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# Controlling Workers Compensation Claims

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To The:  
Wisconsin Towns Associations Annual Convention 2014



# AGENDA

- Work Comp Statute of Limitations/Key Definitions
- Affects of Delayed Reporting
- Pre-Injury Preparations
- Post Injury Investigation
- Circumstances- Reducing Comp Owed
- Ramifications if no Return-to-Work
- 9 Point Criteria Defining an Independent Contractor



# Statute of Limitations

- 12 Year Statute of Limitations for Workers Compensation Claims
- Occupational Disease claims can require information on the details of an employee's job going back some 30+ years



# Accident vs. Occupational Claim

- **Accident:**

Traumatic or traumatic aggravation of a pre-existing condition

- **Occupational Exposure:**

Appreciable period of workplace exposure that is a material contributory factor in the onset or progression of a medical condition



# Wisconsin WC Law

- Temporary Total Disability (TTD) based on 2/3 of the employee's average weekly wage
  - 3 day waiting period
  - 7 days of disability, the first 3 days are paid

(Permanent Partial Disability (PPD) may also apply with certain types of injuries)



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# Wisconsin WC Act

- All reasonable medical costs, including prescription drugs- no deductibles or co-pays apply
- In certain injuries involving permanent restrictions, retraining benefits may apply



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# Affects of Delayed Reporting

- A work comp claim value increases 3% for every day it goes unreported
- 50% reduction in litigation when contact with the injured worker is made within the first week of a claim

Willis of New Hampshire, Inc. Study



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# Pre-Injury Medical Provider

- The Town should find a local medical provider (urgent care/occupational medicine) and contact that provider to advise whether they have modified duty work available in the event of work related injuries
- Notify the employees of the availability of the medical provider as an option for “emergency care” (***NOTE: An employee has the right to go to his/her own doctor, if so chosen.***)





# Employee Requirements

- Report injury/illness to management as soon as practical
- Seek immediate medical attention
- **Report back to the Town with a written release to return-to-work (some medical providers will FAX this to the employer)**



# Employer Responsibilities

- **Report claim immediately** to the workers compensation carrier within 24 hours (even if claim is questionable as being work related)
- **Internal Investigation**
  - Talk to the injured employee about what happened, any witnesses, any prior history of similar problems
  - Talk to witnesses (if any)
  - Talk to the employee's manager/supervisor about what happened and what has been reported by the employee
  - Provide this information to the insurance adjuster



# Insurance Carrier Responsibilities

- Claims Adjuster will typically contact the employer, employee and medical provider and take a recorded statement from the employee on certain claims
- All medical bills and records will be collected
- Claims Adjuster will determine if the claim will be paid or denied, and notify the parties concerned



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# Insurance Adjuster Responsibilities

- Manages the disability claims
- Follows up with the Department of Workforce Development (DWD) with our state reporting requirements on lost time claims
- Settles any disputed claims/ manages claims where the employee retains an attorney
- Manages the reserves on a claim file



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# Reduction in Compensation Owed

- **Substance Abuse**

- 15% reduction in compensation if the injury is caused by the employee's intoxication. Need an expert report

- *A drug testing policy is the best way to routinely detect this issue*



# Reduction in Comp Owed (con't)

## ■ Failure to use a safety device

15% reduction if fail to use safety device

- Safety device must be provided in accordance with any statute, rule or order of the DWD and adequately maintained
- Use of safety device must be enforced- ***must keep documentation of this***



# Reduction in Comp Owed (con't)

- **Failure to Obey Rules**
- 15% reduction if failure causes injury however:
  - **Rule must be written**
  - **Employee must have notice of the rule**
  - **Rule must be enforced**



# No Offer to Return to Work

- Carrier can be held responsible for ongoing TTD until he/she reaches “end of healing”
- The Town can be subject to a “Refusal to Rehire” Claim
  - Up to 1 year of salary to employee
  - Not an insurable loss





# Independent Contractor

- Wi. Stat 102.07 (8)(b)

An individual must meet and maintain all nine requirements



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# Thank You

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