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Managing Workers' Compensation Expense in a High Medical Inflation Environment

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It has been a challenging time for the staffing industry over the last several years as the economy has gone through a significant recession, and growth has been sluggish in many sectors. Inflation has been tame; however any margin benefit to the industry has been eroded by increased state unemployment insurance costs. One significant cost area that has been surprisingly soft is the workers' compensation insurance marketplace.

According to recent statistics published by the National Council for Compensation Insurance (NCCI), the average approved workers' compensation bureau rates decreased over 26% during the period 2004-2010. These reductions occurred during years where medical inflation significantly outpaced overall inflation. Fortunately, insurance carriers maintained favorable combined ratios and adequate reserves, keeping premiums in line. However, the downward trend on rates has subsided over the years, and now in the first half of 2011, approved bureau rates have increased slightly. There appears to be no end in sight for medical inflation trends and medical costs as they continue to be a larger percentage of overall workers' compensation costs. For example, medical costs now account for over 58% of total claim costs, and according to the Insurance Information Institute projections, medical costs will account for over 67% of total claims costs by 2019.

Since medical inflation trends and a hardening insurance marketplace have the potential to further reduce margins in the industry, it becomes even more important to manage the workers' compensation process. There are several items in the workers' compensation management arena that a staffing company can do to mitigate costs in a high medical inflationary environment.

For starters, it is practical to emphasize the importance of following industry best practice guidelines for loss prevention and post injury management. This means having controls in place for the client selection process/business development to minimize risk shifting from potential clients, as well as post injury procedures focusing on timeliness of reporting, injury protocols, and early return to work. These are the fundamental building blocks of a risk management program. The following items are additional medical management suggestions to build on core best practices to maximize claim outcomes and reduce costs in staffing firms.

- **Thoroughly review an insurance carriers/third party administrator's (TPA's) medical management program during the insurance procurement process.** Too often, the focus on premium dollars becomes the path of least resistance, when in fact claim costs will ultimately drive premiums. Carriers and TPA's utilize different medical network strategies and clinical intervention models. Having a thorough understanding of the products, services and costs associated with the medical management program can be an asset. Staffing organizations with large programs such as high deductible, can consider reviewing and requesting proposals for medical management on an unbundled basis.

- **Customize the medical management protocols to meet your needs.** Insurance carriers and TPA's tend to have a "one size fits all" approach. The staffing industry can be unique and customized requirements may vary based on segment of the industry or specific clients. Examples include customized telephonic case nurse management protocols, utilization of preferred medical facilities, and early return to work availability reporting. Establishing clear and concise account handling instructions can help with tracking results and outcomes.
- **Schedule medical management claim reviews on a regular basis.** Typically, claim reviews are performed with the claim adjusters and focus on high cost claims. It is only when a claim reaches a certain dollar threshold, that it receives the proper attention and management that would have been more beneficial earlier in the process. Early intervention on lost time claims can make a difference, and regularly scheduled claims reviews which include the medical management provider can positively affect claim outcomes. In an environment where everything is documented, written and passed on electronically, having face-to-face or conference calls with all parties involved can shed light on potential issues and drive a more comprehensive strategy for claim closure.
- **Regularly review medical management performance metrics reports.** These reports are readily available from the TPA or medical management provider. Some key metrics to look for include; return on investment of services, preferred medical provider network penetration, and pharmacy costs. Additionally, look for transparency in what the services actually cost you, the end buyer.

As it relates to managing workers' compensation expenses, a "silver bullet" does not exist. A well designed comprehensive loss control and claims management program can reduce costs significantly. It is important to understand the cost drivers that increase premium costs, and for the foreseeable future, medical costs will continue to escalate and drive claim costs. The more knowledge and understanding of the medical management process can make a difference in reducing costs. ■



Chris Ottesen is the Vice President of Finance and Risk Management of People 2.0, a leading provider of integrated staffing solutions coupled with insurance solutions and back office services exclusively for independent staffing companies. Contact him at ChrisO@People20.com or visit www.People20.com.

Loss Control

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Whereas loss prevention is focused on selection of clients and employees so that an accident can be prevented, loss control is concerned with minimizing the cost of an accident after it occurs. Even with the most sophisticated and complete risk management system, accidents and injuries will happen. The best way to reduce the costs of accidents is by taking a proactive approach in your accident/injury protocols, accident investigations, claims management procedures, modified duty program and carrier relationships. Being aggressive in these areas also provides needed deterrents to predator doctors, attorneys and insurance carriers.

Everyone has heard the old adage; “No one will manage your money as closely as you will” and this could not be any truer than in the loss control portion of your risk management system. As a company you must be diligent in your accident/injury protocols so that you can limit liability and document the activities surrounding the accident. What can these protocols entail? Firstly, preparation of an accident packet including an accident checklist, accident report, witness form, medical information release form, accident investigation form and acknowledgement of modified duty form. By having all of these documents in place prior to an injury it helps to ensure that the process is consistent every time with every employee that has to respond to an accident or injury. Creation and implementation of this accident packet becomes more important, for consistency’s sake, the larger a staffing company becomes because there will be more staffing representatives that will have to respond to accidents and injuries.

Another protocol can include the transportation of injured employees to the treating facility. This can be accomplished by having a client transport them, contracting with a local taxi company, working with a local clinic that has a shuttle or even, in some instances, having a staffing representative provide it. By providing transportation the company is ensuring that the employee goes to the correct treating facility will not injure themselves further and that there is chain of custody in regards to post accident drug testing. Maintaining control of an injury can also include meeting injured employees at the clinic during initial treatment. During this time the staffing coordinator can begin to gather pertinent information from the injured employee and doctor as well as begin the documentation process including the injured employee’s statement and a medical information release form. By providing a presence at the treating facility the company is also showing the injured employee that they care about them and are there to help them when they need it.

Accident investigations in all cases should be conducted to determine if the injury is work related, who is potentially at fault and how the problem can be corrected in the future. It is preferred that accident investigations be conducted at the client’s site so that the authenticity of the claim can be verified, more effective corrective measures can be created and also to help verify that the client is not at fault. Maintaining control also includes managing claims aggressively. This starts by reporting accidents as soon as possible, sending out private investigators when necessary and having a designated person(s) to manage claims. The person(s) managing claims should work aggressively with the claims adjuster(s) to ensure that claims are closed in a timely fashion and that reserves are set at an adequate level. Finally, there is a need for a modified duty program that in all cases provides employment opportunities for injured employees to help expedite their return to full duty. Modified duty helps reduce the cost of claims by maintaining control of the injured employee. Instead of the injured employee staying at home where they cannot be monitored they are coming to work where they can be monitored. Also, by having the injured employee come into work you are helping to ensure that they are not talking with predatory doctors, attorneys, family members or friends. By being proactive in each of these areas and implementing these steps the company is helping to ensure that it is the one controlling the claim and not someone else.

By practicing good risk control the company is sending a strong message to any predator doctor, attorney and injured employee that you are in control. Realizing that the company is proactive and aggressive predator doctors will be less likely to offer false diagnoses. Attorneys seeing that the company has done a good job documenting the accident with reports and statements will be less likely to represent a false claim. Lastly, injured employees will see how active the company is in managing their claims and will be less likely to pursue a fraudulent or malingering course of action. In short, the companies that are proactive and diligently manage their accidents and injuries are the ones that are in control. ■

What happens if I am not offered a renewal?



Where did the soft market go? Recall back in 2001-2004 when you could count on one hand the amount of workers' compensations carriers that would entertain insuring staffing companies? NCCI reported this year an expected combined ratio (Earned Premiums/Losses + Expense) of 115%. This is up 14 points from two years ago; the highest two year jump in more than twenty years. Add to that the lackluster investment returns of carriers. The insurance markets are cyclical and the ability to ride out these cycles is consequential to managing one's bottom line. We cannot even say that the hard market is approaching because it's here, it's now, and are you prepared?

Over the past six years, major insurance states like California and Florida have seen considerable rate decreases in excess of 60%. For example, legislation was passed back in Florida in 2003 capping attorney's fees on a worker's compensation claim at \$1,500. This was a major factor in driving loss costs down as well as creating an environment that was unfavorable to workers' compensation plaintiff attorneys. This along with material decreases in claims frequency lead to multiple rate decreases over these seven years. Now in today's market we are faced with rising combined ratios in states like California where it is projected at 142%. To offset these operating losses, carriers have been increasing their rates as well as trying to shift much of their business to loss sensitive options whereby the policyholder has "skin in the game" Unfortunately the other result is more destructive whereby carriers can no longer collect enough premiums to offset potential losses so they are simply no longer interested in insuring the staffing industry.

This market condition has lead to several carriers who in the past few years entered the staffing market, only now to pull back out when profitability has waned. As a result, only a select few insurance carriers remain that will provide options in the traditional marketplace. Just over the last few months, we have seen several carriers provide nonrenewal letters or grossly inflated renewal premium offerings at or just before renewal, thereby creating unnecessary anxiety and disruption to the end policy holder. This may lead to having to extend the current coverage which provides a disadvantage in securing new coverage. Unlike other industries like manufacturing or service which have multiple options, the staffing industry is back down to three (3) national "A" rated carriers providing first dollar or guaranteed cost options, and a handful of markets for loss sensitive programs. In the past few years there have been five (5) non rated carriers that have become insolvent who specialized in the alternative staffing industry. The ramifications have left many staffing companies who were insured with one of these carriers in precarious positions with future marketability and insurability due to lack of currently values loss runs, updated data to provide to the statistical bureaus for experience modification purposes, inability to oversee and impact claims that are in the control of the liquidator and potential reputational risk. In order to prevent the pitfalls associated with being with an insolvent carrier, we suggest:

1. Review your loss runs with your broker and/or adjusters to ensure that open reserves are adequate and properly reserved, any open claims that should be closed are closed, any return to work or light duty claims are being processed, and that you have your last 3-5 years of loss runs currently valued within the last 90 days ready for your renewal.
2. The ongoing management of the loss data is crucial. Underwriters and actuaries get concerned when loss data is not currently valued and tend to compensate on their projections as a result. When companies go into liquidation the ongoing operations of the company are managed by different vendors and processes that can impact the management and outcome of claims.
3. Understand which class codes and states are more profitable based on historical and actuarial data. Besides having access to all of the NCCI information available, we collect and analyze close to \$5 Billion in alternative staffing payroll a year.
4. Know which class codes have a higher propensity to cause a catastrophic loss so that you can manage the risk properly and deploy the necessary loss control and resources to minimize potential loss.
5. Know your history and have it available. Carriers will need to know past payroll history, premium history, and have it reconciled by 941's or UTC6's. The more documentation and data the more comfortable underwriters are with potential insureds.
6. Have a detailed description of any losses over \$25K and what your company has done to correct this loss and prevent this from potentially happening in the future.
7. Work with an insurance professional that specializes in the staffing industry, know what the underwriters are looking for and how to present a staffing company, and has access to the carriers that will insure the staffing industry.

Most importantly, manage your renewal 365 days a year. Your data is the foremost consideration of this process. Underwriters document their files on the projected insurability and profitability of your account. The more credible the data they have, the more predictable the outcome. Loss runs from other staffing firms, unrated or sub-par carriers or those that have become insolvent post immediate red flags in the underwriting process. Manage this aspect of your program with vigilance as it has the most weight in establishing the cost of your workers' compensation program. ■



Bradley Isaacs, CIC, CRM
Sr. Vice President
Risk Transfer Holdings, Inc.
"Professional Buyers of Insurance"
407-472-0429
bisaacs@risktransferinc.com
www.risktransferinc.com