

WORKERS' COMPENSATION AND JOB RELATED DISABILITIES

This presentation will focus on legal and procedural issues related to workers' compensation, workplace safety and potential emotional or mental job-related disabilities.

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What Does Workers' Compensation Really Cost?

- Direct Costs
 - Indemnity or Wage benefits
 - Medical benefits
 - Expenses incurred to administer and defend the claim
- Indirect Costs
 - Indirect costs associated with WC losses may be three to five times the direct claim costs. These are, perhaps, more important as they are not covered by insurance and impact profits directly, including:
 - Overtime salaries
 - Reduced/delayed productivity
 - Managers/Supervisors lost time
 - Hiring/training costs

Direct Costs

- Medical
- Compensation
- Physical damage

Indirect / Hidden Costs

- Overtime salaries
- Reduced/delayed productivity
- Managers/Supervisors lost time
- Hiring/training costs
- Customer dissatisfaction
- Loss of business



Return To Work Program

- An effective Return-To-Work program requires a set of policies and procedures that facilitates post-injury management of the injured employee during every step of rehabilitation. It requires excellent communication, cooperation, and coordination between the employee, management, the workers' compensation insurer and medical care providers. The following steps are required for implementation of a Return-To-Work program:
 - *Develop and issue a policy statement.*
 - *Appoint a coordinator to explain the program to department heads.*
 - *Create modified job and task description manuals.*
 - *Conduct a task assessment.*
 - *Provide the treating physician with information that increases the physician's knowledge of your operations and specific job functions.*
 - *Develop a communication plan.*
 - *Prepare a written procedure that details the steps to be taken when an accident occurs.*
 - *Alert the workers' compensation carrier immediately to all workplace injuries.*
 - *Upon returning to work, the employee and supervisor must work together to increase the employee's capabilities until her/she reaches to pre-injury levels.*

Why Have an Effective Return to Work Policy?

- 50% of workers' compensation claimants do not return to work once out of work over 6 months
- Retain productive employees
- Control and reduce workers' compensation costs/insurance premiums (best evidence in a workers' compensation proceeding)

M.G.L. CHAPTER 152 WORKERS' COMP STATUTE

- SECTION 1(7A): “Personal Injury” includes mental or emotional disabilities only where the predominant contributing cause stems from a event or series of events occurring in the workplace or while in the course and scope of employment. However, in the event that an injury r disease as defined by this section combines with a pre-existing condition, the alleged injury is compensable only if it remains the major cause of disability and treatment.
- SECTION 29: Bona Fide Personnel Actions: “No mental or emotional disability arising principally out of a bona fide personnel action including a transfer, promotion, demotion, or termination except such action which is the intentional infliction pf emotional harm shall be deemed to be a personal injury within the meaning of (Chapter 152).”

CONCLUSION

- The topic of mental health in relation to workers' compensation claims involving physical injuries is often misunderstood. Employers, healthcare professionals and service providers are beginning to understand the influence that mental health and well-being have on areas from company productivity and performance to return-to-work rates and claims outcomes.
- The overall importance of mental health and well-being directly and indirectly impacts your workers' compensation program results.
- Workers' compensation claims for emotional distress that may be pre-existing and/or as a result of a bona fide personnel action are best defended when the employer has accurately documented any and all events leading up to the claim.