

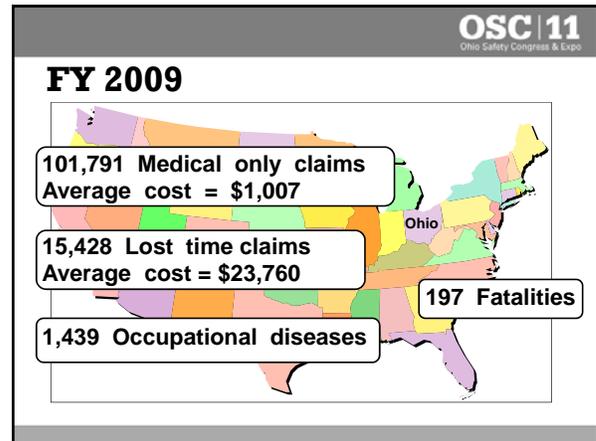
OSC | 11
Ohio Safety Congress & Expo



Controlling Workers' Compensation Costs

Session 925

Ohio Bureau of Workers' Compensation



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The Ohio Workers' Compensation Act

-  Ohio law established exclusive state fund in 1913.
-  The act provides no-fault insurance.
-  It protects employers and their employees.

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Ohio Revised Code

"Sections 4123.01 to 4123.94, inclusive, of the Revised Code shall be liberally construed in favor of employees and the dependents of deceased employees"

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Compensability Criteria

- o Employer/employee relationship
- o Physical injury
- o In course of/arising out of employment
- o Jurisdiction

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Intentional Tort

Workers' compensation is sole remedy for workplace injuries unless:

1. Employer knew there was a hazard to the employee

AND

2. Employer did not protect the employee

AND

3. Employer knew with certainty that the employee would be injured or killed

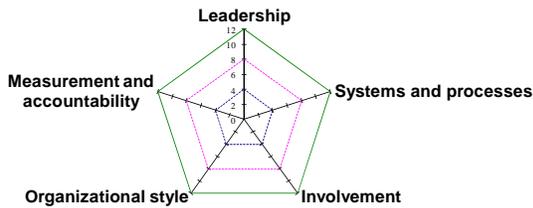
Controlling Workers' Compensation Costs

Section 2 Safety Culture Wheel

Safety Culture?

- Why are we concerned about safety when discussing controlling workers' compensation costs?

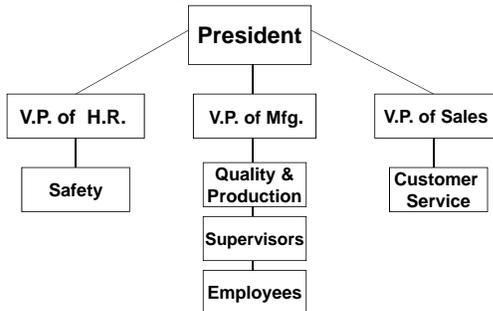
Safety Culture Wheel



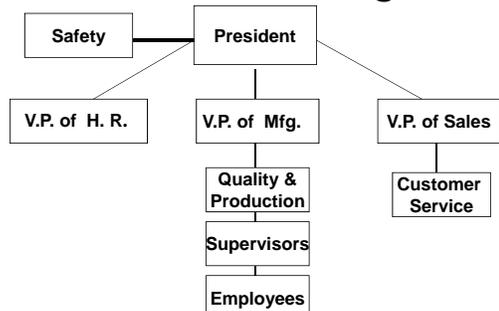
Safety Culture Wheel Instructions

- Consider the questions in each category.
- Rate your company on a scale from 0 to 3.
 - 0 = Weakness
 - 1 = Some aspects covered
 - 2 = Could be improved
 - 3 = Strength
- Total the points under each category.
- Plot the totals onto the corresponding axis.
- Connect the plotted points from axis to adjacent axis.

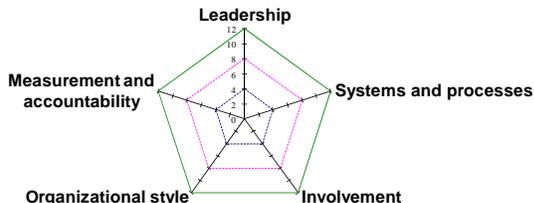
Line Management



Effective Line Management



Safety Culture Wheel



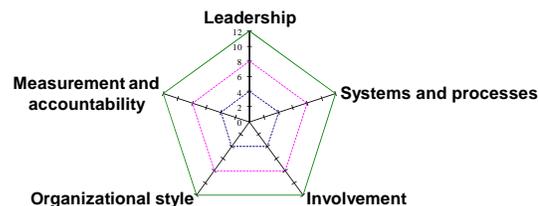
Leadership

- ___ Leadership commitment to safety is active, visible and lively.
- ___ A clear and inspiring vision has been established for safe performance.
- ___ Safety is viewed and treated as a line management responsibility.
- ___ Safety is clearly perceived as an organizational value on the same level with productivity and quality.

Group Exercise

- o If great safety is zero accidents, do you believe every accident can be prevented?

Safety Culture Wheel



Systems and Processes

- ___ Supervisors and workers partner to find and correct system causes of incidents.
- ___ Communication systems are abundant, effective and flow well in all directions.
- ___ Training systems deliberately and systematically create competency for the right people at the right time.
- ___ Safe operating procedures and policies are clearly defined and communicated. (By Who?)

Controlling Workers' Compensation Costs

Section 3 Money and Ratemaking

Ratemaking

The main question is....

- o How does BWC determine what an employer pays in premium?
 - BWC must collect enough money in premium to pay claims costs
 - Costs must be equitably divided among all employers

Simply put...

Claims Costs drive Rates

BWC Rating Concept

Compare:

ACTUAL Claims Costs and **EXPECTED** Claims Costs

Claims Costs

1. Medical costs
2. Indemnity
3. Reserves

Claims Costs

Medical costs

Money paid for doctor bills, diagnostic tests, drugs, etc.

Claims Costs

INDEMNITY (compensation)

- o Money paid to injured workers to compensate for lost wages
- o Money paid to injured workers to compensate for permanent damage



Reserves

Reserve – The projected cost of a claim minus what has already been paid out

Reserves are set on all claims

Reserve Example

- Injured worker, male, age 25, injury – sprain/strain of lumbar region of spine
- MIRA II says this type of injury will cost \$100,000
 - \$11,500 medical paid
 - \$3,500 compensation paid
 - \$85,000 reserve (remaining cost of this injury)

BWC Reserves

- Reserves set using MIRA II (Micro Insurance Reserving Analysis system)
- MIRA is built using data from 5.9 million Ohio claims
- Allows employers to see what factors are driving the Reserves
- Weekly listing of claims with changed Reserves

BWC Reserves

MIRA assigns reserves to claims based on over 180 individual characteristics of each claim

- Zip code of worker
- Attorney involvement
- Gender
- Age
- Prescriptions
- Manual classification
- Marital status
- Return-to-work date
- Average weekly wage

Why are individual claim characteristics important?

Two employees with identical broken legs

- One is 22 year old office worker
 - Other is 55 year old construction worker
1. Which one will go back to work sooner (receive less in compensation)?
 2. Which one will heal faster (less medical)?

Impact of Reserve

- A large reserve has a significant impact on the value of a claim
- Claims with large reserves can be the driving factor in an employer's rates



Max Value Claim

- Each employer is assigned a maximum value for each individual claim
- Based on employer size (determined by expected losses)
- Prevents large claims from negatively impacting small employers
- Injured employee receives all benefits due
- Amounts over Max Value are a shared liability

4 - year Calculation

Private employers*

- For policy year beginning 7/1/2010, BWC used data from calendar years 2005, 2006, 2007, 2008 for ratemaking purposes.
- Each year, the oldest year drops off and a new year is added.
- For policy year beginning 7/1/2011, BWC will use data from calendar years 2006, 2007, 2008, 2009 for ratemaking purposes.

*Public employers' rating year begins on January 1st

Impact on Your Premiums

- The premiums private employers pay in August 2010 and February 2011 are based on cost of claims from as far back as 2005
- 2010 claim costs will impact premiums paid in 2012, 2013, 2014 & 2015

Expected Claims Costs

- Amount of claims costs an employer is expected to have, based on business pursuit and payroll level.
- This value is also a four-year figure, based on the same time period as the claims cost figure.

BWC Ratemaking

- Once actual claims costs and expected claims costs are obtained, BWC uses that information to determine the rate that the employer will pay
- **Note** that the BWC is "revenue neutral" when it comes to ratemaking

Base Rating

- If an employer has less than \$2,000 in expected claims costs, it will be base-rated.
- The company will pay the base rate established for its manual classification, regardless of the amount of claims costs it has. Experience Modifier (EM) is always 1.00.

Experience Rating

- When an employer has expected losses of \$2,000 or more, it is experience-rated.
- Premium costs are driven by the level of claims costs.
- An employer can be credit-rated or debit-rated.

Experience Rating

Credit-rated

An employer has **less** claims cost than BWC would expect. The experience modifier (EM) is less than 1.00.

Debit-rated

An employer has **more** claims cost than BWC would expect. The EM is greater than 1.00.

Experience Rating

- There is a limit on credit rating. Currently, an employer can be no more than 65% credit-rated (EM = 0.35).
- There is no limit to debit rating (surcharge) for an employer.
- The higher the surcharge, the higher the premium paid by an employer.

Savings Through Discount Programs and Optional Rating Plans

- | | |
|-----------------------------------|---|
| ○ Group Rating | ○ Safety Council Rebate |
| ○ Group Retrospective Rating | ○ \$15K Program |
| ○ Individual Retrospective Rating | ○ One Claim Program |
| ○ Deductible Program | ○ 100% Cap on EM Increase |
| ○ Drug-Free Safety Program | ○ Self-Insurance |
| | See www.ohioabc.com for details.
Employer Services / Programs |

Group Rating Program

- Employers combine payroll and experience as a group to earn a discount (Think safe driver pool)
- Allows an employer with low claims experience to earn a discount up front

Maximum group discount = 51%
(EM = 0.35 plus a break even factor)

Group Retrospective Rating

- Employers join a group of like employers
- Employers initially pay premiums based on their own experience (no up-front discount)

Group Retrospective Rating

- Claim costs for the group are evaluated after 1, 2, & 3 years
- If the group as a whole does **better** than predicted, employers get a **rebate**
- If the group as a whole does **worse** than predicted, employers are billed the **extra costs**

Individual Retrospective Rating

- Semi self-insured program
- Employer selects:
 - an individual claim limit
 - a maximum premium (ceiling of claim costs)
- Employer receives up-front discount on their rates.
- Employer is responsible for 10 years of claim costs, up to a per claim limit (deductible).

Must pay at least \$25,000 premium/year to qualify

Deductible Program

- Just like car or house insurance
- Must be state fund or public employer
- Employer can select a deductible amount for claims that occur during that rating year

Deductible Program

- Two levels of deductible
 - Small deductible: \$500, \$1,000, \$2,500, \$5,000 and \$10,000
 - Large deductible: \$25,000, \$50,000, \$100,000 and \$200,000
- Depending on deductible selected, employer receives up to 77% discount on premiums

Deductible Program

- BWC will pay all medical and compensation and bill employer monthly, up to deductible selected
- Employer is responsible for deductible cost of all claims that occur within the rating year participated

Drug-Free Safety Program

- 2 Levels
 - Basic = 4% discount
 - Advanced = 7% discount
- Group rated employers w/advanced level = 3% discount

Drug-Free Safety Program

Requirements

- Safety review, accident analysis training and accident reporting
- Employee/supervisor training
- Drug/alcohol testing

Note

Under Ohio law (House Bill 80), construction contractors and subcontractors are required to have a drug-free workplace program (a BWC program or comparable program) to bid on or provide labor services on a state of Ohio construction site.

Safety Council Rebate

- Current fiscal year (July 2010 – June 2011), safety council members can receive up to a 4% rebate on premiums
 - 2% meetings attended
 - 2% reducing severity or frequency by 10%
- Check with local safety council in March 2011 for information on next year's rebate availability

For list of safety councils:
ohiobwc.com, Safety Services / Safety Councils

\$15,000 Medical-Only Program

- Employer is medical manager of claim in which IW is off no more than seven days.
- Employer pays bills within 30 days.
- Employer keeps record of the injury.
- **Benefit?** Costs paid by employer are not included in premium calculations.

One Claim Program

(40% discount from base rate)

- State-fund employers only
- Single significant claim entering experience from green year that caused removal from group rating program
- Up to three medical-only claims in experience period
- Attend one qualifying class each rating year (Six hours total)

100% Cap on EM Increase

- To reduce impact of EM increase due to Group Rating removal or expensive claims(s)
- Employer must be debit rated (1.01 EM) or greater
- EM increase is capped at 100% from previous year

Cap is automatic unless employer rejects in writing

Self-Insurance

- o Large employers (500+ employees)
- o Pay assessments to BWC
- o Pay all of claim costs
- o BWC grants employers this privilege based on:
 - Profit margin
 - Debt structure
 - Self-insured readiness

Controlling Workers' Compensation Costs

Section 4
True Costs of Injury

Direct and Indirect Costs

Direct = Insured
Indirect = Uninsured

The image shows an iceberg floating in the ocean. The tip of the iceberg, which is visible above the water, is labeled 'Direct Cost'. The much larger, submerged part of the iceberg is labeled 'Indirect Cost'. The text on the right side of the slide states: 'Indirect Cost is four times the Direct Cost'. The text on the left side of the slide reads: 'Direct Cost Versus Indirect Cost'.

Direct Costs vs. Indirect Costs

- | | |
|----------------------|--------------------------------|
| o Medical costs | o Hiring/training replacements |
| o Compensation costs | o Overtime (lost work) |
| o BWC reserves | o Legal expenses |
| | o Product / tool damage |
| | o Production delays |

Other Indirect Costs

- o Morale
- o Admin time
 - Claims handling
 - Supervisory duties
 - Accident analysis
- o J.I.T. operations
- o OSHA
- o Loss of business (customer goodwill)
- o VSSR

Violation of a Specific Safety Requirement (VSSR)

- o An injured worker may receive additional compensation if employer is found to have violated a specific safety requirement that led to an injury.
- o Award can be 15% to 50% of compensation paid (minors = 100%)
- o Out-of-pocket expense for employer

www.legislature.state.oh.us/laws.cfm
Ohio Administrative Codes 4123:1 Division of Safety & Hygiene

If Indirect Costs are Four Times Your Company's BWC Insured Direct Costs

Medical and compensation costs..... \$1,500
Compensation reserve..... \$3,500
Total insured cost..... **\$5,000**

- o Total insured (direct costs) multiplied by 4
\$5,000 X 4 = \$20,000 (indirect costs)
- o Total insured (direct costs) + (indirect costs)
\$5,000 + \$20,000 = **\$25,000**

5% profit = \$0.5M in sales

Safety Intervention Grants

- o 2 to 1 matching safety grant for private/public employers
- o Up to \$40,000 from BWC, matched by \$20,000 from employer
- o Used to purchase equipment to reduce/eliminate risk of injury or illness

See www.ohiobwc.com for details.

Examples of Approved Grants

- o Hoisting equipment
- o In-floor scales
- o Automatic lid sealer machine
- o Counterbalanced drills
- o Automatic feed machine
- o Cranes mounted in pickups
- o Motorized bleachers in gyms
- o RF readers for gas meters
- o Powered equipment to replace manual operations

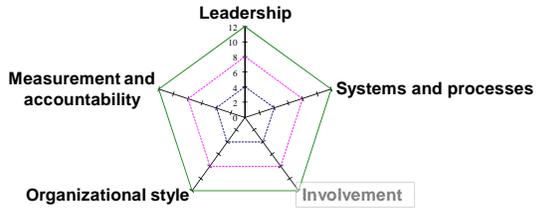
Items Not Authorized

- o Floor/ceiling patient lifting devices, electric beds
- o Forklifts, powered dolly equipment
- o Skid steerers, front-end loaders, bobcats
- o All earth-moving equipment
- o Weaponry, including tasers
- o Vehicles, including cars and trucks
- o Exercise equipment
- o Patient bathing and toileting chairs
- o Personal protective equipment

Traditional Safety versus Contemporary Safety

- | | |
|--|---|
| <ul style="list-style-type: none"> o Compliance focused o Enforced by mgmt. o Punish unsafe behavior o Top down decision making o Dictate policy/procedures o Rigid, consistent o Confrontational | <ul style="list-style-type: none"> o Values focused o Exemplified by mgmt. o Positive reinforcement of safe behavior o Shared decision making (ownership) o Delegate and empower o Flexible, innovative o Confidence and trust |
|--|---|

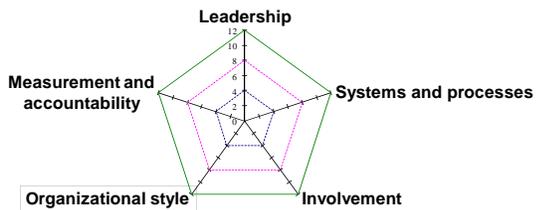
Safety Culture Wheel



Involvement

- ___ Workers are skilled at problem solving and decision making.
- ___ Labor and management work together to address safety systems issues.
- ___ Team orientation achieves involvement and cooperation.
- ___ Innovation, participation and suggestions are encouraged at all levels.

Safety Culture Wheel



Organizational Style

- ___ Trust and openness are the norm.
- ___ Positive reinforcement is used regularly. Not negative!
- ___ Bureaucratic obstacles are removed.
- ___ There is formal and informal recognition for great performance at all levels.

Controlling Workers' Compensation Costs

Section 5 Risk Management Strategies

Hearing Process



Claims Cost Management

Who are the players?

- Injured Worker
- Employer
- Managed Care Organization (MCO)
- BWC
- Third Party Administrator (TPA)

The Injured Worker's Role

- Reports all workplace injuries to management regardless of treatment
- Notifies employer if a claim is filed
- Follows medical restrictions
- Keeps employer informed of progress and obstacles encountered

The Employer's Role

- Employer and/or MCO reports claim timely
 - Investigates accident promptly
 - Decides to certify or reject the claim
- When an employer certifies a claim, they are stating that:*
1. An injury occurred at work
 2. The injured person was their employee

The Employer's Role

- Follows up with their injured worker
- Coordinates remain-at-work / return-to-work strategies with MCO, medical providers, and BWC

The MCO Role

- Every employer has an MCO
- Paid by BWC
- Manage medical
- Approve medical treatment
- Drive return-to-work programs

The BWC Role

- Investigate and determine claim allowance
- Manage lost time benefits
- Adjudicate additional conditions
- Determine eligibility for Rehab
- Assist with bringing the claim to resolution

Third Party Administrator

- Employer not required to have TPA
- Private contract between employer and TPA
- Manage claims for employer
- Settle claims and pursue handicap reimbursements
- Represent employer at I.C. hearings

Claim Management

- “Remain at work”
 - “Transitional work”
 - “Return to work”
- Plan Now!**

Remain At Work

- Accommodate injured worker’s restrictions so they can remain at work.
- Services are provided to injured workers experiencing difficulties.
- Physician must approve release of injured worker to participate.

What is Transitional Work?

Transitional work is any job, task, function or combination of tasks or functions that a worker with restrictions may perform safely, for remuneration and without the risk of re-injury.

Benefits of Transitional Work

- Eliminate/decrease time away from work.
- Eliminate/decrease temporary total.
- Increase productivity.

Can Employers Save With Rehab?

Living Maintenance and Living Maintenance Wage Loss are not included in claims costs. Ask your MCO and BWC claims specialist (CSS) if rehabilitation is an appropriate direction for the injured worker. The injured worker must be medically stable to participate.

Remain-at-Work / Return-To-Work Benefits

All claims = reserve

Living maintenance = zero reserve

Other Control Strategies For Claims Management

- Timely reporting of claims
- Wage/salary continuation
- Claim settlement
- Handicap reimbursement
- Subrogation
- Recreational waiver
- Fraud control

Timely Reporting of Claims

- Company policy to report injuries on same work shift?
- Immediate reporting of claim
 - Better medical management
 - Earlier return-to-work
 - Reduced indemnity costs
- Reporting more than 7 days after injury can increase costs*
 - 14 – 21 days = 13% - 18% increase
 - 29 – 35 days = 45% increase
- More than 31 days = 113% increase in litigation (i.e. attorney involvement)¹

¹International Association of Industrial Accident Boards & Commissions (IIAIBC) March 25, 2004

Wage/Salary Continuation

- Employer continues to pay employee their normal wage
- Employee continues to accrue seniority, retirement, leave, etc.
- Health insurance continues, if employer provides it

Settlement

- A formal agreement needs to be completed before the experience period snapshot.
 - Submit by Oct. 15 for private employers
 - Submit by May 15 for public employers
- 30 days must be allowed for Industrial Commission approval.
- Reserve drops to zero.

Settlement Policy

- Settlement efforts should be on-going.
- Create a system in which human resources automatically contacts your TPA or attorney when an employee departs.

Settlement

- o Money for settlement is paid by BWC, not employer
- o A \$5,000 settlement may reduce the employer's premium \$10,000 a year
- o Settlement may lower an employers experience modifier

Settlement - Example

	Before settlement	After settlement
Medical paid	\$21,237	\$21,237
Indemnity paid	\$8,833	\$8,833
Reserve	\$39,980	\$0
<u>Settlement</u>	<u>\$0</u>	<u>\$5,000</u>
Claim cost	\$70,050	\$35,070

Handicap Reimbursement

- o 25 allowed conditions
 - o Discount based on relationship to injury
 - Prolongs healing process
 - Contributes to the injury
 - o The % of discount is charged to the surplus fund
- | | | | |
|----------|----------|-----------|-----------------|
| Diabetes | Epilepsy | Arthritis | Cardiac disease |
|----------|----------|-----------|-----------------|
- See list in manual for complete listing

Impact of 50% Handicap Reimbursement

- o EM/premium **before** 50% handicap reimbursement
1.11 \$129,551
 - o EM/premium **after** 50% handicap reimbursement
0.99 \$116,131
- \$13,420 savings**

Subrogation

- o The right to recover benefits from a third party because of negligence.
- o For FY 2009, BWC recovered \$19M in subrogation cases
- o Monies recovered are credited to employer

Most Common Third-Party Accidents

- o Motor vehicle accidents
- o Malfunctioning products
- o Medical malpractice
- o Exposure to toxic fumes
- o Machinery accidents
- o Animal bites

Group Discussion

Your boss asks you to help organize a company picnic on a Saturday. This will be during non-working hours and attendance is voluntary by all employees.

During a softball game, you slide into second base and break your leg.

Is this a workers' compensation claim?

Recreational Waiver

Legal liability vs. workers' compensation claim

When does your workday *BEGIN* and *END* ?

Use BWC Form U-159

Group Discussion

One of your employees is off on temporary total disability, which means he cannot work at all.

His co-workers report to you that they have observed him riding his Harley Davidson motorcycle over the weekend.

Is this fraud?

Fraud versus Abuse

- | | |
|-----------------------------------|---|
| ○ Requires "knowledge and intent" | ○ Excessive use or misuse of workers' compensation system |
| ○ Overt act | ○ Abuse can not be criminally prosecuted under the law |
| ○ Intentional omission | ○ Dealt with through administrative channels (IC) |

Red Flag Indicators of Injured Worker Fraud

- Injured worker can't be reached
- Tips from co-workers
- No witnesses to accident
- Cross-outs, white-outs and erasures on forms
- Date, time and place of accident unknown
- Specific details of injury not recalled

Red Flag Indicators of Medical Provider Fraud

- Billing for services not provided
- High cost of medical care relative to injury
- Length of treatment inconsistent with injury or disability
- Injured worker receives an unusually high number of prescriptions.

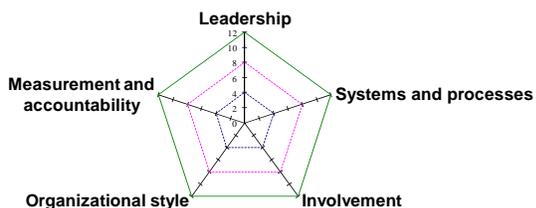
Red Flag Indicators of Employer Fraud

- No workers' compensation coverage
- Misreporting payroll (Excessive payroll reported to clerical manual)
- Current *Certificate of Coverage* but system indicates lapsed coverage

Controlling Workers' Compensation Costs

Section 6 Accountability

Safety Culture Wheel



Accountability

- Define expectations
- Provide the tools and skills
- Measure performance
- Reward

Accountability

- Measure and reward activities, not just results.
- If we achieve the desired results, how did we get there?

Measurement and Accountability

- _____ All levels of the organization have safety goals and process responsibilities clearly defined.
- _____ The process of achieving results is a key safety measure.
- _____ Performance reviews include accountability for safe performance at all levels.
- _____ Supervision is accountable to perform safety observations and feedback.

Does Upper Management Know the Cost?

- The premium
- Cost by department?
- Accident trends by department?

So what options does an employer have to control workers' compensation costs?

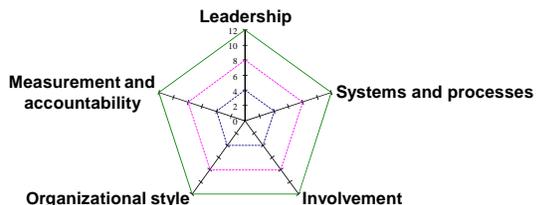
What are Your Options?

- | | |
|---------------------|------------------------------|
| ○ DFSP | ○ One claim program |
| ○ Settlement | ○ 100% cap on EM |
| ○ Subrogation | ○ Deductible program |
| ○ Rehabilitation | ○ Recreational waivers |
| ○ Return-to-work | ○ Handicap reimbursement |
| ○ Remain-at-work | ○ Group rating |
| ○ Fraud awareness | ○ Establish written policies |
| ○ Wage continuation | ○ Attend IC hearings |

Options cont.

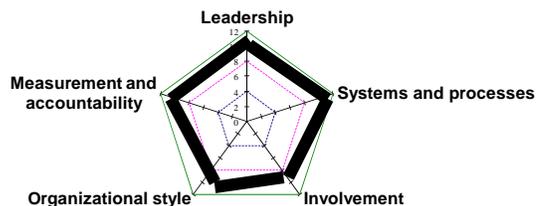
- | | |
|-----------------------------------|---|
| ○ Performance reviews | ○ Supervisor accountability |
| ○ Employee involvement | ○ Improving your safety culture |
| ○ Positive reinforcement | ○ Investigate all accidents/incidents |
| ○ Safety council rebates | ○ Establish "Values" and not "Compliance" |
| ○ Safety intervention grants | |
| ○ Individual retrospective rating | |
| ○ Group retrospective rating | |

Safety Culture Wheel Summary



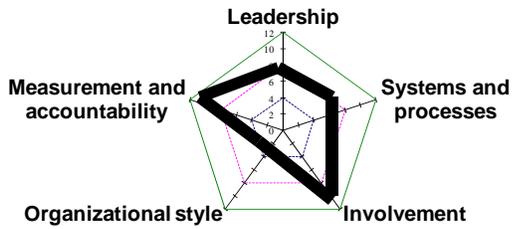
Take the score from each "spoke" and plot it on the Culture Wheel. Connect the dots to see where your strengths are and where your weaknesses are.

Safety Culture Wheel



Does your wheel look like this?

Safety Culture Wheel



Or This?

**Thank you for attending.
Please drive safely**

BWC Programs

Looking to reduce costs and protect your work force?

Learn more about BWC's incentive programs and safety services by visiting us online at

ohiobwc.com.