

There are elements in your workers' compensation program that are causing you challenges without you even knowing. These can be incentives, employee motivations, policies, or procedures that deliver unintended consequences.

Disincentives to Return-to-Work

Review your company policy for the following:

- 1. Supplemental Pay:** Because workers' comp is tax free, an injured worker may receive more than of pre-injury earnings when employer "grosses up" employee to 100%.
- 2. Stay-at-Home Perks:** Money saved by not paying taxes on workers' compensation benefits, commuting costs, childcare, and other work-related costs.
- 3. Open-Ended Job Return:** Holding jobs open indefinitely rather than for a specific (6 months) time.
- 4. Vacation and Sick Time:** Injured workers can "borrow" more sick time to stay out of work longer when vacation and sick time accrue for employees on workers' compensation.
- 5. State Disability Insurance:** Some jurisdictions require employees to be paid state disability benefits after being off work a specified number of days.
- 6. Short-Term Disability:** The standard definition for disability may differ from the workers' compensation, allowing workers to collect both.
- 7. Long-Term Disability:** Injured workers become eligible for long-term disability in lieu of salary and the employer fails to deduct workers' compensation benefits from these payments.
- 8. Loan Protection Policies:** An injured worker's individual disability insurance policy pays mortgage, consumer loans (car loan), and credit card debts.
- 9. Accident Insurance:** Employees may collect accidental auto insurance if the work-related injury occurred while driving on company business.
- 10. Unemployment Compensation:** Qualifying for unemployment and workers' compensation benefits.
- 11. Pension and Retirement Plans:** Plans not allowing for offset of workers' compensation benefits may allow an employee to receive workers' compensation benefits and a full pension.
- 12. Product Liability Actions/Lawsuits:** Injured workers may file a product liability action against the manufacturer of a product causing their injury and collect a monetary award, essentially being paid twice for same injury. All such income should offset workers' compensation settlements.
- 13. Concurrent Employment:** The average weekly wage calculation may include lost time for both jobs so the employee receives more money than made on job #1 — and is not working at either job.

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19 Mistakes & Loopholes

How to Avoid 19 Workers' Comp Mistakes & Loopholes



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How to Avoid 19 Common Workers' Comp Mistakes & Loopholes



Most Common Employer Mistakes

Loopholes primarily exist within company policies. Common mistakes primarily exist in injury management procedures.

MISTAKE #1: Delayed Care

Delayed care is caused when compensability of a workers' compensation claim is questioned, and treatment is covered neither by workers' comp insurance or general health insurance.

Solution: Pay Without Prejudice. This policy dictates that payment is authorized up to a certain dollar amount (commonly \$10,000) for treatment whether or not the claim will potentially be denied.

MISTAKE #2: Wrong Doctor

- 1 **"Just use the network":** An ineffective means of doctor selection is to "just use the network" and work with a generic list of local doctors.
- 2 **Not Taking Patients:** A devastating error is made when the list of doctors provided to the injured worker is invalid.

Solution: Invest time in properly setting up and developing proper physician relationships.

MISTAKE #3: Accepting Every Claim

Accepting every claim sets the wrong expectation for employees, and encourages fraud and abuse.

Solution: A best-in-class workers' compensation program pays 100% of the claims it should, and 0% of the claims it shouldn't.

MISTAKE #4: Failure to Audit Claims Prior to Unit Statistical Date

On Unistat date the value of each claim, including open reserves, is reported to the state rating bureau for calculation of the experience modification factor.

Solution: Unistat falls 6 months prior to policy renewal. Hold a claims audit 60-90 days prior to ensure claim and reserve accuracy.

MISTAKE #5: Unnecessary and Poor IME Outcomes

An independent medical exam (IME) is a valuable and commonly used resources in workers' compensation to evaluate compensability and treatment protocol.

Eliminate 20% of IME Requests: An IME should not be used simply to "move the claim along". Work with a medical advisor to determine necessity and value of IME.

Improve 30% of IME Outcomes: Up to 30 percent of IMEs are less favorable to employers than they could be due to disorganized or incomplete medical records, no pointed questions to the examiner in the cover letter, and poor timing of the IME given upcoming specialist or radiology appointments.

Solution:

- 1 Consult medical advisor prior to ordering IME
- 2 Gather all prior medical records & ER records.
- 3 Adjuster to summarize medical records in chronological order for medical advisor review.
- 4 Include custom cover letter including pertinent information & questions.

MISTAKE #6: Missed Opportunity For Offset

Opportunity for offset is missed when claims are not evaluated for potential offsets including Social Security Disability benefit offsets, reverse offsets, prior injury offsets, subrogation potential, pre-existing conditions, and second injury funds.

Solution: All claims should be reviewed for offset opportunities.

The key to implementation of this information is to take action. Significant change does not happen all at once, it is a series of sequential small steps.



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