Don't get tripped up by workers compensation fraud

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In an insurance field tilted in favor of claimants, special diligence must be observed by employers.

WORKERS COMPENSAtion insurance is a system that can't say no to dubious claims. The Workers Compensation system invariably gives employees the benefit of the doubt.

This presumption makes it easy to defraud the system and the employers who pay the premiums for it.

Contributing to the problem is the fact that most insurance carriers are reluctant to confront fraudulent claims, finding it easier and less costly overall to settle with the "injured" employee than to defend against the claim. As a result, fraudulent workers compensation cases during the period 1985 to 1994 are believed to have resulted in nearly $60 billion in losses by property and casualty insurers.

This roll-over-and-play-- dead approach by insurers sends a message to employees that workers compensation is a win-win situation and that there is no downside to cheating an insurance company.

Insurance companies have deep pockets and it is free money, the fraud-- minded reason. Just file a claim and collect. And collect. And collect.

While insurance carriers are prone to pay for claims they know are fraudulent, they seem to forget that by doing so they are driving up the cost of workers compensation insurance premiums for the employers who are required to buy it.

Nationally, the average cost to business for workers compensation insurance is $2,800 per employee a year.

Paid vacation

Here is a classic example of abuse of the system. In August, 1988, an employee in New York rode her bicycle into a closed parking lot gate. She filed for workers compensation and won $327 a week, and remained out of work until October. The case was closed in February 1989, but the employee did not return to work until April. In May the compensation board continued her case and awarded her $1,528 for her six-week vacation.

In September 1990, the employee complained of excruciating neck pain, which she said was related to her August 1988 accident.

A doctor prescribed home cervical traction and a neck collar, and she did not return to work until mid-October. The next day she attended the company's annual clambake, where she competed in the limbo contest. Despite photographs of the employee contorting her body to pass under the bar, the compensation board awarded her $837 for the month she stayed out of work following the company picnic.

Employers pay all

Workers compensation was estabfished in 1908 and is the oldest form of social insurance in the U.S. It is a nofault system with its own rules and is separate from both the civil and criminal justice systems. Administered by the states, it provides paid medical treatment and non-taxable wage replacement benefits for an injury or disease arising out of and in the course of employment. There is no funding from the federal government, and employees incur no out-of-pocket expense.

The premium a company pays is based on three factors: (1) the risks associated with specific jobs, (2) the number of employees, and (3) the firm's past accident record.

In return for its participation, companies are shielded by law from liability lawsuits that might otherwise be filed by workers injured on the job.

It is estimated that false claims cost the insurance industry about $5 billion annually. The FBI estimates there is fraud in 10% of all insurance claims, but casualty insurers say a recent study indicates the fraud level in workers compensation cases is closer to 25%.

Workers compensation fraud generally falls into four areas:

Collecting benefits for exaggerated or non-existent injuries. Popular areas for fraud are "soft-tissue" claims, such as back pain, muscle strains, or sprains that are virtually impossible for a doctor to detect or disprove.

Malingering-stretching out the recovery time to extend disability payments.

* Working on a second job while receiving workers compensation.

* Collecting for non-work-related injuries.

To combat fraud, firms need to maintain a safe workplace. When an accident is reported you need to seek out and interview witnesses to the accident.

And you need to require diagnostic procedures to determine the nature of the injury. If you suspect fraud, insist that your insurance carrier take appropriate action.

Be particularly careful of injuries reported on Monday that supposedly happened the previous Friday.

Reports of strains and sprains on Monday are more prevalent than on other days of the week. Employees often post-date weekend back injuries to Friday.

Most insurers agree that no fraud prosecution will be successful without video surveillance that catches the disabled claimant red-handed.