

WORKERS COMPENSATION 101

From the Always Exciting, Unexpected, Fascinating World of Insurance

Scott Gee – Account Executive, Crest Insurance Group

Marc Wroblewski – Loss Control Consultant, CopperPoint Mutual Insurance Company

WORKERS COMPENSATION

What is it?

Why do we have it?

What Is It?

- Workers Compensation is insurance to provide benefits to employees for injury or disease suffered during the course of employment.

Why Do We Have It?

- to keep employees from suing employers in order to receive benefits every time an injury occurs

History of Workers Compensation

- Workers used to have no recourse other than suing their employer under common law.
- Had to prove negligence
- Could take a long time
- First WC laws enacted in 1911
- Arizona started WC in 1925 when the Arizona Industrial Commission was created.

Results of Workers Compensation

- Now workers give up the right to sue (in most cases) in exchange for benefits.
- Employers now have “absolute liability”. They pay regardless of fault.
- Benefits are statutory.
- Everyone gets the same benefit (in a given state), regardless of the insurer.

What Do We Get?

Covered in Every State:

- **Medical**
covered at 100% with no deductible and no copay
- **Disability**
66 ²/₃ % of pay, tax free, is maximum benefit
waiting period of 7 days, after 14 the first 7 are paid
- **Death**
including burial, paid to dependents
- **Rehabilitation**

*** Cannot be intentional self-inflicted injury ***

Who Must Carry Workers Compensation Insurance?

- **Employers** (including corporations & LLCs) with one or more employees
- part-time, full-time, minors, undocumented immigrants, family members
- Not independent contractors, casual employment, outside the usual business, domestic workers in your home

Who Must
Carry Workers
Compensation
Insurance?
(continued)

- Be careful with independent contractors! They could be deemed employees by the courts in a dispute.
- Do you set their hours?
- Do you provide any of their tools?
- Do you exercise control over their work?
- Based on totality of the facts

What Happens If I Do Not Carry Workers Compensation Insurance?

- The Industrial Commission might pay the claim and then seek reimbursement from you + 10% or \$1,000.
- The employee might file a civil suit, which could result in a significant award that you must pay.
- Fines are assessed at \$1,000, \$5,000, and \$10,000 for the 1st, 2nd, and 3rd occurrences in a 5 year period.
- ICA can cease business operation through injunction until insured.
- Class 6 Felony!

What Must I Do When an Employee is Injured?

- Provide immediate medical attention where necessary
- Immediately give workers compensation policy #, carrier contact, and expiration date to the employee
- Notify the carrier and the Industrial Commission of Arizona within 10 days, immediately in the case of a fatality

Can I Direct an Employee to See a Specific Doctor?

- Yes, for a one time visit
- Then, employee may seek treatment from a doctor of their choice

What If I Do Not Believe the Claim is Legitimate?

- Notify the agent and carrier right away.
- Include any information on the Employer's Report of Industrial Injury.
- Notify the carrier and the Industrial Commission if you do not agree with the carrier's actions or decisions.

EMPLOYERS LIABILITY

What is it?

Why do we have it?

What Is It?

- Part Two of the Workers Compensation Policy, Employers Liability Insurance, provides coverage for employers being negligent for injury or disease suffered during the course of employment, not covered by workers compensation.

Why Do We Have It?

- to give employees a remedy when employers are negligent

What Are Claims Examples?

- **Third Party**
your employee sues someone else, who then sues you for contributory negligence
- **Loss of Services**
loss of consortium, companionship
- **Consequential Bodily Injury**
spouse, child, parent, or sibling's resulting injury
- **Dual Capacity**
product manufacturer

How Much Do I Have?

- Employers Liability Insurance limits are purchased according to risk tolerance and need
- Usually \$500,000 or \$1,000,000 in each of these categories:
 - one or more employees per accident
 - any one employee for disease
 - all employees for disease

*** Limits listed on your policy declarations page are for Employers Liability, NOT Workers Compensation. One cannot purchase \$1,000,000 of Workers Compensation, because by law, indemnity is 100% no matter the cost.

CARRIERS & PREMIUMS

Who will cover me?

How am I charged?

Who Will Cover Me?

- Standard carriers

- Assigned Risk Pool

40% more expensive

Bad experience or not enough experience

How Am I Charged?

- Estimated payroll by class code
- Rated based on exposure
- Audited against actual payroll
- Credited or debited due to experience

What Is an EMOD?

- **EMOD (EMR, XMOD)**

Experience Modification

Numeric representation of claims history and safety record compared to other businesses in the class

- **NCCI**

National Council on Compensation Insurance

How Is It Calculated?

- Past experience predicts future losses
- 3 years of payroll and loss data, not including the current year or the previous year
- EMOD worksheet
- 1.00 is the average for a business class
- Over 1.00 is debited, under is credited
- Frequency is more important than severity

WHAT CAN I DO ABOUT IT?

Risk Management

Predicting Premiums

Risk Management

- Loss Control
- Risk Assessment
- Risk Mitigation



Loss Control

- Identify the source of risk
- Prioritize the risks
- Goal: Achieve an acceptable level of risk



Risk Assessment

- A risk assessment is a careful examination of what, in your work, could cause harm to people or damage to property, so you can weigh whether you have taken enough precautions or should do more to prevent harm


Risk Mitigation

- Controlled approach that attempts to reduce the impact caused by the exploitation of vulnerability through planning and preparation

Benefits of Risk Mitigation

- Reduce the severity or frequency of an exposure by improving the ability to prioritize the risk mitigation efforts for the highest level risk

Risk Mitigation Elements

- Identify exposures
 - Evaluate exposures
 - Suggest mitigation controls
 - Prioritize and implement controls
 - Measure and Update
- 

Impact of Claims

- Impact a company in several ways
 - Financial (cost of claims)
 - Direct Vs. Indirect cost 4-1
 - Production
 - Down time
 - Train new employees



Impact of Claims

- Company Image
 - Reputation of company
 - Attract good talent

- Employee Morale
 - Frequent and Severe injuries
 - Low Morale

Claims Example

Direct Cost	Indirect Cost
\$ 5,700 Paid Medical	\$8,200 Paid Indemnity
	Cost to train 2 new employees (first one didn't work out)
	Supervisor time spent filling out paperwork, driving employee to clinic, OT for filling in for injured worker
	Increase in EMOD results in Insurance premium increase

Proactive Approach

According to the National Safety Council

- It's estimated that every **\$1** an organization invests in safety, they save **\$3-6**
 - Proactive approach to safety

Resources

- <http://www.oshrisk.org/index.php>
 - Risk Assessment Institute
 - Provides Resources on Risk Assessments and Mitigation

National Safety Council

How Can I Predict My Future?

- **Current and prior year claims analysis**

Agents and carriers using software to make educated guesses about future EMODs

Prepare by accruing money to pay increased premiums OR reinvesting savings into risk management

Can take a couple of years of training and safety focus to change the culture and right the ship

Resources

- Industrial Commission of Arizona
<https://www.azica.gov/>
- NCCI - National Council on Compensation Insurance
<https://www.ncci.com/>
- Crest Insurance Group
<http://www.crestins.com/>
- CopperPoint Mutual Insurance Company
<https://www.copperpoint.com/>

Contact Us



Scott Gee

Account Executive

Crest Insurance Group

5285 E. Williams Circle, Suite 4500

Tucson, AZ 85711

direct: 520-784-7607 - mobile: 520-440-2122 - fax: 520-618-3943

sgee@crestins.com - www.crestins.com

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