

compUpdate

Paying own claims doesn't make ¢ents

By DAVID LEE

Joe Owner owns a small factory. Like all business owners, he is, of course, concerned about keeping his workers compensation premiums low. Therefore, he was rather dismayed when one of his employees, Sam Worker, reported that he twisted his knee when he slipped on a wet floor.

Sam was not the best employee, and Joe did not really trust him. He had only worked there a few weeks, and Joe could have sworn he had seen him limping before. He also had heard other employees talk of a motorcycle accident Sam had a while back. Because Joe's small business didn't have health insurance benefits, he was concerned that perhaps Sam wanted workers compensation to cover a non-work-related medical problem.

The last thing Joe wanted was an out-of-control workers compensation claim causing his premiums to go up, especially if it was due to a pre-existing condition. So, rather than turn the matter into the State Insurance Fund, he told Sam to have it checked out by a doctor and bring him the bill. A few days later, Sam presented Joe with a bill for \$50 from a local physician, which Joe promptly paid.

Joe heard no further complaints, and when Sam quit a few weeks later, Joe was proud of himself for dodging a bullet and preventing what he believed to be an unjust claim from messing up his loss history. Before long, Sam had faded from Joe's memory until a year and a half later when he received a call from the State Insurance Fund.

The Fund was calling because it had just received a claim from Sam Worker for an injury that he alleged had occurred a year and a half earlier. Sam was in need of surgery, and by now, he had retained an attorney who alleged he could prove Joe had notice of the injury, as he had obtained documentation from the doctor's office verifying that Joe had paid for the initial treatment.

Joe was outraged that the State Insurance Fund was even thinking of paying the claim. Unfortunately, under the circumstances, the Fund had no choice. While the Fund may otherwise have had some



valid defenses to this claim, Joe's own actions took many, if not all, of those defenses away.

Like many policyholders, Joe was just trying to save himself some money. He did not know his actions violated the terms of his policy with the State Insurance Fund and certainly had no idea that he may have violated the law. Perhaps more importantly, Joe did not realize that his efforts to save costs may well have ended up costing himself and the Fund considerably more than it would have had he simply reported the claim when it occurred.

Part Four of a standard workers compensation policy specifically requires all policyholders to "tell us at once if injury occurs that *may* be covered by this policy." Similarly Idaho Code § 72-602 requires an employer to report any work-related injury that requires medical treatment *or* results in an injured worker missing at least one day of work. That law further provides that an employer who willfully fails to report such an injury "shall be guilty of a misdemeanor." While these requirements are intended largely to protect injured workers, these requirements also serve to protect employers, as well as their sureties. In fact, for the reasons outlined below, prompt reporting of injuries is the only way to be assured that claims do not run out of control.

Opportunity to investigate

Like many employers, Joe was reluctant to report this claim because he did not think it was legitimate. He suspected that Sam had injured himself elsewhere and was trying to get it covered under workers compensation. Joe may well have been correct. Had he turned the claim in and notified the Fund of his suspicions, the Fund could have conducted an investigation that may have uncovered evidence that would have justified denial of the claim. However, the Fund cannot investigate a claim that it is not aware of.

In the scenario above, by the time the Fund

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learned of the claim, memories would have faded, witnesses may have disappeared, and thus, the Fund would have lost the opportunity to gather evidence to deny or evaluate the claim.

In the meantime, the injured worker could use the fact that the employer paid a medical bill as evidence that he was aware of the injury. In fact, the employer's actions could even be deemed an admission that the injury was work-related, thus making it even more difficult for the Fund to dispute the claim.

The lesson our policyholders should learn from Joe is to report all injuries, even suspicious ones. If an employer has doubts about the legitimacy of a claim, by all means, he should communicate his concerns to the Fund. The best way to accomplish this is for the employer to submit a brief written summary of his concerns, along with the notice of injury, and to follow up with the claims examiner assigned to the claim.

Statute of limitations issues

As discussed above, had Joe promptly reported this claim, the Fund may well have investigated the matter and determined that the claim should have been denied. If it were determined that no workplace injury had occurred and no benefits were paid, Sam would have had only one year to appeal this decision by seeking a hearing before the Industrial Commission. If he failed to take any action within that time, his right to pursue the matter "shall be forever barred" by the statute of limitations (Idaho Code § 72-706(1)). However, if benefits are paid by the employer or surety, the statute of limitations extends until at least five years after the date of injury. The Industrial Commission has held that an employer's payment of even a single medical bill constitutes the "payment of benefits" for the purpose of applying the five-year statute of limitations.

As result, by paying that single medical bill, Joe essentially gave Sam an extra four years to "sit on his rights" while deciding how and when to pursue the claim. While Sam's rights were preserved for at least five years, the Fund's ability to gather evidence in defense of the claim were slowly fading away with each passing day. Thus, when Sam finally decided to pursue the matter, the Fund was caught at a distinct disadvantage.

Ability to monitor and direct medical treatment

Even if Sam had a legitimate work-related injury, under

the facts described above, it would be difficult to know for sure whether his current problems were the result of that injury, a pre-existing condition, or a subsequent injury Sam may have suffered after he left his employment with Joe.

Had the claim been properly reported, the Fund would have obtained all medical records relating to this injury, as well as any past records pertaining to any related pre-existing conditions. The Fund would also have the opportunity to write to Sam's physician and ask questions as to the nature and extent of the injuries in order to determine when the injury would have resolved or stabilized.

If necessary, the Fund could also obtain an "independent medical examination" (IME), or second opinion, by another physician to determine if treatment or opinions rendered by Sam's doctor were reasonable and appropriate.

All such medical records would be maintained in Sam's claim file. That way, if Sam needed treatment years later, the Fund or any IME physician would have a well-documented foundation on which to determine whether the needed treatment was related to the industrial injury. By contrast, without such medical documentation, any medical opinions regarding causation

would be based almost entirely on Sam's account of his symptoms since the accident. In other words, if Sam told his doctors that he had problems with his knee ever since the accident, without proper medical documentation, neither the Fund nor the physicians could prove otherwise.

Summary

In paying for Sam's initial medical visit, Joe no doubt thought that this would be the end of the matter. What Joe failed to take into account was that, in many cases, what initially may appear to be a very minor injury might turn out to be far more complicated than expected. Thus, one can never count on a claim "going away" after only a single doctor visit, even if it pertains to something as simple as a cut finger.

In order to properly manage such claims, the Fund must be notified of injuries as soon as they occur. Like our policyholders, the Fund has no desire to pay unjustified claims. However, the Fund can only prevent such claims if all claims are properly reported to us. So, please keep those lines of communication open.

David Lee is a legal counsel for the State Insurance Fund.

The bottom line of paying own claims

When a business purchases a workers compensation insurance policy, the State Insurance Fund provides payment of compensation and/or medical expenses for employees injured on the job. So, why would a policyholder pay its own claim?

Perhaps an employer believes that paying claims for injured workers will avoid a negative impact on the employer's experience rating and premiums. The bottom line, though, is that one small medical-only claim won't have much impact. Experience ratings are done by a rating organization called the National Council on Compensation Insurance. Only businesses that average \$3,000 per year in premiums are experience rated. In 1998, the NCCI changed its experience rating calculation. In the new formula, the value of a medical-only claim is reduced by 70 percent. Therefore, a \$100 medical-only claim goes into the formula at only \$30.

If a policyholder pays its own claims, he or she ends up paying the premium and the claims cost. Because the impact on premiums is so slight, the policyholder cannot recover the total claims cost.

WINTER DRIVING TIPS

Driving in snow and ice

There's nothing more beautiful than a fresh blanket of new-fallen snow. Unless, of course, you're driving in it. Winter snow and ice pose special problems for even the most experienced driver. Take a few moments to learn these basic rules of winter driving safety. When you're prepared for winter driving emergencies, you'll be able to say "let it snow, let it snow, let it snow" — and mean it!

Winterize your car

When the weather turns frosty, prepare your car for the season — get a complete tune-up. Ask your mechanic to test brakes, battery, and exhaust system, check fluid levels, add anti-freeze, and switch to winter-weight oil. Install snow tires on drive wheels, and be sure to carry emergency tools in your trunk — sand, salt, shovel, chains, snow-scraper/brush, booster cables, blankets, and flashlight.

What to do if you skid

The primary problem faced by winter drivers is skidding on slick or icy roadways. If your car should skid, do not brake. Instead, take your foot off the accelerator and turn your car in the direction that you want the front wheels to go. (Use gentle, steady

motions when turning the steering wheel. Turning too much or too fast can worsen the situation.) If for any reason you are unable to gain control of your car, try steering into a snowbank to stop your vehicle.

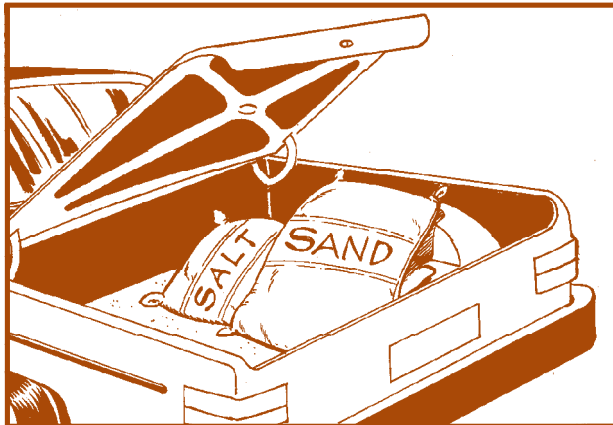
What to do if you're stuck

An equally common problem is getting stuck in the snow — your wheels spin but your car goes nowhere. This is when emergency equipment is most important. Don't continue to spin your wheels; you'll only wind up in a deeper rut. Instead, pour sand, salt, or gravel around the drive wheels to give them something to grab onto and improve traction. You can also shovel snow away from the wheels and out from under the car to clear a pathway.

Some general guidelines

Whenever driving conditions are less than ideal, it pays to be cautious. Drive slowly, test your brakes frequently, and never tailgate. Make sure that windshields (front and rear) are clear and that wipers and defrosters are in good working condition. Use low gears when traveling on slick surfaces (especially hills) to give added traction. Listen to weather forecasts, and if weather and visibility are hazardous, stay home!

Share this with your employees



Be sure to carry emergency tools in your trunk — sand, salt, shovel, chains, snow-scraper/brush, booster cables, blankets, and flashlight.



If your car skids, do not brake. Take your foot off the accelerator and turn your car in the direction that you want the front wheels to go.

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Fund begins document management project

The State Insurance Fund has launched a project to develop and implement a new document management and workflow system for processing claims. Or to put it simply, we're going "paperless" by scanning documents into our computer system.

The goal of the project is to automate the majority of the workflow process and provide a reliable method for storing and retrieving claims documentation.

Document management consists of imaging, workflow, and optical character recognition (OCR) technology that converts paper documents into data images stored on computer. Here's how the system is expected to work:

Incoming documents will be sorted in our mailroom, and claims documents will be routed to an imaging intake area. There they will be prepped – separated, sorted, staples and paperclips removed, etc. – and then scanned and indexed into an imaging database. Indexing is where documents are categorized by type of document and matched up with the claims they are associated with.

Workflow processes are programmed for each document type, routing the document to the appropriate party for processing. Processes can be serial – one after another – or parallel, which means two parties can work on the same document at the same time. All the time this work is being performed, the file with all the new data is available to others to see and even work with as necessary.

With this system, files will always be available to Claims employees. An employee won't have to wait for a file that is on another employee's desk or is being moved between offices.

It is expected that the project will be completed sometime in the spring of 2001.

Reminders:

Envelopes

Please use the envelopes provided to you to mail your payments or reports.

E-mail claims

Want to file your claims via e-mail? Just e-mail your business name, address, phone number, and policy number to **forms@isif.state.id.us**. We'll send you a Word 97 notice of injury form and filing instructions.