement is a very important issue, the employer should still offer modified work as if the claim were accepted by the WSIB.

Many workers still feel they are entitled to be off work due to a workplace accident. If a worker is aware that they will have to perform modified duties nonetheless, they are less likely to report a "phantom accident".

WSIB RED FLAGS

What to look for to avoid costly claims

THE SAME WORKER HAS MULTIPLE ACCIDENTS IN A SHORT PERIOD OF TIME / WORKER HAS AN ACCIDENT AROUND THE SAME DATE ANNUALLY

Much like the previous "RED FLAG" this may be indicitive of a worker who is seeking to be at home with Loss of Earnings benefits. In many instances such as these, the real issue is circumstances from outside the workplace that are motivating the worker.

YOUR EMPLOYEE REQUIRES SURGERY

Unfortunately some workplace accidents are so serious that the worker requires ongoing therapy, and in some cases surgery, to return them to their pre-accident capabilities.

It is possible for the employer to arrange the therapy to coincide with a productive work schedule. In cases of surgery it is recommended the worker participate in the job functions, as capable, and return to their job quickly after surgery. Minimizing the cost of the claim can only be achieved through modified work.

In many cases workers are successful in securing loss of earnings benefits, not because of the injury, but because of inaction by their employer.

If any of these *RED FLAGS* occur around one of your WSIB claims contact *SE-GA* to discuss strategies specific to your individual claim to minimize the lost time days of that claim.

CALL 1-866-973-7342 ext 4

How big is your "swing"?

Whether a company is in NEER or CAD-7, they annually pay a surcharge or receive a rebate based upon their previous performance.

What many companies fail to do is measure their actual results against their potential best possible rebate and worst possible surcharge. A company might be very happy with a $50,000 rebate but not realize their best possible rebate was actually $500,000!

Every company has a managed risk (or SWING) between their best rebate and worst surcharge. The bigger the swing, the greater the financial risk placed upon your company.

For NEER your rebate/surcharge is based upon the last completed calendar year performance and the year to year change in claim costs for the prior three years.

For CAD-7 your rebate/surcharge is based upon the number of lost time claims (8 or more days of loss of earning benefits) incurred during the last two completed calendar years AND claims over the last five completed calendar years that drew costs in the last completed calendar year.

For NEER the swing is a multiple of 4. For every possible one dollar ($1) of rebate that can be earned the company risks losing three dollars ($3) in surcharge. The difference between +1 and - 3 = 4.

For CAD-7 the swing is a multiple of 5 (+1 and -4 = 5).

The measure of WSIB performance is not the rebate/surcharge. It is how much of the potential rebate that you capture. If your company is in a surcharge position, it is the cost of the surcharge PLUS the rebate not captured.

The Best Practice goal for every company, regardless of size, industry type, location, etc., should be to achieve 50% of the eligible rebate. Measure your performance against that target and work to exceed the goal! If you need help to calculate your **SWING, SE-GA** can teach you how to calculate it for yourself.

CLAIMSMANAGEMENT

"Why can't I pay my worker to **stay home**?"

Many employers, especially in construction, would rather pay their employees to stay at home and side-step the WSIB process altogether. Many companies feel they have a good enough relationship with their workers that they can continue to pay their staff directly when they are hurt, and that OHIP will cover all health care costs. Their opinion is "no harm, no foul".

This is not a practice we can recommend. It is a fraudulent business practice and companies that choose this path actually incur far greater risk and potential financial penalty than any WSIB claim ever could.

NEER and CAD-7 are limited liability insurance plans. Regardless of the severity of injury or number of claims incurred by an employer, there is a maximum surcharge that a company can potentially incur.

A decision from the Workplace Safety and Insurance Appeals Tribunal (WSIAT) from June 2012 best demonstrates the additional risk taken on by a company when they choose not to report accidents to the WSIB.

A company can avoid costly claims through normal claims management procedures.

The company was charged by the Ministry of Labour for not reporting claims and the Health & Safety Officers were found guilty on 18 counts.

The specific incident involved a worker who missed six days of work and was paid to stay at home by the company. It was found the company had "approximately a dozen claims" that formed the basis of the prosecution. In this case (and every case) the company reported this as a NO-LOST TIME CLAIM while it in fact was a lost time claim.

The employer was appealing the decision of the WSIB to recalculate their past CAD-7 performance as well as the interest penalty (based upon the years that had elapsed since the uncorrected CAD-7s had been issued) that applied. The company was ordered to pay $201,541.08 in unpaid CAD-7 costs and an interest penalty of $151,138.47 (the first claim occurred in 2001; the decision was rendered in 2012)."

The WSIB require that all workplace injuries, both lost and non-lost time claims, be reported so that the worker receives proper benefits. A company can avoid costly claims through normal claims management procedures.

CLAIMSMANAGEMENT

"How can my company get caught / What can **go wrong**?"

Notice from Doctor: Doctors/Healthcare providers receive direct compensation from the WSIB when they treat an injured worker. They submit a FORM-8 with every patient visit. If you tell your worker to say they were hurt outside of work but the Doctor suspects it is a workplace injury, the Doctor can notify the WSIB of their concerns prompting a WSIB investigation.

Your Worker Takes Advantage of the Situation: Your company gives away the ability to manage a claim when you provide direct wage replacement to an injured worker.

- *Why would a worker participate in modified work if they are being paid to stay at home?*
- *Your company is committing fraud. What if the worker demands a higher rate of pay/lump sum payment to not tell the WSIB about these activities?*

Get Value for your Money: Any worker doing modified work is giving some value, even if the value is minimal, for their labour. If you are paying your workers to stay at home the money you are spending has zero value and will extend the recovery period.

Lump Sum Penalty: If a company is found to have not reported, or misreported the seriousness of workplace accidents, the WSIB can seek to fine a company. To date the largest fine levied is $600,000. The investigation is launched because of a specific concern that one offense is usually not an isolated situation.

Accidents unfortunately are going to happen; failing to properly manage those accidents can be very costly whether the claim is properly reported or otherwise.

Talk to SE-GA about how you can avoid these problems with an effective system of Return to Work protocols or any WSIB issue.

Last Chance to Review Your

2010 NEER Claims for Cost Relief!

As this is 2014 and NEER claims can affect an employer for up to 4 accident years, the window of opportunity to capture any potential savings from your 2010 accidents is about to close! **SE-GA** can, with minimal time or effort for the employer, review these issues to ensure that all savings opportunities for SIEF cost relief have been considered. This service is performed on contingency and our clients only pay us a fee if we are successful, so you have nothing to lose and everything to gain!

http://segaconsulting.com/successStories/

WOULD YOU LIKE TO FORECAST YOUR 2014 SURCHARGE OR REBATE?

For employers that require more up to date information or would like to accrue for their upcoming Rebate or Surcharge, you can subscribe to our real time NEER calculator (available now) and CAD-7 calculator (available June1, 2014).

UPCOMING SEMINAR DATES

June 5, 2014 Suiteworks, Barrie (8:30 am - 12:30 pm)

What You NEED To Know About

- WSIB Claims Management
- The OHS Requirements
- The Role of Private Investigators
- How Lawyers Take a Look at the Occupational Health & Safety Act and the Overlap with Human Rights

June 16, 2014 Providence Care, Kingston (9 am - 12:30 pm)

WSIB Best Practices, such as:

- The Importance of the Form-7
- The Importance of a WSIB QB
- Worker Refusal and Doc Holiday
- The WSIB and WSIAT Appeals Process
- How to Monitor a Claim / Modified Work Assignments

Segaconsulting.com
3-1750 The Queensway, Suite #1287
Toronto, Ontario M9C 5H5
T: 416 463 7342 • T/F: 1 866 973 7342 • F: 647 349 8927

twitter.com/SEGAWorkersComp