

Workers Compensation Claims Management During Layoff Period

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Reducing Risks During Layoff Period

With the recent economic downturn, employees are anxious about job security. If a layoff is suggested, employees may look for an alternate source of income. Employees who would usually report to work with the usual aches and pains may be more likely to exaggerate and file for workers compensation benefits.

There is no way of having a painless layoff, however; the following may help to reduce the risks.

Outline of Issues

- Layoff Concerns
- Plan Ahead
- Documentation
- Claim Handling Practices
- Other Suggestions

- Federal (WARN) Worker Adjustment Retraining Notification Act requires employers with more than 100 employees provide 60 days advance notice in the event of a mass layoff.
- Employees filing claims have little or no incentive to return to work.
- Claims become subjective in nature and often “soft tissue” claims or cumulative conditions that have allegedly developed over a period of years.
- More claims are filed since compensation benefits are often better and last longer than unemployment benefits.
- The percentage of injured employees typically increases as word of a workforce reduction spreads.

- Notify the insurer or third party administrator of plans for the layoff and review existing claims for potential problems.
- Be aware of each state's rate and term of unemployment benefits and their effect on workers compensation benefits.
- Thoroughly explain the reasons for the layoff – The more the employees understand the reasoning- the less likely they will be to file a claim.
- Provide a layoff register to the Insurer or TPA so they can monitor claim activity.
- Be Visible – Claims are less likely to occur when management is present.

- Make certain you can locate employee personnel records and documentation.
- Identify an individual in management that can testify regarding the personnel records.
- Consider termination interviews to identify potential future workers compensation claims.
- Evaluate whether termination physicals should be given.

- Verify the Insurer or TPA has sufficient staff available to handle the additional case load.
- Claims should be fully investigated.
- Use surveillance to verify severity of injury.
- Use Nurse Case Managers to aggressively move claims to their ultimate conclusion.
- Organize and update job descriptions.
- Provide defense counsel with names of individuals that are willing and able to testify regarding the requirements of each job.

Other Suggestions

- Ask the local unemployment office to send a representative to facilitate the filing of claims for unemployment.
- Try to place laid off employees in other locations or assist them in finding new jobs. Explore job placement fair at your facility and invite area employers.
- Consider realistic severance agreements.
- Offer workers monetary sum in exchange for signing a release relieving the company of liability.
- Implement Employee Assistance Programs

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