

The Wright & Kimbrough Report



October 2015, Volume 3, Issue 5

WORKERS' COMPENSATION

How to Avoid Inheriting an Old Injury Claim

ONE OF an employer's biggest shocks is to find out that a workplace incident aggravated a pre-existing injury that was sustained at the worker's prior job.

Fortunately, there are steps you can take if you don't want to inherit a claim that someone incurred at another employer, or an injury that they may risk aggravating while working for you.

Here are five ways to reduce the chances of incurring such claims to begin with:

Pre-work screenings

Pre-work screenings can weed out applicants who physically cannot perform a job. You can subject them to a test to gauge their ability to perform specific physical demands of the job for which they are applying.

Screenings should especially be used for high-risk jobs, those which cost your business the most in workers' comp costs. There are two types of pre-employment screenings:

- **Pre-offer.** This screening identifies applicants who are physically able to safely complete the essential job functions of the position for which they are applying.
- **Post-offer.** This screening measures the same functions, but you can also require a medical examination at this stage. This can help you identify any disability, including if they are under orders from a doctor to limit certain types of physical activity.

Drug tests/background checks

Drug tests can determine if there is a history of drug use, and, if so, indicate the types of drugs in the system.

Background checks probe the criminal and financial records of an applicant.

If an applicant shows negative incidents on a drug or background check, he or she could be a candidate for future fraudulent activity.

On-site ergonomic solutions

Utilize physical therapists or ergonomists before injuries occur to work with employees, supervisors and management to understand workflow and all job task requirements.

Those specialists can recommend optimum positions, ergonomic strategies and proper physical movements required at workstations to reduce the chances of employees sustaining musculoskeletal injuries.

Employee education

Educate employees on how to use workers' comp legitimately and how it can be used illegitimately.

Explain the damage to the employer from malingering and fraud by illustrating how claims affect the premium employers pay.

Information also should be shared about

penalties and fines that could be incurred with fraudulent claims.

Educating employees regularly can reduce the chances of fraud.

Prompt injury reporting

Train employees to report any health concerns as soon as they notice any discomfort.

Injuries can develop over time in many jobs when they are executed using improper or ergonomically incorrect motions.

If an employee raises concerns about discomfort to a supervisor, it should be given serious attention.

That way the supervisor, the worker and inside or outside specialists can address the issue.

This can be done through observations and evaluations of the work pattern of the worker, and in comparison to those of others in the department.

The worker should also be sent for medical diagnosis or medical care to treat the discomfort before it becomes a bigger problem. ❖

CONTACT US

Wright & Kimbrough
Insurance
Since 1893

If you have any questions regarding any of these articles or have a coverage question, please call us at:

Wright & Kimbrough Insurance

2150 Douglas Blvd #210
Roseville, CA 95661
Phone: (800) 822-3694
Fax: (916) 751-7690
info@wkins.com

License No: 0670151



Prepare Your Building for El Nino Storms

FORECASTERS ARE predicting one of the most intense El Nino weather patterns for this upcoming winter, and heavy rains are expected in large swaths of the West Coast.

The roof is your commercial building's first line of defense from the elements, including heavy rain and extreme heat. It is also the most vulnerable part of your building.

To make sure it can handle this year's rains, you should have in place a regular program of inspection, maintenance and repair.

These activities should be part of your planning in order to prolong the useful life of your roof and make sure it does its job in protecting your business. Also, taking care of problems now can prevent leaks from rains that can cause serious long-term damage later.

If it's been a while since you've had your roof inspected, your first priority should be to identify and fix any major problems.

Signs of problems may be apparent even inside the building. Water stains on a ceiling may be a sign of leakage, which could be seeping in from a crack or hole in the roof.

These problems need to be addressed immediately as even the smallest leak can cause damage. Also, if the building has mold or odors inside, this may be a sign of water penetration.

While internal water damage or mold may signal trouble above, it's also important to visually inspect the roof itself to look for problems that are likely to worsen over time.

You can either do the roof inspection yourself if it's safe to do so, or hire a professional. The Insurance Institute for Business and Home Safety recommends the following:

What to look for and fix

- **Standing water or ponding on the roof.** This can lead to premature aging and deterioration of the cover, which will lead to leaks.
- **Bubbles.** Bubbles may indicate trapped moisture within the roof cover, which can lead to leaks.
- **Gaps or broken roof flashing.** Flashing is strips of metal or other impervious material installed around the perimeter of the roof edge where the roof cover meets the wall. It is also installed around

objects that protrude from the roof in order to deflect water away from seams and joints.

A gap in the flashing increases the potential for roof cover failure during high winds, and for water intrusion or mold.

- **Roof cover tears.** Torn roof cover or worn or cracking seams can allow water to enter the building.
- **Skylights.** Check to be sure they are properly secured. Skylights that are not well sealed and secured around the frame's edge can leak, which can cause the lights to dislodge and allow for rain and debris to enter the building, especially during high winds.
- **Lightning protection system.** Check to see if your lightning protection system is loose or detached. This can lead to a tear or puncture in the roof covering, especially during winds. A lightning protection system that has disconnected metal cables or aerials cannot provide the intended protection for the building's occupants. ❖

Gutter Cleaning Tips

- Prepare the gutters before you clean them. Make sure you take all the debris and gunk out of your gutters. With leaves dropping in the fall and the occasional strong winds, it's important that you remove all foreign matter.
- Make sure all the spikes connecting the gutters to your building are in good condition. Check that they go through the gutter, fascia board and into the rafter behind it.
- Look for leaks in your gutters and cracked caulking in the seams. Scrape out the old caulking and dry it before using new sealant. Fix all leaks.
- Check that rivets on the downspout are secured. If any are loose, you'll need to pull them out and replace them.
- Check for rusty areas of gutters. Rust can be sanded and repainted with rust-proof paint.
- Once you've done all of the above, have the gutters cleaned with a pressure washer and test them to make sure the water flows unrestricted out through the downspout.



Early Reporting Can Cut Claims, Premium Costs

HOW LONG you wait to notify your workers' compensation insurer of a workplace injury can make a significant difference in the cost of that claim.

When your premium is calculated, one of the key elements that we take into account is the cost and frequency of prior claims during the past few years.

In short, by improving your organization's injury notification times, you can also positively affect the cost of the claim, which in turn can help reduce your overall workers' comp premiums going forward.

Can early reporting really affect the cost of a claim?

The graph to the right shows results from a National Council on Compensation Insurance study looking at the cost of a claim based on the delay between incidence and notification. Note that even as little as 2-3 weeks can begin to increase the cost of the claim by over 10%.

Why does early reporting work?

The sooner medical treatment begins, the better the outcome.

For a workers' compensation claim, the sooner your insurer knows about an injury to one of your workers, the sooner we can start collecting information and plan for appropriate treatment options.

If medical treatment is delayed, the likelier it is that costs will mushroom both in terms of medical costs and lost time from work, which needs to be compensated.

If you notify your insurer when an injury occurs and they can arrange for the worker to begin the medical treatment, it is likely that the length or severity of their treatment program will be less.

For the injured worker, this means a shorter recovery time, better prognosis for general health and return to work outcomes, and probably a more positive attitude toward their injury and the workplace.

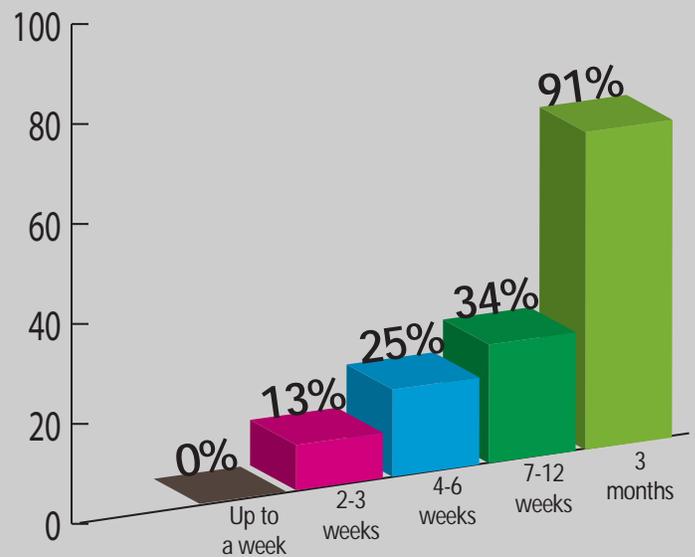
For you as the employer, this translates to less money allocated to covering wages and treatment for the injured worker, and less disruption to your workplace to cover the injured worker's duties. ❖

Claims Reporting Tips

- Develop internal procedures for reporting injuries. Ensure that your staff know the importance of reporting injuries immediately and that they are aware of your reporting procedures.
- Don't question employees' integrity when they report an injury.
- Familiarize yourself with the regulatory and legal requirements in relation to reporting workplace injuries.
- Report a claim immediately after learning about it.
- Encourage safe work practices and ensure that employees are aware of and practice proper safety techniques.
- If an injured worker still has partial capacity for work, you should try to provide interim alternate duties while they heal up. This can have a positive impact on potential disability levels, and on the premium impact of lost time.

Delayed Reporting is Expensive

Average increase in claims costs



Check Subcontractors' Insurance Policies

DID YOU know you can be held liable under your own workers' comp policy should an employee of a subcontractors be injured? Courts have on numerous occasions said you are.

Many times an injured worker may even be a third or fourth level contractor, but if none of your subcontractors are carrying workers' comp, you may see the claim hit your own policy.

This scenario is even more likely if the main contractor has substantial control over the sub's employees. courts have ruled.

Courts generally start with the sub whose employee was injured and move up the chain until they find a valid workers' comp policy.

Protect yourself by requiring your subcontractors to have a certificate of insurance. But don't stop there; you should call the insurance carrier to see if the certificate is valid.

You can check also with the State Contractors Licensing Board to see if your subcontractor has workers' comp coverage. ❖



Produced by Risk Media Solutions on behalf of Wright & Kimbrough Insurance. This newsletter is not intended to provide legal advice, but rather perspective on recent regulatory issues, trends and standards affecting insurance, workplace safety, risk management and employee benefits. Please consult your broker or legal counsel for further information on the topics covered herein. Copyright 2014 all rights reserved.

Don't Get Caught without a Succession Plan

MANY BUSINESS owners may be good at running their companies, but the majority of them are failing to address essential long-term planning that is critical to sustaining their businesses.

The one area that the majority of business owners often neglect is planning for business continuity if they die or become disabled, according to the "2015 MassMutual Business Owner Perspectives Study."

While the question of your death or disablement is not one that's fun to ponder, it makes good sense for business owners to put plans in place in case the worst happens. One of the key ways to ensure that is to have in place a buy-sell agreement, which would essentially sell your company in the event that you are unable to run it any longer.

Business owners in the survey identified these concerns:

- The effect on the business of the death or disability of the owner or key employee (55%).
- Protecting the business from disability and death of an owner or key employee had the second and third highest levels of importance (44% versus 42%, respectively). However, these two pillars were not very top of respondents' minds, with 55% saying they rarely or never think about the effect of disability and 59% saying they rarely or never think about the effect of death.
- Of those with a buy-sell agreement in place, just over half said it was funded with life insurance, but only 5% said it was funded with disability buy-out insurance. The rest were either funded with cash flow from the business or not funded at all.

What's a buy-sell agreement?

A buy-sell agreement, also known as a buy-out agreement, is a legally binding agreement between co-owners of a business that governs the situation if a co-owner dies or is otherwise forced to leave the business, or chooses to leave the business. If the business has just one owner, then the agreement should specify who would be buying the company and continuing its operation.

A buy-sell agreement should be designed to protect the business from the five D's – death, disability, divorce, departure and disqualification.

When properly executed, a buy-sell agreement can help ensure the continuity of the business when ownership needs to change hands for any reason.

It is a legally binding agreement that requires one party to sell and another party to buy ownership interest in a business when a triggering event occurs, such as the death, disability or retirement of an owner.

This agreement structures the method and manner in which the business will continue in the event of the owner's death.

In a 2003 article for *Franchising World* magazine, Patrick Olearcek explains: "The proprietor and one or more key employees [or partners] enter into an agreement which provides that the proprietor's estate will sell the business to the employee at death."

By agreeing to buy the company, the key partner, employee or associate relieves the owner's family of the responsibility, and instead

provides them with a lump-sum payment. A key employee, as opposed to the owner's family, is in a much better position to continue the business operations properly.

Funding the agreement

The majority of buy-sell agreements are funded with life insurance. In the case of a sole proprietorship, a policy covering the life of the owner is typically bought and paid for by the key employee who has agreed to purchase the business.

The employee is also the beneficiary of the policy, which has a death benefit equal to the pre-determined purchase price of the business.

Upon the death of the owner, the employee would receive the proceeds of the life insurance policy, then transfer that money to the owner's heirs in exchange for all interest in and assets of the business. ❖

CALL US!

Protect the future of your business

800.822.3694

