

The Why, What, and How of Workers' Comp Best Practices

Workers' compensation coverage exists to provide immediate medical and financial relief to employees who are injured in the course of their work duties. It eliminates the need for injured workers to sue their employers for medical expenses and lost wages, and in exchange it generally protects employers from being sued by injured employees for liability – unless the employer has been grossly negligent.

The workers' compensation system in Vermont is tilted in favor of the injured worker: the courts have directed that the statutes be liberally construed to provide benefits to injured employees unless the law is clear to the contrary. [*Montgomery v. Brinver Corp.*, 142 Vt. 461, 463, 457 A.2d 644, 646 \(1983\)](#). This makes it particularly important for employers to adopt specific strategies for both helping their injured employees recover and preventing injuries from occurring.

Obviously, the best way to avoid high workers' compensation coverage costs is to prevent injuries in the first place. Implementing VOSHA compliance programs, providing essential protective equipment, training all employees appropriately, and monitoring safety practices routinely are all critical components of safety success. Every employer should implement at least these measures.

A fairly well established “recipe” for further controlling costs is to adopt and implement the more in-depth set of five Workers' Compensation Best Practices listed below. These go beyond basic safety measures by incorporating medical management approaches and specific policies that target loss prevention, enhance worker recovery, and control costs. We not only recommend these to all PACIF members: our Loss Control consultants will help you tailor each one to suit your municipality's size, location, and operational complexity, so you'll have a manageable, effective program that is customized for your organization. To summarize:

- 1. Establish an effective Safety Committee.** This is particularly important for larger municipalities with multiple departments, and commitment and support from top management is a significant component. A municipal manager or other person in leadership who is delegated safety authority is often a good choice as committee chair. An effective safety committee consists of employees and management from all departments and truly engages them in loss prevention. The committee can also address workplace wellness. PACIF Loss Control staff can help the municipality create the right committee structure and will attend meetings periodically to consult, give feedback, and keep the committee on the right track.
- 2. Establish a formal Designated Medical Provider (DMP).** Vermont allows employers to designate the initial medical treatment for employees injured at work. Selecting a qualified medical provider that is well versed in treating and managing occupational injuries is a huge advantage, especially when compared to letting employees go to their own primary care providers. We regularly help members identify suitable providers. Some of the advantages of a DMP include:
 - a. Special training and skills allow them to more effectively assess the work *abilities* of injured workers so they can provide safe and accurate work restrictions. Employers can streamline this process by sharing their job descriptions with the DMP.

- b. DMPs understand that keeping the injured employee in the workplace and maintaining their routines and social relationships is important for helping workers recover quickly. These providers establish work restrictions that allow the recovering employee to safely perform “modified duties” and can revise those restrictions as the employee goes through the recovery process.
 - c. They are skilled at treating the most common work-related injuries and typically have relationships with other providers (e.g., orthopedic specialists) that they can refer complex cases to. These medical relationships can result in quicker treatment.
 - d. There is no additional cost to the employer because medical costs are covered by workers’ compensation and paid by PACIF in accordance with the Vermont Fee Schedule and regulatory requirements.
 - e. DMPs typically work in practices that have expanded access and hours of service, which can reduce the cost of medical treatment by avoiding unnecessary trips to a hospital emergency department.
- 3. Encourage prompt reporting of injuries.** Injury reporting lag time is the delay between the date of the injury and the date that the claim is filed with us. Studies consistently show that, aside from catastrophic claims (which are typically reported promptly), average claim costs increase when reporting lag time increases. One study (Glen-Roberts) notes that claims reported two weeks after the injury cost 18 percent more than claims reported after only seven days. The Vermont Department of Labor requires employers to report every injury within 72 hours of when the employer learns of the injury. The worst case is if the employer doesn’t report an injury within 21 days, because then the employer automatically “owns” all medical expenses and lost work time of the injured employee *even for additional injuries that might not be work-related*. To improve timely reporting of injuries, the employer can:
- f. Have a formal policy that establishes a tight incident/injury notification window (e.g., 24 hours) and outlines how employees should report on-the-job injuries, including the name of the person to whom injuries should be reported;
 - g. Communicate the policy to all supervisors and employees; and
 - h. Merge this policy with other workers’ compensation best practice policies such as designated medical provider and injury review process – or at least ensure that all policies coordinate with each other.
- 4. Establish an Injury Review Process, involving department heads and supervisors, to reduce recurrence of avoidable injuries.** This is a fundamental safety program element because supervisors are uniquely positioned to talk with the injured worker about the circumstances surrounding his or her injury. We recommend the following process:
- i. Develop and implement a policy that requires supervisors or department heads to sit down with injured employees to review the circumstances that led to the injury. This discussion typically reveals basic information about injury causation and contributing factors and naturally leads to talking about ways to prevent a recurrence.
 - j. Use a simple internal Incident Review form (VLCT PACIF can provide a sample) to capture this information so that it can be provided to the person responsible for filing claims electronically with PACIF. We strongly discourage the use of the State of Vermont First Report of Injury (FROI) form.
 - k. Train supervisors and department heads so they become comfortable with the form, learn the basic process of interviewing injured workers, and gain some questioning skills. We can supply this training to you!
 - l. As a final quality control measure, have your safety committee review completed Incident Review forms to ensure that any identified prevention measures have been implemented.

Additionally, they can also consider the quality of the supervisor's review and provide feedback for improvement.

- 5. Formalize your Transitional Return to Work (TRTW) program.** Providing modified, temporary work for employees who are injured on the job is one of the most effective ways of controlling workers' compensation claim costs, especially when it can help avoid lost wages. For example, consider an employee who has a back strain and is prescribed a 10-pound lifting restriction for two weeks. If the municipality can accommodate that restriction, and the person ends up at full duty after the two weeks of "light duty," the municipality kept the claim as "medical only," which costs much less than would a lost time claim of the same dollar value. Some key elements that you can include in your TRTW program are:
- m. The TRTW policy itself. The policy outlines the programs, benefits, and limitations of what the town can provide. It is always important to note that the program is transitional in nature and that "modified duty" cannot be accommodated in every situation. We can supply a model policy to help with the development process.
 - n. A list of potential light or modified duty tasks.
 - o. An offer letter to employees that outlines their work restrictions, assigned duties, and supervisor (especially if they are temporarily assigned to a different department). Both the employee and employer will sign this letter as the basis of a particular recovery. This is probably more suitable for larger municipalities.
 - p. A separate budget line item to pay for the wages of those on modified duty. Establishing this removes an individual department's disincentive to bring employees back to work; in fact, other departments will often be willing to host modified duty workers who will be "free" labor to them. This makes the most sense for larger municipalities with police and fire departments that are often challenged to find modified duty and also struggle to pay for both the injured worker's modified duty hours and the full duty replacement worker. Be aware that some collective bargaining agreement may limit cross departmental work assignments.

For larger municipalities, it makes sense to adopt all of these workers' compensation best practices to achieve the best results. For smaller members, PACIF's Loss Control staff can help develop a simplified approach that meets the individual needs of the municipality within limitations that may exist (for example, the lack of a suitable DMP nearby). PACIF consultants are happy to work with you to develop a customized approach that's effective and not burdensome. We can also share the success stories from other municipalities that have already implemented various best practices.

Workers' compensation is a challenging line of coverage because most employers feel they have little control over the outcomes. Yet implementing these best practices is your best way to control the cost of claims, once injuries occur. The only thing that's better is preventing the injury itself – and of course we can help you with that, too.

Fred Satink, Supervisor
VLCT Loss Control