

Employer's Handbook



# Workers' Compensation



## WORK INJURY CLAIM FORM

### 1 WORKER'S PERSONAL DETAILS

Title  Family Name   
Given names

What are the site details of the site where you were working in when you were injured?

What is the street address of the site where the incident occurred?



*Insurance & Risk Management*

LMC Insurance & Risk Management

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# What is Workers' Compensation?

## Workers' Compensation Is:

### *Mandatory Insurance*

In almost all states, employers must carry workers' compensation insurance for their employees. The benefits vary from state to state and are determined by each individual state or court system.

### *Exclusive Remedy*

Employees who collect workers' compensation give up their right to sue their employer, except in extraordinary circumstances. In return, the employer ensures that workers receive the statutory benefits. Employees are free, however, to pursue appropriate third party recovery against another person or company that is responsible for the injury or illness. This is called subrogation and the employer is entitled to some percentage of any recovery.

### *No Fault*

It does not matter who is at fault in a work-related injury as workers' compensation will still pay benefits. If an employee is injured due to their own carelessness or failure to follow standard safety procedures, in most cases, they will still be able to collect workers' compensation benefits. However, some states will reduce the benefits if the employee is injured while under the influence of drugs or alcohol.

## Basic Purposes of Worker's Compensation

- Ensure that an employee who sustains a work related injury will have adequate means of support while they are unable to work.
- Ensure that an employee who sustains a work related injury will receive adequate medical treatment to bring about a rapid recovery without any cost to them.
- Ensure that an employee who sustains a work related injury will be compensated by the means of a monetary award for any permanent disability they sustain as a result of the work related injury.
- Ensure that the dependents of an employee who has work related death will be provided compensation.
- Ensure that the employee is not discriminated against by the employer and/or insurance carrier as a result of filing the claim.

## What is an injury?

An injury is defined very broadly in most jurisdictions in favor of the employee. In most cases an injury is defined as a sudden unexpected occurrence, a cumulative injury, or occupational disease. In the absence of evidence to the contrary, the court presumes the injury to be compensable.

## Employees are Covered When:

### *Arising Out of and In the Course of Employment*

Employees are covered for activities arising out of and in the course of employment. The location of the accident is of great importance as accidents that occur on the company's premises are generally covered under workers' compensation, even if the employee is not performing their specific job. However, it should be noted that an injury or illness may not be covered simply because the employee became aware of the symptoms while performing their regular job.

# What is Your Role?

Good, effective communication is a key element of any successful claim and safety management program. That communication requires an effective partnership between you as the employer, the insurance carrier, and your broker.

## The Employer

### *Safe Work Environment*

One of the greatest responsibilities you have as the employer is to ensure a safe work environment. This includes making sure the machines and employees operate in a safe manner, the materials are appropriate for the jobs to be performed and the method of performing the jobs is consistent with the outcome desired.

### *Early Intervention*

- Reporting the injury in a timely, accurate fashion.
- Complete a thorough accident investigation.
- Notifying the insurance carrier of any information that might warrant further investigation.
- Keep detailed documentation as the claim progresses.

### *Ongoing Open Claims*

- Communicate information regarding changes in the employee's medical status or work status immediately
- Full duty release is given
- Hours are reduced
- Employee is complaining of increased discomfort
- Additional treatment/surgery is needed
- Employee is seeking an attorney
- Rumors about potential outside activities

## Insurance Carrier

Your insurance carrier has a responsibility to provide opinions, resources, and options for resolution of the claim. They see that your best interests are protected and that you only pay for what you owe under the state statute.

### *Initial Claim Handling:*

- Accept or deny claims based on the information received by the employer, employee, and the medical provider
- Process payments for lost wages, medical bills, and other expenses
- Establish reserves that reflect the outcome given the facts of the claim

### *Ongoing Claim Handling:*

- The claim handler will make the most critical decision – to accept or deny the claim as being work related
- Monitor the medical progress of open claims and work with the employer to return the employee to work as soon as possible
- Utilize tools such as second opinions, medical management, and surveillance when appropriate
- Maintain contact with employees who are missing time from work
- Notify you of any claim changes
- Close the file when the treatment and activity is resolved

## The Broker

We're your advocate and work with everyone in bringing complicated claims and issues to conclusion. We bring a wealth of experience in claims, loss prevention and other forms of insurance matters. We can assist in establishing rules, policies, and procedures that act as a support to your claim and safety management program.

We offer different strategies, tools, and resources that assist you in managing your safety program, controlling your lost time claim costs, and educating your staff on workers' compensation claim management.

# Basic Benefits

## Benefits to Employees

There are three main benefits allowable by most workers' compensation statutes:

- Lost Wage Replacement
- Medical Treatment
- Vocational Rehabilitation

### *Lost Wages*

There are many different types of indemnity benefits. The type of benefits an employee receives depends greatly on their medical status, work status and applicable statute. The most common wage replacement benefits are:

- Temporary Total – An employee is totally disabled, however the disability period will definitely end.
- Temporary Partial – An employee is partially disabled, however the disability period will come to an end.
- Permanent Total – An employee is totally disabled and the disability period is not expected to end.
- Permanent Partial – An employee is partially disabled. The treating physician will assign an impairment rating based on the injury type and body part. Each body part has a set numbers of weeks assigned to it. The adjuster will calculate the total number of weeks due by multiplying the rating provided with the number of weeks assigned to that body part.

### *Calculation of Indemnity Benefits*

Employees do not receive their full wages while on workers' compensation. Depending on the jurisdiction and type of benefit they're receiving, an injured worker usually receives approximately 2/3 of their gross average weekly wage. Workers' compensation benefits are not taxable income.

The average weekly wage is an average of the employee's pre-injury earning capacity. The number of weeks used in determining that amount is dependent upon each individual state requirement.

### *Medical Treatment*

Payment of the medical treatment that an injured worker receives as a result of an work related injury or illness, is another benefit of workers' compensation. When an employee is injured they are entitled to payment of:

- All reasonable and necessary medical bills after application of a fee schedule or usual and customary review.
- Mileage reimbursement for travel while treating for the injury or illness.
- Prescription reimbursement.
- Necessary durable medical goods

### *Vocational Rehabilitation*

When an employee cannot return to the employer at their pre-injury position or a permanent restricted position the employer/ carrier can be obligated to find a comparable job with another employer. The services available to an employee range from job placement assistance to placement in education or re- training programs.

While vocational rehabilitation is not appropriate for all cases, it should be considered in cases where the potential for a settlement exists.

## Return to Work Programs

An effective modified duty program is key to controlling workers' compensation costs. If an employee is not allowed to return to work until they're at full health, then the insurance carrier has no choice but to pay lost wage benefits. However, if the employer is willing to find work that meets the employee's restrictions, then the carrier will not have to pay the lost wages or they will be at a reduced amount.

Finding modified duty can be difficult in some work environments, but the reduced disability periods are well worth the effort.

### **A Return to Work Program Benefits Everyone Because it:**

- Speeds up the healing and recovery process
- Enhances the likelihood of a return to full duty
- Keeps the employee productive and in the work routine
- Employees are less likely to develop the "disability syndrome" by staying home until 100%
- Allows the employee to recover on the job and sends out a clear message to the other employees that the company cares about its injured workers and will ensure their employment
- It lowers workers' compensation claim costs

### **Companies See the Best Results When the Return to Work Program is:**

#### *Communicated*

Employees know that the transitional duty job assignment is temporary and that the organization's goal is to get them back to their regular jobs as soon as possible.

#### *Reviewed*

Restrictions are being evaluated at each follow-up appointment with the medical provider, and the job is being changed to reflect changes in restrictions.

#### *Matters*

The organization avoids putting employees in meaningless "make work" situations. The transitional duty job is as close to the person's normal job as possible.

## Establishing your Return to Work Program:

You won't want to wait until an employee has been injured to start thinking about opportunities for modified duty work in your workplace. The injury will be much easier to handle if you already have:

- Identified jobs, specific tasks within jobs, and special projects that can be handled by employees with restrictions
- Communicated your return to work policy to employees and supervisors up front
- Discussed your program with your medical provider

## How it Works:

An employee is injured and unable to return to their regular job. The employer:

- Gets the specific restrictions from the medical provider - restrictions may limit certain activities or hours worked
- Develops a temporary job that accommodates the employee's restrictions
- Offers the job to the employee (verbally or in writing if necessary)
- Monitors the employee to ensure that restrictions are being adhered to
- Tracks the employee's medical progress and asks the medical provider to reevaluate the employee's restrictions

## Return to Work Programs and Wages:

Some employers find it difficult to decide on what to pay any employee while working transitional duty. The majority of companies that do not have an incentive pay system elect to pay the employee their full wages regardless of the type of work being done. However, as each employer has a different situation to deal with, you'll want to discuss this with your carrier and maintain consistency for each case.

### *Paying the Employees Full Wages*

- it eliminates the need for partial payments to the employee
- saves administrative time for both the employer and carrier
- it creates an incentive for the employee to return to work
- can eliminate or reduce any financial hardship

# After The Injury

The way the injury is initially handled has a powerful effect on the eventual outcome of the claim. Injured employees need to be treated fairly and with respect. Employers who do a poor job of this initially are likely to alienate their injured employees, and those same employees are far more likely to seek out any attorney for counsel.

## Take Care of the Injured Worker

- Determine the severity of the injury
- Focus on the needs of the employee regardless of work demands
- Clear the area of all people not involved in caring for the employee
- Find out what happened and do not rush to assess blame for the accident
- Secure the accident scene

## Get the Employee to Medical Care

- Get the injured worker to the appropriate provider based on the severity of the injury
- Have the names of your preferred medical providers and your supervisors should have them as well
- Have a list of the authorized treating physicians posted in a high traffic area
- Call the medical provider to notify them that the employee is on his/her way and the reason for the visit

## Report the Injury

- The sooner you report the injury, the sooner the carrier can help manage the claim
- Do not delay while awaiting complete accident information
- If the injury is reported late, determine the reason. If you question if the employee was actually injured on the job you'll want to notify the carrier
- Be sure to identify a contact person

# Accident Investigations

After the employee has been taken care of, the cause of the accident needs to be determined. When a company does not investigate an accident, it misses opportunities to correct issues that could potentially cause additional injuries or identify possible defenses for the current injury.

## What is the Intent of the Investigation?

The purpose is to find out the real cause of the accident and determine what the company can do to prevent similar accidents in the future.

## How Should the Investigation be Conducted?

The investigation needs to take place quickly, while the details of the accident are still fresh in everyone's mind. The investigation should be completed no later than 24 hours after the accident.

## How Should the Supervisor Investigate the Accident?

The supervisor needs to look at the work area where the injury occurred and interview the injured employee and any co-workers that might offer insight as to what happened. Interviews should be held one-on-one, in a non-threatening environment, and should contain open-ended questions. The key is to find out what happened, not assess blame for who is responsible.

## What Happens Once the Investigation is Completed?

You'll want to share any findings with the insurance carrier as it may assist them in determining compensability. If there's any reason to believe the employee's injury did not occur at work, it's important that this information be shared with them. The results of the investigation should also be shared with other employees at your location. If there's a process or procedure that needs to be changed to prevent further accidents the company should take prompt action. That's why the timing and location of the accident investigation are so important.

***The following accident investigation report is just one example on how to gather information and complete a successful accident investigation.***

# Supervisor's Accident Investigation Report

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Name Age Time Date

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Department Shift

Describe What Happened:

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Why Did It Happen:

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Corrective Action - What should be done?

---

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What Action Have You Taken?

---

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How Will This Improve Operations?

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Investigated By Date

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Reviewed By Date

# Red Flags

“Red Flags” refer to potential indicators that a claim could become problematic. As the employer you need to be aware of these red flags so that you and the insurance carrier can aggressively manage these claims. If you have a “red flag” you should call the carrier to discuss the situation.

Some examples of red flags are:

- Incident occurs following a layoff, holiday or weekend
- Accident is not witnessed
- The description of the accident is vague or inconsistent
- Claim was reported late
- Initial treatment sought with personal physician
- Short term employee
- Injury occurred in area outside the employee's normal work area
- Incident occurs at start of workday
- The employee has a history of moving from job to job
- The employee is having financial trouble
- The employee has no other form of insurance
- Employee is missing doctor appointments
- Employee is never home when you call
- The employee is a poor performer or disgruntled
- Injury is reported shortly after time off work was requested

# Claim Management

## Medical Only Claims

These claims are usually straightforward to manage as the employee is not missing time from work. Things to keep in mind:

- Keep track of the employee's medical appointments
- Send copies of medical reports
- Do not hold on to medical bills sent to you by a medical provider
- Raise any issues of excessive medical treatment or unnecessary diagnostic tests

## Lost Time Claims

These claims can be more difficult to manage as the employee may be losing time from work and is, therefore, much harder to monitor. The employer's goal should be to return the employee to work as soon as medically possible.

## Maintain Close Contact

- Stay in contact with the employees who are temporarily disabled and/or out of work. Let them know they're missed and the organization wants them to return as soon as medically possible
- When making contact attempt to identify any unusual factors that may influence the injured employee's motivation or possible activities that may contradict current medical opinions
- Note any changes in the employee's attitude about returning to work
- Encourage the employee to visit the workplace often and invite him/her to attend meetings and social events. Share news about the workplace; it helps the employee feel connected
- Keep track of the employee's medical appointments. Discuss the employee's progress regularly with the employee, the doctor and carrier
- Inform the carrier of any missed doctor or therapy appointments and/or requests by the employee to change treating physicians

# Things to Avoid

## Common Pitfalls for Employers

### *Not letting the insurance company play the bad guy*

- This allows you to maintain your relationship with the employee and the carrier to do their job
- Give them all the information but allow them to make the compensability decision

### *Lose contact with the employee while on disability*

- This allows for job uncertainty to set in and what's going to happen next
- They no longer feel involved with the company
- If you don't talk to them, they will talk to an attorney

### *Not understanding your rights as an employer*

- Learn the basic laws of work comp in your state and ask questions from your Insurance carrier and broker
- Know your role in the process and what you can/cannot do – direct care, IME, wages needed, etc
- The employer, insurance carrier, and broker are a team and we all need to work together

### *Not providing medical care immediately*

- This can cause an extended healing and/or treatment period
- The employee can become disgruntled and see their own physician
- The employee could seek an attorney in order to get treatment
- Try to have the employee schedule appointments after their normal schedule but don't make it an issue if they don't

### *Not having a selected company physician*

- This allows you to maintain some control of treatment especially in the beginning
- The physician can be an advocate for the return to work program
- Can assist you in minimizing the disability period

### *Supervisors don't follow employee's work restrictions*

- This will potentially extend the healing period and potential further injury
- Employees can become disgruntled and seek an attorney

### *Employees aren't allowed to return until 100%*

- This increases the disability period and benefits paid
- This allows the "disability syndrome" to set in
- The employee loses touch with employer, work friends, and work setting

### *Accident investigations are not completed*

- This allows for Information to be missed and the insurance carrier may not have all the information to determine compensability
- By not making changes in work processes and areas, similar accidents may not be avoided
- The true cause is not determined and could happen again

## Summary

- Early reporting and action is key
- Investigate the accident timely
- Insurance carrier is the “bad guy” and maintain your relationship with the employee
- Obtain a return to work release as soon as medically able
- Utilize employment knowledgeable medical providers
- The employer, insurance carrier, and broker are a team and need to work together
- Communicate, communicate, communicate

## Expect the Best

From our many years of risk management experience, LMC Insurance & Risk Management understands the unique injury exposures and challenges facing today's businesses.

- Industry expertise in agri-business, association/group programs, construction, educational institutions, financial institutions, healthcare, and manufacturing.
- Our strategies, tools, and resources to will help you better manage your worker's compensation program through a variety of loss control and claim management resources.
- We offer safety management and injury prevention tips and programs for all levels of your staff. A safety educated employee is more likely to work safely and go home healthy.
- Our long-term commitment to each client is to become their partner dedicated to their success.



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