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Creative Claim Strategies: That Settles It

Claim settlement strategies are about much more than filing papers, checking boxes, and meeting deadlines. Claims strategies should be grounded in caring for individuals whose lives have been unexpectedly altered by an injury or illness. The pathway to recovery and productivity can take many turns and twists and is best traveled with a strong partner and advocate. Being able to positively impact a person's life during this time of need is an empowering feeling. And it is one claim professionals can experience every day.

Our 100-year-old workers' compensation system has not always kept up with the evolving needs of workers and healthcare delivery models. In response, claims handling has traditionally focused on navigating this framework through compliance measures and medical discounts. Compliance is important but meeting the needs of the injured worker is critical. Placing the injured worker's needs at the forefront creates a positive experience. This enhanced experience equates to better claims outcomes through lower litigation rates, reduced claims durations and improved productivity.

While claims advocacy can take many forms, effective programs are built around urgency, empathy, effective communication, access to information, compassion, and quality medical care. Each response should be tailored to the injured workers' specific needs. Identifying and fulfilling the injured worker's needs is the key component to demonstrating advocacy and securing great outcomes. These elements can impact successful claim closures.

Many injured workers have not had previous exposure to the workers' compensation system. Workers' compensation can be a complicated and convoluted landscape. First reports must be filed, recorded statements must be taken, and accident investigations will follow. As a result, people may start the claims process with a negative perception.

Anxiety can build from uncertainty around future income, job security, medical care, and recovery. Friction, contention, and resentment can add to an already difficult situation.

By way of contrast, a strong advocacy program can alleviate much of this uncertainty and fear. At the outset, the claim process should be outlined, benefits explained, remedies provided, and expectations established. Statutory timeframes help provide a framework but should not

replace demonstrating urgency and empathy. The examiner should deliver benefits as soon as the facts allow.

Access to timely information and effective communications are key characteristics of a strong advocacy program. Today, people have come to expect information on demand. While strong communication principles should underlie any program, technology advancements have made communication alternatives and instantaneous access a reality. This is an easy way to eliminate much uncertainty that previously surrounded the claims process.

Compassionate and knowledgeable advocates are essential to a successful program. Injured workers benefit greatly when questions are answered in a straightforward and direct manner, when benefit payments are issues on a timely and accurate basis and when know they have access to resources and individuals that they know are on their side.

The importance of providing access to quality medical care cannot be over-emphasized. An unexpected workplace accident or injury can create a high level of uncertainty and apprehension. Workers' compensation has a stigma from some providing care at the lowest cost. Rather than focusing on network discounts, an advocacy approach will center on securing treatment from proven medical providers who can provide timely, appropriate medical care.

The industry has come to recognize that both physical and mental well-being go together, and there is value in treating the whole person. Psycho-social issues, adverse childhood experiences and the propensity for substance abuse can be a clear impediment in securing an optimal outcome for the injured individual. In addition, injured workers that display fearful notions around job security, recovery and pain tolerance should not be ignored. In these circumstances, traditional care paths may not be effective. COVID-19 has compounded these issues significantly. Additional resources including behavioral health specialists should be considered.

Pain management can also be an important component of an advocacy program. While prescription drugs may be needed early on to assist with pain management, it is important to work with medical providers who adhere to responsible prescribing patterns. Left unchecked, an unwarranted addiction problem could arise. Far too many lives have been diminished or lost due to rampant misuse or abuse of powerful drugs and opioids.

It is easy to see why advocacy is flourishing within the workers' compensation claims arena. An advocacy program puts the injured worker's needs first, provides information and guidance throughout the process, and strives to improve the overall experience of the individual.

Even with a strong claim's foundation rooted in advocacy, the best claim is still a closed claim. Smart effective settlement strategies are essential. However, there are many obstacles to claim settlements. Some obstacles include:

- An important communication was not directed to the claim's examiner on a timely basis.
- The team did not feel empowered to advance the claim toward settlement.
- A defense attorney did not effectively communicate with the applicant's attorney.
- A person failed to analyze the claim value and obtain settlement approval on a timely basis.

- A defense attorney received settlement authority but failed to communicate or negotiate a settlement.
- A claimant refused to settle, or the applicant's attorney would not settle until the eleventh hour or unless pressured by a judge to respond to a reasonable offer.

There are several factors to consider in overcoming these types of obstacles and developing creative claims settlement strategies. Strategies include:

Select effective attorney. To have an effective settlement strategy, it is critical that counsel be willing and able to try cases. Use data-based attorney scorecards and evaluations to identify the best attorneys for various types of cases. Data is critical to identifying the best counsel for each claim.

Leverage artificial intelligence (AI) and predictive analytics. Using data to identify claims likely to end up in litigation and focus early on those claims for settlement.

Understand attitudes toward corporations. There are increasingly negative perceptions of corporate defendants among some jurors. Ensure a corporate representative is part of the process.

Mitigate anchoring tactics. Anchoring occurs when an individual depends on an initial piece of information to make subsequent judgments in the process of making decisions. This tactic can be used in settlement discussions.

Case Evaluation. It is critical to have an early and thorough understanding of the case and its value.

Settlement approach. Be prepared to try cases. However, it is just as critical to identify and resolve the cases that should not or need not be tried. Use a cost/benefit analysis in making this determination.

Here are additional issues to consider as you weigh claim settlement strategies:

- Medical care today is costly and that will affect settlement.
- An employer should only pay for the workplace injury – not pre-existing conditions or underlying conditions.
- Legal costs drive up workers' compensation costs.
- Consider settlement's impact on program collateral.
- Rely on doctor's report for guidance.

The claims profession offers countless opportunities for those interested in making a positive difference in the lives of others. Today, make that one extra phone call to help, take a bit more time to explain benefits eligibility, or issue a check a few days early. Taking care of the injured worker and developing creative claim settlement strategies are good business.