

## **Ohio Bureau of Workers' Compensation August 2019 Self-Insured Department Workshops**

On August 13, 14 and 21, 2019, the self-insured department held a series of workshops for SI employers and their representatives. The workshops focused on a discussion of methods to build relationships and improve interactions between injured workers and self-insuring employers. These workshops were held in the Pickerington, Garfield Heights and Cincinnati offices. The workshops included a panel of injured workers representatives and there was extensive audience participation. The panels included:

Peggy Griffith-Member of BWC's Board of Directors, and former member of the Communications Workers of America. Peggy also runs the AFL- CIO annual workers' compensation school.

Attorneys- Matt Cincione, Matt Copp, Mark Adams, and Jerry Schneiberg

There were approximately 66 attendees at the Pickerington workshop on 8/13/2019. The Garfield Heights workshop had approximately 55 attendees on 8/14/2019 and the Cincinnati workshop had approximately 45 attendees on 8/21/2019.

All attendees and panel members agreed the primary goal of workers' compensation programs is to ensure injured workers are returned to their best health, returned to work and back to a normal life.

The workshops started with a discussion of the perceived road blocks to accomplishing this goal. The attendees recognized the roadblocks are not always intentional, and the nature of the workers' compensation system can naturally lead to an adversarial relationship.

- Perceived Injured worker roadblocks identified:
  - Noncompliance with provider care
  - Injured Worker does not know what to do
  - Pre-existing conditions prevent normal healing process
  - Injured Worker will not always communicate
  - Injured worker may malingering
  - Changes doctors
  
- Perceived Provider roadblocks identified:
  - Does not provide requested information or forms
  - Pursues injured worker wishes, listens only to injured worker information without verifying with employer
  - May not consider restrictions
  - Does not understand employer's business and processes

- Promotes conservative treatment
- Perceived SI Employers roadblocks identified
  - Contest every claim or issue
  - Doesn't pay bills correctly
  - Does not comply with timeframes or requirements, delays treatment
  - SI Employers can do whatever they want

The discussions focused on a few common areas:

#### Reporting Claims:

SI Employers need to ensure Injured workers know who their employer is and that the employer is self-insured. It is critical for the SI employer to designate a primary person to guide and assist the claimants with the filing and processing of their workers compensation claim, and the reporting requirements should be posted where employees can access the information. It is worthwhile to repeat this training. Front line management should be aware of the process, but also recognize what information they need and know their role in the reporting process.

Injured workers should take ownership of their claims and assist the employer in gathering needed information when necessary. Injured workers should take time to educate themselves regarding their claim, allowed conditions and future treatment.

#### Medical Providers

There is a concern that fewer providers are willing to treat workers' compensation claims due to the administrative requirements. Injured worker representatives try to guide injured workers to physicians that will provide the necessary information without difficulty. Both employers and attorneys find it difficult to gather all the necessary medical information. The injured representatives are willing to assist the employer gather records if the treating physician is not being cooperative.

#### Nurse Case Management

Everyone agreed the nurse case management is beneficial in the claim. However, the nurses must respect the injured worker's wishes regarding office visits and future treatment. They must work with the injured worker representatives to ensure there is a mutually beneficial treatment plan.

#### Communication:

1. Employer Communication with represented injured workers- If an injured worker is represented, employers can continue to speak with the injured worker as their employee.

There should be no legal advice and issues should generally not be claim related. However, employers can address certain facts of the claim process, including payment dates, and human resource issues. Employers should continue to address FMLA, and other non-workers' compensation issues.

Injured worker representatives should be communicating to their clients and the employers and their representatives. If the employer and/or representative has question or concern about allowed and requested conditions, treatment, and return to work it would be appropriate to work with the injured worker's representative to facilitate a resolution. Obviously, there will be disagreements which may require IC hearings, but sometimes things can be worked out.

It may make sense to discuss treatment plan and allowed conditions with counsel early in the claim process to avoid contentious issues later in the claim.

If there is a dispute that can potentially be resolved without a need for a hearing, a conference call with the injured worker and the attorney may be beneficial.

The consensus is that email is the best form of communication with the injured worker representatives, however, phone calls can also be effective in certain situations.

## 2. Communication with providers

Injured worker representatives are concerned when the employer communicates directly with physicians, because the employer may be making determinations and the attorney may not have all the information they need to determine what is in their client's best interest. When all parties communicate together, it may in the long run reduce contested issues.

While most participants in a workers' compensation claim have good intentions, there are different perspectives, so direct communication can be invaluable to overcome the barriers that may arise. Listening and collaborating are essential. There will be some situations where there is no common ground and those must go through the administrative hearing process despite everyone's best efforts.

### Official File:

SI employers maintain the official file of record for each claim and determine allowed conditions, except when the Industrial Commission rules on contested issues. BWC maintains a record which is not likely going to be as complete as the employer's file. Employers therefore must provide information regarding allowed conditions and file records promptly when requested. When

there is a hearing BWC will attempt to gather all necessary documentation for the IC hearing file. BWC will refer files to the IC for hearings on contested issues and schedule exams for PPD awards among other tasks. The SI department will also address formal and informal complaints from injured workers and providers.