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Today's "Medical Only" Claim Is Tomorrow's "Indemnity" Claim

INJURY PREVENTION: THE FIRST LINE OF DEFENSE

Overview

Taking a proactive approach in the workplace will control exposure. When promoting injury prevention, it is important not only to consider the direct costs associated with work injuries, namely, increased premiums, but also the indirect costs in terms of lost productivity, interrupted operations, re-hiring and re-training replacement employees, repair and replacement of equipment, and reduced employee morale. Knowing your work force and implementing a safety policy is essential to reducing injuries. A key is educating and training supervisors, managers, and employees to help prevent injuries from happening, as well as including them in the safety planning and procedures.

Ultimately, the keys to success lie in committing to a strong safety protocol and recognizing the proper resources necessary for implementation.

Establishing a Safe Setting and Environment

Integrating safety into the overall culture of a company is necessary to create a positive work environment. It is imperative that safety is effectively applied through strong communication, commitment, coordination, consistency, and compliance. In conjunction with building support and obtaining commitment from senior leadership, work site analysis, hazard prevention and control, and training programs for all employees, supervisors and management are all critical elements to an effective safety program.

Written safety policies outlining clear objectives and what is expected of management and employees must be established. Identifying the key person(s) responsible for implementing the safety program and making sure that the person(s) assigned the responsibility is provided the authority and resources to effectively enforce the program is paramount.

Maintaining equal and consistent accountability at all levels of the workforce will ensure compliance with safety procedures and policies. Developing a proper orientation program and the continued education of all employees and management is necessary. This training should include safety discussions, meetings, proper chain of command and performance reviews so that all involved clearly understand the program and what is expected. Recognizing and eliminating workplace hazards is crucial in controlling the amount and types of work injuries. Prompt identification, investigation and record

keeping of all injuries, hazards, accidents, incidents, or near misses is very important to the overall success of the safety program.

DIRECTING AND CONTROLLING MEDICAL: AVOIDING UNNECESSARY COST

Overview

During the pendency of investigating whether a claim is compensable or after the claim has been accepted, medical treatment and expenses can be controlled in most states. By maintaining pre-employment physicals of all employees, knowing the employees' social activities, hobbies, and comorbidities, and clearly understanding the applicable state laws/regulations concerning medical treatment, unnecessary costs can be avoided.

Being diligent in recognizing the different types of work injuries and establishing an appropriate panel of medical providers to address these injuries is an effective way to manage medical care. By closely monitoring the extent and nature of all medical treatment and actively obtaining any, and all medical records throughout the life of the claim, medical expenses can be effectively controlled. In addition, determining the necessity for an independent medical examination (IME) and the appropriate timing for that exam is essential in limiting unwanted medical expenses.

Establishing Strategic Medical Claims Management

Incorporating pre-employment physicals that include regulatory and compliance examinations, fit-for-duty examinations, executive wellness examinations and health risk assessments is important to achieving and maintaining a healthy workforce. Knowledge of employees' social activities and hobbies, as well as comorbidities, will help the employer coordinate treatment and provide the appropriate resources and tools needed to return the injured employee to work as quickly as possible.

Most states allow employers to establish a panel of medical providers to treat injured workers. Panel physicians allow employers to effectively oversee, control and manage initial medical treatment. It is in the employer's interest to select the best medical providers for the panel. Panel physicians should take the time to listen to the injured worker to determine the correct course of treatment, be in close proximity to the company's work site, provide appropriate referrals when necessary, document progress with respect to the treatment, understand the company's return-to-work policies, and be aware of the type of work the employee performs.

IMEs are another vehicle to obtain an expert opinion on the medical condition, causation, course of treatment and level of disability of the injured worker. Often, multiple IMEs are necessary to effectively diagnose and ultimately provide treatment protocols for the injured worker. Providing the independent medical examiner with the mechanism of injury, medical history, comorbidities and medical records/diagnostic study films is essential in securing the most complete medical opinion. This comprehensive medical opinion will allow the employer to control exposure on the claim.

UTILIZING PROACTIVE CLAIMS MANAGEMENT TOOLS TO MINIMIZE CLAIMS COST

Overview

Following a work-related injury, proactive and thorough claims management procedures for post-injury investigation and subsequent management of a claim are critical tools for minimizing workers' compensation claims costs. Effectively designed post-injury accident investigation procedures augment injury prevention programs and ensure that the proper documentation is secured to manage the claim. A systematic investigation approach is required when a loss occurs to effectively gather facts, determine

the root cause, identify corrective action plans, address ergonomic issues, implement appropriate risk control measures, identify subrogation opportunities and eliminate recurrence. Ultimately, a well-designed process serves to reduce the severity of the injury, eliminate future injuries and, ultimately, minimize overall claims costs. In addition to strong post-injury investigation procedures, claim review meetings further enhance and supplement the claims management process through active engagement and empowerment of key stakeholders to facilitate the implementation of the available resources. The timing, structure, attendees and scope of meetings vary; however, the value added action items that are generated from them are a testament to why the claim review meeting is a critical lynch pin in reducing claims costs and preventing a claim from spiraling out of control.

Recommended Post-Injury Investigation Approach

It is extremely important that the investigation be conducted promptly after the accident has occurred (within 24 hours). The investigation should focus on fact gathering for prevention and not finding fault. After ensuring that the injured worker has received first aid or medical treatment, interview the injured worker to obtain the facts on how the injury occurred by taking a written and/or recorded statement in the injured worker's own words (vs. a third party summary that is subject to interpretation). The investigation report should include an investigation of the root cause and outline of what corrective actions are recommended to prevent recurrence. It is good practice to review training records of the injured worker and determine all contributing causes. Also, be sure to identify any potentially responsible third parties who may be involved (with an eye toward subrogation and preservation of evidence for the same). Secure all witnesses and obtain a written statement, where possible. Document the loss utilizing photographs and video. Inquire about prior claims to determine if retraining is required or if the injury is related to a prior incident. Obtain a medical release and obtain prior medical history from the injured worker. Conduct a centralized data base search to uncover a prior claims history from previous employers or unrelated to employment. Add a section to investigation forms to capture all email addresses for the injured worker. Secure and verify the accuracy of wage statements to ensure accurate calculation of indemnity payments. Focus on return-to-work at the onset of the claim, and engage the injured worker to think about ways the job can be modified in a way that is productive for the team and helpful for them to transition to get well. Confirm that the location and date of loss falls within the available insurance coverage.

Blueprint for Powerful Claim Review Meetings

The first step for a robust meeting is assembling the right team with a complimentary mix of skill sets. A typical team would include your risk manager, claims manager, insurance broker claims advocate, defense counsel, panel provider, insurance carrier/third-party administrator's claim adjuster and claim account manager, risk control representative and nurse case manager. The team should have the requisite knowledge, expertise, resources and comfort to make recommend changes where injuries can be prevented or eliminated. The employer's business model and culture, as well as their claims management philosophy, should be well defined so all parties know to what extent meritless claims should be defended. From there, clear communication protocols should be established through the implementation of Special Claims Servicing Requirements, which also outline the manner of establishing reserves and authority levels to settle claims. The Special Claims Servicing Requirements should be reinforced and reviewed at each claim review meeting to ensure compliance and modified periodically, where appropriate. The timing of the meetings is determined by the frequency and severity of the losses and can be monthly, quarterly, or as otherwise required (emergency or questionable claims require same day and sometimes afterhours response). Claim reviews require advance preparation so that the scope of claims for review is well defined and detailed claim reports can be thoroughly prepared. The scope of the meeting is determined by need and may include pre-determined incurred thresholds, age of the claims, claims involving missed time from work, litigated matters, claims with questionable compensability, or any other pre-determined area of focus impacting costs or operations. In addition to reviewing the facts of the claim, team members will share current information relating to work status,

employment matters, safety issues, fraud indicators, legal impact of claims decisions, financials of the claim and other relevant information critical to mitigate claims cost. The goal is to leave the meeting with a clear strategy that moves the claim forward with final resolution. The meeting should include instructions on proper reporting of claims (to excess insurance carriers). Emergency claims response protocols should be established and reviewed at the meeting. Construction of a location coding structure is required to aggregate data. From there, a review of loss trending will be conducted and metrics developed to incorporate with risk control activities, along with development of key performance indicators to measure success. Claim reports highlighting lag time and repeater claims reports should be analyzed to enhance training programs, and expenses should be regularly reviewed.

The future of these meetings and all proactive claim management techniques will be shaped by new technology using data and predictive analytics. This is highlighted in the *2016 Workers' Compensation National Council of Compensation Insurance Issues Report: Fall Edition*. In the article, "Bringing the Value of Data to Life: How Effective Use of Data Leads to Improved Outcomes," author Nancy Grover discusses how data and predictive analytics using statistics and big models to predict outcomes are improving outcomes of claims. The article provides some insight on how predictive modeling works. Simply stated, predictive modeling builds models for future behavior while predictive analytics mines data to analyze trends. The article goes on to highlight how this technology now affords the opportunity to identify troublesome claims before they become complex and costly, and enhance the quality of medical care to injured workers.

PSYCHOSOCIAL ISSUES AND COMORBIDITY IN WORKERS' COMPENSATION

Overview

Claims with psychosocial issues and/or comorbidities create some of the most difficult challenges for employers and claim administrators alike. Employers are increasingly interested in strategies that mitigate psychosocial or comorbid factors known to hinder or stall the recovery of injured workers and their timely return to work. Understanding how these factors can affect a newly reported medical only claim is critical in controlling the claim's ultimate outcome.

Psychosocial Issues

The word psychosocial remains stigmatized by a common belief that it refers exclusively to psychiatric diagnosis. Not all psychosocial factors are mental health problems or require the attention of a mental health expert. Psychosocial factors are much broader. They can include economic circumstances, a worker's health illiteracy, cultural influences or coping skills. Psychosocial factors may include a person's lack of knowledge about their injury. For example, a person with a musculoskeletal injury may fear physical activity due to pain, when movement would improve their condition while lack of movement may cause further deterioration.

Comorbidity

Comorbidity is an existing medical condition that impacts a person's primary work-related injury. Common comorbidities found in workers' compensation are hypertension, obesity, diabetes and cardiovascular disease.

A 2014 National Council of Compensation Insurance (NCCI) study showed that 27% of working-age Americans are obese, 29% have hypertension and 7% have diabetes. Another staggering finding identified that 81% of claims with a diagnosis of obesity incurred lost time.

In many states, employers are required to pay for medical care for a worker's comorbidities when the pre-existing conditions are slowing the injury in question. While the presence of comorbid conditions

influences the treatment of workers' compensation injuries, the comorbidity itself may or may not be compensable. Whether comorbid conditions are preexisting or work-related, their presence can adversely influence claim outcomes.

With comorbidities becoming more common, whether due to increased awareness by providers, an aging workforce or other factors, it is important for employers, claims administrators and defense counsel to understand their impact on claims. Identifying potential comorbidities can help establish more realistic expectations for the claim and return to work.

Benefits of a Healthy Workforce

Workers' compensation insurance costs are a concern for most organizations, especially when coupled with the steady, dramatic increase in group medical insurance expenses over the past 30 years.

While the benefits of a robust corporate wellness initiative are well-known to human resources departments, risk management is starting to sit up and take notice as evidence mounts that those wellness programs not only reduce the duration of workers' compensation claims and lessen comorbidity concerns, but could also potentially prevent those claims from occurring in the first place.

In most organizations, human resources manages group health plans, while the finance team handles workers' compensation programs. The occupational/non-occupational distinction between the claims, along with two very separate systems for their management, means their interrelationship is going unrecognized and unmanaged.

Additionally, the cost breakdown of workers' compensation claims nationally has changed. Employers used to focus more on the indemnity portion of a claim, which typically came in at about 60% of the total cost, while only 40% went to actual medical expenses. By contrast, today's workers' compensation cost split is 40% or less for indemnity and 60% or more for medical. Now, more than ever, it is critical for employers to create a healthy and safe work environment in order to minimize the frequency and cost of workers' compensation claims.

Determine how your insurer and/or third-party administrator is capturing data on comorbid factors in workers' compensation claims and how that information can be incorporated into effective analytics. Collaborate with internal safety, health and environmental professionals to discover how best to integrate employee wellness with workplace safety.

Creating an effective wellness program can not only save money, but it can expand the bottom line through increased productivity from healthier workers. However, employers need to understand it is a long-term investment and the returns might not be seen for several years.