

VLCT

Risk Management Services

The New World of Workers' Compensation

presented by

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Where We Began

**Who are these people
and what do they have in common?**



Today's Topics

- **Workers' compensation history and PACIF's workers' compensation program**
 - **The Life of a Claim**
 - **First Report of Injury**
 - **Investigation**
 - **Claim Management**
 - **Why costs are increasing**
 - **How costs are managed**
 - **What does the future hold?**
- 

Where We Began



Hammurabi ♦ Pirates ♦ Otto von Bismarck

***all offered early forms of
workers' compensation***

**Otto Von Bismarck established the first
“modern” workers’ compensation law
in Germany in the 1880s.**

Workers' Compensation HISTORY

- **First comprehensive workers' compensation laws in the U.S. were adopted in Wisconsin in 1911.**
 - **Vermont's first workers' compensation statute was adopted in 1915.**
 - **PACIF started offering workers' compensation July 1, 1990.**
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Workers' Compensation PRINCIPLE

Workers' Compensation "Grand Bargain":

When an Employee has a workplace injury,

- **Employer provides no-fault compensation for**
 - **Medical Costs**
 - **Lost Wages**
 - **Permanent Disability**
- **In exchange for protection from liability suits**

First Report of Injury

1. Filing of Claim

- Clock starts when worker's supervisor or manager first becomes aware of the injury (perhaps "just" an incident).
- Within 72 hours, employer files First Report of Injury through VLCT website.
- Adjuster has 21 days to determine whether the claim is compensable.

First Report of Injury

The Importance of Timely Reporting

- Gives the adjuster time to investigate the claim thoroughly.
- It's the law... Employer's responsibility.
- Late report can result in “buying” coverage for a claim that would have been denied because the statutory time allowed to deny the claim has passed.

First Report of Injury

2. Manager reviews claim to determine type

- Notice Only
- Medical Only
- Lost Time

3. Manager assigns file to adjuster based on

- the severity of the claim
- The predictive index score, and
- the experience of the adjuster

First Report of Injury

4. Packet is sent to every claimant - and letter to member - noting claim number, adjuster contact information, and benefits owed, if the claim is found to be compensable.

5. Adjuster makes a 2- or 3-point contact, depending on type of claim.

- **Notice Only: member and claimant**
- **Medical Only: member, claimant, medical provider(s)**
- **Lost Time: member, claimant, medical provider(s)**

Investigation

6. The adjuster conducts and records an extensive interview of the claimant to help determine whether the claim is compensable.

Generally, the injured employee is obliged to prove that the injury is work-related, but there are some exceptions.



Investigation

Warning Flags for troublesome claims:

- Injury is reported on a Monday morning ... or the week before hunting season
- Injury is reported long after it occurred (“late report”)
- Member provides additional information
- Claimant has a history of injury claims
- Claimant has co-morbidities: HONDAS

Investigation

HYPERTENSIVE
OBESE
NON-COMPLIANT
DIABETIC
ALCOHOLIC
SMOKER

**If you have a fleet of these HONDAS,
your maintenance costs will be high.**



Investigation

7. Additional Investigation

- **ISO Report: national reporting system for all types of insurance claims**
- **State(s) Dept. of Labor: previous workers' compensation claims with all employers**
- **Facebook, etc. to learn non-work interests**
- **Witness statements**

Weekly staff meetings to discuss cases

Claim Management

8a. If claim is found to be non-compensable

- Claimant and member are notified by phone and letter, including info on appeal process.

Some reasons for claim denial

- Claimant doesn't return necessary forms
- Medical documents not received from treating doctor
- Symptoms not caused by work injury
- Stress claims – higher threshold to approve
- Heart attacks – except in Public Safety workers

Claim Management

8b. If claim is found to be compensable

- Process medical bills and indemnity payments
- Use third-party vendors for medical bill review and pharmacy benefits management
- Monitor claimant's work and medical status
- As claimant recovers, communicate with member to consider options for early return to work (light-duty or part-time, allowing for medical restrictions)
- Assign vocational rehabilitation per statute
- Request "medical end" status for the claim.

Claim Management

For severe claims: use BDOHI specialists

- **Patient Advocate (a nurse)**
 - **Assists with medical management**
 - **Contacts claimant and treating physicians**
 - **Assists with scheduling and attendance at appointments**
 - **Is a resource to the adjuster**
- **Medical Director (Dr.) available for consultation**

Claim Management

Possible reasons for slow medical recovery and/or return to work:

- Personality issues with co-workers &/or foreman
- Personnel issues (e.g. poor performance reviews).
Employers are strongly discouraged from using workers' comp to try to solve personnel issues.
- Uncooperative doctor
- Claimant posturing for a bigger payoff at medical end
- Employer doesn't have modified duty work available
- Union contracts note "no work until 100%"

Claim Management

Contested Claims – Informal Hearings

Some Grounds for Contest

- Claimant appeals denial of a claim
 - PACIF files a Request to Discontinue Benefits
 - Conflicting medical opinions as to the necessity and/or appropriateness of treatment
- Phone conference: DOL Specialist, Claimant, Adjuster.
 - Claimant can be represented by legal counsel.
 - DOL Specialist listens to both sides, then provides suggestions, a decision, or Order to Pay.
 - Order to Pay requires payment even if the issue is still in dispute. Payment usually cannot be recovered.

If not resolved, case is referred to the Formal docket.

Claim Management

Contested Claims – Formal Hearings

- **In person: DOL Hearing Officer, Adjuster, Claimant.**
- **Both Member and Claimant may have a legal rep.**
- **Depositions and expert opinions are obtained.**
- **Both sides present evidence on**
 - **the medical condition**
 - **whether the condition is causally related to the original injury, and**
 - **possible Permanent Partial Disability rating.**
- **Decision is rendered; order may be issued; can be appealed to court.**

Claim Management

Medical End & Permanent Partial Disability

- **Medical End:** there is no further treatment that will significantly change the medical condition.
- Claimant is rated for **impairment percentage** using the *AMA's Guides to the Evaluation of Permanent Impairment* (5 & 6th ed.).
- Benefit formula in VT statute: **base** # of weeks [550 for spinal injuries or 405 for other body parts] *times* the claimant's impairment **percentage** *times* the claimant's **current** WC compensation rate.

Example 1: $550 \times 5\% = 27.50 \times \text{comp rate}$

Example 2: $405 \times 5\% = 20.25 \times \text{comp rate}$

The Life of a Claim

CLOSED claims can be REOPENED if

- Further treatment is needed
- Further medication is needed
- The old injury recurs, e.g. through aging

→ **Long, long, long tail!**



Why Costs are Increasing

Aging Workforce

Older employees usually have fewer injuries but generally take longer to recover.

Medical Inflation

About **half of WC claim costs are medical expenses.**

Medical and pharmaceutical costs rise faster than the general rate of inflation.

Advances in Medical Treatment and Technology

Medical treatments and technology continue to advance, but at a cost. Examples: diagnostic tools, cancer treatment, surgical techniques, new drugs.

Why Costs are Increasing

Increasing use of **Painkillers**, esp. **Synthetic Opiates**:

- Man-made variants of heroin include Vicodin (1984), OxyContin (1995), and Percocet (1999).
- All are very **effective but** also highly **addictive**.
- Often **over-prescribed** and **not well managed**.
- Also used illegally: these pills have a “**street value**”.

Why Costs are Increasing

Opiate/Opioid Statistics in 2011 (worse now):

- The U.S. is only 4.6% of the world population but consumes 80% of its opioids — including 99% of its hydrocodone (e.g. in Vicodin).
- In 2011, U.S. doctors prescribed more hydrocodone than any type of drug including anti-depressants and blood pressure medications.
- In 2013 there were 127,860,000 Opioid prescriptions dispensed at a cost of \$1.05 Billion in the United States.
- Creates an additional, expensive layer of costs and complications for workers' compensation claims.

Why Costs are Increasing

New, expensive **specialty** and **compound drugs** are coming on the market.

- Some are major improvements over previous treatments.
- Others are no more effective than other available prescription drugs.



Why Costs are Increasing

Specialty and compound drug examples:

- New prescriptions to cure Hepatitis C (Harvoni, Sovaldi) can cost **\$84,000 or more for a twelve-week course** of treatment.
- A compounded drug to treat pain costs \$6,000 but may not be more effective than over-the-counter products.

Why Costs are Increasing

High-Cost Claims and **Adverse Development**

- **“Creeping Catastrophic” claims: may not look bad at the outset, but get worse over time.**
- **Often due to other risk factors, such as smoking, obesity, and diabetes – “co-morbidities”- “HONDAS” – which make recovery from the work-related injury more difficult and expensive.**

Why Costs are Increasing

Laws and regulations that favor workers

- **Example: Presumption Laws**

Some states presume that heart disease, infectious diseases or certain cancers in public safety workers have been caused by conditions inherent in the line of duty.

As a result, the **Claimant doesn't need to prove causality.**

- These vary from state to state.
- This topic is often hotly debated.

Why Costs are Increasing

**Employer budget pressures
can result in safety shortcuts:**

- Fewer employees required to do more work and/or work longer hours
- Less funding for purchase of safety equipment
- Does this come at the cost of workplace safety?

**Less-safe workplaces
result in more injured workers.**

How Costs are Managed

Prevent the injury in the first place

- Take advantage of PACIF's Loss Control programs
- Comply with Loss Control recommendations
- Hiring, Training, Supervision, Accountability
- Require the use of PPE and lifting aids
- Update and use job descriptions
- Establish a Safety Committee
- Participate in PACIF's WorkStrong Program
- Apply for a PACIF Grant or Scholarship

How Costs are Managed

Be an engaged member

- Report injuries promptly
 - Identify and use a Designated Physician
 - Conduct accident investigations
 - Early Return To Work (RTW) program
 - Stay in contact with injured workers
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How Costs are Managed

Competent Claim Adjudication

- **Experienced claim staff**
- **Responsible claim management**
- **Effort to manage and/or close out creeping catastrophic claims early**



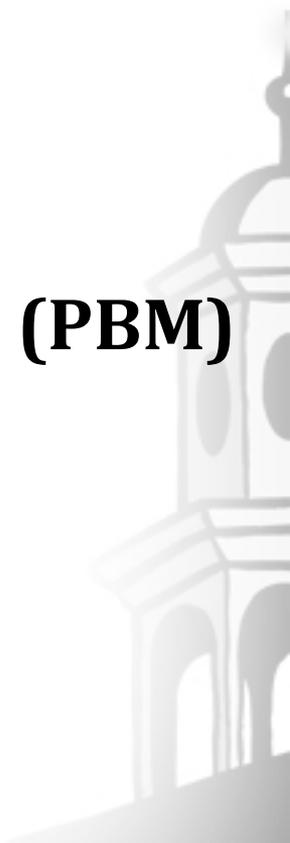
How Costs are Managed

Medical Management

- Best Doctors (BDOHI)

Cost Control

- Prescription Pharmacy Benefit Manager (PBM)
- Medical Bill Review (MBR)



How Costs are Managed

Claim ANALYTICS: broad-based claim analysis.

- Good data and knowledge of risk factors can help identify likely large claims sooner
- Good data can lead to better underwriting
- Best Doctors for claim intake analytics
- Other sophisticated claim analytics systems
- This is **not simple**.

What Does the Future Hold?

- **Continued rise in medical costs**
 - **Opioid overuse and the impact on lives and claim costs**
 - **Workplace fitness and safety requirements**
 - **Public Safety presumption claims – the ultimate creeping catastrophic**
 - **Aging workforce**
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What Does the Future Hold?

- **Claims reopening for cutting edge treatment**
 - **Use of data analytics to identify high risk claims sooner**
 - **Collaboration and data sharing with other pools**
 - **Statutory changes**
 - **Single Payer healthcare?**
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What Does the Future Hold?

**Your questions
and thoughts**

