OSC|12
Ohio Safety Congress & Expo

WELL AT HOME. SAFE AT WORK.

245 I Have a Nightmare Claim; What Do I Do?

Jessica Abrams and Kim McKelley, RN, BSN, CRRN, CCM

Thursday, March 29, 2:30 to 3:30 p.m.

Ohio | Bureau of Workers' Compensation

CareWorks Family of Companies

Managing a Nightmare Claim

Presented by:

Kim McKelley RN, BSN, CCM, CRRN
Medical Services Manager

Jessica Abrams
Quality Assurance Team Leader

CareWorks Family of Companies

Objectives

- Understand and define the role of the Managed Care Organization.
- Understand and define the role of the Third Party Administrator.
- Be able to determine which resource to contact on claim issues.
- Be able to formulate strategies to assist with claim resolution.

CareWorks Family of Companies

Nightmare Claim Begins…

This may be a problem:

CareWorks Family of Companies

Accident Investigation

- Check to make sure no one else gets hurt.
- Call for emergency assistance, if required.
- Care for the injured employee, if you are trained and authorized.
- If there is any indication of intoxication, document this immediately and ask the treating facility to perform a drug/alcohol test.

CareWorks Family of Companies

Accident Investigation

- **Investigate.**
  - Ask questions.
  - Collect information.
- Preserve evidence.
- Draw conclusions and compile an incident report.

Accident Investigation

Incident Report.

- Utilize cameras or video recording equipment.
- Drawing, sketches and measurements.
- Data:
  - Persons involved.
  - Date, time and location.
  - Activities at time of accident.
  - Equipment involved.
  - List of witnesses.

Accident Investigation

- Obtain a statement from the employee and supervisor, as well as statements from pertinent witnesses.
- Ask All Witnesses:
  - What did you see?
  - What did you hear?
  - Where were you located at the time of the accident?
  - What do you think caused the accident?
  - Was there anything different today?

Accident Investigation

- **Five Whys.**
  - Asking these will help you determine the root cause or problem of the accident.
- **Ask Supervisors.**
  - What is the normal procedure for activities involved in the accident?
  - What type of training did the person(s) involved in the accident have?
  - What, if anything was different today?
  - What they think caused the accident?
  - What could have prevented the accident?

Accident Investigation

- **Determine.**
  - What was not normal before the accident.
  - Where the abnormality occurred.
  - When it was first noted.
  - How it occurred.

Accident Investigation

- **Analyze the Data.**
  - Not performed by the person who conducted the accident investigation.
  - Gather photos, drawings, interview material and other information collected at the scene including the sequence of events.
  - Review the incident report.
  - Discuss the incident and data with others.
  - Determine a clear picture of what happened.
  - Determine what is currently being done.

Accident Investigation

- **Analyze the Data (continued).**
  - Were there similar incidents?
    - Is there a trend?
    - Review the log of injuries and illnesses.
    - Review similar accident reports.
  - What has been done in the past?
    - Is the corrective action still being followed?
    - Was it effective?
      - If not, why?

Accident Investigation

- **If You Have a Workplace Injury:**
  - Early reporting is crucial!
  - Early investigation is important.
  - Collect facts and documentation.

After an Injury

- **Early Reporting Leads to:**
  - Early and effective medical management.
  - Early return to work management.
  - Lower claims cost.

Communication

- **Communication is Key.**
  - Communication with your Managed Care Organization (MCO) and Third Party Administrator (TPA) is vital to the success of your program.

Role of Managed Care Organization

The Managed Care Organization (MCO) provides medical management and cost containment services that promote the rendering of high-quality, cost-effective medical care that focuses on minimizing the physical, emotional and financial impact of a work-related injury or illness and promotes a safe return to work.

Role of Managed Care Organization

The MCO provides medical management and return to work management services for the life of the claim, as long as the employer remains with the MCO.

Role of Managed Care Organization

- **What are the Managed Care Organization's Responsibilities?**
  - First Report of Injury to BWC (FROI).
  - 3-5 point contact to gather initial information.
  - Establish claims management strategies.
  - Early intervention and total quality managed medical care.
  - Prior authorization of medical treatment and services.

Role of Managed Care Organization

- **First Report of Injury (FROI).**
  - The MCO is responsible to educate and encourage providers, employers and injured workers to notify the MCO immediately of an alleged accident/injury.
  - The MCO gathers and submits vital medical evidence that BWC needs for its investigation and claims determination.

Role of Managed Care Organization

- **High Quality, Timely Medical Case Management Services.**
  - Early intervention with 3-5 point contact and total quality managed medical care.
  - Referrals for specialists care and second opinions.
  - Monitoring of outcomes of medical care.
- Establishing claims management strategies.
- Monitoring medical costs.

Role of Managed Care Organization

- **Treatment Standards.**
  - Utilization of Official Disability Guidelines (ODG) since April 1, 2004.
  - The MCO follows up on treatment approvals for all inpatient services and outpatient surgical services, all diagnostic studies and all therapies within 14 days of the treatment approval to ensure necessary care and/or treatment is delivered in a timely fashion.

Role of Managed Care Organization

- **Case Management Plan.**
  - The MCO is responsible for documenting and implementing a case management plan which addresses return to work planning on all lost-time claims where the injured worker has not returned to work regardless of date of injury.
  - Collaboration and treatment outcome goals.

Role of Managed Care Organization

- **Utilization Review.**
  - In-patient services.
  - Outpatient services including surgery.
  - High cost diagnostic services.
  - Physical medicine.

Role of Managed Care Organization

- **Catastrophic Claim Program Coordinator.**
  - Each MCO has a designated Catastrophic Claim Program Coordinator who is responsible for directing the management of catastrophic claims.

Role of Managed Care Organization

- **Vocational Management.**
  - The MCO educates providers about return to work goals.
  - The MCO identifies the need for vocational services.
  - Remain at Work services (RAW).
  - Vocational Rehabilitation Program Coordinator.

Role of Managed Care Organization

- **Bill Review.**
  - Clinical editing.
  - Integration of medical management and bill payment system.

Role of Managed Care Organization

- **Alternative Dispute Resolution (medical issues).**
  - Timely dispute resolution of medical and treatment issues.

Role of Managed Care Organization

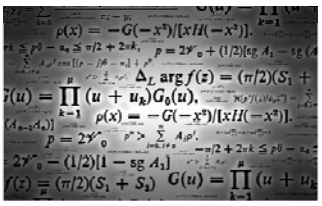
- **Provider Relations.**
  - Assisting with BWC enrollment and certification for medical care.

Role of Third Party Administrator

The Third Party Administrator (TPA) is the employer's advocate throughout the entire claim process. The TPA's main responsibilities are to assist with navigating the workers' compensation system, to identify the appropriate cost containment measures to employ, and to collaborate with the employer, MCO, and injured worker or physician of record (when appropriate), to work towards claim resolution.

Role of Third Party Administrator

Some people think this might be easier to understand than workers' compensation.



Role of Third Party Administrator

- The TPA should be contacted as soon as possible after the injury.
- Cost containment strategies and claim resolution plans should be formulated immediately after the injury.

Role of Third Party Administrator

- **Cost Containment Strategies.**
  - Salary Continuation.
  - Light/Transitional Duty.
  - Examinations.
  - Vocational Rehabilitation.
  - Functional Capacity Evaluations.

Role of Third Party Administrator

- **Cost Containment Strategies (Continued).**
  - Handicap Reimbursement.
  - Private Investigator Referrals.
  - Lump Sum Settlements.
  - Attorney Referrals.

Role of Third Party Administrator

- **Salary Continuation**
  - When an employer pays an injured worker their normal salary in lieu of Temporary Total compensation from the BWC.
  - Effective January 1, 2011, the BWC no longer suppresses the reserve on the claim.
  - Can still be beneficial for some employers. The TPA should be consulted to determine if this is a beneficial option.

Role of Third Party Administrator

- **Light/Transitional Duty**
  - The employee should be required to furnish all work slips.
  - If the employee is non-compliant, the MCO can try to obtain work restrictions from the physician of record.
  - Once restrictions are obtained, the employer should formulate a job for the employee to return to, in accordance to the work restrictions.
  - The physician of record should sign off on the job description.

Role of Third Party Administrator

- **Light/Transitional Duty (continued)**
  - The job offer should be conveyed and sent to the employee in writing, via certified mail.
  - If the employee does not report for work, the company policy regarding no-call/no-shows should be followed and the employer should consult their legal counsel.
  - If the employee refuses the job, the refusal should be documented and the BWC and TPA notified of the refusal.
  - As long as the aforementioned steps are followed, the employer has a good argument against further payment of Temporary Total Compensation in the claim. Consider retaining attorney.

Role of Third Party Administrator

- **Examinations**
  - Employer-Sponsored
    - Cost anywhere from $500-$1,500.
    - Only one exam per issue per year can be done.
  - BWC-Sponsored
    - **Disability Management**
      - Used to evaluate treatment and extent of disability approximately 45 days after the date of injury.
    - **90-Day/Extent of Disability**
      - Used to determine continued entitlement of compensation, appropriateness of treatment, treatment recommendations and vocational rehabilitation potential.

Role of Third Party Administrator

- **Vocational Rehabilitation**
  - Is a voluntary program for injured workers who have a lost time claim.
  - A vocational case manager is assigned to help assist the injured worker, physician of record, and employer in getting the injured worker back to work.
  - The costs associated with the injured worker's participation in the program, including compensation, are covered through the BWC Surplus Fund.
  - The TPA, MCO, BWC, employer or injured worker can initiate the vocational rehabilitation referral process.

Role of Third Party Administrator

- **Functional Capacity Evaluations.**
  - Used to measure the injured worker's current capabilities versus their normal job duties.
  - Can also help identify malingering tendencies or symptom magnification.
  - If there are any functional deficits, recommendations can be made on different therapies or modalities that can be done to assist in returning the injured worker to their normal job.
  - Can be used in conjunction with vocational rehabilitation.

Role of Third Party Administrator

- **Handicap Reimbursement.**
  - Is a program designed to encourage employers to hire and retain employees with a handicapping condition.
  - There are 26 conditions recognized by the BWC and the TPA can assist in reviewing the medical and identifying qualifying conditions.
  - If the employer can prove that the handicap condition pre-existed the injured and prolonged recovery, the TPA can file an application through the BWC and ask that a portion of the claim be charged to the BWC surplus fund.
  - Multiple conditions can be filed for at one time or separately.

Role of Third Party Administrator

- **Private Investigators.**
  - Can be utilized in cases of:
    - Perceived symptom magnification.
    - The employee is believed to be working while receiving compensation from the BWC.
  - Usually costs a minimum of $500 per day plus ancillary costs.
  - Results of the investigation can be shared with the physician of record or the BWC, depending on what the employer wants to accomplish by sharing the information.
  - The TPA can help determine when or if it is appropriate to involve a private investigator as well as the cost benefits.

Role of Third Party Administrator

- **Lump Sum Settlements.**
  - Settlement is when all parties agree to settling the claim for a specified monetary amount in return for closing out the claim.
  - The TPA can assist with identifying when a claim is ripe for settlement as well as estimate the potential premium savings (or cost) of a various settlement amounts.
  - Typically not done until the injured has returned to work or quit working for the employer and the injured worker is medically stable.

Role of Third Party Administrator

- **Attorney Referrals.**
  - There are times when it is appropriate to utilize an attorney for assistance in management of a claim.
  - Some examples of issues wherein an employer would want to utilize an attorney:
    - Voluntary abandonment of employment.
    - Post-accident positive drug tests.
    - If an employer needs an employee cross-examined at an Industrial Commission hearing.
  - The TPA can assist with determining when an attorney referral is appropriate and cost-effective to do so.

Initial Phase of Nightmare Claim

- **MCO's Role.**
  - First report of injury (FROI).
  - Early intervention with a 3-5 point contact, total quality managed medical care.
  - Utilization review.
  - Referrals for specialist care and 2nd opinions.
  - Monitoring of outcomes of medical care.

Initial Phase of Nightmare Claim

- **TPA's Role.**
  - Provide a general overview of claim processing and what to expect going forward on the claim.
  - Review medical to determine compensability of claim.
  - Conduct limited claim information search.
  - If there is any indication of prior similar problems, the TPA can obtain a signed medical release from the employee and request prior medical documentation to help determine compensability of the claim.

Initial Phase of Nightmare Claim

- **TPA's Role (continued).**
  - From there, if an exam is indicated, the TPA can assist the employer with scheduling this.
  - If the claim is determined to be compensable, the TPA can collaborate with the MCO and employer to determine a plan of action for claim resolution.
  - Claim should be reviewed for potential handicap reimbursement conditions as new medical documentation is received.

Ongoing Claims Management

- **MCO's Role.**
  - Provides medical management and cost containment services and promotes a safe return to work.
  - Establishes claims management strategies.
  - Develops and implements a case management plan on all lost-time claims.

Ongoing Claims Management

- **TPA's Role.**
  - Periodic review of claim to determine what cost containment strategies should be employed to assist with claim resolution.
  - Claim updates should be provided to the employer based on the current claim activity.
  - Continued collaboration with the MCO and employer to determine an updated plan of action for claim resolution.

Resolution of Nightmare Claim

- **MCO's Role.**
  - Vocational Management.
  - Provider education to achieve return-to-work goals.
  - Ongoing utilization management after the injured worker returns to work.

Resolution of Nightmare Claim

- **TPA's Role.**
  - Review claim to determine if there are any outstanding issues or potential for future claim activity.
  - If a handicap condition has been identified, the TPA will determine when appropriate to file the application.
  - Once this has been done or no handicap condition identified, the TPA can review the claim to determine if settlement is a good option.

Things to Consider Post Nightmare

- Create or update company handbook.
- If the accident was preventable, individual employee counseling and/or consider a group safety meeting.
- Positive reinforcement for good safety practices.

Conclusion

- Early reporting and discussion with the MCO and TPA are key.
- MCOs and TPAs are invaluable resources – use them!
- On-going communication and collaboration between the employer, MCO, BWC, and TPA are necessary to work towards claim resolution.
- Nightmare claims will occur occasionally, despite best efforts to avoid them. Learn from them to avoid similar issues in the future.

Thank You!

Thank you for your time and attention today!

Kim McKelley RN, BSN, CCM, CRRN
Medical Services Manager

Jessica Abrams
Quality Assurance Team Leader

o Points of view, ideas, products, demonstrations or devices presented or displayed at the Ohio Safety Congress & Expo do not constitute endorsements by BWC. BWC is not liable for any errors or omissions in event materials.

OSC|12