

Are You Making Workers' Comp "Employee Friendly"?

by
Kevin Ring



Both in the media and in general conversation, we often hear people refer to the Workers' Compensation laws in various states as being very "employee friendly," because they feel that it's easy for injured employees to get more than they "deserve" from the workers' comp system.

This may be true; as certainly there is little or no question that there are laws in some states that are more business friendly as opposed to employee friendly. But employers would do well to ignore this debate because in reality when employers put the right systems in place and implement a positive corporate culture, both employers and employees benefit.

As an employer, communicating with employees before they suffer an injury is key. However, when we discuss this idea with employer, they are often hesitant, stating "If we tell them how comp works, they'll just want to file a claim!"

It doesn't need to be this way. You should have an employee meeting to discuss workers' comp. Here's how the dialog between employer and employee should go:

"We buy workers' compensation insurance as a benefit for you, our employees, to make sure that when you are injured while you are working for us that your medical and lost wage expenses are covered. Your medical expenses will be covered 100%. There are no co-pays or deductibles like there are when you are sick or have to go to the doctor for personal reasons.

We cover all lost wages as well. However, the law requires a few things. First, the law in our state requires that during the first seven days (this number will vary from state to state) you are out of work, you do not receive pay. This might seem unfair but it's the law and out of

our control. If you are out more than a week, the insurance company will pay you 66 2/3% of what you are making now. (Each state has a maximum amount an employee can receive. If the work force might run into that, you might mention it as well)

I know that 66% seems low, and we agree. So that is why we built a recovery at work program, so that when you are injured, we can bring you back to work and pay your full salary, even if the doctor says that you can't immediately go back to your regular job. We work with Dr. Welby from Welby's's Urgent Care (it works even better if Dr. Welby is actually at the meeting). Dr. Welby will make it his priority to see you immediately should you suffer an injury, so you aren't stuck in a waiting room for hours before being seen."

OK, let's break down what you just communicated to your employees:

1. *We care about you.*

This has to be the baseline. If you don't care about your employees, nothing else matters. Workers' Compensation results will suffer. If you treat your employees as interchangeable parts, it's impossible to build a process that works. Workers' Compensation is an employee benefit. True, it's required by law (in most states), but it is there to protect employees when they suffer an injury.

2. *Educating the employees about the real benefits of Workers' Compensation.*

The vast majority of employees who file for Workers' Compensation have never filed a comp claim before, so it is highly unlikely they will understand how the system works. There are thousands of pages on the web about workers who worry about how a Workers' Compensation claim will affect them. How much will it cost? Can I be fired? So it is to your benefit to be transparent about the process.

Employees need to know their medical costs will be covered and that they are required to notify the appropriate people in the company should an injury occur. It should be a condition of employment that all injuries are reported before the end day in which the injury occurs. Employees shouldn't be given the opportunity to see if it "feels better tomorrow" instead of notifying the employer they have been injured.

We have also let them know what lost income benefits they will receive if they are out on Workers' Compensation. Every state has a waiting period in which workers will receive no pay. While it is generally allowable for an employee to use their paid time off in this window, it's important for employees to know this time can be unpaid. Research (<https://www.acoem.org/PreventingNeedlessWorkDisability.aspx> <http://www.webility.md/jwc-w2000.htm>) shows that employees recover faster back at work and we want to build the expectation they will be released to work and are expected to return immediately after they see a doctor.

In the vast majority of states the employer can at least recommend which doctor an injured employee should see when injured. When you let an injured employee go to their personal doctor (or worse, to the emergency room), the stage is set for the Workers' Compensation claim to go sideways and cost additional dollars even before the employee completes their first doctors' visit.

Employers should identify—with their agent's assistance— a doctor who is skilled in treating occupational injuries. Local urgent care clinics are a great source because many are already advertising services as Workers' Compensation doctors. Many of these clinics are searching for businesses partners to improve their business.

When you visit their facility, make sure they do not have live TV on in the waiting room. Daytime television is rife with ads for attorneys, and it not a good idea to have them chirping in the ear of an injured employee before they even have the opportunity to see the treating physician.

When you partner with a physician, invite them to visit your facility. The more the doctor understands the your process, the more effective they can be in setting restrictions for injured employees. Speaking of restrictions, you want a physician who will send every employee back to work with restrictions unless they are in one of the following conditions:

1. Hospitalized
2. Contagious
3. On medication that makes it unsafe for them to get to or be at work

Other than these three issues, the injured employee should be back at work doing something, rather than just sitting at home. If the physician is going to return the injured employee to work, they must understand that the employer has a functioning Recovery-at-Work program. You may find an employer that resists Recovery-at-Work for a variety of reasons. It's important they understand Recovery-at-Work benefits both the injured employee and the employer. When the injured employee returns to work, they tend to get better faster. They are unlikely to be paid indemnity benefits by the insurance company which reduces the cost of the Workers' Compensation claim. In many states when no indemnity is paid this claim qualifies for a 70% discount on the experience modification factor. The employee can continue to collect their full wage rather than the 66.7% that most states mandate the insurance company to pay.

Bottom line: With Recovery-at-Work, the injured employee is likely to return to their full duty job more quickly, while also reducing the overall cost to the employer as a result of the injury.

When you communicate with employees about how Workers' Compensation works before they suffer an injury, many good things happen. When they know what to expect, which doctor they'll see, and what their expectations will be returning to work, an employer is very likely to have positive results in their Workers' Compensation program while also having

happy, healthy and productive employees.

In a perfect world, no employee would suffer an injury. But you only have to tune in to the nightly news to know the world is far from perfect. Employers who are prepared for employee injuries and have engaged their employees in how the process works will reap the rewards of lower costs and higher productivity.

Regardless of the statutes in your state, when you have a process in place that puts everyone on the same page, that's when Workers' Compensation will work for both the employer and the employees.

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