TOP 10 TIPS TO REDUCE WORKERS' COMPENSATION COSTS

By Phil Glick

After many years of declining premiums, workers' compensation rates are beginning to rise in many states. These increases in large part reflect the year after year increase in medical costs and rising wages and eligibility for benefits. It's likely these cost increases will continue and possibly even accelerate with likely greater competition for limited medical resources as major elements of the new ObamaCare medical plan take effect.

Now is clearly the time for all employers to review their workers' compensation programs. This is particularly true for larger companies which self-insure parts of their workers' compensation costs through high deductible or retrospective rating plans or as qualified self insureds in one or more states.

The following are my top 10 tips to control these costs:

10. NEVER PAY RETAIL

Most employers purchase their workers' compensation medical care through medical panels established by their workers' compensation insurers or third-party claims administrators (TPA's). Often care is purchased through pre-established preferred provider networks (PPO's) typically offering discounts of 10 to 20% off maximum established state medical fee schedules.

In contrast we have been able to access substantial medical cost discounts utilizing Blue Cross/Blue Shield and other major medical insurance companies' provider panels. These discounts are often as much as 70% to 80% less than the fee schedules that apply.

In addition to taking advantage of these greater medical discounts, we recommend that the cost of accessing these provider panels be renegotiated. This is one of the dirty secrets of the insurance industry. Most insurance companies and TPA's, charge a percentage of the savings they provide for repricing medical care down from the amounts billed to the maximum fee schedule in each state. Often they take a cut of as much as 25% to 30% of the savings to reprice medical bills down to this fee schedule limit, even though providers billing more than this limit are violating state law! They then take this same percentage savings of the difference between the maximum fee schedule and the discounted fees available through their PPO networks. Most employers are not aware of these large fees since they are billed as part of so-called allocated loss adjustment expenses (ALAE).

We recommend that these fee percentages be negotiated down with a maximum of no more than 20% applying. Better yet -- several insurers and TPA's we work with will charge a flat annual fee to access their network and discounts -- often eliminating tens of thousands of dollars in additional costs.

9. TIMING IS EVERYTHING IN LIFE AND WORKERS' COMPENSATION COSTS

Our advice here is don't wait for a good thing!

Many well-run employers have implemented improved safety programs which are helping to reduce their current workers' compensation losses. Unfortunately often times their current premiums and corresponding workers' compensation rates don't reflect these improved conditions -- particularly for those employers who buy their workers' compensation insurance on a guaranteed cost basis. These guarantee cost premiums reflect Experience Rating Modification adjustments that are based not on current losses, but losses that took place between 2 to 4 years ago.

In these situations, we recommend that employers consider moving from guaranteed cost rating programs to retrospective or large deductible plans. Costs under these plans are largely based on actual current losses incurred. Accordingly if claims experience has improved, these new programs will result in immediate "instant hot" cost savings.

For those employers who are already on large deductible or retrospective programs, improved claims experience may warrant taking larger deductibles with the offsetting premium savings available. Improved current claims experience may help these employers negotiate reduced collateral with their insurance companies or TPA's - NOW!

8. PAY ONLY AS YOU GO

Most workers' compensation insurance companies require large deposit premiums based on estimated payrolls with additional monthly installment premiums payable during the full policy year. These premiums remain set, even if payrolls drop significantly during the year as has occurred for many employers due to the soft economy. These employers then have to wait as long as 2 to 3 months after the end of the policy year to get these overpayments back when year-end policy audits are completed.

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In contrast to this approach we recommend that workers' compensation premiums be paid on a "pay as you go" basis, month by month based on actual incurred payrolls for each month.

We also recommend that the cost of claims handling and loss control services be "unbundled" so that corresponding fees are only paid based on actual usage of these services, not a flat amount built into your renewal premiums.

7. IT'S THE DESTINATION THAT COUNTS, NOT THE JOURNEY

Many employers use modified or transitional duty programs that offer light-duty jobs for injured employees to do while they are going through healing, hopefully on their way back to full-duty employment. Although these plans can be very effective, it's important that strict time limits be imposed on these transitional positions -- remembering that the goal is to get these injured employees back to full-time employment quickly, not to stay out on light-duty jobs month after month. Again the goal is to resolve these claims to either bring an employee back to full-time duty or settle the claim. The use of modified duty positions should not be attempted for those situations where an employee is not likely to come back to full-time duty within 3 to 6 months.

The medical providers utilized should also be carefully screened based on their commitment to achieve these back to work goals.

Along with setting strict time limits for modified duty and carefully monitoring these situations, we also recommend that reasonable maximum waiting periods be established after which an employee who continues to be out on workers' compensation disability is deemed to no longer be employed. This should be consistent with the maximum waiting periods that apply for employees who are out on group disability coverage -- after which all company employee benefits would stop. Setting these time limits will reduce the cost of continuing to provide group medical and other benefits to a disabled worker who remains out on workers' compensation leave -- and also provide an incentive for the settlement of claims.

6. RESERVES BECOME REALITY, SO TAKE THEM SERIOUSLY

Many employers, particularly those on paid loss retrospective or deductible programs, are not overly concerned with the amount of reserves set by their insurance companies or TPA's on large open claims. In contrast, we recommend that every reserve be carefully reviewed to be sure that they are reasonable. High loss reserves will drive up Experience Modification Factors and can also result in higher than necessary collateral on deductible or self-insured programs.

We recommend that loss reserves be carefully evaluated and negotiated down as necessary, at least once every 90 days. Similarly large complex claims should be settled where reasonably possible.

5. ALWAYS PAY-FOR-PERFORMANCE

We recommend that TPA and broker compensation include performance components. This could mean "gain sharing" where part of the fees payable are at risk based on the TPA or broker achieving specific performance measures such as reducing the average cost for each lost time claim, efficiency measures such as completing three- point claims contact within 24 hours on an injury, return of all phone calls within 24 hours, completing monthly updates and reviews of every open lost time claim, as agreed up front.

We also recommend that claims handling fees be based on an agreed flat cost per lost time and per medical only claim. This is in sharp contrast with many insurance companies and TPAs who charge a percentage of losses handled -- often 10% to 15% as a so-called Loss Conversion Factor ("LCF"). In contrast to paying a percentage adjusting fee, flat claims adjusting fees typically range from $1,500 to $1,800 per lost time claim, depending on the state involved and duration of the claims handling period for each covered claim. These flat fees are typically just a fraction of the percentage fees paid. Paying a claims fee based on a percentage of the loss could certainly also create a disincentive for the insurance company or TPA to hold down reserves!

Making matters worse, these percentage fees are often based on the full amount of the deductibles that apply. As an example, a client who has a $500,000 deductible with a 10% LCF would pay a claims handling fee of $50,000 for the adjusting of a death or permanent disability claim. Where a percentage fee is mandatory, we recommend that it be capped so that it only applies in the first $50,000 or $100,000 of each deductible loss.

4. IF YOU BUILD IT THEY WILL COME

Build incentive pay programs to help achieve your goal of lower workers' compensation claims.

We recommend that you pay front-line supervisors and managers based on the workers' compensation claims experience of the employees under their supervision. Several major insurance industry studies have confirmed that employers who provide bonuses to their supervisors who achieve lower workers' compensation claims experience had significantly lower lost time claims and total incurred losses -- often as much as 40% to 50% less than companies that do not provide direct incentives to their supervisors to reduce losses.

We also recommend that prizes and pay incentive programs be established for rank-and-file employees to share in the rewards of lower claims. We work with several employers who pay a group bonus based on a percentage of the workers' compensation claims reductions earned on a quarterly or annual basis. Clearly "pay for performance" works in reducing workers' compensation claims.

3. SAFE SUBCONTRACTORS AND SUPPLIERS MEAN SAFE JOBS

Employers need to consider their subcontractors and their suppliers and vendors who are performing work on their premises as part of their own workers' compensation safety and claims management programs. OSHA may hold them responsible for any injuries due to safety violations to employees of the subcontractors and suppliers who work for them -- so safety for all workers is crucial.

We recommend that employers build rewards and penalties into your contracts with subcontractors or suppliers who do work for you to reflect injuries that arise from their work. In addition, every employer should confirm that each subcontractor, supplier or vendor that works with you carries appropriate workers' compensation insurance backed up with broad identification for any workers' compensation claims that may occur to their employees or those of any subcontractor or sub-vendor. Certificates of insurance should be obtained annually confirming that this insurance coverage is in place including getting a waiver of subrogation endorsement on the subcontractor's or vendor's workers' compensation policy for your benefit.

2. FISH, GUESTS AND WORKERS' COMPENSATION CLAIMS ALL SMELL IN THREE DAYS! (AS BORROWED FROM BEN FRANKLIN!)

There is a critical need to promptly report every workers' compensation claim. Slow reporting of claims results in delays in obtaining prompt and effective medical care which results in higher long-term medical costs and delayed recovery. Prompt claim reporting also allows for prompt accident investigation to seek out the root cause of loss to avoid any recurrence. Prompt reporting also allows for early identification and denial of questionable claims.

Insurance industry studies have established that each day of delay in reporting a claim after the third day will result in the claim cost increasing by as much as 3% a day after. So a 10 day delay in reporting could result in a 21% increase in the final cost of that claim compared to immediate reporting!

Lag-time reports, which indicate the delay from the occurrence of an injury to its first report, should be run frequently to closely monitor how quickly claims are being reported and medical care started.

Along with proper reporting, we also recommend that you obtain frequent feedback from your employees to confirm that they are receiving prompt medical attention when they seek it from your established medical providers. Feedback should also be requested on employee satisfaction with the medical care they receive.

1. IT ALL STARTS WITH COMMON SENSE

Every employer should start out every day with the goal of protecting their employees and having ZERO injuries.

Common sense should be applied in all aspects of workers' compensation safety and claims management. As an example, so-called repeat offenders should be carefully evaluated to determine whether unsafe acts are resulting in multiple injuries. This should include determining whether established safety procedures are being violated. If so, progressive discipline should be established including termination of employees who repeatedly violate established company safety practices.

Pre-placement job physicals should be completed for all employees to be sure they have the physical capabilities to effectively and safely perform the material duties of the job for which they've been hired. These physical exams should be completed by physicians with occupational medicine specialties. Again, in applying common sense some reasonable percentage of applicants for employment should probably be rejected through these physicals. If 100% of all employees who apply for employment are determined to be physically capable, a more rigorous screening process may be needed.|

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